

# THE CONGRESSIONAL GLOBE:

CONTAINING

## THE DEBATES AND PROCEEDINGS

OF

### THE SECOND SESSION

OF

### THE THIRTY-NINTH CONGRESS

---

BY F. & J. RIVES.

---

CITY OF WASHINGTON:  
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.  
1867.



311

12-2

4th set

order; and immediately after what has been read, at the request of the gentleman from Pennsylvania, is what the Clerk will now read.

The Clerk read as follows:

**THE SPEAKER.** The gentleman is out of order."

The only person who called the gentleman to order was the occupant of the chair. He will state that when the quotation from "Marmion" was first used by the gentleman from Tennessee the words did not fall upon the ear of the Chair. The gentleman from Tennessee [Mr. COOPER] occupies a seat most distant of all in the Hall from the Chair, and at the time he was speaking a member from Pennsylvania was consulting the Chair in regard to the business upon the Speaker's table and its relation to an important bill now pending, and thus the words used did not reach the Speaker, nor the gentleman from Pennsylvania, [Mr. KELLY,] who sits nearer to the seat of the gentleman from Tennessee than does the Chair. If the Chair had heard those remarks, although as first used they were inferential and in the form of a quotation, he would have called the gentleman from Tennessee to order, the intent being evident from the language used. Those words were afterward repeated, and the Chair instantly called the gentleman from Tennessee to order. The gentleman from Rhode Island, [Mr. JENCKES,] a few minutes later, raised the point of order that the whole debate was out of order as irrelevant, and the Chair sustained that point of order.

The rule as to questions of privilege is, that where a proposition is made which relates to the privileges of the House, it is—

"The duty of the Speaker to entertain it, at least to the extent of submitting the question to the House as to whether or not it presents a question of privilege."

This resolution does not appear a formal vote of censure. It is a resolution assuming to express the sense of the House in regard to the supposed violation of its privileges; and the Chair will therefore, in accordance with the rule which will be found, as he has quoted it, on page 156 of Barclay's Digest, submit the question to the House whether the resolution involves a question of privilege or not, and let the House determine it.

The question is, Will the House entertain the resolution as a question of privilege?

**MR. SPALDING.** I move to lay the resolution upon the table.

**MR. BANKS.** If the resolution were before the House I should be very willing to sustain the motion of the gentleman from Ohio, [Mr. SPALDING.] But the Speaker has stated that he submits to the House the question whether the resolution shall be entertained as a question of privilege. Now, I do not understand that this resolution affects the privilege of this House at all, and therefore I must vote against its reception. It appears to be a simple expression of opinion in regard to the gentleman from Tennessee, [Mr. COOPER,] and in regard to the politics of his constituents. It does not touch the privilege of the House at all, and therefore I hope it will not be entertained in any shape or form whatever, and thus establish a precedent.

**MR. WARD,** of New York. Would it be in order at this time to move a vote of censure upon the gentleman from Tennessee, [Mr. COOPER?]

**THE SPEAKER.** That question is not before the House. The question is, whether the resolution of the gentleman from Pennsylvania [Mr. BROOMALL] shall be entertained by the House as a question of privilege.

**MR. RANDALL,** of Pennsylvania. I raise the point of order, that as this resolution is not yet before the House all debate upon it is out of order.

**THE SPEAKER.** The Chair thinks that the question of receiving the resolution is not debatable except by unanimous consent.

**MR. FARNSWORTH.** I would inquire of the Chair whether a mere sentimental resolution, which proposes no action, no censure whatever, is a question of privilege at all?

**THE SPEAKER.** That is a question for the House to determine. The Digest states that it is the duty of the Chair to submit to the House for its determination any question which it is claimed relates in any way to the privileges of the House.

**MR. BANKS.** I call the previous question.

**MR. BROOMALL.** If allowed by the House, I will withdraw the resolution for the purpose of amending it, so as to avoid the objections which have been made to it.

**THE SPEAKER.** The gentleman has the right to withdraw the resolution before any vote is taken upon it.

**MR. BROOMALL.** Then I withdraw it.

**MR. BANKS.** I think it is important that the House should understand the exact position of the question.

**MR. BROOMALL.** Is there any question before the House? I have withdrawn the resolution.

**MR. ELDRIDGE.** Had the gentleman any right to withdraw it after the Chair had submitted the question of its reception to the House?

**THE SPEAKER.** The Clerk will read the rule.

The Clerk read as follows:

"A motion may be withdrawn at any time before a decision or amendment; but not after the previous question is recorded. It may, however, be withdrawn while the House is dividing on demand for the previous question."

**THE SPEAKER.** In the opinion of the Chair that rule applies to all motions. The question before the House was, whether this resolution should be entertained as a question of privilege. Before amendment or a vote the gentleman has a right to withdraw the resolution; and it has been withdrawn.

#### A RECUSANT WITNESS.

**MR. COOK.** I rise to a privileged question. I move to reconsider the vote by which the House on yesterday ordered John F. Tracy to be brought before the House to answer for contempt. I wish to say that I have received communications from New York this morning which show that the presence of Mr. Tracy is absolutely necessary this day, and was yesterday, before the board of directors of the Pacific railroad. I have brought this information to the attention of the gentleman from New York, [Mr. HALE,] the chairman of the House portion of the joint Committee on Retrenchment. It seems to me that these communications show that Mr. Tracy has not been guilty of a contempt of the House.

**MR. HALE.** This is a subject upon which I have no personal feeling whatever. In regard to the person ordered to be brought to the bar of the House I have learned through several members that dispatches have been sent here from different sources and from different gentlemen, urging that Mr. Tracy be allowed to remain in New York to-day and to-morrow on account of private business. I have only to say that he was duly summoned to appear before the committee, but failed to do so, or to render any excuse for his non-appearance. The committee, therefore, unanimously instructed me to make the motion which I made yesterday. I will leave to the House to determine whether a private business engagement is to be considered a reasonable excuse for a person failing to attend, pursuant to a summons, before a committee of this House, conducting an investigation which has been ordered by the House, and deemed of sufficient importance to be inquired into. On that point I will express no opinion whatever; I shall be entirely satisfied with whatever action the House may choose to take upon it. I will say that I am perfectly satisfied, as I think all the members of the committee are, that the gentleman from Illinois, [Mr. Cook,] who introduced the resolution ordering this investigation, acted in entire good faith.

**MR. GRINNELL.** It is known to many members of this House that Mr. Tracy is the president of the Chicago, Rock Island, and Pacific railroad and a director of the Union

Pacific railroad. He has, I am told, very important and pressing business engagements, and I know that in failing to attend at the time appointed by the committee he meant no disrespect to the committee or the House. I hope there will be no objection to the motion to reconsider.

**MR. RANDALL,** of Pennsylvania. I would like to ask the gentleman from Illinois [Mr. Cook] for how long this extension of time is desired.

**MR. COOK.** The dispatch states that the board of directors of the Pacific Railroad Company require his presence to-day and to-morrow. The dispatch is from Hon. James Brooks, who, I believe, is one of the directors. Mr. Tracy will certainly be here on Monday, if this motion to reconsider be adopted.

**MR. RANDALL,** of Pennsylvania. I will agree to any arrangement that may be proposed provided that this gentleman will come here at the time the gentleman from Illinois has indicated. I desire to say that I join with the gentleman from New York [Mr. HALE] in defending the entire good faith with which the gentleman from Illinois made this proposition. He was perfectly warranted in making this inquiry and offering the resolution requiring the appearance of Mr. Tracy as a witness. I may say that the reason for this investigation has not been substantiated. I desire that the House and the country shall know why and upon what grounds such an idle rumor was circulated, affecting the character of the Secretary of the Treasury and also the sub-Treasurer at New York. I think further that this occurrence will tend to give a wholesome lesson for the future to gentlemen in Wall street, who for their own purposes seek to influence the market so as to affect the values of Government stock and Government gold.

**MR. HALE.** Will the gentleman from Illinois [Mr. Cook] allow me a word further?

**MR. COOK.** Yes, sir.

**MR. HALE.** Mr. Speaker, I ought to say that this is not a trifling case. Mr. Tracy, the person against whom process for contempt has issued, is the person on whose charges a resolution of inquiry was introduced here in regard to the improper loaning of gold in New York by an officer of the Government. The charges which have been made by this man, and which we have summoned him before us to sustain, are charges of felony against Mr. Van Dyke, the Assistant Treasurer at New York. The committee thought that it was too important a subject to be allowed to sleep; that the investigation should proceed as rapidly as possible, so that the country might be informed whether those charges are well founded or not.

**MR. WENTWORTH.** Will my colleague allow me a word?

**MR. COOK.** Yes, sir.

**MR. WENTWORTH.** I desire to ask whether this gentleman is willing to be here by Monday or Tuesday?

**MR. COOK.** By Monday morning.

**MR. WENTWORTH.** I see no reason why we should resort to this process of attachment to bring this man here if he is willing to be here on Monday. I know Mr. Tracy, and I should be willing to guaranty to the House that if he promises to be here on Monday he will be here. I believe, however, that this matter should be promptly investigated. Ever since this question of currency was brought before the House every man who has dared to raise his voice against the banks and against the expansion of the currency has been attacked as the menial of Mr. McCulloch. It has been charged that Mr. McCulloch has been speculating in the public securities; that he has been loaning the public funds. We have now a chance to drive these lies home, and we ought to do it. But if Mr. Tracy will pledge his honor that he will be here on Monday I for one am willing to wait for him. I hope that this committee will call before it not only Mr. Tracy, but every other man who charges that Mr. McCulloch has been guilty of a felony. Let us see who they are. If Mr. McCulloch has

been guilty of official misconduct or malfeasance, let us impeach him; but if he is innocent, let us brand these liars with the infamy they deserve.

Mr. J. L. THOMAS. I wish to ask whether the attachment ordered by the House yesterday has not already been issued; and if so, whether it is not too late for the House to reconsider the matter.

The SPEAKER. The Chair signed the attachment yesterday during the session of the House.

Mr. J. L. THOMAS. I make the point of order, whether it is not too late for the House to reconsider?

Mr. COOK. I will answer the question. I asked the Sergeant-at-Arms at what time the attachment left, and he said it left last night; and Mr. Tracy will be brought before the House to-morrow unless this vote is reconsidered. It seems to me from the evidence, Mr. Tracy is detained by the board of directors of the Pacific railroad on a matter of importance to the Government. He telegraphed to me and asked me to request the committee to excuse him until after that thing was over. That telegraphic dispatch I received too late, and therefore I had no opportunity to present it. That he will be here on Monday morning next is perfectly certain. I think there is no doubt about it.

Mr. JOHNSON. How long has he been a delinquent?

Mr. COOK. I understand he was subpoenaed day before yesterday, and was expected yesterday morning.

Mr. JENCKES. I trust this resolution will not be reconsidered in the present state of this business. This gentleman, whatever his character may be, has neither obeyed the summons nor sent to the committee any excuse.

Mr. COOK. He telegraphed to me to lay the matter before the committee, and I did not get the telegram in time.

Mr. JENCKES. I submit that is not a proper mode of responding to a summons of this House. It was the duty of the committee to report his delinquency and to move his attachment. It has been done, and I trust we will see that gentleman here to-morrow to give his excuse at the bar of the House.

Mr. SCHENCK. I hope, Mr. Speaker, there will be no reconsideration of this vote. The Committee on Retrenchment, of which I also am a member, considered well what they were presenting to the House when they asked an attachment against Mr. Tracy.

What are the facts? Mr. Tracy is at New York, and is duly summoned as a witness. He has full twenty-four hours' notice, and he does not pretend not to have that notice, but makes his excuse, now when the matter comes to be inquired into, it was not convenient for him to come. Why not, sir? Because Mr. Tracy is president of a railroad company, and Mr. Tracy is perhaps, like other gentlemen, speculating at all times in stocks in Wall street. No matter what his engagements may be—

Mr. COOK. Mr. Brooks states Mr. Tracy was detained at the request of the board of directors of the Union Pacific Railroad Company.

Mr. SCHENCK. Mr. Tracy, because he is serving with the board of directors of the Pacific Railroad Company, ought to keep this Congress waiting; is that it? Is Congress to wait upon this board of directors instead of the board of directors waiting upon Congress? Mr. Tracy gives no excuse, makes no explanation, does not attend to the notice of subpoena regularly served upon him. He does not attend here as he might have done at the time indicated. Now, what does it amount to? What does it mean? Would it be establishing a safe precedent that a president of a railroad company, at the request of a board of directors, shall come when summoned only at his convenience. When you summon a carpenter or shoemaker, who if he leaves his bench or plane, leaves his children to suffer during his absence, there is no sympathy for him. I do not pre-

sent this for the purpose of drawing any distinction which may be demagogical, but I do it for the purpose of considering this case fairly. If anybody should attend it is this man, who should set an example, according to his intelligence and high position, of obedience to the laws of the land.

We do not take into consideration that it is inconvenient for Mr. Tracy to come here. But he did not let the committee know it was inconvenient; he did not ask to be excused; he did nothing, but refused and neglected, as the resolution which has been passed recites, to obey or give any regard to the subpoena served upon him.

Mr. JENCKES. I ask whether Mr. Tracy did not reply to the officer who served the summons that he would come that night.

Mr. SCHENCK. Yes, sir; he promised he would come, and the committee met for no other purpose whatever on the morning indicated except to hear Mr. Tracy's testimony. They waited for two hours, and no witness appearing the committee adjourned.

Now, sir, I think it time, when we take into consideration, particularly along with these facts, the fact that Mr. Tracy is himself the one important witness, the prosecuting witness, the witness who makes these grave charges, and he has declined or failed to appear as he was bound to do, that he should be made to understand that the processes of this body are to be regarded quite as much as the convenience or wishes of his fellow-members of the board of directors of a railroad. That is really the whole case, I think.

Mr. DAWES. Mr. Speaker, having had some little experience on investigating committees, it seems to me that if the House is desirous of rendering the work of its committees at all efficient, and making them anything more than a farce, it should be reluctant to excuse this witness at the present time, *in limine*, before he comes before the House. It is important very often for investigating committees that a witness should appear when summoned, and that we should have no reason to suppose that any convenience of his own or any indulgence of ours will permit him to fix his own time to appear before a committee. I do not mean to say that that is the case with this man; but I mean simply to speak of the general rule. Often the witness may have a day or two to consult his own interest or the purpose which he may think the committee may have in view; and—

Mr. COOK. Mr. Speaker, I withdraw the motion to reconsider.

Mr. DAWES. Not while I am on the floor.

The SPEAKER. The mover has an absolute right to withdraw the motion at any time; the rule makes no limitation.

Mr. DAWES. For the purpose, then, of stating just what I wanted to say I renew the motion to reconsider. I wish to say that there never can be any hardship in undertaking to enforce this proposition, for the reason that the witness, when he is brought up, the first thing, before any action of the House, is called upon to show cause. He can come in and make a statement himself on paper explaining the reason, and if the House sees there is no intent to treat its precept with contempt it will let him off. Now, it seems to me that this witness of all others is in a position where he should at least come before this body and explain why he did not even so much as notice the precept of the House. Therefore, in order that he may come and make his statement to the House and the House pass upon it, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed without amendment House bill No. 765, amendatory of an act to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases." Also, that the Senate had passed a bill (S.

No. 347) entitled "An act to change certain collection districts in Maryland and Virginia."

Also, a bill (S. No. 460) in relation to persons imprisoned under sentence for offenses against the laws of the United States; in which the concurrence of the House was requested.

#### LOYAL CLAIMANTS IN EAST TENNESSEE.

Mr. TAYLOR, of Tennessee. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Committee of Claims be instructed to report to this House the bill introduced by Hon. Mr. TROWBRIDGE at the last session of Congress, and referred to said committee, establishing a commission for the investigation and adjustment of claims of loyal persons of East Tennessee against the Government of the United States.

Mr. WASHBURN, of Massachusetts. I object.

#### TAX ON ALCOHOL AND BURNING FLUID.

Mr. HOGAN. I ask unanimous consent to report from the Committee of Ways and Means a joint resolution to amend existing laws relating to the internal revenue. The Commissioner of Internal Revenue desires action upon it at once, and it is very important that it should pass immediately.

The joint resolution, which was read in full, provides that alcohol made or manufactured of distilled spirits upon which the tax imposed by law shall have been paid, and burning fluid made or manufactured of alcohol, or spirits of turpentine, or camphene, upon which the taxes imposed by law shall have been paid, shall be exempt from tax, and that so much of the act of June 30, 1864, as relates to alcohol and burning fluid is hereby repealed; and all products of distillation by whatever name known, which contain distilled spirits or alcohol on which the tax imposed by law has not been paid shall be considered and taxed as distilled spirits. The second section amends the internal revenue law by striking out the words "distillers of burning fluid and camphene."

No objection was made; and the joint resolution was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOGAN moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### HEIR OF JAMES BELL.

On motion of Mr. PRICE, the Committee on Revolutionary Pensions was discharged from the consideration of the papers in the case of the application of Rose A. Cameron, heir-at-law of James Bell, and the same were laid upon the table.

#### JOHN GRAY.

Mr. PRICE also, from the Committee on Revolutionary Pensions, reported a bill for the relief of John Gray; which was read a first and second time.

The bill was read. It directs the Secretary of the Interior to place the name of John Gray on the pension-roll at the rate of \$200 per annum during his natural life, payable semi-annually.

Mr. DELANO. Has this bill the approbation of any committee?

Mr. PRICE. It has the approbation of the Committee on Revolutionary Pensions. I will state that this applicant is one hundred and three years old, and I have another similar case to report in which the applicant is one hundred and seven years old, and both of these men are now supported by public charity.

Mr. SPALDING. I move to amend the bill by striking out "two hundred dollars" and inserting in lieu thereof "five hundred dollars."

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.



Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

FREDERICK DANIEL BAKEMAN.

Mr. PRICE also, from the same committee, reported a bill for the relief of Frederick Daniel Bakeman, a revolutionary soldier; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Frederick Daniel Bakeman on the pension-roll at the rate of \$200 per annum during his natural life, payable semi-annually.

Mr. SPALDING, I offer the same amendment to this bill that I did to the last. I move to strike out "two hundred dollars" and insert in lieu thereof "five hundred dollars."

Mr. DELANO. I desire to know if this amendment comes from any committee?

The SPEAKER. The original bill grants this man a pension of \$200. The gentleman from Ohio proposes to amend it so as to give him \$500.

Mr. DELANO. For what reason?

Mr. DRIGGS. He is one hundred and seven years old, and he is now supported by public charity.

Mr. PRICE. He is one of the only two survivors of the soldiers of the revolutionary war so far as I know.

Mr. DELANO. Then I make no objection to the bill.

Mr. DAWES. I would like to make an inquiry as to the history of this man. Why has he not been placed upon the pension-rolls already?

Mr. PRICE. This man's name is, as appears from the bill, Frederick Daniel Bakeman. He is evidently a German, and his name is Bochman, but it appears upon the rolls of the War Department as Bakeman. I am informed on very good authority that application was made for a pension in the name of Bochman, but the name appeared as Bakeman on the rolls of the War Department, and the case was held over, and has been since neglected. It was merely a difference in spelling; his name was Bochman, but spelled in English they made it Bakeman.

Mr. DAWES. Were the committee satisfied that he actually served in the revolutionary war?

Mr. PRICE. We are satisfied of that fact by the testimony of several persons. This old gentleman is now one hundred and seven years of age and is supported by public charity.

Mr. MAYNARD. Is the only reason why the Department did not give this man his pension that he spelled his name "Bochman," and not "Bakeman"?

Mr. PRICE. That is the only reason, according to the testimony before the committee.

Mr. ASHLEY, of Ohio. There must have been some very stupid man in the office.

Mr. DAWES. I would ask the gentleman from Iowa [Mr. PRICE] where this person served. I desire the information as an interesting historical fact.

Mr. DELANO. And I would also ask what is the evidence of identity?

Mr. PRICE. The gentleman from New York [Mr. VAN AERNAM] is personally acquainted with the applicant. He served at Fort Stanley, and is, I am informed, one of the Mohawk Dutch.

Mr. DAWES. If he actually served I do not care what his name was.

Mr. PRICE. I call the previous question.

The previous question was seconded and main question ordered.

The first question was upon the amendment of Mr. SPALDING, to increase the annual pension from \$200 to \$500.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

#### MISSISSIPPI RAILROAD GRANT.

Mr. MAYNARD, by unanimous consent, introduced a bill to revive and continue in force the provisions of an act granting public lands in alternate sections in the State of Mississippi to aid in the construction of railroads in said State, and for other purposes, approved August 11, 1856; which was read a first and second time, and referred to the Committee on Public Lands.

#### MEMORIALS, ETC., FROM KANSAS.

The SPEAKER laid before the House the following memorials, &c., from the State of Kansas:

A joint resolution of the Legislature of the State of Kansas, asking for aid to the Union Pacific railway, southern branch; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

A joint resolution of the Legislature of the State of Kansas, praying for the passage of a bill extending the benefit of the homestead law to settlers on the land recently purchased from the Osage Indians; which was referred to the Committee on Public Lands, and ordered to be printed.

A joint resolution of the Legislature of the State of Kansas, praying the passage of Senate bill No. 489, giving the right of preemption to settlers on the Cherokee neutral lands in Kansas; which was referred to the Committee on Public Lands, and ordered to be printed.

#### CONSTITUTIONAL AMENDMENT.

The SPEAKER also laid before the House a communication from the Governor of West Virginia, transmitting a copy of a joint resolution adopted by the State Legislature ratifying the amendment proposing a fourteenth article to the Constitution of the United States; which was laid on the table, and ordered to be printed.

#### CAPITOL BUILDING FOR DAKOTA.

The SPEAKER also laid before the House a memorial of the Legislative Assembly of the Territory of Dakota, asking an appropriation to erect a capitol building at the seat of government in Dakota Territory; which was referred to the Committee on Appropriations, and ordered to be printed.

#### PENSION LAWS.

The SPEAKER also laid before the House a copy of resolutions adopted by the Soldiers' and Sailors' Union, of Washington City, relative to the pension laws; which was referred to the Committee on Invalid Pensions.

#### ORDER OF BUSINESS.

Mr. DELANO. I move that the House now resolve itself into the Committee of the Whole House upon the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House, (Mr. FARNSWORTH in the chair,) and proceeded to the consideration of bills and joint resolutions on the Private Calendar as on "objection day."

The CHAIRMAN. There are two bills upon the Private Calendar which were not reached when the House was last in Committee of the Whole on objection day, and which are subject to the objection of one member only. The Clerk will now report those bills.

#### JAMES HOOPER.

A bill (H. R. No. 967) for the relief of James Hooper, of Baltimore, Maryland.

The bill was read at length. It directs the Secretary of the Treasury to pay to James Hooper, of Baltimore, Maryland, the sum of \$16,000, to reimburse him for the destruction and loss at sea of the bark General Berry, while in the military service of the Government, on the 9th of July, 1864.

No objection being made, the bill was laid aside to be reported to the House.

#### E. J. CURLEY.

Senate bill No. 443, for the relief of E. J. Curley.

The bill was read at length. It requires the Secretary of the Treasury to pay E. J. Curley the sum of \$34,248 52, as compensation in full for corn purchased of him by Captain E. B. W. Reslieaux, assistant quartermaster on the part of the Government.

Mr. SPALDING. I call for the reading of the report.

The CHAIRMAN. There is no report.

Mr. SPALDING. Then I object to the bill.

The CHAIRMAN. The remaining bills on the Calendar, having been once objected to, will be laid aside, to be reported to the House, unless five members object.

#### JOHN R. BECKLEY.

Joint resolution (H. R. No. 174) authorizing the Secretary of the Treasury to audit and pay the claim of John R. Beckley.

The joint resolution, which was read, recites in the preamble that divers horses, the property of John R. Beckley, mail contractor on mail routes No. 9634 and No. 9619, in the State of Kentucky, were during the late war captured by the rebel forces and guerrillas, and lost to him while endeavoring to carry out his contract with the United States.

The resolution directs the Secretary of the Treasury to have the claim of Beckley audited, and to pay him the amount which shall be found due for the loss of property in carrying the mail. The amount, however, is not to exceed \$5,950, and it must appear that the property was lost without any fault or negligence on the part of Beckley.

The joint resolution was laid aside to be reported to the House.

#### ALEXANDER F. PRATT.

An act (S. No. 435) for the relief of Alexander F. Pratt.

The bill, which was read, proposes to direct the Secretary of the Treasury to pay to Alexander F. Pratt \$530 in full for pursuing and capturing one Elijah K. Jauner, convicted of counterfeiting United States coin.

The bill was laid aside to be reported to the House.

#### JOSIAH O. ARMES.

An act (S. No. 16) for the relief of Josiah O. Armes. [Objected to.]

#### SUFFERERS BY PORTLAND FIRE.

An act (S. No. 428) for the relief of the sufferers by the late fire in Portland. [Objected to.]

#### JOHN T. JONES.

An act (S. No. 122) for the relief of John T. Jones, an Ottawa Indian, for depredations committed by white persons upon his property in Kansas Territory. [Objected to.]

#### DONAHUE, RYAN AND SECOR.

A joint resolution (S. R. No. 141) for the relief of Donahue, Ryan & Secor, builders of the iron-clad monitor Camanche. [Objected to.]

#### HENRY S. DAVIS.

An act (H. R. No. 820) for the relief of Henry S. Davis.

The bill, which was read, appropriates \$5,720 04 for the relief of Henry S. Davis, which is to be in full of his claim against the United States for work done by him on the west wing of the Patent Office building under his contract of November 6, 1857.

The bill was laid aside to be reported to the House.

#### BALMER AND WEBER.

An act (H. R. No. 821) for the relief of Balmer & Weber, of St. Louis, Missouri. [Objected to.]

#### GEORGE W. LANE.

Joint resolution (H. R. No. 211) for the relief of George W. Lane, superintendent of the branch mint at Denver, Colorado, and Assistant Treasurer of the United States.

The joint resolution, which was read, proposes to authorize the Secretary of the Treasury to allow to Lane, in the settlement of his

accounts, a credit of \$4,419 90, the amount of public money which was stolen from the mint without fault or neglect on his part and which has not been recovered.

The joint resolution was laid aside to be reported to the House.

#### GOLDSMITH BROTHERS.

An act (S. No. 192) for the relief of Goldsmith Brothers, of the city of San Francisco, California, and Portland, Oregon, brokers. [Objected to.]

#### MRS. ABBY GREEN.

Joint resolution (S. R. No. 112) for the relief of Mrs. Abby Green.

The joint resolution was read. The preamble recites that from the evidence of General H. C. Hobert, Colonel A. D. Streight, and Captain John F. Porter, jr., late of the United States Army, it appears that Mrs. Abby Green, then of Richmond, Virginia, by her courage, patriotic devotion, and assistance, from May, 1863, to February, 1864, enabling one hundred and nine officers and soldiers of the United States to make their escape from Libby prison, in Richmond, Virginia, and from the hands of the nation's enemies, has deserved well of the country.

The resolution appropriates \$1,500 to Mrs. Green, her heirs or administrator, in compensation for her services.

The joint resolution was laid aside to be reported to the House.

#### AMBROSE MORRISON.

An act (H. R. No. 666) authorizing the Secretary of War to purchase certain property for military purposes.

The bill was read. The preamble recites that the Government of the United States, on the 4th day of May, 1863, took possession of the dwelling-house and lot of Ambrose Morrison, of Nashville, Tennessee, and entirely demolished it and constructed a fort upon the lot, which has been occupied by the military forces of the United States up to the present time, the materials of which the dwelling-house was constructed being used partly in constructing the fort, partly in other public works, and a portion sold for the benefit of the Government; that Morrison is and always has been a loyal citizen of the United States, and a military commission, appointed by Special Order No. 103, of General J. D. Morgan, dated May 4, 1863, inquired as to and reported the value of the property at the sum of \$16,384 90.

The bill authorizes the Secretary of War to purchase the above-mentioned property of Morrison, if in his opinion it shall be proper so to do, at a price not exceeding \$15,000. Before the money is paid Morrison is to convey the property to the United States, by a good and indefeasible title, in fee simple, free and clear of incumbrance.

The bill was laid aside to be reported to the House.

#### E. J. CURLEY.

An act (S. No. 443) for the relief of E. J. Curley. [Objected to.]

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had disagreed to the amendment of the House to the bill (S. No. 253) to incorporate the First Congregational Society of Washington.

The message further announced that the Senate had insisted on its amendment, disagreed to by the House, to the bill (S. No. 69) to provide for the payment of pensions; had agreed to the conference asked by the House, and had appointed Messrs. LANE, TRUMBULL, and BUCKALEW as conferees on the part of the Senate.

Mr. DELANO moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. FARNSWORTH reported that the Committee of the Whole House, according to order, had the Private Calendar generally under considera-

tion, and had directed him to report the following bills and joint resolutions to the House, with the recommendation that they do pass:

A bill (H. R. No. 267) for the relief of James Hooper, of Baltimore, Maryland;

An act (S. No. 435) for the relief of Alexander F. Pratt;

A bill (H. R. No. 820) for the relief of Henry S. Davis;

Joint resolution (H. R. No. 211) for the relief of George W. Lane, superintendent of the branch mint at Denver, Colorado, and Assistant Treasurer of the United States;

Joint resolution (S. R. No. 112) for the relief of Mrs. Abby Green; and

A bill (H. R. No. 666) authorizing the Secretary of War to purchase certain property for military purposes.

#### JAMES HOOPER.

The first bill reported from the Committee of the Whole was House bill No. 267, for the relief of James Hooper, of Baltimore, Maryland.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. DELANO demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof the bill was passed.

Mr. DELANO moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### ALEXANDER F. PRATT.

The next bill reported from the Committee of the Whole was Senate bill No. 435, for the relief of Alexander F. Pratt.

The bill was ordered to a third reading; and it was accordingly read the third time.

Mr. COBB. I should like, before this bill is passed, to have some explanation of it. It is a Wisconsin claim, I know, but I do not think it should pass.

Mr. DELANO. This bill has never been before the Committee of Claims, and I have no knowledge in regard to it.

Mr. PAINE. With the permission of the gentleman from Ohio, I will undertake to give my colleague some information on the subject. I am acquainted with the claimant in this case, and I have no higher opinion of his political character than my colleague, but nevertheless, having looked into the claim, I am satisfied it is a just one and ought to be paid.

At the time it occurred Mr. Pratt was sheriff of Waubeshaw county, in the State of Wisconsin. A prisoner was sent to the jail of that county by order of the district court judge, but he subsequently succeeded in making his escape from the jail. His escape arose from no fault on the part of the sheriff, because the jail was an insecure one. The expenses necessarily incurred in the capture of the prisoner were not allowed by the judge of the district court, because, he said, it was the duty of the State of Wisconsin to furnish him with a secure jail. The State of Wisconsin, on the other hand, said it was a jail good enough for the State of Wisconsin, and as he had selected it as the jail to which this prisoner should be sent he had no reason to complain. It was optional for the judge to send his prisoners to that jail or to some other jail, and if he selected that jail he ought to be satisfied with it. The State, therefore, refused to pay this demand, not because it was not a just demand so far as this claimant was concerned, but because the State thought the United States should pay the expenses of recapturing the prisoner. Hence it was that Mr. Pratt was compelled to come here with his claim. I think it a just demand against the Federal Government, and think the bill ought to pass.

Mr. COBB. I desire to say in reply to my colleague I urged no objection to this claim on account of the politics of the claimant. My request merely was that some information be

furnished to the House to show why the claim should be paid. I did not object on the ground of politics, although I knew Mr. Pratt's politics were of the worst kind. While I differ with him politically, yet my personal relations are such that I would not object to any just claim he might bring before Congress.

I do not say anything, therefore, about his politics, but I by no means regard this as a just claim against the Government. I do not know of any reason why I should support an unjust claim from my own State any more than from any other State. I am not one of those who believe that every claim which comes from my own State is thereby necessarily just. I do not desire, and I am sure I will not follow the example set here by many gentlemen of objecting to claims coming from another State and voting uniformly for every one that is presented by citizens of one's own State. Nevertheless I am very loth to oppose a just claim coming either from another part of the country or from the State of Wisconsin.

Mr. SCOFIELD. Will the gentleman from Ohio [Mr. DELANO] yield to me?

Mr. DELANO. Certainly.

Mr. SCOFIELD. Mr. Speaker—

Mr. COBB. I am not through. I know I am somewhat slow, but it is because half a dozen gentlemen around me are telling me what to say, and I happen to differ with them as to the propriety of what is to be said. [Laughter.] I hope my friends will not take offense.

Now, I undertaket to say that the facts stated by my colleague, good lawyer as he is and able as he is, establish no claim whatever against this Government. He says that the district court of the United States, sitting in Milwaukee, committed a man to jail in Waubeshaw county, and that the prisoner broke jail, wherefore the sheriff took it for granted that that gave him a roving commission over that State, and perhaps over other portions of the country, to recapture the man at any expense. Now, I think it should be considered that the simple fact of his being the sheriff of that county imposed no such duty upon him, and that the Government has the right to adopt its own means and its own way for the recapture of prisoners. That the fact of his having broken jail gives the sheriff any jurisdiction in the matter I deny. At the suggestion of several gentlemen I will move, if it is in order, to refer this bill to the Committee of Claims.

Mr. DELANO. I yield for that purpose.

Mr. COBB. I make that motion.

Mr. PAINE. If the gentleman from Ohio will allow me, I wish to state that until this bill came from the Senate I had no knowledge that such a claim was before Congress. I have examined it only since it came to this House from the Senate.

Mr. ELDRIDGE. Will the gentleman from Ohio yield.

Mr. DELANO. Yes, sir.

Mr. ELDRIDGE. The facts in regard to this bill I have no doubt are precisely as stated by my colleague, [Mr. PAINE.] I have some knowledge of this claim, which I obtained from the gentleman who preceded my colleague as the Representative from that district, and I have no doubt of the entire justice of the claim. I should be very sorry that any gentlemen should base their action in this case upon the political character of the party or the fact that he might differ from them in politics. This claim, if I am not very much mistaken, has passed this House at least twice before and failed for want of time to act upon it in the Senate during the last Congress. It has now passed the Senate and comes to the House. I have no special desire to advocate a claim I have not been called upon to advocate, but it seems to me it is entirely just that we should act upon it favorably and without regard to the fact that the gentleman may differ or agree with us in politics.

Mr. SCOFIELD. I wish to inquire if this bill has been before any committee of this House?



The SPEAKER. It has not. It came from the Senate to the House during the closing days of the last session, and was referred to the Committee of the Whole, instead of going to the Committee of Claims.

Mr. SCOTFIELD. When it went to the Committee of the Whole I raised no objection because I supposed it had passed to the Committee of Claims, and had great confidence in that committee. I think, as it has not been before a committee, the friends of the bill ought to consent that it go to the Committee of Claims, and with their sanction of it I presume there will be no objection to its passage. I will therefore support the motion to so refer it.

Mr. DELANO. I now yield to my colleague on the committee.

Mr. SLOAN. I should have no objection to having the motion now pending prevail; but from what I have heard of this claim I am satisfied it is a just one, and as the amount is small I think it had better be finally disposed of now rather than have a reference of it to the Committee of Claims. It has already occupied the attention of Congress to a much greater extent than the amount involved in it in my opinion justifies.

The facts of the case are simply these: the prisoner, under sentence of the United States court in the district of Wisconsin, was put in jail in Waubesa county by the sheriff. The prisoner escaped from the jail. The pursuit was a very long one and involved considerable expense. This bill is simply brought in for the purpose of reimbursing this Mr. Pratt for the expenses he incurred in making this pursuit, recapturing the prisoner, and bringing him back.

I believe with my colleague on the other side [Mr. SLOAN] that the character, either moral or political, of the claimant ought not to be considered in the consideration of his claim. When a man arrests a prisoner who has been sentenced by a United States court and has escaped he surely presents a proper ground for being reimbursed by the Government for the expense he incurred in the capture. And, as my colleague has stated, the ground on which the allowance was rejected by the district judge was technical, and I think untenable.

Mr. DELANO. I now demand the previous question.

Mr. COBB. I ask the gentleman to allow me two minutes.

Mr. DELANO. I will do so.

Mr. COBB. My colleagues on both sides seem to insist upon it that I have attacked this claimant on account of his politics. Sir, I said nothing about his politics. I disclaim having said anything against the politics of this man; and I desire to say that while I could say many things about him and not be outside of the truth, I object to that line of argument which has been suggested by my colleague. I have never known a scheme to be passed through Congress, or any other legislative body without somebody saying that improper influences were brought to bear. This bill has not been examined by any committee of this House.

[Here the hammer fell, the gentleman's five minutes having expired.]

The previous question was seconded and the main question ordered; and under the operation thereof the bill was referred to the Committee of Claims.

L. L. MERRY.

On motion of Mr. CONKLING, by unanimous consent, the Committee of Ways and Means was discharged from the further consideration of the petition of L. L. Merry, for relief from payment for stamps burglariously taken; and the same was referred to the Committee of Claims.

#### REPORT ON INTERNAL REVENUE.

Mr. MORRILL, by unanimous consent, submitted the following resolution; which was

read, and under the law referred to the Committee on Printing:

*Resolved.* That there be printed six thousand copies of the report of the Commissioner of Internal Revenue; two thousand for the use of the House and four thousand for the use of the office of internal revenue.

HENRY S. DAVIS.

The next bill reported from the Committee of the Whole House was the bill of the House No. 820, for the relief of Henry S. Davis.

Mr. DELANO. I wish to say to the House that this claim has never undergone an examination by any committee of this House.

The SPEAKER. The bill was reported from the Committee on Public Buildings and Grounds.

Mr. ALLISON. I move that it be referred to the Committee of Claims.

Mr. STEVENS. I desire to say that this claim has been three times examined by the Committee on Appropriations when it was referred to them; but it has always failed between the House and the Senate for some reason or other.

Mr. DELANO. I did not intend to interpose any objection to the passage of the bill.

The SPEAKER. The bill was reported by the gentleman from Maine [Mr. RICE] from the Committee on Public Buildings and Grounds.

Mr. ALLISON. I withdraw my motion.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RICE, of Maine, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

GEORGE W. LANE.

The next business reported from the Committee of the Whole House was joint resolution of the House No. 211, for the relief of George W. Lane, superintendent of the branch mint at Denver, Colorado, and Assistant Treasurer of the United States.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. DELANO moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter action was agreed to.

AMBROSE MORRISON.

The next business reported from the Committee of the Whole was House bill No. 666, authorizing the Secretary of War to purchase property for military purposes.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DELANO moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MRS. ABBY GREEN.

The last business reported from the Committee of the Whole was Senate joint resolution No. 112, for the relief of Mrs. Abby Green.

The joint resolution was read the third time, and passed.

Mr. DELANO moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. NIBLACK asked and obtained leave of absence for his colleague, Mr. KERR, for the remainder of this week.

Mr. BERGEN asked and obtained leave of absence for himself for a week.

SPEAKER'S TABLE.

Mr. DELANO. I move that the House

now proceed to the consideration of business upon the Speaker's table of a private character.

The motion was agreed to.

#### WASHINGTON COUNTY HORSE RAILROAD.

The first private business upon the Speaker's table were Senate amendments to the amendments of the House to the bill (S. R. No. 380) to incorporate the Washington County Horse Railroad Company in the District of Columbia.

The amendments of the Senate were merely verbal, except the one to add to fourth amendment of the House the following:

And Congress may at any time alter, amend, or repeal this act.

The amendments of the Senate were concurred in.

#### FIRST CONGREGATIONAL SOCIETY.

The next business was the amendment of the House to Senate bill No. 253, incorporating the First Congregational Society of the city of Washington, to which the Senate disagreed.

Mr. INGERSOLL. I move that the House insist upon its amendment, and ask a committee of conference.

Mr. WENTWORTH. What is the issue between the two Houses in regard to this bill?

Mr. INGERSOLL. The Committee for the District of Columbia of this House reported a substitute for the Senate bill, which the House adopted, but to which the Senate disagreed.

Mr. WENTWORTH. Well, what is the question at issue between the two Houses? Is it a matter of church discipline? [Laughter.]

Mr. INGERSOLL. It is not. The House substitute proposes some persons among the incorporators different from those which the Senate bill proposed. The Senate disagrees to our substitute, and I ask the House to insist upon it, and ask for a committee of conference.

Mr. WENTWORTH. Is it all for the same society and the same church?

Mr. INGERSOLL. It is.

Mr. WENTWORTH. And the same preacher?

Mr. INGERSOLL. It is.

Mr. WENTWORTH. "One faith and one baptism?"

Mr. INGERSOLL. The gentleman is getting into almost too deep water for me. [Laughter.]

Mr. WENTWORTH. The two Houses have disagreed about something. The chairman of the Committee for the District of Columbia tells us that both the bill and the substitute are for the same church, the same society, the same everything. Then, I ask, what is it that the two Houses are differing about? Let that difference be pointed out; if it is merely a difference in men that is one thing. I want to know why the time of the two Houses should be taken up by a disagreement when they are both in favor of the same thing? I would ask the gentleman if there are not other differences than those in regard to men?

Mr. INGERSOLL. None whatever.

Mr. WENTWORTH. Is the treasurer in both cases the same?

Mr. INGERSOLL. The bill does not provide for or name a treasurer; that is left to the corporators.

Mr. WENTWORTH. I understand that the Senate placed the name of General Howard in the bill as one of the trustees, and the House struck out the name of General Howard and others and put in a new list.

The SPEAKER. The Chair would suggest that a motion to recede from the House amendment will take priority of a motion to insist; as a motion to bring the two Houses together takes precedence of one to continue a disagreement between the two Houses.

Mr. DELANO. I move that the House recede from its amendment to the bill of the Senate; that will leave the name of General Howard in the bill.

The question was taken; and upon a division there were—ayes sixty-six; noes not counted. So the House receded from its amendment.

MRS. ELIZABETH R. SMITH.

The next business on the Speaker's table was the bill (S. No. 451) for the relief of Mrs. Elizabeth R. Smith; which was read a first and second time, and referred to the Committee of Claims.

HEIRS OF JOHN E. BOULIGNY.

The next business on the Speaker's table was the bill (S. No. 438) for the relief of the heirs of John E. Bouligny; which was read a first and second time, and referred to the Committee on Private Land Claims.

MRS. MARY E. FINNEY.

The next business on the Speaker's table was the bill (S. No. 511) for the relief of Mrs. Mary E. Finney, widow of First Lieutenant Solon H. Finney, late of the sixth regiment Michigan cavalry; which was read a first and second time.

Mr. PRICE. I hope this bill will be put on its passage now.

Mr. ARCONA. I move that the bill be referred to the Committee on Military Affairs.

The motion was not agreed to.

The bill, which was read, provides for paying to Mrs. Finney the three months' extra pay proper which her husband would have been entitled to receive had he been mustered out of service after April 9, 1865, he having died of wounds received in battle on that day.

Mr. SCHENCK. This case has been brought to my attention, and although it has not been referred to the Committee on Military Affairs I have no doubt that committee would report upon it favorably. I trust the bill will be passed.

The bill was ordered to a third reading, read the third time, and passed.

Mr. TROWBRIDGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles, which were thereupon signed by the Speaker:

An act (H. R. No. 755) amendatory of an act to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved May 11, 1866; and joint resolution (S. R. No. 156) to provide for the removal of the wreck of the steamship Scotland.

MRS. MARY J. DIXON.

The next business on the Speaker's table was the bill (S. No. 508) for the relief of Mrs. Mary J. Dixon, of Alexandria, in the State of Virginia, widow of the late Turner Dixon, deceased; which was read a first and second time, and referred to the Committee of Claims.

ORDER OF BUSINESS TO-MORROW.

Mr. NIBLACK. Mr. Speaker, I understand there are several gentlemen who desire to speak upon some of the questions pending before the House. I suppose it is not the intention of the House to cut off all general debate on these questions. It has been suggested to me that to-morrow ought to be set apart for debate alone. I therefore ask that, by unanimous consent, we may have an understanding that to-morrow shall be appropriated for that purpose.

Mr. ASHLEY, of Ohio. I must object. There are only forty days—practically only about thirty—remaining of the session. I am very anxious that gentlemen desiring to deliver speeches shall have an opportunity to do so, and I will vote for the holding of night sessions for that purpose; but I cannot consent that another day shall be spent in speech-making alone.

Mr. NIBLACK. I beg leave to inquire of the gentleman from Pennsylvania [Mr. STEVENS] whether he designs to press his bill to a vote before next week?

Mr. STEVENS. I could not think it fair to deprive gentlemen who have held the floor for several days of the opportunity of speaking; and as the discussion, if resumed to-day, would extend beyond four o'clock, I shall not ask a vote to-day.

Mr. NIBLACK. Does the gentleman ask for a vote to-day?

Mr. STEVENS. Not to-day.

Mr. NIBLACK. Will he ask for a vote to-morrow?

Mr. STEVENS. I intend to ask the House in some way to dispose of this matter to-morrow.

Mr. ASHLEY, of Ohio. If the gentleman will yield to me, I will move that the House take a recess at half past four o'clock to meet at half past seven o'clock this evening for debate only.

Mr. DELANO. I will yield for that motion.

The SPEAKER. The Chair does not know of any gentleman who desires to speak at the evening session. The gentleman from Illinois [Mr. ROSS] who has the floor wishes to submit his remarks in the day session.

Mr. NIBLACK. I was requested to ask it on the part of gentlemen who desire to speak on the various questions before the House.

The SPEAKER. There are several gentlemen who desire to speak on other questions than the one now immediately pending before the House, but the Chair is not aware that they want to make their remarks in the evening session.

Mr. ASHLEY, of Ohio. As it appears no one wants to speak this evening I will withdraw my motion for a recess.

Mr. COBB. If we are to have an evening session I want the gentleman from Ohio to preside as Speaker *pro tempore*. [Laughter.]

The SPEAKER. That would be perfectly satisfactory to the Chair.

Mr. ASHLEY, of Ohio. I will agree to that if the gentleman will consent to make an hour's speech. [Laughter.]

CLAIMS OF THE STATE OF IOWA.

Mr. KASSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President be requested to communicate to this House what steps have been taken to carry into effect the act of Congress, approved July 25, 1866, entitled "An act to provide for the appointment of a commissioner to examine and report on certain claims of the State of Iowa, including the name of the commissioner, when appointed, and the report, if any, which he has made under said act."

INCREASE OF PENSIONS.

Mr. DONNELLY, by unanimous consent, introduced a bill increasing the pensions of widows and orphans, and for other purposes; which was read a first and second time, and referred to the Committee on Invalid Pensions.

GENERAL LAND OFFICE REPORT.

Mr. JULIAN, by unanimous consent, submitted a resolution that ten thousand copies of the report of the Commissioner of the General Land Office be printed for the use of the House; which under the law was referred to the Committee on Printing.

SOUTHERN PACIFIC RAILROAD.

Mr. GRISWOLD, by unanimous consent, introduced a bill to expedite the construction of the Southern Pacific railroad; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

Mr. CONKLING moved to reconsider the vote by which the bill was referred to the Committee on the Pacific Railroad; and also moved that the motion to reconsider be laid upon the table.

Mr. WENTWORTH. I voted for that at the last session on condition that the road should not ask for money.

The motion to reconsider was laid upon the table.

JOSIAH O. ARMES.

Mr. DELANO. I ask that by unanimous

consent the Committee of the Whole on the Private Calendar be discharged from the further consideration of the bill (S. No. 16) for the relief of Josiah O. Armes; and that the same be referred to the Committee of Claims.

Mr. WINDOM. I object. I should be very glad, however, to have the bill taken up now and acted on, either passed or rejected.

Mr. DELANO. I will agree to that.

The SPEAKER. If there be no objection, the Committee of the Whole on the Private Calendar will be discharged from the further consideration of the bill, and it will be taken up by the House to be disposed of finally at the present time.

There was no objection.

The bill, which was read, directs the Secretary of the Treasury to pay to Josiah O. Armes \$9,500 in full for damages sustained by him in consequence of the burning of his building and the destruction of his property at Anandale, Fairfax county, Virginia, by United States troops.

Mr. DELANO. Read the report.

The SPEAKER. The gentleman from Minnesota, [Mr. WINDOM], who has charge of the bill proposes to explain it.

Mr. SPALDING. Why, more than five members objected to that bill.

The SPEAKER. The Committee of the Whole was discharged from its further consideration by unanimous consent.

Mr. SPALDING. I give notice I shall move that it be laid upon the table.

Mr. DELANO. I simply desire to have such an understanding of my rights in this case as to know whether I may make a brief explanation to the House or not?

The SPEAKER. As the gentleman from Ohio made the first suggestion he is entitled to the floor.

Mr. WINDOM. The gentleman may proceed now, and I will take the floor afterward. I do not want more than five or ten minutes.

Mr. DELANO. Then I yield to the gentleman.

Mr. WINDOM. This case is too well known here to require any extended remarks from me. I am well aware of the objections in the mind of the gentleman from Ohio. I am also aware of the resolution that was passed by this body to govern the Committee of Claims with reference to cases similar to this, and I know the fear on the part of the chairman of that committee that if this bill be passed it will open up so vast a number of this class of claims that the Government will be unable to pay them. I think this claim, however, may be distinguished from those which will be presented hereafter. I think it may with propriety be to-day made an exception. But whatever may be the rule of the House hereafter in regard to claims of this character it seems to me the peculiar circumstances of this claim call upon this House to act upon it favorably at once.

This bill has passed the House of Representatives twice already; once in the Thirty-Seventh and once in the Thirty-Eighth Congress. It also passed the Senate in the Thirty-Eighth Congress, and would have become a law, having passed both branches, but from a mere accident on the part of a clerk of the Senate. And in order to substantiate what I say I will read a few lines indorsed on the former bill by the Clerk of the Senate.

"OFFICE OF THE SENATE OF THE UNITED STATES,  
March 10, 1865."

"I hereby certify that the above bill passed the two Houses of Congress as above stated; but through mistake in the hurry of the last moments of the session, the Clerk, whose business it was, inadvertently took the engrossed copy of joint resolution (H. R. No. 161) to the House of Representatives instead of the bill, (H. R. No. 161,) which alone caused the failure of this bill being passed through all the formalities necessary to its becoming a law."

Simply a mistake on the part of the Clerk. It has now passed the Senate a second time. It has on two occasions received the sanction of this House. I believe it passed the Senate twice at the last session, for a message was



sent to the House requesting it to be returned, and on being returned it was reexamined there and passed again, making three times there. That, I think, makes this bill an exception, and I cannot believe there is any danger to the country if this House shall choose to do justice to this most worthy claimant, who has rendered service to the Government amounting to a dozen times the value of his claim; who at the peril of his life has rendered it; whose house has been burned down almost within sight of the Capitol—not many miles from where we are now sitting—being destroyed by the order of our own generals. It does seem to me, when both Houses have thus approved of this claim, giving a little more than half the amount proved to be due, this House should act upon it at once and grant the relief.

I will, with the permission of the House, send to the Clerk to be read the report of the Senate committee, which states the case more briefly than I can. I will say, however, that the House committee in the Thirty-Seventh Congress made a report of which this is almost an exact copy. I happen to know something about the action of the Committee of Claims at that time for I made the report myself. There has been no report upon the claim in this Congress. It was not referred to the Committee of Claims because the House having adopted a rule to govern that committee it was known that it would be applied to this case no matter how just the claim might be. I ask the Clerk to read the Senate report.

The Clerk read as follows:

"At the breaking out of the present rebellion, Josiah O. Armes, the claimant, was the owner and in possession of a valuable house and out-buildings at Anandale, Fairfax county, Virginia. The house was a valuable one, and all the testimony in the case tends to show it to have been worth twelve or fourteen thousand dollars. It was built of stone, three stories high, with a cupola on top, fourteen feet high, with windows for lighting the stairway beneath. The house was octagonal in form, and about two hundred feet in circumference. There were two verandas extending around it, well latticed and supported by two tiers of columns. The roof of the house was covered with tin, and the cornice was large and heavy. The house contained thirty rooms, some of which were large, including seven parlors. The building of the house was commenced in 1855 and completed in 1860, and was intended for a female seminary. There were in the house twenty-eight windows, and the rooms were well ventilated. The walls were fourteen inches in thickness, and there were four firmly-built brick chimneys. The foundation was good, and the wood-work painted outside and in.

"The master-builder of the house testifies that from his knowledge at the time it cost the said Armes \$10,000. There were attached to it a servant's house, a granary, barracks, sheds, and carriage-house.

"The last of November, or the 1st of December, 1861, this house and buildings were destroyed by order of Colonel R. J. Belge, of the sixty-eighth regiment New York volunteers.

"Mr. Armes had been driven out from the house before its destruction; and the country about it seems to have been a sort of debatable or skirmish ground—sometimes held by Union troops, and sometimes by the rebels. Mr. Armes was, and is, a thoroughly loyal citizen. In the commencement of the war he was of service to our troops in giving information of the movement and situation of the rebels; and General Heintzelman, in a letter submitted to the committee, acknowledges the valuable aid he afforded.

"At or about the time the property was destroyed by order of Colonel Belge, the buildings seems to have been used by the rebel troops both as an observatory of the movements of the Union troops and as a stronghold from which they fired upon our men as occasion offered. To prevent its being longer so used Colonel Belge ordered it, as a military necessity, to be destroyed. General Heintzelman, in a letter dated January 18, 1861, says he heard of the matter at the time that the buildings were burned by our troops, and it was a military necessity. He also adds, that 'the mother' [meaning Mrs. Armes, the wife of the claimant, and mother of a young man then in our Army] 'came in one dark night last summer to give us information at the risk of her life.'

"The committee have not been able to obtain the evidence of Colonel Belge, who ordered the property to be destroyed, for the reason that he has left the service, and his place of residence has not been ascertained. There is, however, the testimony of several persons, officers in and members of his regiment, who say that they heard Colonel Belge give the order for the destruction of the property at the time it was burned.

"The House of Representatives have reported a bill for the relief Mr. Armes, to the amount of \$9,500; and the committee are satisfied that the property was of that value and more; that it was destroyed by the Union troops as a military necessity, under order of their commander; they therefore recommend the passage of the House bill.

"Mr. Armes is an aged man; he is utterly impoverished by the destruction of this property; he is

patriotic, having had a son in the Union Army, and having exerted himself to aid the Union cause in various ways. His family were driven from their home, and the wife, who risked her life to bring information to our troops in the darkness of the night, is since dead. The case appeals strongly to our sympathies, but equally and more so to our sense of justice."

Mr. WINDOM. That is how I understand the bill. I do not desire to discuss it further, and I thank the gentleman for yielding to me.

Mr. DELANO. I simply want the House to understand the facts of this case, and then they will do what they deem best. The House will remember that at the commencement of the last session of Congress it adopted a resolution that, until otherwise ordered, the Committee of Claims be instructed to reject all claims referred to them of citizens of States lately in rebellion. That resolution is on record, and it is needless to read it. Every member of the House who will recur to what was then said will recollect that it was deemed advisable for the safety of the nation to refuse to entertain claims for damages from the rebel States growing out of the destruction of property under the necessities of war, or for property actually taken and appropriated by the Army for its support. Acting upon this principle, the Committee of Claims have steadily refused to allow any claim for damages from the loyal States, whose claims resulted from a state of war; in other words, we have refused to allow everything denominated damages from the war coming from the loyal States; because we deemed that it would be beyond the financial capacity of the nation to undertake to pay for all the damages to property that had been committed under the exigencies and ravages of war.

Upon examination of the authorities we were satisfied that national law did not require the nation to pay for this class of damages. The resolution, however, went further and provided that where the claim was for a citizen of the rebel States, although it might be for property taken and appropriated for the use of the Army, it should not be paid for, for various reasons which it is needless to discuss now. There is a reason manifest to everybody, and that is that it would be impossible to determine with any accuracy who was and who was not loyal, and we were admonished, as I can now admonish the House, that to open that door would be to place the nation upon the very verge and border of a gulf in the way of expense that may destroy it altogether.

Now, sir, this claim of Mr. Armes is for property destroyed under the necessities of war, under the inevitable ravages of war; and, sir, according to the whole action of the House during this Congress, this man's claim could not be allowed if he resided in Pennsylvania, New York, or Ohio. The case is clearly one in which the property was destroyed as one of the necessities of war. That is not all. It is just, patently and openly, one of those cases from the rebellious States that needs no argument. It would be an insult to the House for me to attempt to argue it. I ask, can it be distinguished? It is said that this bill has once passed both branches of Congress and only failed to become a law through some technical mistake of a clerk. What of that, I ask the intelligence of this House? What if it did pass? Is it any more meritorious because it failed to pass by accident? Perhaps it was fortunate that it did so fail; but it did not become a law; it got very near to the door of the Presidential Mansion, where the last action was necessary to make it a law, but it did not receive the presidential sanction.

Mr. BLAINE. If this claimant had the sanction of both branches of Congress, would you, because of a blunder, and I should say a culpable blunder, on the part of a clerk, deprive the claimant of that which Congress had, so far as its action could go, granted to him?

Mr. SPALDING. I would ask the member from Maine [Mr. BLAINE] if he expects those of us who voted against this bill in the former Congress to vote for it now?

Mr. BLAINE. They must determine that for themselves.

Mr. SPALDING. Certainly; we must be allowed to judge of that.

Mr. BLAINE. I am only saying what I shall do.

Mr. DELANO. I do not stand here, either as a member of this House or of the Committee of Claims, to vote for or against any claim because of the peculiarities or circumstances which surround it. This House has adopted a rule, which is or should be a law to its members, which declares that a claim situated as this is shall not be paid.

Mr. BLAINE. Was not that rule passed long after this claim had passed both Houses, and failed to become a law by reason of an accident merely?

Mr. DELANO. Agreed; at a former Congress this claim came very near being passed into a law, but it did not quite become a law; and now because it once came so near being a law members say that it should be made an exception to this rule. If there is any logic in that reasoning I have not brains enough to comprehend it. The claim was defeated then, no matter under what circumstances or by what means, it simply failed. Having failed, it stands now on the same footing with all other claims. It received no white-washing, it got no infusion of merit, no element of justice or equity by the fact of coming so near to being a law, that was not in it intrinsically and by its own nature without the existence of that fact. That fact gives it no power, no merit, no equity, no anything.

Now, I understand very well that this claim appeals to the sympathies of gentlemen who have been approached by the claimant, Mr. Armes. But He who knows my heart knows that if, without establishing a rule that would be injurious to the finances of the country, I could vote to give this man \$9,000, I would do it. But I am not here to do acts of charity or of benevolence; nor is any other member of this House here for that purpose. Each member must settle these questions according to his own judgment and his own conscience. It is a question of our duty here as legislators, and not a question of humanity to this man. I know very well there is scarcely a member of this House who has not seen this man; and there is no member who has a heart who has not been touched by his condition and by his circumstances. I have felt them myself.

But I am not here to be actuated by any feeling of this kind. It is a simple, plain, straight-forward question, whether the rule we adopted as necessary to the finances of the nation shall stand or whether it shall be overturned and destroyed. I know how these cases are used as examples, and how the example is carried much further than it really ought to be; and I tell gentlemen that if this claim be passed the flood-gates will be hoisted and the rushing tide of claims will pour in and overwhelm you before you are well aware of the danger. See even now how these precedents are used. My open-hearted friend from Maine [Mr. BLAINE] can see now, in the very fact that this claim came very near being a law in a former Congress before the rule I have referred to was adopted, a reason why this claim should now override that which we solemnly prescribed as a law to ourselves. I mention this to demonstrate to this House the danger of setting precedents of this character.

I have said more to the House perhaps than I ought to have said. But I pray the House to enter upon this case with a consciousness of what it will lead to, and not allow themselves to be actuated by feelings of benevolence to establish a rule that will be so dangerous to the country.

Mr. HOTCHKISS. Will the gentleman from Ohio [Mr. DELANO] yield to me for a few moments?

Mr. DELANO. Certainly.

Mr. HOTCHKISS. As a member of the Committee of Claims of the Thirty-Eighth Congress I examined this claim of Mr. Armes; I was satisfied of its merits and voted for it. The claim passed this House and went to the Sen-



ate, and, as I have been informed, it passed the Senate.

What are the facts in this case? The Government found this man on the other side of the Potomac and burned down his house. He has lost all his property, and the services that his wife rendered to this Government brought her life to a termination. He gave his only son to the Union Army, and has furnished us a record of his loyalty that cannot be disputed. He has not only been reduced to poverty, but physically he has become a mere wreck, and is now to-day but a scanty offering to the King of Terrors. By a strict construction of our resolution this claimant comes within our grasp; and we are told that if the American Congress shall do him the small measure of justice proposed in this bill the stability of the Government will be endangered. In other words, the implication is that unless we reject this meritorious application Congress will not have virtue enough to withstand the flood of claims that will rush in upon us. If we are justified in entertaining so little confidence in ourselves, then let this old man, or what little there is left of him, be sacrificed. I do not for my part believe that in order to perpetuate our Government it is necessary for us to immolate this worthy, loyal-hearted old man. By an appropriation of a few thousand dollars we can save him from spending the remainder of his days in wretchedness and misery; we can save him from becoming an object of public charity; we can keep him out of the asylum for paupers.

This bill does not propose to reimburse to this man a tithe of what he has lost. He has suffered loss, not only in property, but in the lives of members of his family. Why, Mr. Speaker, we ought not to hesitate a moment in voting this money. If we do not feel disposed to pay him for the destruction of his house, let us grant him something in consideration of the loss of his poor old wife. In such a case as this it is almost idle to plead with the House. If members do not recognize at once the justice of the claim it is useless for me to appeal to them. For myself I should feel a consciousness of guilt during the remainder of my life if I did not speak and vote in behalf of this worthy claimant. He is a patriot who has been injured by the act of the Government. That there was a necessity for the injuries inflicted upon him and his property I admit; but that necessity arose, not from any fault of his, but from the fault of Congress. The necessity would not have existed had Congress heretofore legislated wisely. If we legislate wisely now we shall prevent this apprehended flood of claims upon us by taking actual possession of these territories, improperly called "States," and making the property of the guilty indemnify the losses of the innocent. That is what we ought to do.

In my opinion members ought to be ashamed to be whining here over the expenditure of a few dollars for the payment of a just claim like this. This claim has really more merit than hundreds of the claims that we pass here every day. The objection made to this claim is that there is an element of charity in it. Why, sir, if we can do a little charity now and then, we should remember that "charity covers a multitude of sins;" and no member, I imagine, will assert that we have not our full share of errors and sins that need atonement.

Mr. HUBBARD, of Connecticut. I desire to inquire of the gentleman whether it is not a universally acknowledged principle of the common law, and the common law is nothing but a mantle of charity, that property destroyed by an army in the work of putting down a rebellion stands on the ground of inevitable accident, and the owner has no claim upon the Government, either in law or in equity, for remuneration.

Several MEMBERS. Oh, no.

Mr. HOTCHKISS. I never heard of any such principle of law. I deny the existence of any such principle.

Mr. STEVENS. Will the gentleman from

Ohio [Mr. DELANO] yield to me for a moment?

Mr. DELANO. Yes, sir.

Mr. STEVENS. Mr. Speaker, I am astonished at the question just asked by the learned gentleman from Connecticut. I had supposed there was nothing better understood than that when the army of a country, by reason of military necessity, destroys the property of a loyal citizen of the country, the Government always pays for it among the very first claims that are paid. The Government in such a case is liable under the law of nations; and it ought to be ashamed if under any pretext it refuses remuneration. Here was a house owned by a loyal man—a building used as an academy or literary institution; the rebels took shelter behind it, and in order to get at them it was necessary to batter it down. This was done as a military necessity by the order of one of our commanders. Will any man who has ever read Montesquieu or Vattel tell me that our Government is not liable for every dollar's worth of property destroyed under such circumstances?

Mr. HUBBARD, of Connecticut. If the gentleman will permit me I want to make a single suggestion. Suppose that while the Union forces were before the city of Charleston, throwing shells into that city, the house of a Union man was set on fire and destroyed, will the gentleman say that by the law of nations or the law of equity the Government is bound to indemnify that loyal citizen for the destruction of his property under those circumstances?

I place such cases upon the ground of inevitable accident; and I am sustained by the law as reported in every book. I am sure I will be justified by every gentleman who has read the common law or the law of nations. I know I am right on this subject. Let the gentleman from Pennsylvania cite his case so we may know what it is.

Mr. STEVENS. There is no inevitable accident about it. This was a deliberate order to destroy the property of Mr. Armes, growing out of military necessity. I am quite sure no one learned in the law will for a moment deny our Government is liable for the property. For instance, the Government burned a bridge across the Susquehanna river in order to prevent the rebel army from crossing; will any man tell me this Government is not liable for it? It has once already been reported here. To be sure the gentleman from Ohio has not reported it.

Let me say another thing. The resolution introduced here and adopted the gentleman, I think, called a law. I do not call that a law—a resolution of this House reported by that committee. Why, sir, it is no more binding than any other resolution. It was got up after this bill was once reported and passed upon favorably. It is a resolution, in my judgment, the most iniquitous that ever an honest Government adopted to say we shall not pay for property belonging to our own people destroyed for the use of the Government by its own officers.

Mr. DELANO. Let me ask the gentleman a question.

Mr. STEVENS. Certainly.

Mr. DELANO. Do I understand the gentleman to say these inhabitants of the rebel States are in that category? I thought he regarded that country as conquered territory and the inhabitants of it as aliens.

Mr. STEVENS. Mr. Speaker, if the gentleman had listened to about one twentieth part of what I have said in the world he would have learned—

Mr. DELANO. That would have been a good deal.

Mr. STEVENS. He would have learned that long ago, while I considered and do consider, as I think every lawyer does, that the territory belonging to the rebel States is conquered territory, as territory conquered by us, still that the loyal men in those States stand upon an entirely different footing in a civil war

from the inhabitants of a foreign nation which has been conquered, as I can show in many instances.

Mr. HUBBARD, of Connecticut. Let me say a word.

Mr. STEVENS. Oh, no; the gentleman has talked more now than I have. [Laughter.]

I have only to say, Mr. Speaker, we are not passing upon an original question. I say that Mr. Armes is entitled under the law to this money. Both branches of the Government passed it and ordered it to be sent to the President for his signature; but one of our agents took another bill and it was returned signed when no one wanted it done. If we were private individuals Mr. Armes could sue that agent and recover every dollar.

I put it upon the ground we are perfecting what we did before, declaring by joint resolution what both branches of the Government gave him before, and what ought to have been law, and would have been but for our own negligence. There is no law and certainly no equity in our depriving Mr. Armes of his property.

Mr. KASSON. I ask the gentleman from Ohio to yield to me for a few moments.

Mr. DELANO. I yield first to the gentleman from West Virginia.

Mr. WHALEY. For how long?

Mr. DELANO. Ten minutes.

Mr. WHALEY. Mr. Speaker, it cannot be expected that in ten minutes I shall be able fully to discuss this most important question, and one in which of course my constituents feel a profound interest. I indorse to the fullest extent the able and eloquent arguments made by the gentleman from Minnesota, [Mr. WINDOM,] and by the gentleman from Pennsylvania [Mr. STEVENS.] They have spoken with authority as to the law and the obligations of the Government under the common law and the law of nations, and I do not think what they have said can be successfully controverted.

But we have the resolution of the Committee of Claims constantly thrust forward as an impassable barrier to the just claims of loyal citizens for their property taken by the United States. The House cannot forget how that resolution was brought forward and passed. The gentleman from Ohio [Mr. DELANO] reported it and then forced it through under the gag of the previous question. It was never debated, never considered, and cannot fairly be taken as the judgment of this House. It has been well designated by the gentleman from Pennsylvania as an iniquitous measure. For why, sir, should all manner of claims growing out of the war be taken up and acted upon arising in the northern States, while consideration of any sort is absolutely denied to the just demands of the loyal people of my own section, who have so generally and severely suffered from disasters during the late war? Can this great Government sustain itself before the world in refusing to pay for property taken or destroyed by it from its loyal citizens who were at the time periling their lives in its defense? Give us a fair hearing; that is all we ask, and do not reject all claims because of some resolution heretofore passed on the spur of the moment.

The claim of this poor old man, Armes, has been twice passed upon favorably by Congress, and now the gentleman from Ohio [Mr. DELANO] opposes it, though it is supported by some of the best talent on this floor. Let me say to the gentleman, who will leave this Hall with me in about thirty-five days, [laughter,] that I do not think he has been altogether kind. I have not the slightest reason personally or politically to disagree with him; but he has cut off all these cases since he has been made chairman of the committee. He has talked about law, but the gentleman from Pennsylvania [Mr. STEVENS] has met him ably on that. It is nothing but a resolution; it is not law. Let a claim come from Tennessee or anywhere south of Mason and Dixon's line, and it has no show here. I know what it costs those people to be loyal. When their claims are sent here they are reported against, and

the other day it took two pages to carry up to the Speaker's table his adverse reports on these cases. [Laughter.]

Mr. DELANO. I call the previous question.

Mr. HUBBARD, of Connecticut. Will the gentleman allow me a word further?

Mr. DELANO. Yes, sir.

Mr. HUBBARD, of Connecticut. Mr. Speaker, it is the furthest from my wish to interpose any objection to the payment of this claim to this old gentleman. Only put it on the ground of charity and I will not object to it at all. I will open my own hand in charity to any man that has suffered as much as he has at any time and at all times. What I object to is the precedent, the baleful precedent, that will be introduced into this Congress for the allowance of claims to the amount of more than five hundred million dollars before the conclusion of this session. I trust there is no well-read lawyer in this House who has so far forgotten the principle of law as not to understand that where property was destroyed by the Union army in endeavoring to save the life of the Republic it stands on the ground of unavoidable accident, the act of God, or of the king's enemy. That principle is spread over every common law that any lawyer in this House has ever read. There is no question about it at all.

Mr. DELANO. I yield a moment to the chairman of the Committee of Ways and Means.

Mr. MORRILL. I know that my friend from Pennsylvania [Mr. STEVENS] never flinches from the logic of his position. My own idea is, that to undertake to carry out the principle which he has announced would involve the Government in an expenditure of at least \$1,000,000,000. Now, I desire to ask the chairman of the Committee of Claims what his estimate would be of the amount involved provided the gentleman from Pennsylvania is correct in his position, which I do not think he is.

Mr. DELANO. I must say that it is impossible for me to approximate with any certainty to the amount that the Government would assume under the interpretation of the gentleman from Pennsylvania; but I think the Committee of Claims will agree with me that \$1,000,000,000 would not cover it, and I have no idea that \$2,000,000,000 would do it. Because the proposition, if I understand it, places the Government under the obligation of paying for all the destruction of property and for all the appropriation of property everywhere. Why, sir, there are millions in Pennsylvania.

Mr. STEVENS. Will the gentleman allow me to say that he entirely misunderstood what I said. I spoke of property belonging to the United States destroyed by military necessity by order of the commander of our Army. Property which belonged to the enemy nobody ever thought of paying for, nor property destroyed by the enemy did anybody ever think of paying for. Why, sir, I venture to say that half of \$500,000,000 would pay it all. But if it takes a little more, rather than deliberately cheat the people out of it I would steal the money to pay it. [Laughter.]

Mr. DELANO. Mr. Speaker, how much more time have I?

The SPEAKER. Ten minutes.

Mr. DELANO. Then I will only ask the House, in conclusion as jurors, to bear in mind that what they do now is settling a principle. I have stated the case to the House. I know what the human heart is in a case like this, and I have endeavored so to present it to the House that it can decide intelligently.

I assure the House that I understand the gentleman correctly in reference to his rule for paying damages for the war, and I assure him, moreover, that that rule will not, in my opinion, be made available to involve the Government in a cost of less than \$2,000,000,000.

Mr. KASSON. I will ask the gentleman a single question for information. A bill was reported to the House to-day, and was passed upon the gentleman's recommendation, appropriating money to pay for some property in

Nashville, Tennessee, destroyed by the military. If there was any difference between that case and this I would be glad to know it.

Mr. DELANO. There was no such bill as that passed to-day; there was a bill passed which authorized the Secretary of War, if he deemed it necessary, to purchase the remains of certain property.

Mr. KASSON. I refer to a bill to pay for certain property destroyed by the United States troops.

Mr. DELANO. I know exactly what the gentleman refers to; and now I demand the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading; and it was accordingly read the third time.

The question being upon its passage, Mr. ROLLINS demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 99, nays 27, not voting 65; as follows:

YEAS—Messrs. Ancona, Anderson, James M. Ashley, Banks, Barker, Baxter, Beaman, Bidwell, Bingham, Blaine, Brandegee, Broomall, Campbell, Cobb, Cook, Cooper, Callom, Darling, Daves, DeLores, Deming, Donnelly, Driggs, Eckley, Eldridge, Eliot, Farquhar, Ferry, Finck, Grinnell, Aaron Harding, Hawkins, Hayes, Higby, Hill, Hogan, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, Hulburt, Hunter, Johnson, Julian, Kasson, Kelley, Kelso, Koontz, Kuykendall, Lafin, Latham, Le Blond, Leftwich, Longyear, Lynch, Marshall, Marvin, McKuer, Mercer, Miller, Moorhead, Myers, Niblack, Nicholson, Paine, Porham, Pike, Platts, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rogers, Ross, Shanklin, Shellabarger, Sitgreaves, Starr, Stevens, Stokes, Strouse, Taber, Nathaniel G. Taylor, Francis Thomas, Thornton, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, William B. Washburn, Whaley, Stephen F. Wilson, Winfield, and Woodbridge—99.

NAYS—Messrs. Delos R. Ashley, Baker, Baldwin, Bergen, Boutwell, Bromwell, Delano, Hale, Abner C. Harding, John H. Hubbard, Humphrey, Jenckes, Ketcham, George V. Lawrence, Loan, McKee, Morrill, Orth, Rollins, Sawyer, Scofield, Sloan, Spalding, Nelson Taylor, Hamilton Ward, Wentworth, and James F. Wilson—27.

NOT VOTING—Messrs. Alloy, Allison, Ames, Arnell, Benjamin, Blow, Boyer, Buckland, Bundy, Chanler, Reuder W. Clarke, Sidney Clarke, Conkling, Culver, Davis, Dawson, Denison, Dixon, Dodge, Dumont, Eggleston, Farnsworth, Garfield, Grossbreuner, Goodyear, Griswold, Harris, Hart, Henderson, Hise, Holmes, Asahel W. Hubbard, James R. Hubbell, Ingersoll, Jones, Kerr, William Lawrence, Marston, Maynard, McClurg, McCullough, McIndoe, Morris, Moulton, Newell, Neill, O'Neill, Patterson, Phelps, Radford, Samuel J. Randall, Raymond, Ritter, Rousseau, Schenck, Stilwell, Thayer, John L. Thomas, Robert T. Van Horn, Andrew H. Ward, Elihu B. Washburne, Henry D. Washburn, Welker, Williams, Windom, and Wright—65.

So the bill was passed.

Mr. WINDOM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

#### PRINTING OF A REPORT.

Mr. LAFLIN, from the Committee on Printing, reported back, with the recommendation that it do pass, the following resolution:

*Resolved*, That there be printed six thousand copies of the report of the Commissioner of Internal Revenue, two thousand for the use of the House, and four thousand for the use of the office of internal revenue.

The resolution was agreed to.

#### SURVEY OF THE MISSISSIPPI.

Mr. PRICE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be, and he is hereby, requested to furnish to the House a copy of the report and estimates of General Wilson in reference to the survey and improvement of the rapids of the Mississippi river, known as the Des Moines and Rock Island rapids.

And then, on motion of Mr. SPALDING, (at twenty minutes before five o'clock p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. ANCONA: The memorial of Captain John Kennedy, late of the one hundred and twenty-eighth and two hundred and thirteenth Pennsylvania vol-

unteers, asking for an extension of the act authorizing the payment of three months' pay proper.

By Mr. BARKER: A petition from 30 citizens of Elensburg, Pennsylvania, praying that Congress will refrain from passing any act authorizing the curtailment of the national currency, or having in view the return within a limited time to specie payments.

Also, a petition from 28 citizens of Altoona, Pennsylvania, praying that Congress will refrain from the passage of any act authorizing the curtailment of the national currency, or having in view the return within a limited time to specie payments.

By Mr. BROOMALL: The petition of cigar manufacturers of Champaign county, Illinois, praying for a change in the law imposing tax on cigars.

Also, a petition from the citizens of Charleston, Illinois, praying Congress to pass no law reducing the volume of the currency, or compelling national banks to redeem their notes in New York.

By Mr. CHANLER: The petition of Julius Krüger, and others, citizens of the city of New York for a specific tax of not more than five dollars per thousand on all domestic cigars, and for guards and checks against fraud and counterfeits of revenue stamps.

By Mr. CHAVES: The petition and papers in the case of L. B. Maxwell.

By Mr. DODGE: The petition of the fire insurance companies of the city of New York, for relief from tax imposed by the seventy-seventh section of the internal revenue law.

By Mr. DRIGGS: The petition of Thomas Jackson, O. J. Foot, and 33 others, citizens of Lake Superior, Michigan, praying Congress for a grant of land to aid in the construction of a mineral range railroad.

Also, resolution of the Board of Trade, Detroit, Michigan, recommending an appropriation by Congress to aid in improving the harbor at Ontonagon, Lake Superior, Michigan.

By Mr. DUMONT: The petition of D. Yannes, jr., John Fishback, and others, tanners of Indianapolis, Indiana, praying for a reduction of the revenue tax on leather.

By Mr. EGGLESTON: The memorial of the Louisville and Portland Canal Company, and of the Chamber of Commerce of Cincinnati, in favor of the enlargement of the Louisville and Portland canal.

Also, the petition of Amos Shinkle, president of the Covington Gas-Light Company, praying that the tax on gas may continue to be charged to consumers.

By Mr. ELIOT: The petition of Strabo Clark, and others, salt manufacturers of Barnstable, Massachusetts, praying for relief and for amendment of the revenue act of July 28, 1856.

By Mr. FARNSWORTH: The petition of Hugh McLochin, of Chicago, for an American register to the vessel Prince of Wales.

Also, of Daniel Henderson, of Chicago, for an American register to the bark Mary Jane.

Also, of Thomas Flitt, of Chicago, for an American register.

By Mr. HOGAN: The petition of the fire insurance companies of St. Louis, for relief from certain taxes.

By Mr. HOOPER, of Massachusetts: The petition of F. M. Holmes, and others, of Boston, Massachusetts, for reduction of tax on furniture.

By Mr. HOTCHKISS: The petition of citizens of Lansing, Tompkins county, New York, in favor of tariff on wool, &c.

Also, the petition of cigar manufacturers of Ithaca, New York, for a modification of tax, &c.

By Mr. JENCKES: The petition of the fire insurance companies of Providence, Rhode Island, for relief from the tax imposed by the seventy-seventh section of the internal revenue law.

By Mr. MARVIN: The petition of S. D. Williams, Sylvester West, D. F. Scott, and others, citizens of Saratoga county, New York, praying for the passage of the House tariff bill of the last session, now pending in the Senate.

By Mr. MERCUR: The petition of numerous citizens of Luzerne county, Pennsylvania, asking that a pension may be granted to Mary Hosea, widow of James Hosea.

By Mr. MILLER: The petition of 250 soldiers and widows of the war of 1812 with Great Britain, from different States, with their respective ages, praying for the passage of a law granting them a pension.

By Mr. PAINE: A memorial of ship-builders and owners of the State of Wisconsin, praying that Congress will not hereafter permit American registers to be granted to foreign vessels.

By Mr. PERHAM: The petition of William Dunham, for increase of pension.

By Mr. SCHENCK: Three petitions of the merchants, business firms, property-holders, and others, citizens of Washington, praying the removal of the railroad depot nuisance from around the Capitol and the opening of the streets and avenues communicating therewith.

Also, the memorial of Robert A. Constable, late an officer of the seventy-fifth Ohio volunteers, for relief.

Also, the memorial of tanners and manufacturers of leather, for a reduction or entire abrogation of the internal revenue tax on leather.

By Mr. STOKES: Papers in the case of John B. Cothran, of Smith county, Tennessee, applying for pension.

By Mr. TAYLOR, of New York: The petition of Captain Daniel McMahon, for pension from date of his discharge from the military service.

By Mr. UPSON: The petition of William Dougherty, and 53 others, and the petition of L. Collins, and 51 others, all citizens of Berrien county, Michigan, praying Congress to take necessary measures for the impeachment of Andrew Johnson, President of the United States.

By Mr. VAN HORN, of New York: The petition of 47 citizens of the town of Alabama, Genesee county, New York, asking for the passage of the bill for increase of tariff on wool.



## IN SENATE.

SATURDAY, January 26, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.

On motion of Mr. LANE, the reading of the Journal of yesterday was dispensed with.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate, a letter of the Second Auditor of the Treasury, communicating, in obedience to law, copies of all accounts which have been received at that office from persons charged or entrusted with the disbursement of money, goods, or effects for the benefit of the Indians from July 1, 1865, to June 30, 1866, with a list of the names of all persons to whom such disbursements have been committed, the amount accounted for, and the balance of appropriation under each specific head remaining in their hands; which was referred to the Committee on Indian Affairs.

## PETITIONS AND MEMORIALS.

Mr. MORGAN presented a memorial of importers and dealers in China merchandise, remonstrating against the proposed prohibition of the importation of fire-crackers in the tariff bill now pending in the Senate; which was ordered to lie upon the table.

He also presented a memorial of merchants and citizens of New York, remonstrating against the passage of the provision in the House tariff bill imposing a duty of \$1 50 per ton on coal mined in the British Provinces; which was ordered to lie upon the table.

Mr. SHERMAN presented a petition of citizens of Ohio, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes, now pending in the Senate; which was ordered to lie upon the table.

Mr. HENDERSON presented a petition of the North Missouri Railroad Company of Missouri, asking for a credit on the duties to be paid on the importation of certain iron rails to be used upon that road; which was referred to the Committee on Finance.

## CONDITION OF THE INDIAN TRIBES.

Mr. DOOLITTLE. The special select committee of the two Houses of Congress, appointed under the joint resolution of March 3, 1865, directing an inquiry into the condition of the Indian tribes and their treatment by the civil and military authorities of the United States, have instructed me to submit the following report, with an appendix accompanying the same:

At its meeting on the 9th of March the following subdivision of labor was made: to Messrs. Doolittle, Foster, and Ross was assigned the duty of inquiring into Indian affairs in the State of Kansas, the Indian Territory, Colorado, New Mexico, and Utah.

To Messrs. Nesmith and Higby the same duty was assigned in the States of California, Oregon, and Nevada, and in the Territories of Washington, Idaho, and Montana.

To Messrs. Windom and Hubbard the same duty was assigned in the State of Minnesota, and in the Territories of Nebraska, Dakota, and Upper Montana. The result of their inquiries is to be found in the appendix accompanying this report.

The work was immense, covering a continent. While they have gathered a vast amount of testimony and important information bearing upon our Indian affairs they are still conscious that their explorations have been imperfect.

As it was found impossible for the members of the committee in person to take the testimony or from personal observations to learn all that they deemed necessary to form a correct judgment of the true condition of the Indian tribes, they deemed it wise, by a circular letter addressed to officers of the regular Army, experienced Indian agents and superintendents, and to other persons of great knowledge in Indian affairs, to obtain from them a statement of the result of their experience and information.

The committee have arrived at the following conclusions:

First. The Indians everywhere, with the exception of the tribes within the Indian Territory, are rapidly decreasing in numbers from various causes: by disease, by intemperance, by wars among themselves and with the whites, by the steady and resistless immigration of white men into the Territories of the West, which, confining the Indians to still narrower limits, destroys that game which in their normal state constitutes their principal means of subsistence, and by the irrepressible conflict between a superior and an inferior race when brought in presence of each other. Upon this subject all the testimony agrees.

In answer to the question, whether the Indians "are increasing or decreasing in numbers, and from what causes," Major General Pope says:

"They are rapidly decreasing in numbers from various causes: by disease, by wars, by cruel treatment on the part of the whites, both by irresponsible persons and by Government officials; by unwise policy of the Government, or by inhuman and dishonest administration of that policy; and by steady and resistless encroachments of the white immigration toward the West, which is every day confining the Indians to narrower limits, and driving off or killing the game, their only means of subsistence."

To the same question General John T. Sprague gives the following answer:

"The Indians are decreasing in numbers, caused by their proximity to the white man. So soon as Indians adopt the habits of white men they begin to decrease, aggravated by imbibing all their vices and none of their virtues. Other causes exist, too numerous to be detailed in this paper."

The following is the answer of General Carleton to the same question:

"As a general rule, the Indians alluded to are decreasing very rapidly in numbers in my opinion. The causes for this have been many, and may be summed up as follows:

"1. Wars with our pioneers and our armed forces; change of climate and country among those who have been moved from east of the Mississippi to the far West.

"2. Intemperance and the exposure consequent thereon.

"3. Venereal diseases, which they are unable, from lack of medicines and skill, to eradicate from their systems, and which, among Indians who live nearest the whites, is generally diffused by either scrofula or some other form of its taint.

"4. Small-pox, measles, and cholera—diseases unknown to them in the early days of the country.

"5. The causes which the Almighty originates, when in their appointed time He wills that one race of men—as in races of lower animals—shall disappear off the face of the earth and give place to another race, and so on, in the great cycle traced out by Himself, which may be seen but has reasons too deep to be fathomed by us. The races of the mammoths and mastodons, and the great sloths, came and passed away: the red man of America is passing away!"

General Wright gives his testimony to the same point, as follows:

"The Indian tribes are rapidly decreasing in numbers, especially west of the Rocky mountains, caused in some measure by the wars waged against them, and more particularly by the encroachments of the whites upon their hunting grounds and fisheries and other means of subsistence, and by the readiness with which they adopt the vices of the whites rather than their virtues; hence their numbers are rapidly diminished by disease and death."

These officers have had large experience in Indian affairs, and they are supported by the concurrent testimony of many other of the most experienced officers and civilians.

The tribes in the Indian Territory were most happily exempted from this constant tendency to decay up to the commencement of the late civil war. Until they became involved in that they were actually advancing in population, education, civilization, and agricultural wealth.

Their exceptional condition may be attributed to the fact that from their earliest history these tribes had to a considerable extent cultivated the soil and kept herds of cattle and horses; that they were located in a most fertile territory and withdrawn from the neighborhood and influence of white settlements, and to the legitimate influence of education and Christianity among them.

The war has made a terrible diminution of their number, and brought disease and demoralization in its train. A full account of the condition of the Cherokees will be found in the reply of Hon. J. Harlan, agent of the Cherokees. The recent treaties with the tribes in the Indian Territory, and the reports of their improved condition since the pacification, give strong hopes that their former prosperity will return.

The committee determined, if possible, to ascertain the real cause of the destruction of the tribes, and proposed to the officers above named, and to many others, the following most important inquiry bearing upon that subject, namely:

"What diseases are most common and most fatal among them; and from what causes?"

To this General Sprague answers:

"The children die rapidly and suddenly from dysentery and measles, and from neglect and exposure to the weather. The adults die from fevers, small-pox, drunkenness, and diseases engendered from sexual intercourse. These diseases are among the men and women in the most malignant form, as the Indian doctors are unable to manage them. Indulgence in liquor, exposure, and the absence of remedies aggravate the disease. In this, striking at the very basis of procreation, is to be found the active cause of the destruction of the Indian race."

General Pope's opinion that "venereal diseases, particularly secondary syphilis, is the most common and destructive. It is to be doubted whether one Indian, man or woman, in five is free from this disease or its effects."

Without quoting from others, it will be found by the united testimony of all that this disease, more than all other diseases, and perhaps more than all other causes, is the active agent of the destruction of the Indian race. Add to this intemperance, exposure, the want of sufficient food and clothing, wars among themselves and wars with the whites, and we are at no loss to account for the utter extinction of many of the most powerful tribes and the ultimate disappearance of nearly all upon this continent. It is a sad but faithful picture.

## INDIAN WARS WITH THE WHITES.

The committee are of opinion that in a large majority of cases Indian wars are to be traced to the aggressions of lawless white men, always to be found upon the frontier or boundary line between savage and civilized life. Such is the statement of the most experienced officers of the Army and of all those who have been long conversant with Indian affairs.

Colonel Bent, who has lived upon the Upper Arkansas, near Bent's fort, for thirty-six years, states that in nearly every instance difficulties between Indians and the whites arose from aggressions on the Indians by the whites. The war with the Sioux, commencing in 1854, the war with the Arapahoes and Cheyennes in 1865, are traced by him directly to those aggressions.

Colonel Kit Carson, who has lived upon the plains and in the mountains since 1826, and has been all that time well acquainted with the Indian tribes in peace and in war, confirms this statement. He says, "As a general thing the difficulties arise from aggressions on the part of the whites." "The whites are always cursing the Indians, and are not willing to do them justice."

From whatever cause wars may be brought on, either between different Indian tribes or between the Indians and the whites, they are very destructive, not only of the lives of the warriors engaged in it, but of the women and children also, often becoming a war of extermination. Such is the rule of savage warfare, and it is difficult if not impossible to restrain white men, especially white men upon the frontiers, from adopting the same mode of warfare against the Indians. The indiscriminate slaughter of men, women, and children has frequently occurred in the history of Indian wars. But the fact which gives such terrible force to the condemnation of the wholesale massacre of Arapahoes and Cheyennes, by the Colorado troops under Colonel Chivington, near Fort Lyon, was that those Indians were there encamped under the direction of our own officers, and believed themselves to be under the protection of our flag. To the honor of the Government it may be said that a just atonement for this violation of its faith was sought to be made in the late treaty with these tribes.

Second. Another potent cause of their decay is to be found in the loss of their hunting grounds and in the destruction of that game upon which the Indian subsists. This cause, always powerful, has of late greatly increased. Until the white settlements crossed the Mississippi the Indians could still find hunting grounds without limit, and game, especially the buffalo, in great abundance upon the western plains.

But the discovery of gold and silver in California, and in all the mountain Territories, poured a flood of hardy and adventurous miners across those plains, and into all the valleys and gorges of the mountains, from the east.

Two lines of railroad are rapidly crossing the plains, one by the valley of the Platte and the other by the Smoky Hill. They will soon reach the Rocky mountains crossing the center of the great buffalo range in two lines from east to west. It is to be doubted if the buffalo in his migrations will many times cross a railroad where trains are passing and repassing, and with the disappearance of the buffalo from this immense region all the powerful tribes of the plains will inevitably disappear, and remain north of the Platte or south of the Arkansas. Another route further north, from Minnesota, by the Upper Missouri, and one further south, from Arkansas by the Canadian, are projected, and will soon be pressed forward. These will drive the last vestige of the buffalo from all the region east of the Rocky mountains and put an end to the wild man's means of life.

On the other hand, the emigration from California and Oregon into the Territories from the West is filling every valley and gorge of the mountains with the most energetic and fearless men in the world. In those wild regions, where no civil law has ever been administered, and where our military forces have scarcely penetrated, these adventurers are practically without any law except such as they impose upon themselves, namely, the law of necessity and of self-defense.

Even after territorial governments are established over them in form by Congress the population is so sparse and the administration of the civil law so feeble that the people are practically without any law but their own will. In their eager search for gold or fertile tracts of land the boundaries of Indian reservations are wholly disregarded; conflicts ensue; exterminating wars follow, in which the Indian is, of course, at the last overwhelmed if not destroyed.

The question whether the Indian Bureau should be placed under the War Department or retained in the Department of the Interior is one of considerable importance, and both sides have very warm advocates. Military men generally unite in recommending that change be made, while civilians, teachers, missionaries, agents, and superintendents, and those not in the regular Army generally oppose it. The arguments and objections urged by each are not without force.

The argument in favor of it is that in case of hostilities the military forces must assume control of our relations to the hostile tribes, and therefore it is better for the War Department to have the entire control, both in peace and in war; secondly, that the annuity goods and clothing paid to Indians under treaty stipulations will be more faithfully and honestly made by officers of the regular Army, who hold their places for life, and are subject to military trials for misconduct, than when made by the agents and superintendents appointed under the Interior Department; and thirdly, that it would prevent conflict between different Departments in the administration of their affairs.

Upon the other side it is urged with great force that for the proper administration of Indian affairs there must be some officer of the Government whose

duty it is to remain upon the reservations with the tribes and look after their affairs; that as their hunting grounds are taken away the reservation system, which is the only alternative to their extermination, must be adopted. When the Indians are once located upon them farmers, teachers, and missionaries become essential to any attempt at civilization, are absolutely necessary to take the first step toward changing the wild hunter into a cultivator of the soil, to change the savage into a civilized man. The movement of troops from post to post is, of necessity, sudden and frequent, and, therefore, the officers of the Army, however competent, cannot take charge of the affairs and interests of the Indians upon reservations any longer than military force is required to compel the Indians to remain upon them, as in the case of the Navajos in New Mexico, and during that time even proper and competent persons acting as agents, farmers, teachers, and missionaries, devoting their whole time to these occupations, can serve that purpose much better than officers of the Army.

While it is true many agents, teachers, and employes of the Government are inefficient, faithless, and even guilty of peculations and fraudulent practices upon the Government and upon the Indians, it is equally true that military posts among the Indians have frequently become centers of demoralization and destruction to the Indian tribes, while the blunders and want of discretion of inexperienced officers in command have brought on long and expensive wars, the cost of which, being included in the expenditures of the Army, are never seen and realized by the people of the country.

Since we acquired New Mexico the military expenditures connected with Indian affairs have probably exceeded \$4,000,000 annually in that Territory alone. When General Sumner was in command of that department he recommended the purchase of all the private property of citizens, and the surrender of that whole Territory to the Indians, and upon the score of economy it would doubtless have been a great saving to the Government.

But that policy was not pursued, and there as well as elsewhere the reservation system has been adopted. That it has and will cost the Government large sums of money is undoubtedly true, but in the end far less than the maintenance of forces sufficient to keep the peace and suffer the Indians to range at will over the Territory. When once adopted, however, the same necessity for agents, teachers, farmers and missionaries arises, both upon the score of humanity and economy—both to civilize the Indian and to teach him to raise his subsistence from the soil. The Army and the officers of the Army are not by their habits and profession well adapted to this work.

Another strong reason for retaining the Indian Bureau in the Department of the Interior is, that the making of treaties and the disposition of the lands and funds of the Indians is of necessity intimately connected with our public land system, and, with all its important land questions, would seem to fall naturally under the jurisdiction of the Interior Department.

The inconveniences arising from the occasional conflicts and jealousies between officers appointed under the Interior and War Departments are not without some benefits also; to some extent they serve as a check upon each other; neither are slow to point to the mistakes and abuses of the other. It is therefore proper that they should be independent of each other, receive their appointments from and report to different heads of Departments. Weighing this matter and all the arguments for and against the proposed change, your committee are unanimously of the opinion that the Indian Bureau should remain where it is.

In our Indian system beyond all doubt there are evils, growing out of the nature of the case itself, which can never be remedied until the Indian race is civilized or shall entirely disappear.

The committee are satisfied that these evils are sometimes greatly aggravated, not so much by the system adopted by the Government in dealing with the Indian tribes as by the abuses of that system.

As the best means of correcting those abuses and ameliorating those evils the committee recommend the subdivision of the Territories and States wherein the Indian tribes remain into five inspection districts, and the appointment of five boards of inspection; and they earnestly recommend the passage of Senate bill No. 183, now pending before the House. That bill was unanimously recommended by the joint special committee, and also recommended by the committees of both Houses upon Indian Affairs. It is the most certainly efficient mode of preventing these abuses which they have been able to devise.

The following are the four important sections of the bill as recommended by the committee:

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and is hereby, created five boards of inspection of Indian affairs, each to consist of one assistant commissioner of Indian affairs, to be appointed by the President, by and with the advice and consent of the Senate, who shall hold his office for the term of four years, unless sooner removed by the President: one to consist of an officer of the regular Army, who may be annually detailed by the Secretary of War for that purpose, and one to consist of a visitor, to be selected by the President from among such persons as may be recommended by the annual meetings or conventions of the religious societies or denominations of the United States as suitable persons to act upon said boards; or, in case of their failure to make such recommendation, from among such persons as he shall deem proper. Each of said assistant commissioners shall receive a salary of \$3,000 per annum, besides necessary traveling expenses; and each of said visitors shall receive a salary of \$2,000 per annum, besides necessary traveling expenses.

Sec. 2. *And be it further enacted*, That there shall be established five inspection districts of Indian affairs, as follows: one to embrace the States of California and Nevada and the Territory of Arizona; one to embrace the State of Oregon and the Territories of Washington and Idaho; one to embrace the Territories of Colorado, Utah, and New Mexico; one to embrace the State of Kansas, the Indian Territory, Nebraska, and Southern Dakota; and one to embrace the State of Minnesota and that part of the Territory of Dakota north of Nebraska, and the Territory of Montana: *Provided, however*, That the Secretary of the Interior, under the direction of the President, may from time to time change the boundaries of said Indian inspection districts.

Sec. 3. *And be it further enacted*, That it shall be the duty of said boards of inspection, so far as it is practicable, to visit all the Indian tribes within their respective districts at least once in each year; to examine into their condition; to hear their complaints; to preserve peace and amity; to ascertain whether all the stipulations of treaties on the part of the United States are kept; to examine into the books, accounts, and manner of doing business of the superintendents and agents within their respective districts; to make diligent inquiry into the conduct of the officers and employes of the Indian department, and into the conduct of the military forces toward the Indians, with power to summon witnesses, and, by the aid of the military, who are hereby directed to aid them, to compel their attendance; each member of said board being hereby authorized to administer oaths; and said board shall be authorized to suspend for cause any officer or employe of the Indian department in their respective districts, and to remove them from office, subject to the approval of the President. And said board shall report annually, or as often as may be required, to the Commissioner of Indian Affairs; and in all cases of suspension or removal from office by said board of any officer or employe of the Indian department, said board shall make immediate report thereon in writing, stating the cause thereof, for the action of the President.

Sec. 4. *And be it further enacted*, That all superintendents of Indian affairs, all Indian agents, and the assistant commissioners to be appointed under this act, in addition to the powers now conferred by law, shall also possess all the powers and perform all the duties now conferred by law upon circuit court commissioners, or court commissioners in all cases or matters wherein any Indian tribe or any member of any Indian tribe shall be concerned or be a party; and that in all matters or proceedings wherein any Indian tribe or member of an Indian tribe shall be concerned or a party the testimony of Indian witnesses shall be received in all courts and before all officers of the United States.

The purpose of the bill is to provide boards of high character, and to organize them in such a manner and to clothe them with such powers as to supervise and inspect the whole administration of Indian affairs in its threefold character—civil, military, and educational.

To the position of chief of this board there should be appointed an assistant commissioner, with a salary sufficient to command the services of a man of character and great ability, whose whole time is to be devoted to this important work.

One of the board is to be an officer of the regular Army, to be assigned by the Secretary of War; (it is believed that he would be an officer of high standing in the Army;) and a third is to be selected from among those persons who may be named by the great religious conventions or bodies of the United States. It is impossible to believe that these great bodies could name any other than a man of high character and great ability. Such a board not organized upon political grounds at all, and possessing, as they will, the important powers conferred in the third section of this bill, will, in the judgment of the committee, do more to secure the faithful administration of Indian affairs than any other measure which has been suggested.

The assistant commissioner will report to the Secretary of the Interior; the officer of the Army to the Secretary of War; and the third will report not only to the Government, but to that religious body which may have recommended his appointment. Thus the treatment of the Indians by the civil authorities, by the military authorities, and by their teachers and missionaries will be subject to constant inspection and supervision.

It is urged that the expenses of these boards will be considerable; but in comparison with the greater economy and efficiency their supervision would secure, that expense will be comparatively trifling.

Such boards, charged with the duty, among other things, to preserve amity, will doubtless sometimes save the Government from unnecessary and expensive Indian wars.

As an instance bearing upon this point, when that portion of the committee who were charged with the duty of inquiring into the condition of Indian affairs in Kansas, New Mexico, and Colorado, arrived at Fort Larned, they found that the officer there in command had just issued an order to his troops to cross the Arkansas, going south into an Indian territory, where not a single white man lived, to make war upon the Camanches, a most powerful tribe, which roams over all that region from the Arkansas to Mexico. Your committee felt that such an expedition would of necessity bring on a long war with that tribe; that it was wholly unnecessary, and they took the responsibility of advising General McCook, a member of the staff of General Pope, who accompanied them, to countermand that order until he could communicate with General Pope at St. Louis. The order was countermanded; the troops then in motion were recalled; and thus by the mere presence and advice of the committee a war was avoided with the Camanches, which, had it once begun, would not

have been prosecuted to a successful termination without an expenditure of \$20,000,000.

Your committee took the testimony, among others, of Colonel Ford, then in command at Fort Larned, upon this subject. He says, speaking of the Camanches: "From the best information I can get, there are about seven thousand warriors well mounted, some on fleet Texan horses. On horseback they are the finest skirmishers I ever saw. How large a force, mounted and infantry, would be required to defend the Santa Fe road and wage a successful war against the Indians south of the Arkansas? It would require at least ten thousand men—four thousand constantly in the field, well mounted; the line of defense to extend from Fort Lyon to Fort Riley, and south about three hundred miles. All supplies would have to come from the States. Contract price for corn delivered at this point was \$5 25 per bushel." With corn at this enormous price, and hay and wood and all supplies in proportion, the expense of such an Indian war is beyond belief. By many it was estimated that such a war would have required at least ten thousand men, and a war of two or three years' duration, to make it successful, with an expenditure of more than thirty million dollars.

It is believed that such boards of inspection, thus organized and composed of the men who should be appointed to fill them, could save the country from many useless wars with the Indians, and secure in all branches of the Indian service greater efficiency and fidelity. If such boards should cost the Government \$50,000 annually, and should avert but one Indian war in ten years, still, upon the score of economy alone, the Government would be repaid five hundred per cent.

The appendix has already been published, and the report as soon as published will be placed upon the desks of Senators with the appendix.

The PRESIDENT *pro tempore*. Does the Senator ask for the printing of the report?

Mr. DOOLITTLE. Yes, sir. An order has already been entered that the report be printed, and the same number of extra copies as were ordered to be printed of the appendix.

The PRESIDENT *pro tempore*. The same order will be entered if there be no objection.

#### AMENDMENT OF INTERNAL REVENUE LAW.

Mr. FESSENDEN. I am directed by the Committee on Finance, to whom was referred the joint resolution (H. R. No. 244) to amend existing laws relating to internal revenue, to report it back without amendment, and to ask that it be considered and passed. I do not think there can be any objection to it. It is regarded as very important by the revenue department, as we are losing thousands of dollars every day on account of a practice that has prevailed and which this resolution will correct. It is very short, and I can explain it if any explanation is necessary.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It proposes to exempt from tax alcohol made or manufactured of distilled spirits upon which the taxes imposed by law shall have been paid, and burning fluid made or manufactured from alcohol or spirits of turpentine, or camphene, upon which the taxes imposed by law shall have been paid; and to repeal so much of section ninety-six of the act of June 30, 1864, as relates to alcohol and burning fluid, and all products of distillation, by whatever name known, which contain distilled spirits or alcohol on which the tax imposed by law has not been paid, are to be considered and taxed as distilled spirits. It also proposes to amend paragraph nineteen of section seventy-nine of the act of June 30, 1864, as amended by the act of July 13, 1866, entitled "An act to reduce internal taxation, and to amend an act entitled 'An act to provide internal revenue to support the Government, to pay the interest on the public debt, and for other purposes,' approved June 30, 1864, and acts amendatory thereof," by striking out the words "and distillers of burning fluid and camphene."

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### REPORT OF A COMMITTEE.

Mr. HOWE, from the Committee on Claims, to whom was referred the bill (S. No. 457) for the relief of Hiram Paulding, rear admiral United States Navy, asked to be discharged from its further consideration, and that it be referred to the Committee on Foreign Relations; which was agreed to.

## BILLS INTRODUCED.

Mr. LANE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 540) to amend an act entitled "An act to restrict the jurisdiction of the Court of Claims and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States," approved July 4, 1864; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 541) to regulate the care and supervision of the Capitol and Capitol grounds, and for other purposes; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 542) for the relief of the North Missouri Railroad Company of Missouri, by allowing a credit on duties to be paid on imported railroad iron; which was read twice by its title, and referred to the Committee on Finance.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 543) to abolish and forever prohibit the system of peonage in the Territory of New Mexico and other parts of the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 544) to amend an act entitled "An act to incorporate the Newsboys' Home," and also for the relief of abandoned children in the District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 545) for the relief of John F. Stewart; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILSON, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 546) to increase and equalize the pay of officers in the Army of the United States, and for other purposes; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 547) to amend an act entitled "An act to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Amboy by Hillsdale and Lansing to some point on or near Traverse bay, in the State of Michigan, and for other purposes;" which was read twice by its title, and referred to the Committee on Public Lands.

## CAPTURE OF JEFFERSON DAVIS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to furnish for the use of the Senate the report of Major General J. M. Wilson on the capture of Jefferson Davis.

## BALTIMORE AND POTOMAC RAILROAD.

Mr. WADE. I move that the Senate proceed to the consideration of House bill No. 388.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 388) to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia.

The bill was reported to the Senate as amended.

Mr. HENDRICKS. Ought that bill to be considered in the absence of the Maryland

Senators? Neither of them is in his seat. It is a bill of some importance.

Mr. WADE. I believe both those Senators have been here this morning, if they are not here now. I do not know that they take any interest in it. I told one of the Senators from Maryland that I should call it up this morning. He was here then. I do not suppose he takes any interest.

Mr. HENDRICKS. I do not know whether they do or not; but it is a question of some importance, and I think it had better be postponed until they are here.

Mr. WADE. It has been postponed one week because one of them was absent. They have been here to-day. I do not think they take much interest in it. I spoke to the Senator from Maryland [Mr. CRESWELL] for whose accommodation it was postponed before and he said he had no objection to my calling it up at any time.

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in the amendments made as in Committee of the Whole?

The amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time. It was read the third time, and passed.

## COMPENSATION OF CIVIL EMPLOYEES.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of House joint resolution No. 224.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 224) giving additional compensation to certain employees in the civil service of the Government at Washington.

The PRESIDENT *pro tempore*. The Committee on Finance report an amendment to the joint resolution, which is to strike out all after the enacting clause and to insert a substitute. The substitute only will be read unless some Senator asks for the reading of the original resolution.

The Secretary read the substitute, as follows:

That there shall be allowed and paid, out of any money in the Treasury not otherwise appropriated, to the following described persons employed in the civil service at Washington, namely: to clerks, messengers, watchmen, and laborers, and all the civil employees whose salaries are fixed by law and do not exceed the sum of \$3,500 each per annum, and including temporary clerks, female clerks, employees in the Department of State, in the Treasury, War, Navy, Interior, Post Office, and Agricultural Departments; in the offices of the Attorney General, Coast Survey, Naval Observatory, navy yard, Paymaster General, including the division of referred claims, Commissary General of Prisoners; in the Bureau of Refugees, Freedmen, and Abandoned Lands; in the office of the Capitol extension; in the city post office: to all enlisted men of the Army, Navy, Marine corps, or general service of the United States, serving as clerks, messengers, watchmen, or laborers in any bureau of the War Department; to all female clerks or employees in either of the Departments, including the Agricultural Department, or in any bureau or division thereof, whose compensation does not exceed sixty dollars per month; to the superintendent of meters, lamp-lighters, and draw-keepers employed under the direction of the Commissioner of Public Buildings, and one clerk in the office of said Commissioner, and to the detectives of the Metropolitan police, an additional compensation of twenty per cent. on their respective salaries or pay from one year from and after the 30th day of June, 1866: *Provided*, That the above-named additional compensation to the employees of the Patent Office be paid out of the funds of said office: *And provided further*, That this resolution shall apply only to such persons as may be in service at the time of the passage thereof: *And provided further*, That this resolution shall not be so construed as to give any greater amount as additional compensation than an increase of twenty per cent. on the salary or pay for the time of actual service during the period hereinbefore specified.

Mr. WILLIAMS. I move to amend the amendment in the sixteenth and seventeenth lines by striking out the words "in the city post office" and inserting the words "and also."

Mr. MORRILL. I should like to ask the mover of this amendment on what ground it is made.

Mr. WILLIAMS. I have inserted them in another place.

Mr. MORRILL. Then I do not object if they are provided for in another place.

Mr. WILLIAMS. I intend to make that

motion. You will see that provision is made for them according to the suggestion of the city postmaster.

Mr. MORRILL. Still I suppose it was proper to make the inquiry before the question was taken.

Mr. WILLIAMS. What is the inquiry?

Mr. MORRILL. The inquiry was as to the reason for striking this out.

Mr. WILLIAMS. The city postmaster came to me this morning and told me that the clerks in the city post office were not salaried officers, and he desired to have them embraced in that part of the resolution that provides for persons who do not receive salaries; and according to that suggestion I have moved to strike out the words "in the city post office" in the sixteenth and seventeenth lines, and I shall move to insert the same words or equivalent words in a subsequent part of the resolution.

Mr. MORRILL. That is satisfactory, of course.

The amendment to the amendment was agreed to.

Mr. WILLIAMS. I desire to offer some additional amendments to the amendment. I move to amend in the twentieth line, after the word "Department," by inserting the words "and also;" and in the same line I move to strike out the words "clerks or" before the word "employees;" so that the clause will read:

And also to all female employees in either of the Departments, &c.

The amendment to the amendment was agreed to.

Mr. WILLIAMS. I move to insert in the twenty-third line, after the words "per month," the words "and also to clerks and employees in the city post office, and."

Mr. MORRILL. I inquire if it is in order to amend that amendment?

The PRESIDENT *pro tempore*. This is an amendment to an amendment, and a motion to amend in the third degree is not admissible.

Mr. MORRILL. Very well.

Mr. HENDRICKS. Will it be in order to include other post offices?

Mr. MORRILL. That is just what I inquired.

Mr. HENDRICKS. If so, I thought of including the Indianapolis post office.

Mr. MORRILL. Oh, no; that is not in order.

Mr. HENDRICKS. It is an ordinary post office, and of course if we are to provide for the post office here we ought to provide for others where living is equally expensive.

Mr. WILLIAMS. I move further to amend the amendment in the twenty-sixth and twenty-seventh lines by striking out the words "and to the detectives of the Metropolitan police," I do this at the instance of members of the Metropolitan police.

The PRESIDENT *pro tempore*. The question upon the amendment to the amendment last offered is not yet disposed of.

Mr. GRIMES. What is that question?

The Secretary read the amendment to the amendment, to insert in the twenty-third line the words "and also to clerks and employees of the city post office, and."

Mr. HENDRICKS. Is not that amendable by adding other post offices?

The PRESIDENT *pro tempore*. Not at this stage. This is an amendment to an amendment, and an amendment in the third degree is not admissible; but such an amendment will be in order to the amendment of the committee subsequently.

Mr. HENDRICKS. I do not know whether we ought to go into the general system of increasing the pay of the employees of post offices; I am not sufficiently informed on the subject; but if the clerks in one post office are provided for at twenty per cent. additional increase, it should be extended to the other cities where it is fully as expensive to live as it is in this city. These are mere post office clerks, and the same reasons will apply to other cases.

The question being put on the amendment



to the amendment, there were, on a division—ayes 8, noes 3; no quorum voting.

Mr. WILLIAMS. I ask for the yeas and nays.

Mr. FESSENDEN. There is a quorum present. I think if we have another division we can decide the question without the yeas and nays, if gentlemen will vote. I will explain precisely what this proposition is. The clerks in the city post office were included in the resolution as it came from the House, but were placed among those whose salary is fixed by law. We have ascertained that their salary is not fixed by law, and therefore we are obliged to transfer them to another portion of the resolution; and the amendment to the amendment is made necessary for that purpose. The House included these clerks in the city post office in this increased compensation, and the Senate committee agreed to it as being proper. The question now is, whether they shall be transferred to a point in the resolution where that intention can be carried out.

Mr. KIRKWOOD. I should like to ask the Senator a question. Will not this be made a ground upon which increased compensation will be claimed in all the post offices all over the country?

Mr. FESSENDEN. No, sir. It only relates to clerks in the city post office in Washington.

Mr. KIRKWOOD. But will it not furnish a ground for similar claims from all the post office clerks throughout the country?

Mr. FESSENDEN. I hope not. We should then resist it if such a claim was made. This resolution is confined to clerks employed in the city of Washington, and is intended to be so confined, and the committee, I presume, would oppose an addition to anybody out of Washington. It stands on its own peculiar ground with reference to the expenses of living in Washington.

Mr. VAN WINKLE. I have not been able to hear the explanations that have been made on the other side of the Chamber, but I find in the sixteenth line of the amendment reported by the committee these words: "in the city post office." That portion of the amendment applies to "the clerks, female clerks, and employés in all the other Departments," and includes the city post office. I should like to ask the gentleman having the proposition in charge to explain wherein his amendment differs from what is already apparently in the resolution.

Mr. WILLIAMS. I think a sufficient explanation has already been made.

Mr. VAN WINKLE. I did not hear it.

Mr. WILLIAMS. I said that these words were included in the first part of the amendment upon the assumption that the clerks and employés in the post office of the city were salaried officers; but I am informed by the postmaster of this city that they are not salaried officers, but that their wages are fixed by the postmaster, and he desires to have authority by this measure to increase their pay to the same extent that the pay of the other officers mentioned in the resolution is increased; and therefore the words in the sixteenth and seventeenth lines were stricken out, and I propose to transfer them to that portion of the resolution which is intended to include persons whose salaries are not fixed by law.

Mr. HENDRICKS. I wish to ask the Senator, before he takes his seat, whether it is not in this office just like it is in all other offices: the number of clerks is controlled by the Postmaster General, and the rates of their compensation.

Mr. WILLIAMS. I did not hear the question.

Mr. HENDRICKS. Is not this an ordinary post office like the post offices in other cities in regard to its employés?

Mr. WILLIAMS. I suppose that this post office is like any other post office in the United States so far as the employment and salaries of the clerks are concerned.

Mr. HENDRICKS. I believe—

Mr. FESSENDEN. I must call for the order of the day.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday without a motion. The tariff bill is now before the Senate.

#### THE TARIFF BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes.

Mr. FESSENDEN. If I can get the attention of the Senate for a few moments I will explain an amendment that I propose to move. It has reference to the amendment that was made yesterday on the motion of the Senator from West Virginia, [Mr. WILLEY.] I move to strike out the word "Albertite" in the thirty-first line, on page 85.

The PRESIDENT *pro tempore*. The Chair will state that there is an amendment pending. The question is on the amendment moved by the Senator from New Jersey [Mr. FRELINGHUYSEN] on page 40, section eight, line sixty-eight, after the word "two" to insert "and one half;" so as to make the clause read:

On zinc, spelter, or tutenague, in blocks or pigs, two and a half cents per pound.

Mr. FESSENDEN. If there is an amendment pending of course I will not interfere with it. I will move my amendment afterward.

Mr. FRELINGHUYSEN. Mr. President, it seems to me if the Senate comprehended fully the facts in reference to spelter they would not hesitate to adopt the pending amendment, which is to increase the tariff from two cents to two and a half cents on spelter. This mineral is found in many parts of this country. It is found in New Jersey, in Pennsylvania, in Virginia, in Tennessee, in Arkansas, in Missouri, and in the lead regions of Wisconsin; and there are many works established in New Jersey, in Pennsylvania, in Illinois, in Wisconsin, and in Massachusetts. The increase that is asked is half a cent a pound. This article is used as a component part of brass, and the duty on brass is seven cents a pound, so that this increase would not seriously affect the value of brass. The manufacturer can afford to import this article, but it is the country that is interested in having the foreign article excluded and in having this wealth of the country developed. I hope that the Senate will adopt the amendment.

The PRESIDENT *pro tempore*. On this question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 10, nays 17; as follows:

YEAS—Messrs. Cowan, Davis, Dixon, Frelinghuysen, Harris, Howe, Sprague, Trumbull, Van Winkle, and Wade—10.

NAYS—Messrs. Anthony, Brown, Edmunds, Fessenden, Fogg, Foster, Henderson, Hendricks, Kirkwood, Morgan, Morrill, Patterson, Sherman, Sumner, Willey, Williams, and Wilson—17.

ABSENT—Messrs. Buckalew, Cattell, Chandler, Conness, Cragin, Creswell, Doolittle, Fowler, Grimes, Guthrie, Howard, Johnson, Lane, McDougall, Nesmith, Norton, Nye, Poland, Pomeroy, Ramsey, Riddle, Ross, Saulsbury, Stewart, and Yates—25.

So the amendment to the amendment was rejected.

Mr. FESSENDEN. I now move, on page 85, section thirteen, line thirty-one, to strike out the word "Albertite," and I will make a statement in regard to it, unless the Senator from West Virginia is willing to agree to strike it out, so that it may come under the head of coal. If it is stricken out here it comes in under the head of coal, and pays a duty of \$1 50, like other coal.

Mr. WILLEY. Albertite, as I understand it, is a species of asphaltum. Here it is what in Nova Scotia they call Albertite, and here is a specimen from West Virginia that they call asphaltum. [Exhibiting specimens to the Senate.] If there be any difference I am not able to see it. It is a species of asphaltum almost identical in quality.

Mr. FESSENDEN. If the Senator does not consent to the amendment I will state my

reasons for offering it, and I would be obliged to the Senate if they would attend to me, for this is a matter of very great interest to the city in which I reside. The establishment there for the manufacture of oil from this Albertite coal is one of the few manufacturing establishments in our city that escaped the great conflagration. It employs about one hundred and fifty men. The works cost originally about three hundred and fifty thousand dollars in gold, and would now cost double that sum to erect. It employs a large number of men who have been employed there for years, and who must be thrown entirely out of employment if the rate of duty adopted yesterday is insisted upon, and for no other purpose that I can conceive, it being a manufacturing establishment, but to allow gentlemen in New York who have entered into this speculation in West Virginia at some future period to commence the manufacture. At Portland we manufacture oil out of it. I take it the Senator will not pretend that in West Virginia, where this mountain is, they can ever, while petroleum lasts, manufacture oil from coal. The petroleum wells are there, and oil sells for seven or eight cents; whereas the manufacture of this oil from coal would cost a very much larger sum on the spot. I understand (and the Senator will correct me if I am in error) that since the discovery of petroleum not an oil factory to manufacture oil from coal has been erected in that section of country or in Pennsylvania or anywhere where they have had an idea of manufacturing oil from coal; and that those which were in use in manufacturing oil from coal before that time in West Virginia have been converted into factories for the purpose of manufacturing petroleum. I believe this establishment in Portland, Maine, is the only one in the United States, unless there may be a small factory of this kind in Maysville, Kentucky.

Now, sir, it would seem very hard, even under ordinary circumstances, to visit upon any occasion so heavy a calamity to the city of Portland, in addition to what it has already suffered, as to close this factory entirely, which must be the effect of the duty as it now stands in the bill, for no other reason than the prospective opportunities for making money afforded by this company in West Virginia, which has not begun to operate at all, and which, as I believe, never can operate in the manufacture of oil from coal there—at the present time, to say the least of it.

The Senator from West Virginia is very honestly mistaken—if he is ever mistaken it is always honestly—on this subject. He has been misled by this statement which has been laid before us, which is full of errors, which he read, and upon which he founded his argument. The simple truth is, that this Albertite is coal, and the commissioner—I knew nothing about it; nobody interested knew anything about it—of his own motion, in framing the tariff put it in among the asphaltums, on which there was at that time a duty of twenty-five per cent. The fact is, it is not asphaltum; it never has been so ranked and never so considered. I was taken by surprise yesterday by these broad statements, which I had never seen or heard before, and was unable to contradict or answer them; but fortunately a gentleman connected with the getting up of that company was here, and I sent for him and consulted him as to the facts in relation to this question. He is concerned in the manufacture of iron somewhat, and came here in reference to iron matters; but he is perfectly familiar with this subject; and he is a gentleman for whose perfect integrity I can vouch.

He informs me that the question was tried—I do not know how it came up—in the supreme court in New Brunswick, and it was decided by the court that it was coal and not asphaltum. Why? I am not enough of a chemist to say why it was, but the reason he gives me is this: that when you distill asphaltum the residue is an earthy substance; when you distill this coal the residue is precisely as it is in

other coals; it is carbon, just like the coal that you get from Pennsylvania; and it was decided to be coal. It is used, and can be used to advantage, for only two purposes: for the manufacture of gas and for the manufacture of oil. It is not used for any other purpose whatever.

During the existence of the reciprocity treaty, while all the coals came in free, certain gentlemen purchased a considerable portion of that mine in Nova Scotia. One of the misstatements in the paper that has been laid on our desks is that that mine is owned by foreigners. In fact three fourths of it is owned by American citizens. Believing that they could manufacture oil to advantage out of it they purchased the mine, and they established this establishment in Portland of which I speak at very great expense. As I stated yesterday, they went on for a while, and even when they got their coal in free they failed and were obliged to close up; but after awhile they settled up and went on again. So much for the large profits that have been made.

The gentleman to whom I have alluded has furnished me with a memorandum which I will read to the Senate. He is perfectly familiar with the whole subject, and knows all about it from the beginning. He says:

"Albertite, called in the Senate bill 'Albertite,' is coal, and was so decided by the courts. It was admitted as coal free of duty under the reciprocity treaty, and since has paid \$1 25 per ton, gold duty, the same as other coals."

That is the fact about it. It was stated here yesterday that it paid twenty-five per cent. *ad valorem*.

Mr. WILLEY. Of course, if it came in as coal it did not pay duty as asphaltum.

Mr. FESSENDEN. Exactly; but what many Senators founded their votes upon yesterday was the statement that the motion of the honorable Senator from West Virginia was only to make it pay exactly what it had been paying.

Mr. WILLEY. If it was coal, then of course it would pay a smaller duty; but if it was asphaltum it would pay more. That is the question exactly.

Mr. FESSENDEN. Precisely; and I think the error arose from the fact that it was included by the commissioner under that impression without consulting anybody in relation to the matter, which was an entire mistake. It is coal, and has always been so regarded.

"This mine is of but very limited capacity. In no year has it mined and sold twenty thousand tons. It has run down eleven hundred feet, and they have to sink each year. In 1880 there were imported fifteen thousand tons, which paid a duty of \$18,750 in gold, making in currency \$27,000. Ten thousand tons out of the fifteen thousand were worked into oil, and paid an excise duty to the Government of about sixty thousand dollars, making a revenue to the Government on the importation of that coal of \$37,000. To make that into oil there was expended on the ten thousand tons twenty-three dollars per ton in labor, iron, anthracite coal for fuel, and chemicals. Fifty thousand dollars of that expenditure was paid to Maryland and Pennsylvania for coal and iron."

"Now the Government want revenue. The prohibitory duty put on this coal shuts it out from this market, totally destroys the factory where the coal is worked, which cost \$320,000 in gold, and which could not now be built for \$700,000, throws out of employment one hundred and fifty men who have had steady work for nearly eight years, and compels them to seek other employment if they can get it. To protect what? Coal in Western Virginia that is lying in the ground and will have to lie there until petroleum is four times the price it is now. There have been no factories built in that section of the country for the purpose of working coal into oil since the discovery of petroleum."

If this gentleman is wrong in this statement the Senator from West Virginia can correct him.

"But all the factories that were built prior to the discovery of petroleum have ceased working coal and now work petroleum, with the exception of the Maysville Oil Company in Kentucky, which has been at times working small quantities of coal on the Kanawha."

"Now, as to the Ricker's mine, near Parkersburg, Virginia, that coal has been known since 1859. The company then owning it sold it to a company in New York in 1863. That company have not erected any works to make oil from the coal, for at Parkersburg they have the petroleum from the Burning Springs of Virginia, giving them the crude oil at their works at not over seven to eight cents per gallon. The coals of Western Virginia and Pennsylvania could not be

worked into oil in competition with petroleum if they had no excise duty to pay.

"This prohibition of an article that pays the Government so large a revenue and gives labor to one hundred and fifty men, and contributes with that labor so large an amount to the industry of the country, is a thing that I cannot understand, especially when it does not interfere with the interest it is said the duty is designed to protect. Western Virginia and Pennsylvania need not fear any competition from foreign coal for the manufacture of oil, for there is no coal in Scotland or England that can at all compete with them. The Albert coal only competes to the extent of ten thousand tons. Shale can never be imported into this country. When oil was eighty cents per gallon, and there was no excise, there were about two thousand gallons imported from Nova Scotia free of duty, but as it did not pay it was abandoned."

I had the curiosity to look into the commerce and navigation returns for the amount of asphaltum imported; and the value of the whole quantity imported amounts to between eight and nine hundred dollars. And as to the shale, it could not be worked at all to any profit even when oil was eighty or ninety cents a gallon. As to bitumen, it is of so little consequence that it is not named at all in the returns; I cannot find it imported. For these reasons the commissioner, finding that these articles were of no sort of consequence, put them down at fifty cents, which is high enough for them, and as I said before, by a misapprehension the commissioner put Albertite into the same category. It had never been there before; it is absolutely coal and nothing but coal.

Now, just look at some of these misstatements to show how loosely men make their statements. The Senator from West Virginia read this paper and relied upon it for his facts—a paper got up by one of the men in this very company. It is a mistake, in the first place, to say that this article is asphaltum. It is not. In the next place it is a mistake to say that the present duty is twenty-five per cent. It is \$1 25 a ton, and has always stood the same as other coal. Then it is stated that it is worth twenty dollars at the mine. It is only seven or eight dollars after it has been extracted.

Mr. HOWE. Then the duty is more than twenty-five per cent.

Mr. FESSENDEN. I do not know but that it may be. It came in as coal, as I said before, at \$1 25 a ton. I propose to strike this out so that it may come in now as other coal does under this bill at \$1 50, making no distinction.

Let me call attention to another statement to show the way in which the person who wrote this paper tried to influence the members of the Senate:

"Albertite comes from Nova Scotia."

That is true.

"It is a vein of asphaltum, of great value, and it is largely, if not principally, owned by foreigners."

Here are two errors, intentional, or unintentional, I do not know which.

"The owners have a manufactory of oil in Nova Scotia, but the duty on the importation of crude oil into the United States being ten cents per gallon, they have established another manufactory at Portland, Maine, where, by a cheap and simple process, similar to the retorting of coal in gas-works, the Albertite is converted into oil, yielding over one hundred gallons to the ton of mineral."

Mr. WILLEY. On that point I wish to ascertain from the Senator whether it is true that this coal, as he calls it, yields over one hundred gallons of oil to the ton.

Mr. FESSENDEN. About one hundred of crude oil, not of refined oil.

Mr. HOWE. What is that oil worth?

Mr. FESSENDEN. I will state presently. This paper says: "The material is of such richness its conversion is made with almost the same facility that lard is converted into oil." And further on is a statement that those who distill it into oil have a great advantage over those who make oil from petroleum, because they do not pay so much internal revenue duty. Now I want to take these two things together. Albertite takes six separate distillations before it enters into oil; petroleum takes one single distillation. This article has to go through six separate processes before it is made into oil. As I said before, when we were forming the internal revenue bill the gentlemen who manufacture this oil at Port-

land and the men who manufacture oil from petroleum had a conference and they agreed upon what the just difference between the two was and should be, and it was so fixed by their agreement, and at that very time the men engaged in the manufacture of coal oil in West Virginia and that section of the country insisted upon it that there ought to be nothing at all upon this, it was so expensive a manufacture; and yet here is a statement that it can be converted into oil with the ease of lard. That is the fairness and honesty of this statement.

Then, it is said that these persons have been around the commissioner and around the Senate trying to get Albertite in at a low duty. That is a positive misstatement. It is evident the writer did not know anything about the facts. This charge is not true, and does not begin to be true. It was put in by the commissioner of his own motion; nobody asked him to do it; and I did not know anything about it myself until this controversy came up.

It is further stated here that the oil sells for seventy cents a gallon, and sold last year for \$1 50. The agent informs me that it is selling now at sixty-three cents, and if you take off the duty it brings it down to fifty-three. It never sold for \$1 50. It has been down as low as thirty cents, and may come down that low again at any time. This paper is a positive misstatement in all particulars.

Under these circumstances, I really must ask the Senate to reconsider this question so far as I have presented it to the Senate. I do not ask them to keep it at fifty cents a ton, but I ask them to leave it with other coals which they have put at \$1 50 a ton. As the agent informs me, a duty of two dollars a ton put on this article would shut up the factory and compel them to cease business altogether or remove to the other side of the line and set it up in New Brunswick, thus losing to the Government eighty or ninety thousand dollars a year revenue derived from the duty on the imported coal and the internal revenue tax paid by this concern. I have no doubt the fact is so from the operations I have witnessed and what I know of the history of the company. To put anything like this duty on it would be entire destruction; and really, under the circumstances, I feel that I have a right to ask the Senate to adopt the amendment I have proposed.

Mr. JOHNSON. What does the Senator propose to make the duty?

Mr. FESSENDEN. The same as the coal duty, \$1 50 a ton. I move simply to strike out "Albertite" here; and then it will come in as coal, as it has done before.

Mr. WILLEY. I know how hopeless a task it is to interpose objections on a question of this character to any position which the chairman of the Committee on Finance may deem it his duty to take in regard to a proposition; but I beg, after having listened to his statement, the Senate will have notice that, after all, the question raised by the statement of the Senator from Maine is whether, in point of fact, a rose would not smell as sweet by another name.

The proposition is to strike the word "Albertite" out of the lines alluded to and place it under the head of coal, so that it may be subject to the same duty as ordinary coal. Now let us look at the proposition, and let us look at the result of this thing. How much oil can be expressed out of ordinary bituminous coal? That depends very much upon its quality, for there is a difference of quality in the ordinary bituminous coal. So far as my experience is concerned—and living in the midst of it I have some personal knowledge in regard to that matter—forty gallons a ton is about the highest that you can get from a ton of the richest bituminous coal in our section of the country.

Mr. FESSENDEN. That is about all they get from this after it is reduced.

Mr. WILLEY. According to the statement of the honorable Senator from Maine it is admitted that one hundred or upward of one hundred gallons of oil may be expressed out

of a ton of this Albertite. Is that ordinary coal? Is that an article that ought to be placed in the category of our ordinary bituminous coal, subject to the same duty and to the same conditions, one producing at the very highest only forty gallons per ton, and this rich article producing one hundred gallons and sometimes more than one hundred gallons per ton—producing as much oil per ton as this asphaltum does, and therefore placing itself, it seems to me, upon pretty much the same reason for the same protection? It is true, you may call it by another name, but the result is the same. You may call it coal, but it produces one hundred gallons of oil, and ordinary bituminous coal only produces forty—from twenty to forty.

And now, if I can get the attention of the Senate, I beg to correct the Senator in some of his material statements. I know nothing of the character of the gentleman who placed these facts in my hands personally; but he comes to me recommended as a gentleman of the highest integrity, and I am sure that he is a gentleman of the finest intelligence. Except so far as the Senator from Maine states facts resting upon his personal knowledge, the Senate have only the written statement of one gentleman from Portland, Maine, on the one side, and a gentleman from New York on the other.

As to the allegation that nothing has been done to develop the rich mine of asphaltum alluded to in West Virginia, and that this proposition is one wholly prospective in its character, I beg to correct the Senator from Maine. Already \$100,000 have been expended in building a railroad to this mine, and retorts are in process of erection at the mine for the purpose of expressing the oil. In addition to that, extensive brick buildings have been erected and are in process of erection. Many thousands of brick have been made at the place for the purpose of erecting buildings; and buildings are in process of erection, and a large and heavy amount of capital has already been expended; and this company is just on the eve of commencing operations there, unless it should be cut down by this discrimination against it. You say it is "Albertite" in Nova Scotia; you say it is "asphaltum" in West Virginia; yet the Nova Scotia Albertite is as rich in the identical article of oil as the asphaltum is in West Virginia. Whether you call it Albertite or asphaltum, the reason for protecting the one is just about the same as for protecting the other by a duty.

Now, sir, I am no mineralogist; but I have had the specimens before me, and if I were to present them to any Senator I venture to say that from the external appearance of them there could be no distinction made in them. They look precisely alike. There may be, and doubtless is, according to the statement of the Senator from Maine, a difference in them in some respects, enough to give them a different name; but the result of the manufacture of each is about the same; and now the question is, whether as regards two articles that produce the same results, although in their crude state you may call them by different names, the domestic article shall not be protected against the introduction of the foreign article; that is to say, whether coal oil, whether this oil which is identical in its character, whether expressed from asphaltum or expressed from Albertite, shall be introduced from abroad in competition with the domestic manufacture at home.

Some of the facts stated by the Senator from Maine may have their weight upon the Senate; but I am very certain that the character and standing of the Senator from Maine, the position he occupies upon the Finance Committee, and justly occupies in the estimation of the Senate and the country, is a matter much more difficult for me to encounter than the real facts and merits involved in the case. I repeat, sir, the same results accrue from the manufacture of these articles, whether you call them one name or the other. Why do you call one thing "Albertite" and the other "asphaltum"? The name Albertite is a mere compliment, I

believe, to Prince Albert himself. A certain species of stone found in Nova Scotia not very long ago had the cognomen of "Albertite," given to it in compliment to Prince Albert. Compare them together and they look exactly as if they contained the same resinous qualities. The results as stated by the Senator from Maine show that such is the fact, that both produce one hundred and sometimes a little over one hundred gallons of oil to the ton, the same kind of oil, to be applied to the same purposes. Now, the question is, when our own domestic capital and our own fellow-citizens here at home and our own industry are brought into competition with the introduction from abroad of an article which, though having a different name, produces the same result, shall they not have a discrimination of protection in their favor? It is with the greatest regret imaginable that I am driven to this position as against the Senator from Maine; but looking to the interests of my constituents, and I think to the general interests of the country, and relying upon the general principles of this bill which, all through it, in all of its provisions, proposes to extend protection to domestic industry and to domestic manufactures and to domestic capital, and to protect our own interests against foreign competition, I cannot see upon what principle a discrimination in this single article producing the same results, simply because it has a different name, shall be made; and I trust that the Senate will allow the clause to remain as it is.

Mr. FESSENDEN. I have no advantage whatever in contending with the Senator, and I do not wish any except such as facts may entitle me to. I stated that this article produced about one hundred gallons of crude oil to the ton. I have seen the gentleman since, and he says that the refined oil is about sixty or sixty-five gallons to the ton after it is rendered fit for use; and he says further that, exclusive of the cost of the coal, it costs from thirty to thirty-five cents a gallon to manufacture the oil. To impose a high duty on coal used in that way is not according to the principles of this bill. The principles of this bill are to admit raw material as low as possible for the benefit of manufactures from the raw material. But, sir, I take the Senator's own words and I put the case thus: we have put our capital into it—I say we; I do not mean myself, for I have no interest in it; we have erected our mill, if you please to call it a mill; we have been at all this expense; we employ American citizens; and the mine is owned three quarters of it by American citizens instead of by foreigners, as the Senator seems to suppose. Now, the question is whether that having been done in good faith under the reciprocity treaty, being introduced as coal and being coal, the Senate is ready to say that because it is not a native product they will break down at once and destroy all this capital and throw these men out of employment, because there is a mine in West Virginia that certain gentlemen in New York have bought, and they want to exclude everything else from the country that can come into competition with them.

The Senator says the man who works the West Virginia mine has no protection. Why, sir, in the first place there is \$1 25 a ton; in the next place the coal is right there on the spot where he erects the mills; he has nothing to pay for transporting it, while we are obliged to bring ours from Nova Scotia. He has that additional protection, and then he can manufacture the oil just as cheap as we can or cheaper on account of the difference in labor and other things. Is not that protection? What the Senator demands for his constituents is that Albertite shall be excluded from the country, and that this business of ours, undertaken in good faith under the reciprocity treaty, shall be destroyed, the capital destroyed, and the men thrown out of employment. I take his own words for it. I say it is a most unreasonable demand.

The amendment to the amendment was agreed to.

Mr. EDMUNDS. I move to amend the amendment of the Committee on Finance by striking out "fifty cents" in line forty-nine of section thirteen, on page 86, and inserting "one dollar," and by striking out all after the word "foot" in line fifty.

The effect of this amendment is simply to put the second classification of marble in the bill at one dollar per cubic foot specific instead of fifty cents a cubic foot and twenty per cent. *ad valorem*. The amendment proposes to raise the duty provided in that paragraph to one dollar per cubic foot, leaving off the *ad valorem* duty entirely, which is exactly as the House bill stands; and from the investigation which I have made on the subject, and the information I have received, which is perfectly credible, I am clearly satisfied that that ought to be done.

The first clause on the subject of marble provides a duty of one dollar per cubic foot and twenty-five per cent. *ad valorem* on white statuary marble, brocatello, Sienna, and antique. Now, it is well known to most Senators undoubtedly that all the marble that comes into the country under that first classification is exceedingly trifling. The importations of it amount to almost nothing, for the reason that under that classification the importers are able to swear, as importers are sometimes a little loose on that subject, that the marble which they import properly belongs to the other class. If a block of marble possesses the least discoloration, no matter how large the block may be, if it is at all veined or otherwise impure in any part of it, it does not come under the head of "white statuary marble," but comes in under the head of the "other" descriptions of marble.

The classifications of marble known to the science of geology and to the trade are as follows: first, the antique, which is merely marble made from ancient monuments, the quarries of which are now entirely lost, and which so far as importations are concerned is of course of no account any way. The second is the simple or single colored varieties. That may be white or it may be yellow or any other color which is uniform and homogeneous. The third variety is the variegated, which includes all kinds of discolored marbles which are homogeneous in their composition. The fourth kind is what is called the brecciated, which includes brocatello, which is the same as the Maryland or Virginia marble of which the columns in the old Hall of the House of Representatives are made, and a very handsome marble it is. The fifth description is what is called the *lumachella* or fossiliferous marble. That is composed very largely of fossil shells, but is not very much used in trade. Then the kinds of marble which will come in under this second clause include almost all that is used for interior ornamental purposes, whether of the single-colored or of the variegated-colored kinds. It will all come in under this second clause. We all know that marble which is used in that way is marble that is used generally by the opulent. It is for interior ornamentation, mantels, wash-basins, and all that sort of thing which goes to make up the elegances of the houses of the rich, and therefore a tax as upon a luxury may justly be imposed upon it.

Now, the cost of that description of marble laid down in New York, according to the invoices of the importers for the past two years, has been as follows: the cost at Carrara, in Italy, from whence the largest part of this marble comes, is put down at sixty-five cents. That is the cost delivered on ship board at Carrara. The duty is fifty cents and twenty per cent. *ad valorem* as the law now is, equal to sixty-three cents. The premium on gold at forty per cent. would be fifty-one cents more. The freight, when it is not brought as ballast, as it frequently is, and if paid for as freight rather than paying freight for being brought, three dollars per ton, would be thirty cents per cubic foot. Then insurance, &c., amounts to two cents more. Adding up these items, you



have the prime cost in the city of New York of a cubic foot of this description of marble \$2 11 only. That is what it pays duty on. That marble sells in the city of New York, which is the principal market, and in Boston for just about the same; it sells to the persons who buy it from these importers from five to seven dollars per cubic foot, say an average of \$5 50 a foot, which leaves a clear profit to the importer on every cargo that he brings over of \$3 39 a cubic foot. Now, if you add fifty cents per cubic foot to the duty, making it a dollar, there would still be left to him a clear profit of \$2 89 a foot, and with the twenty per cent. off, sixty-three cents more, would leave a profit of \$3 52, and that ought to be profit enough for any importer.

Thus it appears that this amendment which I purpose, instead of increasing the cost to the consumer, really is merely a diminution of the profits of the foreign importer who brings this marble from the shores of the Mediterranean, where all our foreign marble comes from, in one place or another, either the isles of Greece or the shores of Italy; and some of the varieties come from France. It leaves him a very handsome profit still.

Now, as to the comparative cost of labor in Carrara and in the places of production in our own country, whether in Vermont, or in Maryland, or New York, or Pennsylvania, or Ohio, or Michigan, wherever marble can be worked, the cost of labor shows a very great disparity indeed. The cost of labor at Carrara, not according to the statement of any interested person, but according to the statement found in books and treatises on this subject—English books and treatises, which I have examined—is, for common labor, not over forty-five cents per day; sixty cents a day for skilled quarrymen; and from eighty-eight cents to one dollar per day for the best and most intelligent workmen. In the marble quarries in Vermont—and I have no doubt it is the same elsewhere in the United States—the cost for a common laborer is \$1 75 per day, and for highly-skilled labor from three to five dollars per day.

It will therefore be perceived by the Senate that in every point of view this protection is proper upon the same principle upon which we have been proceeding in relation to coal and all other home productions, where there is an abundance of the raw material scattered all over the United States, where there are millions of capital invested in New England and in the Middle States and some in the western States in this business, and where, therefore, the whole market can be supplied at rates which will not be enhanced by this additional duty, for the reason we all understand that if the quarryman can increase his production and find a market for a little additional product of his mine he can continue to sell at the same or a lower rate and still make more profit than he did before, for the larger the production and the greater the sale the greater the gross amount of profit at a small rate.

Hence it appears to me all the considerations which have induced the Senate to protect other branches of American industry apply with greater force, if it be possible, to this case. In the case of coal, it is an article of prime necessity, used either in the form of fuel or as the means of producing light or working machinery by every interest in the land, the poor as well as the rich, while in the case of this description of marble, as I said before, it is really a luxury used by the opulent and wealthy for ornaments for their dwellings, and other things of that kind.

Perhaps it may be said that as to tombstones there may be some foreign importation; but the cases are very rare, indeed, in which the grave of any person in even moderate circumstances is marked by a stone of foreign production. In that instance it is only the graves of the wealthy and the great that are surmounted by Italian marble monuments.

The result, then, is if you wish to increase the revenue upon these articles of luxury and gain a larger amount of income to the country than

you do now without increasing the price, this duty ought to be raised to the point where the House left it; and in addition to that, if you wish to encourage the production at home and to protect and develop the capital already invested by millions of dollars and by thousands of workers in it, then this amendment ought to be made.

Mr. FESSENDEN. The same principle upon which the committee acted with regard to many other duties governed them in fixing this duty. We looked to see whether the duties raised upon some particular materials would affect the manufacturers of those materials. We came to the conclusion that it was necessary to raise the duties on iron, though not as much as the House proposed, and on wool, which we left pretty much the same; and of course upon all those things manufactured from iron and from wool it became necessary to raise the duties somewhat. But with regard to this particular thing, we could not see where the logic was as applied to marble. In 1864 the duties were fixed exactly to suit the predecessor of the honorable Senator, Mr. Foot. Two years ago, or a little more, the Vermont marble men demanded a duty of fifty cents upon "all other marble" and twenty per cent. *ad valorem*, and they got it. It cannot be contended, I think, that wages are any higher now than they were then, especially in Vermont, where they work in marble. It cannot be pretended that it costs any more to work the marble in Vermont to-day than it did when the tariff of 1864 was passed, or that the necessities of life have increased in price since. If that rate of duty was satisfactory then to the predecessor of the honorable Senator and the chairman of the Committee of Ways and Means of the House, who look sharply after Vermont's interests, the Committee on Finance could not see why it should not be satisfactory now. We raised the duties at that time to protect what is mere labor; and having given them all they wanted and all they said was necessary to compete with foreigners then, the committee were unable to see why this duty should be raised at the present time. I am unable to perceive it now.

The same argument is made by the Senator that is made by the representatives of every other interest. Calculations are presented which nobody can answer because nobody has the data but those who make them up; and we must take them on their say-so. We had before us some of the workers in marble who say there is a very considerable interest, a large interest in the city of Philadelphia and in the city of New York, and probably in other cities. They demonstrated to our satisfaction that this increase of duty would operate very onerously upon them, and they stated the fact also that the Vermont marble works were so filled with orders that they could not supply the demand and had not been able to supply their own demand, that is the demand for marble of these men themselves, or to answer their orders.

I do not understand the honorable Senator as saying that the interest is suffering any up in Vermont. I have never heard that the marble quarries of Vermont were anything but a source of wealth. I have never heard any complaint that they suffered for want of adequate protection. Anybody may look and see how much a dollar a cubic foot would be upon a large slab of marble. It was illustrated in the room of the Committee on Finance by referring to the table before us around which we sat, and it was evident that a dollar a cubic foot on anything like a considerable block of marble would be so large that it would be almost impossible for parties of moderate means to use imported marble.

Again, there is one thing of which the Vermont marble now has a perfect monopoly, and that is for statuary purposes. No one thinks of importing marble to compete with the Vermont marble for that. It is pure white, the best that can be had. These other marbles which the Senator has referred to are expen-

sive. They are used, as he says, rather as articles of luxury. It is not so much so with the common marbles, which are used for various purposes in connection with the building of houses and for furniture and divers things which I cannot begin to enumerate. Many import these foreign marbles for that use. They are not very high priced, and their use does not interfere, as we are told, with the sales of the Vermont marble-works, because they have as much as they can do to supply the demand, and, indeed, that is more than they can do.

I believe our marble trade is the principal trade we have with Italy. There are but two or three articles in which we have any trade with Italy. We trade there for fruits, and we trade for sulphur, most of which comes from Sicily, and we trade for marble. I do not suppose it costs a great deal for our fruit vessels to bring home marble, or that they charge a very large sum. The Senator should remember in his calculations of what the freight costs and what profit the importer makes, that the importer charges according to what he has to pay, and if he has to pay a dollar duty he charges that dollar to the consumer.

Now, sir, I hope the amendment will not be adopted, unless the Senator can give some good and sufficient reason which shows that this burden should be laid upon the many uses that are made of marble for ordinary purposes of ornament in furniture and in the building of houses, so as to give an entire monopoly of the whole matter to the Vermont marble-works and destroy the little trade we have with Italy in this matter. Unless he can show some different reason that prevails now from that which prevailed in 1864, two years and a half ago, when the duty was fixed exactly to suit these gentlemen, and was made perfectly satisfactory to them on their own motion, I really think this amendment ought not to prevail.

Mr. EDMUNDS. My friend from Maine, if we were to judge by his debates, is unable to see any other part of the country except that rock-bound coast up there where they distill Albertine into oil. That is the only interest which really deserves the highest kind of protection, if we are to take his counsel for it, that there is in the United States. Now, I wish to inform the Senator from Maine, or rather to remind him, because he does not need to be informed, that the data I am speaking from as to the production of these marbles, the cost of them, and all that, he can find in any recent encyclopedia which contains the head "marble" or "Carrara marble;" and there he will find the cost of foreign labor, the amount of production, the classification of the marble, the markets to which it is exported; and I will read for the information of my friend from Maine a memorandum which I have made myself from the fourth volume of the American Encyclopedia, which is to be found in the Congressional Library, and which was not got up by workers of Vermont marble to the best of my knowledge, information, and belief, to show what this foreign production is, how it is classified, and what a very eminent English statistician, writing on this subject, says is done with it.

First, as to the foreign product: Carrara furnishes of statuary blocks, the kind that my friend from Maine is willing to protect against, only 2,900 tons a year. The only other foreign product of statuary blocks is Massa, which furnishes a rather inferior kind, and which only produced in 1862 or 1863 when this encyclopedia article was written, 106 tons. Of other marble in blocks Carrara produced 46,367 tons; Massa, 2,792 tons. Then in slabs Carrara produced 6,518 tons, and Massa, 1,511, making a total production of Carrara marble of 54,785 tons, of which, as I have said, only 2,900 tons were statuary, and the total product of Massa 4,409 tons.

Of this annual product from these quarries—I now quote from the English writer on the subject, and not from the Vermont marble men—"about half that in blocks" (that in-

cludes the statuary and all others in blocks, making about 50,000 tons) "is exported to the United States, which appears to be a steady and good market." Now, I quote further from the American Encyclopedia when I say that the cost of labor at Carrara does not exceed forty-five cents per day for common labor, sixty cents per day for skilled labor, and eighty-eight cents per day for the best and most intelligent workmen. The London prices for these marbles, taken from the same book, are as follows: of the highest and best quality of statuary fourteen to fifteen dollars per cubic foot; the first quality of the other kinds which come in under this proposition at fifty cents per foot, from seven to eight dollars per foot; the second quality three to four dollars per foot; and other Italian marble, not the Carrara, one to three dollars.

Thus it will be perceived that the data to which I have referred do not depend upon the statements of interested parties, but do depend upon the general information which men engaged in scientific pursuits, in getting up statistics for the general information of all countries, collect from responsible and authoritative sources. That is where the information comes from; and if my friend will inquire of his New York marble-workers, who appear to have been before him, and ask them how much they invoice this marble at per cubic foot, and how much they swear it costs them at the port of exportation, (which is what they call now-a-days the protective way of importing goods, to take the foreign cost and not the home value, which is not my doctrine,) he will find that I have not understated the cost on which they pay duty a single cent a foot, and that they only pay a duty, including charges and everything else, at such a rate as to make the cost to them in the city of New York only a little over two dollars per cubic foot. They sell it for \$5 50, as my friend has the information they do, if he has had the dealers in New York before him; and I only speak of New York as one port illustrating the others, being the principal port. Can my friend tell me that I have overstated or understated this price at \$5 50, the price to the trade in the city of New York?

Now, just look at it in another point of view and see how it has worked for revenue. If the Senator will turn to the volume of Commercial Relations he will discover that I have not quoted from the Vermont men for this; he will see that when the tariff which he says was made in 1864 was passed, raising the duty to fifty cents per foot and twenty per cent. *ad valorem*, there was imported in the year 1864 marble to the value of \$108,476, the duties on which were \$48,890. That of course was before the act of 1864 took effect. In 1865, under the operation of that act, while the importation was reduced in value to \$84,631, the duties rose to \$81,855, making an absolute increase to the revenue on this one article alone at that one port of \$38,215.

Mr. FESSENDEN. How much would the revenue have been increased if the article had been excluded?

Mr. EDMUNDS. It would probably have increased it to about as much as it would to exclude Albertainite from the works of Maine. I do not know how much it would increase it to exclude it altogether; but where there is a net profit of more than one hundred per cent. upon each cubic foot that the importer now brings in, I take it there is not much danger in increasing the tariff fifty cents per foot, which is just about ten per cent. on the retail price of his sales.

Mr. FESSENDEN. The Senator will notice a difference between marble and Albertainite, as he calls it. Whereas he desires a double duty to be put upon marble, we are content with an increased duty on Albertainite.

Mr. EDMUNDS. Very well, I am not complaining of my friend's Albertainite; I am only saying that that kind of justice which he demands for himself and for the interest that he represents he ought to be willing to extend to other sections of the country.

Mr. FESSENDEN. I am, and if the Senator will only demonstrate that there has been any change to render it any more burdensome for the Vermont marble to contend with foreign marble since 1864, when we know there has been a fall in the prices of living and no increase in the price of wages, and it was fixed then to suit what they demanded, I shall be inclined to favor an increase of the duty.

Mr. EDMUNDS. We have yet to learn in my section of country that there has been any fall in the prices of wages or in the price of living.

Mr. FESSENDEN. There has been no increase since then.

Mr. EDMUNDS. I will remind my friend that since 1864, when, as he says, my constituents got this fixed to suit themselves, there has been a very heavy increase of internal revenue taxes, and the marble workers of Vermont and every other State—because, I beg to remind him that this is not merely a Vermont interest—have been most heavily taxed by internal taxation. And, beside that, the difference in exchange and the price of gold have so changed from that time to this as to make an enormous difference against them in that respect, so that they do not stand anything like on the same ground that they did in 1864.

Now, therefore, if you find, as the experiment which has been tried demonstrates that you will, that by making the importer share some larger part of his enormous profits with the Government, you increase the revenue, while you still are able to supply the market from your home production and thereby increase your internal revenue by taxation and develop your industry, I think you ought to do it. It is not Vermont alone, by any means, that is interested in a question of this description. Let me assure my friend that there are a great many other places in the United States where marble not only exists, but is absolutely worked, capital is invested in it, labor is producing it. The localities of white marble in the United States are Vermont, Western Massachusetts, New York, west of the city, Pennsylvania, Maryland, Virginia, the Carolinas, Georgia, and Alabama. Pursuing down the whole eastern range of the Alleghanies, extending from the Canada line to the Gulf of Mexico, white marble exists; many quarries of it are worked, which supply the cities and the trade from place to place. This is an interest worth developing, as much so as that of coal; and as I said before, in addition to the arguments which have been so successfully urged about coal, differing from coal there enters into the production of marble when it comes to be utilized a vast deal of labor. It not only has to be quarried as coal has, but it has to be worked as coal does not have to be. Labor is expended upon it; skill is expended upon it; luxury results from it. It is therefore one of that class of productions which ought to bear out of proportion, speaking in one sense of that word, the burdens of taxation which the country must impose on its citizens.

Now take the variegated marble, where is that to be found in the United States and where is it worked? It is worked even in Maine, at Thomaston. I do not know how the quarries are going on now, but there is a good quarry, according to the Encyclopedia, of marble there.

Mr. FESSENDEN. They do not ask any increase.

Mr. EDMUNDS. I do not know that they do. Perhaps they have turned their attention, being pretty far down on the northeastern frontier, to importing coals and making oil; perhaps they find that more profitable; I cannot say. Then Vermont has exhaustless stores of it; Tennessee is full of it, and the beautiful marble which adorns many of the staircases of this Capitol is from there; California has fine quarries of it of the most beautiful description. Then when you take the prucciated marble, another description, Vermont has it, Maryland has it, and so has Tennessee. So that every description of marble which is known among

men, excepting the antiques, as they are called, from the lost quarries, are to be found in abundance in this country. Every description of it is worked. Millions of capital are invested in it, and thousands upon thousands of the industrious inhabitants of this country earn their daily bread in working in it in one form or another. It is entitled to protection; it is entitled to encouragement; and let me tell my friend from Maine that it is no easy thing, no light thing to open a marble quarry. Some marble quarries, like every other description of business, are very profitable; others are not so. The general average of the marble business is not exceedingly profitable, and we must legislate for the general average of that description of occupation.

We find, then, that the importer of this foreign marble can well share his enormous profits with the Government by paying a little higher tax. We find that it will not be a tax upon the consumer, although that consumer who uses the foreign marble is your rich man and not your poor one, because there is not one house in fifty in the United States that contains any marble article of furniture or ornament whatever, unless it may be some little mantel ornament, a vase or something of that kind, that is made from a kind of stucco prepared from marble dust; but of real marble there is not one house in fifty among the habitations of the citizens of the United States that has a particle of it inside of its doors. It comes almost under the same head that champagne and claret and Burgundy and cigars do; things that the rich or those who have money to spend for luxuries, whether rich or not, choose to have. Therefore it ought to be taxed more than other articles; and as I have demonstrated, on account of the great extent of the product in this country and the great amount of capital and labor already invested in it, there is no danger that there will not be a sufficient supply, and no danger that the price will be enhanced by increasing this duty. The only result will be that while you thus stimulate to a larger degree home production, you will increase your revenue and not increase the price.

Mr. WILLIAMS. I desire simply to say, in reference to this amendment proposed by the Senator from Vermont, that the representatives of this interest and the representatives of those who are engaged in the working of marble were before the committee, and both sides of this question were there heard, and this report was fixed with reference to the interests of all concerned as well with reference to the interest of the country so far as the question related to revenue.

Mr. EDMUNDS. Allow me to ask my friend a question. May I inquire what representatives of the marble-producing interest were before the committee?

Mr. WILLIAMS. I do not know their names; I cannot remember their names.

Mr. EDMUNDS. Can you tell where their quarries were?

Mr. WILLIAMS. I suppose they were in Vermont, but I am not certain about that.

Mr. EDMUNDS. I should be very glad to have more definite information on that subject.

Mr. FESSENDEN. I do not think any Vermont marble men were before us.

Mr. EDMUNDS. My information is that the marble-workers of New York and Philadelphia, three-fourths of whom are unnaturalized foreigners, Italians, as I am told, (and from my own experience I think that is so,) were before the committee; but the marble producers, relying upon the examination which was had upon the House bill, and not informed that there was going to be any attack upon it, had no opportunity of being heard. I am not complaining that the committee did not give them a hearing; they ought to have attended to it, I agree.

Mr. WILLIAMS. I am not advised as to where these men lived who appeared before the committee, but I am quite confident that the view of the subject which the Senator has presented here to-day was presented to and

considered by the committee in connection with the statements made by those engaged in working marble in this country; and those persons represented in us that they were prepared with their figures (as all these persons are who come to make representations in reference to the tariff) to show that if this additional duty be imposed upon marble imported into this country it will be ruinous to their business.

It seems to me that if the object be to protect labor by the imposition of duties it is necessary that we should take into consideration the labor of the men who are engaged in working marble and making statues and furniture and other articles out of marble, as much as the interests of the particular men who are taking the marble out of the ground. They say to us (of course there is no way to verify what they say) that if we impose this tariff upon marble imported from Europe we ruin their business and drive hundreds and thousands of poor men out of employment. But the Senator comes here and says that you must impose this tariff or you will drive hundreds and thousands out of employment. Of course some decision has to be made between these conflicting interests. It may be that the report made by the committee was a mistake; but after looking into the matter, hearing all sides—I cannot remember now who presented the side that has been submitted to the Senate by the Senator from Vermont—but after hearing the whole question this report was made by the committee. I have as much reason to believe that if this amendment of the Senator prevails the workers in marble will be ruined as I have to believe that if it does not prevail those who are engaged in producing marble in Vermont will be ruined.

As has been suggested, I have not yet learned—at any rate, no such representation was made to the committee—that that business was suffering; that those who are engaged in producing marble at this time in Vermont or elsewhere are engaged in an unprofitable business. The representations made to us were that they were unable to supply the demand made upon them under the existing tariff. Under the circumstances, while I should be very happy to accommodate the gentleman and the interest he represents, it seems to me there may be danger of doing injury to others in endeavoring to accommodate the persons he represents.

Mr. EDMUNDS. Only a word. I will not occupy the time of the Senate. The trouble with my friend and the committee evidently has been this: that in the multiplicity of their occupations, and in the great number of parties whom they have had before them, they have had only one side of this question before them, and, the other side not appearing at all, they have taken the vague, general statements of these gentlemen, who do not want to part with their profits which they enjoy in Europe toward supporting this Government, for proof that there would be a great injury, a wrong to them, if this duty be enhanced.

Mr. FESSENDEN. Allow me to say, in justice to the committee, they have not taken any such foolish course. They do not take things for granted. There has been no matter that has come before the committee, whether one side or the other, but they have taken special pains to examine closely into the subject and see the true ground of the statements made, and arrive at a conclusion satisfactory to our own minds. We do not do our business in the committee in the way the Senator supposes.

Mr. EDMUNDS. I did not say the committee took anything for granted; I said that the committee evidently acted upon vague representations rather than upon data, because I invite either of my friends on that committee now to tell this Senate if they can what is the invoice cost of Carrara marble, not the statutory, but the other marble, that is imported into the city of New York. I wish to know what the data they had before them were upon which it was made manifest to them that these

Italians are going to be ruined if they pay a dollar a cubic foot and diminish their profits.

Mr. WILLIAMS. I will say to the Senator that there was a printed memorial submitted to the committee (I supposed when he commenced the discussion that I had it in my drawer, but I am not able to lay my hand on it now); there was an elaborate memorial that contained all the figures necessary to make it appear that those persons would be ruined in case this tariff was imposed. As to their being Italians, I can only say they speak the English language and appeared to be Americans.

Mr. EDMUNDS. I have no doubt that they had a printed memorial, and that was the evidence upon which the committee appear to have proceeded—the statistics in this printed memorial, which is not now forthcoming. I venture to say that if my friend from Oregon, whose reputation as a good lawyer is very high, and justly, had cross-examined one of those gentlemen a little, and had asked him definitely what was the invoice price, the sworn invoice price, of these marbles in the city of New York, and then had asked him what was the price the same men got for the same marble in the city of New York, he would have found that where the invoice price may have been a little above two dollars, including all costs and charges and everything, as I have stated, the price that the dealer got for his marble exceeded five dollars. Therefore, if he had spent a little of his skill in cross-examining that man he would have demonstrated that he ought to share with the Government a little more of the enormous profits he was making. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 22; as follows:

YEAS—Messrs. Chandler, Creswell, Dixon, Edmunds, Fogg, Fowler, Frelinghuysen, Harris, Hendricks, Poland, Sprague, Wade, and Willey—13.

NAYS—Messrs. Buckalew, Cattell, Conness, Cowan, Davis, Doolittle, Fessenden, Grimes, Henderson, Lane, Morgan, Norton, Patterson, Ramsey, Riddle, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Williams, and Wilson—22.

ABSENT—Messrs. Anthony, Brown, Cragin, Foster, Guthrie, Howard, Howe, Johnson, Kirkwood, McDougall, Morrill, Nesmith, Nye, Pomeroy, Ross, Saulsbury, and Yates—17.

So the amendment to the amendment was rejected.

Mr. DAVIS. I move to strike out "twenty-five" and insert "fifty" in line nine, page 22; so as to read:

"On Russia, Manila, Italian, and all other hemp, unmanufactured, fifty dollars per ton."

Mr. President, I take it for granted that this is a measure both for revenue and for protection of American industry. If it be so, the advantages and the burdens of the bill ought to bear as equally upon the great interests in the country as practicable, according to the particular condition of those great interests and their necessity for protection and their ability to bear taxation. I have not made the calculation myself, but a friend of mine, who is very judicious and accurate, has, and he informs me that the average rate of protection secured by this bill will amount to something like seventy-five per cent.—not less than seventy-five per cent. The amendment which I have proposed bears upon the Russia, Manila, Italian, and all other hems unmanufactured, and proposes to increase the duty from twenty-five dollars to fifty dollars per ton.

These hems are not discriminated among by the provision in the bill. We all know though, or at least persons familiar with the subject of hemp know, that by being hackled or dressed its value is greatly increased. Hemp may be produced by all the northwestern States of the United States as extensively as by Kentucky and Missouri. There is no State in the Northwest, from its climate and soil, but what is well calculated for the production of hemp and flax. The capacity of our country to produce this article is adequate to the demands of the whole world. The Kentucky and Missouri hemp at present average from two hundred and forty to two hundred and seventy-five

dollars per ton. The duty imposed by this bill upon hemp amounts to about ten per cent. average, while the average duty upon the articles protected by the bill is at least seventy-five per cent. The duty upon this important article of hemp, for the production of which the capacity of the country is without limit, is only ten per cent. My proposition is simply to double the protection, which would be equivalent to a rate of about twenty per cent. on the cost of the foreign article. If the hemp-growing regions of the country and the hemp-growers of the country are to receive anything like an equal and *pro rata* protection the rate imposed by the clause under consideration is surely greatly inadequate.

Gentlemen who are interested in this bill, and the interests of whose country and constituents are protected by it, must consent to make the bill to some extent reciprocal. Something like the same protection, approaching it at least, which they receive, they must be willing to concede to others, or else they cannot expect the support of those Senators the interests of whose constituents they are unwilling to have protected to anything like the same degree that theirs are. I therefore hope that as the increased protection which I propose is so moderate and does not approximate anything like the average *pro rata* protection of the bill generally, the Senate will adopt my amendment.

Mr. FESSENDEN. The idea which prevailed with the committee in establishing these duties can be very readily stated. This item is left where it was before. It has not been changed. We thought the true way to encourage the growing was to increase the manufacture as much as possible, and the bill was framed with a view to that. The commissioner states the facts he ascertained by an examination of the evidence on the subject:

"An inquiry respecting the development and condition of the flax-manufacturing industry of the United States instituted by the commissioner has clearly established the following points: first, that the revival of the flax culture for lint followed, and did not precede, the establishment of flax manufactories; and secondly, that an increased price and an increased demand for flax has been almost coextensive with the extension of establishments for its manufacture. Prior to 1856 the best water to 'dew-rot' flax raised in New York or New Jersey could readily be purchased for seven or ten cents per pound; the same article now commands a ready sale at from twenty to twenty-five cents per pound."

The increase in price for American hemp is even more striking. Thus, the average price of hemp from 1840 to 1850 ranged from eighty to one hundred dollars per ton; but with the establishment of manufactures for its consumption the price has gradually advanced, until it now commands from three hundred to three hundred and fifty dollars per ton.

But notwithstanding the advance during the last ten years in the price of flax and of hemp the quantity produced has never been sufficient to meet the demands of the American manufacturer; neither has it been possible within the last ten years to purchase, at any one time, any considerable amount of domestic flax in open market. The fiber of American flax is in the main adapted only for the production of the coarser yarns and fabrics; a result which follows necessarily from the conditions of its culture."

It is shown, then, that under the existing rates of duty, which were lower before 1864, I believe, than they are now, the price of American hemp has increased very largely, rising from eighty or one hundred dollars a ton to three hundred or three hundred and fifty; and the increased price is owing to the increase of manufactures. Now, is it advisable, in view of that increase, to put so heavy a duty as the Senator proposes when the American hemp is not sufficient to supply the market? If you check the manufacture of the finer articles that are manufactured from it, will you not be likely to injure the increase of the growth of hemp? The Senator from Iowa [Mr. GRIMES] suggests that the production has fallen off on account of the unsettled condition of Kentucky and Missouri; but there is a very great demand for all they can raise at large prices, and they cannot supply the demand, no matter what it is owing to.

Mr. GRIMES. That is only just at this moment.

Mr. FESSENDEN. But there is a demand for all they can raise, and if we undertake to



check the manufacture by imposing a high duty the result will be a falling off in the price of the article. Now, while I am perfectly willing to put upon hemp any duty that it is demonstrated ought to go on to it for the protection of the grower and to have it raised in this country I do not think it advisable to place so large a duty as is here proposed.

Mr. HENDERSON. Mr. President, perhaps it would be improper in me to advocate any increase of duties whatever on the bill now pending, for the reason that I think the duties are high enough generally; but if there is to be an increase at all, I cannot see why there should not be an increase on this article. The chairman of the Finance Committee labors under some mistake in reference to the gradual rise in the price of hemp. Hemp in March, 1865, if I remember aright, could have been purchased in the western markets at from one hundred and forty-five to one hundred and fifty-five dollars per ton. Pressed hemp is now worth from three hundred to three hundred and ten dollars; and the tow of hemp is worth perhaps as much in the market at St. Louis or Cincinnati to-day as the finest article of hemp undressed in March, 1865; but if the Senator intends by his remarks to leave the impression that this increase of price is in consequence of the manufacture of the article in this country he is sadly mistaken. The manufacture of hemp in this country has not increased much, if at all, since 1865, in the sense used by the Senator. The price has been controlled by the demand. During the war hemp ruled very low. In this respect it differed from most raw materials. During the same time the manufactures of hemp ruled, and for the same cause. While the demand for cotton and woolen fabrics was great, the demand for the hemp product was light.

The very fact that gave us cheap cotton tended to advance the price of hemp. At the close of the war there was a large quantity of cotton in the southern States that had to be baled, and all efforts to procure a substitute for baling cotton having proved unavailing, when the rebellion closed the article of hemp had a demand. It was needed for the bagging and rope necessary to bale the cotton of the southern States. I am satisfied that this temporary demand which has put up the price of hemp will very soon materially fall off. I do not look to a very large cotton crop in the southern States this year under the system it now seems likely we shall adopt. My impression is that there will be a very small growth of cotton, and I think the facts will demonstrate it when the autumn of the present year shall have arrived. I believe the House bill proposes a duty of forty-five dollars a ton on Manila hemp.

Mr. FESSENDEN. No, they made no change in that duty. Forty-five dollars a ton was put on unmanufactured flax and hackled flax. The commissioner proposed twenty dollars, and we put it at twenty-five dollars, where it was before. The House proposed no change.

Mr. HENDERSON. On that point I am mistaken. But if the Senator's argument is correct, that the only way to protect the raw material is to build up manufactures whereby there will be a demand created for the raw material, I would suggest that that plan be adopted in regard to wool and all other materials.

Mr. FESSENDEN. The Senator misunderstands me. I said that was not the policy of the bill, but its policy was to put on a sufficient protection to encourage the working of the raw material. I said that while that is done the true protection is to build up manufactures to use the article—make a demand for the article, in other words. I do not reject the idea, the Senate does not reject the idea, of protecting raw materials.

Mr. HENDERSON. I think, then, we should have something like equality of taxation. I was about to remark that on manufactures in this bill there is a tax of from sixty to one hundred and thirty per cent. *ad valorem*,

and on the raw material the tax is generally quite small. The great disproportion in rates is perhaps subject to criticism. The disproportion in this very article is too great. The Senator knows perfectly well that the increase upon many articles of manufacture is large in this bill.

Mr. FESSENDEN. Upon some, and upon others not.

Mr. HENDERSON. It will make perhaps an average increase of not less than from twenty to twenty-five per cent. on the gross amount of importations that may be made under it. The precise increase cannot, of course, be known without actual test or trial. But while I am up I desire to express the wish that the distinguished Senator from Maine will consent very soon, at least after he shall have perfected the bill according to his notions and the wishes of the Committee on Finance, to postpone it for at least a week or ten days, until we can ascertain what the House of Representatives will do and what we ourselves intend to do upon the internal revenue policy.

Mr. SHERMAN. The House is waiting for our action on this bill to determine what they will do on that question.

Mr. HENDERSON. It seems to me strange that the House will wait for the Senate to act upon the tariff bill. I have been here for four or five years and I have been called on every year to vote for an increase of excise duties to provide the needed revenue for the Government, and immediately after voting that increase I have been called upon by the distinguished Senator from Maine and his committee to vote for advanced tariff rates to protect the manufacturer or producer against the consequences of such increase and save him from inevitable ruinous competition, and I have generally obeyed the summons and so voted. At the last session of Congress, however, a moment of relief came to my mind. The war was over. Gold had declined so as to inspire hopes of early resumption. The Government expenditures, which during the war had reached an almost fabulous sum, began now to assume more familiar proportions. The moment had arrived, in my judgment, to reduce taxation in every form. Business had groaned under its burdens for four years. The only thing that had been left to business was hope.

The crushing weight of taxation had been borne by a patriotic people in the midst of a great war because it was a duty, and they did not ask to put aside any duty. But so soon as the terrible necessity should pass away they had a right to expect and did expect relief. They expected the crushing, duplicated burdens of internal taxation to be removed, as far as could be done consistent with the public faith and the ordinary operations of the Government under a most prudent and economical administration of its several departments.

The House at the last session partially responded to that demand. The Senate promptly concurred in the bill to reduce excise duties. It was a great measure of relief even as it passed, but it should have gone further in the same direction. The taxes should have been further reduced. We do not need to extort \$300,000,000 annually from the oppressed domestic industry of the country. The internal revenue law, even with this reduction, yields more money than is needed, unless we have resolved to pay off immediately the public debt.

But when this reduction had been made I had supposed that the exorbitant duties made necessary, as I had been told, by the collection of internal taxes could be reduced also; at least I did not suppose that the arguments enforced against me for four years would now in a moment be reversed, and that reduced excises must be followed by higher customs duties. But such was the fact. The tariff bill sent to us the last session proposed an advance on previous rates of not less than forty to sixty per cent. The Senate postponed its consideration until this session, and we are now considering a measure increasing existing rates, not fifty per cent., but from twenty to thirty

per cent. While we thus debate the measure here, and day by day add to the rates proposed even by the committee, because of the local demands here and there—coal in Maryland, hoes in Connecticut, zinc in New Jersey, asphaltum and Albertite in West Virginia, copper and salt in Michigan, marble in Vermont, and now hemp in Kentucky and Missouri, (and this last is perhaps the most reasonable demand yet made)—we but add, in my judgment, aggravation to the evils under which the country complains. The evil, it occurs to me, is inflated prices, the cost of living. The business of the country is, as it were, on stilts, and therefore unstable and constantly struggling to preserve its equilibrium. This measure proposes to lengthen the stilts, to increase prices, to add to the expenses of the operative, making it necessary for increased wages without benefit to the laborer. The true remedy seems to be in another direction: to reduce internal taxes would seem to be the proper remedy. But now when I ask the postponement of this measure, to consider first domestic duties and then adjust the tariff accordingly, as we have heretofore done, the Senator from Ohio [Mr. SHERMAN] tells me that the House is waiting for us to pass this, the tariff law, before they act on the question that naturally should precede our action.

Mr. President, I may not again trouble the Senate on this tariff measure, and while on my feet I wish to suggest to Senators having charge of it that the country will ask for what purpose it is pressed forward. Is it a revenue measure, as intimated by the Senator from Ohio, or is it intended, as intimated by some others, to inaugurate a policy of total exclusion of all traffic with foreign nations? If it be designed as a revenue measure, it may be well to inquire, first, what amount of revenue we need, and second, whether the pending measure is better calculated to accomplish the end than the existing law.

The Senator from Ohio [Mr. SHERMAN] says we must have during the present year \$140,000,000 of gold to meet interest on the public debt, and other accruing demands of about sixteen millions, that need to be paid in gold. We all know the amount of our public debt, and it is easy to ascertain the amount of interest required to be paid from year to year. The amount cannot exceed from one hundred and twenty to one hundred and thirty millions in gold at the outside—say one hundred and twenty-five millions. The Senator informed us that the present law would not furnish the needed amount. We may best judge of the future by examining the past. The Senator told us that the duties would fall off, but if he gave any reason for the statement I am not aware of it.

For the fiscal year ending June 30, 1866, the present tariff yielded a revenue of \$179,046,651 58, which is \$39,000,000 more, according to his own estimate, than will be needed by the Government. For the first three months of the present fiscal year ending September 30, 1866, the tariff yielded \$50,843,744 24. Should the same average yield continue the amount received for the year will be upward of two hundred and three millions. But lest it be said that this argument is unfair I present the receipts for the first five months of the fiscal year ending December 1, 1866, from which it will appear that the tariff yielded \$78,843,774 26. It will be seen that proportionate receipts for the remaining seven months will give for the year \$189,225,058 20. But if the Senator says that the laws of trade are such as to prevent a proportionate increase for the remaining seven months, I answer that the first six months of the last fiscal year, under the present law, the customs receipts were \$86,225,921 42, and for the remaining six months corresponding with the time yet to elapse of the present fiscal year our receipts were \$92,820,730 16, giving an advantage to the latter half of the fiscal year of \$6,500,000. I therefore conclude that, if revenue be the object, the present tariff will yield from forty to fifty millions more than

is necessary for all the demands of the Government. It is certain that the present law will accomplish all that the Senator desires. He founded his argument in favor of the proposed measure upon the supposition that it will yield a larger revenue. I now ask him, if such is to be the result, whether that fact of itself is not a sufficient objection to the bill. He only wants gold enough to pay the interest on the national debt. To be consistent he must oppose any law that pays more, for his object, like mine, is to relieve the country from taxation. Others, however, may say (the Senator from Ohio does not) that the purpose is to obtain as large a revenue upon a smaller aggregate importation of goods.

This is perhaps what may be termed the principle of protection. Clearly this bill is not a revenue measure; it must be put on other grounds. From 1842 to 1846 a tariff of thirty-three per cent. was supposed to be almost prohibitive in its character, and was supplanted by the lower tariff of 1846, which, with an average duty of twenty-four and a half per cent., continued for ten years, bringing unexampled prosperity to every department of business, no less to the manufacturer than to the agriculturist. May 3, 1857, a further reduction of aggregate duties took place; and for four years, under a tariff of twenty and a quarter per cent., we enjoyed the highest degree of prosperity. During the year 1860 the cotton manufacturers of this country exported nearly \$10,000,000 worth of cotton fabrics; in 1861 they exported nearly \$7,000,000, while in 1866 they exported barely \$1,000,000 worth. In the two years of 1860 and 1861 the copper and brass manufacturers exported near \$4,000,000 worth, and in 1866 only \$110,208. In the year 1860 the manufacturers of tobacco exported \$3,372,074 worth of tobacco; in 1866 they exported \$1,794,688. In 1860 the manufacturers of wood exported \$2,703,095 worth of wares, and in 1866 \$720,625. In reference to the effect on other industrial interests I submit an extract from the very able report of Mr. Wells, the special commissioner of the revenue:

"Ten years ago the American manufacturer supplied, to a considerable extent, fur hats to the Mexican, Cuban, and South American markets; to-day he supplies comparatively none. Why? Because the duty on foreign fur, the raw material of his manufacture, has prevented the American from competing with the foreign producer. Thirty years ago the manufacture of broadcloth constituted from fifty to sixty per cent. of the whole woollen business of the United States; now, it is not probably in excess of five per cent. Why? Because American legislation has not permitted the importation of broadcloth wools, and the American agriculturists have produced nothing to take their place, and never will until the successful establishment of the broadcloth industry in the United States has created a constant home demand for 'broadcloth' wools."

As to the effect of this new order of protective policy upon the commercial interests of the country I submit the following extract from the same report:

"A reference to the official returns shows the amount of American registered tonnage engaged in foreign trade in 1865 and 1863 to have been but one million and a half tons (1,492,924) as compared with two and a half million tons (2,546,237) in 1859 and 1860; which, allowing for the difference between the old and new measurements, indicates a decrease in five years of over fifty per cent. In 1853 the tonnage of the United States was about fifteen per cent. in excess of that of Great Britain, while at the present time it is estimated at thirty-three per cent. less. "An examination of the official returns of the coastwise and inland commerce, allowance being made for the difference of measurement, also shows a decrease in this branch of about twelve per cent. It should, however, be stated, that a part of this reduction is probably due to the substitution of steamers for sailing vessels.

Out of one hundred and ninety-one American vessels engaged in the Brazilian or South American trade in 1861 and 1862 but thirty are reported as remaining; while the number of foreign vessels engaged in the same trade has during the same time increased nearly threefold."

From these facts it might be inferred that the manufacturers themselves would cease to clamor for additional protection. If they prospered under a tariff of twenty per cent. it may well be asked why they complain with the present tariff, which gives them an average protection of fifty per cent. in coin. In this there is nothing strange. It might be asked why the

inebriate, whose frame has been shattered by draughts from the intoxicating bowl, yet thirsts for that which has well-nigh destroyed him. Simply because he gets temporary relief. He who has a large stock of manufactured goods, or even of raw materials, on hand is always benefited by the imposition of increased duties. The yard of woollen goods now worth a dollar, with an increased duty of fifty per cent. is of course worth \$1.50. Unless this be the case the whole idea of protection is utterly false and chimerical. But business, like water, soon seeks its level. The commercial and trading world is like the spider's web: touch it at one point and it trembles along the whole line.

You may temporarily legislate money from one man's pocket into another's; but as organic laws struggle against dissolution and death, so the laws of business intercourse struggle against injustice and wrong, which work its destruction. The effect of increased duties, so far as it concerns stocks of goods on hand, is to take from the pockets of the consumer and put it into those of the manufacturer, the importing merchant, and the jobber who may be fortunate enough to hold the articles affected at the moment the law is passed. But in a short time all departments of business and all classes of men begin to adapt themselves to the new order of things. To the extent of the increased tariff there is an increase of prices. To the extent that the prices of living are increased the prices of labor must be also increased, otherwise the laborer is fleeced by the operation. As there is no real wealth without labor, and as it is the essential element in the development of all material results in man's progress, whatever affects the price of labor affects also the value of every article which labor produces. If the prices of clothing are increased the wages of the operative must be advanced in the same ratio, that he may clothe himself and his family. If the farmer pays more for his axes, hoes, and trace-chains, his plows, his mowers and reapers, he expects to be reimbursed in the sale of his agricultural products. If this be not so, than all tariff laws are but legalized plunder. Indeed, those who ask for protection expect its realization in enhanced prices, and insist that the increase will be felt in every department of industry. If this argument be correct, it will be seen that what is called protection soon loses its force beyond the temporary benefits that I have already named. There is no general result except an enhancement of prices. It is apparent, then, that the first great object to be attained is uniformity in legislation. You cannot change the law of taxation without benefiting somebody, and to that very extent somebody else is injured. Change deranges the laws of trade, produces failures, destroys public confidence, and more than all decreases the citizen's respect for his Government. Not only then, the general interests of the public, but the higher claims of justice and fair dealing to each individual demand uniformity in our legislation on these delicate questions of taxation.

Another objection to an increase of the present exorbitant rates consists in the fact that when duties are so high, the slightest deviation from a rule of perfect equality is well calculated to prostrate one interest entirely, thereby destroying perhaps an important element of national wealth and individual industry while another is unduly stimulated. In this way one section of our country may even unwittingly be made to prosper while another is oppressed. Even our errors may work ruin before the cause of decay is developed and the remedy can be applied. Another objection exists which the honest manufacturer will recognize at once. It applies to all unreasonable taxes, whether excise or impost. We now have an excise tax of two dollars per gallon on whisky. It costs from twenty to thirty cents per gallon to manufacture it. Its chief cost is found in the tax. The inducements to fraud are so great that our citizens, like the Irish people, begin to burrow

in the earth to make it. To such an extent is it now produced in fraud of the revenue that it can be and is purchased, I learn, in open market in New York city at from \$1.60 to \$1.80 per gallon with the Government brand of "tax paid." This is not exceptional, but the rule. How can the honest producer live? It is stated by the gentleman whom we appointed to investigate matters connected with this subject that propositions are made to importers to lay down stocks of dry goods in New York at twenty per cent. on the prime cost in Europe. With an impost tax of one hundred per cent. he who buys of the smuggler instead of the honest importer \$100,000 worth of goods makes \$80,000 clear by the transaction.

These temptations will not be resisted. The country will be filled with non-tax-paying commodities, commercial centers will reek with fraud and corruption, and the honest merchant and the tax-paying manufacturer has to choose between loss of business and loss of integrity. No doubt many will consent to lose their business and sacrifice capital invested. These will be conscientious men whom self-interest cannot tempt. But are all men beyond its reach? Unfortunately our legislation cannot yet be based on any such idea.

But, Mr. President, my chief objection to this measure is that it induces the necessity for continuing our present rates of internal taxation. It is evidently framed for that purpose. To decrease the excise taxes after the passage of this measure will in many respects aggravate present evils. To prescribe for a disease the physician must understand its character. To give palliatives may extend present relief, too often to be followed by increased violence of pain. It is best to remove the cause of disease. When that is done the patient necessarily recovers. The wise statesman must adopt the same rule. When national complaints are brought before him he should examine carefully the symptoms in order to ascertain their origin and cause. He will not indulge in temporary expedients, but proceed at once to strike at the root of the disease.

What are the complaints in this case? Our manufacturers tell us that they are oppressed by the excise taxes added to the high price of American labor to such an extent that the cheaper labor of Europe can undersell them in our own markets, even after paying our present high rates of duty.

In other words, the European manufacturer can sell his products for one half of the cost of the American product. In the first place, is this so? If it be so, what is the cause of it? The present price of gold in our market furnishes no solution of this difficulty. If gold were worth 200 instead of 134 I could readily perceive that the price of the American manufacture should be nominally double that of the European at their respective places of production. But it should be remembered that when the American importer comes to pay for the foreign article he must pay for it in gold or its equivalent. Hence if gold is worth 200 in currency, he must use two dollars for one in the payment. That it seems would put the foreign and domestic manufacturer upon an equal footing. It is true the one paid for his materials and labor in gold and hence used only one half of the amount used by the other, but the intrinsic value of each should be the same. If it be said that the European operative receives but a dollar per day, while the American operative receives two, it is to be presumed that the one dollar purchases as much food and raiment for the European mechanic as the two dollars purchase for the American mechanic. But as gold is only worth thirty-four per cent. premium, labor and materials entering into the American fabric should cost the American manufacturer only thirty-four per cent. more than they cost the European manufacturer.

If they cost him more than thirty-four per cent. advance there are causes for it peculiar to our own country, causes which do not operate in Europe. To the extent of that increased

cost, over thirty-four per cent. on the European cost, the American producer has a right to ask for protection until that state of things shall cease to exist. Now, we know that the American manufacturer does pay more than thirty-four per cent. advance upon European prices, and hence he has heretofore demanded, and not only demanded but received, a tariff protection of fifty per cent. in coin, which would make a currency protection of about sixty-seven per cent., which being added to the thirty-four per cent. makes about one hundred per cent., which he can afford to pay in currency for material and labor more than the European manufacturer pays, and yet successfully compete with him in the sale of his products. With this view of the subject it will be seen that every advance in the price of gold operates as a protection to the American manufacturer, because it advances the rate of exchange, with which the foreign payment is to be met. Every decline, therefore, in the price of gold is tantamount to a reduction *pro rata* of the tariff. Hence, with a vacillating gold market, the manufacturer cannot thrive; he wants permanency and stability in the standard of value. The American importer may take advantage of a heavy decline in the gold market, and purchase large stocks of goods with the certainty of a future advance of gold. Not so with the manufacturer, and especially with him who uses American material. Neither the raw material nor labor invariably follow the fluctuations of gold. Gold is sensitive; it moves like quicksilver in the midst of more sluggish metals.

It should cease to be a commodity of purchase and sale, but should again take its place as the standard of value. If we intend to maintain commercial relations with the civilized nations of the world we must have their standard of value. The old adage again enforces its truth upon us, that "being in Rome we must yield to the customs of Rome." We cannot compel other nations to take our paper money, and so long as we retain it as the standard of value among ourselves we are setting up a new policy in the commercial world, and have constantly to struggle against established laws of trade. So long as we maintain commercial relations with them gold retains its value here, subject to local influences. It will continue to be bought and sold in our markets. Its fluctuations may and perhaps will depend upon our own legislation, upon our errors in politics and in business. A mere rumor will put it up and put it down. Its fluctuations cannot injure people abroad, but they do injure ourselves. The disease, I take it, then, consists, partially anyhow, in the fact that there is a difference in the nominal value of our paper money and gold. Until that difference is removed it is idle to talk about protecting American industry. Such a thing might be if our ports were closed against the world; but without it perfect protection cannot exist. No possible rate of duty will be sufficient.

Our bank-note circulation at present, including compound-interest notes and excluding certificates of deposit, amounts to-day to more than nine hundred million dollars. The entire trade and commercial business of Great Britain, perhaps double our own, are conducted with less than one hundred and ninety million dollars of paper money. At no period of our own history had bank issues in the United States previous to 1860 exceeded \$215,000,000. The business of 1859 and 1860, two of the most prosperous years in American history, was safely and expeditiously carried on with a paper circulation of less than two hundred and eight millions. To me it is not at all strange that, with an inflated currency of at least three times as much as the country needs, all species of property maintain their present exorbitant nominal values. Gold is the cheapest article in the market. It is made cheap by the desperate exertions of our Government to commence the payment of the public debt. Everybody talks of speedy resumption; the Government extorts

from an oppressed industry at least \$500,000,000 annually, not because it is needed, but with the apparent view of hoarding coin sufficient to resume specie payments by a simple proclamation of the fact. Gold, with its sensitive nature, feels the general inclination in that direction, and seeks to take its proper place in advance of other articles. With the present policy enforced by legislation, however, gold will not only be sensitive, but sensible enough to take a different position.

The thing now most needed is to relieve industry. The heavy hand of the tax-gatherer should be removed from the productive industries of the country. The manufacturer cannot extend his business, because he cannot afford to buy the machinery necessary to do so.

His profits largely go into the Federal Treasury. If he has any remaining after the payment of excise duties he hesitates to purchase machinery at the present exorbitant rates for fear that his neighbor may in a few years purchase similar machinery for half the money. The machinist cannot furnish machinery for any less price, because of the duties on iron and steel and the high price of skilled labor. The farmer cannot afford to sell his products any cheaper, because of the high prices entering into their growth and transportation to market, and because, further, the tax-gatherer stands ready to receive the Government's share of his income.

The proposition now under consideration instead of relieving industry adds to its burdens. The evil, I have said, is inflation. What ever tends to continue this state of affairs or to make inflation a necessary condition of trade in the future necessarily aggravates the evil. If the present prices are maintained it requires an inflated currency to do the business of the country. If prices are reduced a less volume of currency is needed. As that volume is lessened, so we advance to the realization of specie payments. Until that volume is reduced specie payment is a myth, a thing to be talked of by visionaries, but not by practical men. The immediate as well as permanent effect of the passage of this bill will be to increase prices, making a continuance of inflated currency an absolute necessity. After its adoption and the consequent inflation of prices gold will rise. But men will not cease to hope still for specie payments. Having mistaken the true remedy is no reason the patient should not be further dosed. The same old treatment will be resorted to—Sangrado's bleeding and hot water.

We shall be urged still to continue the present rates of internal taxation for the purpose of paying the public debt, and thereby sustaining the public credit. In order to force our depreciated Government paper to par we must make the Government rich. To make the Government rich we must make the people poor. This policy will fail as it has already failed. This bill, I repeat, looks to increased taxation. The people of the United States are to-day the most heavily taxed people on earth. The national debt of Great Britain is nearly double our own in amount. The value of real and personal property in Great Britain is nearly twice that of ours. The amount of taxes paid by the English people in 1864-65 was \$354,131,000. The amount of taxes paid by the people of the United States in 1865-66 was \$561,572,266, currency value. Our people pay annually an average of \$11 46 per head in gold, while the people of Great Britain, with double our wealth and means of payment, pay \$10 92.

Our true policy, in my judgment, is to postpone the payment of the principal of the public debt until business shall have recovered from the effects of a long and exhausting war; until the cotton and sugar plantations of the South shall be again cultivated, and until our natural laws of progress in population and wealth shall make the payment of the debt comparatively easy. Real and personal property in the United States increased in value from 1840 to 1850 sixty-four per cent.; from 1850 to 1860 the increase in

value was one hundred and twenty-nine and seven-tenths per cent.; from 1860 to 1870, had war not intervened, the same rate of increase would have been near two hundred and sixty per cent. We may well postpone, for at least ten years yet the payment of a debt which can be fully liquidated in the course of ten or fifteen years after we commence the work, without retarding the development of a single interest, and without oppression of a single individual. If we pay the interest of the debt and keep our people rich we shall maintain our credit and have a fund in the wealth of the people upon which we can at any time check for the payment of our national obligations.

If my views be correct on the policy of taxation, it only remains now to inquire what amount of revenue will likely be required to meet the expenditures of the Government. Again we must look to the past. The disbursements for the fiscal year ending June 30, 1866, as reported by the Secretary of the Treasury, are as follows:

For civil service.....	\$41,056,961 54
For pensions of Indians.....	18,852,416 91
For War Department.....	284,449,701 82
For Navy Department.....	43,324,118 52
For interest on debt.....	133,067,741 69
Total.....	\$520,750,940 48

In the items above it will be observed that the expenses of the War Department constituted largely more than one-half the entire disbursements. That Department cannot now cost more than say \$55,000,000 annually. The Army is reduced to about the peace establishment, and if peace continues we shall have time to look after and cut off extravagance in the administration of every Department.

Let us take the expenditures of the first quarter of the present fiscal year. We were then approaching still nearer the normal condition of things. It embraces the period from June 30 to September 30, 1866:

For civil service.....	\$11,893,736 44
For pensions of Indians.....	11,787,975 66
For War Department.....	13,833,214 03
For Navy Department.....	7,878,609 17
For interest.....	33,865,399 99
Total.....	\$79,258,935 29

If the expenditure of the three remaining quarters shall correspond with this, the entire expense for the present fiscal year, including interest on public debt, will be \$317,035,741 16.

With proper economy, this amount may be greatly reduced. Putting the interest on the public debt even at the estimate of the Senator from Ohio, at \$140,000,000, it would leave \$177,035,741 16 to meet the ordinary expenses of the Government. Taking several years preceding the war, the following table will give the ordinary expenses of the Government:

1853.....	\$60,533,836 45
1857.....	65,032,569 76
1858.....	72,291,119 79
1859.....	65,327,405 72
1860.....	60,010,112 53
1861.....	62,537,171 62

During those years the expenses of the Navy Department averaged about \$13,000,000, and the War Department about \$21,000,000. I believe no one now estimates our ordinary expenses at more than \$180,000,000. I am satisfied that by prudence and economy they ought to be reduced to \$150,000,000. But even taking the highest estimates we shall need to meet accruing demands the following sums, namely:

For payment of interest.....	\$140,000,000 in coin.
For ordinary expenditures.....	180,000,000 in currency.

I have already shown that the present tariff yielded last year \$179,046,651 58, and during the first five months of the present fiscal year it yielded \$78,843,774 26, which would give an aggregate for the present fiscal year of over \$189,000,000 in coin. But suppose it yields no more than during the last fiscal year, it will be sufficient to pay the interest on the public debt and leave a surplus of \$39,000,000



in gold. The following table exhibits the receipts for the last fiscal year:

Customs.....	\$179,046,651 58
Public lands.....	665,031 03
Direct tax.....	1,974,754 12
Internal revenue.....	309,226,813 42
Miscellaneous sources.....	67,119,369 91
<b>Total.....</b>	<b>\$558,032,620 06</b>

To give an idea of what the present fiscal year will likely produce, I append a table showing the receipts for the fiscal quarter of the present year:

Customs.....	\$50,843,744 24
Lands.....	228,399 72
Direct tax.....	340,454 39
Internal revenue.....	99,166,993 98
Miscellaneous.....	7,981,764 24
<b>Total.....</b>	<b>\$158,561,386 57</b>

For the first five months of the present fiscal year ending December 1, 1866, the receipts were as follows:

Customs.....	\$78,843,774 26
Internal revenue.....	146,355,715 73

If this ratio of receipts be maintained during the year these two items alone will yield to the Government over \$540,000,000.

The special commissioner estimates the receipts for the fiscal year ending June 30, 1868, as follows:

Customs.....	\$150,000,000
Internal revenue.....	275,000,000
Other sources.....	80,000,000
<b>Total.....</b>	<b>\$455,000,000</b>

This is the lowest estimate made, and the supposed reduction from present receipts is scarcely justified by any facts before us. The commissioner simply means that the receipts cannot fall below this sum.

Now, with these facts before us, I again ask what the necessity of this continued taxation? Our public securities are now at a premium on this side of the ocean, and our people have confidence, and will continue to have confidence, in their ultimate payment. Last year we reduced the principal of our public debt at least \$200,000,000, which may have advanced confidence in foreign markets; but our own people are no more certain of their ultimate redemption than they were before. The Secretary of the Treasury complains that so many of our bonds are now owned abroad. This policy of collecting large balances by taxation, to be applied to the payment of the public debt, can have no other effect than to render our own people unable to hold them and force them upon the foreign market. When once sold abroad they constitute the basis of a cheap exchange, and tempt the importer to flood the country with foreign fabrics.

I therefore insist that instead of collecting \$800,000,000 from excise taxes we collect about half that amount or enough simply to meet the current expenditures of the Government. There is now a large balance of coin in the Treasury, say \$80,000,000, exclusive of deposits, and also a large balance of currency, all of which is dead capital not needed for pressing demands upon the Treasury, and yet we proposed to increase instead of diminishing the burdens of taxation. For the reasons which I have stated I appeal to the chairman of the Finance Committee and his distinguished associates to let this measure be postponed until the House shall have perfected the internal revenue bill and sent it to us. Let us reduce internal taxes, a thing which will relieve every industrial interest and none so surely as the manufacturer himself, and we can then adjust tariff rates so as to wrong no interest, and best subserve the purposes of the Government. If we pass this law and then reduce the excise tax, prices will still be advanced, and that advance will not benefit the Government, but for some time at least will be a mere bonus to the manufacturer.

I did not intend to offer amendments to this bill, but I have indulged the hope at all times that its present consideration would be post-

poned. If, however, its consideration is to be pressed upon us, there are many inequalities which I conceive to be prejudicial to the interests of my own State, if not to the entire West, which I shall endeavor to remove. This very article of hemp presents one of them. The proposed tax on the article is not exceeding fifteen per cent., while the ruling rates on the majority of articles, and especially those in the older States, are from fifty to one hundred per cent. I discovered that the article of raw hides, produced in the West and consumed in the East, are put at ten per cent. This will not pay transportation over the railroads and is no protection against the European article.

The goat, calf, and deer skins of the West are put at five per cent.; the sole leather of Spain is placed at thirty-five per cent., and the French and German calf-skins at only thirty per cent. Flaxseed is kept at sixteen cents per bushel. Linseed cake at twenty per cent., and flaxseed oil at twenty-three cents per gallon. The manufactures of lead are put at three cents per pound, and butter is reduced from four cents per pound to three. Lithographic stones which abound in my State are placed at twenty per cent., while the Senator from Vermont [Mr. EDMUNDS] is dissatisfied with twenty-five per cent., and one dollar per cubic foot in addition upon the marble in his State. I discover also a duty of two dollars per thousand on fencing lumber needed to open up the farms of the West, while the ship-timber, spars, oakum, and adhesive felt, and other articles entering into the construction of ships are entered on the free list; and that is not all. The Senator from Maine discovers that this vicious system of legislation is rapidly destroying the ship-building and commercial interests of his own State. To check this tendency to decay he has provided in the twenty-second section of this bill for a drawback equal in amount to the import duty paid on all iron, lumber, hemp, manila, copper, and cordage used in the construction, rigging, or equipment of sailing or steam vessels of the United States. This is a bounty of not less than twenty per cent. upon the cost of a vessel, but in my judgment the Senator will accomplish nothing by this motion. If this measure passes commerce will languish still. There is now no line of ocean steamers owned by an American company. The Senator from Connecticut says that ship-building has ceased in his own State. The special commissioner tells us that vessels can be built in Canada and New Brunswick for fifty per cent. less than they can be built in the State of Maine.

Mr. FESSENDEN. Nearer one hundred per cent.

Mr. HENDERSON. Why is this? Ships could be built in Maine in 1860; they could be built in Connecticut. If it takes twice the amount to construct a ship in Maine that it does to construct a ship in New Brunswick it must proceed from the high prices of labor. The high prices of labor result from the high prices of commodities which the laborer must have. Does the Senator expect to build ships cheaper when the price of labor has been advanced? I have shown that this bill will advance prices, while the Senator then attempts by drawback to resuscitate a drooping industry he gives his support to a measure which will certainly neutralize the advantage he seeks. Even if this were not so twenty per cent. in the cost of a vessel will not be sufficient. If the Canadians can now build one hundred per cent. cheaper can they not build eighty per cent. cheaper even after this bounty in the name of drawback shall be paid?

Mr. President, as a western man, I would rather to-day that the Government of the United States would take in hand the tobacco and whisky interests of this country and deal it out as they do in France and England, and raise the entire revenue for ordinary expenses from those two articles of western growth and manufacture than to continue this evil system in which we are now engaged. I would positively

rather that those two interests should be taken and subjected to the same operation to which they are subjected in England and France. I would rather that the Government would take in hand the whisky distilleries of the West and let the article be manufactured by the Government and sold by none except Government agents; I would rather adopt that system a great deal than to pursue this policy. It would be infinitely better; and I believe the people of the western States, at least my-section of the country, would rather see it done.

I see by the report of the Commissioner of Internal Revenue that the revenue collected on whisky in 1863-64, when the excise tax for a large portion of the time was twenty cents per gallon, was \$28,000,000, and in the year 1865-66, with a tax of two dollars per gallon, the revenue collected was \$29,000,000. I believe as much whisky was manufactured in the latter as in the former; surely the consumption of the article has not in the least diminished. I am satisfied that a revenue of one hundred and fifty to two hundred million dollars could be collected from this source alone without materially increasing the price to the consumer. Much of what has been said in regard to whisky is equally applicable to the article of tobacco. Frauds must be prevented or the honest manufacturer will be driven from business. The espionage necessary to prevent frauds requires Government control tantamount to ownership itself, and it is exceedingly questionable in my mind whether a radical change is not demanded in reference to these two articles.

Then what is the remedy? Let us wait on the House of Representatives, get their bill, reduce the internal revenue; and when we shall have reduced it I undertake to say it will give an impetus to trade and business in this country that we cannot realize by passing this measure. This is not going to help the manufacturers, and my friend from Rhode Island [Mr. SPRAGUE] had better vote with me to postpone this measure, because I am inclined to think that cotton manufactures will languish and die under its operation, especially if they have to pay three cents per pound on the raw material. Whether the woolen manufactures will fare any better or not I cannot say. But that is a significant fact stated by the Commissioner in his report that they were far more prosperous under low but stable and fixed duties. It seems that not only is our commerce dying, not only are our vessels driven out, not only is our registered tonnage diminishing, but our woolen manufactures are drooping, and it may be soon that the cotton manufactures will feel the blighting influences of this legislation.

Mr. WILLIAMS. Why?

Mr. HENDERSON. I have attempted already to explain that a mere increase of duty is quite illusory. The law that gives nominal protection, but at the same time advances prices of the raw material, enhances wages, unsettles business, produces a feeling of insecurity, and teaches the people to pray to the Government for help instead of relying on hard work and economy, is an injury to all pursuits and a benefit to none.

Then, Mr. President, without proceeding any further on this subject, I hope that the Finance Committee themselves will adopt a course of policy that will look to the decrease of prices. If we take off these duplicated taxes that fall so heavily upon the manufacturer that \$1 50 of duty only furnishes seven cents protection, as demonstrated by the Senator from Connecticut, [Mr. FOSTER,] and let the tariff alone, or adjust it as it may be needed after the adoption of the internal revenue law, it is my opinion that business will prosper; I think that we will give new life to manufactures, to agriculture, and to every other interest.

Why, sir, the utter fallacy of increased duties may be seen from one single article of manufacture. I allude to railroad iron. We have not protected it by increased rates for

several years past; and yet the railroad iron manufacturers are more prosperous to-day than the manufacturers of other articles of iron. If not prosperous they are at least not clamorous. Why is it? Because they have contented themselves; they have gone to work, and expect by economizing to make money. They seem to be satisfied with the tariff as it is; but other iron manufacturers are continually increasing, and this tariff is an increase over the last of from twenty-five to forty per cent. The railroad iron manufacturer knows that the western people will not consent to an increase, and he has made up his mind to economize, and to make money according to the ruling prices of everything at present. Contentment is a fortune and the railroad iron man is doubly fortunate.

Now, Mr. President, I hope that the Senator from Maine and the committee will consent to this postponement, because I am quite well satisfied if the committee insist on passing the bill at present this course will not be adopted. Nothing that I can say on the subject will have any influence, I do not know that it ought to have any influence; but if in an awkward and unpremeditated way I have presented some facts that should have consideration I am content.

Mr. FESSENDEN. Mr. President, this bill has been dragging on for a great while, and we do not seem to be any nearer to the end of it than we were some time ago. For three evenings successively I have been left here without a quorum, and I suppose that state of things is to continue. If the Senate mean to pass this bill, in which the majority of them seem to be so very deeply interested, I think it would be well to adopt a little different system. Now, after we get into the Senate all these amendments can be moved just exactly as well as in Committee of the Whole. The result is, that if we keep moving amendments here and making speeches upon them, it will just double the time and the labor that will be expended. I suggest, therefore, to Senators who have amendments that they desire to move to the bill whether it would not be as well to take the bill into the Senate, and after we have acted in the ordinary form upon those amendments which have been adopted in Committee of the Whole, then every Senator can offer his amendments in the first instance there just as well as in committee, and save us a good deal of time. If that is done I shall be able to accommodate the wishes of Senators who desire to have an executive session this evening. The bill will then be out of committee and we can take it up on Monday, when I hope it may be finished. I suggest this for the purpose of expediting business, and I hope that the Senate will agree to it. After the pending amendment has been disposed of one way or the other, I suggest that the bill be taken out of committee and into the Senate, and I will then yield to the motion to go into executive session; otherwise I shall be obliged to continue. This way of moving amendments twice, once in committee and once in the Senate, is very burdensome and takes up a great deal of time. I believe there is an amendment pending which must first be disposed of.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Kentucky.

Mr. HENDRICKS. I supposed it was the intention of the Senator from Maine to close this bill to-night, and I think he might just as well do it.

Mr. HENDERSON. That cannot be done.

Mr. FESSENDEN. I should be very glad to do it.

Mr. HENDRICKS. I will cheerfully stay here until we close the bill.

Mr. FESSENDEN. But gentlemen would not be willing to stay here after twelve o'clock, as it is Saturday night, and we should then find ourselves still not out of committee with these numerous amendments and all these speeches; and I will say to the Senator that if he had stayed here so as to make a quorum the three last

nights, and enabled us to go on with business we should not be in the position we are now.

Mr. HENDRICKS. I stayed here to keep a quorum every evening until yesterday.

Mr. FESSENDEN. And I suppose somebody else stayed every evening but the night before.

Mr. HENDRICKS. And on yesterday evening at half past five o'clock I left. But supposing that the Senator intended to bring the bill to a vote to night, I am prepared now to stay with him.

Mr. FESSENDEN. I would have tried very hard last night if the Senator had stayed.

Mr. HENDRICKS. And I will now cheerfully go on with the bill until we bring it to a close. I do not suppose there will be very much general debate upon it.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the amendment proposed by the Senator from Kentucky?

Mr. DAVIS. I will say a word or two on this amendment.

Mr. GRIMES. I suggest to the Senator that he can offer his amendment in the Senate when the bill is reported, and make his remarks then.

Mr. DAVIS. I have no objection to allowing the question to be taken on my amendment now, and making the few remarks which I intend to make upon it in the Senate.

Mr. FESSENDEN. If it should not be adopted now, the Senator can move it again in the Senate and take the yeas and nays upon it, if he desires to do so at that time.

The amendment to the amendment was rejected.

The amendment of the Committee on Finance, as amended, was agreed to.

Mr. FESSENDEN. Now let the bill be reported to the Senate, if there be no objection.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question now is, Will the Senate concur in the amendment made as in Committee of the Whole.

Mr. GRIMES. Now, I move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I hope the Senator will allow me to make a report, which will take but a moment.

Mr. GRIMES. I withdraw the motion for that purpose.

#### PRESIDENTIAL TERM OF OFFICE.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a joint resolution (S. R. No. 33) proposing an amendment to the Constitution of the United States so as to limit the tenure of office of the President to one term, have instructed me to report the resolution back to the Senate with an amendment.

Mr. WADE. I wish to give notice to the Senate that I shall avail myself of the first opportunity to call up that resolution and have it acted upon. I hope it will not be debated long, and I do not believe it will be, because the subject has been so long before the public that everybody's mind is made up upon it, and I am anxious it should pass while the State Legislatures are in session that they may adopt it.

#### PENSION AGENTS.

Mr. LANE. The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 69) to provide for the payment of pensions, having met, after full and free conference have agreed on a report which I now present. They recommend:

That the Senate recede from their first amendment to the amendment of the House and agree to the same with an amendment, as follows: strike out the word "October" and insert "July;" and strike out all after the word "act" in line eleven of the House amendment to the end of said amendment.

That the Senate recede from their second amendment to the amendment of the House, and in lieu thereof agree to insert the words: "and the commis-

sions of all other pension agents now in office shall continue for four years from the passage of this act, unless such agents are sooner removed."

The only important change from the bill as it stood by the action of the Senate, effected by this report is to strike out "October, 1866" and insert "July, 1866," making the last provision go back three months. The other amendment is as to the power of the President to remove these officers at his discretion, providing that the officers shall continue in office for four years unless sooner removed. That is inserted out of abundant caution. We supposed he had the power under existing laws.

Mr. SUMNER. If I understand the operation of this bill now, it vacates certain offices from the 1st of July, 1866.

Mr. LANE. Yes, sir; that is it.

The report was concurred in.

#### MESSAGE FROM THE HOUSE.

A message from the House, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the following bills of the Senate:

A bill (S. No. 16) for the relief of Josiah O. Armes;

A bill (S. No. 410) for the relief of Solomon P. Smith;

A bill (S. No. 446) for the relief of George W. Fish; and

A bill (S. No. 511) for the relief of Mrs. Mary E. Finney, widow of First Lieutenant Solon H. Finney, late of the sixth regiment Michigan cavalry.

The message further announced that the House had passed the following Senate bills, with amendments, in which it requested the concurrence of the Senate:

A bill (S. No. 454) for the relief of the widow of Jacob Harmon;

A bill (S. No. 455) for the relief of the widow of Henry Frye; and

A bill (S. No. 476) for the relief of William A. Hinshaw and Jacob M. Hinshaw, minor children of Jacob M. Hinshaw, deceased.

The message further announced that the House had receded from its amendment to the bill (S. No. 253) to incorporate the "First Congregational Society of Washington."

The message further announced that the House had agreed to the amendments of the Senate to the amendments of the House to the bill (S. No. 380) to incorporate the Washington County Horse Railroad Company in the District of Columbia.

The message further announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1051) for the relief of Henry P. Blanchard;

A bill (H. R. No. 1052) granting a pension to Mrs. Jane Clements;

A bill (H. R. No. 1053) granting an increased pension to John J. Sohan;

A bill (H. R. No. 1054) for the relief of Hiram Hedrick;

A bill (H. R. No. 1050) for the relief of John Moreau, of Machias, New York;

A bill (H. R. No. 1056) for the relief of Lemuel Worster;

A joint resolution (H. R. No. 246) for the relief of Townsend Harris; and

A joint resolution (H. R. No. 247) for the relief of James Keenan.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (S. No. 112) for the relief of Mrs. Abby Green; and it was thereupon signed by the President *pro tempore* of the Senate.

#### WIDOW OF JACOB HARMON.

Mr. PATTERSON. The House of Representatives have just returned to us three little pension bills, with some verbal amendments, inserting the Christian names of the parties; and I hope the Senate will indulge me in acting upon those amendments at once. It will take but a moment to dispose of them. I will first move to take up Senate bill No. 454, for the relief of the widow of Jacob Harmon.



There being no objection, the Senate proceeded to consider the amendments of the House to the bill. The amendments were in lines four and five to strike out the words "Mrs. Jacob Harmon, of the county of Greene, and State of Tennessee," and to insert "Matilda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon," and also to amend the title of the bill so as to read: "A bill for the relief of Matilda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon."

The amendments were concurred in.

#### WIDOW OF HENRY FRYE.

On motion of Mr. PATTERSON, the Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 455) for the relief of the widow of Henry Fry. The amendments were in line four to strike out the words "Mrs. Henry Fry," and insert "Barbury Frye, widow of Henry Frye," and also to amend the title of the bill so as to read: "A bill for the relief of Barbury Frye, widow of Henry Frye."

The amendments were concurred in.

#### CHILDREN OF JACOB M. HINSHAW.

On motion of Mr. PATTERSON, the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 476) for the relief of William A. Hinshaw and Jacob M. Hinshaw, minor children of Jacob M. Hinshaw, deceased. The amendment was to strike out all of the bill after the word "roll" on the seventh line, and to insert in lieu thereof "subject to the privileges and limitations of the pension laws in regard to orphan children, and to commence on the 27th day of November, 1861."

The amendment was concurred in.

#### HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 1052) granting a pension to Mrs. Jane Clements;

A bill (H. R. No. 1053) granting an increased pension to John J. Sohan;

A bill (H. R. No. 1064) for the relief of Hiram Hedrick;

A bill (H. R. No. 1055) for the relief of John Moreau, of Machias, New York; and

A bill (H. R. No. 1056) for the relief of Lemuel Worster.

The following bill and joint resolutions were severally read twice by their titles, and referred to the Committee on Foreign Relations:

A bill (H. R. No. 1051) for the relief of Henry P. Blanchard;

A joint resolution (H. R. No. 246) for the relief of Townsend Harris; and

A joint resolution (H. R. No. 247) for the relief of James Keenan.

#### EXECUTIVE SESSION.

On motion of Mr. GRIMES, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, January 26, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### BALTIMORE AND OHIO RAILROAD.

Mr. KOONTZ. I ask unanimous consent to have taken from the Speaker's table, for reference to the Committee for the District of Columbia, the bill (S. No. 507) entitled "An act to amend an act entitled 'An act to authorize the extension, construction, and use by the Baltimore and Ohio Railroad Company, of a railroad from between Rockville and the Monocacy Junction into and within the District of Columbia,'" approved July 25, 1866.

Mr. INGERSOLL. I object; and lest this

objection should seem discourteous on my part, I desire to explain the reason of it. This bill contemplates an enterprise of considerable importance to the Government of the United States; and I think it should be passed without delay rather than be referred. I fear that the Committee for the District of Columbia may not be called again for reports during the present session. If the bill remains upon the Speaker's table it may be disposed of at some time when business on the Speaker's table shall be taken up.

#### MARY BOND.

Mr. HARDING, of Illinois, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Invalid Pensions be instructed to inquire into the justice and expediency of granting a pension to Mary Bond, widow of John Bond, deceased, late of the United States Army, who died in the Army service of the United States.

#### SALES OF CONFISCATED WHISKY.

Mr. DARLING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be requested to suspend the sales of confiscated whisky, unless the price offered is equal to the tax upon the same.

Mr. DARLING moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### RIVER THAMES, CONNECTICUT.

Mr. BRANDEGEE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Appropriations be instructed to inquire into the expediency of reporting an appropriation recommended by the engineer department of the United States, for the dredging and maintaining of the channel of the river Thames, near Norwich, in the State of Connecticut.

#### BOUNTIES.

Mr. ANCONA, by unanimous consent, reported from the Committee on Military Affairs a bill to amend an act entitled "An act making appropriations, &c.," approved July 28, 1866, giving additional bounties to discharged soldiers in certain cases; which was recommitted and ordered to be printed.

#### PACKAGE POST.

Mr. WILSON, of Iowa, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing, under the charge and direction of the Post Office Department, a package post on the several railway and steamboat mail routes of the United States for the conveyance of parcels of money, merchandise, &c., at such rates of compensation and under such regulations as may be established by law; and that the committee report by bill or otherwise.

#### WISCONSIN AND LAKE SUPERIOR RAILROAD.

Mr. DRIGGS, by unanimous consent, introduced a bill granting lands to the States of Wisconsin and Michigan to aid in the construction of the Wisconsin and Lake Superior railroad; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

Mr. BLAINE moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PUBLIC BUILDING IN PEORIA, ILLINOIS.

Mr. INGERSOLL, by unanimous consent, introduced a joint resolution to provide for the erection of a building in Peoria, Illinois, for the accommodation of the post office and internal revenue offices; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### ORDER OF BUSINESS.

Mr. BENJAMIN. I call for the regular order of business.

The SPEAKER. The first business in order during the morning hour is the call of committees for reports of a private character, beginning with the Committee on Foreign Affairs.

#### GEORGE W. FISH.

Mr. CULLOM, from the Committee on Foreign Affairs, reported back Senate bill No. 446, for the relief of George W. Fish, with a recommendation that the same do pass.

The bill was read at length. It directs the Secretary of the Treasury to pay to George W. Fish the sum of \$1,825 04 in full pay for consular services as United States consul at Ningpo, China, and for exchange due him.

The bill was read the third time and passed.

Mr. CULLOM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TOWNSEND HARRIS.

Mr. RAYMOND, from the Committee on Foreign Affairs, reported a joint resolution for the relief of Townsend Harris; which was read a first and second time.

The joint resolution was read at length. The preamble sets forth that Townsend Harris, of New York, while holding the office of consul general of the United States at Simoda, Japan, under instructions from the State Department of October, 1856, opened diplomatic negotiations with the Japanese Government, and continued the same until January, 1858, which negotiations resulted in the conclusion of the convention of Simoda and the treaty of Jeddo, which diplomatic services were beyond the sphere of his duties as consul general, and for which he has received no compensation.

The joint resolution directs the payment to Townsend Harris of the sum of \$4,645 83, for such services, as compensation from October 1, 1856, until August 18, 1857, at the rate of \$9,000 per annum, first deducting therefrom his salary as consul general for the same time; and from August 18, 1857, until January, 1858, inclusive, compensation at the rate of \$2,500 per annum, in addition to his salary as consul general as provided by law.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RAYMOND moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### JAMES KEENAN.

Mr. DAWSON, from the Committee on Foreign Affairs, reported a joint resolution for the relief of the legal representatives of James Keenan; which was read a first and second time.

The joint resolution was read at length. It directs the Secretary of the Treasury, in the settlement of the accounts of James Keenan, late consul at Hong Kong, China, to pay his legal representatives the amount of exchange to which he would have been entitled had he drawn the several balances due him on the adjustment of his accounts.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DAWSON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

#### HENRY P. BLANCHARD.

Mr. PATTERSON, from the Committee on Foreign Affairs, reported a bill for the relief of Henry P. Blanchard; which was read a first and second time.

The bill was read at length. It directs the Secretary of the Treasury to pay to Henry P. Blanchard, for his services as marshal at the

port of Canton, in China, from February 22, 1858, to the 1st of July, 1860, the sum of \$2,354 24.

The report was read.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PATTERSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MRS. L. HOUTON.

Mr. PERHAM, from the Committee on Invalid Pensions, reported adversely upon the application of Mrs. L. Houton for a pension; which was laid upon the table.

ALLEN WILSON.

Mr. PERHAM, from the Committee on Invalid Pensions, also reported back, with a recommendation that it do not pass, House bill No. 1036, for the relief of Allen Wilson, of Wilson county, Tennessee; and the same was laid upon the table.

#### INCREASE OF PENSIONS.

On motion of Mr. PERHAM, the Committee on Invalid Pensions were discharged from the further consideration of the memorial of General C. W. Van Wyck, of Orange county, New York, asking that pensions may be increased, and the laws so modified that persons entitled thereto may obtain the same with less delay and perplexity than at present; and the same was laid upon the table.

MRS. LYDIA WINTER.

Mr. PERHAM. I ask that the Committee on Invalid Pensions be discharged from the further consideration of the petition of Mrs. Lydia Winter for a pension, and that the same be laid upon the table.

Mr. INGERSOLL. I would ask the gentleman from Maine [Mr. PERHAM] what are the grounds for reporting against this petition.

Mr. PERHAM. The subject of the memorial is embraced in the provisions of a general law.

Mr. INGERSOLL. I think this case of Mrs. Winter is a meritorious one, and I would like to have the committee consider it still further.

Mr. PERHAM. Very well; I will withdraw the report in this case for the present. The report was accordingly withdrawn.

SOLOMON P. SMITH.

Mr. PERHAM, from the same committee, also reported back Senate bill No. 410, for the relief of Solomon P. Smith, with the recommendation that it do pass.

The bill provides that there shall be paid to Solomon P. Smith, late a captain in the one hundred and fifteenth regiment of New York volunteers, out of any money in the Treasury not otherwise appropriated, the sum of \$260 for his pension from the 14th of January, 1865, when he was mustered out of the service, until the 15th of February, 1866, the date of the filing of his application for a pension with the Commissioner of Pensions.

The bill was ordered to a third reading, read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REUBEN CLOUGH.

Mr. PERHAM, from the same committee, also reported back adversely Senate bill No. 171, for the relief of Reuben Clough, and moved that it be laid upon the table.

The motion was agreed to.

WILLIAM A. HINSHAW AND J. M. HINSHAW.

Mr. PERHAM, from the same committee, also reported back Senate bill No. 476, for the relief of William A. Hinshaw and Jacob M. Hinshaw, of Green county, Tennessee, with

the recommendation that it do pass, with an amendment.

The bill directs the Secretary of the Interior to place the names of William A. Hinshaw and Jacob M. Hinshaw, minor children of Jacob M. Hinshaw, of Green county, Tennessee, upon the pension-roll at the rate of eight dollars per month, to commence on the 27th of November, 1866, and to continue until they severally obtain sixteen years of age.

The amendment of the committee was to strike out all after the word "roll" in the seventh line, and insert in lieu thereof:

Subject to the privileges and limitations of the pension laws in regard to orphan children, to commence 27th November, 1866.

The amendment was agreed to; and the bill as amended was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PETER ANDERSON.

Mr. PERHAM, from the same committee, also reported back adversely Senate bill No. 79, for the relief of Peter Anderson, and moved that it be laid upon the table.

The motion was agreed to.

MRS. BARBARA FRY.

Mr. PERHAM, from the same committee, also reported back Senate bill No. 455, for the relief of the widow of Henry Fry, with amendments.

The bill directs the Secretary of the Interior to place the name of Mrs. Henry Fry upon the pension-roll, at the rate of eight dollars per month, to commence the 27th of November, 1861, and to continue during her widowhood.

The committee's amendments were to strike out "Mrs. Henry Fry" and insert "Mrs. Barbara Fry," and to amend the title so as to read, "A bill for the relief of Mrs. Barbara Fry."

The amendments were agreed to.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. TAYLOR, of New York, from the same committee, reported back the following adversely; and the same were laid upon the table.

Petition of William McBryan, of Jay county, Indiana, for a pension.

House bill No. 955, for the relief of John B. Cothran, of Tennessee.

MRS. JANE CLEMENTS.

Mr. HARDING, of Kentucky, from the same committee, reported a bill granting a pension to Mrs. Jane Clements; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Mrs. Jane Clements, of the District of Columbia, widow of Ignatius Clements, deceased, upon the pension-roll at the rate of eight dollars per month during her widowhood, to commence on the 1st of August, 1864, the date of her husband's death; and it also provides she shall have the benefits of the second section of the act approved July 25, 1866, in regard to minor children of deceased soldiers, if she shall show, to the satisfaction of the Commissioner on Pensions that she has such minor child or children as will entitle her to the same.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HARDING, of Kentucky, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JOHN J. SOHAN.

Mr. HARDING, of Kentucky, from the same committee, also reported a bill granting an increased pension to John J. Sohan; which was read a first and second time.

The bill allows John J. Sohan, in consequence of total blindness resulting from disease contracted in the line of duty as a marine in the United States Navy, a pension of twenty-five dollars per month, to commence 16th August, 1866, and to continue during said disability; and to be in lieu of the pension heretofore allowed.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HARDING, of Kentucky, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. HARDING, of Kentucky, from the same committee, made an adverse report on House bill No. 870, for the relief of Charles McCarty; which was laid on the table, and ordered to be printed.

Mr. LEFTWICH, from the same committee, made an adverse report on the memorial of George H. Finley for a pension; also on the memorial of Lewis M. Luckett, a soldier during the Mexican war, asking for a pension; also on the petition of James Fregate; which were severally laid on the table and ordered to be printed.

HIRAM HEDRICK.

Mr. LEFTWICH, from the same committee, reported a bill for the relief of Hiram Hedrick; which was read a first and second time.

The bill authorizes the payment of a pension at the rate of twenty-five dollars per month in lieu of the pension now received.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LEFTWICH moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. VAN AERNAM, from the same committee, made an adverse report on the petition of J. M. Miller; which was laid on the table, and ordered to be printed.

Also on the petition of Henry Coleman, late seaman on board the United States steamer McClellan; which was laid on the table, and ordered to be printed.

MELINDA HARMON.

Mr. VAN AERNAM, from the same committee, reported back Senate bill No. 454, for the relief of the widow of Jacob Harmon, with an amendment.

The bill authorizes the Secretary of the Interior to place the name of Mrs. Jacob Harmon, of Greene county, Tennessee, on the pension-roll at eight dollars per month, commencing from the 7th of December, 1861, and to continue during her widowhood.

The amendment reported by the committee was to strike out the words "Mrs. Jacob" and insert "Melinda," and to insert the words "widow of Jacob Harmon."

The amendment was agreed to; and the bill, as amended, was ordered to be read a third time; and was accordingly read the third time, and passed.

The title of the bill was amended by striking out the words "the widow of Jacob" and inserting "Melinda."

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed and the title amended; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## JOHN MOREAU.

Mr. VAN AERNAM, from the same committee, reported back a bill for the relief of John Moreau, of Machias, New York, with a recommendation that it do pass.

The bill directs the payment of a pension at eight dollars per month during his natural life.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

## ADVERSE REPORTS.

Mr. STILWELL, from the same committee, made an adverse report on the petition of Louisa McCarty, widow of Eli McCarty, late captain in the United States Army, who was killed while notifying drafted men in Illinois, praying for a pension; which was laid on the table, and ordered to be printed.

Mr. BENJAMIN, from the same committee, made an adverse report on House bill No. 469, for the relief of Rebecca Bower; which was laid on the table, and ordered to be printed.

Mr. SAWYER, from the same committee, made an adverse report on House bill No. 163, for the relief of A. W. Fleming; also on the petition of Mary C. Booz, praying for a pension on account of services of her husband; also on the petition of Ellen Hayes, widow of John Hayes; also on the petition of Henry W. Earl, jr., praying for a pension; also on the memorial of Elizabeth W. Stiles for relief; also on the petition of Jackson Squire, asking for a pension, &c.; which were severally laid on the table, and ordered to be printed.

## LEMUEL WORSTER.

Mr. SAWYER also, from the same committee, reported a bill for the relief of Lemuel Worster; which was read a first and second time by its title.

The bill was read. It provides that the Secretary of the Interior shall place the name of Lemuel Worster, of Machias, York county, in the State of Maine, upon the pension-roll, and pay him at the rate of eight dollars per month.

Mr. WASHBURN, of Massachusetts, asked for the reading of the report.

The report was read.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SAWYER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

## MINOR CHILDREN OF SOLOMON LONG.

Mr. SAWYER also, from the same committee, reported a bill for the relief of the minor children of Solomon Long; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll the names of the minor children of Solomon Long, with the same benefits and subject to the same restrictions as other orphan children of deceased soldiers, the act to take effect in 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time and passed.

Mr. SAWYER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

## DEPARTMENT OF AGRICULTURE.

Mr. BIDWELL, by unanimous consent, from the Committee on Agriculture, reported a bill to amend the act to establish a Department of Agriculture; which was read a first and second time, recommitted to the Committee on Agriculture, and ordered to be printed.

## SYLVANUS SAWYER.

Mr. HUBBARD, of Connecticut, from the

Committee on Patents, reported a bill for the relief of Sylvanus Sawyer; which was read a first and second time.

The bill authorizes an extension of the patent of Sylvanus Sawyer for the cutting of rattan.

Mr. HUBBARD, of Connecticut, asked that the evidence in the case be read.

The evidence was read.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HUBBARD, of Connecticut, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

## HEIRS OF THOMAS W. HARVEY.

Mr. BROMWELL, from the Committee on Patents, reported a bill extending certain letters-patent for the benefit of the heirs of Thomas W. Harvey; which was read a first and second time.

The bill was read at length. It directs the Commissioner of Patents to receive and consider an application for, and if in his opinion correct and expedient to grant, extensions of the patents for improved machinery for cutting screws and improved machinery for drawing screw-heads, for the benefit of the heirs of Thomas W. Harvey, the inventor and patentee of the same.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. ASHLEY, of Ohio. I would ask the gentleman from Illinois [Mr. BROMWELL] if these patents have not been extended once already?

Mr. BROMWELL. They have.

Mr. ASHLEY, of Ohio. Then I hope they will not be extended again.

Mr. BROMWELL. I will give to those gentlemen who desire to say anything in opposition to this bill the greater part of the time I shall be entitled to, after the previous question shall have been seconded, which I propose to call.

The SPEAKER. The Chair will suggest to the gentleman from Illinois [Mr. BROMWELL] that even should the call for the previous question be sustained, a motion to lay the bill on the table would have the priority, and the gentleman might be prevented from saying anything on the bill.

Mr. BROMWELL. Then I will not call the previous question, but will proceed to state briefly the facts in this case. It is true, this inventor has had his patents for twenty-one years. But the nature of the inventions is such that many years must necessarily have elapsed in bringing the business under the patents into such a condition that any emoluments could be derived from them. The expense of setting up that business must have been very great. One machine by itself is of no use, but hundreds of them are necessary in order to enable the manufacturer to fill the commonest order. The inventions are exceedingly ingenious; not the results of a lucky thought, but evidently of long study and experiment. Those inventions have revolutionized the mode of making screws, and have reduced their price. There are many other machines by which wood-screws are made besides the machines covered by these patents. The extensions asked for by this bill relate only to two of a great number of patents, for the purpose of conferring some small benefit upon the widow and heirs of the inventor, Thomas W. Harvey. The inventor spent a large fortune and many years of his life in bringing these inventions to perfection, and when he died he left his family not one cent remuneration for them, for he had received none himself, either from the patents themselves or the money he had invested in putting them into operation.

The SPEAKER. The morning hour has expired, and the bill goes over to the next Friday morning hour.

## ENROLLED JOINT RESOLUTION SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (S. R. No. 112) for the relief of Mrs. Abby Green; when the Speaker signed the same.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on Senate bill No. 69, providing for the payment of pensions.

## PETITION PRINTED.

Mr. ROGERS. I ask unanimous consent to present a petition from loyal colored people of North Carolina, and to have it printed.

No objection being made, it was ordered to be printed.

## RECONSTRUCTION.

Mr. ASHLEY, of Ohio. I call for the regular order.

The SPEAKER. The first business in order after the expiration of the morning hour is the consideration of House bill No. 543, to restore to the States lately in insurrection their full political rights, upon which the gentleman from Illinois [Mr. ROSS] is entitled to the floor.

Mr. ROSS. In view of the magnitude and importance of the legislation proposed by the bill now before us I have thought it my duty to submit a few considerations to the House upon the subject. The objections which I shall present to this bill will be, first, that there is no constitutional power or authority in the Congress of the United States to pass such a measure as this; second, that it is in conflict with the principles and doctrines enunciated by the Republican party during the progress of the war; and third, that if these objections did not exist, it would be unwise and inexpedient to act upon the subject in the manner proposed.

First, then, upon the question of the power and the right of Congress to pass the bill before the House: I hold that the powers of Congress are limited by the Federal Constitution; that while the General Government is supreme and paramount to the extent of the delegated powers, it is equally clear that the powers not conferred upon it are by the express terms of the Constitution reserved to the States and the people thereof respectively. The national Government has supreme authority to the extent of its delegated powers; but those powers are defined in the written Constitution establishing the Government.

Mr. Speaker, I do not recognize the soundness of the doctrines enunciated by the able and distinguished gentleman from New York, [Mr. RAYMOND], who discussed this question the other day, that we have an unwritten Constitution by which we are to be governed. I am somewhat relieved, however, to find that gentlemen on that side of the House are inclined to thus justify their action. I had felt some apprehension that in our congressional action here we might be trenching upon the Constitution of our country. But when I learned from the gentleman from New York [Mr. RAYMOND] that all these measures which we suspected to be infringements upon the Constitution are to be passed under the authority of an unwritten Constitution I felt greatly relieved, at least upon that particular point.

I do not recognize any such doctrine. The written Constitution of our country is the guide by which we are to be governed and controlled in our action. I am aware that this is a doctrine which commands but little attention in Congress at the present time. But a few days ago, when a distinguished and able member from the State of Kentucky was discussing a constitutional question, a gentleman near me said, "Why, he must evidently be a new member; if he had been here any length of time he would have learned long since that no attention is paid by this Congress to the Constitution of the United States."



Having said this much upon the constitutional question, I propose briefly to call the attention of the House to what I suppose will be arguments of greater weight with the majority in this House than the Constitution of the country. I submit that this bill is in clear conflict with the action of the party in power during the entire progress of the war; it is in conflict with the clearly-expressed opinions of the Executive of the nation, the Supreme Court, and the Congress of the United States. If I succeed in satisfying the majority in this House that their policy is in conflict with the teachings and principles of the party in power during the last six years, I am satisfied that as honorable men they will refrain from pressing this measure upon the consideration of the House.

The first evidence to which I desire to call the attention of members is the resolution which has been so frequently alluded to in this House, known as the "Crittenden resolution." I do not propose to give the language of the various public acts to which I may refer, because they are not before me; but it is well known that the honorable Speaker who presides over the deliberations of this House, as well as a large number of the gentlemen upon this floor, gave their solemn pledge to the country that they would stand by that Crittenden resolution, which declared in substance that the war was to be waged for the purpose of maintaining the national authority and putting down the rebellion; not for the purpose of subjugation or to overthrow any of the States of this Union, but to guaranty to them their equality and rights within the Union. That resolution, Mr. Speaker, was a national pledge made to the country by the party in power, declaring the purposes and objects for which the war was prosecuted.

The second evidence which I present for the consideration of the House, showing that it was never contemplated by the party in power during the progress of the war that States engaged in the rebellion were out of the Union and not entitled to representation, is the fact that they permitted Senators and Representatives from those States to retain their seats in Congress until the time for which they were elected had expired; and there was no complaint upon that subject from any member of either House. Congress continued during the whole progress of the war to recognize the right of those States that were in rebellion against the national authority to send Senators and Representatives to Congress. The present President of the United States continued to hold his seat as a Senator from Tennessee; a Senator from the State of Virginia continued to represent that State; and there were several other such instances which I do not now recollect. I ask, Mr. Speaker, whether this would have been the fact if it had been contemplated during that time that the war was to sever the bonds of the Union.

The third proposition to which I call the attention of the House is, that in 1862 or 1863, during the progress of the rebellion, Congress passed an act by which they assessed taxes upon the States which were in rebellion. This would certainly never have been done had it not been clearly recognized that those States were within the Union. Now, sir, it could not have been expected that in so brief a period of time you would have abandoned the doctrines for which our fathers fought the battles of the Revolution, and imposed upon eight million people taxation without representation. This could not have been contemplated by the Congress of the United States in the passage of the act apportioning taxation among the States in rebellion.

The fourth proposition to which I propose to call the attention of the House is, that in 1862, if my memory serves me right, Congress passed an act apportioning representation among the several States of this Union; and in that act about fifty members of Congress were assigned to the ten States which now, according to the theory of this bill, are outside of the national

Union. Sir, those acts apportioning taxes and representation were concurred in by the two branches of Congress. Nor is this all. They had the approbation of President Lincoln, who signed and approved them. Thus, in addition to the congressional recognition of the right of representation as belonging to those States, there was executive action equally emphatic in the same direction.

The fifth evidence is, that the action of the Supreme Court is against this bill. The order of that court last winter to take up the cases from these States upon the docket and dispose of them is evidence that it does not consider this Union dissevered. The action of Congress assigning circuits to the judges of the Supreme Court is additional evidence of the opinion of Congress on this subject. And, in addition to this, the civil rights bill, giving power to these courts within those States, shows that the action of Congress contemplated these courts were to be in existence to exercise these powers during this time.

The sixth evidence I will offer to the House will be found in the correspondence of our Government with the French Government, in which President Lincoln, through the Secretary of State, Mr. Seward, informs the French Government this was a mere rebellion in this country, and that the seats of the southern members are awaiting their return to be occupied by them. I say this is the opinion, not of the Secretary of State, but of the President of the United States through his chief clerk, the Secretary of State, enunciating the doctrines of the American to the French Government.

In the seventh place I refer to the fact that the constitutional amendment abolishing slavery in this country was submitted for ratification to the States which had been in rebellion as well as to those which had not. Gentlemen cannot avoid the force of this position by saying with the gentleman from Pennsylvania [Mr. SCOFIELD] it was the Secretary of State who published this. He acted under the authority and direction of the Congress of the United States, which determined this measure should be submitted to all these States.

Mr. STEVENS. I ask the gentleman when Congress so determined?

Mr. ROSS. I have so understood.

Mr. STEVENS. The gentleman is mistaken, as we have passed no such resolution.

Mr. ROSS. I think otherwise. I will not stop here to inquire as to the taste of the gentleman from Pennsylvania [Mr. SCOFIELD] in his criticism of the action of the Secretary of State. I would have thought, taking everything into consideration, he would have treated him a little more tenderly. He ought to have taken into consideration that Mr. Seward for twenty-five years furnished the brains for the gentleman's party. He denounced him as a trickster, as a man hostile to the Government; and he compared him to a dog. It created considerable amusement among the grave and distinguished gentlemen who sat near him when the leader of their party, who furnished it with brains for twenty-five years was compared in ridicule to a dog. I suppose it is all right. Congress can speak of the President as a usurper, compare the Secretary of State to a dog, and deride the authority and views of the Supreme Court, but when one member intimates another has not squared the mark on the subject of telling the truth, it is a grave question for the immediate action of this House.

The eighth and last evidence I shall furnish to my Republican friends is the proclamation of emancipation. I do not profess to give it with accuracy, but it will be found in that proclamation issued by Abraham Lincoln, he gave notice that unless within a certain period the rebel States grounded arms, on the 1st of January, 1863, their slaves should be declared to be emancipated. He said he would regard it as an evidence of their return to the national authority that they should have representatives here on the 1st of January, 1863. Was Abraham Lincoln opposed to their representation in Congress? Did he believe the result of this war

was to give us a dissevered Government? I do not think he did.

I proceed now to show that if this were a new measure and were not a violation of the Constitution and of the principles of the Republican party during the four years' progress of the war, it would still be unwise and inexpedient for us to adopt it. And in this connection I propose briefly to call the attention of the House to some of the provisions of this most extraordinary bill.

The fifth section provides—

That the word citizen, as used in this act, shall be construed to mean all persons (except Indians not taxed) born in the United States or duly naturalized.

The seventh section provides—

That no constitution shall be presented to or acted on by Congress which denies to any citizen any rights, privileges, or immunities which are granted to any other citizen in the State. All laws shall be impartial, without regard to language, race, or former condition. If the provisions of this section should ever be altered, repealed, expunged, or in any way abrogated, this act shall become void and said State lose its right to be represented in Congress.

I understand from this section that the gentleman from Pennsylvania [Mr. STEVENS] means to incorporate a new doctrine, a doctrine that from his known gallantry it is to be presumed he would favor, namely, female suffrage. It declares who shall be citizens, and that if any State shall deprive any of its citizens of the right of suffrage it shall lose its representation in Congress. I do not object to the bill on this score, only it is a little in advance of the party, I suppose, to confer suffrage on females now.

But I call attention to the latter part of the seventh section:

If the provisions of this section should ever be altered, repealed, expunged, or in any way abrogated, this act shall become void, and said State lose its right to be represented in Congress.

What is that provision? Why, that if by any future amendment to their constitutions any of these States shall deprive any black man of the right of voting in those States, then they are to be deprived of representation in Congress. Now, I submit to the gentleman from Pennsylvania if he would apply a rule to those States which he is not willing to apply to his own State. Why, sir, the rule laid down in this bill for the government of these southern States would, if applied to Pennsylvania, deprive it of representation in Congress. Is it possible that we will enforce upon the people of these States a doctrine so odious? I understand when States come into this Union they come in upon an equality, but here it is proposed to make an odious distinction between the States. While the gentleman from Pennsylvania will represent his district where the black man is still deprived of what the gentleman terms this invaluable right of casting his ballot for the choice of his own rulers and of those who make laws to govern him, when he comes to apply a rule to the ten States lately in rebellion he makes an entirely different one.

I desire now to call the attention of the House to some of the provisions of the sixth section. That section goes upon the hypothesis that Congress possesses the power to determine who shall be citizens of the United States, or in other words to deprive individuals who are citizens of the United States of their citizenship by a mere statute. I do not think we have any such right. I think it is only upon due trial and conviction that these rights can be taken from individuals.

Now, suppose this doctrine is maintained, what will be the result during a high state of political excitement? The party coming into power will hold that all those who voted against them are not citizens of the United States, but must remain for five years in tutelage before they shall be permitted to exercise the right of suffrage and other rights pertaining to citizenship. At the next election that takes place the opposite party gets into power, and those who voted against them will be declared to have forfeited all their rights as citizens. In this way the great mass of the people of this country might be cut off from the right of suffrage and representation.

I object to the latter part of this section on the ground that it will encourage perjury by leading men to swear falsely in relation to these matters. Now, for these reasons I judge that the calm and dispassionate consideration of this House will show in its action that they do not regard this bill as worthy of the American Congress.

Now, for what object was this war prosecuted? Was it prosecuted to overthrow or to save the nation? I understand that the vast sacrifice of men and money which we have made during the terrible struggle of four years was to save and not to destroy. That I understand to be the opinion of the officers and soldiers of our Army, of the men who went to the front. It was their intention to preserve and perpetuate and hand down unimpaired this glorious legacy to those who come after us.

But according to the theory of this bill the war destroyed this Union, at least to the extent that we should not, if the doctrine be true, continue upon the flag that waves over your desk, Mr. Speaker, the six and thirty stars which now adorn it. But I care not what may be the views of others upon the subject; I will never consent to blot out one star now upon our national banner. I believe this war was fought for the purpose of supporting and maintaining the national authority, for the purpose of preserving and not of destroying. Shall we now by act of Congress strike down ten States of the Federal Union, four of the ten having been of the original States which formed the Constitution? I hope not.

In this connection let me read a short extract from the opinions of General Grant upon this subject. He says:

"My observations lead me to the conclusion that the citizens of the southern States are anxious to return to self-government within the Union as soon as possible; that while reconstructing they want and require protection from the Government; that they are in earnest in wishing to do what they think is required by the Government not humiliating to them as citizens; and that if such a course was pointed out they would pursue it in good faith. It is to be regretted that there cannot be a greater comingling at this time between the citizens of the two sections, and particularly of those intrusted with the law-making power."

Ah! General Grant; you think there should be a comingling between the people of the two sections, and especially between those intrusted with the law-making power. But Congress does not think so; Congress says that these people shall knock for eighteen months and two years at our doors and still be refused admission. Congress not only puts itself in conflict with the principles enunciated in the messages and proclamations of Abraham Lincoln, the opinions of the Supreme Court of the United States, but also the opinions held by General Grant, and also, too, by General Sherman. I have not the letter of General Sherman before me, but I recollect that he says that as a man and a soldier he would never strike a disarmed foe standing before him. I think that is a good sentiment; I think this is the sentiment of a brave man. Where is the man who would desire to strike a fallen foe, lying prostrate and disarmed before him?

Perhaps there are some who may desire further strife and further conflict; if so, they are the men who were hunting for cotton and silver spoons; not those who went to the front to fight the battles of our country.

I desire to call the House to another consideration in this connection. I hold that if the bill now under consideration should be adopted by the American Congress it will recognize a theory which will make this country responsible, at least to foreign nations, for the evidences of confederate debt held by their citizens. If these southern States are conquered provinces, then by the laws of nations we are responsible for all the debts and liabilities of the conquered country. I ask gentlemen to pause before we take so great a responsibility as this upon us.

There are influences not made apparent in the House to keep these men out of Congress. I have noticed that the "high tariff" men are

most anxious to exclude southern men from Congress. Why is this? They know that the great Northwest are "hewers of wood and drawers of water" to New England. I do not wonder that they like to keep out these fifty members from the South. Their object is to perpetuate the power of the Northeast, and derive profit as long as they can from it. But the question is seriously mooted in this House that if we admit these fifty southern members it is going to endanger the perpetuity of our free institutions; that our Government is going to be overthrown. Now, can the presence of fifty members here, added to the vote here already, either vote to indorse the confederate debt or to vote down the national debt.

Our friends upon the other side tell us that by the abolition of slavery these rebellious States are entitled to twelve more members than they had before the war. Well, sir, we are not to have an apportionment of representation before 1870, and before that time the black men of the South will abandon their present position and flock like doves to the Northeast. They will then be counted as a basis of representation, not in the southern States, but in the Northeast. In the apportionment of 1870 where will the black men be? They will not be counted anywhere until 1870.

But the distinguished gentleman from Ohio [Mr. SULLABARGER] amazed the House by a new constitutional amendment, which he got up, as applicable to the views of this side of the House, and he read it in the presence of his friends who surrounded him. I would ask you if any member upon this side of the House has at any time at this or at the last session of Congress advocated the admission of disloyal men upon this floor. I say that you can find no such instance. I defy the gentleman to show any instance in which the question of the right of representation upon this floor was not left free and untrammelled for the consideration of the House.

After 1870 we shall have five members to their one. Hence I conclude there would be no danger by admitting loyal representatives to their seats in Congress to deliberate upon these great questions which are claiming the attention of the country.

But the Supreme Court of the United States does not escape the denunciation of the party in power; and an especial victim of this denunciation is the individual who delivered the opinion of that court in vindication of the great principle of constitutional law and individual right. Who is this man who is being denounced upon the other side of the floor as plotting to overthrow the Government?—Why, sir, I have had the pleasure of knowing Judge Davis for a quarter of a century. He and I have always differed upon political questions; yet I have always recognized him as an honorable, high-toned gentleman; and, sir, permit me to say that there was no man in all this country upon whom Abraham Lincoln more confidently leaned for counsel and advice than he did upon David Davis, of Illinois, the man who is now denounced by the other side of the House for making a decision which nine hundred and ninety-nine out of every thousand lawyers in this country would have made before this rebellion took place.

The war is also carried on against the President. He is a "white-washer;" he is a "usurper;" a man who is plotting to overthrow the liberties of the country. Why, sir, what object has he in being untrue to his country? From the time when he attained manhood he has stood by the people. He has uniformly revered and venerated the Constitution of the country; and during the recent rebellion he manfully stood up and cast this Constitution in the teeth of southern rebels when they were attempting to overthrow our institutions. You may go on and pass your resolutions of censure, but I tell you, gentlemen, there is a day of reckoning coming. This is not the first time that a President of the United States has been maligning by a Congress of the United States. If memory serves me right about 1833

the Senate of the United States passed a resolution of censure upon Andrew Jackson. That resolution stood for some time; but, sir, the "sober second thought" of the American people at length prevailed, and when it did prevail what was done? Why, sir, in 1837, through the exertions of Thomas H. Benton and other able statesmen of those days, that insult to the nation, that stigma upon the name of the great Jackson was wiped out. That resolution was expunged. The Journal upon which it was recorded was brought into the Senate Chamber, and in the presence of the Senate black lines were drawn around that resolution; as black as the iniquity of those who had concocted that slanderous resolution. I trust, sir, in God's name, that if liberty still lives in this country there will come a time—perhaps when we shall have passed away—when the ignominy and contempt sought in this hour of trial to be fastened upon the Chief Magistrate of the Government will be wiped out and atoned for. Such is my faith, such my confidence in free Government, and the "sober second thought" of the American people.

The Senate of the United States in these days is in the habit of rejecting the nominations of men whose opinions do not accord with theirs, and for no other reason. Why, sir, this experiment was tried once before by the Senate. When Mr. Van Buren was nominated as minister to the Court of St. James the Senate of the United States rejected the nomination; and his unwarranted rejection by a partisan Senate caused Martin Van Buren, who otherwise would probably never have been thought of in connection with the Presidency, to be nominated and elected by the American people to the first office in their gift.

Gentlemen are mistaken if they imagine that the people of this country are going to give up free government. They intend to stand by the Constitution of our fathers. They intend to let well enough alone, rejecting the revolutionary schemes of agitators and fanatics. They revere and venerate the memory of the patriotic men who established the form of government under which we live; and, in my judgment, they will still come to the rescue and maintain and uphold our institutions. This is my hope. Still, I am frank to confess, Mr. Speaker, that I have my fears; I have my apprehensions. This country is now passing through a most terrible ordeal. The great question whether civil liberty and the capacity of the people for self-government can be maintained is now being tested.

If the Congress of the United States can usurp three departments of the Government; if they can depose the President, paralyze the Supreme Court; if they can destroy civil liberty in this country, then when I look back into the history of the French revolution I sometimes think I see a little "mountain" on the other side, and I think sometimes I can pick out the Robespierres, the Dantons, and the Murats. I sometimes feel there is fear civil liberty is to be crucified in the house of its pretended friends. In my judgment the time has come when the American people should be aroused to the impending danger which hangs like a dark pall over our political institutions. The time has come, sir, when we must maintain and uphold and perpetuate those great principles of civil liberty for which our fathers fought.

I appeal to my brother members, let us pause, let us reflect, let us consider that we have lived for a long time under a Government which has given us protection in our persons, our property, and in all that we hold dear. Shall we imperil it? Where can we find a better one? Cast your eyes over the Governments of the world. Where can you find another comparing with this glorious Government of ours? Shall we experiment with it? Let us leave well enough alone. I would—

"Rather bear those ills we have  
Than fly to others that we know not of."

I ask gentlemen to be careful how they strike down the great landmarks of constitutional gov-

ernment. See what a magnificent future we have before us! No such country was ever given to any other people. Look at its vast resources! It was a Government that rested so easily upon our shoulders that we hardly felt we were governed.

Now, what is the change? In a time of profound peace we have ninety thousand soldiers in the field to support whom the people are heavily taxed. It used to be the pride of the American people that the humblest citizen in the country was protected. What is it now? A few days ago what did we do? We passed a law through Congress by which the acts of all our officers of every kind, including petty larceny and crimes of every description, are to be forgiven. All record of them is to be obliterated, so that hereafter no one can prosecute those who committed them. Every man who during the war unjustly took away the property of a private citizen is to be protected under the bill of my colleague [Mr. COOK] from being called to account.

Indeed, in that bill it has also been held that where any of these offenses have been committed it must be taken for granted that the party who committed the offense had full authority to do so. Is this the feast we have been invited to? Are we to ignore the rights of private citizens? Is there to be no redress, and are you not to stop even to inquire because the offense was committed by some officer with epaulettes on his shoulders or by some sergeant or corporal? I tell you, gentlemen, it is time the American people were aroused to the impending dangers which imperil the liberties of this country.

Mr. COOK. I desire to make a suggestion, as my colleague has referred to a bill reported by me from the Committee on the Judiciary. It is very apparent from what he has said that he has not read it so as to understand it.

Mr. ROSS. I think I understand it very well. I think my colleague will not deny the commission of the offense is made *prima facie* evidence of authority to commit it. That is the bill I know. I say it is trampling upon the right of the private citizen.

Mr. COOK. There is no such provision in the bill.

Mr. ROSS. It is only part of the legislation which has been pushed through this Congress by the gentleman's entire party. I appeal to members that we shall act as wise men. I ask why, having the vast responsibility imposed upon their shoulders to preserve the liberties of the country, the other side will continue to strike them down? Why do you want to destroy the Government? Why do you want to create confusion?

You say that you will impeach the President of the United States. What has he done? Some gentlemen intimated to me the other day that the President would be impeached, to which I replied that it seemed to me a man who left so many disunionists in office throughout the land when he had the power to remove them deserved impeachment. He has held in office men who contend that the Government is dissevered, and that I think is the strongest objection I have ever heard urged against Andrew Johnson. He has not turned out one tithe of the men who were turned out by Abraham Lincoln. Why should we attempt to make this kind of example. I trust it will not be done; that we will not create such commotion and discord and establish such a precedent. We do not set precedents for ourselves alone; we may reasonably expect they will be followed by others.

Gentlemen, let us now harmonize; let us act like wise men. Do you expect these southern men to love us any better by abusing them? They will not do so. They have got to live in this country. Do you want an Ireland, a Hungary, a Poland in your midst? I confess I do not. I want the American people to revere and venerate the Government under which we live. I want to see a people who will rally at the call of the Government to protect and defend it against all its enemies under all circum-

stances. In my own judgment a lenient policy, such as has been recommended by General Grant, General Sherman, and the President of the United States, and such as Mr. Lincoln would have adopted in all probability, would be the best, would give peace, harmony, and perpetuity to this Government. We want this Government to live, to endure as long as water runs and grass grows. Let us act like wise men in so shaping our legislation as to attain this very desirable end.

Mr. Speaker, I have occupied about as much time as I had intended. I have thrown out brief and disconnected remarks on the spur of the occasion. If they are worthy of consideration I hope they will be considered. I have an anxious and ardent desire that this country should be restored to harmony and peace, that we should go on in the highway of national greatness for years and centuries to come, that it should continue to be the asylum for the down-trodden of the nations of Europe, where they may come and seek protection and share with us the benefits of a great, glorious, and free Government.

Mr. STEVENS. I desire to mention now what conclusion I have come to with regard to the management of this bill. I shall not attempt to take a vote upon it to-day. There are several gentlemen who wish to speak; but I desire to have the floor when the House adjourns to-night, so that on Monday I can call the previous question. I will mention, however, that before I call it, I intend to ask the gentleman from Ohio [Mr. ASHLEY] and his colleague [Mr. BINGHAM] to withdraw their motions, which prevent amendments, so as to enable the House to go on under the five-minute rule, as in Committee of the Whole, and try to amend the bill before taking final action on it. If they will do that I shall not call the previous question on Monday morning, but allow amendments to be made until the House is satisfied one way or the other with the bill. If not satisfied the motion may be renewed.

The SPEAKER. That can be done by unanimous consent now, or by a suspension of the rules on Monday.

Mr. CONKLING objected.

The SPEAKER. Then it can only be done on Monday.

Mr. ASHLEY, of Ohio. Mr. Speaker, I am opposed to the motion of my colleague to refer the bill now under consideration, with the pending amendments, to the joint Committee on Reconstruction. I am also opposed to the motion which the gentleman from Pennsylvania gave notice of the other day, to lay these bills on the table. I hope the motion to refer them, or lay them on the table, will not be adopted. If either of these motions should prevail it would operate practically as a declaration on the part of the House that no action may be expected during the remainder of this Congress upon the great question of reconstruction. I accept the suggestion of the gentleman from Pennsylvania, and now withdraw my amendment to his substitute; and, so far as I can, I will sustain the motion which he proposes to make on Monday, that the House consider these bills as in Committee of the Whole under the five-minute rule, and try to perfect a bill so as to be able to send it to the Senate within the next two or three days.

Gentlemen at all familiar with the legislation of the House, and the manner in which its business is now blocked out, will comprehend at once that unless some speedy action is had by the House, and the bill sent to the Senate, so that they may have time to examine it, and to review the veto message in case it shall come in, during the life of this Thirty-Ninth Congress, there can be no act passed that will bring relief to the loyal men of the South or carry out the pledges which the Thirty-Ninth Congress made to the country and to the loyal men of the South, that loyal and constitutional State governments shall be established there on the reassembling of Congress.

As the gentleman from Pennsylvania has

just remarked, there are but twenty working-days practically left of this session. The Thirty-Ninth Congress went to the country in opposition to the policy of the President, and to what we were pleased to denigrate his usurpations. The people in generous confidence have sustained Congress and returned to the Fortieth Congress by majorities unprecedented men pledged to the abolition of the governments established by the acting President of the United States, in violation of all law, and, as I claim, in clear violation of the Constitution. A large majority on this side of the House were returned to the next Congress under the express pledge that they would not permit these rebel State governments to exist a single hour after this Congress had been in session long enough to declare them abolished. If this Congress fails to redeem that pledge it will commit a blunder which, in such an hour as this, is worse than a crime.

Mr. CONKLING. I ask the gentleman to state his objection to having a subject like this, with regard to which a number of bills have been brought forward, committed to a committee which has now no work upon its hands and which has a right to report at any time.

Mr. ASHLEY, of Ohio. My answer to the gentleman from New York is, that the Committee on Reconstruction have held no meetings during this entire session up to this hour. Several bills proposed by gentlemen have been referred to that committee during this session upon which they have taken no action. If the committee ever gets together again, which I doubt, as it is a large committee composed of both branches of Congress, I have but little hope of their being able to agree. The chairman of the committee on the part of the Senate, as is well known, is absorbed in his efforts to perfect the financial measures of the country, and I fear that if this bill goes to that committee it will go to its grave, and that it will not during the life of the Thirty-Ninth Congress see the light. If I were opposed to these bills I would vote to send them to that committee as sending them to their tomb. That is my answer to the gentleman from New York.

Mr. CONKLING. I do not know whether the gentleman from Ohio would like my opinion as to whether that is a good answer or not.

Mr. ASHLEY, of Ohio. I have no objection to the gentleman giving his opinion.

Mr. CONKLING. I think it is not very good considering that it comes from such a distinguished source. There is no difficulty in having prompt consideration of anything which may be sent to the committee. It was created originally solely to deal with this subject. It was at first broken into four sub-committees that the work of gathering evidence might be more advantageously and speedily carried on. It became one committee, usually working together, only during a few weeks immediately preceding the bringing forward of its ultimate propositions. It would not be decorous for me to praise the committee or the work it did; but I may say with propriety that if it ever was a good committee, if it ever should have been created and composed as it was, it is a good committee now—better than it ever was before; better, because more familiar with this subject, because its members having now become acquainted with each other's views, and having become accustomed to act with each other, and having studied the whole subject committed to them, can proceed with much more hope of good results than ever before. Having a right to report at any time, and being led, on the part of this House, by the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] I see no reason why it cannot consider and digest wisely and promptly whatever may be referred to it and make report.

I did not intend to say one word about this, and do not intend to rise again in regard to it. I beg now to say, however, that I hope the gentleman from Ohio [Mr. BINGHAM] will not withdraw his motion to refer this whole sub-



ject to the joint Committee on Reconstruction; on the contrary, I trust the majority of this House will promptly refer all these bills with all cognate propositions to that committee, and give them at least one opportunity at this session to show whether they can produce something for action or some reason for not acting.

Mr. ASHLEY, of Ohio. I have as much confidence in the joint Committee on Reconstruction as any gentleman on this floor; but the gentleman from New York [Mr. CONKLING] will remember that the propositions which they brought forward near the close of the last session, simultaneously in both branches, were propositions which demanded a two-thirds vote of each branch of Congress, and did not require the signature of the Executive. Had they required the signature of the Executive, and been returned by him without his signature, as any reconstruction bill undoubtedly will be, the time to which Congress had limited its session would have expired before we could have reconsidered and passed them over his veto.

Upon this subject of reconstruction the great body of this House have given much thought, and I believe we can arrive quite as speedily and quite as surely at a result here in the House, under the five-minute rule of amendment and debate, as we can by referring this subject to any committee.

Mr. STEVENS. I will reply, in answer to what my colleague upon the joint Committee on Reconstruction [Mr. CONKLING] has said, that he seems not to be aware that we are now considering a report from that very committee. That committee made a report, and I have offered a substitute for the bill which they reported. If the gentleman thinks the report of that committee is best, then let him vote against my substitute. But why send this subject back again to the committee? The gentleman knows as well as I do how many different opinions there are in that committee; some of us believe in one thing and some of us in another; some of us are very critical and some of us are not. The idea that we can consider anything in that committee, constituted as it is, in less than a fortnight, it seems to me is wholly out of the question; and as we have only about some twenty working days in which to mature this bill in both branches of Congress, if we send this subject to that committee and let it take its time to consider it, and then have it reported here and considered again, I certainly need not say to gentlemen that that would be an end of the matter, at least for this session. I do not believe the gentleman from New York [Mr. CONKLING] desires to accomplish that result; though I believe some gentlemen do. I believe that will be its fate as inevitably as it goes there.

Mr. CONKLING. The gentleman from Ohio, [Mr. ASHLEY,] I trust, will allow me a remark in reply.

Mr. ASHLEY, of Ohio. Certainly.

Mr. CONKLING. The gentleman from Pennsylvania [Mr. STEVENS] inquires why this report, emanating originally from the Committee on Reconstruction, should now be sent back. Let me answer: the gentleman from Pennsylvania concurred in that report; he had his full share in molding it and making it precisely what it was. He supported it then; now he offers a substitute for it. Why? Because the time which has elapsed since then and the events which have transpired have modified, he thinks, the exigencies of the case. Is not that as applicable to the judgment of the committee as to his own? And if it be necessary for him now to offer, as he has offered, a different series of provisions in order to express his views, matured as they are by the intermediate experience, is it not necessary, or if not necessary is it not proper, that it should have the opportunity of acting for once in the light of all the facts and circumstances as they are to-day? By as much as those circumstances involve the necessity of the substitute emanating from the gentleman from Pennsylvania, by so much in my judgment they invoke the renewed action of this committee.

Mr. STEVENS. The gentleman is aware, I suppose, that two or perhaps three bills on this subject have been referred during this session to that committee. Why has not the committee acted on them?

Mr. CONKLING. Mr. Speaker, if I were the chairman of the committee on the part of this House I should be able to answer that question, because then I could tell why I had not called the committee together. But as I am only a subordinate member of the committee, whose business it is to come when I am called and never to call others, I am entirely unable to give the information for which the gentleman inquires.

Mr. ASHLEY, of Ohio. Mr. Speaker, if I could have any assurance that this committee would be able to report promptly a bill upon which this House could probably agree, I would not hesitate a single moment to vote for the reference of this measure to that committee, including the several bills before my own committee, because, as I said in the outset, I have entire confidence in the gentlemen who constitute that committee. But, believing that they will be unable to agree, I shall vote against a recommitment.

One word more with regard to this matter. This House has on two different occasions by resolutions instructed the committee of which I am chairman—the Committee on Territories—to report to the House bills on this subject. Some half dozen bills have been prepared and sent to that committee. And when the committee is called, unless the House shall already have acted on some proposition looking to the reorganization of loyal governments in the late rebel States, we intend to report a bill and to insist upon a vote. So far as I am concerned I do not intend that the Thirty-Ninth Congress shall adjourn without some effort to provide governments which shall secure justice and equality to all loyal men in the southern States.

Mr. BLAINE. With the gentleman's permission I desire to ask him, in regard to those bills now before his committee, whether, when they were introduced here for reference, the point of order was made upon them that they had no business before that committee, but belonged, under the rules of the House, to the Reconstruction Committee.

Mr. ASHLEY, of Ohio. No, sir; one of those resolutions was introduced before this House galvanized into life again the Reconstruction Committee for the remainder of the session.

Mr. BLAINE. And all the bills that have been referred to the gentleman's committee since then were referred in direct violation of a rule of this House; and if the point of order had been made upon them they would not have been referred to that committee. I do not think that the gentleman's committee ought to take advantage of the neglect of members to make the point of order.

Mr. ASHLEY, of Ohio. If this House has by unanimous consent, since the adoption of the resolution reviving the Reconstruction Committee, sent bills to the Committee on Territories, it is no fault of the latter committee.

Mr. BLAINE. Unanimous consent, in nine cases out of ten, is only another name for negligence on the part of the House. It was gross negligence in this case.

Mr. ASHLEY, of Ohio. Very well, sir, that may be the opinion of the gentleman; but so far as the House is concerned its action, before the Reconstruction Committee was reconstituted for this session, authorized the committee of which I am chairman to report a bill, and we intend to do it.

Now, sir, I wish to examine briefly one or two of the provisions of the amendment which I have offered to the bill of the gentleman from Pennsylvania. Substantially this bill will be reported by the Committee on Territories if no bill is previously acted on by the House.

Mr. FINCK. I desire to ask my colleague whether he can tell the House and the country what the plan of congressional reconstruction is?

Mr. ASHLEY, of Ohio. I hope to be able to do so before I take my seat.

Mr. FINCK. We shall be very glad, indeed, to learn it.

Mr. ASHLEY, of Ohio. At any rate, I shall show that a majority of the Republican Union party by their votes in the Thirty-Seventh and Thirty-Eighth Congresses are committed to the plan of reconstruction now proposed.

Mr. Speaker, the gentleman from New York, [Mr. RAYMOND,] in his speech on the day before yesterday, made an objection to the amendment which I have offered because it abolishes unqualifiedly the *de facto* State governments established by the acting President in the late rebel States, and claimed that in the interim between the organization of the provisional committees provided for in the bill and the passage of the act abolishing these governments anarchy would reign supreme in those States, and he claimed that any government is better than no government. Now, sir, the gentleman from New York was mistaken. It is true that there would be no local civil government left in those States if the bill should pass abolishing the present governments; but there is a provision directing the President of the United States to see that the laws of the United States are executed in those States and the lives and property of our citizens protected.

Mr. BINGHAM. What laws of the United States to protect life and property?

Mr. ASHLEY, of Ohio. No law of the United States now on the statute-books; but the President is required by the provisions of my bill to use the entire military and naval force of the nation to protect the lives and property of the citizens in those States during the interim. So far as that subject is concerned the lives and property of the people will be just as safe as they were during the interim between the surrender of Lee and Johnston and the organization of the present governments.

With the whole force of the United States at the President's disposal, he can if he will protect the lives and property of the people quite as well as he did after the surrender and until the establishment of the governments now existing there.

Mr. BINGHAM. What provision is there in this act for the protection of life and property?

Mr. ASHLEY, of Ohio. The bill provides that the force of the United States shall be at the disposal of our military commanders in those States just as it was at the suppression of the rebellion.

Mr. BINGHAM. What provision is there to punish any acts of petit larceny?

Mr. ASHLEY, of Ohio. There is none. If any act of petit larceny is committed in those States during the short interim contemplated it will not materially damage the loyal men who have been exiled or despoiled of all they possess. If such acts are committed upon Union men under the present governments there is no chance for redress under these *de facto* rebel governments. So far as I am concerned, if I were a southern loyalist, I would rather have no government at all than the infernal despotism which to-day crushes the loyal men of the South.

Mr. ELDRIDGE. Will the gentleman tell me what laws of the United States he considers applicable to this country?

Mr. ASHLEY, of Ohio. I have provided in this bill for that.

Mr. ELDRIDGE. I understand the gentlemen to say he expected the people of these Territories to be protected by and under the laws of the United States, enforced by the President. Will the gentleman tell me what laws he purposes shall be enforced?

Mr. ASHLEY, of Ohio. My colleague has just propounded the same question, and I have just answered it.

Mr. ELDRIDGE. I was not able to hear what occurred between the gentlemen and his colleague.

Mr. ASHLEY, of Ohio. The whole machinery of the bill is to compel the President

of the United States, with the Army and Navy and the whole force at his disposal, to see to it that this act and all acts of the provisional governments organized under it shall be enforced in those States.

The gentleman from New York [Mr. RAYMOND] made the objection that there would be an interval of time when there would be no government in these States. I reply again that the interim would be no longer than that which occurred after the suppression of the rebellion and the setting up of the provisional governments now existing there, and the time would not ordinarily be longer than sixty days.

As I intend to withdraw this bill, as requested by the gentleman from Pennsylvania, I will not take up the time of the House in discussing its provisions.

Mr. BINGHAM. Can that be done while my motion is pending to refer?

Mr. ASHLEY, of Ohio. Yes, sir, it can; but I yield to the gentleman to make his point of order if he desires.

Mr. BINGHAM. But the gentleman has not withdrawn it.

Mr. ASHLEY, of Ohio. If I have not, I withdraw it now.

Now, Mr. Speaker, in reply to some of the arguments addressed to this House by gentlemen on the other side, I want to say that the great body of Union men deny that during the entire war there has been any constitutional State government in any one of the States in rebellion. Tennessee has been readmitted, or its reorganized State government has been recognized by Congress since the war. The gentlemen who have served with me here during the entire war recognize the fact that the great body of men constituting the Republican-Union party have held that opinion since the outbreak of the rebellion.

At the first regular session of the Thirty-Seventh Congress I introduced a bill to establish temporary provisional governments in the then eleven rebellious States. The Committee on Territories authorized me to report such a bill, and on the 12th of March, 1862, I did report such a bill to this House, which was laid on the table by a small majority, the great body of the Union members present and voting voted against laying the bill on the table. At the commencement of the first session of the Thirty-Eighth Congress a special committee was organized on the subject of reconstruction, of which the late Henry Winter Davis, of Maryland, was chairman, and of which I also was a member. They proposed to this House, and the House and Senate passed, a bill again recognizing the principle on which the Union-Republican party have acted during the entire war, declaring there were no constitutional State governments in those States. These bills recognized the fact that the sovereignty of the nation was in the people residing in States which maintained constitutional State governments, acting in practical relations with the Government of the United States. They held that Congress as the representative of the sovereignty of the nation had the right to legislate on all subjects in States where constitutional State governments had been overthrown or destroyed. That bill passed both Houses, but failed to become a law because Mr. Lincoln declined to sign it, although he said he was acting and intended to follow practically the principles contained in the bill.

Mr. LE BLOND. Will my colleague yield for a question? I understand him to say that from the outbreak of the difficulties to the present time this Congress entertained the views he has just advanced. If that be so, I would like to know how it came that the Congress passed in 1862 the Crittenden resolution, which is in direct conflict with the theory the gentleman has announced. I believe my colleague voted for that resolution.

Mr. ASHLEY, of Ohio. The Crittenden resolution was passed at the extra session of Congress in July, 1861, immediately after the battle of Bull Run. I voted for the first proposition in the resolution, which declared that this

war had been inaugurated by the southern people who were then in arms around the national capital. I did not vote for the second proposition; I declined to do so although the great body of the party to which I belonged did vote for it.

Mr. ELDRIDGE. You did not vote against it.

Mr. ASHLEY, of Ohio. I did not vote at all. There were only two votes in the negative on our side, if I remember rightly, my then colleague, Mr. Riddle, of Ohio, and Mr. Potter, of Wisconsin.

Mr. DAWES. And two on the other side.

Mr. ASHLEY, of Ohio. And two on the other side. But that resolution did not commit this House nor the Republican party to any settled policy in regard to the state of things now existing. If the rebellion had been suppressed at once, if the people in rebellion had laid down their arms, then every gentleman here and all who served with me in the Thirty-Seventh Congress knows very well that they would have been welcomed back to their former position at once. But the rebellion having been continued during the entire four years, the local governments in those States having been destroyed or their constitutional relations with the national Government suspended, when the people residing in the States which maintained constitutional State governments, and who during these four years constituted the Government of the United States and represented its sovereignty, crushed the rebellion, they had a right under every law, human and divine, to prescribe terms of restoration to the States lately in rebellion; and I tell gentlemen on the other side that the men who crushed the rebellion intend to prescribe terms of restoration to those States. I know gentlemen of the Opposition insist with great pertinacity on the abstract proposition that there is no power in the people of a State to sever their constitutional relations with this Government; but, sir, there stands the fact against this theory. I admit, and every gentleman on this side of the House admits, that the people in a State have no constitutional power to destroy their State governments or dissolve their constitutional relations with the national Government; but that they have nevertheless done so the history of the country for the past four years is the best evidence.

Mr. ELDRIDGE. Will the gentleman allow me to ask him this question? If what the rebels did previous to the passage of the Crittenden resolution did not break their relations with the United States, how could they have done it afterward?

Mr. ASHLEY, of Ohio. If the gentleman knows anything of the history of the country he comprehends very well that a majority of the people in the North, even as late as July, 1861, were unwilling to believe that such a formidable insurrection and rebellion was before them, and that we were to have a bloody war of four years after the disaster at Bull Run.

Mr. ELDRIDGE. Then will the gentleman allow me to ask whether the United States have any power or authority by which they can allow a State to break its relationship with the Union?

Mr. ASHLEY, of Ohio. I suppose there is no one in this House who would claim or admit that the Government of the United States has any constitutional power to authorize or recognize the right of a majority of the people of a State to dissolve their constitutional relations with the General Government. So far as I am concerned, and the great body of the men with whom I act, we utterly deny it. But, sir, if the people of a State do the act, what then? Who is there to prescribe the terms and conditions upon which these States shall be restored when these acts are consummated?

Sir, I hold as my distinguished colleague [Mr. BINGHAM] holds, and as the great body of the Republican-Union party hold, that the Government of the United States under its present Constitution can only exist where con-

stitutional State governments are maintained, and that the sovereignty of the people of this country reposes in the people who reside in States which maintain constitutional State governments in practical relations with the national Government, and exists nowhere else. I hold that the people of a State may, and all know that eleven States did, in violation of the Constitution, dissolve their practical relations with the national Government. As an individual citizen may, in violation of law, commit crime, so may a political community, in violation of law, refuse or neglect to discharge their constitutional obligations. If they do this thing, I hold that the States which remain loyal must always represent the national sovereignty and have the right to dictate such terms as they may see fit to revolting States, and to compel the people of the States so violating the Constitution to accept those terms, or to remain during the pleasure of the conqueror in the condition in which we now find the late rebel States. No, not in such condition, but in such condition as the Congress which represents the nation may dictate.

I have regretted to find, since this Congress came together, so many gentlemen here doing all they could to inflame the passions and prejudices of the great body of the people who were recently in rebellion in the United States. I have regretted to find them forming alliances with rebels and justifying the President of the United States, who has become the leader of a negative rebellion as hostile and as dangerous to the United States, and I fear far more so than an open armed rebellion would be if he were at the head of it. I am anxious, and the great body of those with whom I act are today most anxious, that the people who went into the rebellion (many of them honestly and thousands of them reluctantly) should be restored to their practical relations with this Government upon the mildest and most merciful and forgiving terms which it is possible for us, a conquering people, to impose upon them, looking to our own safety, the stability of the national Government, and the rights of loyal citizens in those States.

Mr. FINCK. Will my colleague yield to me for a moment?

Mr. ASHLEY, of Ohio. For a question.

Mr. FINCK. This is the very place for my question. What are the terms you propose? What is the congressional plan for restoration?

Mr. ASHLEY, of Ohio. The gentleman will find an answer if he will read those bills; he will have his answer when this House has agreed upon some practical measure of restoration, which I trust we shall do within ten days.

Mr. FINCK. I ask the gentleman which of these bills presents a fair congressional plan of restoration?

Mr. ASHLEY, of Ohio. I hope the gentleman will learn that fact when the majority of this House comes to vote upon these measures next Monday.

Mr. FINCK. I suppose so.

Mr. ASHLEY, of Ohio. And he cannot learn before.

Mr. FINCK. One more question, and I am done. I want to know of my colleague, whom I recognize as the leader on that side of the House on this question, whether he admits that his party have not yet come to an agreement upon their plan of restoration?

Mr. ASHLEY, of Ohio. So far as I know they have not. The Union party practically committed themselves to a policy of restoration, and they went so far as to admit the State of Tennessee upon the proposed terms of that restoration policy. I voted for the admission of Tennessee, and do not regret having voted for the admission of that truly loyal State.

If any other State recently in rebellion had come to this House under the same conditions in which Tennessee came, ratifying the amendment to the Constitution and having adopted a State constitution securing the control of the government of the State to loyal men, I should, although it might not have come up to all my



requirements, have voted for the admission of its members; so anxious was I then and so anxious am I now to see the States recently in rebellion restored to their former position in the Union. But the great body of the men recently in rebellion, under the lead of the Executive, have rejected these mild terms, and it now rests with Congress to say upon what terms they shall be admitted.

Mr. HISE. I desire to ask the gentleman one question, inasmuch as he asked me some questions while I was speaking the other day.

Mr. ASHLEY, of Ohio. I believe I did not ask the gentleman from Kentucky [Mr. HISE] any question at all. I merely declared in my seat in a word or two that I dissented from his views.

Mr. HISE. I desire to ask a question.

Mr. ASHLEY, of Ohio. Very well; I will allow the gentleman to ask me a question.

Mr. HISE. The gentleman has said that there has not been a definite plan of restoration adopted by the majority of this House. I wish to ask the gentleman if he will go so far as to state that the majority of this House concur with him in refusing admission into the Congress of the United States of representatives from these ten States now unless they agree to the condition of branding all who have held either civil or military office under the confederacy as traitors, and as such are to be excluded from the right to hold office under the United States, and regarding the whole body of the people of those States who sympathized with or cooperated with those who endeavored to establish the confederacy as disloyal, and that none are to be regarded as loyal except the negroes and interlopers there?

Mr. ASHLEY, of Ohio. In all of the measures proposed by this Congress the great body of the men who were in the confederate army and supported the rebellion have been granted entire forgiveness. In the propositions which were submitted by Congress to the people only certain parties were excluded from holding office. Now, I would like to ask the gentleman [Mr. HISE] whether he is willing that men, who while members of this House and of the Senate and of the Government of the United States and of the several States, plotted treason against this Government and went into a war and maintained it for four years to destroy this Government should now be received here without conditions with his vote?

Mr. HISE. I will answer that question. I am of the opinion that all of the distinguished men, both civilians and those who held commissions and authority in either army, in the suppression of the rebellion, in putting down this secession, or opposition to the Government, were citizens of States in the Union. I deny the authority of the Government to demand as a condition precedent to admission to representation upon this floor a right to inquire into the conduct of, to convict, and to condemn these men so as to denationalize them or to deprive them of the right to hold office either under the national Government or under a State government. I should oppose that as a usurpation of power.

Mr. ASHLEY, of Ohio. The answer of the gentleman amounts to this: that so far as he and the party he represents are concerned they would not object to Jeff. Davis or any of the men whose hands are red with the blood of my loyal countrymen coming into this Hall and taking seats along side of them as Representatives. But the gentleman goes further, and says this is a proposition to clothe the black population with the franchise and interlopers with the right of the franchise in States. All I demand, all the loyal men of the nation demand, in the reorganization of State governments in the late rebel States, is that we protect the rights of those who during the war were our friends and allies, and I claim we can only do that by securing every loyal man the right of the ballot.

But, Mr. Speaker, my time is passing and I must return to the point which I was about to notice when interrupted. The gentleman from

Illinois, [Mr. Ross,] like many other gentlemen upon that side of the House who have spoken before him, asked why we permitted Senators and Representatives from these States to remain in these Halls after the rebellion if we recognized the principle upon which we now profess to act? Why, sir, the answer is obvious, and I am surprised that any intelligent gentleman should ask such a question. When those men were elected they came here from States recognized as constitutional States, in practical relations with the national Government. A Senator of the United States is elected for six years, and a member of the House for two years. They came here and took their seats because they had been constitutionally elected before their States went into rebellion. Every gentleman knows that there is no authority under the Constitution which would authorize the House or the Senate to exclude a member duly elected and qualified, unless they committed some overt act of treason or violated the rules prescribed for the government of the House or Senate, and the gentleman ought to understand this matter quite as well as I do.

Mr. CHANLER. I want to ask the gentleman one question.

Mr. ASHLEY, of Ohio. Very well; I will hear it.

Mr. CHANLER. It is this: if the loyal population of any State should be found to consist of negroes alone, does the gentleman mean to say that he would recognize that as a State, its organization being based upon negro population alone, excluding the white race?

Mr. ASHLEY, of Ohio. The gentleman has asked me a question which he knows very well—

Mr. CHANLER. You cannot answer it. [Laughter.]

Mr. ASHLEY, of Ohio. It has no practical application so far as it relates to any of the States recently in rebellion.

Mr. CHANLER. You dare not answer it. Answer "yes" or "no," and do not falter about it.

Mr. ASHLEY, of Ohio. When the gentleman talks about my faltering and not daring to answer he assumes what he has no right to assume.

Mr. CHANLER. Well, give us an answer.

Mr. ASHLEY, of Ohio. If the gentleman will take his seat and remain quiet for a moment I will give him an answer. If there were a single State in the American Union in which there was not a single white man and all were black men, I would clothe its population with the right of the franchise, and with every other right of an American citizen under this Government. [Applause in the galleries.] Does the gentleman regard this as an answer?

Now, Mr. Speaker, the gentleman from Illinois [Mr. Ross] and those who sustain him have asked the question repeatedly with an air of assumed innocence why we do not admit loyal Representatives from the recent rebel States upon this floor and upon the floor of the Senate. Why, sir, I would not vote to-day to admit Horace Greeley as a Representative in this House from South Carolina, nor would I vote to admit any other man, however loyal, as a Representative from that community. Why? The gentlemen on the other side comprehend this matter quite as well as I do. They know that no political community under our form of government has the right to representation on this floor or in the Senate of the United States, unless it has a constitutional State government organized and recognized by Congress as in practical relation with the Government of the United States. The admission of Representatives and Senators in Congress is a practical recognition of the State government from which they come.

Mr. HISE. With the permission of the gentleman from Ohio, I will say that I do not think he has met the interrogation submitted by the gentleman from New York, [Mr. CHANLER.] The gentleman from Ohio has said that if the population of a State were composed entirely of black men, no white men residing

in the State, he would recognize those black men as entitled to the right of suffrage and every other right. But the question of the gentleman from New York, as I understood it, was, whether the gentleman from Ohio would recognize as entitled to representation a State where suffrage was confined to the negroes, the white population being excluded from the exercise of that right.

Mr. ASHLEY, of Ohio. Well, Mr. Speaker, if the gentleman is anxious for my views on this point, I will explain. I am willing to forgive, though I can never forget the crimes committed by those who attempted to destroy this Government. I am willing to walk backward and with the broad mantle of charity cover the political nakedness of the men recently in rebellion. My anxiety for the restoration of the southern States is such that I am willing that all men, even those who held subordinate civil positions and positions in the army of the rebellion shall have the ballot, excluding only the more important and leading men from holding office—those, for instance, who were above the grade of colonel, and those who held positions under this Government before the rebellion. Every bill ever introduced by me for reorganizing these States has proposed to extend the right of the ballot to the great body of the white as well as the black people. My friend from Kentucky says—and if I held his opinions I would say—that the rule I have suggested would exclude the very best men in the South. Undoubtedly it would exclude those whom he and his friends regard as the best men in the South. If my friend from Kentucky had resided in South Carolina during the war I suppose he would never have been upon this floor. I respect him for standing up here and maintaining his opinions, erroneous as I deem them. I prefer an open, manly opponent to a pretended friend. A large majority of those with whom I act are anxious for the restoration of loyal State governments in the South. They are willing to go so far as to extend forgiveness to the great body of the people guilty of the great crime of treason, and admit them to the ballot-box; but at the same time they demand that every loyal man, every "interloper," as my friend from Kentucky terms the white Unionist, every man, however dusky his skin, whose heart beat true to the old flag and the Union during the entire war, shall be the equal of any traitor, however white.

Mr. HILL. I desire to ask my friend from Ohio whether his last expression is to be taken as indicating his conversion to the doctrine of "universal amnesty and universal suffrage?"

Mr. ASHLEY, of Ohio. No, sir; I do not know that I have ever been in favor of that doctrine. As a practical man, however, I want to see the Union restored; and if the members of the Opposition would come to this question with the earnestness of the men of New England and the men of the West, the work of restoration would have been accomplished before now. Why, sir, the assumption, the brazen-faced assumption, of men who during the entire war were in open or secret alliance with the rebels coming here now and joining hands with the apostate at the other end of the avenue, who is the leader, the recognized leader, of a counter-revolution—a negative rebellion, as I said awhile ago—passes comprehension.

Why, sir, suppose that in 1860 John C. Breckinridge had been elected President of the United States; suppose the anti-slavery men of the country had rebelled against his election, and their cause for rebellion would have been far greater than the cause which impelled the southern men into their rebellion; and suppose that after four years of bloody war this anti-slavery rebellion had been crushed and Mr. Breckinridge had been again elected President and in an hour of weakness you had taken an apostate abolitionist from the North for Vice President, to show your love of the North you had conquered, to show them that you had no feeling of hatred toward them, and that in one short month after the inauguration, by a conspiracy of anti-slavery men in the

North, Mr. Breckinridge had been assassinated as Mr. Lincoln was assassinated, and the apostate abolitionist had come into the presidency as Mr. Johnson came into it, and he had pardoned and appointed throughout the North and the entire country the men who had been chiefs of the rebellion, turned out the men who had elected him, and appointed their unrelenting enemies, what would have been your denunciations? Sir, I know the denunciations on this side of the House are mildness in comparison with the terrible denunciations which would have been hurled at this apostate and usurper by the men on that side of the House. And they would not have stopped with denunciations; he would have been impeached and deposed before to-day.

Sir, all I ask, and all the loyal men of this country ask who have sacrificed so much in blood and treasure in putting down the rebellion, is that in the restoration of these States care shall be taken that the national Government shall not again be imperiled by a counter-revolution, in which the apostate President shall be the leader, aided by the late rebels and their northern allies. Hence I am in favor of prompt and vigorous action by this Congress. I hold that these governments set up by Mr. Johnson are illegal, and I want them declared illegal and void before this Congress adjourns. I do not care if for a period of sixty days or more or less, as alleged by the gentleman from New York, [Mr. RAYMOND,] there should be an interregnum in which there would be no local civil governments in those States. If you had been loyal men in New Orleans and Memphis during the late massacre you would have welcomed anarchy, anything, instead of the governments which planned and executed the murders there enacted. I would rather have every man stand upon his own responsibility as a man than to have governments which exiled me from my home, confiscated my property, or murdered me or mine with impunity. In this city there are men to-day who have been exiled from their homes, not able to return, because of their fidelity to the flag of the Union, and the Government of the nation which they served during the war refuses them protection in their homes.

What I want is not oaths; I have not much faith in oaths. I would trust some men on a simple declaration, such as I quoted in a speech on this subject at the last session, much sooner than I would trust those who hesitate at no oath; such a one, sir, as was made by a distinguished gentleman in North Carolina, Mr. Reid, who presided over their recent reconstruction convention, and who had been himself a rebel. His declaration was such that when I read it in California I said in my heart there is a man I can take by the hand and welcome back to the old family mansion. Bad men will take any oath under the advice and lead of unscrupulous politicians. We have witnessed its fatal workings in Maryland.

I want peace. I want unity, I want the Government restored, but I do not want the men who conquered the rebellion proscribed and the governments of the rebel States carried on by the men who have been waging bitter war against us for the past four years. I utterly repudiate the assumption of the President that he can parole armies and then authorize these paroled prisoners of war to form constitutional State governments for the loyal men in the States recently in rebellion. I know very well if gentlemen on the other side had been in power in the case supposed by me a while ago what they would have done. There would have been no let up on their part. There would have been no such mercy as we have shown: no such mild terms of restoration submitted as we have proposed. There would have been no such forgiveness. But they would have proscribed, and proscribed to the bitter end. They would have maintained their party organization in every rebel State against any and all attempts to overthrow it by those who had so recently been their enemies and the enemy of the nation. I say we are ready to

forgive the great body of the southern people, we are anxious to forgive them; but we are determined, by the grace of God, that these rebel State organizations shall not be recognized, come what may; that disloyal Representatives shall not appear upon this floor, nor shall the electoral votes of such States be counted in any presidential election until constitutional governments have been organized and recognized by the Congress of the United States.

[Here the hammer fell.]

Mr. JULIAN obtained the floor.

Mr. WINFIELD. The gentleman from Indiana [Mr. JULIAN] will permit me, before he commences his address, to call the attention of the gentleman from Ohio [Mr. ASHLEY] to an expression in the remarks he has just made. I understood the gentleman to use this language, and I desire to ask him whether I quote correctly or not:

"Why, sir, the assumption, the brazen-faced assumption of men here, who during the entire war were in secret alliance with the rebels, coming here now and joining hands with the apostate at the other end of the avenue, who is the leader, the recognized leader of a counter-revolution—a negative rebellion as I said awhile ago—passes comprehension."

I desire to ask the gentleman to whom he refers?

Mr. ASHLEY, of Ohio. Well, sir, I intended to refer to the great body of men in the Opposition, to every man who was opposed to the war and opposed to the draft; who discouraged enlistments, who harbored deserters; who went into secret societies in order to organize conspiracies in the North, whether they were in this House or in any other place.

Mr. WINFIELD. The gentleman used the expression "men here." I desire to know whether he intends to charge that there are men here who were in secret alliance with the enemy during the rebellion.

Mr. ASHLEY, of Ohio. Well, sir, I am unable to say from any personal knowledge whether any such men are here. But, sir, from general representation and from the votes of gentlemen in opposition to the war—"not another man, not another dollar"—from speeches made by gentlemen on the other side of the House, I have no doubt some of them are here and have been here during the war.

Mr. WINFIELD. I do not propose to be tried on general reputation. I desire to say for myself, and so far as I know from my associates on this floor of my own school of politics, that the insinuation that we are or ever have been in alliance with the rebels is utterly untrue, and, if intended to apply to us, is a base and unfounded slander.

Mr. HUNTER. I say that, so far as I am concerned, it is a base lie.

The SPEAKER. The gentleman from New York is out of order.

Mr. HILL. I ask that the words of the gentleman from New York [Mr. HUNTER] be taken down.

The SPEAKER. The words will be taken down and the Chair will rule upon them.

The Clerk read the words taken down, as follows:

"Mr. HUNTER. I say that, so far as I am concerned, it is a base lie."

The SPEAKER. The Chair decides that they are out of order.

Mr. RANDALL, of Pennsylvania. They are nevertheless true.

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] is not in order in interposing that remark, because the Chair rules on a parliamentary question.

Mr. KELLEY. I ask that the additional words of the gentleman from New York be taken down.

Mr. RANDALL, of Pennsylvania. Does the gentleman allude to what I said?

Mr. KELLEY. I speak of the gentleman from New York, and I ask that the additional word that he spoke—"Nevertheless they are true"—be taken down.

Mr. RANDALL, of Pennsylvania. I made that remark, and if the gentleman wants to hear it again I will repeat it.

Mr. KELLEY. I want his words taken down.

Mr. HILL. Mr. Speaker, I move a vote of censure, and I will prepare a resolution for that purpose.

Mr. RANDALL, of Pennsylvania. I demand that the connection of the remarks excepted to be also taken down.

The Clerk read the words of Mr. RANDALL as taken down, as follows:

"Mr. RANDALL. They are nevertheless true."

The SPEAKER. The Chair decides that is also out of order. The Clerk will report Rule 61, to be found on page 76 of the Digest.

The Clerk read the rule, as follows:

"If any member, in speaking or otherwise, transgresses the rules of the House, the Speaker shall, or any member may, call to order; in which case the member so called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide on the case, but without debate. If there be no appeal the decision of the Chair shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise he shall not be permitted to proceed in case any member object, without leave of the House; and if the case require it he shall be liable to censure."

Mr. HILL. Of course, Mr. Speaker, in the hurry of the scenes now transpiring it is impossible for me to present in writing a resolution of censure; and I understand that only a written resolution can be presented for action.

The SPEAKER. And it must be presented at this time if at all.

Mr. HILL. I suppose time will be allowed me to prepare a resolution.

The SPEAKER. The gentleman can move a vote of censure; then if any member demands that it shall be reduced to writing the gentleman will have reasonable time allowed him to do so.

Mr. HILL. Very well; I move a vote of censure upon the gentleman from New York, [Mr. HUNTER.]

Mr. WARD, of New York. I ask that the motion be reduced to writing.

After some pause,

Mr. HILL said: Mr. Speaker, I offer the following resolution, upon which I call the previous question:

*Resolved,* That the gentleman from New York, Hon. Mr. HUNTER, in stating, during debate in the House, that the assertion of the gentleman from Ohio, Hon. Mr. ASHLEY, is "a base lie," has transgressed the rules of this body, and that he be censured for the same by the Speaker.

Mr. ELDRIDGE. The gentleman from New York [Mr. HUNTER] qualified the remark by saying, "if applied to himself."

Mr. HILL. I will incorporate the exact language in the resolution.

The SPEAKER. The modification should be incorporated in writing in the resolution.

Mr. HILL. I will make the change.

Mr. JOHNSON. I desire to make a single suggestion. I desire to call the attention of the gentleman from Indiana [Mr. HILL] and of gentlemen around me here to the fact that the gentleman from New York [Mr. WINFIELD] first stated that if the remarks of the gentleman from Ohio [Mr. ASHLEY] were intended to apply to him during the time he had been a member of Congress, then they were untrue. Then the other gentleman from New York [Mr. HUNTER] added that if they were intended to apply to him they were a base lie. Now, I submit that the remarks of the gentleman from New York [Mr. WINFIELD] should be taken in connection with the remarks of his colleague, [Mr. HUNTER.]

Mr. HILL. I cannot yield for that. If the gentleman from Pennsylvania [Mr. JOHNSON] desires to censure his associate [Mr. WINFIELD] I have no objection to his bringing in a resolution for that purpose.

Mr. JOHNSON. If the gentleman from Indiana [Mr. HILL] desires to censure anybody upon an unfair statement he is welcome to take the responsibility of it.

Mr. HILL. I am willing to assume the responsibility of the motion I have made. If the gentleman desires to except to it I have no objection to his expending his vials of wrath upon me.

Mr. JOHNSON. I have stated the fact, which the gentleman cannot dispute.

Mr. WINFIELD. Will the gentleman from Indiana [Mr. HILL] indulge me with a single remark?

Mr. HILL. For what purpose?

Mr. WINFIELD. I desire simply to state that the remarks I made were simply upon the hypothesis that the gentleman from Ohio [Mr. ASHLEY] intended to impute this treason to me, and I certainly think the remarks of my colleague [Mr. HUNTER] were made upon the same hypothesis. I had no intention of arraigning the assertion of the gentleman from Ohio [Mr. ASHLEY] as a falsehood if it did not apply to me; and that I understand to have been the intention of my colleague, [Mr. HUNTER.]

Mr. HILL. I have yielded to the gentleman who gave occasion for the remark to which I took exception. It was such a remark as if made between gentleman and gentleman would be regarded as in the highest degree offensive. I know of no reason why its use upon this floor should not be regarded as equally offensive and as a violation of the rules of this House. It was for that reason that I have offered the resolution now awaiting the action of this House. That resolution I have modified so as to embrace the exact words of the gentleman from New York, [Mr. HUNTER.] The resolution reads as follows:

*Resolved*, That the gentleman from New York, Hon. Mr. HUNTER, in declaring, during the debate in the House, in reference to the assertion of the gentleman from Ohio, Hon. Mr. ASHLEY, "I say that so far as I am concerned it is a base lie," has transgressed the rules of this body, and that he be censured for the same by the Speaker.

Mr. LE BLOND. Will the gentleman from Indiana [Mr. HILL] yield to me for a moment?

Mr. HILL. I cannot yield further. I think the matter is sufficiently understood; and I now insist upon the previous question.

The question was upon seconding the call for the previous question.

Mr. ANCONA. I move to lay the resolution upon the table.

The question was taken upon the motion to lay the resolution upon the table; and upon a division there were—ayes 32, noes 64.

Before the result of the vote was announced, Mr. ANCONA called for the yeas and nays upon laying the resolution upon the table.

The yeas and nays were ordered.  
Mr. KASSON. I rise for the purpose of obtaining information which may be necessary to enable us to vote intelligently on this subject. I as well as many gentlemen around me have failed to understand the alleged provocation for the words which it is proposed to make the subject of censure.

The SPEAKER. The gentleman from Indiana [Mr. HILL] insists on the demand for the previous question, and debate is not in order.

Mr. FINCK. I ask that the language of my colleague [Mr. ASHLEY] as brought to the attention of the House by the gentleman from New York [Mr. WINFIELD] be read.

The SPEAKER. It can only be done by unanimous consent.

Mr. BENJAMIN. I object.  
The question being taken on the motion of Mr. ANCONA that the resolution be laid on the table, it was decided in the negative—yeas 32, nays 75, not voting 84; as follows:

YEAS—Messrs. Ancona, Bergen, Campbell, Chandler, Cooper, Dawson, Denison, Eldridge, Finck, Goodyear, Edwin N. Hubbell, Humphrey, Johnson, Latham, Le Blond, Lettwich, Marshall, Niblack, Nicholson, Samuel J. Randall, Ritter, Ross, Shanklin, Sitgreaves, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Andrew H. Ward, and Winfield—32.

NAYS—Messrs. Allison, Delos B. Ashley, Baker, Barker, Baxter, Benjamin, Bidwell, Bingham, Brandegee, Broomall, Buckland, Cobb, Conkling, Cullom, Daves, Deming, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hayes, Higby, Hill, Hotchkiss, Chester D. Hubbard, Julian, Kasson, Kelley, Kootz, Laflin, Loan, Longyear, Lynch, Marston, McClurg, McKee, McKuer, Mercur, Miller, Moorhead, Morrill, Myers, Orth, Paine, Perham, Pike, Pomeroy, Price, William H. Randall, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Starr, Stevens, Stokes, Upson, Van Aernam,

Burt Van Horn, Robert T. Van Horn, Hamilton Ward, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—75.

NOT VOTING—Messrs. Alley, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Banks, Beaman, Blaine, Blow, Boutwell, Boyer, Bromwell, Bundy, Reader W. Clarke, Sidney Clarke, Cook, Culver, Darling, Davis, Defrees, Delano, Dixon, Dodge, Donnelly, Dumont, Farnsworth, Glossbrenner, Hale, Aaron Harding, Abner C. Harding, Harris, Hart, Hawkins, Henderson, Hise, Hogan, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburt, Hunter, Ingersoll, Jencks, Jones, Kelso, Kerr, Ketcham, Kuykendall, George V. Lawrence, William Lawrence, Marvin, Maynard, McCullough, McIndoe, Morris, Moulton, Newell, Noell, O'Neill, Patterson, Phelps, Plants, Radford, Raymond, Alexander H. Rice, John H. Rice, Rogers, Rousseau, Spalding, Stilwell, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Warner, Elihu B. Washburne, Henry D. Washburn, Whaley, Woodbridge, and Wright—84.

So the House refused to lay the resolution on the table.

The question recurred on seconding the demand for the previous question.

On the question there were—ayes 57, noes 32.

Mr. ANCONA. I call for tellers.

Tellers were ordered; and Messrs. ANCONA and ORTH were appointed.

The House divided; and the tellers reported—ayes 66, noes 33.

So the previous question was seconded.

Mr. HILL. A number of gentlemen who did not hear the words of the gentleman from Ohio, [Mr. ASHLEY], as brought to the attention of the House by the gentleman from New York, [Mr. WINFIELD], desire that they may be again reported. I therefore ask that, by unanimous consent, the language may be reported.

Mr. STEVENS. I object.

The SPEAKER. Objection being made, it can only be done by reconsidering the vote by which the previous question was seconded.

Mr. ELDRIDGE. I move to reconsider that vote.

The motion to reconsider was agreed to.

Mr. HILL. I now ask that the Clerk read the language of the gentleman from Ohio as read to the House by the gentleman from New York.

A MEMBER. Let it be read as taken down by the reporters.

Mr. HILL. I will state what occurred. At the close of the speech of the gentleman from Ohio the gentleman from New York [Mr. WINFIELD] rose with a paper in his hand and asked the gentleman from Ohio whether a part of his language, as it had been taken down, was correct; and he proceeded to read the language, which I presume had been taken from the reporters' notes, although the gentleman from New York did not so state. The gentleman from Ohio then proceeded to make an explanation. Now, what I desire to have read is the remarks of the gentleman from Ohio, as first read by the gentleman from New York, and the explanation of the gentleman from Ohio with reference to that language. This explanation was followed by some remarks of the gentleman from New York, and afterward came the remarks of the other gentleman from New York [Mr. HUNTER] to which I have taken exception. This is what I desire to have read.

Mr. HALE. Let me make the suggestion that there be read the debate from the time when my colleague from the Orange district took the floor down to the present time.

The SPEAKER. The stenographers inform the Chair that the debate has not yet been written out.

Mr. HILL. I suggest that the reporters read it from their own notes.

The SPEAKER. Reporters, by the rules, are not allowed to speak in the House.

Mr. HILL. Let the Clerk read again the remark of the gentleman from Ohio.

The Clerk read as follows:

"Why, sir, the assumption, the brazen-faced assumption of men here who during the entire war were in secret alliance with the rebels, coming here now and joining hands with the apostate at the other end of the avenue, who is the leader, the recognized leader of a counter-revolution—a negative rebellion as I said a while ago—passes comprehension."

Mr. LE BLOND. As the Clerks are not able to report at present the other portion of the debate, the gentleman from Indiana yields to me for a few moments, and I avail myself of the opportunity to offer a few remarks on the pending proposition.

Mr. Speaker, I want it distinctly understood I do not approve of the use of language in this Hall which is in the least indecorous or out of character and in conflict with the rules of the House. There has been too much of it already. It was but a short time ago when the distinguished member from Pennsylvania [Mr. STEVENS] and my colleague from Ohio [Mr. SPALDING] indulged in remarks from this Hall which would injure almost any community to listen to them.

Mr. STEVENS. I call the gentleman to order. [Laughter.] He is not speaking to the question.

The SPEAKER. The Chair sustains the point of order. The gentleman must confine himself to the question.

Mr. LE BLOND. I am confining myself to the question.

The SPEAKER. The gentleman's remarks are out of order.

Mr. LE BLOND. Then I will go no more in that direction. When you come down to the debate to-day in which my colleague participated, using the language which has been just read from the Speaker's desk, I ask gentlemen what more offensive language could be used to any man who was an American citizen and willing to abide by the laws and the Constitution of his Government.

[Applause in the galleries.]

The SPEAKER. The Chair has repeatedly stated these manifestations of applause or disapprobation cannot be tolerated in the galleries.

Mr. NIBLACK. Good; the applause is on our side now.

The SPEAKER. The Chair has always made the same statement no matter what debate was going on, and the gentleman who made the remark which the Chair only partially caught has done the Chair injustice.

If there be any repetition of the offense in the galleries the Chair will order the doorkeepers to clear them entirely.

Mr. ELDRIDGE. I think it is due to those in the galleries to say that it did not all come from the gentlemen's galleries. I do not charge it on the ladies, for there are gentlemen in the other galleries.

Mr. NIBLACK. I suppose the Chair heard an undertone remark made by myself. What I meant was that the applause was on our side.

The SPEAKER. The gentleman will bear testimony that the Chair has always on all occasions suppressed these manifestations of applause or disapprobation.

Mr. NIBLACK. I willingly bear testimony to the invariable impartiality of the Chair on all occasions coming within my knowledge.

Mr. LE BLOND. I was alluding to the offensive language used by my colleague from Ohio. Now, sir, we did not rise in our places to call the gentleman to order, for that kind of language has become so common on that side we have got used to it, and we listen with patience. We knew there was no use to take exception, for on that side, whatever may occur, they stand up in vindication of themselves, be the matter right or wrong.

Mr. KASSON. Will the gentleman allow me a single question? I have endeavored to comprehend the reason why the remarks were made by the gentleman on the other side. I voted to rescind the order for the previous question to get that information. I now ask what was the language of the gentleman from Ohio which justified the member from New York, or any other one, applying the offensive language to himself?

Mr. WINFIELD. Let me answer the question.

Mr. HILL. I shall be compelled to resume the floor to prevent an apparently indefinite and interminable controversy between gentle-



men on both sides of the House; and therefore, with one or two remarks, and after what has been desired to be read shall have been read, I will again call the previous question.

What I desire to say is, that happening to be passing in the immediate vicinity of the gentleman from New York, [Mr. HUNTER,] I heard distinctly the language which he used. I recollected the similar occurrence which happened only the day before yesterday, which was yesterday brought to the attention of the House, and which it was then ruled was improperly brought before the House for the purpose of censure, because the words had not been taken down and excepted to at the time. That occurrence was not regarded, I think, by any gentleman of this House as reputable, as comporting with the dignity of this body or the proprieties of debate; and, hence, when I heard distinctly the language of the gentleman from New York, I deemed it important that proceedings of this sort should be stopped. I thought they had gone far enough; that when we had reached such a point that every day or two we must hear the epithets "lie" and "liar" bandied in this House it was time some one should interpose.

Mr. NIBLACK. If my colleague will allow me, I desire to ask him how much worse it is to impute falsehood to a man than to impute treason to him?

Mr. HILL. Well, Mr. Speaker, I am not prepared to weigh and determine precisely the relative merits of the two kinds of epithets. Different individuals would doubtless decide the question in different ways. The epithet "traitor," when it has come to be perhaps the usual designation of a party, might be regarded by some as a reproach and by others as complimentary. At any rate, if gentlemen object to the use of the term "traitor" and other terms offensive to them, it is their own fault that they have neglected to raise the point and take the sense of the House on a motion to censure a member for the use of such language.

I do not, however, desire to enter into any comparison of the relative merits of the two classes of epithets. They are terms which in the discussions on this floor I never permit myself to apply to any gentleman on either side of the House. But, sir, to characterize a man as a "liar" or his assertion as "lies" is by all men everywhere and under all circumstances regarded as peculiarly offensive. Hence, having heard so distinctly the language of the gentleman from New York, and desiring to do my part toward putting a stop to the practice of indulging in such language in this House, I at once took exception to the words and proposed a resolution of censure, fearing that if I did not do so the occasion might pass for censuring language so highly objectionable—language which I think no man on this floor will justify, certainly not my colleague, [Mr. NIBLACK,] whom I know to be a gentleman of too high a sense of honor to approve words so indecorous and offensive. Deeming it high time that the House should put a stop to language of this sort between members of this body, I have submitted my resolution. If the House should think it best to tolerate such language as a necessary incident of freedom of speech on this floor, I shall very cordially acquiesce in the decision. But I desire that the House shall express its judgment on the question one way or another.

As the reporters have now transcribed the portion of the debate, the reading of which has been called for, I yield that it may be read; and when the reading shall be concluded I shall insist on the previous question.

The Clerk read as follows:

"Mr. ASHLEY, of Ohio. Well, sir, I intended to refer to the great body of men in the Opposition—to every man who was opposed to the war and opposed to the draft; who discouraged enlistments; who harbored deserters; who went into secret societies in order to organize conspiracies in the North, whether they were in this House or in any other place.

"Mr. WINFIELD. The gentleman used the expression, 'men here.' I desire to know whether he intends to charge that there are men here who were in 'secret alliance' with the enemy during the rebellion.

"Mr. ASHLEY, of Ohio. Well, sir, I am unable to say from any personal knowledge whether any such men are here. But, sir, from general reputation and from the votes of gentlemen in opposition to the war—not another man, not another dollar—from speeches made by gentlemen on the other side of the House, I have no doubt some of them are here and have been here during the war.

"Mr. WINFIELD. I do not propose to be tried on general reputation. I desire to say for myself and so far as I know for my associates on this floor of my own school of politics, that the insinuation that we are or ever have been in alliance with rebels is utterly untrue, and if intended to apply to us is a base and unfounded slander.

"Mr. HUNTER. I say that so far as I am concerned it is a base lie."

The previous question was seconded and the main question ordered on agreeing to the resolution.

Mr. FINCK and Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

Mr. HALE. Mr. Speaker, I ask to be excused from voting on this resolution, and I request permission in one minute to give my reasons for it.

Mr. SPEAKER. No debate is now in order except by unanimous consent.

No objection was made.

Mr. HALE. I cannot vote against this resolution without seeming to imply that under any circumstances or considerations would a member on this floor be justified in giving the lie to another, a thing which I can never vote to sustain. I cannot vote for it with no word of explanation without perhaps seeming to imply that I justified the language of the gentleman from Ohio, [Mr. ASHLEY,] which I certainly do not.

The question being taken on excusing Mr. HALE from voting, it was not agreed to.

Mr. FINCK. I ask to be permitted to give my reasons for voting against the resolution.

Mr. STEVENS. I object.

The question was taken on agreeing to the resolution; and it was decided in the affirmative—yeas 77, nays 33, not voting 81; as follows:

YEAS—Messrs. Anderson, James M. Ashley, Barker, Baxter, Beaman, Bidwell, Bingham, Brandegee, Broomall, Buckland, Cobb, Conkling, Cullom, Dawes, Delano, Deming, Driggs, Dumont, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Griener, Griswold, Hale, Hayes, Higby, Hill, Hotchkiss, Chester D. Hubbard, John H. Hubbard, Hulburt, Julian, Kelley, Kelso, Koontz, Longyear, Lynch, Marston, McClurg, McIndoe, McKee, McKuer, Mercer, Miller, Moorhead, Morrill, Myers, Orth, Paine, Perham, Pike, Pomeroy, Price, William H. Randall, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Starr, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—77.

NAYS—Messrs. Ancona, Baker, Bergen, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Finck, Goodyear, Aaron Harding, Hise, Edwin N. Hubbell, Humphrey, Johnson, Le Blond, Leftwich, Niblack, Nicholson, Samuel J. Randall, Ritter, Ross, Shanklin, Sitgreaves, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Andrew H. Ward, and Winfield—33.

NOT VOTING—Messrs. Alley, Allison, Ames, Arnell, Delos R. Ashley, Baldwin, Banks, Benjamin, Blaine, Blow, Boutwell, Boyer, Bromwell, Bundy, Reader W. Clarke, Sidney Clarke, Cook, Culver, Darling, Davis, Defrees, Dixon, Dodge, Donnelly, Farnsworth, Glossbrenner, Abner C. Harding, Harris, Hart, Hawkins, Henderson, Hogan, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, James R. Hubbell, Hunter, Ingersoll, Jenckes, Jones, Kasson, Kerr, Ketcham, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Marshall, Marvin, Maynard, McCullough, Morris, Moulton, Newell, Neill, O'Neill, Patterson, Phelps, Plants, Radford, Raymond, Alexander H. Rice, Rogers, Rousseau, Schenck, Sloan, Spalding, Stevens, Stilwell, Thayer, Francis Thomas, John L. Thomas, Warner, Elihu B. Washburne, Henry D. Washburn, Whaley, Woodbridge, and Wright—81.

So the resolution was adopted.

Mr. HILL moved to reconsider the vote by which the joint resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. HILL. I now move that the Speaker proceed to execute the order of the House.

Mr. WARD, of New York. I wish to inquire whether it would be in order for my colleague to address a few remarks to the Chair?

The SPEAKER. By unanimous consent he may do so.

Mr. HILL. I trust there will be no objection.

The SPEAKER. Is there objection?

Mr. ELDRIDGE. He does not wish it.

Mr. CHANLER. I object.

Mr. WARD, of New York. I desire to say in explanation of my suggestion that I asked the question of my colleague [Mr. HUNTER] whether he would like to make a few remarks on the subject before the Chair administered the rebuke, and I understood him to say he would. Hence it was I made the suggestion.

Mr. HUNTER. The gentleman misunderstood me.

The SPEAKER. The gentleman from New York will present himself before the Chair and the order of the House will be executed.

Mr. HUNTER accordingly came forward before the Speaker's desk.

The SPEAKER. Mr. HUNTER, no deliberative body can preserve its self-respect or command the respect of its constituents which tolerates the use of offensive language, condemned by gentlemen everywhere, as well as by parliamentary law. For having transgressed its rules, this House has resolved that you shall be censured by the Speaker. The Chair having thus declared the censure of the House, you will resume your seat.

Mr. HUNTER. May I be allowed to make a single remark?

The SPEAKER. Certainly, if there be no objection.

No objection was made.

Mr. HUNTER. Allow me to say that in using the language which I did, in a moment of irritation at what I considered a false charge, I meant no disrespect to this House.

Mr. HILL. In consideration of the statement just made by the gentleman from New York, [Mr. HUNTER,] if there be no objection, I will move that no entry be made upon the Journal of this House of these proceedings of censure.

Several MEMBERS objected.

Mr. HILL. As objection is made I will not make the motion.

Mr. ASHLEY, of Ohio. I ask permission of the House to make a statement.

No objection was made.

Mr. ASHLEY, of Ohio. Mr. Speaker, in the heat of debate men often utter words without weighing them well. I have been a member of this House for eight years, during which time I never uttered a word for which I was called to order, or which was regarded as improper until to-day. I have intended to apply unparliamentary or offensive language to no gentleman. I intended to have my remarks of to-day apply generally to all persons, whether here or elsewhere, belonging to the Opposition, who during the war or since were either in open or secret alliance with those engaged in rebellion, who voted against a man or a dollar to prosecute the war, who discouraged enlistments and encouraged desertions, and who were members of secret or open societies to organize conspiracies for the purpose of overthrowing the Government of the United States. I apply those remarks to no other persons, and intended to apply them to no other persons.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDONALD, its Chief Clerk, notifying the House that that body had passed a joint resolution and bill of this House, of the following titles, namely:

Joint resolution (H. R. No. 244) to amend existing laws relating to internal revenue, without amendment; and

An act (H. R. No. 388) to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia, with amendments; in which he was directed to ask the concurrence of the House.

It further announced that the Senate had indefinitely postponed a bill of the House of the following title, namely:

An act (H. R. No. 522) for the relief of Nathan Noyes.

## RECONSTRUCTION—AGAIN.

Mr. JULIAN obtained the floor, but gave way to

Mr. MYERS, who moved that the House adjourn.

The motion was agreed to; and accordingly (at four o'clock and forty minutes p. m.) the House adjourned.

## PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. ALLISON: The petition of Albert Clark, and 50 others, citizens of Buchanan county, Iowa, against contraction of currency.

By Mr. ANCONA: The petition of Captain George W. Knapp, late of company A, eighty-eighth Pennsylvania volunteers, by his trustee John E. Hook, asking for the passage of an act granting him a pension from July 28, 1862, the date of his discharge, to June 12, 1865, the date of his application for and from which time he receives a pension.

By Mr. BUCKLAND: The petition of Benjamin Sumners, and 65 others, citizens of Erie county, Ohio, for an increase of duty on foreign wines.

By Mr. COBB: A petition of citizens of Richland county, Wisconsin, for the improvement of the channels of water communications between the valley of the Mississippi and the Atlantic sea-board.

By Mr. DAWSON: The petition of James Whaley, Alexander McClean, and Charles Williams, asking an increase of pensions.

By Mr. DRIGGS: The petition of E. S. Ingles, S. W. Abbott, and 228 others, citizens of Menominee, Green Bay, Michigan, for an appropriation for the improvement of the harbor at the mouth of Menominee river, in said State.

Also, the petition of Loud, Priest & Shepard, with 70 others, citizens of Iosco county, Michigan, praying Congress to make an appropriation for the improvement of the harbor at Au Sable, Lake Huron, Michigan.

Also, the petition of L. L. McKnight, J. J. Whiting, and 20 others, ship-owners of Detroit and Lake Superior, praying Congress to make an appropriation to improve the harbor at Ontonagon, Michigan.

By Mr. FERRY: The petition of Richard Payne, N. L. Bird, and 46 others, citizens of Mason county, Michigan, praying for relief for improvements of lands occupied upon reservations for the Flint and Pere Marquette railroad, which reservations have been continued by recent legislation.

By Mr. KETCHAM: The petition of W. A. Wheeler, of New York, for relief upon his contracts with the Navy Department.

By Mr. KOONITZ: The petition of John H. Thompson, first sergeant company E, fifteenth Ohio volunteer infantry, and 114 others, officers and privates of regiments from different States, asking for equalization of bounties.

By Mr. LAFLIN: A remonstrance of citizens of Copenhagen, Lewis county, New York, against the passage of an act curtailing the national currency.

By Mr. LAWRENCE, of Pennsylvania: A petition from citizens of New Brighton, Beaver county, Pennsylvania, asking the passage of an act giving adequate protection to all the industrial interests of the country.

By Mr. McINDOE: A petition of citizens of Grand Rapids, Wood county, Wisconsin, in relation to the curtailment of the national currency.

By Mr. MORRILL: The petition of Simmons & Staifer, and 24 others, cigar-makers of Leavenworth, Kansas, asking for specific tax of five dollars per thousand on all domestic cigars.

Also, the petition of C. C. Hoffe, and 20 others, cigar-makers of Utica, New York, asking for a specific tax of five dollars per thousand on all domestic cigars.

Also, the petition of George Reiter, and 25 others, cigar-makers of Fort Wayne, Indiana, asking for a specific tax of five dollars per thousand on all domestic cigars.

By Mr. PAINE: The petition of G. W. Allen, of Milwaukee, Wisconsin, for modification of tax on leather.

By Mr. RAYMOND: The petition of Peter Clark and George Mackay, praying for the transfer to them and their associates on suitable terms of Governor's Island, in the bay of New York, to be used as a site for a World's Exchange.

Also, a petition of citizens of Tuckhannock, in Pennsylvania, protesting against the passage of any law compelling the national banks to redeem their notes in New York.

By Mr. WARD, of Kentucky: A petition of sundry citizens of the counties of Pendleton and Brecken, Kentucky, for establishment of mail route from Falmouth, Pendleton county, to Milford, Brecken county, with post office at Flinnsville.

Also, the petition of the Covington Gas-Light Company, asking a modification of the internal revenue laws as amended July 13, 1866, imposing a tax on gas.

## IN SENATE.

MONDAY, January 28, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY. On motion of Mr. WADE, and by unanimous consent, the reading of the Journal of Saturday was dispensed with.

## PETITIONS AND MEMORIALS.

Mr. WADE. I have a petition from Ohio, numerously signed, setting forth a great many

reasons why the capital should be removed nearer to what will be the center of the population of the country in a very short time. The petitioners state that the political opinions prevailing in this part of the country are not so much in accordance or in harmony with our institutions as they would be nearer the center. For these, and a great many other reasons which are here set forth, and some of them very cogent ones, the petitioners ask that the capital may be removed to such a place. I hardly know to what committee this petition should be referred; but I move its reference to the Committee on the District of Columbia. The motion was agreed to.

Mr. WADE. I have another petition, numerously signed by cigar-makers in the State of Ohio, setting forth that the duty on cigars is so levied as to do great injury to that business, and they want it so modified that they can afford to live under it. I believe that subject has been acted upon, and I therefore move that the petition be laid upon the table. The motion was agreed to.

Mr. WADE. I have seven petitions, very numerously signed by citizens of Ohio, praying that the tariff on wool may be increased, approving of the bill passed by the House on the subject at the last session, and asking that it may be passed by the Senate. As that subject has been reported upon, I move that these petitions lie upon the table. The motion was agreed to.

Mr. GRIMES. I present two petitions of citizens of Iowa, praying that the Constitution of the United States may be so amended as to provide that there shall be no inequality among citizens on account of birth, race, color, previous inequality, or previous non-residence beyond the present year; and also praying Congress to remove by immediate legislation any such inequality in the District of Columbia, the Territories, and the ten unrestored States, and to take all necessary measures for peace, order, justice, and security of life, liberty, and property in the same. I ask their reference to the joint Committee on Reconstruction. They were so referred.

Mr. GRIMES. I also present the petition of the president, trustees, and overseers of the Burlington University, in the State of Iowa, who pray that Congress may pass an act releasing the right of the United States to a small tract of land unoccupied and unclaimed, as they allege, in that city, to that university for educational purposes, and remonstrating against the memorial of the city council of the city of Burlington, who asked it for similar purposes. I move the reference of the petition to the Committee on Public Lands. The motion was agreed to.

Mr. HOWE presented the petition of John Kirkwood, of Arkansas, praying for a grant of seven sections of land as compensation for services and sacrifices rendered the Government during the rebellion; which was referred to the Committee on Public Lands.

Mr. HOWE. I also present a petition from the president and officers of the State Historical Society of Wisconsin, setting forth the great value of the library now owned by Mr. Peter Force, of this city, and urging upon Congress the propriety of purchasing that library. I move the reference of this petition to the Committee on the Library, which has that subject under consideration, and which, I believe, will report a bill for the purchase of the library alluded to. It was so referred.

Mr. HOWE. I have been furnished with some resolutions adopted at a national convention of colored soldiers and sailors on the 10th of January, 1867, and have been asked to present them to the Senate. I have read them. They are very well expressed. They set forth views with which in the main I agree entirely, and I am very glad to be made the medium of communicating them to the Senate. I believe such resolutions are not entitled to be printed under the rule. Am I correct?

The PRESIDENT *pro tempore*. There is no rule directing the printing.

Mr. HOWE. They can be printed upon motion I think?

The PRESIDENT *pro tempore*. A motion to print would go to the Committee on Printing under the rule.

Mr. HOWE. Well, I will move that these resolutions be printed and referred to the Committee on Reconstruction.

The PRESIDENT *pro tempore*. They will be so referred, and the motion to print will go to the Committee on Printing.

Mr. TRUMBULL presented a memorial of citizens of Illinois, remonstrating against the passage of any act authorizing the curtailment of the national currency, or a return within a limited time to specie payments, and against compelling national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances, and recommending the withdrawal of all national bank currency and the substitution of United States Treasury notes in their place, and that all Government bonds be taxed as any other property; which was referred to the Committee on Finance.

He also presented a petition of citizens of Troy Grove, La Salle county, Illinois, praying that the circulating notes of private and national banks may be retired from circulation and replaced by legal-tender notes of the United States; which was referred to the Committee on Finance.

Mr. POLAND. I present the petition of William Harris and several other citizens of Windham, in the county of Windham, in the State of Vermont, praying that Congress will refrain from the passage of any act authorizing the curtailment of the national currency or having in view the return within a limited time to specie payments. They also pray that Congress will refrain from the enactment of any law compelling all national banks, wherever located, to redeem their notes in New York, or prohibiting national banks from paying or receiving interest on bank balances. They represent that any law compelling national banks to redeem their circulating notes in New York would prove onerous to them, injurious to the business men of their locality, and would ignore the just claims of other sections of the country. They also represent that as the business of nearly every bank in the United States requires it to keep deposits at one of the national banks located in New York, any law prohibiting the receipt or payment of interest upon balances by such banks would operate harshly upon all like institutions located out of that city, and would render wholly unproductive a considerable portion of their capital.

I also present a similar petition from John H. Butler and a considerable number of other persons, residents of Jamaica, in the county of Windham, Vermont, to the same effect.

I also present a similar petition signed by A. B. Foster and various other persons, citizens of Weston, Windsor county, Vermont, to the same effect.

I move that these petitions be referred to the Committee on Finance.

They were so referred.

Mr. POLAND. I also present resolutions, in the nature of a memorial, from the Caledonia Agricultural Society, urgently requesting the congressional delegation from Vermont to exert themselves to the utmost to secure the passage of a bill as favorable to the wool interest as that passed by the House of Representatives during its last session. That subject having been reported upon by the Committee on Finance, I move that these resolutions be laid upon the table. The motion was agreed to.

Mr. YATES presented the petition of J. Nolestine and others, mail route agents on the western division of the Ohio and Mississippi railroad, praying for an increase of compensation; which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of citizens of

Illinois, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes, now pending in the Senate; which was ordered to lie upon the table.

Mr. EDMUNDS presented a petition of citizens of Vermont, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes, now pending in the Senate; which was ordered to lie upon the table.

Mr. MORGAN presented a petition of citizens of Charlton, Saratoga county, New York, praying for the imposition of an increased duty on foreign wool; which was ordered to lie upon the table.

Mr. SHERMAN presented three petitions of citizens of Ohio, praying for the passage of House bill No. 718, to provide increased revenue from imports, now pending in the Senate, so far as the same relates to duties on wool and woolen manufactures; which were ordered to lie upon the table.

Mr. HARRIS presented two petitions of citizens of New York, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes, now pending in the Senate; which were ordered to lie upon the table.

Mr. HENDRICKS. I have received a communication from Rev. George W. Hoss, superintendent of public instruction in the State of Indiana, inclosing a memorial to Congress from the commissioner of common schools of Ohio, the superintendent of public instruction of Illinois, and the secretary of the State board of education of Vermont, on the subject of the establishment of a bureau of education. I present this communication more for the purpose of having the views of the writer of the letter to myself go before the committee than the memorial itself. Mr. Hoss has long been connected with the school system of our State. I ask that the communication and memorial be referred to the Committee on the Judiciary, which I believe has charge of the subject.

They were so referred.

Mr. FESSENDEN presented resolutions of a convention of the sheep-growers of Maine, in favor of an increase of the duty on imported wool; which were ordered to lie upon the table.

Mr. CONNESS presented a petition of Joseph Boston, praying for a settlement of the claim of Pablo del a Toba, of Monterey, for cattle furnished for the Indian service in California in 1851; which was referred to the Committee on Indian Affairs.

#### REPORTS OF COMMITTEES.

Mr. POLAND, from the Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. No. 820) for the relief of Henry S. Davis, reported it without amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 543) to abolish and forever prohibit the system of peonage in New Mexico and other parts of the United States, reported it with an amendment.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the petition of Jacob Shavor and Albert C. Corse, asking compensation for past use and purchase of an invention for post-marking and cancellation of postage stamps on letters, made by and patented to Marcus P. Norton, of Troy, New York, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

#### COPYRIGHT BOOKS FOR THE LIBRARY.

Mr. CRESWELL. I am instructed by the joint Committee on the Library, to whom was referred the bill (S. No. 491) amendatory of the several acts respecting copyrights, to report it back with an amendment, and to ask for its immediate consideration.

There being no objection, the Senate, as in committee of the Whole, proceeded to consider

the bill. It provides that every proprietor of a book, pamphlet, map, chart, musical composition, print, engraving, or photograph, for which a copyright shall have been secured, who shall fail to deliver to the Library of Congress at Washington a printed copy of every such book, pamphlet, map, chart, musical composition, print, engraving, or photograph, within one month after publication shall, for every such default, be subject to a penalty of twenty-five dollars, to be collected at the suit of the Librarian of Congress as other penalties of like amount are now collected by law.

Every such proprietor may transmit any book, pamphlet, map, chart, musical composition, print, engraving, or photograph, for which he may have secured a copyright, to the Librarian of Congress by mail free of postage, provided the words "copyright matter" be plainly written or printed on the outside of the package; and it is to be the duty of the several deputy postmasters when such package shall be delivered to them, to see that it is safely forwarded to its destination by mail without cost or charge to the proprietor.

The amendment reported by the Committee on the Library was in lines eleven and fifteen of the first section, to strike out the words:

At the suit of the Librarian of Congress as other penalties of like amount are now collected by law.

And to insert in lieu thereof:

"By the Librarian of Congress, in the name of the United States, in any district or circuit court of the United States within the jurisdiction of which the delinquent may reside or be found.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### BILLS INTRODUCED.

Mr. POLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 548) to amend section forty-one of an act to provide a national currency, &c., passed June 30, 1864; which was read twice by its title, and referred to the Committee on Finance.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 549) for the establishment and maintenance of a public park in the District of Columbia; which was read twice by its title, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

#### RAILROADS IN CALIFORNIA.

On motion of Mr. CONNESS, the bill (S. No. 461) to aid in the construction of the San Francisco Central Pacific railroad was recommended to the Committee on Public Lands.

#### TERRITORIAL OFFICERS.

Mr. WADE. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the President be requested at his earliest convenience to inform the Senate how often the present Governor and superintendent of Indian affairs of Colorado Territory has been absent from his post of duty in the Territory since his appointment, what part of his time since the date of his commission has been spent in such absence from the Territory, whether his absence from the Territory has been previously authorized by leave granted in each instance, what was the public necessity for such absence in each case, and for his presence at the national capital at this time, and also whether any part, and if so how much and what part of the expenses of his several trips from the Territory have been charged to the Government.

No objection being offered, the Senate proceeded to the consideration of the resolution.

Mr. CONNESS. I do not know that I have any especial objection to the passage of this resolution; but it would please me much more if the honorable Senator, instead of offering such a resolution as this, would call up the bill before the Senate to prohibit the absences of territorial officers from the place of the performance of their duty, and by passing that bill we should have an end to these pilgrimages made by territorial officers, mostly appointed from the East to govern the Territories of the West, to engage in mining speculations, and come back as great men to forward those

speculations, and finally occasionally to take a hand in the general politics of the country. If there is any part of the administration of government in the United States that is worse than another, it is the government of the Territories of the United States. An inquiry into their condition, made by Congress, would have a salutary effect with reference to who constitute their officers, where those officers come from, how they came to be appointed, their fitness for the duties to which they have been appointed, and the degree to which they have remained endeavoring at least to perform those duties.

This resolution perhaps will have a salutary effect in one particular case; but it seems to me to be a most shameful waste of the public money and promotion of the abandonment of public duty on our part not to stop the whole abuse to which I have referred, and which this resolution points at.

I believe the honorable Senator from Oregon [Mr. WILLIAMS] has charge of the bill of which I have spoken, and I called his attention the other day to the subject and asked him why it was not called up. I believe that his answer was that there was no prospect of its passage. Why, sir, I think upon a presentation of facts demanding the passage of such an act no Senator would vote against it. The Territories of the United States that are to be the States of the future in their infancy are crippled, demoralized, often degraded by the class of men who are sent out to govern them, and the Treasury is plundered in addition.

Mr. WADE. I was under the apprehension that such a bill had been passed.

Mr. CONNESS. It has not been.

Mr. WADE. I know the committee of which I am a member has recommended the passage of such a bill, and I was under the impression that the bill had been passed. If not, I am as much in favor of it as the honorable Senator from California can be. I certainly gave my assent to it in committee, and I supposed it had passed, but it seems I was under a misapprehension. I am in favor of that bill, but I do not think that interferes with this resolution at all. I think it ought to be passed, and I am for the bill also. I hope the resolution will pass.

Mr. WILLIAMS. I introduced at the last session the bill to which the Senator from California has referred. It was reported back by the Committee on Territories. I called it up at the last session, and endeavored to procure its passage; but objections were made by several members and amendments proposed, and I found at that time that there were obstacles in the way of its passage. I supposed that at this session the same objections would be made, although I have made no determination as to what I would do in reference to the bill. I supposed that the usual course was, where a bill was referred to the Committee on Territories and reported back by the committee, the chairman of the committee would rather have charge of it. I am not particularly advised as to the practice in that respect. I am desirous that the bill should be passed. I think it will correct a very great and growing evil in this country, and it was with that view that I introduced it at the last session; and if an opportunity affords, and nobody else calls up the bill, I will take occasion to bring it before the Senate at an early day.

Mr. WADE. I do not know what the practice of the Senate has been or if there is any settled practice about the point suggested by the Senator from Oregon; but when a gentleman sends a bill to our committee and we report it back favorably I suppose he is to see that it is called up, though I have not acted myself on that supposition always. It may be in this way it has slipped my mind. I thought that bill had passed.

Mr. CONNESS. I hope between the two Senators the bill will be called up at an early day for action.

Mr. WADE. Very well.

Mr. HENDRICKS. It seems to me that it



would be rather a small business to make inquiry about some particular man when we all know that this is an abuse from all the Territories; it is not confined to any one. It is a crying abuse, and I think this resolution ought to be amended so as to include all the territorial officers. I am not willing to vote to inquire into the conduct of any one particular officer when we all know that he is as little to blame as others. I move to strike out the name of the particular officer there and insert "Governors, secretaries, and judges of the several Territories." Then we shall have some information that will be useful.

Mr. WADE. I have no objection to the amendment, only I want to specify the delinquencies of each.

Mr. HENDRICKS. It will have that effect.

Mr. WADE. I have no objection to make it general.

The amendment was agreed to; and the resolution, as amended, was adopted, as follows:

*Resolved*, That the President be requested, at his earliest convenience, to inform the Senate how often the Governors, secretaries, and judges of the several Territories have been absent from their posts of duty in the Territories since their appointments; what part of their time since the date of their commissions has been spent in such absence from the Territories; whether their absence has been previously authorized by leave granted in each instance; what was the public necessity for such absence in each case and for their presence at the national capital, if any of them have been there or are there at this time; and also whether any part, and if so how much and what part, of the expenses of their several trips to the seat of Government have been charged to the Government.

#### PRESIDENTIAL TERM OF OFFICE.

Mr. POLAND. On Saturday the chairman of the Committee on the Judiciary reported a joint resolution proposing an amendment to the Constitution of the United States restricting the presidential office to a single term. I intended at that time to give notice that when the resolution is brought up for consideration I shall move to amend it by extending the term from four to six years. A majority of the committee did not deem it advisable to make that amendment to the resolution; but I feel authorized to say that that change will probably be satisfactory to a majority, perhaps to every member of the committee. I am in favor of the principle of the resolution, but in favor of extending the term from four to six years.

#### WILLIAM D. NELSON.

Mr. LANE. I move that the Senate proceed to the consideration of House joint resolution No. 160. It is a resolution which passed the House at the last session, and will not take a moment to pass it.

The motion was agreed to; and the joint resolution (H. R. No. 160) for the relief of William D. Nelson was considered as in Committee of the Whole. It provides for the payment to William D. Nelson of \$1,000 for his services in recruiting for the Union Army in East Tennessee during the years 1861 and 1862.

Mr. HENDRICKS. Is there a report in that case?

Mr. LANE. I will explain in a moment the circumstances of the case. The joint resolution is accompanied by a long report from the Military Committee of the House of Representatives; but the facts may be briefly stated. Mr. Nelson was a citizen of East Tennessee at the beginning of the rebellion; and without having any commission he recruited a thousand men, made sixteen trips over the mountains of East Tennessee to Kentucky, and put his men into the Army at the expense of his property and the hazard of his life. He never received a commission in the Army. These recruits were all forwarded to the Army without any expense of transportation to the Government, he bearing the whole responsibility. Our committee thought that for a thousand men \$1,000 was the least possible compensation he ought to have. The proof was positive as to all the facts.

Mr. GRIMES. It seems to me that we may possibly establish a very bad precedent in this

case. If every person who was instrumental in securing the recruitment of individuals during the war is to be paid a dollar a head we may deplete the Treasury to a greater extent than is apparent on the face of the resolution or than anybody may suppose who is in favor of its passage. I think it is a new principle. We have never done such a thing before, and it would be well for us to ponder on the subject a little before we agree to do it. I apprehend that there are thousands and tens of thousands of cases that stand precisely on the same principle; and unless there is something very extraordinary in this case which has not been detailed to us by the Senator from Indiana, and which we do not know as yet, it seems to me we ought not to pass the resolution.

Mr. LANE. I know of no other single case having been presented to any committee embracing any of the facts substantially that are embraced in this case. This is the case of a Union man doing all he could to sustain the Union cause, driven out from home, carrying refugees from the mountains of East Tennessee to Kentucky, making sixteen trips as is shown by the papers, and only asking \$1,000 for it. I do not think it is possible that very many similar cases will be presented, but just as often as a similar case is presented I shall be in favor of allowing compensation.

Mr. PATTERSON. Mr. President, the proof shows, in addition to what has been stated by my friend from Indiana, that after he had carried upward of a thousand troops to the Union Army, Mr. Nelson himself, being fifty-five years of age, entered the service with four of his sons, two of whom were killed in battle, and the father and the two surviving sons served three years and were honorably discharged. I think the compensation proposed is very inadequate for the services of Mr. Nelson; but I had nothing to do with getting up the bill. If I had introduced it I should have asked for a greater sum.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### CATHERINE WELSH.

On motion of Mr. WILSON, the bill (H. R. No. 486) for the relief of Catherine Welsh was considered as in Committee of the Whole.

It provides that Catherine Welsh, widow of private John Welsh, late of company E, twenty-sixth regiment of Illinois volunteer infantry, shall be authorized to receive the bounty, back pay, and allowances due to John Welsh, without being required to make other or further proof of his death than that already furnished.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1058) for the relief of the minor children of Solomon Long;

A bill (H. R. No. 1059) for the relief of Sylvanus Sawyer and William E. Ward; and

A bill (H. R. No. 1079) to provide for examinations of the Treasury Department and other Executive Departments.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 244) to amend existing laws relating to internal revenue; and it was thereupon signed by the President *pro tempore* of the Senate.

#### HABEAS CORPUS.

Mr. TRUMBULL. I now move to proceed to the consideration of House bill No. 605, which we had up in the morning hour a few days ago, and which was laid over at the request of the Senator from Indiana.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 605) to amend an act to establish the judicial courts of the United States, approved September 24, 1789.

Mr. TRUMBULL. When this bill was up the other day the Senator from Maryland suggested that under it a judge of a United States court in one part of the Union would be authorized to issue a writ of *habeas corpus* to bring before him a person confined in another and a remote part of the Union. I do not think the bill is susceptible of that construction. I think the judges and courts would under the bill be confined to their respective jurisdictions; but if the language is so broad that the Senator from Maryland thinks it may be susceptible of that construction, I shall have no objection to amending it by inserting after the word "courts" in the fourth line of the first section the words "within their respective jurisdictions;" so that it would then read, "that the several courts of the United States and the several justices and judges of such courts, within their respective jurisdictions," &c. If that will meet the views of the Senator from Maryland, I will move that amendment, or if he prefers, he can move an amendment in such form satisfactory to him as will accomplish the same object.

Mr. JOHNSON. The amendment proposed by the honorable chairman is entirely satisfactory to me. I suggested the necessity of an amendment the other day because I know that the late Chief Justice of the United States decided that under the laws as they stand process issued by a judge of the Supreme Court in cases where those judges have a right to issue process extends all over the Union. That I am satisfied might lead to a practical evil. The amendment proposed by the honorable chairman is entirely satisfactory to me and removes that difficulty.

The amendment to the amendment was agreed to.

The amendment was ordered to be engrossed and the bill read the third time. The bill was read the third time, and passed.

#### COUNTERFEITING, ETC., PUBLIC SECURITIES.

Mr. TRUMBULL. I move that the Senate now proceed to the consideration of House bill No. 719.

The motion was agreed to; and the bill (H. R. No. 719) to punish certain crimes in relation to the public securities and currency, and for other purposes, was considered as in Committee of the Whole.

The first section provides that if any person or persons shall buy, sell, exchange, transfer, receive, or deliver any false, forged, counterfeited or altered bond, bill, certificate of indebtedness, certificate of deposit, coupon, draft, check, bill of exchange, money order, indorsement, United States note, Treasury note, circulating note, postage stamp, revenue stamp, postage stamp note, fractional note, or other obligation or security of the United States, or circulating note of any banking association organized or acting under the laws of the United States, which has been issued or may hereafter be passed under any act of Congress heretofore issued, or which may hereafter be passed, with the intent, expectation, or belief that the same shall or will be passed, altered, published, or used as true and genuine, such person or persons so offending shall be deemed guilty of felony, and on conviction thereof shall be imprisoned not more than fifteen years, or fined not more than \$10,000, or both, at the discretion of the court.

The second section makes it unlawful to design, engrave, print, or in any manner make or execute, or to utter, issue, distribute, circulate, or use any business or professional card, notice, placard, circular, handbill, or advertisement, in the likeness or similitude of any bond, certificate of indebtedness, certificate of deposit, coupon, United States note, Treasury note, circulating note, fractional note, postage stamp, note, or other obligation or security of the United States, or of any banking asso-

ciation organized or acting under the laws thereof, which has been or may be issued under or authorized by any act of Congress heretofore passed or which may hereafter be passed. Any person or persons offending against the provisions of this section shall, on conviction, be fined \$1,000, to be recovered by an action of debt, one half to the use of the informer.

The third section makes it unlawful to write, print, or otherwise impress upon any bond, certificate of indebtedness, or other instrument specified in the preceding section, any business or professional card, notice or advertisement, or any notice or advertisement of any goods, wares, or merchandise, or of any drug or medicine, or of any invention or patent, and prescribes a penalty of \$300, to be recovered by action of debt, one half to the use of the informer.

Section four provides that if any person shall, without authority from the United States, take, procure, make, or cause to be taken, procured, or made, upon lead, foil, wax, plaster, paper, or any other substance or material, an impression, stamp, or imprint of, from, or by the use of any bed-plate, bed-piece, die, roll, plate, seal, type, or other tool, implement, instrument, or thing used or fitted or intended to be used in printing, stamping, or impressing, or in making other tools, implements, instruments, or things to be used or fitted or intended to be used in printing, stamping, or impressing any kind or description of bond, bill, note, certificate, coupon, or other paper, obligation, security, or instrument now authorized or hereafter to be authorized by law, to be executed, altered, delivered, given, issued, or put in circulation by, for, or in behalf of the United States, such person shall be deemed guilty of felony, and, on conviction, be punished by imprisonment not more than fifteen years nor less than five years, or by fine not less than \$5,000, or both, at the discretion of the court.

The fifth section provides the same punishment for any person who shall have in his possession, keeping, custody, or control, without authority from the United States, any imprint, stamp, or impression, taken or made upon any substance or material whatsoever, of any tool, implement, instrument, or thing used or fitted, or intended to be used for any or either of the purposes mentioned in the preceding section, or who shall sell, give, or deliver any such imprint, stamp, or impression, to any other person.

The sixth section provides for the same punishment for any person, whether employed under the United States or not, who shall, without authority from the United States, secrete within, embezzle, or take and carry away from any building, room, office, apartment, vault, safe, or other place where the same is kept, used, employed, placed, lodged, or deposited by authority of the United States, any bed-piece, bed-plate, roll, plate, die, seal, type, or other tool, implement, or thing used, or fitted to be used in stamping or printing, or in making some other tool or implement used, or fitted to be used, in stamping or printing any kind or description of bond, bill, note, certificate, coupon, postage stamp, revenue stamp, fractional currency, note, or other paper, instrument, obligation, device, or document, now authorized or hereafter to be authorized by law to be printed, stamped, sealed, prepared, issued, uttered, or put in circulation by or on behalf of the United States; or who shall, without such authority, so secrete, embezzle, or take and carry away any paper, parchment, or other material prepared and intended to be used in the making of any or either of such papers, instruments, obligations, devices, or documents; or who shall, without such authority, so secrete, embezzle, or take and carry away any paper, parchment, or other material printed or stamped, in whole or in part, and intended to be prepared, issued, or put in circulation, by or on behalf of the United States, as one of the papers, instruments, or obligations hereinbefore named, or printed, or

stamped, in whole or in part, in the similitude of any such paper, instrument, or obligation, whether it be intended to issue or put the same in circulation or not.

Section seven imposes the same punishment on any person who shall take and carry away, without authority from the United States, from the place where it has been filed, lodged, or deposited, or where it may for the time being actually be kept by authority of the United States, any certificate, affidavit, deposition, written statement of facts, power of attorney, receipt, voucher, assignment, or other document, record, file, or paper, prepared, fitted, or intended to be used or presented in order to procure the payment of money from or by the United States, or any officer or agent thereof, or the allowance or payment of the whole or any part of any claim, account, or demand against the United States, whether the same has or has not already been so used or presented, and whether such claim, account, or demand, or any part thereof, has or has not already been allowed or paid; or any person who shall present or use, or attempt to use, any such document, record, file, or paper, so taken and carried away, in order to procure the payment of any money from or by the United States, or any officer or agent thereof, or the allowance or payment of the whole or any part of any claim, account, or demand against the United States.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

Mr. HENDRICKS subsequently said: I desire to make a motion to reconsider the vote on the passage of House bill No. 719. It is a bill that was reported at the last session by the Committee on the Judiciary. I am of the impression, and I think the chairman is also of that impression, that the penalties are left higher than the committee intended. I wish to interpose the motion to reconsider now to avoid the engrossment of the bill, and we can examine it and see if that be the case.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 1058) for the relief of the minor children of Solomon Long—to the Committee on Pensions.

A bill (H. R. No. 1059) for the relief of Sylvanus Sawyer and William E. Ward—to the Committee on Patents and the Patent Office.

A bill (H. R. No. 1079) to provide for examinations of the Treasury Department and other Executive Departments—to the Committee on Finance.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 486) for the relief of Catherine Welsh; and the enrolled joint resolution (H. R. No. 160) for the relief of William D. Nelson; and they were thereupon signed by the President *pro tempore* of the Senate.

#### ABSENCE OF TERRITORIAL OFFICERS.

On motion of Mr. WADE, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 32) to prevent the absence of territorial officers from their official duties.

Mr. GRIMES. I would suggest that some of the words in the first line of the first section be transposed so as to read "no person now in office in any Territory," instead of "no person in any Territory now in office."

Mr. WILLIAMS. The phraseology used in the bill is intended to include persons who are now in the Territory in office, and the subsequent portion of the section is intended to embrace persons who may hereafter be ap-

pointed to office by the President. If the phraseology be changed as proposed, it will not apply to persons now in office.

Mr. GRIMES. I inquire whether, if the bill stands as reported, it will include persons who hold a commission for an office who are now outside of the Territory?

Mr. WILLIAMS. I think there is some force in this phraseology. Suppose a man is in the city of Washington now who has been appointed to office in a Territory. He holds the office in the Territory, but he is not in the Territory, and if he is not there within thirty days then he is to be, by the terms of this bill, removed from office. The bill, as it was originally prepared was intended to apply to persons now in the Territory holding office, and to provide that any such persons who should absent themselves from the Territory for thirty days should be removed; and this provision is made for persons who may be hereafter appointed to office. The object is to allow persons who are now appointed to office, but have not yet assumed the performance of the duties, time to go there and enter upon the discharge of their duties.

Mr. FESSENDEN. I call for the order of the day, the unfinished business of Saturday.

#### MESSAGE FROM THE PRESIDENT.

During the consideration of the tariff bill, the following message was received from the President of the United States, by Mr. W. G. MOORE, his Secretary:

Mr. PRESIDENT: I am directed by the President to return to the Senate, in which House it originated, the bill (S. No. 462) to admit the State of Colorado into the Union, with his objections thereto in writing.

#### BILLS BECOME LAWS.

The message further announced that the President had approved and signed on the 22d instant the following bills and joint resolution:

A bill (S. No. 177) to incorporate the National Safe Deposit Company of Washington, in the District of Columbia;

A bill (S. No. 311) for the relief of James Pool;

A bill (S. No. 388) for the relief of Lewis Dyer, late surgeon of the eighty-first regiment Illinois volunteers; and

A joint resolution (S. R. No. 151) appropriating money to defray the expenses of the joint select Committee on Retrenchment.

#### TARIFF BILL.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of Saturday, which is the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes. This bill has been reported to the Senate from the Committee of the Whole, and the question is in concurring in the amendment made as in Committee of the Whole.

Mr. FESSENDEN. Before that question is put, I should like to have certain amendments that were made in committee rejected. I cannot enumerate them all; they are simply as to sums or rates, and I should like to have the corrections made now.

The PRESIDENT *pro tempore*. The Chair will suggest that there is but one amendment which was made in Committee of the Whole. It is true that amendment was amended in divers particulars, but the question is simply upon concurring in the amendment made as in Committee of the Whole; and if the amendment be concurred in it will not then be in order without a violation of the rules to amend it.

Mr. FESSENDEN. But there are several amendments made at the suggestion of the Committee on Finance which we do not wish the Senate to concur in, because they were moved under a mistake. I cannot enumerate them all now, but they are very slight generally. If there is no objection I should like to dispose of them before the general question of concurrence is put.

The PRESIDENT *pro tempore*. The Chair meant to suggest that the mode which the rules

prescribe is that the amendment must be corrected before it is concurred in, because after the amendment shall have been concurred in it will not be in order to alter or modify it.

Mr. FESSENDEN. Then I wish to make my corrections now. I call attention first to page 47, line one hundred and fifty-six of section nine. The Committee on Finance moved to strike out "forty" and insert "seventy-five;" so as to read "on bromine, seventy-five cents per pound." We do not wish that amendment concurred in.

The PRESIDENT *pro tempore*. The Senator from Maine moves that in the line referred to by him "seventy-five" be stricken out and "forty" inserted.

Mr. FESSENDEN. My motion is that that amendment be not concurred in. I wish to except it from the general amendments. In Committee of the Whole we struck out "forty" and inserted "seventy-five." Now I wish to restore "forty," and I suppose that can be done by simply not concurring in that amendment made in committee.

The PRESIDENT *pro tempore*. The object can only be attained by amending the amendment made as in Committee of the Whole. The Senator from Maine moves to amend that amendment by striking out "seventy-five" in the line referred to and inserting "forty," so as to read:

On bromine, forty cents per pound.

Mr. FESSENDEN. Very well; I do not care how it is put so that the original amount is restored.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In the next line, one hundred and fifty seven, "sixty-five cents" was stricken out and "one dollar" inserted; so as to read:

On bromide of potassium, of sodium, and of ammonium, one dollar per pound.

I move now to strike out "one dollar" and insert "sixty-five cents."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line five hundred and seventy-two of the same section, on page 64, I move to amend the amendment by striking out "forty" and inserting "thirty-three," so as to restore the item to what it was originally:

On quinia, quiniidia, and all their salts, thirty-three cents per ounce.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line six hundred and fifty-two of the same section, on page 67, I move to strike out "and twenty-five cents;" so as to read:

On strychnia and salts of strychnia, or strychnine, one dollar per ounce.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. In line seven hundred and seventeen of that section, on page 70, the word "chemicals" was struck out. I wish it to be restored, and I therefore move to insert it now.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. There is a very considerable number of amendments that the committee wish to make to the text by way of correcting, phraseology, &c. I suppose that can be done after the general question is disposed of.

The PRESIDENT *pro tempore*. In strictness, if the Senate concur in the amendment made as in Committee of the Whole, they will be understood as concurring in it as it stands.

Mr. FESSENDEN. Will it not then be open to amendment?

The PRESIDENT *pro tempore*. Only by way of addition. The amendment will then have become the text of the bill, and no corrections or alterations can be made in it, inasmuch as the Senate will have concurred in it as it stands.

Mr. FESSENDEN. I understand that so far as the Senate have gone they have made amendments to an amendment. Now, if we concur in the amendments made to the amendment that amendment will still be open to correction and amendment.

The PRESIDENT *pro tempore*. The Chair thinks not. The whole proposition is but one amendment. The Committee of the Whole amended that amendment or substitute in various forms, but it is still all one amendment; and if the Senate concur in it they concur in it as one amendment, and it then stands as the text of the bill, not subject by the rules to alteration, having been concurred in in a certain form.

Mr. SHERMAN. The difficulty can all be avoided by simply postponing the question of concurrence until the last stage. The amendment made as in Committee of the Whole is still open to amendment, and the question of concurring in it can be postponed until all the amendments to be moved to it are offered.

Mr. FESSENDEN. I suppose of course the amendment is open to amendment.

The PRESIDENT *pro tempore*. It is now. Any amendment to the amendment is proper now, and then the question will be taken on the amendment as amended.

Mr. FESSENDEN. I understand we can go on and make amendments now to the original amendment.

The PRESIDENT *pro tempore*. Certainly.

Mr. FESSENDEN. Then I will propose my amendments now.

Mr. TRUMBULL. Allow me to inquire whether it would not be in order to concur in the amendments to the amendment in the Senate, and then leave the amendment open to be amended hereafter.

The PRESIDENT *pro tempore*. That is not the question. The question now is, whether the Senate will concur in the amendment made as in Committee of the Whole, and that amendment is a substitute for the whole bill. If the Senate concur in the amendment made as Committee of the Whole it will not then be susceptible of amendment, being an amendment already agreed to and concurred in.

Mr. FESSENDEN. I do not wish to take anybody by surprise, and it would not be right to do so upon any bill, and more especially upon a bill of this character. When I moved on Saturday evening to take the bill out of committee I had reference simply to taking the amendment out of committee, considering that in fact as the original bill. I do not want anybody to lose any rights he may have had previous to that time to offer amendments. If the amendment is still open to any amendments to be proposed in the Senate it is all right. I understand the Chair to rule that it is still open to amendment.

The PRESIDENT *pro tempore*. It is, certainly.

Mr. FESSENDEN. Very well, I have amendments to offer.

Mr. SUMNER. Before the Senator proceeds I should like to have an understanding with regard to the amendments to the amendment which have already been acted upon. There are some of those, certainly one, on which many of us would like a separate vote. I think the suggestion of the Senator from Ohio was to the point that we should proceed to complete the amended bill on the motion of the Senator from Maine, go as far as we can in that, reserving the amendments which have already been acted upon for consideration at the end.

Mr. FESSENDEN. I suppose any amendment to the amendment that was adopted in committee may be reserved from the general vote on all the amendments.

The PRESIDENT *pro tempore*. Any alteration of the present amendment is perfectly in order being moved as an amendment to the amendment. Anything may be stricken out, anything may be inserted, as an amendment to the amendment.

Mr. FESSENDEN. Then we can move to

strike out amendments adopted in the Committee of the Whole, or can offer any amendment now.

Mr. WADE. I think we had better reconsider the vote taking the bill out of committee.

Mr. FESSENDEN. Oh, no, because it is all open to amendment yet.

Mr. WADE. Then it does not vary it at all, and I do not see that we gain anything by considering the bill in the Senate instead of in committee. But if there is no embarrassment attending the bill in its present stage I shall not press my suggestion; otherwise I think we had better put the bill back in committee.

Mr. FESSENDEN. The President rules that any amendment may be proposed to the amendment.

Mr. WADE. Very well.

The PRESIDENT *pro tempore*. It is perfectly in order for any Senator to move any amendment to the amendment made as in Committee of the Whole. Any motion to strike out or alter any part of it, or to add to it, is perfectly in order.

Mr. FESSENDEN. On page 4, section one, line sixty-nine, the word "cacao" where it occurs should be "cocoa."

The PRESIDENT *pro tempore*. That correction will be made, it being a clerical mistake.

Mr. FESSENDEN. On the same page, line sixty-nine, I move to insert the words "of all kinds" after the word "bitters," and to strike out the words "of all kinds" where they occur after "spirits;" so that it will read:

On cordials, liqueurs, and bitters of all kinds containing spirits, and on arrack, &c.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 102, section eighteen, line ninety, I move to strike out the letter "i" in the word "litchens."

The PRESIDENT *pro tempore*. That correction will be made.

Mr. FESSENDEN. On page 4, section one, line eighty-three, after the words "bay water," I move to insert "containing fifty per cent. or less of alcohol;" so that the clause will read:

On bay rum or bay water containing fifty per cent. or less of alcohol, \$1 50 per proof gallon.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 17, section four, line twenty-seven, after the words "Italian cloths" I move to strike out the words "and lastings."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 32, section seven, line one hundred and seventy-two, I move to strike out the words "one and" before "three fourths," and after three fourths to insert "of one;" so that it will read:

On cast-iron, steam, gas, or water-pipe, three fourths of one cent per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 56, section nine, I move to strike out lines three hundred and seventy-six and lines three hundred and seventy-seven, in these words:

On all extracts of litmus, extracts of orchil or archil, or other lichens, twenty per cent. *ad valorem*.

They are already provided for in another part of the bill.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 65, section nine, line five hundred and ninety-one, I move to insert the word "crystalized" after "salts;" so that it will read:

On Glauber salts, crystalized, one half cent per pound.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 101, section eighteen, line sixty-eight, after the word "long"



I move to insert the word "drawn;" so as to read:

Hair of the horse, long drawn, and used for weaving, &c.

Mr. SPRAGUE. Does that change the duties?

Mr. FESSENDEN. No, sir; it is merely a more accurate definition.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 102, section eighteen, line ninety-two, after the word "lichens" I move to insert "prepared or;" so as to read:

Litmus and lichens, prepared or not prepared.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 12, section three, line seven, after the word "goat" I move to insert the word "camel;" so as to read:

All wools, hair of the alpaca, goat, camel, and other like animals, &c.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 20, section four, lines one hundred and eleven, one hundred and seventeen, and one hundred and nineteen, I move the same amendment, to insert "camel" after "goat."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 49, section nine, line two hundred and six, I move to strike out the word "or" after "word," and to insert "and."

The PRESIDENT *pro tempore*. That change will be made, no objection being interposed.

Mr. FESSENDEN. On page 49, section nine, line four hundred and twenty-one, after the words "salad oil" I move to insert "or table oil."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 75, section ten, line one hundred and twenty-six, I move to strike out the word "exclusively" at the end of the line.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 84, section twelve, lines thirty-seven and thirty-nine, I move after the word "of" to insert "goat or," so as to read, "on mats of goat or sheepskins," &c.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 88, section fourteen, line thirty-seven, after the word "pack" I move to insert "of not more than fifty-two cards."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 89, section fifteen, line twenty-four, I move to strike out the word "or" before the word "oats," and after the word "oats" to insert "or other grain not herein otherwise provided for;" so that the clause will read:

On flour and meal, middlings, and mill feed of wheat, rye, oats, or other grain not herein otherwise provided for, fifteen per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 106, section nineteen, line seventeen, after "fire-crackers" I move to insert "double-headers, rockets, and fire-works."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 80, section eleven, I move to strike out the proviso in lines twenty-two, twenty-three, and twenty-four, in these words:

Provided, That the true allowance for boxes or other packages containing the same shall be twenty per cent. of the gross weight.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 17, section

four, line forty-two, after "wool" I move to insert "or worsted;" so as to read, "on hosiery, composed wholly or in part of wool or worsted, comprising shirts," &c.

The amendment to the amendment was agreed to.

Mr. WADE. I wish to call the attention of the Senate to the duty imposed by this bill on various kinds of saws. I do not profess myself to be very much acquainted with the subject, but I was requested by a gentleman who is extensively engaged in the manufacture of these saws to call the attention of the Senate to the fact that the duties as fixed in the bill will destroy the business in this country entirely. The gentleman was a Mr. Hoe, celebrated, I believe, for his invention of a printing-press, who is now extensively engaged in this business, and he has furnished me with some tables on the subject. It seems to me, if his estimates are right, that the duty is altogether too low, and I call the attention of the Senate to it, and will state what he thought it ought to be.

Mr. WILLIAMS. In what part of the bill is it?

Mr. WADE. It is on page 34. The first amendment that he suggests is in line two hundred and twenty-four of section seven. The bill now reads, "on cross-cutsaws, twelve cents per lineal foot." He wants to make it twenty-five cents instead of twelve. Then in line two hundred and twenty-five, "on mill, pit, and drag saws, not over nine inches wide, fifteen cents per lineal foot," he proposes to insert thirty-five cents, and instead of a duty of twenty-five cents per lineal foot on those saws over nine inches wide he proposes forty cents. The next clause of the bill reads now in this way:

On all hand-saws not over twenty-four inches in length, \$1 25 per dozen, and, in addition thereto, thirty per cent. *ad valorem*; over twenty-four inches in length, two dollars per dozen, and, in addition thereto, thirty per cent. *ad valorem*.

He proposes to amend that clause so as to read:

On all hand-saws not over twenty-four inches in length, two dollars per dozen, and, in addition thereto, thirty per cent. *ad valorem*; over twenty-four inches in length, three dollars per dozen, and, in addition thereto, forty per cent. *ad valorem*.

Then the next clause reads in this way:

On all back-saws not exceeding ten inches in length, one dollar per dozen, and, in addition thereto, thirty per cent. *ad valorem*; over ten inches in length, \$1 50 per dozen, and, in addition thereto, thirty per cent. *ad valorem*.

He proposes to amend that clause so as to make it read:

On all back-saws not exceeding ten inches in length, two dollars per dozen, and, in addition thereto, thirty per cent. *ad valorem*; over ten inches in length, three dollars per dozen, and, in addition thereto, thirty per cent. *ad valorem*.

Those amendments this gentleman, who is extensively engaged in the business, and the other intelligent gentlemen who were with him thought ought to be made. As for my own ideas on the subject they are good for nothing, for I do not profess to have any particular knowledge, not having had my attention directed to it; but I call the attention of the Senate and of the committee to the statement of this gentleman, that the present rate fixed by the bill would be destructive to that business. All I wish to do is to call the attention of the Senate to it. I hope that they will come to the conclusion that the amendment I have suggested ought to be made.

Mr. MORGAN. Owing to the increase of the duty on steel some amendment I think is necessary in relation to the duty on saws. The duty is considerably less on the saws than it ought to be. It ranges from twenty-seven to thirty per cent. in the bill as reported by the committee. I have an amendment which has been considered by the committee, and I will offer it as an amendment of the committee, which increases the duty to a certain extent.

Mr. FESSENDEN. I understood the Senator from Ohio to offer an amendment.

Mr. WADE. I have only called the attention of the Senate to the subject. I do not offer any amendment.

Mr. MORGAN. I offer the following as an amendment of the committee: on page 34, section seven, strike out lines two hundred and twenty-four, two hundred and twenty-five, two hundred and twenty-six, and two hundred and twenty-seven, and insert in lieu thereof the following:

On cross-cut saws fifteen cents per lineal foot; on mill, pit, and drag saws, not over nine inches wide, twenty cents per lineal foot; over nine inches wide, thirty-five cents per lineal foot.

And as a part of the same amendment I move to strike out lines two hundred and thirty-three, two hundred and thirty-four, two hundred and thirty-five, two hundred and thirty-six, and two hundred and thirty-seven, and in lieu thereof to insert:

On all back saws not exceeding ten inches in length \$1 25 per dozen, and, in addition thereto, thirty per cent. *ad valorem*; over ten inches in length two dollars per dozen, and, in addition thereto, thirty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. WADE. I move to amend the bill on page 85, section thirteen, by striking out lines thirty-six and thirty-seven:

On grindstones, unfinished, ten per cent. *ad valorem*.  
On grindstones, finished, five dollars per ton.

And inserting in lieu thereof:

On grindstones, and on soapstone, freestone, sandstone, granite, and all building or monumental stone, except marble, five dollars per ton of thirteen cubic feet.

And then to strike out on page 86, lines fifty-seven, fifty-eight, fifty-nine, sixty, and sixty-one, as follows:

On paving stones, slabs, and flags, not dressed, and on Nova Scotia stone, Caen stone, and all building stones, cut or dressed, twenty per cent. *ad valorem*.

On building, paving, or monumental stones, of every description, cut or dressed, two dollars per ton of thirteen cubic feet.

Mr. FESSENDEN. I should like to hear some reasons from the Senator, if he has any to offer, why that should be done.

Mr. WADE. I am informed, and I have some letters here showing, that these stones are brought in from Nova Scotia and from Canada in competition with our own quarries to an extent that renders the business very unproductive here. The duty on the article of grindstones, dressed, as it stands in the bill does not amount to anything hardly. The stones in the quarry where they lie in a foreign country are not worth scarcely anything. Nobody wants to use them about there. Almost all their value consists in the labor that is bestowed upon them to get them out and bring them to market. So the contest is about the labor; whether it shall be done by our own people, or whether it shall be done abroad.

I am informed that undressed grindstones are really almost finished when they come in here in competition with our own. They are brought in in such a shape that the word "finished" in the law is a very uncertain term. They can bring in the stones almost finished—sometimes, I am told, all perhaps but drilling a hole for a crank, or something of the kind—and thus entirely defeat the law so far as that provision is concerned. I should be willing to agree to strike out the word "finished" and say "on all grindstones, five dollars per ton." I would have no objection to that; but as it now stands it is evaded entirely by the fact that they bring them in and call them unfinished stones when the work on them has been almost entirely completed. That I am told is the way in which this duty is evaded, and they thus come in competition with our own stone. I do not suppose that the consumers of these stones would be affected at all by the duty that I propose upon them. The work is all done in Canada and Nova Scotia, where they get them, and where I am told labor can be procured for about seventy-five cents per day; in this country it would cost three times that, probably.

Mr. FESSENDEN. Say a dollar a day.

Mr. WADE. Well, say a dollar, if that suits any better; but that is different from what I am told. Labor is undoubtedly a great deal

cheaper there than it is here. But when they bring these stones here in competition with our own they do not graduate their price by what they can afford to sell at, but by what we can afford to sell our article at with our enhanced labor; so that the consumer of the stones really does not get them any cheaper. It will yield a great deal of revenue if we impose this duty, while the stones will not come any dearer than they do now, as they gauge their price, not by what they can afford to sell them at, but what they can force us to pay. I think there ought to be this protection upon these kinds of stone. I have coupled them together because I know that in Connecticut, and in various other parts of the country, these free-stones are an article of very extensive use, and they have competition from the same source, as I understand; but I leave that part of the proposition to be stated by those gentlemen who are more particularly concerned in it. I hope, sir, that this alteration will be made.

Mr. FESSENDEN. Mr. President, the question, I apprehend, is not precisely as has been stated by the honorable Senator. The committee fixed this duty after very considerable deliberation on both clauses, and the Senator, although there is no sort of connection between them, has coupled them all together for the reason, I suppose, that by so doing he may couple votes together, so that those interested in one part of his proposition will vote for the other, whether they care anything about it or not.

Now, sir, the fact is simply this: grindstones for the section of country all along the Atlantic are brought from Nova Scotia. They are a rough article, and are used by everybody. Every farmer has a grindstone; all the mills have large grindstones; and they make a considerable item of expense. Stone out of which to make them is not found along our Atlantic border; but near Cleveland, in the State of Ohio, near where the Senator lives, there is a grindstone quarry, and I am told it is the only one in the western country. I am informed by a Senator near me that nobody ever saw out there a grindstone that did not come from that quarry; and I suppose nobody ever saw on the Atlantic a grindstone that did. The reason is a very simple one. They do not interfere with each other at all. The grindstones from Nova Scotia cannot interfere with the grindstones in the West, for the simple reason that the cost of transportation is so very great on these heavy articles that none go from the Atlantic to the West and none come from the West to the Atlantic. Then the effect of this proposition is simply to impose a very heavy burden on those who use them on the Atlantic border by imposing a very heavy duty that they must pay, or else take their grindstones from the West and pay the great expense of the transportation of that large, rough, and heavy article. They do not interfere with each other a particle; and the effect of this increased duty would be to impose this additional burden upon every man, either in the East or in the West, who uses a grindstone.

Well, sir, what are they? They are a rough article; they come in perfectly rough; the block cut out perhaps a little rounded and a hole bored through the middle of it, but the finishing not done at all; and we impose a heavier duty on the finished article in order to have the finishing done in this country. The only effect of putting so heavy a duty on a rough stone of that description, so heavy and in such general use, will be to increase the profits largely of this Cleveland quarry, increase the cost to the consumers in that section of country, and, if possible, force the people on the Atlantic border to purchase them at the great additional expense of transportation by railroad.

Mr. HENDERSON. It makes the article pay more into the Federal Treasury?

Mr. FESSENDEN. Exactly; it makes it pay more money into the Federal Treasury; but the query is, whether we should receive more? I want to read a letter to show what

the effect will be. Here is a letter addressed to a Senator of this body, which I will read:

"I notice by the papers that the tariff bill is expected to be a matter of action by the Senate in the early part of next week. I do not know the features of the bill as passed by the House as I have had no copy; but I wish to call your attention to one article which I understand it is proposed to subject to a greatly increased duty. I allude to grindstones. The cost of this article in Nova Scotia is not far from ten dollars per ton; the present duty is ten per cent. *ad valorem*, or about one dollar per ton. I learn that the bill as it passed the House charges a duty of five dollars per ton specific, or equal to fifty per cent. *ad valorem*, and I understand that an effort is being made by certain interested parties (I believe from Cleveland) to even increase this advance to ten dollars per ton in order to give them the entire control of the supply to the whole country from their quarries. The quantity of grindstones imported into this place is about eight thousand tons per annum. The company with which I am connected as president use fully one thousand tons per annum, and should this additional sum of ten dollars per ton become a law, we should be taxed \$9,000 per annum extra, or four and a quarter percent. per annum on our whole capital, which is \$400,000, in order to put money into the pockets of these interested parties.

"We are already paying to the Government \$40,000 per annum for internal tax on \$800,000 annual manufacture, which is ten per cent. on our capital, aside from the duties on imported iron and steel which we use; and to add to the extra duty proposed would give the Government the 'lion's share' of the profits. As the House in their bill propose to exempt certain agricultural tools from taxation as I learn, it appears to me that the ax has the first claim to consideration. It precedes all other tools in the greatest western march, and every facility for its manufacture should be given rather than by adding to its cost check its use."

This letter is from the president of the Douglas Ax Company, Mr. Eustis.

Mr. HENDERSON. The increase of duty does not affect the Cleveland quarry or the manufacture there. They could not transport grindstones from there to the East. It only makes you pay more revenue to the Government.

Mr. FESSENDEN. It only makes us pay more revenue, unless that addition is sufficient to cover the transportation from Cleveland and make it cheaper for us to get them from there.

Mr. HENDERSON. That is the point.

Mr. GRIMES. It gives the Cleveland people an excuse for charging us more for our grindstones in the West.

Mr. FESSENDEN. Of course if you raise the price on the Atlantic border you will raise the price in the West, so that every man who uses a grindstone will pay an additional duty. Now, sir, it struck the committee that an increased duty on such a coarse, rough article as this, which must have this effect upon all persons who use it and impose such a heavy burden on manufacturers, who are already paying so large a sum to the Government for internal revenue tax and otherwise, would be a little severe for the mere purpose of enabling this quarry in Cleveland to raise its own prices for grindstones, either under the pretense or under the fact that the duty was so much enhanced on the Atlantic border.

Mr. WADE. They could not change their prices.

Mr. FESSENDEN. I do not know whether they could or not. It looks as if they thought that by imposing this duty, as the Senator from Iowa says, they could, under pretense of the duty, charge a higher price to everybody that buys of them. They would charge more as a matter of course. They are not interfered with, and cannot be interfered with in any way by the importation of these stones from Nova Scotia; and the only effect is precisely that which I have stated. To charge one dollar duty on what costs ten would seem to be sufficient on such a coarse, rough article as this, used to the extent it is, especially when we secure the finishing out of the article in this country by a duty of five dollars per ton on the finished article.

Another letter has been handed to me, which I will read. It is directed to Mr. Dodge, of the House:

"We are importers of and dealers in foreign grindstones in this city. We import them from England, France, and Nova Scotia to a limited extent, but the stones are used by all manufacturers of edged tools, machinists, founders, &c. The foreign stones

are unlike in quality to any found in this country, and for certain purposes we have no stones in the United States that will answer their purpose. Under the present tariff we pay a duty of ten per cent. *ad valorem*. The Wells tariff increases the duty to twenty per cent."

We have put it back to ten per cent.

"This the article will bear without detriment to our business; but a specific duty of five dollars per ton, as per bill passed by the Senate committee, would be disastrous to a large class of importers, dealers, and manufacturers, as it would amount to a prohibition of foreign grindstones."

Now, sir, I have stated the reasons as applicable to the article of grindstones. With regard to these other stones, which the Senator has connected in the same category, the committee had the subject under consideration, examined it very carefully, and on the building-stone which comes in from Nova Scotia, and of which I know something, imposed a duty of two dollars per ton, double the duty that is imposed on these other stones. It is used principally in making fronts for stores, houses, &c., and I do not know that it interferes with anybody to any extent. The Nova Scotia stone—I have seen the article; it is used in my city somewhat—is a yellowish stone, quite soft, and easily worked, differing entirely in all its qualities, color, and everything else from the stone that is quarried in Connecticut, and I suppose from the stone that is quarried in New Jersey. My colleague on the committee from New York [Mr. MORGAN] states that in his belief nineteen twentieths of the stone used in the city of New York comes from the quarries in New Jersey and Connecticut, and probably more. I do not know anything about that. I know, with regard to this Nova Scotia stone, that in rebuilding the city of Portland we have used it somewhat, but not exclusively. We have used other stone. One important building was erected with it.

The committee did not think that on a rough article like that, unfinished, imported as it is, of course the freight being considerable, used for buildings, for stores, houses, &c., although used principally by those who want to build handsome erections, it would be advisable to put a very heavy duty, inasmuch as it did not and could not interfere injuriously with the stones that are quarried in our own country. I am told with regard to the quarry in Connecticut, by a colleague on the committee who lives in the vicinity, that it has been from the beginning highly prosperous, making money, and flourishing, and is so at this day in every way. Now, why they should want so heavy a duty on building material of another description of stone is rather a mystery to me; and I think pushing these duties to so high a point upon rough articles of this description, which are of great necessity to the people, is hardly advisable.

I have stated the views of the committee on this subject. I leave the question to the Senate.

Mr. WADE. I find that in making out this tariff it depends very much on whose ox it is that is to be goaded.

Mr. FESSENDEN. That is a new discovery that you have made.

Mr. WADE. No; sir, it is not a new discovery that I have made, for I have been aware of it for a good while. Now, sir, all the argument that has been made on this subject by the Senator from Maine might be made in regard to every article where protection is sought to be established. If gentlemen are opposed to the principle of protection then there is a good deal of weight in the argument. If they are in favor of protection then the argument goes for nothing.

Sir, what I wish to protect above all other things is labor. I know that some gentlemen look very much at other effects of protection; but I am all the time looking to the welfare of the men actually engaged in laborious occupations. If you throw down the protective principle entirely, and open the door for all nations to come in competition with us in everything that men can do, the effect, of course, is to place our laborer on the same level that laborers are everywhere else where these articles are man-

ufactured and made. Sir, throw away the protective principle, and labor will find its level like water. The man who wishes to reduce the wages of the American laborer to the same niggardly amount that the laborer in the old countries of Europe receives, and no more, ought to be a free trader, and he ought not to attempt to protect anything; for nobody can contend, unless he is the advocate of absolute free trade, for placing the American laborer on the same degraded level that the laborer occupies in other countries. This fact cannot be disguised, and this is the principle that operates upon me; for I will say that I look more at that than I do to other interests, or even to the wealth of the country. They all, to be sure, depend upon the same principles exactly; but it is obvious that those who resist all attempts to lower the laborer of this country, and who endeavor to secure to that laborer good wages, such as he can live by, must be in favor of protection. That is a mathematical certainty.

Now, sir, how is it in regard to this article? Nova Scotia lies right off our coast, with all the facilities for bringing their productions in competition with our own. Labor is infinitely cheaper there than it is here, and they can destroy any work of this kind in this country. It is just as easy to find and manufacture this article there as it is here. Labor is all the value there is about it there. In its crude state, as I said before, it seems to be worth nothing, but in its finished state it is exceedingly valuable. We have a great many workmen engaged in this business in our own country. If you throw down all protection to them you will drive them out of the business, or compel them to do work as cheap as it is done in other countries.

Now, sir, I for one will never yield to that. I said the other day I never want to see the American laborer have less wages than he gets now; for if somebody's interest must give way I would as lief it should be the wealthy as the poor. I would as lief the laborer should have the advantage of our legislation as anybody else. I will never yield the point that, so far as I can he shall be protected against this destructive competition; and it never was more apparent than it is on this very item that I have mentioned. In Nova Scotia I am told—perhaps that point is not clear, but I am so told—the wages of the men who labor in this business is about seventy-five cents a day, while the wages here is two or three times that amount.

Mr. HENDERSON. If it be true that labor is so very cheap where this stone is quarried, I should like to ask the Senator, if being adjoining the State of Maine, why those laborers do not come into our country, with institutions certainly as good as they have in the Canadian Government, and obtain the higher wages here? I should like to ask the Senator further why it is that operatives from Europe have come here with a view of engaging in business in our manufactories and have returned to Europe, refusing to take the high wages we are paying here, because they say they can make more money at the low wages of Europe than they can here, paying the cost of living. It is a fact that American labor to-day has not advanced in proportion to the commodities which the laborer must have, and the laborer to-day is worse off than he was under lower prices, because labor has not advanced in the same ratio that the commodities which enter into the cost of living have advanced.

Mr. WADE. Well, Mr. President, I am very sorry to hear that that is the case. That shows still stronger that something ought to be done in favor of the laborer. If the fact is as stated the gentleman has told us the reason. It is because our wages, all things considered, are not as good as they are in Europe. That is the gentleman's answer to his own question. Of course they will not come here when they find that their pay is not as good as it is at home, and when they do come here and find

that out they will go back. The Senator has answered himself perfectly on that subject. All I want is to give the laborer a better chance here than he has abroad. I know that a great many men do come over from Canada and labor in the States. A great many of them are on our railroads in the State of Ohio. To my certain knowledge many of them have left their own homes and country and come to find better wages in our State, working on the railroads principally, and often at other occupations. But these men are not likely to leave their homes for manual labor. Very few of them can afford the means of traveling far to find work to do. It is very expensive to break up their business at home and to travel a great distance with an uncertainty of finding profitable labor when they get here. All these things tend to keep them from emigrating where they suppose they can get better wages. Indeed, the great mass of men who labor in this way cannot, if they would and were assured that they would have better wages, leave their homes to seek it and find it. That I suppose to be the great reason why they do not come.

I have not read the letters I have received from the gentlemen who have written to me on the subject of this article of grindstones, because like the writers of the letters read by the Senator from Maine they are interested in the manufacture of these stones. They tell me, however, that there is a detrimental competition between them and these laborers abroad. That is what they assert. Then those who want to get the grindstones cheap write to the gentleman and tell him they pay now more than they ought to pay. Those who furnish this evidence on each side are interested witnesses, and I do not rely so much upon them for that reason, as I find that everybody who comes here is endeavoring to promote his own interests; but I can see very clearly that under the condition in which things are now this interest wants protection as much as any other we have protected; and it rests, too, upon the same principle, say what you will.

It may be asserted of every article that we protect that it will come dearer to the consumer. I suppose it will at first, although I have always contended and believe that the rivalry the business begets when it is protected generally brings the price down infinitely cheaper frequently than it was without protection, and that happens from competition. I have nothing to say about that. I am not going into the general argument; but I say this depends upon the same principle precisely. It is the same principle that governed what the Senator contended for about asphaltum. That was really a local interest. They found it existing in Nova Scotia in great quantities and easy to come at; but as there was a pretty heavy duty on the oil they found they could not manufacture it so easy in Nova Scotia and then bring it in because of the duty, and therefore, to escape that, they came and set up their establishments in Maine and brought the crude article there from Nova Scotia, and thus escaped the duty. That is not the way to raise revenue if it is the way to protect an article. It certainly is not the way if we are seeking for revenue alone. But, then, it is on the same principles exactly with this, and gentlemen may make the argument either one way or the other as suits the occasion. But what I ask for these articles of stone, brought from abroad in detrimental competition with our own labor, is that we stand upon the principle of protection in regard to them as well as anything else. It is true it is a rough article, but it is a very valuable one, and one extensively brought in as a subject of labor, both here and abroad, and needs the attention of those who are legislating upon the subject to see that all interests are protected, and that with that protection the highest amount of revenue is obtained that can be obtained, having regard to the interests of all concerned. That is all I ask for, and this is about all I have to say upon the subject.

Mr. FESSENDEN. The Senator, in the

first place, put it upon the ground of revenue alone. He did not inform us that the quarry he was looking after was up in his own neighborhood, near by, close to Cleveland.

Mr. WADE. If it had been in Maine it would have been your ox.

Mr. FESSENDEN. Very well; he did not allude to that. I told the whole story so that it might be perfectly understood. Now, having found the revenue "dodge" did not work, he comes down to the doctrine of protection again, and the Senator talks about protection, and goes into a discussion which we have heard from every gentleman who wanted to put on a heavier duty, a general discussion upon the subject of protecting American labor. Now, how are you going to protect it? Suppose any protection was needed up there in Cleveland, which the Senator does not really pretend, for he will not read the letters even, and he does not profess to know anything about it himself—

Mr. WADE. Here they are.

Mr. FESSENDEN. I do not want to read them certainly if you do not. Now, whom do you protect? You protect the workmen employed in Cleveland, and who have the whole western country for their area to sell their grindstones, without any possibility of the slightest competition from any quarter, to every farmer and every man who uses a grindstone. Are there no laborers except those laborers there? Have we not laborers in our factories who use grindstones, and laborers, too, who are dependent for their employment upon the success of the manufacture? Have we not farmers? Have we not all sorts of mechanics everywhere scattered through the country? Are they not laborers?

Mr. WADE. You have protected them.

Mr. FESSENDEN. How have we protected them? If the gentleman can tell how we protect the laborers let him do it; I do not know. He may say we protect some of the manufacturers. How have we protected the farmers?

Mr. WADE. Not very well.

Mr. FESSENDEN. Then you want to tax their grindstones for the benefit of the laborers in Cleveland. How are you to protect the common mechanics, every blacksmith-shop, and every other shop where they want to grind a tool? How do you protect them? Are they not laborers? Do not they labor? Protect American labor, and not for the benefit of a very few at most who may be employed in the grindstone factory near Cleveland. Impose a tax upon every man who uses a grindstone all through the West, and an additional tax upon every man who uses a grindstone all through the East. It does depend, not upon whose ox is gored, but whose ox wants to grow fat.

Mr. WADE. Yes; that is so.

Mr. FESSENDEN. That is the fact. The Senator admits it. Now, sir, I think it is a little unreasonable. I can say very confidently that we have had an eye to protection all through this bill. I think nobody will dispute that. But when I say that I have an eye to protection in carrying the principle of the bill out, it is perfect nonsense to talk about making a dead level for everything, and to declare that because you impose a certain duty in one particular where it is needed you are therefore to impose the same duty in another particular where it is not needed. That is not the doctrine of this bill. The doctrine of the bill is discrimination in these things, and we should stultify ourselves both in committee and as a Senate unless we did discriminate according to the article and the necessity of the article itself, and the uses to be made of the article; and we do not abandon the doctrine of the bill in any particular. Why not impose a heavy duty on all the articles in the free list? Have we abandoned the idea of protection by permitting a long list of articles to be admitted free? Why, sir, they are put there for the benefit of American labor, and for the purpose of protecting it and increasing it. The Senator must carry his doctrines out, and say that upon everything there shall be put an indis-



criminate duty. That will not do. I think the Committee on Finance would have placed themselves in a very ridiculous position if they had reported a bill founded upon any such idea as that. Certainly I never could have consented to it.

Now, sir, this matter is before the Senate. I do not use a grindstone because I have no occasion to use it; but a great many other people do.

Mr. CHANDLER. I think the honorable chairman of the Committee on Finance takes rather a narrow view of this subject. He does not seem to see beyond the State of Maine. Now, sir, we have grindstone quarries in Michigan, and there are quarries of precisely the same kind across the river in Canada. In Michigan we pay our common laborers two dollars a day and our skilled workmen in getting out grindstone four dollars a day. In Canada, directly across the river, not more than a mile apart, they pay seventy-five cents a day for common labor and two dollars a day for their skilled labor. Now, sir, do you propose to abandon the entire traffic to the Canadians? As it now is they are coming across in thousands because we are paying higher wages than they are on the other side. We have had an immense immigration from Canada during the last five years of workmen. Do you propose to send those men back to Canada by breaking down our grindstone interest so that they cannot be paid here? Do you propose to abandon the laborer in the State of Michigan? I think the Senator takes a narrow view of it. This country is not confined to the State of Maine; it covers an immense surface. Michigan has an interest as well as Ohio in this question of protection to labor. I am not going into an argument upon the abstract idea of protection at this time; as the Senator says, it has been sufficiently argued already; but I present this as a plain practical question. I hope the amendment of the Senator from Ohio will prevail. I hope that our laborers in Michigan will have a little protection against the competition directly across the river in the same article. It is but justice that we should have it.

Mr. WILLIAMS. I object to putting grindstones and building-stones together, because they are produced in different places and they are used for different purposes, and there is no sort of similarity between the two except that they are stones. Grindstones are used by the farmers and mechanics and manufacturers, and are absolutely necessary for the business of the country, while most of the building-stone referred to in this amendment are used by those persons who build palatial residences on the Fifth avenue in New York or in the cities of the country, and they are generally purchased and used by men of wealth, and are to a great extent luxuries. I think, therefore, that great injustice may be done to one class or the other by putting grindstones and these building-stones together on the same basis.

The argument made by the Senator from Ohio is a very sound and logical argument, but I think it is not sufficiently comprehensive. The question arises: if you protect, as you propose, the laborers who are employed in the production of grindstones, will you not oppress the laborers who are employed in the manufacturing establishments of the country where it is necessary to use these grindstones? It is represented to us, with how much truth I do not know, because these representations do conflict, that to impose five dollars per ton upon grindstones would amount to a prohibitory tariff and compel the manufacturers of the East, where a large proportion of the grindstones of the country are used, to pay for the transportation of grindstones from the western States to the eastern States, and in that way the tariff would be very oppressive; and the effect of it would be, if not altogether to close up some of those manufacturing establishments, to compel the men who are engaged in this business, if possible, to reduce the price of the labor which they employ, so as to en-

able them to pay for the additional amount you put upon the grindstones they use.

The owners of one establishment represent that to impose this duty would add \$9,000 per year to their expenses. They import grindstones that are very heavy, weighing several tons, which are needed in their business. If you impose five dollars a ton on a grindstone weighing several tons it is easy to see that it amounts to a considerable sum altogether. It would be a very large tax upon their business. Besides, these stones are used by the farmers of the country; they are necessary to the manufacturing interest; and so far as my connection with this bill is concerned I claim that in regard to any material which is taken out of the ground in this country and is essentially a raw material, while you undertake to protect the manufacturing interest in which the great mass of the labor is employed, it is bad policy to impose a high tariff upon that raw material. It is possible that without such a tariff some persons may suffer by the competition, but it is better that a few should suffer than that many should suffer. You cannot impose a high tariff, in my judgment, upon raw materials that enter into the manufacturing business of the country without oppressing those interests that furnish the chief employment for labor. The best policy is to build up manufacturing establishments. These high taxes that you put upon every material in the nature of raw material, it seems to me, will tend to cripple, weaken, and destroy them.

Mr. WADE. It is not my object to put what is called a high duty on these articles. I do not know but that five dollars a ton is too high. I have no means of knowing exactly; but I do not want the duty to be excessively high. I want it to be in harmony with the protective duties we place upon articles generally. I do not ask for anything more than that. In arguing this question here gentlemen speak of its being a hardship to the manufacturers to pay these duties. I think that argument is so narrow that it does not cover the whole ground. If you put a duty on grindstones it will be distributed through the whole community so far as they use any commodities into the price of which the use of grindstones in any form enters as an element. If grindstones are dear and manufacturers have to use them and pay a high price for them, the articles they manufacture will be enhanced in price in proportion to that element of expense, and so the duty will be distributed through the whole community and all the consumers will help to pay it. It does not fall particularly upon those who manufacture or produce the article, but on the great body of consumers the whole country over. Gentlemen are apt to argue these questions as though the whole burden fell upon the party on whom the tax is first levied. If that were so we should create a great many hardships that would be unbearable if taxes fell with their full weight upon particular classes of the community and had not this tendency to distribute themselves among all. But if the price of a manufactured article is enhanced by this duty the community who consume the article all have to contribute toward the burden at last; but that consideration seems in the argument to have been lost sight of.

It seems, as I knew before, that the Senator from Maine confines himself, in his view upon this question, to the locality in which he lives. In the aggregate the production of this article employs a great many workmen, and it is just as important to protect them as any other class. A duty imposed on grindstones is not a burden falling upon any one interest, but it will be distributed, as I have said, through the whole country. The Senator's constituents are in close proximity to the British Provinces, from which grindstones can be readily brought to come into competition with those produced in our own country; and the cost of labor is so much less there as I think to be a sufficient argument in favor of the amendment. It seems to me that the fact that the use of grindstones is so general throughout the country

only tends to prove that this burden will be generally and equally distributed throughout the country, and will not fall with crushing weight upon any class.

Mr. FRELINGHUYSEN. Mr. President, I am interested in reference to the freestone and building and monumental stone, and especially the freestone mentioned in this amendment. It is a fact, as I am informed by vast numbers who are engaged in quarrying freestone, which is largely quarried in Connecticut and in New Jersey, and somewhat in Ohio, that the Nova Scotia stone comes in direct and constant competition with the freestone quarried in those States. The House bill placed the duty on freestone at five dollars a ton, which is the present amendment. I do not know but that four dollars a ton might answer the purpose, but I wish the Senators to understand that neither five dollars a ton nor four dollars a ton is real protection. It is not protection at five dollars a ton. The Nova Scotia stone is located near to the water, it being a heavy article; it is easily transported to New York, Philadelphia, Baltimore, and to the other cities where that stone is used. The expense of labor, as has been stated, is there much less, and not only the expense of labor, but all the expenses which enter into a quarry—the expense of feed for cattle and horses and a thousand things are much less than here. The only object that is desired by putting this tariff of four or five dollars a ton upon stone is not protection, but to prevent a large amount of capital going from this country to Nova Scotia and being there invested, tempted by the immense profits which would entirely destroy the quarrying interests of New Jersey, Connecticut, and Ohio, as I believe. This present tariff, those who are engaged in quarrying in these stones say, will be their destruction. Why, sir, look at the prices. Freestone could be placed in the market four years ago at from seventy to eighty cents a cubic foot; it cannot now be placed there for less than \$1 35 a cubic foot, such has been the increase in the expense of quarrying; and with this tariff of four dollars or five dollars a ton, Nova Scotia stone can be put in the market and sold considerably less than this stone from Ohio and New Jersey can. What do we gain, then, by this amendment? We gain two things: we gain an increased revenue when the stone does come here, and we prevent capital being tempted by these enormous profits to invest itself in quarrying this stone in Nova Scotia to the destruction of our American quarries.

This is no small business. There are probably \$5,000,000 paid out annually in labor in these quarries; there are thousands and thousands of men employed in them. There are \$2,000,000 of capital invested in Connecticut alone. As to speaking of this freestone as raw material it is the greatest possible mistake.

Mr. WILSON. Will you tell what is a raw material?

Mr. FRELINGHUYSEN. I can easier tell what is not. This freestone is used for veneering houses; it is so valuable and it costs so much to work it that it is used merely to veneer a house perhaps with stone four or six inches thick. That you cannot call a raw material. It is as expensive as the marble almost.

Mr. FESSENDEN. That is not the raw material, you speak of it after it is wrought.

Mr. FRELINGHUYSEN. That is the way it is brought. It is not sold in the rough condition as it is taken out of the quarries.

Mr. FESSENDEN. The Senator is mistaken. It is sold in that way by those who work it. Some may carry on both branches of business; but as the stone comes out of the quarry it is a rough block; it then goes to the worker in stone and he puts it into the shape he wants it.

Mr. FRELINGHUYSEN. But the rough block the Senator speaks of has a great deal of labor upon it; and it is that rough block which is put in the market at an except of \$1 35 per cubic foot. We can see that the

stone as it is in the quarry is not worth a tithe of \$1 35 a cubic foot. It is the labor on it that gives it that value. It is no raw material in that sense.

The tariff on marble by the present bill, even although the amendment of the Senator from Vermont was not adopted, is vastly greater than that which we ask upon the freestone. There the tariff is fifty cents a cubic foot specific, and thirteen cents *ad valorem*, making sixty-three cents. The marble is invoiced at sixty-five cents a cubic foot, so that the present tariff upon marble is almost one hundred per cent. if you take the invoice price as the criterion. This stone sells in the market at about sixteen dollars a ton, and we ask four dollars a ton or twenty-five per cent. on its value in market.

I trust that the Senate will have regard to this freestone and not destroy these quarries, for it is perfectly clear that with the price of labor in this country and with the fact that this stone has to be transported by rail—

Mr. FESSENDEN. How far?

Mr. FRELINGHUSEN. From the quarry to market, however far it may be. The freestone can be carried at much less expense directly from the quarries in Nova Scotia by water to New York and Philadelphia, which are the principal markets.

Mr. FESSENDEN. The quarries in Ohio have water transportation, too.

Mr. FRELINGHUSEN. But they must carry the stone six miles to the shore.

Mr. FESSENDEN. It is hauled there, not transported by rail.

Mr. FRELINGHUSEN. In view of the difference in the price of labor and the cost of transportation we certainly ought to protect our own quarries. I am assured by the gentlemen who are engaged in this business in this country that even with this duty the Nova Scotia stone will command the market and can undersell them.

Mr. MORRILL. That is an entire mistake.

Mr. FESSENDEN. The fact cannot be so.

Mr. FRELINGHUSEN. I do not want to take up time by arguing the principles of this tariff. We want to protect American labor, and we want to get revenue. We do both by this arrangement. We get revenue and we prevent American capital going to Nova Scotia and being there invested in these quarries, and so taking the business from the American quarries.

Mr. WADE. It is thought that I have placed the rate of duty too high in my amendment. I fixed that rate because it was what was put in the House bill after full investigation by the House of Representatives; but as gentlemen think it is too high I will modify it by saying "four dollars" instead of "five."

Mr. GRIMES. So far as the amendment under consideration relates to building-stones, I take no interest in it and have nothing to say. If Senators representing the States along the Atlantic coast choose to put a tax upon building-stone, so as to increase the expenses of dwellings and other buildings in the cities and in the villages of the country they represent, and thereby increase rents, be it so. I do not know that the section of country that I represent has any particular interest in it. But I have a slight interest, as the people of the State of which I am a citizen have, in the subject of grindstones.

Grindstones are of general use. There is not a manufactory of iron or steel or a machine-shop or a respectable-sized farm in the country that does not use grindstones. I am well aware that if we put this tariff upon imported grindstones it is not going to bring a single foreign grindstone to the section of country where I live. A region of country adjacent to that in which the Senator from Ohio lives has now an entire monopoly of that trade, and during all the time I have lived in the West I have never seen a grindstone from any other place than from the neighborhood of Berea, in Ohio. There may be quarries from which they are occasionally wrought or wrought to some

extent elsewhere; but I never heard, until the Senator from Michigan told us to-day, that there was one in the State of Michigan.

The Senator from Ohio has not told us that these Berea quarries are in a languishing condition. I understand that on the contrary they are very prosperous; and it is within my own knowledge that during the last two years an establishment in the town in which I live has been obliged to wait from two to three months to have an order sent to Berea for grindstones filled. I understand also from the Senator from Michigan that the grindstone manufactory in his State is exceedingly prosperous, for he says it has drawn a large amount of population from Canada over into Michigan in order to work in that grindstone quarry. I apprehend, therefore, that so far as protection is concerned, upon the argument submitted by the Senator from Michigan and the Senator from Ohio, there is not much to be said in favor of the proposition.

There is another thing to be taken into consideration, that under the law as it now stands—and it is not proposed to modify it, so far as I know—this is a manufacture that pays no internal duty whatever. Therefore, if the Senator from Ohio is successful in preventing the influx of these articles from abroad, just to that extent he diminishes the revenue of the country. That is a consideration which, it occurs to me, it would be well for the Senate to ponder.

The Senator tells us that he desires an increase of the wages of the laborer and he is going to exalt and dignify labor, and this bill is the panacea by which it is to be accomplished! The Senator from Maine very well inquired of him whether there were not other laborers in this country beside those in the machine-shop and those in the quarry. Sir, the labor of the country is done upon the farms. The basis of our products, of all our commerce, and of all our manufactures is dug out of the earth by the farmers. Now, let us see what is proposed by this bill; and I call the attention of the Senator from Ohio, who is an ardent advocate of the whole of the bill and all its principles, to its consideration for one moment, and then ask him whether he proposes to put an additional burden upon the farmers of the country by requiring them to pay an additional price for grindstones; for, as I said before, although we shall not in the section of country where I live, nor will he in the State of Ohio, see a single imported grindstone, yet the imposition of this tax upon the importation of grindstones is going to be an excuse for those who own the quarries in Ohio and Michigan to increase the price of the article they now furnish in exactly the same proportion that we increase the duty.

In this bill we declare that all agricultural implements imported into this country shall pay a duty of thirty-five per cent. We declare that no farmer shall put up a fence around his farm, or put up a house or any necessary outbuildings from any foreign lumber, unless he shall contribute the sum of two dollars a thousand for that. Then we have another clause saying the Canadian farmer, who is raising agricultural productions in competition with our farmers just across the line, shall be permitted to come into the States, get his agricultural implements on this side, and take them at a price with the duty off. That is one of the provisions of the bill; so that the farmer in the British Provinces gets every agricultural implement, his hoes, his rakes, his plows, his harrows, his mowing-machines, and his reaping-machines, and even his axes, free of all the impositions of duty imposed by this or any other tariff bill, and he can send in the produce that he raises in competition with the American farmer, and to his detriment. That is called protection to American industry, protection to American labor!

It is true, the bill proposes to lay a small duty upon agricultural products—ten cents a bushel on barley, not one half the price it would cost to transport a bushel of barley from the State where I live to the city of New York

or Boston, which is the common market both of the Canadian and the Iowa farmer; and twenty cents a bushel on wheat, which is not enough to pay the cost of transportation, the Canadian farmer having the advantage of being so much nearer to the New York and Boston market than we are. And yet on the heels of that, with all the advantages given to the farmers of the British Provinces by this bill, which the Senator from Ohio has announced himself in favor of, it is proposed now—

Mr. WADE. I did not announce that I was in favor of the bill itself; I said nothing about it.

Mr. GRIMES. I am delighted to hear that the Senator from Ohio is open to correction yet upon the merits of this bill.

Mr. WADE. I said nothing about the bill.

Mr. GRIMES. I thought from what the Senator said before it was a foregone conclusion that his vote would be in favor of the bill. But I say, in addition to the burdens on the farmer of which I have spoken, it is proposed now to increase the cost and expense of the products of the American farmer by an additional imposition upon the grindstones with which he sharpens his tools.

Mr. WADE. I am not going to take up much time in replying to the argument of the Senator from Iowa, because there is nothing new in it. Farmers do use grindstones, and they use tea and coffee and a great many other articles that are taxed pretty heavily in this bill. So it is with people engaged in other pursuits. As I have said before, all these great interests hang together; they are mutually dependent one upon the other. We are under the necessity of burdening the country with a taxation sufficiently large to pay the interest on our debt, and I hope gradually to decrease the principal. That is the necessity which we are compelled to submit to; and yet the Senator from Iowa talks as though we owed nothing and were under no obligation to burden any part of the people with any taxes whatever. Nobody would be more rejoiced than I would be if such were the fact. My argument is simply that as we are compelled to lay these burdens upon the people, we ought so to lay them as to protect our own labor and our own industry in preference to foreign labor and foreign industry. That is all that I contend for.

What the Senator from Iowa has said about grindstones may be said of pretty much every article that is protected in this bill. There is no different doctrine to be applied to grindstones from any other articles of manufacture. I might just as well get up and argue, as the Senator has done, that if a commodity which is protected enters into the consumption of a great many people they will be burdened by the tax. That is very true; but this is no reason why you should not protect all the home interests that can be protected. You must balance protection with the obtaining of a revenue, I grant; but, as the Senator from New Jersey has well said, what I contend for accomplishes both these objects. While it protects our own labor, it gives you a revenue, and one as little burdensome as that which you derive from any other commodity that you tax. It is for this reason that I ask that this duty be imposed.

I acknowledge that as to locality this interest perhaps affects my constituents more than others. I do not conceal it; I know that the stone out of which grindstones are manufactured is not very common in this country. There is a very good quarry, and I believe more than one, in Ohio, and there are several in Michigan. That, however, is no reason why I am to be considered as selfish when I seek to give the same protection to this interest that is given to others in this bill. Every interest that is protected must have a local habitation somewhere, and I am not the man to inquire in what particular part of the country it springs up.

Mr. GRIMES. I beg the Senator to believe that I did not charge him with such a thing.

Mr. WADE. Oh, no; I do not say so. I

speak in reference to what was said by the Senator from Maine, who charged that these interests I speak about are in my own vicinity or in my own State. That is true; and that is a reason why I advocate them here more earnestly, perhaps, than I would if they were in the State of another Senator, who was quite as able to set forth and protect the interests of his constituents as I could be. This interest is no more local than every other one that comes under the supervision of this bill. It affects all the inhabitants of the country, because between the States of the Union we levy no customs. These States are one great community for certain purposes, and it does not make any difference where the thing to be taxed happens to lie; it affects everybody that has occasion to use the article. Because this quarry happens to lie in Ohio I am not aware that I am contending for a mere local interest any more than I should be if it was located anywhere else. It seems to me to be perfectly germane to include all the freestone interests in this amendment. The same principle applies to them all. When you come to consider whether they shall be taxed in this bill or not, grindstones stand on precisely the same principle as freestones, and therefore I have grouped them all together, not believing there was any difference in principle.

Mr. FESSENDEN. Why not put on a thousand per cent.?

Mr. WADE. Because I think that would be extravagant.

Mr. FESSENDEN. I thought you said it was all the same.

Mr. WADE. No; I say the same principle of protection applies. I am for applying that principle to this article, and the Senator cannot deny that the same principle for which I am contending pervades his whole bill.

Mr. FESSENDEN. It is a question of amount.

Mr. WADE. Yes; and I ask for a smaller amount than is given to many other interests by this bill. I hardly understand how the Senator argues this bill. Sometimes when it is convenient for his purpose he tells us that the duty is for revenue; and then on other occasions, when he has some other purpose to serve, he says the duty is for protection. Now, I am for both, whether the interest to be protected is located in Portland or in Cleveland. Its locality makes no difference to me. In this case I am in for the protection of grindstone and freestone against foreign competition in the same way that I am for protecting our own labor against foreign competition in any other articles of production.

Mr. GRIMES. Does not the Senator see that under the operation of our present internal tax law, just so far as his proposition is protective just so far it diminishes the revenue.

Mr. WADE. Certainly it does.

Mr. GRIMES. Then where is the profit to the Government.

Mr. WADE. You say it is a very profitable business, which I do not understand that it is, and I am assured by those interested in it (whose arguments I do not lug in) that the business is not a profitable one. If it is, I trust the Finance Committee will have shrewdness enough to hunt it up and tax it. If it is a profitable business and these men make money out of it, you ought to derive a revenue from them as well as from others; and if the assertion be true that this is a money-making business impose your taxation on it; there is no reason why it should not be done. Indeed, I had supposed it was taxed like other business of a similar kind; but I never looked to see whether the internal revenue law applied to them or not. I am willing that they should be placed on the same principle as others.

Mr. FESSENDEN. I ask if the vote can be put first on the motion to strike out and insert, and next on the motion to strike out on the next page, or whether it is all one vote?

The PRESIDENT *pro tempore*. The proposed amendment, in the opinion of the Chair, is subject to a division.

Mr. FESSENDEN. I ask for a division.

The PRESIDENT *pro tempore*. A division of the amendment being asked for, the first question is on striking out lines thirty-six and thirty-seven of section twelve, on page 85, in these words:

On grindstones, unfinished, ten per cent. *ad valorem*.

On grindstones, finished, five dollars per ton.

And in lieu thereof inserting:

On grindstones, and on soapstone, freestone, sandstone, granite, and all building or monumental stone except marble, four dollars per ton of thirteen cubic feet.

Mr. FRELINGHUYSEN. Does the amendment now include grindstones?

The PRESIDENT *pro tempore*. The Chair so understands it.

Mr. GRIMES. Is it not possible to amend the amendment so as to get a separate vote on the different articles enumerated in it?

The PRESIDENT *pro tempore*. The Chair thinks not. A motion to strike out and insert is one motion, and is not divisible.

Mr. GRIMES. Cannot the question be divided in any way?

The PRESIDENT *pro tempore*. The Chair thinks not.

Mr. EDMUNDS. I would inquire whether the question cannot be divided so that we may take the vote on grindstones to begin with, and have a distinct vote on each separate branch or article proposed to be included.

The PRESIDENT *pro tempore*. The Chair thinks there can be no division of this motion. It is a motion to strike out and insert, and that under the rules is one motion and cannot be divided.

Mr. GRIMES. Then the only course left to those who are against one of the propositions and in favor of the other is to vote against the amendment of the Senator from Ohio and then offer a subsequent amendment in a different form.

The PRESIDENT *pro tempore*. That is of course in the power of any Senator.

Mr. WADE called for the yeas and nays, and they were ordered.

Mr. SPRAGUE. Before the yeas and nays are taken I desire to state that my colleague [Mr. ANTHONY] is confined to-day by indisposition, and he will, I know, receive the sympathy of the Senate when I state that on Friday he was seriously imperiled by an accident which might have cost him his life. As he was crossing a street a sleigh approached him, and guarding himself he seized the pole and was carried some distance, after which he lost his hold and the horse and sleigh passed over him, as he thought on Saturday without injury, but to-day he feels that he was somewhat injured by the circumstance.

The question being taken by yeas and nays, resulted—yeas 19, nays 23; as follows:

YEAS—Messrs. Cattell, Chandler, Cowan, Creswell, Dixon, Edmunds, Foster, Fowler, Frelinghuysen, Howard, Johnson, Patterson, Poland, Sherman, Sprague, Trumbull, Van Winkle, Wade, and Yates—19.

NAYS—Messrs. Brown, Buckalew, Conness, Cragin, Davis, Fessenden, Grimes, Harris, Henderson, Hendricks, Howe, Kirkwood, Lane, Morgan, Morrill, Nesmith, Ramsey, Eiddle, Saulsbury, Sumner, Willey, Williams, and Wilson—23.

ABSENT—Messrs. Anthony, Doolittle, Fogg, Guthrie, McDougall, Norton, Nye, Pomeroy, Ross, and Stewart—10.

So the amendment to the amendment was rejected.

Mr. SHERMAN. I wish to offer an amendment.

The PRESIDENT *pro tempore*. There is still a branch of the amendment offered by the Senator from Ohio [Mr. WADE] undisposed of.

Mr. SHERMAN. I supposed that fell, of course with the rejection of the other.

Mr. WADE. Certainly.

The PRESIDENT *pro tempore*. The question must be taken on it unless it is withdrawn.

Mr. WADE. It is of no consequence now.

The PRESIDENT *pro tempore*. The pending amendment will be read.

Mr. WADE. I withdraw it. I supposed it fell with the other, of course.

Mr. SHERMAN. That being withdrawn, I move to amend section four on page 17, by striking out the word "twenty" in line twenty-four and inserting "fifty;" and by striking out the words "square yard" and inserting "pound;" so as to read "on bunting fifty cents per pound, and, in addition thereto, thirty per cent. *ad valorem*;" so as to conform to the duties in the previous part of the section.

Mr. FRELINGHUYSEN. I thought the Senator from Ohio was renewing the motion of his colleague as applicable to freestone.

Mr. SHERMAN. No; but you can renew it afterward.

Mr. FRELINGHUYSEN. But for that understanding I should have objected to the withdrawal of that amendment.

Mr. WILLIAMS. I ask the Senator from Ohio if his amendment proposes to increase the duty on bunting or not.

Mr. SHERMAN. I am informed by experts that the duty on bunting, as fixed by the bill as it stands, is one hundred and thirty-five per cent.; and by some means—perhaps it is not an error, though I was about to call it so—instead of levying the duty per pound, as is done in all other woolen or worsted manufactures, it is levied per square yard. The Senate will see that the preceding parts of the section levy the duties on blankets and woolen and worsted yarns, &c., composed of the same materials that are made into bunting, at from twenty to fifty cents per pound. Assuming that bunting is the highest-priced product, which, by the way, it is not, I propose to put the duty at fifty cents a pound, which is precisely the duty on the corresponding articles of woolen and worsted goods.

Mr. HOWE. How will that leave the bill in this respect as compared with the present duty under the existing law?

Mr. SHERMAN. The present duty is fifty per cent. *ad valorem*, and from the information I get my amendment will make it about seventy per cent. *ad valorem*.

Mr. FESSENDEN. Then you increase it.

Mr. SHERMAN. No; this bill makes it one hundred and thirty-five per cent., and I reduce that. By an amendment incorporated into some law on motion of my friend from Rhode Island, [Mr. SPRAGUE,] all bunting used by the Government of the United States must be of American manufacture, so that all the flags used by the Government must be of American manufacture. One or two establishments have a monopoly of the business, and to give them in addition to that a protection of one hundred and thirty-five per cent. seems to me rather too much.

Mr. HOWE. It seems that we import a vast amount of bunting. We imported last year, I see by the returns, over thirteen million dollars in value of this very article.

Mr. SHERMAN. I think that is a mistake.

Mr. HOWE. So the Secretary says.

Mr. SHERMAN. I have no doubt bunting is used by every citizen of the United States more or less. It goes into the little flags that are used on the 4th of July. Every citizen probably has his flag, and a great deal of it is used.

Mr. HOWE. The Secretary's report puts the importation at the figures I have stated.

Mr. SHERMAN. I think that is an exaggeration.

Mr. SPRAGUE. This article of bunting is different from the articles referred to by the Senator from Ohio. He refers to blankets, broadcloths, and such like articles that weigh two or three yards to a pound; but this is a light article that weighs something like ten yards to a pound. Hence there should be a difference.

Mr. FESSENDEN. I feel it my duty to state that a very short time ago there was no bunting establishment in the United States; all the bunting for our own flags was imported; the flags that went at the masthead of our vessels and so on were of foreign bunting. We did not manufacture the article in any way whatever. A gentleman called at the Navy



Department, and in conversation on the subject there it was mentioned, as a matter that was rather shameful to us, that we could not manufacture our own flags, and the Department intimated a wish that somebody would get up a manufactory of bunting in this country. He told them that he would see whether it could not be done, and he went home and went to work and contracted with the Navy Department to furnish them with bunting. He established a manufactory for that purpose, and I believe it is the only one in the United States. If there are more now, as gentlemen intimate, they have grown up since. In a former bill a clause was inserted to protect the manufacture of bunting by requiring that all the Government used should be of American manufacture.

When the House of Representatives sent us this bill proposing additional duties on wool, of course it also proposed additional duties upon all manufactures of wool. At the time this establishment of which I speak went into operation the Canada wool came in free. The reciprocity treaty had not then expired, and the long wools from Canada, out of which this bunting is made, came in free. That was the great encouragement at the time to establish the manufactory. When the reciprocity treaty ceased of course the duty fixed by the existing tariff upon wool applied, and I think it was about sixteen cents a pound. The duty on wool fixed in this bill is ten cents a pound and ten per cent. *ad valorem*. In view of the heavy duty that is imposed upon the wool out of which the bunting is made the House regulated the duty upon bunting. The bill recommended by the commissioner reduced the duty on this wool from ten cents down to six cents, and he put his duty on bunting with reference to that; but the Finance Committee adopted the House rates on wool, therefore the House rate on bunting which had been fixed to correspond with the increased duty on wool—

Mr. CONNESS. You changed the classification of wools?

Mr. FESSENDEN. No; the classification is the same precisely. What we did was to reject the reduction proposed by the commissioner and take the duties fixed by the House; so that instead of paying nothing, as was the case when this manufacture was established, the wool out of which bunting is made is to pay a duty of ten cents a pound and ten per cent. *ad valorem* by this bill. That being established by the House and adopted by the Senate, we took the House provision with reference to bunting, supposing that it was framed in accordance with the increased duties, to give the same protection that the manufacturer had before.

That is all I know about it; and if the Senator from Ohio has any other information he will communicate it to the Senate. It is not mere matter of opinion and guesswork, but is predicated on the increase of the duties on wool.

Mr. SHERMAN. What the Senator says is right enough, but as a matter of course we are not bound to follow the House in the adjustment of the various articles. I wish to apply to the article of bunting precisely the same principle which the Senate applies to all other articles of woolen manufacture. The principle of this bill is to give about thirty per cent. *ad valorem* to articles of manufacture, and then to give a specific duty corresponding to the amount we levy on the raw material. That principle is carried out by my amendment. The duty on the wool entering into the manufacture of bunting, which is made out of combing-wool, the second class, is ten cents a pound, and ten per cent. *ad valorem*. It cannot exceed fourteen cents a pound, counting the wool at forty cents. A duty of fifty cents a pound on bunting would be ample to compensate for the duty we levy on the wool. The same principle is applied to blankets and woolen and worsted yarns, which, I am told, are made out of precisely the same quality of wool that goes into bunting, except that in bunting a quantity of cotton is mixed

with the wool. The highest duty on woolen yarns in this bill is thirty per cent. *ad valorem* and fifty cents a pound specific. I propose to apply precisely the same rate of duty and the same principle to the article of bunting.

I am told by gentlemen who understand this business better than I do that the price of bunting is from eighteen to twenty cents a yard, currency. The result is that the duty as it now stands in the bill is equivalent to more than one hundred and thirty per cent. Beside that, we give to the domestic manufacturers almost a monopoly of the market by requiring the Government of the United States to purchase its supply of bunting from the American manufacturers. Why the duty was fixed as it was in the House bill I do not know. We ought to extend the same principle of protection and revenue to the article of bunting as to every other article of woolen manufacture. If the duty that I propose is found to be too low, as a matter of course it can be adjusted hereafter between the two Houses; but from the best information I can get it will give to the bunting manufacture the same protection that every other article of woolen manufacture will have under the bill.

The amendment to the amendment was agreed to.

Mr. WILSON. In section two, line eighty-six, on page 11, after the word "hand" I move to insert "or Marseilles bed-quilts or bed-spreads;" so as to read:

On all cotton hosiery, comprising shirts, drawers, stockings, socks, gloves, and all other goods knitted or made on frames or by hand, and on Marseilles bed-quilts or bed-spreads, ten cents per pound, and, in addition thereto, forty per cent. *ad valorem*.

The amendment to the amendment was agreed to.

Mr. WILSON. I move now, after the word "ties," in line one hundred and forty-two of section ten, on page 76, to insert "six cents per dozen and;" so as to read:

On umbrella and parasol elastic ties, six cents per dozen, and fifty per cent. *ad valorem*.

I will simply say that as the bill now stands there is a marked discrimination against—

Mr. WILLIAMS. I believe there is no objection to the amendment on the part of the Finance Committee.

Mr. WILSON. Very well, then, I shall say nothing.

The amendment to the amendment was agreed to.

Mr. WILSON. In line three hundred and five of section seven, on page 37, I move to strike out "forty" and insert "fifty;" so as to make the clause read:

On machine cards, on card clothing, for use in covering carding engines, or parts of the same, composed of leather and wire, or cloth and wire, whether the cloth be composed wholly of wool, flax, or cotton, or of the same materials mixed with India-rubber, or combined with each other and India-rubber in any way, fifty per cent. *ad valorem*.

Mr. JOHNSON. What is the present duty under the existing law?

Mr. WILSON. Thirty-five per cent. The persons engaged in this business are very anxious to have twenty cents per pound specific duty in addition to the forty per cent. *ad valorem* provided by the bill; but it has been thought best not to propose that, but simply to move ten per cent. additional; and I will say that I think this is a very reasonable proposition. The article is one of great importance, and it ought to be protected.

Mr. WILLIAMS. I ask the honorable Senator if an additional tax on these articles will not impose additional burdens on the manufacturers of the country.

Mr. WILSON. The persons engaged in the manufacture of these articles that are used in the mills employ a great number of skilled mechanics; and I think if there is one class of men in the country whose interests we ought to look after it is the skilled laborers of the country. This proposed change is very far short of what the men engaged in this business think they ought to have. They say that the provision as it stands will be very hard indeed

upon their labor. They want a much larger protection than the amendment I propose. They want twenty cents a pound in addition to the forty per cent., but I have thought it best simply to propose that the forty per cent. be made fifty.

The amendment to the amendment was rejected.

Mr. WILSON. On page 71, in line twenty-eight of section ten, I move to increase the duty on corks, from forty to fifty per cent. *ad valorem*. I wish to say that this is but one half of what has been asked for by the parties engaged in this business, and I have seen the figures made out, by which it appears that the duty as it stands is a marked discrimination against the manufacturer in this country. Even the change that I propose will hardly make anything in their favor and will just put them about even. I hope it will be adopted. As the clause now stands it is a decided discrimination against the manufacturer of the article in this country. It can be imported and pay the duties cheaper than it can be made here. I hope the amendment will be adopted.

The amendment to the amendment was rejected.

Mr. WILSON. I wish to offer one more amendment: it is on page 48, in line one hundred and seventy-six of section nine, to strike out "thirty-five" and insert "forty-five;" so as to make the duty "on carmine in all forms, and carmine lake, dry or liquid," forty-five per cent. *ad valorem*.

Mr. FESSENDEN. I should like to have some reason given for that. The article from which this is made is on the free list, and thirty-five per cent. on the manufacture would seem to be enough.

Mr. WILSON. The Senator may think it enough, and probably the Senate will; but the proposition was placed in my hands with figures showing the large amount of taxation placed upon the product, from which it appeared that this duty would be a very small protection. I have no particular interest in it other than to have the matter properly adjusted; but if the figures put in my hands in regard to it are correct I must say that as the clause stands at present it is not right and the duty ought to be increased.

The amendment to the amendment was rejected.

Mr. CHANDLER. On page 25, in line seven, of section seven, I move to strike out "three" and insert "eight." It now reads "on old metal scrap iron, three dollars per ton." I wish to make it eight dollars.

Mr. FESSENDEN. I ask if that is in order. That line has already been amended, and the amendment agreed to in the Senate.

The PRESIDENT *pro tempore*. The amendment was agreed to in committee, and the question is, Will the Senate concur in the amendment made in committee? But that amendment is subject to amendment now before it is concurred in by the Senate. The motion of the Senator from Michigan is in order.

Mr. CHANDLER. Let the Clerk read the line as it now stands amended. I was guided by the printed bill before me.

The SECRETARY. Lines seven, eight, nine, ten, and eleven of section seven were stricken out in Committee of the Whole, and the following words were inserted in lieu thereof:

On old iron, cast or wrought, three dollars per ton: *Provided*, That nothing shall be deemed old iron except waste or refuse material, or iron that has been in actual use and is fit only to be manufactured by melting or reheating and rolling or welding.

Mr. CHANDLER. I desire to increase the duty on scrap cast iron to eight dollars per ton, and on scrap wrought iron to twelve dollars per ton. How such a bill as this could ever emanate from the Committee on Finance is to me a mystery. If it did not come from a so distinguished source, I should say it was an absurdity, but coming from so high a source, I can only say of it that it is total ruin to the iron interests of the United States. The committee propose to admit scrap wrought iron at

three dollars per ton, and charge nine dollars per ton on pig metal. Wrought iron can be made from pig at an expense of twenty-eight dollars per ton to-day. Under this bill all the railroads on earth will pour their old worn-out rails as scrap iron into the foundries of the United States, and it is well known that railroad bars have to be rerolled on an average once in ten years.

These duties are destructive to the revenue, destructive to every iron furnace of the United States, and will put them all out. You might as well admit railroad iron at a duty of three dollars per ton as to admit the wrought scrap at that rate. It will put out every blast furnace in the United States, and not a single pound of pig metal will be imported under the bill. We shall become the recipients of all the scrap in the world, and shall import nothing but scrap.

Sir, such an absurdity was never before proposed on this or any other body, in my judgment. It is a bill gotten up to suit the railroad rolling-mills, and to sacrifice every other iron interest in the United States but the interest of these railroad rolling-mills. They buy this scrap, and of course they are satisfied. The result of it will be that they can bring in all the iron they manufacture at a duty of three dollars per ton. No doubt the railroad rolling-mills are satisfied. It is millions upon millions of dollars in their pockets, and as many millions out of the Treasury of the United States. You will import nothing but scrap, and you will receive three dollars per ton and no more.

Mr. President, I hope this amendment will be adopted, and I desire to have it adopted in the form in which I present it, namely, eight dollars upon old cast scrap, which is exactly the same value as pig, and twelve dollars on wrought scrap. I leave a discrimination of one dollar between the duty on pig and on cast scrap, and I raise the duty on old railroad bars, which would really bring the grand total of our imports under this scrap law to twelve dollars, while the duty on bars is fixed in the bill at fourteen dollars. I hope the amendment will be adopted. The section as it stands is total ruin to the iron interests of the United States.

Mr. FESSENDEN. I should be a little surprised at the speech made by the honorable Senator from Michigan if I was not aware of the accuracy of his information upon every subject, and of the fact that it is useless to set up against his broad statements any information that may be obtained from other quarters. Now, sir, as he seems to think, this is a most marvelous bill. I will state a few facts in reference to how the result of which he complains was arrived at. The House of Representatives agreed to impose considerably larger duties on iron than we have imposed. If I recollect aright, the House put the duty at five dollars per ton on old iron, cast or wrought, reducing it from eight dollars, the duty under the present law. The Senator from Michigan now proposes to put it at eight dollars on cast and twelve dollars on wrought iron.

We had before us a committee of iron men from Pittsburgh who came to see us on the subject of this duty on iron and other things, and stated that with regard to scrap cast-iron the duty of three dollars per ton was ample; they did not want any more than that on scrap cast-iron; they were satisfied with it; but on wrought scrap iron they thought the duty ought to be as high as on pig iron. We first put the duty on wrought scrap iron at eight dollars per ton, and with that they expressed themselves satisfied, and put on a proviso which Senators will find printed in the bill "that nothing shall be deemed wrought or scrap which can be used as piles or billets in the manufacture of iron."

After we reported it there was a meeting of iron men in this city, quite a large one, indeed I believe it was a regular convention of the Iron and Steel Association. They took the subject into consideration, and some of them exposed to us the fact that the committee had been imposed upon in regard to this proviso. They

did it of their own free will. They said that putting in the description given in the proviso would have the effect, being worded as it was, to exclude all scrap iron, and none could be imported except some very small and insignificant matters, by the use of the descriptive words "piles or billets;" so that artfully it was a trick upon us, we being ignorant of the technical terms, by which all scrap iron would be absolutely excluded from the country except some few small articles. The Iron and Steel Association took the matter into consideration and they passed resolutions—and I believe that there were only four or five dissenting voices to the resolutions—that a duty of three dollars per ton on both classes was sufficient. The resolutions were sent to us signed by the president and secretary.

The reason they gave tended to satisfy us. There is an enormous quantity of this old iron. It is admitted into England free of duty. They get it and use it there, and by getting it free it helps to diminish the price of rails and enables them to undersell our rail-making men who make rails in this country. We on the contrary demand a duty, and therefore do not get our rails so cheap. The consequence was that the men who make railroad iron said that if you imposed a heavy duty and kept out this old wrought-iron the result would be that the English would get it all and it would reduce by so much the price of the manufacture of English iron, so that the struggle of our manufacturers would be still harder and more difficult.

Then the other iron manufacturers said this is not to be considered at all with reference to the price of pig iron; in reality the pig iron that is imported does not come in competition with any of our iron that we manufacture. The pig imported is the soft Scotch pig metal that is not to be found in this country, is not made in this country; it does not come into competition; but so far as we are concerned we would just as lief you should put the pig metal down to three dollars if you choose; but that was put up for the purpose of revenue and was kept up for that particular reason.

Under these circumstances, with that object, it was thought best to put old scrap iron at what they said was enough, and that is three dollars per ton on both descriptions. They said another thing, that there are a great many rolling-mills established on the Atlantic border, in New York and Massachusetts and some in Maine—I believe one or perhaps two. They have to bring their iron to the mills and pay freight on it, whereas the manufacturers of iron in Pennsylvania and other places have their iron and their coal at their door. They came to the conclusion, and they said that was the foundation of the resolution of the Iron and Steel Association sent to us, that it was no more than fair that it should come in at the same rate, that it is sufficiently guarded by the proviso we put in. That old iron has to be remanufactured. It consists entirely of broken railroad bars and old railroad bars and different kinds of things, I do not know how many. They thought it advisable that we should put the two together, and they sent their resolutions to that effect to the committee.

I do not know how much was imported last year, but the amount was not large. From the nature of the case it cannot be very large. The greater part of it will go to England where it is admitted free, but a considerable part comes here and is used up in these mills. Nothing like the duty that is mentioned by the honorable Senator was demanded, as I said before, by the parties interested in iron manufacture; but the committee proposed originally to make the duty on cast scrap iron three dollars and on wrought scrap iron eight dollars a ton, and we did not alter that until we were advised to do so by the vote of the Iron and Steel Association to which I have referred. I presume of course they did not know anything about it; and I presume the House committee knew nothing about it; and I presume the Finance Committee knew nothing about it. I will not say there was any intentional

unfairness, but I leave the Senate to judge how much reliance is to be placed on the broad assertions of the honorable Senator, who I believe is not a manufacturer of iron himself.

Mr. CHANDLER. The explanation of the Senator from Maine substantiates every statement I made. He says there was an assemblage of iron men here. There was, and they represented the rolling-mill interest.

Mr. FESSENDEN. The president of the association was from the city where the Senator lives.

Mr. CHANDLER. Certainly; I know it; and he has the largest rolling-mill in the United States. He rolls more iron than any other man in the United States. I am not working for Captain Ward. I propose to make laws that will be advantageous, not to Captain Ward, but to the State of Michigan and the United States.

Mr. FESSENDEN. I ask the Senator if he ever knew a pound of scrap iron to be imported into Detroit of any kind.

Mr. CHANDLER. I cannot answer that question.

Mr. FESSENDEN. Never; it cannot pay the freight.

Mr. CHANDLER. I know perfectly well that railroads are compelled to reroll their iron once in ten years on an average; consequently the effect of the provision reported by the committee will be to admit all the rails in the world into the United States at a duty of three dollars per ton. We shall become the grand recipients of all the scrap iron in the world.

The rollers of scrap iron in the rolling-mills of course desire to get this iron at the lowest possible price; but the effect will be to put out every blast-furnace in the United States, to stop the mining in every mountain in the United States. You simply furnish your rolling-mills with foreign stock without any protection to your furnaces, for this is substantially none. The expense of rerolling bars is only about thirty dollars per ton. They will bring this in at a nominal price and pay a duty of three dollars per ton. The result will be to utterly destroy all the revenue you now derive from iron; you will import nothing but at the duty of three dollars per ton.

As I said before, this wrought scrap iron is worth two or three times as much as pig metal. Pig metal has to be puddled once. It costs to-day twenty-eight dollars per ton to put pig metal into scrap; and yet you put a duty of nine dollars a ton upon pig metal and a mere nominal one of three dollars upon scrap iron. If the Senate propose to abandon the whole iron interests of the United States except the rolling-mills this section accomplishes it, and of course they will stand by it; but if they propose to continue the mining of ore, if they propose to continue the blast furnaces in operation, this section must be rejected, for it is total ruin to—it is absolutely abandoning the whole iron interest of the United States, save and except the rolling-mills.

Mr. SHERMAN. This is a far more important question than some Senators are aware, and it is well enough to give it a little consideration. The amount of the old scrap iron introduced into our country in the year 1865 was something like fourteen thousand tons, being about half as much as the pig metal introduced into the country. At that time the duty was eight dollars per ton, as it is now. The amount imported last year, according to the best statement I can find—we have no official statements, and must take those given by the iron men—was about thirty-two thousand tons. The duty on that yielded us a revenue of about a quarter of a million dollars. The House of Representatives in their bill proposed to reduce the duty on this iron to five dollars a ton, which is a step in the opposite direction, a sacrifice of revenue to the amount of about one hundred thousand dollars; not quite as much as my friend from Michigan stated, but still a considerable sum. The proposition is made by the Finance Committee to reduce this duty still more, to three dollars a ton, on the

ground that the gathering of this scrap iron from all parts of the world would give employment to our commerce and enable our vessels to carry on a profitable trade with certain countries; that it is really waste material, thrown away in a great measure, in South America, which can be brought here simply for the freight, and would add very much to the aggregate wealth of the country. It was admitted on all hands that the cast scrap iron was about equivalent in value to pig.

Mr. FESSENDEN. Not cast scrap.

Mr. SHERMAN. Yes, mixed cast scrap. The wrought scrap iron is about equal to twice the value of pig iron. That is the statement, and the Senator from Maine will find that I am not far from right. Wrought scrap, that is old iron that had been wrought, brought here in form fit to be manufactured, is worth about twice the value of pig iron; at any rate, it is worth a great deal more than pig.

I was willing for one to yield to the argument that it might be well enough to reduce the duty on cast scrap iron to the lowest possible rate, say three dollars a ton, but I thought there ought to be a discrimination made between the wrought-iron and the cast-iron, because one is twice as valuable as the other.

Perhaps I am justified in stating that the Committee on Finance agreed to that view of the case, that there ought to be a distinction made when a difficulty occurred. A number of gentlemen from Pittsburg represented that under the old system a great many frauds were practiced; that bar or railroad iron and other kinds of iron were cut in blocks or nuggets and brought in as scrap iron, when it was really good iron, and all that was necessary was to roll it in the form of railroad bars. These gentlemen represented that three dollars was enough on the scrap-cast iron; but it has since been suggested to me that these very persons made their representations from their interested stand-point. They want cheap cast-iron in order to roll it into bar iron, it being their manufacture, and they want a higher rate of duty on that which would come in competition with their industry. In other words, they looked at this matter from an interested point of view, and I must confess that the various representations made to us about this iron interest did rather weaken my confidence in the testimony of the gentlemen engaged in the business.

After the committee had conformed its action to these representations, much to my surprise I confess, a resolution was introduced and said to have been passed, and no doubt it was passed, by the Iron and Steel Association convention in this city, requesting the committee to make a uniform duty of three dollars a ton on scrap iron. I must confess that surprised me very much, because it was manifest that certain branches of the iron interest were opposed to this uniform duty, and yet here was the resolution right in the face and eyes of the statement made to us by intelligent gentlemen. On subsequent inquiry I found that this resolution was really the subject of controversy in the association. I think they were likely to break up into two parts on it.

I believe the solution of this difficulty would be to go back to the proposition of the Committee on Finance, which they made on the original statement made to them, to lay a discriminating duty between scrap cast iron, and scrap wrought iron. In doing this we reduce the rate of duty and throw off revenue; but I am willing, for one, to yield to the argument, which was very forcibly put, that this scrap iron is just so much wealth saved if it can be gathered up and brought into our rolling-mills and rolled into bar iron or melted into various irons for use here on the eastern coast. I was perfectly willing to give a discriminating duty, and it is a discriminating duty in favor of the Atlantic coast: it could only be used on the Atlantic coast. It never has gone further than Pittsburg. It seems to me a discrimination ought to be made between iron which is so valuable and that which is comparatively of little value.

Mr. CHANDLER. Pardon me: it can come in immense quantities into Cleveland and Detroit. All the railroads in Canada would send their old rails under this duty across the river to Cleveland and Detroit at a duty of three dollars a ton, and it would all come in as scrap, so that really it would affect the West as well as the East.

Mr. SHERMAN. When you reflect that this wrought-iron in whatever form it may come in may be at once melted and by one single process put into the form of bar iron or railroad iron, it is apparent that it is far more valuable than pig iron, which must go through two or three processes before it can be made into bar or rolled iron. The result is that if you admit it at three dollars a ton, which is only one third of the duty on pig iron, it will be to their interest to convert all kinds of iron possible into the form of scrap-iron by cutting it to pieces, by putting it under some machine and cutting it into nuggets or pieces, and bringing it in in that form, mixed with all kinds of iron, calling it scrap iron, and after it comes in it can be easily selected. The testimony before us was, that the rudest laborer could select the two kinds of iron and separate them without any material cost.

This being the case we may surrender a very large amount of revenue; instead of thirty-two thousand tons, an enormous quantity, we may have one hundred thousand tons. If they can evade the enormous duties we levy now upon wrought-iron and upon the various kinds of iron by bringing it in as scrap iron, it will certainly under this duty be brought in competition with our iron from the western States as well as along the Atlantic coast. I do not think that is right. I hope the Senator from Michigan will modify his proposition so as to make the duty three dollars a ton upon the cast scrap and eight dollars a ton on the wrought scrap, with the proviso now inserted in the amendment of the committee. I am perfectly willing to vote for it in that shape, but I think eight dollars and twelve dollars are rather too high.

Mr. CHANDLER. I think three dollars is too low on the cost of scrap.

Mr. FESSENDEN. All those interested agreed that it was enough.

Mr. CHANDLER. I am informed that pig scrap is of precisely the same value as what is called pig metal, and the duty on it should be the same as on pig metal. I propose to make it one dollar less than the duty on pig metal. Still I am not strenuous about the amount. It is against the enormous importations of rails in the form of old scrap that I am trying to guard.

Mr. SHERMAN. If you put eight dollars on the old scrap wrought iron it will guard against that.

Mr. CHANDLER. Well, I will put that at eight dollars, and I will say five dollars on the cast scrap.

Mr. FESSENDEN. Why make it five dollars when everybody interested said that three dollars was enough?

Mr. CHANDLER. I will make the rates three dollars and eight dollars respectively.

Mr. WADE. A gentleman whom I know very well, and who passes for one of our best men, who is extensively engaged in making pig iron, told me that this provision as it stood would be destructive of their interests. I know, therefore, that that interest is not unanimous in it. I should not undertake to say whether he was right or wrong.

Mr. SHERMAN. No representative of the pig iron interest came before us. The representations we heard were from those engaged in the making of bar iron out of pig iron. The pig iron interest was not disturbed, because the interest on pig iron is the same under this bill as under the old law, and therefore they did not come before us.

Mr. WADE. But this scrap will come in in lieu of pig. It was supposed it would be made over in that shape and come in here under this diminished duty, and they thought that would be destructive to them. I do not

know whether the gentleman who spoke to me about it was right or not, but that was the view he took of it, and he is extensively engaged in the business, and is a man of veracity, and a very good business man.

Mr. CHANDLER. I will put my amendment in this form: make the clause read:

On old cast-iron, three dollars per ton.

On old wrought scrap iron, eight dollars per ton.

And then will leave the proviso to stand as the committee have arranged it.

Mr. FESSENDEN. I have received a memorandum from a gentleman in whom I place confidence, in which he says that the scrap iron imported last year was thirteen thousand tons. That does not look like as if there was an excessive importation.

Mr. HOWARD. Does that include both kinds?

Mr. FESSENDEN. The scrap iron of kinds imported last year was thirteen thousand tons.

Mr. CHANDLER. What was the duty?

Mr. FESSENDEN. Eight dollars a ton.

Mr. CHANDLER. It would be one hundred and thirty thousand tons with a duty of three dollars.

Mr. FESSENDEN. I am speaking of the quantity imported. This gentleman says the railroads on the sea-board are able to get fifty dollars per ton for old rails and are selling them at that and importing new rails at ninety dollars. There were sixty-four thousand tons of new rails last year, and this year there will be one hundred thousand tons imported. The railroad men get no increased protection, and the bar and plate iron get \$7 50 per ton increased duty. That is his statement. The railroad men came before us and desired an increase of duty on railroad iron. We did not see fit to grant it. It had not been changed in the House and we left it as the House did. The manufacturers of railroad iron thought they would be at a great disadvantage by a heavy duty on wrought scrap iron, because the argument is that the cheaper railroad iron can be manufactured abroad the more difficulties our manufacturers have to contend with. They stated that a heavy duty on wrought scrap iron would send the wrought scrap all abroad, and the consequence of that would be to increase the expense of manufacturing railroad iron in this country and to place our manufacturers at a greater disadvantage.

I believe there is something due to their statements. We were not disposed, however, to change our original report until we got the resolution of the Iron and Steel Association of which I have spoken, which I am informed was discussed there all day, and at last passed by a very large majority, there being only four or five against it after consideration of the whole subject. I am not inclined to enter into any discussion on the subject now, but if the Senate think it wiser to put the duty up, so be it.

Mr. CHANDLER called for the yeas and nays, and they were ordered.

Mr. SHERMAN. I will only add a few words in regard to this matter. It will be remembered that the present duty is eight dollars per ton, and under that fourteen thousand tons were imported two years ago. The Senator from Maine says thirteen thousand tons were imported last year. My information was that the amount was thirty-two thousand; but I presume it is difficult to tell which statement is exactly correct. At any rate, we have the official basis that fourteen thousand tons were imported in 1865 at eight dollars a ton. Consequently a duty of eight dollars per ton on the scrap iron did not discourage a very large trade. But before the committee the persons engaged in commerce and persons who desired to reroll this iron appeared and urged a reduction of the duty, saying it was really a raw product which they might gather up in other countries with whom we are trading, and that it was important to put the duty as low as possible. We yielded to that argument and put it at three dollars. It seems to me, however, that a discrimination ought to be made between



the cast scrap and the wrought scrap. There is no difficulty in separating them; and it is proposed to make the duty on wrought scrap only what the duty on both was a year ago. It seems to me that ought to be perfectly satisfactory to all interests, and I hope therefore the amendment will be adopted.

I may say that this was the conclusion of the Committee on Finance after examining the whole matter until the resolution of the Iron and Steel Association came to us, and I now know that that was guided, as probably the action of most bodies of that kind is, perhaps of all bodies, by the interest of the parties concerned. In that association were a great number of men engaged in rolling iron, and among the rest one of the most valuable and eminent of the constituents of my friend from Michigan, a gentleman largely engaged in rolling iron. Of course they looked at this from an interested point of view. If we look at the question from a revenue point of view it is manifest that it is right to levy eight dollars a ton on wrought scrap. The interest will bear it, and I hope the amendment will be adopted.

Mr. CHANDLER. In this convention to which the Senator from Maine alludes, the rolling interest was predominant. There were but very few representatives of other manufactures of iron, and the few dissenting voices were those who were interested in the mining and forging or smelting of ore.

Mr. FESSENDEN. The manufacturers of pig iron were very largely represented. Some of the largest manufacturers of pig iron in the country were in that meeting, Mr. Scranton, of Pennsylvania, among others.

Mr. CHANDLER. I have it from one of the rolling men that the rolling interest was predominant, and that the manufacturers of pig iron protested that it would be the ruin of their business. The Senator says that last year there were but thirteen thousand tons of scrap iron imported under a duty of eight dollars a ton. This difference of five dollars a ton would bring the entire scrap iron of the world to your doors. As I said before, all railroad iron has to be renewed once in ten years. It all becomes scrap. Reduce the duty to three dollars and you will import scrap iron from Russia, Germany, Italy, and all parts of the world, and you will not receive a dollar from railroad bars on which you now levy a duty of fourteen dollars a ton. It would all come in the shape of old scrap. This would be ruinous to the Treasury; it would be ruinous to the blast furnaces; it would be ruinous to the whole interest, as I said before, except simply those concerned in rolling. I hope the amendment will be adopted.

Mr. GRIMES. I do not desire to interfere with the progress of this bill and have no motion to make; but there seems to be some doubt as to what are the views of this Iron and Steel Makers' Association; and as it is important that we should know what their opinions are before we come to a final vote on this question, I suggest the propriety of postponing the consideration of this bill until there can be an extra session of that association to let us know how we ought to vote.

Mr. SHERMAN. I think we should find the same differences of opinion that we have here.

The question being taken by yeas and nays, resulted—yeas 16, nays 20; as follows:

YEAS—Messrs. Cattell, Chandler, Connors, Cragin, Creswell, Frelinghuysen, Henderson, Hendricks, Howard, Lane, Sherman, Van Winkle, Wade, Willey, Williams, and Yates—16.

NAYS—Messrs. Brown, Buckalew, Davis, Dixon, Fessenden, Foster, Grimes, Harris, Johnson, Kirkwood, Morgan, Morrill, Nesmith, Patterson, Riddle, Sprague, Stewart, Sumner, Trumbull, and Wilson—20.

ABSENT—Messrs. Anthony, Cowan, Doolittle, Edmunds, Fogg, Fowler, Guthrie, Howe, McDougall, Norton, Nye, Poland, Pomeroy, Ramsey, Ross, and Saulsbury—16.

So the amendment to the amendment was rejected.

Mr. CRESWELL. On the 63d page of the bill, section nine, line five hundred and forty-six, the committee have stricken out the word

"three" and inserted "four;" so as to make it read:

On chromate and bichromate of potassa, four cents per pound.

I move to amend that amendment by inserting "five" instead of "four," so as to make the duty on chromate and bichromate of potassa five cents per pound.

All the chromate and bichromate of potassa that was used in this country twenty-five years ago was brought from Glasgow. The ore from which it is manufactured, known as chrome ore, was about that time discovered in the upper part of Maryland, in the county in which I reside, (Cecil), and in Hartford and Baltimore counties, and stretching over into the lower part of Lancaster county, Pennsylvania. At a great expense, and after great loss, some gentlemen in Baltimore entered largely into the manufacture of the article, and their works have grown until at the present time, or rather at the beginning of the war, they had employed in the manufacture of chromate and bichromate of potassa some two or three hundred men. They had also, by means of their increased production, brought down the price of that article from thirty cents to fifteen cents per pound, and they had almost the entire trade of the country at that diminished rate. They applied some years ago for a duty upon the article, and a duty was imposed, first of twenty per cent. *ad valorem*, and afterward of three cents per pound. Under that duty they succeeded in establishing their branch of industry. They bought large tracts of land; they erected extensive works; they invested a large amount of capital; and, as I said just now, they employed a large number of workmen—some two or three hundred, perhaps more than that even—in a section of country that is unable by any other means to sustain its population. It seems that this article of chrome is not found in any but very poor soil. They have gone on manufacturing, notwithstanding the increased price of labor and the deterioration of our currency, until within the last two years they find themselves reduced to such extremities that they will be obliged to abandon the manufacture of the article and leave the entire supply of this country dependent upon the foreign manufacturers at Glasgow. If that should be the case, the result will be that the article will be put up to its old figures.

Now, sir, I think I can show conclusively to the Senate that the increase to four cents per pound, which my distinguished friend from Maine suggested the other day, and which he thought sufficient, is not such protection as this interest needs. Before the war there was an active competition between the manufacture here and the manufacture in Glasgow; and, by the way, it is a single fight between them. This is the only place in this country where chromate and bichromate of potassa is manufactured, and these parties in Glasgow are the only parties who export from Glasgow and import into this country. It is a battle between them; and the question is, whether we shall abandon the trade to the foreign manufacturer or hand it over to the manufacturer in this country.

At the beginning of the war the price at which these parties produced the article under the difference in the cost of labor was eleven cents in Glasgow and fifteen cents in Baltimore, to which price the manufacturers had brought down the articles from thirty cents, as I just now stated. If you add three cents, the old duty, to the eleven cents, the price in Glasgow, it will make fourteen cents. Add one third of that for the deterioration in our currency, and it makes eighteen and two thirds cents. Add to that one third of a cent per pound for freight—it is less than that; about one fourth—and it makes nineteen cents, which is cheaper than the article can be produced in this country, and the result will be the manufactory will be closed. If you take the duty at four cents per pound these parties will be able to place it in the market in this country at twenty cents, which is cheaper than it can be produced here,

because when you add to fifteen cents per pound, the lowest price at which it was sold before the war in gold, the deterioration in our currency, it brings the expense to twenty cents per pound, and to that is to be added an increase of ninety per cent. in the cost of labor.

Now, sir, I think it nothing more than reasonable, right, and proper that this industry, in the first place, should be encouraged, and that, to do that, we should impose a duty of five cents per pound on this article. If five cents be allowed the foreign manufacturer will be able to place the article in the market in this country at twenty-one and one third cents per pound; so that upon a living rate of twenty-one cents per pound there will be only a margin of one third of a cent. If gold depreciates, or rather if our currency improves in value to such an extent as to lessen the margin between the two, then the competition becomes greater; and if our labor should increase even at these figures, or if it should not decrease as our currency appreciates, the result will be equally disastrous even at the duty that I ask from the Senate. I therefore think it as essential to this branch of industry that the increase should be made to five cents per pound.

Now, sir, as to the revenue: in the one case the manufactured article is produced entirely, or almost entirely in this country, and these manufacturers, as all manufacturers in the country, pay a large percentage to the internal revenue. If the production be abroad we only derive the duties upon the importations.

Mr. FESSENDEN. Is there any internal revenue on this?

Mr. CRESWELL. They pay a large percentage on the amount produced.

Mr. FESSENDEN. Do they really pay anything on the amount produced? Does the internal revenue law apply to it at all?

Mr. CRESWELL. I think it does.

Mr. FESSENDEN. My impression is that it does not.

Mr. CRESWELL. At any rate it is all important that the manufacture should be preserved here, and to do that, having some knowledge of the article myself, I believe that five cents per pound is actually necessary.

Mr. WILLIAMS. I will ask the Senator for what purpose this article is chiefly used. I do not know; I am not informed upon the subject.

Mr. CRESWELL. It is used as a mordant for dyes, and largely in the manufacture of paints of various kinds.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Maryland.

Mr. CRESWELL. I ask for a vote by yeas and nays upon it.

The yeas and nays were ordered.

Mr. FESSENDEN. I will state that there is no internal revenue tax at all on this production; so that that part of the Senator's argument as to what they had to pay to the Government amounts to nothing.

Mr. CRESWELL. I accept the gentleman's correction. I may be in error in regard to that, but this increase is certainly necessary to preserve the manufacture in this country.

The question being taken by yeas and nays, resulted—yeas 16, nays 19; as follows:

YEAS—Messrs. Chandler, Connors, Cragin, Creswell, Doolittle, Edmunds, Frelinghuysen, Harris, Hendricks, Howard, Johnson, Lane, Stewart, Van Winkle, Wade, and Willey—16.

NAYS—Messrs. Brown, Buckalew, Davis, Fessenden, Foster, Grimes, Henderson, Morgan, Morrill, Nesmith, Patterson, Ramsey, Sherman, Sprague, Sumner, Trumbull, Williams, Wilson, and Yates—19.

ABSENT—Messrs. Anthony, Cattell, Cowan, Dixon, Fogg, Fowler, Guthrie, Howe, Kirkwood, McDougall, Norton, Nye, Poland, Pomeroy, Riddle, Ross, and Saulsbury—17.

So the amendment to the amendment was rejected.

Mr. SPRAGUE. I propose to amend the bill on page 28, section seven, lines twenty-eight and twenty-nine. The clause now reads:

On sheet or plate iron, thinner than No. 22 and not thinner than No. 24 wire gauge, two and a half cents per pound.

I move to strike out "two and a half" and to insert "three."

Mr. FESSENDEN. I suggest to the Senator whether it would not be as well to omit attempting to amend the bill along there for the present, and let it come up to-morrow. The matter will be before the Committee on Finance in the morning, and some alterations may be made in those rates. I suppose there will be several of them changed.

Mr. SPRAGUE. I am glad the Senator has suggested that.

The PRESIDENT *pro tempore*. Does the Senator withdraw his motion to amend?

Mr. SPRAGUE. Yes, sir.

Mr. HARRIS. On page 39, section eight, in line thirty-eight, I move to strike out the words "and one half;" so that the clause will read:

On lead in pigs or bars, two cents per pound.

The effect of this amendment, as I propose it, if adopted, will be to leave the duty on pig lead the same as it is now; and I am informed from a credible source that two cents a pound on that article is as much as the article will bear. The increased duty is not needed for protection. The western mines do not produce enough lead for the consumption of the western trade. The current of trade has been reversed; and instead of bringing lead from the West to the eastern coast, lead is now imported and carried West. The western mines for the last two years have not produced enough for the supply of the western country; so that this additional duty is not needed for protection. Two cents a pound in gold for this article is enough, so I am assured; as much as the article will bear; and at two cents a pound it will bring to the Government more revenue than to increase it. I hope, therefore, that this amendment will be adopted.

Mr. HOWE. I hope this amendment will not be adopted. If the Senator had proposed to add a half cent to this duty, instead of subtracting a half cent, I would have voted with him with pleasure; and if I do him any injustice by opposing this motion, I will try to offset it by a motion to add a half cent when this fails, as I hope it will.

Now, Mr. President, I have a table before me which will give you a little idea of the experiences of the lead trade. In 1844 the duties on lead were three cents a pound, and the West sent to New York something over forty-four million pounds of lead, and none was imported. Two years later this duty of three cents per pound was changed to twenty per cent., and the receipts of lead from the West at New York began to fall off. In 1849 there was only thirty-five millions and a half or a little more received at New York from the West, whereas twenty-three millions were imported. The receipts of western lead fell off steadily down to 1865, when they received only one million eight hundred and fifty-six thousand five hundred and forty pounds, and imported thirty million four hundred and seventy-nine thousand six hundred and eighty pounds. Now it is proposed to put the duty at two and a half cents; that is, within half a cent of what it was in 1844. If our friends in the East were making money out of this state of things there would be some reason for their contending for it; but when they bought the whole of their lead from the West, in 1844, the price was \$8 95 per hundred. That was what it was worth in New York. The next year it went up to \$4 03, and it has steadily increased in price until in 1865 it was \$10 95 per hundred.

Under such an exhibition of the state of the trade, inasmuch as lead costs the consumer about three times as much under the present duty as it did under the higher duty, the duty of three cents a pound, and inasmuch as the Government gets now considerable of a revenue, and would if it put the duty up to three cents per pound get a much larger revenue when it got nothing before, I think we had better, instead of reducing this duty, add to it; certainly not reduce it.

Mr. HENDERSON. I move that the Senate do now adjourn.

Mr. FESSENDEN. On that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 16, nays 20; as follows:

YEAS—Messrs. Brown, Buckalew, Chandler, Creswell, Davis, Doolittle, Grimes, Harris, Henderson, Howard, Morrill, Patterson, Ramsey, Sprague, Sumner, and Trumbull—16.

NAYS—Messrs. Cattell, Conness, Edmunds, Fessenden, Foster, Frelinghuysen, Hendricks, Howe, Johnson, Kirkwood, Lane, Morgan, Sherman, Stewart, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—20.

ABSENT—Messrs. Anthony, Cowan, Cragin, Dixon, Fogg, Fowler, Guthrie, McDougall, Nesmith, Norton, Nye, Poland, Pomeroy, Riddle, Ross, and Saulsbury—16.

So the Senate refused to adjourn.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from New York [Mr. HARRIS] to the amendment.

The amendment to the amendment was rejected.

Mr. CATTELL. I move to amend the bill on page 66, section nine, line six hundred and twenty-four, by striking out the words "a half," and inserting "three-fourths of a;" so that the clause will read:

On sal-soda, soda crystals, and all crude carbonates of soda not otherwise herein provided for, three-fourths of a cent per pound.

This is an amendment which was agreed to by the committee. Soda ash is the base upon which sal-soda is made, and the tariff upon it is half a cent per pound. This is a higher manufacture, and the tariff was left at half a cent a pound upon it also. I propose now to change it to three fourths of a cent.

Mr. FESSENDEN. I believe there is no objection to that.

Mr. SPRAGUE. I should like to ask the Senator from New Jersey what is the value of that article?

Mr. CATTELL. The value of the article I think is about two pence half penny sterling, perhaps three pence—seven cents—as near as I can remember.

Mr. SPRAGUE. It used to be before the war about two and a half.

Mr. HOWE. On this question I have been asked to move to raise that duty to one cent, and I am told that is essential.

Mr. CATTELL. I will only say in answer to the gentleman that I was authorized by the committee, on the first examination of this subject, to change it to a cent, but further examination satisfied me that the manufacturers can live at three fourths of a cent; that it is a fair protection which they ought to have; and I believe they will be content with it.

Mr. HOWE. There is quite a quantity of it still imported.

Mr. CATTELL. So there is; but I think with half a cent duty these manufactories have been stopped, and with three fourths of a cent they will be able to go on.

The amendment to the amendment was agreed to.

Mr. CATTELL. I propose further to amend the bill on page 39, section eight, line fifty-one, by striking out "thirty" and inserting "forty;" so that it will read:

On nickel, forty cents per pound.

I will state very briefly on this subject that this is a new manufacture of a very important article indeed. Previous to the war the ores from this country were sent over to the other side of the water, and the nickel manufactured or extracted there and brought back to this country. We have nickel ores in great abundance, not only in Pennsylvania, but in Connecticut. The duty which is allowed here is just about thirty-five per cent. *ad valorem*. The value of this article is four shillings and six pence on the other side. It is a less rate of duty than is allowed to any other of the metals, in my judgment, either to copper, iron, lead, or steel. This is a metal which is becoming to be very extensively used in our country. I

sincerely hope that this amendment will prevail, because I believe, from a careful examination of the subject, that the manufacture can just as well be continued on this side of the water.

All that the gentlemen connected with this manufacture ask is that you shall not discriminate against him; that you shall give him about the same protection at any rate that you give to older established manufactures in metals. I know that it will be said that there is only one extensive establishment in the country, but the gentleman owning it has already expended half a million of dollars and is very much in the condition of the Portland oil works of the distinguished chairman of the Committee on Finance. Having established this branch of business, and having proven most effectually that this article can be manufactured here at less than the average rate of duty that is given to metals of all kinds, I ask that he shall receive that protection. I have only to say that it is not a monopoly; that it is open to everybody; that this gentleman is a gentleman of science and knowledge, who through many, many difficulties has brought this manufacture up to its present point, and I sincerely hope that this advance of duty will be allowed.

Mr. FESSENDEN. I had an interview last evening with the gentleman who is engaged in the manufacture of nickel, and I got from him a great deal of light on the subject, and was exceedingly gratified with the interview, from his intelligence and apparent, and I have no doubt real, fairness. There is some allowance, however, I think to be made for the feeling of every man with regard to this matter of protection; and after quite an extended interview with him, which was a very interesting one from the specimens he showed me, I came to the conclusion that it was not so necessary for him to put up this duty on the finished article from thirty to forty cents a pound; but I also came to the conclusion that the duty on page 40, lines fifty-four and fifty-five, on nickel matte, speiss, or oxide, of ten per cent. *ad valorem* is not enough, and should be raised to the same rate as is imposed on the finished article, nickel, for the reason that it comes so near it that undoubtedly everything would be imported in the shape of oxide, and he would really derive no benefit from the duty of thirty cents a pound on the finished article.

Since my interview with him I look with great favor upon his undertaking, and if I had come, on reflection, to the conclusion that my friend from New Jersey has, I would make no objection to this proposition; but I feel bound also to say that I was not convinced that the duty of thirty cents on the finished article, nickel, was not enough, and therefore I cannot vote for the amendment. That is all I feel disposed to say. If my friend from New Jersey would propose to raise the duty on nickel matte, speiss, or oxide, on the next page, to the same rate, thirty cents a pound, I would vote for that, because I think that change ought to be made.

Mr. FOSTER, [Mr. EDMUNDS in the chair.] When this bill came from the House of Representatives it proposed a duty of fifteen per cent. *ad valorem* on nickel, and the amendment reported by the Committee on Finance to the Senate was at that rate.

Mr. FESSENDEN. My friend is mistaken.

Mr. CATTELL. I beg to correct the gentleman. The rate fixed by us was forty cents per pound.

Mr. FESSENDEN. Fifteen per cent. is the present rate.

Mr. CATTELL. And forty cents was the rate which the special commissioner, after a thorough examination, himself allowed, and it was altered by the Finance Committee.

Mr. FOSTER. I am mistaken. I was speaking of the report as it came from the Committee on Finance. When the Committee on Finance reported their amendment to the House bill they reported—it will be found on the fifty-first line of page 39—"On nickel fifteen

per cent. *ad valorem*;" and that, I believe, is the rate now imposed by law upon this commodity. The chairman of the committee moved to add thirty cents per pound; so that as it now stands in the amendment—"On nickel fifteen per cent. *ad valorem*, and thirty cents per pound specific duty."

Mr. FESSENDEN. No; the fifteen per cent. *ad valorem* was stricken out, and thirty cents per pound substituted.

Mr. FOSTER. Then it is thirty cents a pound specific duty. Well, Mr. President, it was stated by the Senator from New Jersey (and the fact is undoubtedly so) that there is but one establishment where nickel is manufactured in the country at the present time, and, as I am informed, the whole amount of capital invested is not to exceed \$200,000. Until within a very recent period, at all events, the amount manufactured was very small, and the quality was so poor that it was not used in the arts except for very inferior styles of manufacture. It was not nearly equal to the foreign article, and the foreign article has been used instead of this, and will continue to be if this is not improved in quality, even though it be sold cheaper.

Nickel is used very extensively in the manufacture of German-silver ware; it is a component part of that metal, and a very important part. As I stated the other day, in the State of Connecticut there are now some \$3,000,000 invested in the manufacture of German-silver ware. On those manufactures there was paid last year something over \$200,000 of internal revenue tax. This manufacture of nickel has a capital invested of only \$200,000 in the whole; and if it is manufactured to ever so great an extent it pays no internal revenue tax or duty whatever. The manufacturers of this article do not pay a cent for the support of the Government.

Now, Mr. President, a duty of fifteen per cent. *ad valorem* upon that which is a raw material to the manufactures of German-silver ware, I submit, is a sufficiently high duty; indeed, I think it is a very high duty; it is so high that those who manufacture the German-silver ware will scarcely be enabled to continue the manufacture if the duty is raised on nickel to thirty cents a pound, unless there is an additional duty put upon the importation of German-silver ware. The German-silver ware will be imported from abroad with the present duty upon it, and the manufacture of German-silver ware in the United States will stop, because the manufacturer of German-silver ware abroad pays no such tax as this on his nickel, and the present duty on German-silver ware is not relatively as high as the duty will be on the manufacturer here at home, when he pays thirty cents per pound on his nickel additional, five per cent. internal revenue tax upon the amount of his production, and then tax on income. He will pay three taxes, while the manufacturer abroad of German-silver ware will at the most pay but one, the duty at the custom-house.

Now, Mr. President, is it good policy at this time of day, in the present condition of this country, and especially of labor in this country, to undertake to create a new species of manufacture by the imposition of duties which shall exclude the foreign article and stimulate this production here at home? How has the Committee on Finance reasoned on this subject in regard to another commodity greatly used in the country and long used, and an article of prime necessity—salt-peter? That is a commodity which has been imported from abroad and manufactured at home; and there are several States now where salt-peter is manufactured. It is manufactured in Connecticut, in New York, and in Massachusetts. The establishment in Connecticut is able to manufacture ten tons per day. What has been the course in regard to that manufacture? Why, sir, it has had a small protective duty. The present duty on salt-peter is two and one half cents per pound, and the business is by no means a profitable one to the manufacturer. But

what do the committee propose to do? They propose, as will be seen on page 63 of the bill—

On salt-peter, or niter, or nitrate of potassa, crude, one cent per pound.

Instead of allowing a protection to the manufacture of salt-peter, which has been encouraged for years past, and which has now grown up into a manufacture of importance, and of so much importance that, as I have said, one establishment in Connecticut is able to manufacture ten tons per day, the committee propose to take off more than half of all the duty that now by law is imposed at the custom-house upon foreign salt-peter and to reduce it to one cent per pound.

Mr. HENDERSON. But they have since amended the clause so as to make it one and one half cent.

Mr. FOSTER. Even if it has been so amended, which I had not noticed, it is still only about one half what by law the duty now is.

Mr. President, if the policy be to reduce the amount of duty on salt-peter because it can be brought from abroad cheaper, and because under the circumstances it is not deemed a matter of necessity to protect domestic labor so as to produce an article which in time of war it would be all important we should manufacture at home, if that be not deemed important enough to have a duty upon it sufficient to keep the manufacture alive after it has been established and a large amount is being manufactured, I ask what kind of policy it is to create a manufacture that does not exist, and break down home manufactures, now in successful operation, which import from abroad their raw material? It seems to me there ought to be at least a consistent policy. If we adopt the principle that we will manufacture the raw material at home, stimulate its production by putting such taxes upon the importation as to produce it at home, we ought to carry that principle out, and apply it to nickel. I agree that under those circumstances we should prohibit the foreign article, or put such a duty upon it that will amount to prohibition. All the manufactures of nickel should then be protected so that they can be manufactured without importation from abroad. If gentlemen are prepared for this, I say let it be applied generally and carried out throughout the bill.

It is true that in Connecticut we are interested in having cheap nickel. If we cannot have it because the manufacturer of the raw material must be protected and a duty imposed to stop the importation from abroad, I submit to it; but I say, give us the benefit of that principle when we come to salt-peter. We are manufacturing salt-peter largely. The manufacture has been long established, and we are now manufacturing an excellent article; we are able to manufacture all that the country wants. Why then take off the duty from that and import it from abroad?

I ask that some principle shall be adopted here. Do not take off the duty in one case and put it on in another in like circumstances. Be consistent; carry the principle through one way or the other. Then, though we lose in one case we shall save in the other. Now we lose in both; and the principle is certainly contradictory of itself. I hope that the manufacture of nickel may eventually be established in this country. That it will become a matter of importance I have little doubt; but whether, in the infancy of the manufacture, when we have but a single establishment, it is wise to destroy these establishments that use nickel as a raw material and depend on the foreign article seems to me to be a question that admits but one answer. The manufacturer of nickel cannot by any possibility expect to export the commodity after he has manufactured it. If there is such an amount of duty put upon it as to prohibit the foreign article without at the same time putting an additional duty on the manufactures of nickel, the producer of the raw material really will derive no benefit, for he will not be able to sell to the domestic manufacturer of those articles of which nickel

forms a component part, to wit, German-silver ware. If the manufacturing of German-silver ware stops in the country there will be no sale by the manufacturer of nickel to those manufacturers, and German-silver ware is the principal article into which nickel enters. It is used to some small extent at the Mint in making some small coins; but the amount used there is very small. If the manufacture of German-silver ware is broken up in the country the manufacture of nickel as a raw material will be broken up also.

Now, the committee, I suppose, are not prepared to put on an additional duty of ten per cent. or fifteen per cent. on the importation of German-silver ware. I suppose they would not consent to do it. If they do not do it the manufacture of German-silver ware in this country must be checked or stopped, and if they put on the additional duty it is questionable whether there will be as ready a sale of German silver-ware; for if that species of ware rises in price so as to approach the cost of silver there will be much less sale or no sale for it. The sale depends upon its cheapness; and if the article is made so expensive as an additional amount of duties may make it, it will not be sold to the same extent in the market as it now is.

I hope, therefore, Mr. President, that there will be no attempt to alter the present duty on nickel, fifteen per cent. I was about to move to reduce it, to strike out thirty cents and let it stand fifteen per cent. *ad valorem*; but the motion now to strike out thirty and insert forty cents, which will be almost fifty per cent. duty specific on nickel, will certainly bear very hard upon, if it does not ruin, the manufacture of German-silver ware. It will enable, it is true, the manufacturer of nickel to have a home market; but what will that home market be worth? Nothing; there will be no purchasers. I hope, sir, that this amendment will not be made.

Mr. SUMNER. I shall not follow the Senator from Connecticut in the illustration which he has introduced from salt-peter; but I ask the attention of the Senate directly to the question of nickel. There I am with my friend from New Jersey in the motion that he has made; and it seems to me that the Senator from Connecticut founded his argument—I say it with entire respect, of course—on an exaggeration of the consequence that would ensue from the adoption of this motion. He set before us the large amount of German-plated-silver ware manufactured in Connecticut and asked us whether we would discontinue that manufacture. To that I answer at once clearly, no, I would not; and I would not give a vote that, as I understood it, would have any such consequence. But what would be the result of the motion now before us on this plated ware? In order to understand what that result must be you must see to what extent nickel enters into plated ware. Why, sir, would you believe it, after listening to the address of the Senator from Connecticut, the nickel that enters into finished plated ware is so small that the plated ware when finished averages about thirty or forty times the nickel consumed. You see, therefore, how infinitesimal, I may almost say, the nickel is which is introduced as a component part into the German-plated ware; and yet, according to the argument of the Senator upon the increased duty on that infinitesimal quantity of nickel, is going to break up this whole business of Connecticut to the amount of \$3,000,000. It seems to me the statement of the Senator is too strong; it overdoes itself; it cannot be accepted.

Suppose the proposition is adopted which is now before you, as I understand it it would amount to simply a duty of thirty-five per cent. That is not so high as the average of the duties we are imposing. And if you go still further and see what that would add in the way of tax on the German-silver ware you find that it would be only three quarters of one per cent. Now, three quarters of one per cent., is to be



added to the cost of this German-silver ware; and according to the argument of the Senator under that addition this great interest of \$3,000,000 in Connecticut is to sink! I can not accept the conclusion.

It seems to me that the proposition of the Senator from New Jersey is reasonable. It is to a certain extent in harmony with the bill. I am not, however, one who thinks that the bill has much harmony in it; but so far as I understand it, it is in harmony with the bill, and I believe it would have a good influence on an interest which I should be sorry to see starved out, and if this proposition be not adopted, it I fear will be starved out.

Mr. CATTELL. Only a word; and first in regard to the action of the Committee on Finance on the subject of saltpeter. The committee gave considerable attention to that subject and finally decided that it was one of the unnatural manufactures. We have not the raw material and we are obliged to import it. It is made from nitrate of soda and from muriate of potash, both of which we are obliged to import, one from Germany and the other from Peru. Consequently the committee on a careful examination thought that while it was forced into existence during the war by high prices it was yet one of those manufactures not susceptible of being sustained by a fair levy of import duties. The committee, however, did two things for that interest: first, they increased the duty half a cent, making it a cent and a half; and next, they decreased the duty on both the articles which enter into its manufacture. So they went just as far as they could, consistent with revenue, to favor this very thing which in their judgment was rather an unnatural manufacture. I think the chairman of the committee will bear me out that this was about the view that was taken on that matter.

It is not so with nickel. Nickel is a native ore. I have said here and say again these native ores have been taken in their immense bulk and have been shipped across the ocean, and the nickel has been manufactured from them there and brought back and sold to the people of the United States. We have plenty of the ore; this gentleman has no monopoly of this ore; it is spread through Connecticut and through nearly all the New England States; and all that we ask now is that this enterprise shall be sustained by even a less average duty than you have given all through this bill.

I desire to correct one misapprehension which the Senator from Connecticut labors under, and that is the statement that this duty is about fifty per cent. The price of nickel upon the other side of the water is four shillings and sixpence sterling and it is quite uniform in this price. Four shillings and sixpence, as everybody knows, is, in round numbers, \$1 12; forty cents a pound on that is a mere fraction different from thirty-five per cent. *ad valorem*. The average of this bill throughout gives to every manufacturing interest of prominence in the country more than that *ad valorem* duty; and I hope this interest will not be discriminated against.

The question being put on a division; there were—ayes 12, noes 10; no quorum voting.

Mr. FESSENDEN. I call for the yeas and nays.

Mr. SUMNER. I move that the Senate adjourn.

Mr. FESSENDEN. Does that take precedence of my call for the yeas and nays?

The PRESIDING OFFICER. (Mr. EDMUNDS in the chair.) The Chair thinks it does.

Mr. FESSENDEN. Will the Senator withdraw his motion for a moment that I may make a statement?

Mr. SUMNER. Certainly.

Mr. FESSENDEN. I wish to state, because I do not want any misapprehension, that I do not expect to finish the bill to-night. There is one question connected with it to come up to-morrow before the committee. If the Senate wishes to adjourn now, I give notice that I

shall ask the Senate to continue in session to-morrow until we finish the bill.

Mr. TRUMBULL. I wish to say one word on the proposed adjournment. We are sitting here at the most inconvenient hours possible for the whole Senate, as it seems to me. Why we should sit here at the very dinner hour of all of us and then adjourn day after day, is to me very remarkable. It seems to me it is punishing ourselves. Why not take a recess at half-past four and come here at seven and finish the bill? Why continue in session here day after day until about this hour, which I am sure incommodes every member of the Senate, and we accomplish nothing by it? It seems to me we had better have an understanding and take a recess at the usual dinner hour and not sit here over that hour and then adjourn. I am willing to stay any reasonable time; but from five to six o'clock is to me the most inconvenient hour possible.

Mr. FESSENDEN. I do not wish to ask anything unreasonable of the Senate; and if they choose to adjourn now or at any other time in the afternoon or evening they have the perfect power to do so. I claim nothing about it. The honorable Senator from Illinois will recollect, however, that on one or two occasions, I think, at this session, on some bill certainly of not more importance than this, he insisted regularly upon not adjourning the Senate, but holding on until an hour as late as this, night after night, and finally adjourned on getting an understanding as to the time when the vote should be taken.

On this bill there has been an adjournment four evenings at five o'clock, and I think only one evening did we sit after five o'clock. Now it is for the Senate to do just what it pleases. I am no more interested in this matter than any one else; I do not ask the Senate to remain as a personal favor to me. I have nothing to say about it. If the Senate choose to adjourn every afternoon at half past two, so be it; but let us have the vote taken by yeas and nays and regularly entered on the record.

I have given notice that to-morrow I shall ask the Senate to stay until the bill is finished. When I have asked them to do so there is the end of it as far as I am concerned. If they do not choose to stay they need not—I have nothing to say about that; the time is at their disposal, and not at mine.

My observation in the Senate with regard to this matter of dinner and the importance of dinner has led me to the conclusion that, notwithstanding all the feeling there is for the freedmen and for our friends down South, &c., if they should happen by any accident to weigh in the balance against dinner at the regular hour they would be very apt to kick the beam, notwithstanding all the talk we make about them. That's my notion.

Now, I do not claim any merit for myself. I voted against the recess of the Senate for ten days during the holidays. I stayed here during the whole of the time and worked every day upon this bill, with the exception of Sundays, and I do not want to be questioned too particularly about them; and I have worked on it every day since that I could get an opportunity to do so, and I have gone without my dinner. Now, if gentlemen choose to say that dinner is of so much importance that they cannot stay, so be it; only it does not rest with me.

The PRESIDING OFFICER. Does the Senator from Massachusetts renew his motion to adjourn?

Mr. SUMNER. I renew the motion.

Mr. TRUMBULL. I wish to say but one word.

The PRESIDING OFFICER. The Chair wishes to understand the question.

Mr. SUMNER. I think I had better not withdraw it.

Mr. TRUMBULL. I wish only to say a word. I merely wish to make one observation, and that is this: that I do not think the dinner, perhaps, any more important than my friend

from Maine; but I see no reason for punishing ourselves unnecessarily.

Mr. FESSENDEN. Does my friend consider that doing the public business is a punishment?

Mr. TRUMBULL. I consider that when we incommode ourselves unnecessarily the public gains nothing by it and it is a punishment to ourselves. That is all there is to it. I think we can do just as much business and have our regular hours.

Mr. FESSENDEN. Why did not the Senator consider that when he had his own bills up, instead of insisting on everybody staying, then?

Mr. TRUMBULL. I think I did. We do not see ourselves as others see us, but I never meant to be unreasonable when I had charge of any bill. I certainly think this is a very bad hour. I give way to a motion to adjourn.

Mr. SUMNER. I now move that the Senate adjourn.

Mr. FESSENDEN. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. On the amendment proposed by the Senator from New Jersey the Senator from Maine asks for the yeas and nays.

Mr. FESSENDEN. No; I will withdraw the call if Senators want to adjourn. I do not want to be unreasonable.

Mr. HENDRICKS. On the general question of staying here without dinner, this side of the House will stand I have no doubt by the Senator from Maine; but on to-morrow evening I must say to him we cannot exactly agree to stay with him, and hope he will arrange his programme so as not to require that to-morrow evening.

Mr. FESSENDEN. The Senate will decide all that question. I shall make the motion, and then if they do not see fit to do it, of course they will not.

Mr. HENDRICKS. I am willing to stay here now and go ahead with the bill.

Mr. SAULSBURY. It is hopeless for me in a minority to contend against the passage of this bill. I see no reason why we should sit here and oppose the passage of a bill which I presume by the prevailing sentiment of the Senate is to pass. I simply wish to say that I shall vote against this bill upon the principle that it is founded upon that declaration which may be found in some poet by gentlemen who will take the trouble to look into it:

"The good old rule, the simple plan,  
That he shall take who has the power,  
And he shall keep who can."

I therefore think that this fight is fruitless, and I see no reason why the business of the Senate should be interrupted by dilatory motions. I shall vote for a direct vote on the question, intending to vote against the bill. Sir, I think it is a bill designed to promote the interests of one section to the disadvantage of other sections of the country. But I will not discuss it. I think the philosophy of the bill is found in the quotation which I have made. I hope there will be a vote on the bill to-night.

Mr. LANE. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

Monday, January 28, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of Saturday last was read and approved.

The SPEAKER. The first business in order is the call of States and Territories for bills and joint resolutions on leave to be referred to their appropriate committees, and not to be brought back by motions to reconsider the references.

LAND WARRANT NO. 46,318.

Mr. BRANDEGEE introduced a bill to authorize the issue of a patent on land warrant

No. 46,318; which was read a first and second time, and referred to the Committee on Public Lands.

#### PORT OF CAMDEN, NEW JERSEY.

Mr. STARR introduced a bill relative to the port of Camden, New Jersey; which was read a first and second time, and referred to the Committee on Commerce.

#### CONSUL AT HAMBURG.

Mr. ANCONA introduced a bill to regulate and fix the salary of the consul at Hamburg; which was read a first and second time, and referred to the Committee on Foreign Affairs.

#### POST ROADS IN PENNSYLVANIA.

Mr. ANCONA also introduced a bill to establish certain post roads in Pennsylvania; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### ELIZABETH CASSADY.

Mr. RANDALL, of Pennsylvania, introduced a bill granting a pension to Elizabeth Cassidy, widow of the late Michael Cassidy, first lieutenant company B, sixty-ninth regiment Pennsylvania volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### REVENUE STAMPS.

Mr. MILLER introduced a bill explanatory of the act relating to revenue stamps upon writs of process in courts of record; which was read a first and second time, and referred to the Committee of Ways and Means.

#### MRS. GLORVINA FORT.

Mr. MYERS introduced a bill appropriating to Mrs. Glorvina Fort, of Philadelphia, an amount awarded by the United States court on June 26, 1793, to her father for loss of cargo of the brig Catharine, captured by the French frigate L'Ambuscade; which was read a first and second time, and referred to the Committee on Appropriations.

#### CRIMINAL CODE FOR THE DISTRICT.

Mr. WELKER introduced a bill to provide a criminal code for the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

#### MARY A. CROSS.

Mr. BUCKLAND introduced a bill for the relief of Mary A. Cross; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### MARINDA STAGE.

Mr. BUCKLAND also introduced a bill for the relief of Marinda Stage; which was read a first and second time, and referred to the Committee on Military Affairs.

#### TAX ON COTTON AND SUGAR.

Mr. TRIMBLE introduced a bill to repeal the tax on cotton and sugar; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

#### AMENDMENT TO THE CONSTITUTION.

Mr. KELSO introduced a joint resolution proposing an amendment to the Constitution of the United States of America; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### SUFFRAGE IN THE DISTRICT.

Mr. NOELL introduced a bill to amend an act entitled "An act to regulate the elective franchise in the District of Columbia," passed January 8, 1867; which was read a first and second time.

Mr. NOELL. I move the reference of this bill to a select committee of five, and on that motion I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. KASSON. I would like to hear the bill read.

The bill, which was read, provides that the act of January 8, 1867, be amended so as to abolish all disqualification from voting on account of sex.

Mr. SCOFIELD. I move the reference of the bill to the Committee for the District of Columbia.

The SPEAKER. The House is acting under the operation of the previous question on the motion to refer the bill to a select committee.

Mr. ROLLINS. I move that the bill be laid on the table.

The SPEAKER. That motion cannot be entertained in the morning hour during this call. Under this call bills must be referred to the appropriate committees.

On the motion of Mr. NOELL, to refer the bill to a select committee, there were—ayes 31, noes 50; no quorum voting.

Mr. NOELL. I call for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 49, nays 74, not voting 68; as follows:

YEAS—Messrs. Ancona, Baker, Barker, Baxter, Benjamin, Boyer, Broomall, Bundy, Campbell, Cooper, Defrees, Denison, Eldridge, Farnsworth, Ferry, Finck, Garfield, Halo, Hawkins, Hise, Chester D. Hubbard, Edwin N. Hubbell, Humphrey, Julian, Kasson, Kelley, Kelso, Le Blond, Loan, McClurg, McKee, Miller, Newell, Niblack, Noell, Orth, Ritter, Rogers, Ross, Sitgreaves, Starr, Stevens, Strouse, Taber, Nathaniel G. Taylor, Trimble, Andrew H. Ward, Henry D. Washburn, and Winfield—49.

NAYS—Messrs. Allison, Anderson, James M. Ashley, Baldwin, Beaman, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Buckland, Reader W. Clarke, Conkling, Cook, Cullem, Darling, Dawes, Deming, Donnelly, Dumont, Eckley, Eggleston, Eliot, Farquhar, Grinnell, Higby, Holmes, Hooper, John H. Hubbard, Ingersoll, Jencks, Koontz, Laffin, Lynch, Marvin, McIndoe, McRuer, Mercer, Moorhead, Morrill, Myers, O'Neill, Paine, Patterson, Perham, Phelps, Pike, Plants, Price, Samuel J. Randall, Raymond, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Stokes, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Windom, and Woodbridge—74.

NOT VOTING—Messrs. Alley, Ames, Arnell, Delos R. Ashley, Banks, Bergen, Blow, Bromwell, Chanler, Sidney Clarke, Cobb, Culver, Davis, Dawson, Delano, Dixon, Dodge, Briggs, Glossbrenner, Goodyear, Griswold, Aaron Harding, Abner C. Harding, Harris, Hart, Hayes, Henderson, Hill, Hogan, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, James R. Hubbell, Hulburd, Hunter, Johnson, Jones, Kerr, Ketcham, Kuykendall, Latham, George V. Lawrence, William Lawrence, Leftwich, Longyear, Marshall, Marston, Maynard, McCullough, Morris, Moulton, Nicholson, Pomeroy, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Rousseau, Shanklin, Stilwell, Nelson Taylor, Thayer, Thornton, Robert T. Van Horn, Elihu B. Washburne, Whaley, Stephen F. Wilson, and Wright—68.

So the House refused to refer the bill to a select committee.

Mr. WILSON, of Iowa. I move that the bill be referred to the Committee for the District of Columbia.

The motion was agreed to.

#### PROCEEDINGS OF FEDERAL COURTS.

Mr. FARQUHAR introduced a bill directing all writs and processes issued from United States courts to be in the name of the people, and requiring the forms of writs, pleadings, practice, and procedure in the several States to be adopted in the courts of the United States held within the said States respectively; which was read a first and second time, and referred to the Committee on the Judiciary.

#### SOUTH ALABAMA ORPHAN ASYLUM.

Mr. JULIAN introduced a bill to aid the South Alabama Orphan Asylum; which was read a first and second time, and referred to the Committee on Public Lands.

#### RETIREMENT OF TREASURY NOTES.

Mr. ROSS. I introduce a joint resolution providing that so much of the act of the last session of Congress as authorizes the Secretary of the Treasury to retire \$4,000,000 of the legal-tender Treasury notes per month from circulation be and the same is hereby repealed; and ask that it be passed.

The SPEAKER. That cannot be done during the morning hour.

Mr. ROSS. I suppose then that the Committee on Reconstruction is as good a committee to whom it may be referred as any other. [Laughter.]

The SPEAKER. The Chair thinks that is not an appropriate committee.

The joint resolution was read a first and second time, and referred to the Committee of Ways and Means.

Mr. WENTWORTH. I move to reconsider the vote by which the joint resolution was referred; and also move that that motion to reconsider be laid on the table.

The SPEAKER. That motion is not now in order. The joint resolution, however, cannot be brought back by a motion to reconsider; the rule forbids it.

#### SURROGATE OF DISTRICT OF COLUMBIA.

Mr. WOODBRIDGE introduced a bill to create the office of surrogate of the District of Columbia and to provide for the appointment of surrogate and define his powers and duties; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### GUARDIANS OF MINORS IN THE DISTRICT.

Mr. WOODBRIDGE also introduced a bill in relation to guardians of minors in the District of Columbia, their appointments, powers, and duties; which was read a first and second time, and referred to the Committee on the Judiciary.

#### MARSHAL OF THE DISTRICT OF COLUMBIA.

Mr. WOODBRIDGE also introduced a bill to provide for the appointment of a marshal for the District of Columbia, and to change the mode of appointing that officer; which was read a first and second time, and referred to the Committee on the Judiciary.

#### CLAIMS.

Mr. BLAINE introduced a bill to amend section two of chapter one hundred and twenty-nine of the public acts of 1849; which was read a first and second time, and referred to the Committee of Claims.

#### UNITED STATES NOTES.

Mr. BUNDY introduced a joint resolution providing that so much of an act entitled "An act to amend an act to provide ways and means to support the Government," approved April 12, 1866, as authorizes the Secretary of the Treasury to retire United States notes be suspended; and hereafter it shall be unlawful for the Secretary of the Treasury to retire or withdraw any part of the said United States notes from general circulation as money; provided all mutilated notes may be withdrawn from circulation and destroyed by the Secretary of the Treasury as may now be provided by law; which was read a first and second time, and referred to the Committee of Ways and Means.

#### IMPEACHMENT.

The SPEAKER stated the next business in order to be the consideration of the following resolutions lying over from last Monday:

*Resolved*, That for the purpose of securing the fruits of the victories gained on the part of the Republic during the late war, waged by rebels and traitors against the life of the nation, and of giving effect to the will of the people as expressed at the polls during the late election by majorities numbering in the aggregate more than four hundred thousand votes, it is the imperative duty of the Thirty-Ninth Congress to take, without delay, such action as will accomplish the following objects:

1. The impeachment of the officer now exercising the functions pertaining to the office of the President of the United States of America, and his removal from office, upon his conviction in due form of the crimes and high misdemeanors of which he is manifestly and notoriously guilty, and which render it unsafe longer to permit him to exercise the powers he has unlawfully assumed.

2. To provide for the faithful and efficient administration of the executive department within the limits prescribed by law.

Mr. LOAN. I move that the resolutions be referred to a select committee of seven, with

power to send for persons and papers, and leave to report at any time.

The SPEAKER. It cannot have leave to report at any time without unanimous consent.

Mr. LOAN. I withdraw that part of the motion.

Mr. Speaker, the object I have in making the motion is this: it is well known that the appropriate committees of this House are so crowded with business, and some of them having been called and not being liable to be called again this session, that to refer this matter to any of them would virtually be to declare on the part of this House it does not desire to press this investigation any further. In my judgment the best interests of the Government and all parties concerned require immediate investigation and the result published in an official form; and in my judgment the only means to accomplish that purpose is the reference of the investigation to a select committee, with power to send for persons and papers.

Mr. JENCKES. I move it be referred to the Committee on the Judiciary.

Mr. CONKLING. I wish to inquire of the gentleman from Missouri [Mr. LOAN] whether he makes his motion remembering that this same matter has been already committed to the Judiciary Committee, and whether he would deem it wise for this House to institute a second investigation of the same sort, having two committees *pari passu* acting together on the subject.

Mr. LOAN. I am fully cognizant of all these facts, and I am further cognizant of this additional fact, that by a reference to the Judiciary Committee under the present press of business in this House and the probable course it will take, it will be utterly impossible to further hear from that committee during the present Congress. That committee has just been called, and a reference of this resolution to it will be equivalent to killing it.

Mr. CONKLING. I wish to make this suggestion: the gentleman seems to forget that this is a question of privilege, and therefore in order at any time when the committee is ready to report.

Mr. LOAN. I have forgotten that, sir.

Mr. CONKLING. That, the gentleman will see, makes all the difference in the world.

The SPEAKER. The Chair will state that he entertained the motion of the gentleman from Missouri [Mr. LOAN] as a question of privilege, and being a question of privilege the committee have a right to report at any time when the House is not engaged in the transaction of other business.

Mr. LOAN. I then suggest that after the statement made by members of that committee that it has more business before it than it can well attend to it should not be referred to that committee.

Mr. CONKLING. Then I would like to make the suggestion that that would be a very good reason perhaps for rescinding the action heretofore taken, and referring the whole subject to another committee; but surely it is no reason for allowing the Judiciary Committee to proceed and at the same time duplicate the proceedings by creating another committee to do the same thing. I hope the gentleman from Missouri will allow the motion made by the gentleman from Rhode Island, [Mr. JENCKES,] that this resolution be referred to the Judiciary Committee, to prevail.

Mr. NIBLACK. I desire to make an inquiry of the gentleman from Missouri, [Mr. LOAN.] In his resolution he speaks about securing the fruits of the victory which has been obtained by the Federal Army; I wish to know whether he has reference in that to the Federal offices as being a part of the fruits of the victory? [Laughter.]

Mr. LOAN. No sir, I have not. I now yield to the gentleman from New York, [Mr. GRISWOLD.]

Mr. GRISWOLD. I merely wished to inquire whether it would be in order to lay the resolution on the table.

The SPEAKER. It will be after the gentleman from Missouri surrenders the floor.

Mr. LE BLOND. Will the gentleman from Missouri yield a moment?

Mr. LOAN. Yes, sir.

Mr. LE BLOND. If I understand the proposition that is now pending I certainly am in favor of the motion made by the gentleman from Missouri, to refer this whole subject to a select committee that will give it immediate and prompt attention. From what has been said by members of the Judiciary Committee they have already upon their hands an amount of business greater than they are able to dispose of during this session. I am in favor of a select committee for several reasons; one is the fact that certain members have been charging, both here and elsewhere, that the Executive of the United States has been guilty of usurpation of power. Some have even gone so far as to say—at all events one of my colleagues said during the late election campaign that he would neither give sleep to his eyes nor slumber to his eyelids until articles of impeachment were preferred against the President of the United States. Now, sir, we have heard enough of this.

Mr. BINGHAM. I would like to know to whom the gentleman refers?

Mr. LE BLOND. Why, sir, from the public press I understand the gentleman himself so said.

Mr. BINGHAM. I am glad to have an opportunity in this place to correct what the public press has done. The gentleman might with equal propriety say that the public press had announced that I was engaged in drawing up an article of impeachment charging the President with complicity in the assassination of Abraham Lincoln, than which nothing was ever published in the public press of America further from the truth.

Now, sir, in regard to the other statement, I beg leave to say that the public press played off the same trick upon me that a certain man did once in Scotland upon a man who had gone before him, by stealing his thunder and using it for his own benefit. There was no part of the speech attributed to me as recited by the gentleman which was in fact made by me, except the words which are familiar to us all. If the people shall vote down the President and condemn him in the coming elections "I will give neither sleep to my eyes nor slumber to my eyelids until I move the impeachment of the President if he officially declare what he has unofficially proclaimed, that the Thirty-Ninth Congress is an illegal body, assuming to be the Congress hanging on the verge of the Government." These words were uttered in view of the published and unofficial language of the President, that "the body of men who legislate in the Congress of the United States since the opening of the Thirty-Ninth Congress was not the Congress of the United States, but was an assumed Congress hanging upon the verge of the Government." I did say then, and I repeat now, that if the President of the United States should officially and in any formal manner utter what he said unofficially, as reported in the press, of an illegal Congress, &c., such official utterance would be an impeachable offense, and that I would make a motion to impeach him; and I added then that there was no representative of the people would vote against such impeachment after the people's public and swift condemnation of the President's gross betrayal of their interests.

Mr. LE BLOND. My colleague insists upon taking up my time. I referred to this matter not only from what appeared in the public press, but I have here, and will have read at the Clerk's desk, a statement of men who were present and heard the gentleman's speech. If the Clerk will read it I will then make a few additional remarks.

The Clerk read as follows:

ST. CLAIRSVILLE, OHIO, December 1, 1866.

This is to certify that Hon. JOHN A. BINGHAM, in a speech made in the court-house in St. Clair-

ville, Ohio, in the month of September, 1866, in speaking of the President of the United States, said: "He (the President) was engaged in a conspiracy for the overthrow of the Government, and those that were supporting him were engaged with traitors and had struck hands with treason; and if I am indorsed by a reflection, so help me God, I will neither give sleep to my eyes nor slumber to my eyelids until I have filed articles of impeachment against Andy Johnson."

And he also denounced the President as "Drunk Andy Johnson." We were present and heard this speech.

GEORGE H. UMSTEAD,  
ALEXANDER PATTONS.

I recollect the above substantially as stated, which was uttered by the speaker without qualification, and heartily applauded by many of his auditors.

R. E. CHAMBERS,  
R. S. CLARK,  
O. J. SWANEY,  
R. M. CLARK.

Mr. LE BLOND. Mr. Speaker, the men who signed that paper are the officers of that county, and men of the strictest integrity. But after the explanation that my colleague has given here I have nothing further to add in reference to this matter. I presume my colleague remembers the manner in which he made this remark, and I shall not gainsay his statement.

Mr. BINGHAM. I beg leave to say now, and I am glad to have this opportunity of making this statement, that according to my recollection these gentlemen have greatly enlarged the accusation charged against me by the gentleman in his opening remarks. I beg leave to make the further statement that as soon as the report of what I said appeared in the St. Clairsville Gazette, which is published in the adjoining county to mine, I took occasion then, as I do now, to denounce its garbled and unfair report of my remarks, so that my contradiction might go throughout the district, and as evidence of that I call as a witness the statement of one of their own organs, published in my own town—the Cadiz Sentinel—which substantially admitted that in my speech made in that place before the election I had corrected and qualified the statement touching impeachment. I have nothing to do with the character of the gentlemen who signed the paper just read. I am not going to cast reproach upon them; but it is very easy for the House and for the country to understand that these gentlemen who have sent their meager report of my speech have reported me in a partisan spirit, and have, as is natural to us all under like circumstances, manifested a memory of facts so very imperfect that it will better subserve mere party ends than the interests of truth or justice.

Mr. LE BLOND. Now, sir, there is another reason why I am in favor of the motion of the gentleman from Missouri, [Mr. LOAN.] I am in favor of it in order that the facts may come before the country. I believe that the Executive has been maligned. I believe that improper attacks have been made upon him for sinister and improper purposes. I am for a committee who will investigate the charges and report upon them. Though the President was not elected by Democratic votes, yet he is our President as much as yours and the President of the United States.

Now, sir, I am glad to see gentlemen moving in the proper direction. Too long have they been permitted to make these attacks upon the Executive in this Hall, upon the stump, and everywhere else, without bringing the facts to bear which would justify these extreme and outrageous charges against the Executive of the United States. I do not claim to be his defender; I stand not here for the purpose of defending him, for he needs none. But while you have elected him he is my President, and the President of every man in the country, and the respect I have for the position he occupies is sufficient to lead me to require that these charges shall be made good, or that the parties making them shall retract them. We have had enough of these charges; we challenge you to the investigation, and if upon a fair and impartial hearing, you find him guilty impeach him and remove him from office. The American people demand it at your hands, and if the Committee on the Judiciary have so much business now before it that they cannot attend to



this investigation, the people will not be satisfied with allowing this matter to sleep there after the charges have been made, and after this injury has been done to the Executive of the United States, and after odium has been cast not only upon him but upon the whole American people.

Now, I say to gentlemen that the gold speculators of the country demand the impeachment that they may make money; but the financial interests of the country demand this investigation and a settlement of this question for a better and higher purpose. I care not whether it is a partial or an impartial committee to which it is sent; give us an investigation that the charges may be made specific and met, and all will be well. An impartial committee composed of men who have not, like the gentleman from Missouri, [Mr. LOAN,] pronounced a verdict of guilty upon the President will exonerate him from guilt. When a fair hearing shall be had, I will guaranty that no more can be said of Mr. Johnson than could have been said of any other President who has preceded him. He has removed men who did not agree with him in politics, and has undertaken to put in their places others who will assist in carrying out his policy. For this and this alone is this terrible raid made upon him; that is the reason why these gentlemen are so bitter in their denunciations of the Executive of the United States. For the good of the whole country I hope that the motion of the gentleman from Missouri [Mr. LOAN] will prevail. I shall go for the raising of a select committee, believing, as I do, that the threats of impeachment are made and the investigation and report delayed that they may intimidate the Executive. It is held as a threat over his head to retain office and to drive him to the approval of their revolutionary measures. The sinner the issue is made the better, so cease your threatening and bravado, but on to the work.

Mr. LOAN. I now yield to the gentleman from Iowa, [Mr. WILSON.]

Mr. WILSON, of Iowa. I do not know that any member of the Committee on the Judiciary has made any statement in the House or out of the House which justifies the gentleman from Missouri [Mr. LOAN] or the gentleman from Ohio [Mr. LE BLOND] in saying that the committee are so pressed with business that they cannot give their attention to this subject. I beg leave to say to the gentlemen who have made this statement that the only remark made in the House upon the subject of the business of that committee was made by myself upon a motion made by the gentleman from Maine [Mr. BLAINE] some time ago to refer some matter to the committee. I then stated that the committee was pressed with business, and did not desire a reference of the subject then before the House to it. Now, a part of the business in the hands of the committee at that time was the identical subject which the gentleman from Missouri [Mr. LOAN] now proposes to send to a select committee. Since that time the committee have been called probably for the last time during the session for general reports. That of itself has relieved the committee to a very considerable extent in connection with much of the business which has been sent to it.

Mr. LE BLOND. Will the gentleman permit me to ask him a single question?

Mr. WILSON, of Iowa. I will.

Mr. LE BLOND. Will the gentleman have the kindness to state what progress the committee is making in this investigation?

Mr. WILSON, of Iowa. I wish to state to the gentleman from Ohio [Mr. LE BLOND] that no persons except the members of the Committee on the Judiciary know anything about the matter; nor do we intend to give any information until the committee shall be prepared to report upon that subject.

Mr. LE BLOND. One other question.

Mr. WILSON, of Iowa. Very well.

Mr. LE BLOND. I would ask the gentleman if he expects or believes the committee

will be able to report upon the subject during this session of Congress?

Mr. WILSON, of Iowa. I will at the proper time answer for the committee in relation to the subject, but not now.

Mr. LE BLOND. The country wants the information now.

Mr. WILSON, of Iowa. I decline to be cathechized upon this subject. I only wish to state that all of the statements which have been made in relation to the conduct of the Committee on the Judiciary, what it has done or what it has not done in connection with the subject of impeachment, are wholly without authority; and so far as they have been brought to my attention they are without any foundation whatever.

Sir, the Committee on the Judiciary does not intend that this subject while in its hands shall be made use of by gold gamblers, as the gentleman from Ohio says, or anybody else for the purpose of speculation; and all the information that is sent over the telegraphic wires and to the newspapers of the country are but the creations of those who send and publish them.

Now, sir, the Committee on the Judiciary have not been disposed to shrink from the performance of any duty imposed upon them by this House, nor will they shrink from the performance of any duty so imposed. They will do their duty, and at the proper time will make their report; and until that time we have nothing upon this subject to submit to this House or to the public.

Mr. FARNSWORTH. I rise to a question of order. I desire to call the attention of the Chair to the fact that the House is full of lobbyists—individuals who have obtained admission to the floor I do not know how. I desire to have the rule enforced.

The SPEAKER. The Chair does not know the reason of their admission. Gentlemen not entitled to remain on the floor of the House by the rules of the House will retire. The Door-keeper must clear the lobby when the point is made that persons not entitled to admission are present upon the floor.

Mr. RANDALL, of Pennsylvania. I ask the gentleman from Missouri [Mr. LOAN] to yield to me for a few minutes.

Mr. LOAN. I will do so.

Mr. RANDALL, of Pennsylvania. As I do not intend to vote in favor of the motion of the gentleman from Missouri to refer this proposition to a select committee, I deem it proper that, as one member, I should give my reason for my vote; that reason is a very simple one. I think that what the country most needs is order and tranquillity; and this Congress by its action can materially assist in causing calmness to pervade the public mind. It seems to me that the proposition of the gentleman from Missouri is calculated to produce undue excitement. This consideration alone would be sufficient to induce me to vote against it.

But, sir, I conceive the making of that proposition to be a happy sign for the country. It indicates to my mind, as it probably will to others, that the time is near at hand when the present crusade against the President must cease. We cannot but be manifest that when so radical a member as the gentleman who makes this proposition rises in his place and confessedly states to the House that he is dissatisfied with the progress which a regular standing committee is making in reference to this particular question of impeachment it is a good sign for the country. It tells us that the gentleman and those who advocate his proposition feel that they have not any ground to stand upon in connection with the allegations which have been made looking toward the impeachment of the President. For myself I do not wish to drive the majority here into the adoption of any such proposition. I would prefer to deal with them honestly and fairly, and allow them to withdraw from the position which some ardent members, with less discretion than judgment, have forced them to occupy before the country.

It is manifest that the people of this country

do not sustain the members of the majority here in this war against the President. They do not consider that Andrew Johnson has been guilty of any act which warrants such a violent procedure as that which some members urge. And I am glad to see the gentleman from New York, [Mr. CONKLING,] whose intellectual power has recently won for him an election to a higher position, standing here and endeavoring to resist this undue and as I think improper legislation.

Let us leave this question of impeachment at least where the majority of this House has already placed it. When the committee are ready to report, let us receive the report; and in the mean time let gentlemen cease to excite the public mind by harangues in this House; for all proceedings of this sort result in either benefit or injury to some particular speculator; and I am sorry that this class receive so much consideration from this House or some of its individual members. I hope, therefore, that the proposition of the gentleman from Missouri will be voted down.

Mr. WENTWORTH. With the permission of the gentleman from Missouri I desire to say a word on this subject. I certainly have been under the impression that the Committee on the Judiciary is so overburdened with business that it cannot give proper attention to this important subject.

I for one propose to persevere. I am opposed to taking up any subject that we do not go through with. Having commenced it we must either go on with it or back right straight out of it in the most ample manner. When I gave my vote the other day I gave it in earnest. I meant the people of this country to understand there was one man at least who was not afraid to try Andrew Johnson, and who has the magnanimity to acknowledge him to be innocent if he proves to be so.

Mr. Speaker, if the Judiciary Committee is not able to go on with this subject, I for one am in favor of a select committee. This eternal noise we hear about ruining the country, affecting the price of stocks, &c., is familiar to the people of the country. We heard it every day during the administration of General Jackson, and we shall hear it just so long as we are influenced by it, whether Andrew Johnson lives or dies, whether he is impeached or is not impeached.

The SPEAKER. The morning hour has expired, and the resolutions go over till next Monday.

#### ENROLLED JOINT RESOLUTION.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House joint resolution No. 244, to amend existing laws relating to internal revenue, when the Speaker signed the same.

#### TREASURY DEPARTMENT INVESTIGATION.

Mr. MORRILL. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Committee of Ways and Means be and are hereby authorized and instructed to examine into the condition of the Treasury of the United States, and particularly to inquire whether any obligations of the United States have been illegally or fraudulently made or issued, and whether the public interests have been and are sufficiently protected in said Department; with power to send for persons and papers, summon and examine witnesses, and administer oaths; and with authority to report thereon at any time.

There was no objection.

Mr. KASSON. Mr. Speaker, I want to make the inquiry whether this resolution rests upon the report made of some errors in the issuance of bonds of the United States?

Mr. MORRILL. It does.

Mr. KASSON. Then I wish in two or three minutes to make a brief statement. After having heard of this report, I desired for the satisfaction of myself and with reference to some action in this House to obtain some authentic information relating to the unauthoritative and very wild reports which had been abroad; and I deem it to be my duty to state to the House

such authentic information as I have obtained this morning.

The SPEAKER. Is there objection?

There was no objection.

Mr. KASSON. Mr. Speaker, I learn that a committee designated by the Secretary of the Treasury is now engaged in the examination of a certain Department connected with the printing and issuing of bonds of the United States; that they have been diligently at work for some time with a view to discover supposed or alleged errors, as the case may be; that they are still in that investigation and nearly through; that as far as they have gone they have discovered but two sheets, what are called "wetted down," in excess of the proper number, and so far as that branch of the business is concerned that may be corrected by a deficiency in another Department, the count not yet being completed. They are not printed, and therefore have no value as yet. It is only a question of error in counting the sheets.

Further than that, I learn they have not ascertained in a single case a bond with a duplicate number has gone out of the Department in any mode. They have ascertained in a very limited number of cases an erroneous number has fallen upon a good bond. The machine that impresses the numbers upon the coupons is worked by a man who manages it, the number on the coupon being the same as that upon the bond; and a little disarrangement of the spring has in a few cases caused the printing of the succeeding number on some one of the coupons. This, however, does not inure to the injury of the Treasury of the United States, but only presents duplicate coupons of the same number.

So far as the investigation has gone these are the only errors, and I deem it my duty to make this statement, although the investigation is not yet completed. I have this from an authentic source, and make the statement because the reports which have been made were calculated to alarm the country and depreciate the value of our bonds.

Mr. MORRILL. Mr. Speaker, the action asked for this morning was not intended as the expression of any opinion as to the truth or falsity of the rumors now in circulation as to the printing bureau of the Treasury Department. I am very glad to be informed by the gentleman from Iowa that it is probable the rumors are greatly exaggerated or perhaps wholly unfounded. But it is thought that it would be more satisfactory to the House and to the country to have an examination made by a committee of the House, and that that committee should report whether there is any need of further legislation on the subject, and if so what.

Mr. KASSON. I have no objection to the adoption of the motion.

The SPEAKER. The Chair understands the motion as agreed to, as this debate has been entertained by unanimous consent.

#### NEW ORLEANS RIOT.

Mr. ELIOT offered the following preamble and resolutions; which being a call for executive information were considered, by unanimous consent, and agreed to:

Whereas on the 12th day of December last the House of Representatives passed the following resolution, to wit:

*Resolved*, That the President be requested to communicate to the House, if not incompatible with the public interest, all correspondence, reports, and information in his possession in relation to the riot which is alleged to have occurred in the city of New Orleans on the 30th day of July last; and whereas on the 13th of December last the House of Representatives passed the following resolution:

*Resolved*, That the Secretary of War be directed to transmit to this House any information in the War Department in reference to the riot at New Orleans on the 30th of July last, including any telegraphic dispatches sent or received, and all the reports and testimony of military commissions in the possession of the Department;

And whereas on the 21st instant a communication was received by this House from the Secretary of War as follows:

WAR DEPARTMENT, WASHINGTON CITY,  
January 19, 1867.

SIR: In compliance with a resolution of the House of Representatives of December 13, 1866, I have the

honor to inform you that the information, including telegraphic dispatches sent or received, and all reports and testimony in reference to the riots at New Orleans, on the 30th July last, called for by said resolution, have been sent to the President for transmission to Congress, in compliance with his directions, accompanying a resolution of the House of Representatives of December 12, 1866, referred by him to this Department.

Very respectfully, sir, your obedient servant,  
EDWIN M. STANTON,  
Secretary of War.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

Therefore resolved, That the President be requested to communicate to this House, at as early a day as may be consistent with public interests, the information above referred to by the Secretary of War, and all other information in his possession asked for by the resolution of the House, dated December 12, 1866.

Mr. ELIOT moved to reconsider the vote by which the preamble and resolution were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its Clerks, informed the House that the Senate had agreed to the amendments of the House to bills of the Senate of the following titles:

An act (S. No. 454) for the relief of the widow of Jacob Harmon;

An act (S. No. 455) for the relief of the widow of Henry Try; and

An act (S. No. 476) for the relief of William A. Hinshaw and Jacob M. Hinshaw, minor children of Jacob M. Hinshaw deceased.

The message further announced that the Senate had passed a bill entitled an act (S. No. 491) amendatory of the several acts respecting copyrights, in which the concurrence of the House was requested.

The message also announced that the Senate had passed a bill and a joint resolution of the House of the following titles, without amendment:

An act (H. R. No. 486) for the relief of Catharine Welsh; and

A joint resolution (H. R. No. 160) for the relief of William D. Nelson.

The message further announced that the Senate had passed a bill entitled an act (H. R. No. 605) to amend an act to establish the judicial courts of the United States, approved September 29, 1789, with an amendment, in which the concurrence of the House was requested.

#### EXAMINATIONS OF TREASURY DEPARTMENT.

Mr. MORRILL. I have some additional business from the Committee of Ways and Means. I send to the Chair a bill for present action. I think there will be no objection to considering it now. It is House bill No. 1029, to provide for examinations of the Treasury Department and other Executive Departments.

The bill, which was read, provides that immediately after the passage of this act, and in the month of December of each year hereafter, the President shall, by and with the advice and consent of the Senate, appoint three citizens not holding any office under the Government of the United States, who are eminent for integrity and ability, and who are hereby authorized and directed to make full and thorough examinations of the Treasury Department, and such other Departments as the provisions of this act may require, and present duplicate reports to the President and to Congress in reference to—

First. The receipt and disbursement of public money, including expenditures in the several Executive Departments.

Second. The actual amount of money in the vaults of the Treasury of the United States, specifying whether in coin, United States notes, or national bank notes, and the amount of each, and the several funds to which it belongs, and the amounts in each place where public money is deposited or held.

Third. The amount of money deposited with designated depositories to the credit of the Treasurer, and the mode of managing and securing the same.

Fourth. The amount and description of bonds deposited in the Treasury by national banking associations to secure the redemption of their currency.

Fifth. The manner of paying interest on the bonds of the United States, and the safeguards against the duplication or counterfeiting of coupons.

Sixth. The sale of gold and the purchase and sale of bonds and other securities of the United States, rates of purchase or sale, and the amount of commissions paid, and to whom paid.

Seventh. The engraving, printing, and issuing of national bank notes, United States notes, fractional currency, bonds, and other securities of the United States.

Eighth. The redemption, cancellation, and destruction of national bank notes, United States currency, bonds, and other securities, and the mode of disposing of imperfect sheets of paper intended, but not used, to represent value.

Ninth. The manner of keeping accounts, auditing claims, and issuing warrants for the payment of money from the Treasury.

Tenth. Any suggestions or recommendations affecting the efficiency and security of transactions in the Treasury Department, or economy in the public expenditures.

Section two provides that, for the purpose of the examination authorized and directed in the preceding section, said examiners shall have access to all the vaults, safes, deposits, books, records, letters, and other documents in the Treasury Department, sub-Treasury, or any bureau thereof, and shall have power to summon witnesses, administer oaths, and employ a clerk and stenographer.

Section three provides that said examiners shall each receive ten dollars per day and actual expenses during the time actually employed in making such examination and report; and for the pay of said examiners, their clerk, and stenographer, and for the actual expenses, there is hereby appropriated \$10,000, or so much thereof as may be necessary, out of any money in the Treasury not otherwise appropriated.

The SPEAKER. Is there objection to allowing the gentleman to report the bill at the present time?

Mr. ROSS. I will not object if I can ask the gentleman a question.

The SPEAKER. The Chair asks if there is objection.

Mr. ROSS. I do not object.

The SPEAKER. Then the bill is before the House.

Mr. ROSS. I wish to ask the gentleman from Vermont [Mr. MORRILL] if he is willing to incorporate in the bill a provision to remove Mr. Clarke from the Bureau of Printing for the Treasury.

Mr. MORRILL. This is the same bill which was introduced by the gentleman from Ohio, [Mr. GARFIELD,] and I believe it is universally admitted that it is an extremely proper measure; I therefore demand the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### RETURN OF FUGITIVES FROM JUSTICE.

Mr. SHELLABARGER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be directed to inquire whether the act of February 12, 1793, regulating the arrest and return of fugitives from justice, requires any amendment so as to prevent oppressive use of such act against persons wrongfully accused of crime, and to report by bill or otherwise.

## CRUEL AND UNUSUAL PUNISHMENTS.

Mr. KASSON. I move to suspend the rules, so as to enable me to introduce a bill to enforce a provision of the eighth amendment of the Constitution, and I ask that the bill be read.

The bill was read, and is as follows:

Whereas it is declared by the eighth amendment of the Constitution of the United States that no cruel and unusual punishments shall be inflicted within its jurisdiction; and whereas it appears that in certain parts of the United States inferior tribunals are attempting to establish the barbarous practice of punishing offenses against the law with the whip and scourge, applied to the bodies of free citizens of the United States contrary to said provision of the Constitution and against the principles of civilization and the practice of all free Governments, and tending to degrade the privileges and personal liberty and republican citizenship: Therefore,

*Be it enacted, &c.,* That any judge, justice, or other civil officer who shall hereafter adjudge, order, or direct that any person, being a citizen of the United States and brought before him for trial or judgment, or in any way subject to his jurisdiction touching any offense alleged to have been committed by him, shall be punished by lashes or blows, or by any other mode of physical torture; and any executive officer, or other person, who shall execute or attempt to execute any such judgment, order, or direction, shall be held to be guilty of a high misdemeanor, and on conviction thereof before any court of competent jurisdiction, shall be punished by a fine of not less than \$500 nor more than \$5,000, or by imprisonment for a term of not less than six months nor more than six years, or by both such fine and imprisonment, in the discretion of the court.

Mr. BINGHAM. I hope the gentleman will allow this bill to be printed, and made the special order for some early day.

Mr. KASSON. I will leave it open for the consideration of gentlemen who desire to discuss it as soon as it is introduced.

Mr. BINGHAM. I hope it will not be allowed to interfere with the regular order of business. The motion was agreed to.

## A RECUSANT WITNESS.

Mr. HALE. I rise to a question of privilege. I am instructed by the joint Committee on Retrenchment, in whose behalf I moved for process of contempt against J. F. Tracy, to state that Mr. Tracy has appeared before the committee and has been examined, and has satisfied them that he intended no contempt of the House. I therefore move that further process against Mr. Tracy be dispensed with on his paying the usual fees to the Sergeant-at-Arms.

The motion was agreed to.

## CRUEL AND UNUSUAL PUNISHMENTS—AGAIN.

The question recurred on Mr. KASSON's motion to suspend the rules.

Mr. TRIMBLE. I desire to ask the gentleman from Iowa a question.

Mr. KASSON. I have given notice that if the bill is allowed to be introduced I shall then make a subsequent motion that it be made the special order for some future day.

Mr. BALDWIN. Is the motion to suspend the rules in order, that the bill may be put upon its passage?

The SPEAKER. The gentleman from Iowa has intimated that if the bill be introduced he will ask that it be made the special order for some day in the future.

Mr. BALDWIN. I will vote to suspend the rules for the introduction of the bill, but I cannot vote for its introduction if it is to be put upon its passage to-day.

The SPEAKER. It is not proposed to put the bill upon its passage to-day.

Mr. KASSON. I shall not ask that, as some gentlemen here desire that we shall go on with another bill to-day; but I shall ask that it be made the special order for some future day.

Mr. MORRILL. I give notice that I shall object, from this time forward, to any more special orders being made.

The question being upon Mr. KASSON's motion to suspend the rules, it was put; and there were—ayes 46, noes 40; no quorum voting.

Mr. KASSON demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and there were—yeas 104, nays 38, not voting 49; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Banks, Barker, Baxter, Benjamin, Bidwell, Blaine, Boutwell, Brandegee, Broomall, Buckland,

Bundy, Reader W. Clarke, Cobb, Conkling, Cook, Cullom, Dawes, DeForest, Delano, Deming, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Hayes, Higby, Hill, Holmes, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Ingersoll, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, George V. Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McIndoe, McRuer, Mercier, Miller, Moorhead, Morrill, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pomeroy, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Starr, Stevens, Stilwell, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—104.

NAYS—Messrs. Ancona, James M. Ashley, Baldwin, Bingham, Boyer, Campbell, Cooper, Dawson, Denison, Eldridge, Finck, Goodyear, Aaron Harding, Hise, Hogan, Edwin N. Hubbell, Jenckes, Le Blond, Leftwich, Marshall, Niblack, Nicholson, Noell, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Spalding, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Andrew H. Ward, and Winfield—38.

NOT VOTING—Messrs. Alley, Ames, Arnell, Beaman, Bergen, Blow, Bromwell, Chanler, Sidney Clarke, Culver, Darling, Davis, Dixon, Dodge, Glossbrenner, Abner C. Harding, Harris, Hart, Hawkins, Henderson, Hooper, Hotchkiss, Asahel W. Hubbard, James R. Hubbell, Hulburt, Humphrey, Hunter, Johnson, Jones, Kerr, Latham, William Lawrence, Marvin, Maynard, McCullough, McKee, Morris, Phelps, Pike, Plants, Radford, William H. Randall, Rousseau, Thayer, Francis Thomas, John L. Thomas, Elihu B. Washburne, Whaley, and Wright—49.

So (two thirds voting in favor thereof) the rules were suspended, and the bill was introduced and read the first and second time.

## CHANGE OF REFERENCE.

Mr. GARFIELD. I ask the gentleman from Iowa [Mr. KASSON] to yield me the floor for a moment.

Mr. KASSON. I will do so, sir.

On motion of Mr. GARFIELD, by unanimous consent, the Committee of Ways and Means was discharged from the further consideration of the petition of Alfred B. Winslow and Ebon M. Tibbatts, and the same was referred to the Committee of Claims.

## PUBLICATION OF LAWS.

Mr. WILSON of Iowa. I ask my colleague to yield to me for a moment.

Mr. KASSON. I will do so.

On motion of Mr. WILSON, of Iowa, by unanimous consent, the Committee on the Judiciary was discharged from the further consideration of the bill of the House No. 1911, providing for the publication of the laws and other judicial notices in the States recently in rebellion; and the same was referred to the Committee on Printing.

## DEPARTMENT OF AGRICULTURE.

Mr. KASSON. I will now yield for a moment to the gentleman from California, [Mr. BIDWELL.]

Mr. BIDWELL. I desire merely to enter a motion to reconsider the vote by which the bill of the House No. 1057, to establish a Department of Agriculture, was recommended to the Committee on Agriculture.

The motion was entered.

Mr. SPALDING. I object to this way of doing business; and insist upon the regular order of business.

## CRUEL AND UNUSUAL PUNISHMENTS—AGAIN.

The SPEAKER. The regular order of business is the consideration of the bill introduced, under a suspension of the rules, by the gentleman from Iowa, [Mr. KASSON.] The question is upon ordering the bill to be engrossed and read a third time.

Mr. KASSON. I have expressed my willingness to fix a day when this could be considered as a special order. I ask if there be any objection to that course.

Mr. MORRILL. I feel compelled from a sense of duty to say that I shall from this time forth object to any special orders.

Mr. KASSON. In that case I know of nothing to be done except to leave the matter to the determination of the House.

I desire to say that the Constitution of the United States expressly prohibits the infliction of cruel and unusual punishments. We have

the right to enforce all provisions of the Constitution of the United States. The infliction of physical torture in any form upon a citizen of the United States has been for very many years, if not always, without example in the judicial history of this country. I admit that the system of torture as applied to slaves did exist in certain parts of the United States, but I deny that the infliction of physical torture upon those who are endowed with the rights of citizenship is usual. The attempt is now being made to carry over this incident of the condition of slavery and apply it to those who are now in freedom, full citizens of the United States of America, and endowed with the personal rights that belong to any other class of its citizens. I believe it, therefore, to be the duty of the Congress of the United States to take early action to prevent what is now both cruel and unusual from becoming simply cruel and usual. And the sole object of this bill is to assert the national authority, the right to administer the provisions of the Constitution by the enactment of laws like this.

This House has already passed a bill to prevent in certain States one of the practices that existed during the condition of slavery, the selling of free men into a condition of chattel slavery. This is simply a supplemental bill to abolish what is, so far as I know, the only remaining personal incident that belonged to the condition of slavery in several of the States of this Union. It also applies to all the States of the Union. It protects both whites and blacks against that degradation of personal independence, that sentiment which is the very foundation of the ennobling character and dignity of citizenship in the United States. This is all I have to say of the bill and of the necessity of its prompt enactment.

Mr. SPALDING. I desire to ask my friend from Iowa [Mr. KASSON] one question, the answer to which may influence my vote upon this occasion. I desire to know whether the gentleman thinks Congress has the right to prevent the State of Iowa or any other State from so legislating as to inflict corporal punishment for crime, for petty larceny, or anything of that sort. And I ask him also if when the Constitution was framed three fourths of the States did not authorize the infliction of corporal punishment?

Mr. KASSON. If the gentleman will recollect, I took the ground in the debate the other day, in which ground I was supported, I believe, by the House, that the Constitution of the United States in all its clauses was to be interpreted by the condition of the country and of the citizens to whom those clauses applied. I hold that whenever the infliction of corporal punishment has become unusual and is admitted to be cruel then this clause of the Constitution applied irrespective of the practice of a former century. Otherwise there could be no progress in civilization or any protection of the rights that result from progressive civilization.

Mr. SPALDING. I think in my own State at this time we send men to the chain-gang. I ask the gentleman if that punishment is cruel?

Mr. KASSON. Of course criminals are confined; of course they are sometimes put in chains for their complete restraint. This bill does not touch the usual modes of punishment; it touches only those modes of punishment that consist in the infliction of personal torture, by judgment of the court, directly upon the body of the individual. This is the intent of the constitutional amendment; otherwise any State in this Union might introduce the practices of the Spanish Inquisition; and any man who acted under that introduction by the law of the State would be protected by the State.

Now, I hold that this Congress, applying the Constitution, has the right to declare what is cruel and unusual punishment; and if the declaration is true the courts must administer the law we pass and prohibit the infliction of such punishments.

Mr. SPALDING. Then, if I understand my friend from Iowa, the Constitution would



mean one thing this year, did mean another thing five years ago, and might mean another thing five years from now.

Mr. KASSON. In its application it might have meant one thing in the fourteenth century, if it had existed then, and it may mean another thing in the twentieth century, if it shall then be in existence.

Mr. SPALDING. Yes; that may be.

Mr. KASSON. In other words, if slavery exists in this nation to-day a certain clause applies to it; if slavery ceases to exist to-day that clause will not apply to it.

Mr. SPALDING. That is very true so far as it regulates slavery. He is right there, but this is a different subject. It is the assumption of power on the part of Congress over State Governments without reference to the disloyal States at all.

Mr. KASSON. On the contrary, it is using the power conferred by the Constitution to protect personal rights in this country. I do not think there can be any reasonable doubt of the power of Congress to protect personal rights guaranteed by the Constitution. The Constitution says that the citizens of one State shall have all the privileges and immunities of citizens in any other State, and I think Congress has the right to protect our citizens in the enjoyment of these rights. If there be doubt about that construction I hope it will not come from that portion of this House who believe in the dignity of manhood and the protection of the rights of all our citizens in times like these.

Mr. INGERSOLL. As this bill has not been printed, I desire to know whether it includes the person who inflicts punishment as well as the person who pronounces the sentence.

Mr. KASSON. It does. I follow the precedent of the bill which passed this House two weeks ago.

Mr. WILLIAMS. I would like to suggest to the gentleman from Iowa before the question comes up again the propriety of an inquiry in the meanwhile, whether the amendment which his bill recites does not refer entirely to the administration of justice in the Federal courts and under Federal law. I think it has been generally understood by the profession and the courts, if it has not been so formally adjudicated, that these amendments were intended only as a limitation of the powers of Congress.

Mr. KASSON. Not in relation to the personal rights guaranteed by the Constitution. The Constitution guarantees the right of trial by jury in civil cases described, and that has been held to apply to the practice in the Federal courts only. That relates to the form and administration of justice. The clause to which I have referred relates to the rights of persons.

Mr. BINGHAM. In respect to the clause of the Constitution to which the gentleman refers, being the eighth of the amendments of the Constitution of the United States proposed by the First Congress, I beg leave to say he will look in vain for any legislation like this now proposed, either passed or attempted hitherto to be passed, by virtue of that article. The bill to which the gentleman refers, to prohibit the sale of men into slavery, does not rest upon the eighth article of amendment, but on the thirteenth article of amendment; neither does that bill, like this, provide for sentencing State judges to imprisonment for six years in the penitentiary for rendering any judgment in the premises.

One word further as to the gentleman's statement that the provision of the eighth amendment has relation to personal rights. Admit it, sir; but the same is true of many others of the first ten articles of amendment. For example, by the fifth of the amendments it is provided that private property shall not be taken for public use without just compensation. Of this, as also of the other amendments for the protection of personal rights, it has always been decided that

they are limitations upon the powers of Congress, but not such limitations upon the States as can be enforced by Congress and the judgments of the United States courts.

On the contrary, the Supreme Court, when presided over by men who never were suspected of mere partisan judgments, whose ability and integrity were acknowledged by all and challenged by none, ruled invariably as I have stated. If these limitations upon your power confer power to legislate over the States, why not enforce them all by penal enactment?

When the gentleman is through I should like to be heard somewhat on this bill. So far as we can constitutionally do anything to prevent the infliction of cruel punishments by State laws I wish to see it done. I trust the day is not distant when by solemn act of the Legislatures of three fourths of the States of the Union now represented in Congress the pending constitutional amendment will become part of the supreme law of the land, by which no State may deny to any person the equal protection of the laws, including all the limitations for personal protection of every article and section of the Constitution, and by which also the Congress will be empowered by law to enforce every one of those limitations so essential to justice and humanity.

Mr. KASSON. I cannot yield further without leading to remonstrance on the part of gentlemen near me touching the delay of other business.

As to the point of the gentleman from Ohio, that the bill to which I referred did not contain the clause I said it did, I will only say he is in error. The gentleman from Illinois [Mr. INGERSOLL] asked me whether this bill contemplated punishment of the officer who inflicted this cruel and unusual punishment. I said it did, and so it does.

Mr. BINGHAM. I stand corrected; but it does not, as this bill does, provide the person who pronounces judgment shall be indicted and punished.

Mr. KASSON. My impression is the bill prohibited the making of the order, which covers the same principle to which the gentleman now alludes.

Mr. WARD, of New York. Has this measure been reported by any committee?

The SPEAKER. It has not.

Mr. KASSON. I thought that was understood.

Mr. ROSS. When I have the opportunity I will move to refer this bill to the Committee on the Judiciary.

Mr. KASSON. Although this bill has not been reported by a committee, yet it has not been introduced without consultation on the part of members. I now yield to the gentleman from New York, [Mr. HALE.]

Mr. HALE. I wish to call the attention of the gentleman from Iowa to the fact that although his bill is based upon the recital of the eighth article of the amendments to the Constitution, those amendments are nowhere made subject to legislation by Congress; and I submit to him whether there is any authority to be derived for his bill any more than there would be for legislation by Congress to carry out any provision of the bill of rights. And I suggest further, that it has been adjudged by varying decisions that these amendments do not confer legislative power upon Congress; that they are mere provisions for the protection of the citizen, to be enforced through the courts. I ask the gentleman, therefore, where he finds in the Constitution or its amendments authority in Congress to legislate on the subjects included in the bill of rights and not specifically given?

Mr. KASSON. I answer that the Constitution itself, after conferring specific powers upon Congress, contains a clause that Congress may not only pass laws to carry those powers into effect, but all other powers conferred by the Constitution on the General Government or any branch of it. I now yield to the gentleman from Missouri.

Mr. BENJAMIN. I desire to ask this question in connection with this bill. It is very

common for the enforcement of discipline and to suppress insubordination in penitentiaries and State prisons to inflict corporal punishment in various ways. Now, I wish to know if this bill does not include the infliction of such punishment for the enforcement of prison discipline?

Mr. KASSON. In answer to that I will say that the very case to which the gentleman refers was in my mind in framing this bill, and is excluded by its provisions. It simply covers the infliction of punishment by order of a court before whom the party charged with the offense is tried. It is confined exclusively to that as being the thing sought to be guarded against by the Constitution itself.

Mr. FINCK. I wish to ask whether the article to which the gentleman refers, and all the articles of amendment made prior to the last two or three years, are not amendments restricting and limiting the power of legislation?

Mr. KASSON. All the amendments?

Mr. FINCK. Yes, sir.

Mr. KASSON. I answer no; that several of them are expressly designed for the greater security of the individual rights of the citizen, and I am sure a majority of them are expressly designed to protect individual rights.

Mr. FINCK. And to restrict the power of Congress.

Mr. KASSON. No, sir; I do not accept the gentleman's amendment; they are designed to protect the individual rights of the citizen.

Now, Mr. Speaker, you will perceive the reasons that require this action. I believe it to be the duty of Congress, a duty which it owes to the people, to see that every constitutional right of the citizen shall be protected against outrage and violation. Our powers in that direction are limited exclusively by the prohibitions of the Constitution and not by the positive affirmations of the Constitution. The very object of the Constitution was to secure republican liberty and all the rights that belong to republican citizenship, and the very moment that all the people of all colors in the United States were put on the same level in respect to personal rights from that very moment the legislation of Congress must conform to this condition. The thing of which the loyal portion of this country complain to-day is that while in the insurgent States they pretend to submit to the changed condition of things and accept the determined issues of the contest, they do nevertheless continually thwart and oppose every effort made by the General Government in good faith to carry these issues into practical effect among the people.

Mr. LE BLOND. I wish to make a suggestion to the gentleman from Iowa. This bill has been reported this morning. It is not printed. Gentlemen are unable to determine to what extent the bill goes. Now, there is quite a difference of opinion here as to the power of Congress on this subject. I find there is a difference even upon the other side of the House as to whether this provision of the Constitution does not confer merely negative powers upon Congress instead of giving it affirmative power. I am not sure, but I think that the Supreme Court of the United States has upon more than one occasion determined that this provision of the Constitution is a limitation of power, and that under it the General Government does not acquire any affirmative power. If such is the case we certainly should deliberate upon this and should move slowly in the matter. We should hesitate about going to such an extent as to do violence to the rights of the States.

I wish further to add upon this subject that from the reading of the bill at the Clerk's desk I have been unable to catch all its provisions; but it does seem to me that it provides for the punishment of State officers for carrying out the express provisions of the laws of the States under which laws they are acting. Now, if that be true we ought not certainly to proceed in this hasty manner to legislate upon a question of this kind or to pass a bill that will place a State officer in this awkward posi-

tion, that if he complies with the State law he will be punished under the law of Congress, and if he fails to comply with it he will be punished under the law of his State.

Mr. KASSON. The gentleman knows very well that I should be glad to have ample time given for the consideration and discussion of this bill; but he knows also that the business of the House is such that if there be an evil to be corrected it must be done with reasonable promptness.

Let me say in reference to the civil rights bill, to which the gentleman has referred as imposing certain duties that might conflict with State laws, that Congress has decided that we have a certain right in administering the provisions of the Constitution to supersede State laws. The point I make now is that the provisions of these State laws are in conflict with the Constitution of the United States, and must be so held by the judges of the State courts.

Mr. BINGHAM. Will the gentleman allow me to suggest that every State judge, by the terms of our Constitution, is bound by an oath to support that Constitution, and that there is a further provision that that Constitution and the laws passed in pursuance thereof shall be binding upon the judges in every State, thereby giving him a judgment in deciding whether our laws are in pursuance of the Constitution or not. And yet you say here that if the judge of a State court decides against you he shall be subject to six months' imprisonment in the penitentiary and to a fine.

Mr. KASSON. The gentleman suggests an additional reason for Congress taking this power out of the hands of the judges of the State courts, because this clause of the Constitution is binding upon them, and if they do not observe it they ought to be punished.

Mr. BINGHAM. His oath to obey the Constitution is binding upon him to the exclusion of State or congressional enactments.

Mr. KASSON. Exactly; and if he disobey it he ought to be punished.

Mr. BINGHAM. If he disobey the Constitution. But he is entitled to a judgment in regard to our statutes. You impose upon him an oath, and then tell him, "If you do not decide as we wish you to we will send you to the penitentiary."

Mr. KASSON. On the contrary, we tell him that if he does not decide as the Constitution requires, we will so treat him.

Mr. BINGHAM. No. The gentleman's provision is absolute, that if a State judge pronounces judgment contrary to the provisions of this act he shall be punished.

Mr. KASSON. That brings the question right back as to whether the physical torture of a citizen of the United States is within the scope of the Constitution, or is "cruel and unusual punishment." Now, I ask any gentleman to rise in his place and say whether a member of this House who commits an assault or any other criminal act can be brought up and have the lash and the scourge inflicted upon him without a violation of the Constitution of the United States?

Mr. CONKLING. I should like to add a word just at this point. I am willing that these judges should be punished for doing almost anything for which a man may be punished; but as I read the bill I think there is great difficulty in knowing that for which they are to be punished.

The bill proposes to provide that no judge or other civil officer shall hereafter adjudge that criminals shall be punished by lashes or blows, "or by any other mode of physical torture." Now, for legal purposes, I would like to have some gentleman explain to this House what that means; to fix the metes and bounds which guard those words. Surely putting a man in a strait-jacket is physical torture. I am inclined to think that putting him in a cell is physical torture. I feel sure that if you put a ball and chain upon him, and compel him to go out in public in that condition, although the essence of the punishment is the mortification to which

he is subjected, and so intended to be, I am inclined to think that is physical torture. Now, I presume it is very common in all or nearly all the States to take petty offenders, for instance, men incorrigibly prone to getting drunk and exposing themselves in public, and send them to the work-house, where, although they are confined but a short time, a ball and chain is put upon them; not one that weighs very much, not that the ban of the punishment is the physical inconvenience or exhaustion which ensues; but because it makes them a spectacle, because it hangs them up like a dead crow in a corn-field as a warning to other people who are disposed to commit like offenses, that is physical torture. I might go on and multiply instances in which some of the most approved, some of the lightest, some of the most casual punishments inflicted by our courts would be inhibited under very heavy penalty by this bill.

Now, if I may be allowed to make one further remark, I will say, here is a bill which is not printed. If I had understood the force of it when the gentleman asked leave to introduce it I am free to say I should have voted, as I did not vote, for the suspension of the rules. It comes here now to be acted upon in very great haste. It involves principles and details of very great importance. I ask the gentleman from Iowa [Mr. KASSON] to allow it to be referred to some committee, with leave, which I presume will be granted, to report at any time upon giving one day's notice; and in the mean time the bill can be printed.

Mr. KASSON. I have no objection to that if the order can be made. I will only say, as it is proper I should say in answer to what the gentleman has said, I know of no statute in any State which authorizes the judge of any criminal court to sentence a man to any particular mode of physical torture. If there be any such I confess my entire ignorance of it.

Mr. LYNCH. I wish to ask the gentleman if executing a person is not inflicting physical torture?

Mr. KASSON. No, sir; as everybody understands, that is not physical torture in the sense employed in this bill.

Mr. CONKLING. They do such things so quickly now that there is no physical torture about it.

Mr. ELDRIDGE. I wish to call the attention of the gentleman from Iowa [Mr. KASSON] to a remark which he has just made. He says that he knows of no court authorized by law to sentence a man to endure physical torture or suffering by way of punishment. I would like to ask the gentleman what he would regard sentencing a man to solitary confinement upon bread and water? That I believe is done in the States of Wisconsin and Ohio and perhaps in other States. Is not that physical torture?

Mr. KASSON. I have no doubt that not only in the State of Wisconsin but elsewhere that punishment might very well be meted out for some political offenses. The gentleman understands as well as I do that that is not the meaning given by any dictionary or law to the term "physical torture"; nor is it the sense in which it is used in this bill, or in which any court could construe it to have been used in this bill.

I wish to add that a man who does not understand the dignity of manhood, the rights of citizenship, cannot understand the objects sought to be accomplished by this bill. I give my friend the credit of understanding it if he chooses to understand it, provided he could take the terms of this bill out of the considerations which usually attach to the question of slavery. My object here is to protect those fundamental rights of republican manhood in our color as well as any other color against the degradation which every man on this floor feels is connected with personal stripes and laceration of the body. Hence the language of the preamble recites "with whips and scourges;" and I ask any gentleman to point me to any country in the world, governed

popularly in its legislative branch, that imposes to-day physical chastisement, physical torture, as the punishment of crime. There is no answer. No gentleman can point to such a country.

Mr. CONKLING. What is "physical torture?" If the gentleman will tell us that, we may be able to answer.

Mr. KASSON. The bill itself recites "lashes and blows" in one part, and in another part it speaks of—

Mr. CONKLING. "Any other mode of physical torture."

Mr. KASSON. Well, sir, if the gentleman should ask me what is the meaning of a "blow" I might be embarrassed to answer him. If he asks me what "physical torture" means, he certainly understands that it applies to that species of punishment applied directly to the body, and not the usual modes of punishment by confinement and restraint of motion, &c., those punishments which are known to all civilized countries.

Mr. ELDRIDGE. I desire to ask the gentleman whether in his view to confine a person in prison and starve him to death is not "physical torture?"

Mr. KASSON. Undoubtedly; but no personal restraint to which the law sentences a criminal is so, according to the meaning given to the term by any judicial decision or any historical writer or any legislative precedent. I think there is no question about that.

Mr. FINCK. I wish to ask the gentleman whether his bill is comprehensive enough to embrace the whipping of a pupil at school by the teacher?

Mr. KASSON. If my friend had listened to the reading of the bill he would know that it is confined exclusively to the orders of a judge, justice, or civil officer.

Mr. FINCK. I want to ask my friend one further question: if we have power to pass this bill, have we not the power to prohibit punishment by whipping or scourging in the schools of the States?

Mr. KASSON. Mr. Speaker, it is my habit in debate to confine myself to the question before the House. This bill has reference simply to the action of the courts administering criminal justice, which are restrained by the clause of the Constitution itself from inflicting "cruel and unusual punishment."

Mr. FINCK. It involves the same principle.

Mr. KASSON. Now, Mr. Speaker, I will not detain the House any longer. As I have already said, I will agree to the proposition which has been made, that the bill be referred to the Committee on the Judiciary, with leave to report at any time; and that the bill be printed.

The question being taken on the motion that the bill be referred to the Committee on the Judiciary and be printed, it was agreed to.

The question being taken on the motion to suspend the rules to allow the committee to report back the bill at any time, there were—ayes eighty-five; noes not counted.

So (two-thirds voting in favor thereof) the rules were suspended, and leave was granted.

#### TAXATION OF NATIONAL BANKS.

Mr. ROLLINS, by unanimous consent, submitted the following resolution:

*Resolved*, That the Secretary of the Treasury be hereby instructed to report to this House at as early a day as practicable the amount of taxes annually paid by national banking associations to the United States; also, so far as he may be able to ascertain the same, the amount paid to the several States in which such associations may be located.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

Mr. ROLLINS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## LEAVES OF ABSENCE.

Mr. BRANDEGEE asked and obtained leave of absence for himself for one week.

Mr. LATHAM asked and obtained leave of absence for himself for ten days.

## ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and a joint resolution of the following titles, when the Speaker signed the same, namely:

An act (H. R. No. 486) for the relief of Catherine Welsh; and a

Joint resolution (H. R. No. 160) for the relief of William D. Nelson.

## MAIL CONTRACTORS IN TENNESSEE.

Mr. STOKES, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas there were a number of Union men who were employed as mail contractors in the State of Tennessee before the 8th June, 1861, when the ordinance of separation from the Federal Government was pretended to be adopted; and whereas said contractors fulfilled all their engagements and complied with the law up to the time of the State pretending to sever her relations with the Federal Government, and have not yet received their just compensation for their services: Therefore,

*Be it resolved*, That the Postmaster General be, and he is hereby, directed to report to this House the amount necessary to be appropriated to pay said contractors for said services, with the names of said contractors annexed thereto.

Mr. STOKES moved to reconsider the vote by which the preamble and resolution were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## OATHS OF ATTORNEYS, ETC.

Mr. CONKLING. The other morning when the vote was taken finally on the bill in reference to oaths of attorneys in the Supreme Court, &c., there were a number of gentlemen who did not record their votes. They may be properly designated as the members who had the nerve to sit here all night, but the misfortune not to be here when the vote was taken. I move that they have leave to record their votes.

Mr. ELDRIDGE. How many votes were cast against the bill?

The SPEAKER. Forty-two.

Mr. ELDRIDGE. It has been stated in the papers to be twelve.

The SPEAKER. That is a mistake.

There was no objection, and it was ordered accordingly. The following members then recorded their votes in the affirmative: MESSRS. SPALDING, CONKLING, MORRIS, PLANTS, ECKLEY, and UPSON.

## GRIEVANCES OF TEXAS.

Mr. BOUTWELL, by unanimous consent, presented a memorial on behalf of the citizens of western Texas, setting forth the grievances of the loyal Union men of that State; the oppressions by the government established by President Johnson and by the disloyal majority under his government, encouragement, and protection; and praying that the loyal Union men of western Texas may be protected by law, and allowed to erect a State government west of the Brazos river; which was ordered to be printed, and referred to the Committee on Reconstruction.

## RECONSTRUCTION.

Mr. STEVENS. I call for the regular order.

The SPEAKER. The first business in order after the expiration of the morning hour is the consideration of House bill No. 543, to restore to the States lately in insurrection their full political rights, upon which the gentleman from Indiana [Mr. JULIAN] is entitled to the floor. The pending question is upon the motion of the gentleman from Ohio, [Mr. BINGHAM], to refer the bill and pending amendments to the joint Committee on Reconstruction.

Mr. JULIAN made some remarks, which will be found in the Appendix. On concluding he yielded the residue of his hour to Mr. SCOFIELD.

Mr. SCOFIELD. Mr. Speaker, I sought to obtain the floor on Saturday last to say a few words in reply to the gentleman from Illinois, [Mr. ROSS.] He claimed that inasmuch as the Republican party had voted for the Crittenden resolution in the early part of the war, inasmuch as they had consented to the retention of members of Congress from those States during the time for which they had been elected, inasmuch as they enacted a law apportioning the members of Congress among the several States, including those States to which he referred, they were now estopped from denying that the confederate States were States in this Union.

A gentleman who had witnessed the great fire in Pittsburg some years ago, by which a large portion of that city was destroyed, was entertaining me some time afterward with a little incident of the calamity illustrating the conduct of men under peculiar circumstances. He said he noticed a builder as the flames were flying rapidly from block to block coolly standing upon the pavement and watching their progress. As they passed into a block in which my friend was largely interested, the builder approached him and said: "Will you rebuild this year?" "No, sir," said my friend, "I hope to save my block with a little repair." But the flames raged on and in a little while they were bursting from the roof. The builder approached him again and said, "Will you use the walls in rebuilding?" "Certainly," said my friend, "I intend to use the walls if I can possibly save them." But soon the walls began to fall one by one and those that did not fall by the flames were demolished by the firemen. The builder once more approached my friend and said, "Will you rebuild on the old foundations?" And the man gave an affirmative answer. But when the conflagration had spent its force and the owner of the property came to remove the rubbish he discovered that the foundations were much injured, and as they were originally built partly on sand or loose soil he determined to remove them and rebuild on the solid rock with hard granite foundations.

Now, sir, if when he was preparing this work the builder had again come to him and reproached him with duplicity because he had said at one time he expected to save the building, at another that he intended to save the wall, and at a subsequent time that he would save the foundation, he would have stood exactly in the position where my friend from Illinois [Mr. ROSS] stood in his speech last Saturday. The parallel would be a little more perfect if the builder had also, in the midst of the fire, told the firemen that they had better suspend their efforts as the city could not be saved; and then when by redoubled efforts after a little time the flames were subdued he had reproached them with treating the misguided conflagration with unnecessary cruelty.

Mr. Speaker, we had hoped to save these States. It is not our fault that the fires of the rebellion raged so fiercely and so long. Indeed it was not our fault that the fires were lighted at all. If anybody is at fault it is the gentlemen who at that time represented the party to which my friend from Illinois [Mr. ROSS] belongs in this and the other House in the winter of 1860-61.

If the members of Congress of that party had appealed to their southern brethren who were leaving these Halls to embark in a rebellion, if they had risen in their seats and said to them, "Gentlemen, you have been our political allies; we have served you well; we added Texas to this country in order to enlarge your power; we took upon ourselves a war with Mexico as a consequence; we have done all we could to get Cuba for you at the risk of a war with Spain; for your sake we repealed the Missouri compromise and gave you an opportunity to extend your peculiar institutions over the unlimited soil of the West; for your sake we passed a law by which the whole North became a slave-hunting-ground, and freemen turned out at your bidding to capture your escaped bondmen and return them to you free of cost; but we will

go no further; we will never consent that two republics shall be carved out of the territory lying between the Atlantic and the Mississippi, the Gulf of Mexico and the northern lakes with only the blades of the surveyor upon the trees to mark the line between them; if you go now mark, we will join with the abolitionists and free-soilers of the North, and we will fight this out on the field of battle;" if you had said that they would have remained. But instead of that you said to them, that the election of Lincoln was an insult to their pride, an assault upon their institutions; that they had, if not a perfect justification in seceding, great provocation therefor. You said to them that while you did not advise them to secede you would see that if they settle that question for themselves and determined it in favor of secession there should be no coercion on the part of the North. So on the 4th of March, when Mr. Lincoln came to take the oath of office, and the Republican party for the first time became responsible for the use of power, we found the Republic divided; seven large States had withdrawn and formed a separate republic, and seven more were preparing to follow, four of which finally succeeded and joined the rebel confederacy, the other three being retained by virtue of military power.

Now, sir, we all propose to reunite this whole territory. There is only this difference in the manner of doing it: you propose to take the old foundation and the old walls and to have new State governments built upon those foundations. We propose to remove the old sandy foundations and build upon the solid rock. That is the only difference. You propose to annex the United States to the confederacy and thus bring us together. We propose to annex the confederacy to the United States. It has been said that Governor Seymour was asked if he had any objection to the confederate constitution then just formed at Montgomery, and he replied, "It is better than the Federal Constitution; why should we not adopt it at once?" That is a sort of reconstruction which the gentlemen opposed to us are now pressing upon us.

But my friend from Illinois [Mr. ROSS] further claimed the sanction of Mr. Lincoln's great name for the policy which his party are pursuing. If this policy of yours is Mr. Lincoln's, more shame to you that, while you were pursuing it, you spoke so unkindly of him, for you denounced him sometimes as a tyrant and usurper, and sometimes as a buffoon and a fool. The gentleman and his friends were upon his track and were barking at his heels from the hour when he was first nominated for the Presidency at Chicago until his tragic death; and now they propose, not to sustain his work, but to tear down the landmarks of freedom set up by him. Look at the States which Mr. Lincoln reconstructed! Here are Tennessee and Louisiana and Arkansas in the hands of Union men—every one of them; but the policy of reconstruction which succeeded his has thrown the Union men out of power and given the power to the rebels.

The States of Maryland, West Virginia, Kentucky, and Missouri, although not confederate States, were more or less reconstructed under Mr. Lincoln's influence, and in every one of those States rebels have been disfranchised and the government of the State has been placed in the hands of loyal men. And now gentlemen who profess to be following in his footsteps, by perfidy or by weakness, are turning these States back to the rebels. Kentucky has already by law reënf franchised the confederates in that State, and they are trying to adopt the same policy in Missouri and in West Virginia.

But the gentleman, after endeavoring to fortify his position by Republican precedent and by claiming for it the sanction of Mr. Lincoln's great name, informed us that there was no danger to be apprehended; that the confederate population is so very small in these States that they can have no prospective influence when brought back into the Federal Union. How



is this? I understand that the policy advocated by him is that in these southern States no confederate shall be disfranchised and no colored man allowed to vote, and that there shall be no constitutional restriction upon the action of the confederates when once restored to power.

Now, what power will you have under that system? Under the census of 1860 there were eight millions of white population in the fifteen slave States, all told; two thirds of that population, I suppose, were interested in the confederacy, and the other third were interested in the Federal Government. Now, if they come back without any restriction of any kind, how many of those States will those who were attached to the confederacy control? I submit, Mr. Speaker, that they will control them all, having two thirds of the white population and having the power, this population being distributed throughout these States, to vote down the Union men two to one. I know, sir, that the confederate population is not so distributed, but it is nearly enough so for the vim, the vigor, the activity, and the bitterness of these men to control these States. At all events, whoever warns us that there is no danger ought to concede all these uncertainties in our favor. With a population of only eight million whites they would have thirty-two Representatives in the Senate, and five more would give them a majority. They would have ninety-seven members of this House, and thirty more would give them a majority here. They would have one hundred and twenty-nine votes in the Electoral College, and seventy-five votes more would give them a majority there also; so that with five or six millions of population to start with they will come back into the Federal Government with almost a majority in all its branches.

The SPEAKER. The time allowed to the gentleman from Pennsylvania has now expired, and his colleague [Mr. STEVENS] is entitled to the floor, under the understanding of the House, for one hour, in which to close debate upon the bill.

Mr. STEVENS. I desire to say that I wish to call the previous question before four o'clock this afternoon.

Mr. ELIOT. Before that is done I hope I may be allowed an opportunity to offer some slight amendments to the bill.

Mr. CULLOM. Will the gentleman from Pennsylvania [Mr. STEVENS] yield to me for fifteen or twenty minutes?

Mr. STEVENS. Very well, I will yield to the gentleman from Illinois, [Mr. CULLOM.]

Mr. CULLOM. Mr. Speaker, the great question of reconstruction still excites the public mind; it will continue to do so until the late rebellious States are all organized by proper authority into States republican in form. This Government for some time past and still presents an anomalous condition of things; about eleven millions of her people are not represented in the national councils. It may be seriously doubted whether such a state of things can very long exist without great danger to the Republic. At the close of the last session of Congress I hoped and believed that by the time we should assemble here again such a disposition would be manifested by the people of the South as would give the loyal people of the country confidence that the Union which they so nobly struggled to maintain would soon be restored in all its parts. The people, as has been said by other members on this floor, desire peace; they are longing to see the day when peace, harmony, and prosperity shall resume their sway all over the land. But, sir, as in the early days of the rebellion, when they hoped and believed that the rebellion would soon cease, so now they and we are disappointed.

To-day, so far as we can see in the acts and developments of those rebellious people, the signs of returning peace and harmony are no more hopeful than at the adjournment of our last session.

During the last session of this Congress we sent to the country a proposed amendment to the

Constitution of the United States. That amendment embodied principles fit to be made a part of the great Constitution, and essential to the protection of human rights and the perpetuity of the nation. This House and the country know well the wisdom of that amendment. The Legislatures of the loyal States, as they assemble in their respective capitals, ratify it one by one, and declare that they desire it shall become a part of the great charter of American liberty.

While the States whose sons stood by the flag in the late struggle for national existence are giving their consent to the amendment in accordance with the forms of the Constitution, the people of the late rebel States, by their pretended Legislatures, are treating it with scorn and contempt.

They repudiate the action of Congress, and refuse to favor any scheme or proposition not made in the interest of treason. That devotion to the flag which cost this nation so much blood and treasure must be insulted by the representatives of the people who made the sacrifice, or the South will not be satisfied and yield a just obedience to the law. Mr. Speaker, I shall never insult the men in my district and the nation who struggled to save this country for the purpose of reconciling men who labored to destroy the nation, even though such refusal results in the failure to reconstruct this country during the present generation. It is time, sir, that the people of the South were informed in language not to be misunderstood that the people who saved this country are going to reconstruct it in their own way, subject to the Constitution, the opposition of rebels to the contrary notwithstanding.

The constitutional amendment will be ratified by three fourths of the States in their practical relations to the Government. It will thus in my judgment become a part of the Constitution. By it the status of all persons born or naturalized on American soil will be defined and protection guaranteed. Representation will be readjusted; the men who have sworn to support the Constitution of the United States and rebelled against it will be deprived of the right to hold Federal or State office; the Federal debt will be held inviolate; the rebel debt will be prohibited; and whether that amendment be spit upon or ratified by the late rebellious people, it will be enforced in all its parts requiring submission—in Illinois and Mississippi, Massachusetts and South Carolina alike.

And, sir, if that submission is not given to the Constitution and laws of the country voluntarily, it should be compelled by the power of the bayonet.

But, Mr. Speaker, after nearly two years have elapsed since the close of the rebellion in its organized form, we find ourselves, as before indicated, with this large southern population, inhabiting the ten unreconstructed States, without representation, and, as at present situated, with no apparent disposition to place themselves in harmony with the loyal people of the country. What shall be done? Where lies the difficulty? Who is at fault? Shall we, as the people's representatives, stand still and fold our arms and wait for that great innovator, time, to work out the problem, or shall we go forward? Shall we shut our eyes to the abuse and murders of loyal men in the South and the continued destruction of their property by wicked men and give them no means of protection when we may? These are questions which we ought all to answer and act as become men capable of discharging the great duties resting upon us. If the statutes of the country are now sufficient to protect the loyal people of these disorganized States of the South from rebel outrage and are not enforced, it is our duty to remove the obstacle wherever it may be. If men, either by the choice of the people or under the forms of the Constitution, are placed in positions of trust and honor and fail to discharge their duties, the remedy is plain and well defined and should be applied. If more law is necessary let us enact it.

Mr. Speaker, in my judgment it is the duty of this Congress to proceed at once and organize the late rebellious States into States republican in form; but we are told that the governments which took the place of the old State governments of the ten seceded States, as they existed before the war, are republican in form; and when a delegation from Arkansas wait upon the Executive to consult as to the condition of things there, and inquire what they should do to reconstruct that State, we are told that our wise and astute Attorney General pertly tells those gentlemen that the State of Arkansas is already reconstructed, and needs no reconstruction.

Republican in form!—governments formed by the Chief Executive without authority of law and upheld by the military power when deemed proper, and set aside at the suggestion of post commanders of military districts—these State governments, conceived in ignorance, brought forth in confusion, and rocked in the cradle of treason, are to be palmed upon the country as legitimate, and taken into the sisterhood of States as republican in form, with all the rights belonging to great States of the Union.

Sir, Presidents and Attorney Generals may prate about the rights of the States and declare that those organizations are States with all the rights belonging to States whose relations to the Government have never been interrupted. They may prepare vetoes filled with the same stuff and send them to this Capitol to be vetoed by the representatives of the people; yet, sir, the great mass of the people understand that the Executive of the nation has no power to create a State, and that the creation of a State by such hands should be set aside, and States republican in form created by the Department of the Government authorized by the Constitution so to do.

It is the duty, sir, of the law-making power of the Government to see to it that those State governments are republican in form; it is the duty of to-day and we must perform it.

In the first periods of the late war the Government was careful to do nothing to annoy or exasperate the rebels. The brave soldier went to the field with his saber and musket to fight, but with them he carried the orders of his ranking officer protecting to the people in rebellion their property, including slaves. Intent upon the destruction of the Government, the nation's kid-glove policy was turned to the temporary advantage of the enemy, and in the progress of time and events we learned that war, destructive, bloody war for liberty, was the war essential to save the nation and claim the respect of the world. Such a war was conducted under the changed policy of the Government, the soldiers of the Union triumphed, and the rebellion ended.

When we began to consider the great subject of the reconstruction of the rebellious States at the last session of Congress we counseled moderation and great liberality toward the people over whom the nation had triumphed in arms. A brave people always desire to escape the charge of want of generosity to a beaten foe. And then it was hoped that such a course would tend to encourage a spirit of loyalty to the Government and harmony among the people of the different sections. If any class of men had a right to complain of our action that portion of the people of the South who had all through the war been true to the flag had the right to complain. While they had given their strong arms and blood to save the nation, which had been the house of bondage to them, in the work of reorganizing they were passed by and given no voice.

They had the right by all that is just and righteous to demand that in the recreation of the States in which they lived they should have the right to be heard.

But, sir, so far as the amendment is concerned, we closed our eyes and passed them by, as in the beginning of the war, intent more upon conciliation than doing full and ample justice to the friends of the Government.

As the refusal of the rebels to lay down their

arms early in the war resulted in the overthrow of slavery and the freedom of four million slaves loyal to the Government, so will the rejection of the amendment by the people of the South speedily eventuate in the enfranchisement of all those black men who but a few years ago were declared by the Supreme Court as having no rights which the white man was bound to respect.

It would seem, Mr. Speaker, that the men who have been struggling so hard to destroy this country were and still are the instruments, however wicked, by which we are driven to give the black man justice, whether we will or no.

By the unholy persistence of rebels slavery was at last overthrown. Their contempt of the constitutional amendment now before the country will place in the hands of every colored man of the South the ballot.

Sir, in the creation of States republican in form in the late rebellious States all loyal American citizens born or naturalized on American soil will be allowed to participate. But we are told by the President and by his admirers upon this floor that we are disunionists, because we say that these pretended State governments are not entitled to representation in Congress, and that before their people can be heard here their State governments must be modeled by proper hands and as the Constitution requires them to be.

We are denounced in wholesale terms because we believe that those States should rest a little from the weariness of their struggle to destroy the country before they assume the weighty responsibility of legislating for it. We are characterized as disunionists hanging upon the verge of the Government, as traitors at the other end of the line, by that man upon whom the people of the country have set the seal of condemnation, because we have not been disposed to come here fresh from the people and like hungry curs do the biding of a man clothed in a little brief authority, not by the people's votes, but by the Constitution and as the result of the misfortunes of the country. Because we do not hasten to admit to representation the people who have buried in patriots' graves three hundred thousand heroes who fell in defense of the flag, and hung the nation in the somber garb of mourning and piled upon the heads of the people the crushing burdens of taxes, we are denounced by that man who became Vice President drunk, President upon the dead body of the great martyr for the cause of liberty, and whose swing around the circle was only equalled in its claims to contempt by his previous and continued betrayal of his party and the cause of the Union, the prior support of which had secured him the support of the people for Vice President of the United States.

But, sir, I care nothing for the man or his conduct, except so far as they reflect credit or disgrace upon the nation and have their influence for good or evil.

The President and his policy have both alike been condemned, and to-day there are thousands of the men who bared their breasts to the bullets of the foe who are waiting impatiently upon this Congress to remove that man whom they believe to be, above all others, the greatest obstacle in the way of a proper settlement of our national difficulties.

He stands there as the Executive disregarding the voice of the people who saved the country, and that, too, when a majority in the loyal States of about four hundred thousand had declared against his policy. He played his hand and lost the game, and by all the ordinary rules governing the actions of men he should acquiesce in the result.

He does not do so, and as he opposes the ratification of the constitutional amendment, vetoes bills sent to him by Congress, and presses "my policy," the loyal people, black and white, are driven out of the southern States, their property burned and otherwise destroyed, and in many instances the people are murdered

by guerrillas and wicked men, and Congress is powerless so long as the laws are not enforced by loyal men.

The ten States must be reconstructed, the loyal men without regard to race or color must control, and if the rebels do not submit voluntarily they must be taught submission by the strong arm of power.

Sir, a few months of proper vigor in the administration of this Government in the right way will settle this whole question, and as it should be.

The people of the South are like other people in some characteristics at least; and when this Government adopts some definite policy and goes forward in its execution, the rebels and all the people of the rebellious States will acquiesce. Their conduct to-day is the legitimate offspring of the treachery of Andrew Johnson to the cause of the Union, in my judgment. The riots and violence of the people of the South in great part are chargeable to Andrew Johnson and his blind zeal for his policy. I do not charge him as desiring and craving the results of his policy, as they developed in the long catalogue of crimes which have been committed by rebels upon Union men in the South; but, sir, before God and the country, I believe that if the President had listened to the voice of the millions of loyal men who sustained the country in its most fiery ordeal, and whose confidence he enjoyed up to the 4th of March, 1865, and had cooperated as the Executive of the nation with that great body of people in the adoption of such measures as they deemed wise, that to-day the southern people would be represented upon this floor and peace and prosperity would prevail all over the land.

But, Mr. Speaker, from what motive we know not, he has taken a different course, and it is for us to do what seems best with all the lights and difficulties before us.

Whatever may be the particular shape of the bill finally agreed upon for the reconstruction of the southern States, I trust that one feature may be incorporated in it, namely, a provision giving thorough protection to loyal men; and, sir, when I say loyal men I mean all loyal men of all grades, shades, and colors; and, sir, in my judgment, there is no means of protecting loyal black men for years to come, in the South except by giving them the ballot. I do not think it would be wise statesmanship to disfranchise all the men who took up arms or otherwise rebelled against the Government. I think, sir, that the leaders of the rebellion should be cut off from participation either in elections or the right to hold office; but there are too many of those who engaged in the rebellion who did it because they were carried along by the force of popular excitement, and not from a disposition to destroy the Union. To disfranchise them all, I think, sir, would not be wise. Render ineligible to Federal office by the ratification of the constitutional amendment the great mass of the leaders of the rebellion; cut them off from participating in the affairs of the country in anywise, State or national; enfranchise the loyal black men; protect the weak in their support of the country; place the State organizations in the hands of loyal men, and, sir, the time will soon come when these people will establish peace and good order among themselves.

I shall not, Mr. Speaker, undertake to indicate the minutiae of a bill such as we should pass, but, sir, I think this Congress is fully capable to develop the whole subject and perfect such a bill as will be in accord with the Constitution, with our past action upon this subject, and as will secure protection to all the people, and at the same time, when enforced, organize State governments in those ten late rebellious States republican in form, and enable the people of those States to come here and claim the right of representation in the national Legislature.

Mr. Speaker, there are many good men on this side of the House who entertain fears lest by the passage of a bill to organize these late

rebellious States into States republican in form that we shall by so doing adopt the territorial idea so obnoxious to many of our friends.

Sir, I do not favor the theory of dissolving these States into Territories myself, but, sir, they now have no legal governments; they are without representation; they placed themselves in the position they occupy by their own perverse and wicked and causeless rebellion; they destroyed the old State governments under which they were entitled to representation; they set up governments in the interests of their rebellion; by the valor of the soldiers of the Union, with Grant and Sherman and Thomas and Sheridan at their head, these organizations were swept away and the people were left without civil governments; and now, sir, it is our duty to organize them—get them in harmony with the Constitution of the United States. To protect the individual rights of the people, to produce harmony and good order and prosperity among them; and, sir, to accomplish these great results I shall labor, and shall not stop long to quibble as to the precise manner in which those objects are attained.

The blood of murdered Union men all over the South calls upon us to act. Union soldiers now in the jails of the South, awaiting trial by rebel courts and juries on charges of murder of citizens of the rebellious States while the soldiers were in line of battle defending the Government and the flag, call upon us to act. The millions of brave men who went at their country's call to give their lives as willing sacrifices upon the altar for their country and liberty, three hundred thousand of whom now sleep in patriots' graves, call upon us to act wisely and quickly upon this great important subject.

Sir, the two hundred and sixty thousand gallant sons of the Prairie State shall not have it to say that they went to the field to save the nation and the Union men of the South from death at the hands of traitors, and after they had done that in war that I, as one of the Representatives of that glorious State, shirked my duty in the Halls of the national Legislature, and those Union men after the war are left to be hunted down by the men with whom they had been contending during the progress of the war.

Then, sir, in conclusion, let us take hold of this bill, and if it is in anywise imperfect let us perfect it, having due consideration for the Constitution of the country, the rights of the people, the future peace and prosperity of the whole land. And let us go forward trusting that, as the instruments of that great Ruler of all men and nations, we may yet place this Government upon the solid foundations of justice, where men may live in peace and prosperity together.

Mr. STEVENS. Before I call the previous question I desire to make some further modifications of my substitute. I modify section three of the substitute as printed by striking out the following:

If by any means no election should be held in any of said late States on the day herein fixed, then the election shall be held on the third Monday of May, 1867, in the manner herein prescribed.

In section six as printed I insert the word "voluntarily" before the words "swore allegiance to said Government."

Mr. ELIOT. I would suggest to my friend from Pennsylvania to modify the fourth section as printed, by striking out the words:

And no person shall be deprived of the right to vote, or be otherwise disfranchised, by reason of conviction and punishment for any crime other than for insurrection or treason or misprision of treason.

I do not think we want to admit to vote those who have been disfranchised by reason of crimes heretofore committed; such as murder, robbery, &c.

Mr. STEVENS. My friend from Massachusetts [Mr. ELIOT] doubtless did not hear the explanation I gave on a former occasion for the necessity of the provision to which he refers. Throughout all the South they are whipping negroes under pretended convictions for

crime, so as to render them, under their laws, disqualified from ever voting. It is to meet such cases as those that this provision was inserted.

Mr. ELIOT. I am in favor of the object the gentleman has in view; still I think it liable to the objection I have indicated; still I will not press the amendment I suggested.

Mr. STEVENS. I also further modify my substitute by striking out the seventh section as printed, as it has been somewhat objected to. That section is as follows:

Sec. 7. And be it further enacted, That no constitution shall be presented to or acted on by Congress which denies to any citizen any right, privileges, or immunities which are granted to any other citizen in the State. All laws shall be impartial, without regard to language, race, or former condition. If the provisions of this section should ever be altered, repealed, expunged, or in any way abrogated this act shall become void and said State lose its right to be represented in Congress.

Mr. ELIOT. Before the gentleman from Pennsylvania concludes, I would suggest to him to further modify the third section of his substitute as printed, by inserting after the words "The Supreme Court of the District of Columbia shall appoint a commission for each of said States, to consist of three persons" the words "who shall have been at all times during the rebellion loyal to the Government of the United States." And also in the same section, after the words "the officers shall consist of one judge and two inspectors of elections, and two clerks" to insert the words "all of whom shall have been at all times during the rebellion loyal to the Government of the United States."

Mr. STEVENS. That is very proper, and I modify the substitute accordingly.

I now desire to request the gentleman from Ohio [Mr. BINGHAM] to withdraw his motion to recommit, until after we have attempted to amend this bill in the House under the five-minute rule. After that shall have been done, if it shall be found that we cannot perfect it in such a manner as will satisfy the House, then the gentleman can be understood as having the right to renew his motion to recommit, and we can vote upon the question of reference then.

Mr. BINGHAM. I desire the House to decide, and I desire the opportunity to decide for myself, whether we shall recede from the principles of the pending constitutional amendment to the extent to which this bill does as it now stands. I do not, therefore, withdraw my motion to recommit, for the grounds upon which I made it at first still stand untouched.

Mr. BOUTWELL. The proposition of the gentleman from Pennsylvania [Mr. STEVENS] is one which, it seems to me, looks toward the perfecting of this very important measure. If, acting under the five-minute rule, we amend this bill as well as we may be able, then, unless we succeed better than perhaps may reasonably be expected in advance, it will be wise to submit the bill to a committee for scrutiny, that it may be so perfected in form and phrase as to express the judgment of the House as it may be ascertained from the debate and from the amendments that may be adopted.

The gentleman from Ohio [Mr. BINGHAM] appears to suppose that our action on this bill is likely to affect in some way the constitutional amendment proposed by Congress at the last session. I do not anticipate that, whatever may be our disposition of this bill, we shall commit ourselves for or against the constitutional amendment. That amendment has been submitted to the country, and I presume that those who took part in submitting it are in favor of its ratification. But I, for one, expect to do something more.

Mr. BLAINE. I desire to address an inquiry to the gentleman from Pennsylvania, [Mr. STEVENS.] We are differing here upon a point in reference to which the country at large cannot understand the ground of our difference. The gentleman from Pennsylvania is on the part of the House the head of the joint Committee on Reconstruction, and he has a very able

body of associates, embracing, I may say, the picked men of this Congress. That committee, comprising, if I may be permitted to use a partisan phrase, men ranked and recognized as "radical," enjoys, as I understand, the confidence of this House. Now, why it is that members on the radical side of the House should come to loggerheads on a question of the reference of a bill to that committee I want to understand. I am disposed to vote for the reference of this bill to that committee because I have confidence in the committee.

Mr. STEVENS. I will only say I know very well that the reference of the bill to that committee is the death of the measure. The gentleman from Maine [Mr. BLAINE] I suppose does not know it.

Mr. BLAINE. I do not know it, and the country does not know it. That is just what I want to have explained.

Mr. SHELLABARGER. Will the gentleman from Pennsylvania yield to me for a moment?

Mr. STEVENS. Yes, sir.

Mr. SHELLABARGER. I wish to make a single remark before the vote is taken on the motion to refer. The gentleman from Pennsylvania is willing to acquiesce in certain amendments which a large proportion of the members on this side of the House desire to incorporate in his bill. He is willing that the House shall be permitted to perfect the bill. There is one very important amendment which I propose to offer, the substance of which I will now state: it is to strike out the sixth section and substitute for it a provision that those persons who have been engaged in the rebellion shall not be permitted to hold office or to vote for certain officers named until they shall have been readmitted to the rights of citizenship, which they have forfeited.

I do hope that my colleague [Mr. BINGHAM] will yield to the suggestion of the gentleman from Pennsylvania and permit this bill to be perfected so far as possible in the House before he presses his motion to refer; thus we can fairly dispose of the matter when we have ascertained the shape the bill may take under the action of the House.

Mr. BINGHAM. I would very gladly yield this point for the purpose of accommodating my colleague; but I wish to remind him that if this bill be recommitment any amendment which he may offer to it will, under the rule of the House, go directly to the committee without debate; and I shall be very glad to have the opportunity to consider in the committee any suggestion which my colleague may make.

I desire to make one further remark. I do not concur in the declaration of the venerable gentleman from Pennsylvania, that the recommitment of the bill to the committee is equivalent to its death.

Mr. STEVENS. The gentleman will recollect that I did not ask his concurrence. In all this contest about reconstruction I do not propose either to take his counsel, recognize his authority, or believe a word he says.

The SPEAKER. The gentleman from Pennsylvania is not in order.

Mr. PIKE. Will the gentleman from Pennsylvania yield to me for a moment?

Mr. STEVENS. Yes, sir.

Mr. CHANLER. I rise to a point of order. When the gentleman from Pennsylvania is called to order by the Chair he should take his seat.

The SPEAKER. Will the gentleman from New York [Mr. CHANLER] be kind enough to inform the Chair on what rule he bases his point of order?

Mr. CHANLER. The general ruling of the Chair, who has generally called on gentlemen on this side to take their seats when they have been called to order.

The SPEAKER. The Chair has not done so when called to order by the Chair for irrelevancy or for personal remarks. The gentleman's recollection is at fault. The rule states that when a member has been ruled out of

order, "he shall not be permitted to proceed, in case any member object, without leave of the House." When objection is made the question is put to the House whether the member shall be permitted to proceed in order. That is the rule.

Mr. CHANLER. I respectfully submit to the Chair that the remarks used by the gentleman from Pennsylvania, [Mr. STEVENS,] for which he was called to order by the Chair, were not heard on this side of the House. My object is simply to draw the attention of the House to the fact that the gentleman from Pennsylvania had been called to order by the Chair. I expected the words used would be reported for the benefit of the House, so we might know whether he should be allowed to proceed or not. That was my object. I do not propose to correct the Chair.

The SPEAKER. The Chair has repeatedly stated that when he calls a gentleman to order his power is exhausted. It then remains with any member of the House to object to his proceeding. No gentleman has objected, and it is now too late.

Mr. CHANLER. I rose as soon as possible.

The SPEAKER. The gentleman rose to inform the Chair of his duties, in reference to which the Chair differs from the gentleman.

Mr. CHANLER. The Chair is mistaken. I rose to ascertain the language made use of by the gentleman from Pennsylvania, to learn what the disorderly words were. I ask now what the disorderly words were?

The SPEAKER. It is too late.

Mr. PIKE. If I understand the position of the bill now before the House, it is on the motion to recommit to the Committee on Reconstruction.

The SPEAKER. That is the pending motion.

Mr. PIKE. I hope that will not prevail, for if it prevails it will keep off all motions to amend. If it does not prevail, I have an amendment which is of some consequence to the bill, and I will state what it is. It is to amend the first section, instead of applying this to the ten States lately in rebellion, to apply it simply to the State of North Carolina. If that amendment prevails then I shall move to modify the other sections so as to make them consistent. I hope the motion to recommit will not prevail.

Mr. BINGHAM. The committee can report back at any time.

Mr. PIKE. We understand if this is recommitment to the Reconstruction Committee it is dead.

Mr. BINGHAM. I protest against that understanding.

Mr. PIKE. The question is whether any life shall remain in the bill.

Mr. STEVENS. It ought not to have occupied this much time, for I hardly expected the gentleman from Ohio to agree to my proposition. If I call the previous question will it exhaust itself on that motion?

The SPEAKER. It will not, but will continue in force until the third reading of the bill.

Mr. STEVENS. After that vote is taken can I move to reconsider the vote by which the previous question was ordered?

The SPEAKER. The rule states that the previous question cannot be reconsidered when partially executed. There are two ways in which the gentleman can reach his object, by taking the vote on the motion to recommit without the previous question, or by moving to suspend the rules so that the previous question shall be confined to that motion to refer.

Mr. CHANLER. I rise to a point of order. On page 130 of Barclay's Digest it stands written:

"If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case the member so called to order shall immediately sit down, unless permitted to explain; and the House



shall, if appealed to, decide on the case, but without debate; if there be no appeal, the decision of the Chair shall be submitted to."

Mr. BOUTWELL. I call the gentleman to order.

The SPEAKER. The gentleman has only read half of the rule, and the Chair will read the other half:

"If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, he shall not be permitted to proceed, in case any member object, without leave of the House; and if the case require it he shall be liable to the censure of the House."

The construction of the rule has uniformly been that the member called to order must suspend his remarks, taking his seat until the point is decided. If the decision be adverse he is not allowed to proceed, if objection be made, without consent of the House. But the converse of this is also true, that if no member objects to his proceeding, he is not required to suspend his remarks.

Mr. STEVENS. I ask unanimous consent that the previous question shall only apply to the motion to recommit.

Mr. ELDRIDGE. I object.

Mr. STEVENS. I move to suspend the rules for that purpose.

The motion was agreed to.

The bill and substitute were reported.

Mr. NIBLACK. Has this bill been considered in the Committee of the Whole on the state of the Union?

The SPEAKER. If made in time the objection would be a good one, but it now comes too late.

Mr. SHELLABARGER. I desire to submit an amendment.

Mr. STEVENS. I accept it as a substitute for my sixth section.

Mr. HILL. I rise to a point of order, that the amendment of the gentleman from Ohio [Mr. SHELLABARGER] necessarily goes to the joint Committee on Reconstruction.

The SPEAKER. The Chair has ruled on that question several times. This bill was reported from the Committee on Reconstruction on the 30th of April last; and having once been before that committee by the order of the House, it does not necessarily require, under the rules, to be referred to that committee again, but it can again be sent to it, with any amendments, by a vote of a majority of the House.

Mr. WILSON, of Iowa. I wish to inquire of the gentleman from Pennsylvania whether the second section is retained.

Mr. STEVENS. That was stricken out immediately after the objection made by the gentleman from Wisconsin [Mr. PAINE] the other day.

The amendment of Mr. SHELLABARGER, accepted by Mr. STEVENS, was reported as follows:

Strike out all after the enacting clause of section six of the substitute as originally reported, as follows: That all persons who on the 4th day of March, 1861, were of full age, and who at any time held office, either civil or military, under the government called the "confederate States of America," or who voluntarily swore allegiance to said government, are hereby declared to have forfeited their citizenship and to have renounced allegiance to the United States, and shall not be entitled to exercise the elective franchise or hold office until five years after they shall have filed their intention or desire to be reinvested with the right of citizenship, and shall swear allegiance to the United States and renounce allegiance to all other governments or pretended governments; that said application to be filed and oath taken in the same courts that by law are authorized to naturalize foreigners: *Provided, however,* That on taking the following oath, the party being otherwise qualified shall be allowed to vote and hold office:

"I, A. B. do solemnly swear, on the Holy Evangelists of Almighty God, that on the 4th day of March, 1861, and at all times thereafter, I would willingly have complied with the requirements of the proclamation of the President of the United States, issued on the 8th day of December, 1863, had a safe opportunity of so doing been allowed me; that on the said 4th of March, 1861, and at all times thereafter, I was opposed to the continuance of the rebellion and to the establishment of the so-called confederate government thereto, but earnestly desired the success of the Union and the suppression of all armed resistance to the Government of the United States; and that I will henceforth faithfully support the Constitution of the United States, and the Union of the States thereunder."

And insert in lieu thereof the following:

That every person, being at the time a citizen of the United States, who has voluntarily engaged in any insurrection or rebellion against the United States, or the authority or laws thereof, or who has voluntarily given any encouragement, aid, or comfort to such insurrection or rebellion, is hereby declared to have surrendered and forfeited the rights, privileges, and immunities which appertain to such citizenship, in so far as such Government may choose to affirm and accept such forfeiture; and such forfeiture is hereby declared in so far that all such persons are hereby declared to be, and are deprived, except as hereinafter provided, of the right to hold any office which, under the Constitution of the United States, cannot be assumed without first taking an oath to support such Constitution; and also of the right to be appointed an elector for President or Vice President of the United States; and also of the right to vote at any election in any State, District, or Territory of the United States, for either of the officers or electors aforesaid; or for any member of any convention which may be convened for forming, altering, or amending a constitution for any State, District, or Territory of the United States; or for any territorial or provisional officer of any such State, District, or Territory.

Sec. — That any person named in the preceding section of this act who never gave aid, encouragement, or means in support of such rebellion in any other manner whatever than by being engaged as a soldier in the armies thereof, and that only in open and civilized warfare, in a position below the rank of second lieutenant, may be discharged from the forfeitures hereinbefore declared by the order of any court of record of the United States, upon establishing to the satisfaction of such court, by the evidence of persons who have always borne true allegiance to the United States, such facts as shall satisfy the tribunal having the matter to decide that such person is one entitled to the benefit of and coming within the provisions of this section, and is one who can truly take the oath prescribed by this section; and such person, before being so discharged, shall moreover take, and upon the records of the courts subscribe, the following oath, namely:

"I, A. B. do solemnly swear (or affirm) that upon and at all times after the 4th day of March, A. D. 1861, I voluntarily gave no aid or encouragement to the late rebellion against the United States, but earnestly desired the success of the Union and the overthrow of all armed resistance to the Government thereof, and that, during all that time, I would have complied with the requirements of the proclamation of the President of the United States of the 8th of December, A. D. 1863, could I have done so without imminent danger; and more, that I will hereafter faithfully support the Constitution of the United States and the Union of the States."

Sec. — That all persons coming within the forfeitures declared by the first section of this act, except those named in the second and fourth sections thereof, may be discharged from the disabilities declared by this act by an order of any court of record of the United States at any time after five years from the making, by such person, and upon the records of such court subscribing, an oath or affirmation to the effect that such person intends to apply for readmission to all the rights and privileges of American citizenship, and that he will at all times support and defend the Constitution of the United States and the Union of the States thereunder. And, at the time of such readmission, such person shall prove, in the manner prescribed in the second section of this act, that ever since the 19th day of April, A. D. 1865, he has behaved as a man attached to the principles of the Constitution of the United States and to the perpetual union of the States thereunder, and that he is one entitled to the benefits of the provisions of this section. And such person shall moreover take, and upon such records subscribe, an oath or affirmation declaring that to be true which by this section is required to be proved, and that he will thereafter faithfully support the Constitution of the United States and the perpetual union of the States thereunder.

Sec. — That the following persons shall not be entitled to the benefits of the provisions of the second or the third sections of this act, namely:

1. Persons who, either as United States or State officers, civil or military, have at any time taken an oath of office to support the Constitution of the United States, and who afterward voluntarily engaged in or in any way gave aid or encouragement to the rebellion against the United States.
  2. Persons who were educated at the Military or Naval Academy of the United States, and who afterward aided the rebellion as aforesaid.
  3. Persons who were either executive or legislative officers or members of the so-called "confederate States of America," or who were foreign ministers, ambassadors, or agents thereof.
  4. Persons who, during and in aid of the late rebellion, engaged in any guerrilla, predatory, or secret warfare or other services hostile to the United States, and which is prohibited by the usages of civilized warfare; or who were guilty of, or in whole or part responsible for, any cruelties practiced against the prisoners of war of the United States which are prohibited by such usages of war.
  5. Persons who were the authors, publishers, or editors of any book, pamphlet, periodical, or newspaper which advocated and encouraged the waging of the late war of rebellion against the United States.
- Sec. — That whenever any person's right to hold office or to vote under the provisions of this act shall be challenged or called in question, and it shall be made to appear to the officers of election or others having the matter to decide, either by the oath of the person challenged or by other evidence, that the person challenged in fact did any act the voluntary doing of which works the forfeitures declared by this

act, then, in all such cases, such act shall, *prima facie*, be deemed to have been done voluntarily; and it shall devolve upon the person challenged to prove, to the satisfaction of the tribunal having the matter to decide, and by the evidence of persons who have always borne true allegiance to the United States, such facts as shall satisfy such tribunal that such acts of disloyalty were involuntary.

Sec. — That this act shall not be held to affect or modify the provisions of the first section of the act of July 2, A. D. 1862, prescribing an oath of office to be taken by all officers of the United States.

Mr. STEVENS. I call the previous question.

Mr. SPALDING. I move that the House adjourn.

The motion was disagreed to.

The previous question was seconded and the main question ordered.

Mr. BINGHAM. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. STEVENS. Several gentlemen suggest that we ought to have the bill printed; therefore I move that the House adjourn.

Several MEMBERS. Oh, no.

The motion to adjourn was disagreed to.

The question was taken on referring the bill, as modified, to the joint Committee on Reconstruction; and it was decided in the affirmative—yeas 88, noes 65, not voting 38; as follows:

YEAS—Messrs. Ancona, Delos R. Ashley, Baker, Banks, Bingham, Blaine, Boyer, Buckland, Bundy, Campbell, Chanler, Conkling, Cooper, Darling, Davies, Dawson, Deffrees, Delano, Deming, Denison, Dodge, Eggleston, Eldridge, Farnsworth, Farquhar, Ferry, Finck, Garfield, Griswold, Hale, Aaron Harding, Harris, Hawkins, Hill, Hise, Hogan, Hooper, Chester D. Hubbard, Edwin N. Hubbell, Humphrey, Ingersoll, Jenckes, Ketcham, Kuykendall, Laffin, George V. Lawrence, Le Blond, Leftwich, Marshall, Marvin, McKee, McRuer, Moorhead, Moulton, Niblack, Nicholson, Noell, Patterson, Plants, Pomeroy, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rogers, Ross, Schenck, Shanklin, Sitgreaves, Spalding, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Burt Van Horn, Andrew H. Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Whaley, Winfield, Woodbridge, and Wright—88.

NAYS—Messrs. Allison, Anderson, James M. Ashley, Baldwin, Barker, Baxter, Beaman, Bidwell, Boutwell, Broomall, Reader W. Clarke, Cobb, Cook, Culom, Donnelly, Driggs, Eckley, Eliot, Grinnell, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hotchkiss, Demas Hubbard, John H. Hubbard, Julian, Kasson, Kelley, Keontz, Loan, Longyear, Lynch, Marston, McClurg, Mercier, Morrill, Myers, Newell, O'Neill, Orth, Paine, Perham, Pike, Price, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Starr, Stevens, Stokes, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Hamilton Ward, Wentworth, James F. Wilson, Stephen F. Wilson, and Windom—65.

NOT VOTING—Messrs. Alley, Ames, Aswell, Benjamin, Bergen, Blow, Brundage, Brewster, Sidney Clarke, Culver, Davis, Dixon, Dumont, Glossbrenner, Goodyear, Henderson, Asahel W. Hubbard, James R. Hubbell, Hulburd, Hunter, Johnson, Jones, Kelso, Kerr, Latham, William Lawrence, Maynard, McCullough, McIndoe, Miller, Morris, Phelps, Radford, Rousseau, Stillwell, Thayer, Elihu B. Washburne, and Williams—38.

So the bill was referred to the joint Committee on Reconstruction.

Mr. BINGHAM moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CIVIL SERVICE.

Mr. JENCKES. Mr. Speaker, I am instructed by the joint Committee on Retrenchment to ask leave to make a report. I will state that if the leave is granted I will report a bill and then yield for a motion to adjourn, in order that it may come up in the morning. The bill I desire to report is House bill No. 889.

Mr. FINCK. I object.

Mr. JENCKES. I move a suspension of the rules to enable me to report the bill.

#### REPORT ON PUBLIC WORKS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, in compliance with the act of June 23, 1866, transmitting a report of the Chief Engineer respecting certain public works; which was referred to the Committee on Commerce, and ordered to be printed.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had exam-

ined and found truly enrolled bills of the following titles, when the Speaker signed the same, namely:

An act (S. No. 16) for the relief of Josiah O. Armes;

An act (S. No. 253) to incorporate the First Congregational Society of Washington;

An act (S. No. 380) to incorporate the Washington County Horse Railroad Company, in the District of Columbia;

An act (S. No. 410) for the relief of Solomon P. Smith;

An act (S. No. 446) for the relief of George W. Fish;

An act (S. No. 454) for the relief of Matilda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon;

An act (S. No. 455) for the relief of Barbara Frye, widow of Henry Frye;

An act (S. No. 476) for the relief of William A. Hinshaw and Jacob W. Hinshaw, minor children of Jacob M. Hinshaw, deceased; and

An act (S. No. 511) for the relief of Mrs. Mary E. Finney, widow of First Lieutenant Solon H. Finney, late of the sixth regiment Michigan cavalry.

Mr. FINCK. I move that the House do now adjourn.

The question was put; and there were—ayes 52, noes 24.

So the motion was agreed to; and thereupon (at five o'clock and ten minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. BIDWELL: The remonstrance of Colonel J. D. Stevenson, of California, against the abolition of the position of sutler in the Army.

By Mr. BROOMALL: The petition of citizens of Delaware county, Pennsylvania, praying Congress to abolish the five per cent. tax on manufactured goods, to relieve the same from other oppressive burdens, and to increase the duties on certain imports.

Also, the petition of citizens of the United States residing in the late State of Georgia, praying for the impeachment of the President of the United States.

By Mr. BUCKLAND: The petition of Nathaniel Bolly, and 4 others, soldiers of the war of 1812, asking for pensions.

Also, a petition from citizens of Ottawa county, Ohio, for an appropriation for the improvement of the harbor of Port Clinton.

Also, a petition from Mrs. Merinda Stage, for relief.

Also, a petition from Mrs. Mary A. Cross, for relief.

By Mr. BUNDY: The memorial of A. P. Story, G. L. Armstrong, and 33 others, tanners and manufacturers of leather in the county of Ross, and State of Ohio, asking the reduction of the Federal tax on leather from five to two per cent.

By Mr. DRIGGS: The petition of Rev. Jonathan Latham, and 280 others, citizens of Jackson county, Alabama, praying Congress to impeach Andrew Johnson, acting President of the United States.

By Mr. ELLIOT: The memorial of J. J. Saville, of Louisiana, agent for locating homesteads, &c., concerning an amendment of the act of June 21, 1866.

By Mr. HAYES: The petition of Bernard Quinn, Isaiah C. Colby, and others, soldiers of the Union Army, residing in Cincinnati, Ohio, who have lost their certificates of honorable discharge, for such legislation as will enable them to obtain the bounty to which they are entitled.

By Mr. HOOPER, of Massachusetts: The petition of Edward Atkinson, for the admission of foreign coal free of duty.

Also, the petition of John H. Reed, and others, manufacturers of iron, for the admission of bituminous coal free of duty.

Also, the petition of the Boston Gas Light Company, for the same.

By Mr. LAFLIN: The remonstrance of R. M. Eselynn, and others, of Jefferson county, New York, against the passage of the act authorizing the issuing of certificates of registry to Canadian-built vessels.

By Mr. McKEE: The petition of Lieutenant John Hawkins, of Prestonsburg, Kentucky, for payment as second lieutenant thirty-ninth Kentucky mounted infantry.

By Mr. MYERS: The petition and memorial of Mrs. Gloriana Fort, of Philadelphia, asking an appropriation of the sum of \$2,903 07, with interest, the amount awarded to her father, John Malloway, by the United States district court of New York on June 26, 1793, as damages for loss of cargo of the brig Catharine, captured by the French frigate L'Ambuscade.

By Mr. PAINE: A petition of the fire insurance companies of the city of Milwaukee, for relief from the tax imposed by the seventy-seventh section of the internal revenue law.

By Mr. PRICE: A petition of 41 citizens of Iowa, asking that the acting President of the United States may be impeached.

By Mr. SAWYER: The petition of A. Taylor, and others, residents of Wisconsin and Michigan, praying for an appropriation of \$40,000 for the purpose of

improving the mouth of the Menomonee river, in the State of Wisconsin.

By Mr. SCHENCK: The petition of Clement Hurtt, a soldier of the war of 1812, praying for the passage of a special act of legislation allowing him an invalid pension.

By Mr. STOKES: Two petitions of citizens of Rhea county, Tennessee, against further curtailment of currency.

By Mr. WASHBURN, of Massachusetts: The petition of Rodney Wallace, and others, citizens of Fitchburg, Massachusetts, asking for a reduction of the tax on gas to companies supplying small quantities.

By Mr. WELKER: The petition of T. G. Loomis, and 49 others, citizens of Harrisville township, Medina county, Ohio, asking that the tariff bill passed by the House at the last session of Congress may be enacted into a law.

By Mr. WILSON, of Pennsylvania: The petition of citizens of Osceola, Tioga county, Pennsylvania, praying for an increased tariff on wool.

#### IN SENATE.

TUESDAY, January 29, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### RAILROADS IN CALIFORNIA.

Mr. STEWART, from the Committee on Public Lands, to whom was recommitteed the bill (S. No. 461) to aid in the construction of the San Francisco Central Pacific railroad, reported it with an amendment.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills; which were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 16) for the relief of Josiah O. Armes;

A bill (S. No. 253) to incorporate "The First Congregational Society of Washington";

A bill (S. No. 380) to incorporate the Washington County Horse Railroad Company in the District of Columbia;

A bill (S. No. 410) for the relief of Solomon P. Smith;

A bill (S. No. 446) for the relief of George W. Fish;

A bill (S. No. 454) for the relief of Matilda Harmon, of the county of Greene, and State of Tennessee, widow of Jacob Harmon;

A bill (S. No. 455) for the relief of Barbara Frye, widow of Henry Frye;

A bill (S. No. 476) for the relief of William A. Hinshaw and Jacob M. Hinshaw, minor children of Jacob M. Hinshaw, deceased; and

A bill (S. No. 511) for the relief of Mrs. Mary E. Finney, widow of First Lieutenant Solon H. Finney, late of the sixth regiment Michigan cavalry.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in response to a resolution of the Senate of the 21st instant, a copy of the correspondence between the Department of State and Mr. Motley, envoy extraordinary and minister plenipotentiary at Vienna, relating to his reported resignation; which, on motion of Mr. SUMNER, was ordered to lie on the table, and be printed.

#### ADMISSION OF COLORADO—VETO.

The PRESIDENT *pro tempore*. The Chair will also lay before the Senate the following message from the President of the United States.

The Secretary read the message, as follows:

To the Senate of the United States:

I return to the Senate, in which House it originated, a bill entitled "An act to admit the State of Colorado into the Union," to which I cannot consistently with my sense of duty give my approval. With the exception of an additional section, containing new provisions, it is substantially the same as the bill of a similar title passed by Congress during the last session, submitted to the President for his approval, returned with the objections contained in a

message bearing date the 15th of May last, and yet awaiting the reconsideration of the Senate.

A second bill, having in view the same purpose, has now passed both Houses of Congress, and been presented for my signature. Having again carefully considered the subject, I have been unable to perceive any reason for changing the opinions which have already been communicated to Congress. I find, on the contrary, that there are many objections to the proposed legislation of which I was not at that time aware, and that while several of those which I then assigned have in the interval gained in strength, yet others have been created by the altered character of the measures now submitted.

The constitution under which this State government is proposed to be formed very properly contains a provision that all laws in force at the time of its adoption and the admission of the State into the Union shall continue as if the constitution had not been adopted. Among those laws is one absolutely prohibiting negroes and mulattoes from voting. At the recent session of the territorial Legislature a bill for the repeal of this law, introduced into the council, was almost unanimously rejected; and the very time when Congress was engaged in enacting the bill now under consideration the Legislature passed an act excluding negroes and mulattoes from the right to sit as jurors. This bill was vetoed by the Governor of the Territory, who held that by the laws of the United States negroes and mulattoes are citizens and subject to the duties as well as entitled to the rights of citizenship. The bill, however, was passed, the objections of the Governor to the contrary notwithstanding, and is now a law of the Territory. Yet in the bill now before me, by which it is proposed to admit the Territory as a State, it is provided that "there shall be no denial of the elective franchise or any other rights to any person by reason of race or color, excepting Indians not taxed." The incongruity thus exhibited between the legislation of Congress and that of the Territory, taken in connection with the protest against the admission of the State hereinafter referred to, would seem clearly to indicate the impolicy and injustice of the proposed enactment.

It might, indeed, be a subject of grave inquiry, and doubtless will result in such inquiry if this bill becomes a law, whether it does not attempt to exercise a power not conferred upon Congress by the Federal Constitution. That instrument simply declares that Congress may admit new States into the Union. It nowhere says that Congress may make new States for the purpose of admitting them into the Union, or for any other purpose; and yet this bill is as clear an attempt to make the institutions as any in which the people themselves could engage.

In view of this action of Congress, the House of Representatives of the Territory have earnestly protested against being forced into the Union without first having the question submitted to the people. Nothing could be more reasonable than the position which they thus assume; and it certainly cannot be the purpose of Congress to force upon a community against their will a government which they do not believe themselves capable of sustaining.

The following is a copy of the protest alluded to, as officially transmitted to me:

Whereas it is announced in the public prints that it is the intention of Congress to admit Colorado as a State into the Union: Therefore,

Resolved by the House of Representatives of the Territory, That, representing, as we do, the last and only legal expression of public opinion on this question, we earnestly protest against the passage of the law admitting the State without first having the question submitted to a vote of the people, for the reasons: first, that we have a right to a voice in the selection of the character of our government; second, that we have not a sufficient population to support the expenses of a State government. For these reasons we trust that Congress will not force upon us a government against our will.

Upon information which I considered reliable I assumed in my message of the 15th of May last that the population of Colorado was not more than thirty thousand, and expressed the opinion that this number was entirely too

small either to assume the responsibility or to enjoy the privileges of a State.

It appears that previous to that time the Legislature, with a view to ascertain the exact condition of the Territory, had passed a law authorizing a census of the population to be taken. The law made it the duty of the assessors in the several counties to take the census in connection with the annual assessments, and, in order to secure a correct enumeration of the population, allowed them a liberal compensation for the service by paying them for every name returned, and added to their previous oath of office an oath to perform this duty with fidelity.

From the accompanying official report it appears that returns have been received from fifteen of the eighteen counties into which the State is divided, and that their population amounts in the aggregate to twenty-four thousand nine hundred and nine. The three remaining counties are estimated to contain three thousand, making a total population of twenty-seven thousand nine hundred and nine.

This census was taken in the summer season, when it is claimed that the population is much larger than at any other period, as in the autumn miners in large numbers leave their work and return to the East with the results of their summer enterprise.

The population, it will be observed, is but slightly in excess of one fifth of the number required as the basis of representation for a single congressional district in any of the States, the number being one hundred and twenty-seven thousand.

I am unable to perceive any good reason for such great disparity in the right of representation, giving, as it would, to the people of Colorado not only this vast advantage in the House of Representatives, but an equality in the Senate, where the other States are represented by millions. With perhaps a single exception, no such inequality as this has ever before been attempted. I know that it is claimed that the population of the different States at the time of their admission has varied at different periods; but it has not varied much more than the population of each decade, and the corresponding basis of representation for the different periods.

The obvious intent of the Constitution was that no State should be admitted with a less population than the ratio for a Representative at the time of application. The limitation in the second section of the first article of the Constitution, declaring that "each State shall have at least one Representative," was manifestly designed to protect the States which originally composed the Union from being deprived, in the event of a waning population, of a voice in the popular branch of Congress, and was never intended as a warrant to force a new State into the Union with a representative population far below that which might at the time be required of sister members of the Confederacy. This bill, in view of the prohibition of the same section, which declares that "the number of Representatives shall not exceed one for every thirty thousand," is at least a violation of the spirit, if not the letter, of the Constitution.

It is respectfully submitted that however Congress, under the pressure of circumstances, may have admitted two or three States with less than a representative population at the time, there has been no instance in which an application for admission has ever been entertained when the population, as officially ascertained, was below thirty thousand.

Were there any doubt of this being the true construction of the Constitution, it would be dispelled by the early and long-continued practice of the Federal Government. For nearly sixty years after the adoption of the Constitution no State was admitted with a population believed at the time to be less than the current ratio for a Representative; and the first instance in which there appears to have been a departure from the principle was in 1845, in the case of Florida. Obviously the result of sectional

strife, we would do well to regard it as a warning of evil rather than as an example for imitation; and I think candid men of all parties will agree that the inspiring cause of the violation of this wholesome principle of restraint is to be found in a vain attempt to balance these antagonisms which refused to be reconciled except through the bloody arbitrament of arms. The plain facts of our history will attest that the great and leading States admitted since 1845, namely, Iowa, Wisconsin, California, Minnesota, and Kansas—including Texas, which was admitted that year—have all come with an ample population for one Representative, and some of them with nearly or quite enough for two.

To demonstrate the correctness of my views on this question, I subjoin a table containing a list of the States admitted since the adoption of the Federal Constitution, with the date of admission, the ratio of representation, and the representative population when admitted, deduced from the United States census tables, the calculation being made for the period of the decade corresponding with the date of admission.

Colorado, which it is now proposed to admit as a State, contains, as has already been stated, a population less than twenty-eight thousand, while the present ratio of representation is one hundred and twenty-seven thousand.

There can be no reason that I can perceive for the admission of Colorado that would not apply with equal force to nearly every other Territory now organized; and I submit whether, if this bill become a law, it will be possible to resist the logical conclusion that such Territories as Dakota, Montana, and Idaho must be received as States whenever they present themselves, without regard to the number of inhabitants they may respectively contain. Eight or ten new Senators and four or five new members of the House of Representatives would thus be admitted to represent a population scarcely exceeding that which in any other portion of the nation is entitled to but a single member of the House of Representatives, while the average for two Senators in the Union as now constituted, is at least one million people. It would surely be unjust to all other sections of the Union to enter upon a policy with regard to the admission of new States which might result in conferring such a disproportionate share of influence in the national Legislature upon communities which, in pursuance of the wise policy of our fathers, should for some years to come be retained under the fostering care and protection of the national Government. If it is deemed just and expedient now to depart from the settled policy of the nation during all its history, and to admit all the Territories to the rights and privileges of States, irrespective of their population or fitness for such government, it is submitted whether it would not be well to devise such measures as will bring the subject before the country for consideration and decision. This would seem to be evidently wise, because, as has already been stated, if it is right to admit Colorado now there is no reason for the exclusion of the other Territories.

It is no answer to these suggestions that an enabling act was passed authorizing the people of Colorado to take action on this subject. It is well known that that act was passed in consequence of representations that the population reached, according to some statements, as high as eighty thousand, and to none less than fifty thousand, and was growing with a rapidity which, by the time the admission could be consummated, would secure a population of over a hundred thousand. These representations prove to have been wholly fallacious; and in addition the people of the Territory, by a deliberate vote, decided that they would not assume the responsibilities of a State government.

By that decision they utterly exhausted all power that was conferred by the enabling act; and there has been no step taken since in relation to the admission that has had the slight-

est sanction or warrant of law. The proceeding upon which the present application is based was in the utter absence of all law in relation to it, and there is no evidence that the votes on the question of the formation of a State government bear any relation whatever to the sentiment of the Territory. The protest of the House of Representatives, previously quoted, is conclusive evidence to the contrary.

But if none of these reasons existed against this proposed enactment, the bill itself, besides being inconsistent in its provisions in conferring power upon a person unknown to the laws and who may never have a legal existence, is so framed as to render its execution almost impossible. It is indeed a question whether it is not in itself a nullity. To say the least, it is exceedingly doubtful propriety to confer the power proposed in this bill upon the "Governor-elect;" for as, by its own terms, the constitution is not to take effect until after the admission of the State, he in the mean time has no more authority than any other private citizen. But even supposing him to be clothed with sufficient authority to convene the Legislature, what constitutes the "State Legislature" to which is to be referred the submission of the conditions imposed by Congress? Is it a new body to be elected and convened by proclamation of the "Governor-elect," or is it that body which met more than a year ago under the provisions of the State constitution?

By reference to the second section of the schedule, and to the eighteenth section of the fourth article of the State constitution, it will be seen that the term of the members of the House of Representatives and that of one half of the members of the Senate expired on the first Monday of the present month. It is clear that if there were no intrinsic objections to the bill itself in relation to purposes to be accomplished, this objection would be fatal; as it is apparent that the provisions of the third section of the bill to admit Colorado have reference to a period and a state of facts entirely different from the present and affairs as they now exist, and if carried into effect must necessarily lead to confusion.

Even if it were settled that the old and not a new body were to act, it would be found impracticable to execute the law, because a considerable number of the members, as I am informed, have ceased to be residents of the Territory, and in the sixty days within which the Legislature is to be convened after the passage of the act, there would not be sufficient time to fill the vacancies by new elections, were there any authority under which they could be held.

It may not be improper to add that if these proceedings were all regular, and the result to be obtained were desirable, simple justice to the people of the Territory would require a longer period than sixty days within which to obtain action on the conditions proposed by the third section of the bill. There are, as is well known, large portions of the Territory with which there is and can be no general communication, there being several counties which, from November to May, can only be reached by persons traveling on foot; while with other regions of the Territory, occupied by a large portion of the population, there is very little more freedom of access. Thus, if this bill should become a law, it would be impracticable to obtain any expression of public sentiment in reference to its provisions, with a view to enlighten the Legislature, if the old body were called together; and, of course, equally impracticable to procure the election of a new body. This defect might have been remedied by an extension of the time and a submission of the question to the people, with a fair opportunity to enable them to express their sentiments.

The admission of a new State has generally been regarded as an epoch in our history, marking the onward progress of the nation; but after the most careful and anxious inquiry on the subject I cannot perceive that the proposed proceeding is in conformity with the



policy which, from the origin of the Government, has uniformly prevailed in the admission of new States. I therefore return the bill to the Senate without my signature.

ANDREW JOHNSON.

WASHINGTON, January 28, 1867.

States.	Admitted.	Ratio.	Pop'n.
Vermont.....	1791	33,000	92,320
Kentucky.....	1792	33,000	95,638
Tennessee.....	1796	33,000	73,864
Ohio.....	1802	33,000	82,443
Louisiana.....	1812	35,000	75,212
Indiana.....	1816	35,000	98,110
Mississippi.....	1817	35,000	53,677
Illinois.....	1818	35,000	46,274
Alabama.....	1819	35,000	111,150
Maine.....	1820	35,000	298,335
Missouri.....	1821	35,000	69,260
Arkansas.....	1836	47,700	65,175
Michigan.....	1837	47,700	158,073
Florida.....	1845	70,680	57,951
Texas.....	1845	70,680	*189,327
Iowa.....	1846	70,680	132,527
Wisconsin.....	1848	70,680	250,497
California.....	1850	70,680	92,597
Oregon.....	1858	93,492	44,630
Minnesota.....	1859	93,492	138,909
Kansas.....	1861	93,492	107,206
West Virginia.....	1862	93,492	349,628
Nevada.....	1864	127,000	Not k'wn

\* In 1850.

The PRESIDENT *pro tempore*. Accompanying the message are certain documents from the Territory of Colorado. What order will the Senate take on the message and accompanying documents?

Mr. WADE. Let us have a vote on the bill.

The PRESIDENT *pro tempore*. The bill returned by the President is now before the Senate to be reconsidered, and the question is, Shall the bill pass, the objections of the President to the contrary notwithstanding?

Mr. JOHNSON. Senators were not advised that a vote was to be taken during the morning hour, I suppose, and a great many are not here. I suggest, therefore, to my friend from Ohio whether he had not better postpone action on the bill until one o'clock to-morrow and let us have the message printed. There will be no debate, I suppose.

The PRESIDENT *pro tempore*. Is the Senate ready for the question?

Mr. GRIMES. What is the question?

The PRESIDENT *pro tempore*. The question is, Shall this bill pass, notwithstanding the objections of the President of the United States?

Mr. JOHNSON. I move that the subject be postponed until to-morrow morning.

Mr. WADE. I hope that will not be done. I ask for the yeas and nays on the motion.

Mr. JOHNSON. The message has not yet been printed by the Senate.

Mr. DAVIS. There are certainly some new facts and views set forth in this message that deserve the serious consideration of the Senate, and that ought to be duly deliberated and passed upon by it. This is certainly a communication of very great importance, not only to the present, but to the future; and it seems to me that it is due to the occasion and to every aspect of the subject that this veto message should be printed and should be made the special order for to-morrow, so as to admit of a reasonable amount of debate. I suppose there is not a gentleman who would sustain the veto message of the President that desires needlessly to protract the debate or to postpone vexatiously the decision of the Senate upon the question, finally, whether Colorado shall be admitted as a State into the Union. Certainly I have no such purpose, and I believe no gentleman in the Senate has.

But, sir, the gravity of the occasion, the importance of the principles involved both in regard to the power of Congress and the right of the people of a Territory to determine the question whether they will have a State government or not, and other matters connected with that general question, in my mind render it peculiarly proper that the motion of the Senator from Maryland should prevail. I think, therefore, the gentlemen who have this matter in charge should allow it to go over until to-morrow, and to be the special order of the day, and thus that Senators shall have

an understanding as to when debate shall terminate and the vote be taken. I would advise, so far as I am concerned, that the question should be taken up to-morrow.

Mr. WADE. I certainly should not attempt in this manner to urge this matter to a vote now if it was a new question; but we have passed this bill through the Senate, I believe, three times, and it has been debated for a long period. Certainly at this session no question has occupied so much of the attention of the Senate as the question of the admission of Nebraska and Colorado. I believe there has been more debate upon the question whether these Territories should be admitted into the Union as States than there ever was before upon such a subject from the foundation of the Government until now. We are told it is an exceedingly grave question, now for the first time. After we have been admitting States almost yearly from the foundation of the Government, all at once it becomes an exceedingly grave and difficult question to determine whether a Territory shall be admitted into the Union as a State or not!

I shall not argue the question now; I believe every Senator on this floor has made up his mind and is as ready now to give his vote as he ever will be; and as the session is drawing to a close and the great business which must necessarily be done is hardly commenced, I want, if possible, to get rid of this eternal debate that does not seem to enlighten anybody after a certain period. You may debate the same subject during this session and the next, and gentlemen accustomed to debate will have no difficulty in finding topics to talk about, but we have no time to indulge in that kind of amusement now or from this time to the end of the session. We must cut our debates short somewhat, or else give up legislation altogether. I trust we may get a vote on this matter. I shall not detain the Senate now.

Mr. SAULSBURY. I hope the motion will prevail, and that the question will go over until to-morrow. Sir, the President of the United States has been attacked in this body in a manner which I think unwarranted in senatorial debate. I was his personal friend when he was a member of this body; my relation with him is that of personal friendship and not of political connection. I wish the subject to go over until to-morrow that I may have an opportunity to reply to the unwarranted attacks made upon the President of the United States, and if it goes over until to-morrow I shall take occasion to review some of the charges which have been made against the President of usurpation and of using vulgarity of language, and to bring before the Senate some exhibits of the debates in this body, for I have heard with my own ears vulgarity here under the disguise of the French language. I have heard gentlemen rise upon the floor of this Senate and charge the President with being guilty of vulgarity when they themselves in debate clothed vulgar language in French phrase. I have heard upon the floor of this Senate vulgarity in comparison with which the President of the United States has never said anything, and I have heard those same men arraign the President as being guilty of vulgarity and in the very charge which they made couching their language in words disgusting to ears polite.

I hope the motion to postpone will prevail. While I now disavow the advocacy of the President as a political friend, I avow myself as his personal friend ready at all times to vindicate him against the vulgar assaults that have been made upon him on this floor.

Mr. HENDRICKS. I wish to ask the Senator from Ohio, who has this bill in charge, why in the third section there is a difference of phraseology between the Colorado and the Nebraska bills. The third section of this bill provides that it—

Shall not take effect except upon the fundamental condition that within the State of Colorado there shall be no denial of the elective franchise or any other rights to any person by reason of race or color, excepting Indians not taxed, and upon the

further fundamental condition that the Legislature elected under said State constitution by a solemn public act shall declare the assent of the said State to the said fundamental condition.

This is submitted to the Legislature elected under the constitution. Now, in submitting it to the Legislature in Nebraska different language is used. Just what that difference is I am not prepared to state, not having the Nebraska bill before me; but there is a difference. I want to know why the difference is made in the two cases, if the Senator can inform the Senate. The fact is communicated to the Senate by the veto message that one branch of the Legislature of Colorado has expressed views which would be hostile to this proceeding. I want to know if the vote upon this question is taken away from that Legislature because it is supposed that Legislature is hostile to this particular measure; and I think the Senator when the subject was up before should have called the attention of the Senate to the difference in the two bills. I know that when we voted I supposed the third section of each bill was in precisely the same language. Afterward it was found there was a difference. Now, I ask the Senator from Ohio, who has the bill in charge, to explain the difference and to give the Senate to understand why there is a difference in the two bills in these sections.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the motion to postpone the further consideration of the bill until to-morrow?

Mr. WADE. The yeas and nays are demanded on that question.

The yeas and nays were ordered.

Mr. HENDRICKS. As the Senator from Ohio declines to make any explanation we have a right to assume that there was some purpose in this matter, that there should be a difference in the same provision in regard to similar bills. We have a right to assume that if this were submitted to the Legislature of Colorado in the same terms in which it is submitted to the Legislature in Nebraska it would probably be rejected. Then we have before Congress the spectacle of one bill submitted to one Legislature to secure a particular result and a similar bill under exactly the same circumstances submitted to another and a different Legislature in the other Territory, for the purpose, I assume in the absence of an explanation, of securing a result which could not be secured if the submission was in the same language as in the other bill. I do not think, that being properly understood, the Senate of the United States would be a party to a business of this sort. If it is right to submit it in Nebraska to the territorial Legislature, then in Colorado the same submission should take place. If in Nebraska that Legislature represents the popular will in such a manner as to bind the people, the submission ought to be to the same Legislature in Colorado.

Mr. President, I am indifferent as to when this vote shall take place. If it is the pleasure of the Senate of the United States by a two-thirds vote to give to twenty-seven thousand people in Colorado the voice in the Senate of the United States given to the million and a half of people in the State of Indiana, we have to submit to it. This was not at one time the judgment of the Senate. Before this question assumed any political character, and before there were any purposes to accomplish, the vote upon the admission of Colorado stood 14 for it and 21 against it; and it will be a singular fact if now two thirds can be secured for a bill, when on the first vote there were nearly two thirds against it. No such case has occurred in our history, that a State should be admitted with so inconsiderable a population as this. One or two cases can be found in which States have been admitted without a population sufficient to entitle them to a Representative in the House; but in the great body of the cases the population has been much above the Representative ratio.

It seems to me that the majority here are not so straitened for votes as that they need to do this, to give a power in the Senate of the

United States to men scattered over a Territory almost a hundred times greater than is enjoyed by the people of the State I represent. Upon what principle of right is it that this State, with a less population than the county in which I live, with a much less population than the city in which I live, should have a political power in the Senate of the United States, in the making of laws, and in the vote basis for President, if that should ever go to the other House, equal to the entire State of Indiana, when that county in which I live is not entitled to a single Representative in the House, but in order to have a Representative has to be joined with five other large and populous counties? It is not right, Mr. President; and although a gain politically may be made for a day, and results may be carried for this year, perhaps for next year, and perhaps in the presidential contest of 1868, I say to gentlemen in the majority that in the long run political power is not held by wrong. I denounce this as a wrong upon the people I represent, a wrong that ought not to be done upon the plea of political and party necessity. That one million five hundred thousand men in the State of Indiana shall have the voice in the Senate of two votes, and twenty-seven thousand men in a Territory, scattered over a large extent of country, few of them having permanent homes, many of them adventurers among the mines, shall have a voice equal to the great population of the State that, in connection with my able colleague, I represent, is not right, and, when done, in my judgment, in the long run, will not bring advantage to the political party that claims an interest at this time to do it.

What is it, sir? A thing that had no regularity from first to last; a State formed, not pursuant to law, but pursuant to an arrangement made by political parties; a convention called not by act of Congress; a convention called by no act of the territorial Legislature; but a convention called to form a State government and to lay the foundations of a new State by the representatives of political parties; an election governed by no law; an election for delegates to that convention as irregular as the proceedings that characterize the selection of delegates to a political convention; and then when it is all done, and the constitution submitted to a popular vote, without the restraints and guarantees of law for the honesty of the vote, and after every effort of this sort has been resorted to, a majority of one hundred and fifty is found in its favor. Sir, I am not surprised, and no man will be surprised, that nearly a two-third vote of the Senate was against it when it came up first; but it is a matter of surprise that now it is thought two thirds of the Senate can be found to vote down the veto message of the President.

Sir, whatever may be said here or elsewhere of that message, it goes upon the Journals of the Senate and becomes a part of history, and it is sustained by the vote of this Senate when there were no political ends to accomplish. This Senate said that under the circumstances this State ought not to come in, and said it by a very decided vote. Now, it is claimed that the veto message can be overridden, not because the population has grown, not because these proceedings have become any more regular, but for some other reason; and men will inquire what is the reason. When the Senator from Ohio led the majority against this bill a year ago it was well understood what was the reason. There were not people enough there firmly established and domiciled to authorize them to the political power that a State government would give them in this Union. That was well understood.

Mr. WADE. The Senator has made the same argument that he has now made five times to my certain knowledge, and he has also stated that I went against this bill, and I have told him the reasons as often as he has made it. It was because the Governor of the Territory, who now opposes its admission, was guilty of a gross fraud in sending to us not much more than half the number of inhabitants

that were on the census by substituting a wrong paper in the place of the true and certified paper. Therefore I went against it, because there did not appear to be inhabitants enough there. When that was corrected by his secretary, and he showed the amount of the population, then I went for it. Now, sir, when you state that, I wish you would state the whole of it.

Mr. HENDRICKS. I will state the whole of it, and I will state to the Senator that the fact he now speaks of came out long after he became the champion of this bill—came out at this session.

Mr. WADE. No, sir.

Mr. HENDRICKS. At this session. The first I heard of that being read in the Senate or referred to was in a discussion at this session. I heard nothing about any report from the secretary at the last session of Congress. But, taking all the evidence we have, there is no question about the population in the Territory.

Sir, I do not care if I have made this argument five times. If I believe it to be my duty, now that we come to vote upon the reconsideration of the question upon the veto message of the President, I choose to make it again, and upon that I am answerable to but one authority, and that authority does not include the distinguished Senator from Ohio. It is to the million and a half of people of Indiana, upon whom I regard this bill as an outrage. I am ready to respond to them whether I object to the admission of twenty-seven thousand people as a State or not, and to the people of Indiana alone.

I do not believe, sir, I would vote to admit such a State with such a population, whatever might be the party politics of the State. I cannot believe I would. I do not believe there is more than twenty-seven thousand of a population in this Territory. I have not believed it; and the Senator from Ohio cannot prove by any document that there is more. The late census does not show more. The census taken this past year does not show more. The census taken in 1860 does not show more. In 1860, when, according to the census, there were thirty-four thousand of a population, they had a vote of ten thousand at the next election. When the census of 1861 showed twenty-five thousand of a population, it showed nearly ten thousand of a vote; and now you can rally about six thousand voters in the Territory. Tell me there is an increase of population! It is not so, sir. Therefore I am against the admission of this State earnestly, because I think it disturbs the equality, the fair, just equality of political power in this country. I do not care when the vote is taken.

Mr. President, I have felt it to be my duty to say this. I have said it, and leave the consequence to gentlemen who choose to vote for or against the bill.

Mr. JOHNSON. In making the motion to postpone the bill until to-morrow I certainly had not the least purpose to delay unnecessarily a vote upon the measure. The importance of the measure no one can question. My sole object was to enable us to understand exactly the facts stated by the President of the United States, many of which are new to me, although they may not be new to the Senate. My individual purpose was, therefore, to ascertain for myself what weight, if any, the facts stated by the President should have upon the measure; and my other motive was that the Senate might be full when the question is taken.

I am not about to make a speech twice upon the same subject. I have, on a former occasion, stated to the Senate why it was that I was unable to vote for the admission of this State. The grounds for that opinion remain still; but it is possible that there may be facts stated by the President which will operate upon the members of the Senate who have heretofore differed with me upon that subject. Now, he states what has recently, as I understand, taken place, that the Legislature of the Territory protest against the admission of the Territory as a State. There may be—

Mr. FESSENDEN. I believe I must interrupt the honorable Senator and call for the order of the day.

The PRESIDENT *pro tempore*. The morning hour has expired, and it is the duty of the Chair to call up the unfinished business of yesterday.

Mr. WADE. If this subject is to go over, I move that the veto message be printed, so that there shall be no argument on that score when it comes up again.

Mr. JOHNSON. That is what I was about to move.

The PRESIDENT *pro tempore*. It is moved that the message, with the accompanying documents, be printed.

The motion was agreed to.

Mr. HOWARD. With the consent of the Senator from Maine, I desire to present a petition.

The PRESIDENT *pro tempore*. There being another subject before the Senate it requires unanimous consent. Is there any objection?

Mr. FESSENDEN. I think I must object to petitions being presented this morning. We want all the time we can get on this tariff bill.

The PRESIDENT *pro tempore*. Objection being made, it cannot be received.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 69) to provide for the payment of pensions.

#### ADMISSION OF NEBRASKA—VETO.

During the consideration of the tariff bill a message was received from the President of the United States, by his Secretary, Mr. W. G. MOORE, returning, with his objections in writing, the bill (S. No. 456) for the admission of the State of Nebraska into the Union.

#### TARIFF BILL.

The Senate resumed the consideration of the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes, the pending question being on the amendment proposed by Mr. CATTELL to amend the amendment made as in Committee of the Whole, on page 39, section eight, line fifty-one, by striking out "thirty" and inserting "forty;" so as to read:

On nickel, forty cents per pound.

Mr. FESSENDEN. The yeas and nays were ordered on that question, I believe.

The PRESIDENT *pro tempore*. They have been ordered.

The question being taken by yeas and nays, resulted—yeas 16, nays 21; as follows:

YEAS—Messrs. Cattell, Chandler, Cowan, Cresswell, Fowler, Frothinghams, Howe, Lane, Morrill, Sherman, Sprague, Sumner, Trumbull, Van Winkle, Wade, and Willey—16.

NAYS—Messrs. Davis, Doolittle, Edmunds, Fessenden, Fogg, Foster, Grimes, Harris, Henderson, Hendricks, Morgan, Nesmith, Norton, Patterson, Poland, Ramsey, Saulsbury, Stewart, Williams, Wilson, and Yates—21.

ABSENT—Messrs. Anthony, Brown, Buckalew, Conness, Cragin, Dixon, Guthrie, Howard, Johnson, Kirkwood, McDougall, Nye, Pomeroy, Riddle, and Ross—15.

So the amendment to the amendment was rejected.

Mr. CATTELL. I now move to amend the bill by striking out, in line fifty-four of section eight, on page 40, the words "ten per cent. *ad valorem*," and inserting "thirty cents per pound;" so as to make the clause read:

On nickel matte, speiss, or oxide, thirty cents per pound.

I believe this amendment meets the approbation of the chairman of the Committee on Finance. Its object is to prevent frauds on the revenue, for this is nickel almost in a perfect state, and requires about the same rate of duty as upon the nickel itself.

Mr. FESSENDEN. I think that is right. The amendment to the amendment was agreed to.

Mr. FESSENDEN. On page 56 I move to

strike out line three hundred and sixty-seven of section nine, in these words:

On acetate of lead, or sugar of lead, ten cents per pound.

It is provided for in another part of the bill. The amendment to the amendment was agreed to.

Mr. FESSENDEN. I move to amend the eighteenth section, the free list, by adding to line fifty-one, on page 100, "and rough diamonds;" so as to make the line read:

Diamond dust or bort, and rough diamonds.

The amendment to the amendment was agreed to.

Mr. FRELINGHUYSEN. There are three or four amendments which have been submitted to the commissioner, and I think meet with his approval, which I will suggest. On page 31, line one hundred and forty of section seven, I move to strike out "two and a half" and insert "three." This raises the duty "on wrought-iron washers, nuts, bolts, or rivets, wholly or partially finished of all descriptions, punched or unpunched," from two and a half to three cents per pound, because the material out of which they are made has a duty of two and a half cents a pound imposed upon it, as will be seen by looking at page 27, from the forty-first to the forty-ninth lines of the same section. My motion is simply to make the duty on the manufactured article half a cent more than the duty on the material out of which it is manufactured.

The amendment to the amendment was agreed to.

Mr. FRELINGHUYSEN. On page 34 I move to strike out "six," in line two hundred and seventeen of section seven, and insert "eight;" so as to make the clause read?

On steel carriage-springs, eight cents per pound.

This has also been submitted to the commissioner. It is utterly impossible for the springs to be manufactured here with no greater duty than six cents a pound. If there is any objection to the amendment I will give the reasons for it.

Mr. FESSENDEN. I thought the amendment the Senator proposed to offer there was to affect the definition.

Mr. FRELINGHUYSEN. That is another one.

Mr. FESSENDEN. I do not object to making the specification more definite, but I do object to raising the duty. I think six cents is high enough.

Mr. FRELINGHUYSEN. It is found impossible to manufacture these springs here at less than twenty cents per pound; and they can be manufactured in Canada, where the steel is admitted free of duty, and come in here at seventeen and a half cents after paying our duty of six cents. The object of this increased duty is to apply principally to the imports from Canada where the steel is imported free; and it is necessary, as I am told by many manufacturers of springs, for their protection. There is a class of springs made of poor material which can be made for seventeen and a half cents, as cheap as those that are imported from Canada; but good springs, those which are generally used, cannot be manufactured and sold for less than twenty cents a pound.

Mr. FESSENDEN. I suggest to the Senator that perhaps the House of Representatives may adhere to its original idea with reference to this item. It was put in the House bill at eight cents a pound. The Finance Committee thought six cents enough. Perhaps the Senator had better let it stand at that, and if the other House insist upon their original rate the matter will be arranged on some fair basis. I have no objection to putting on such a duty as will afford the protection needed, and the impression of the committee was that six cents a pound was sufficient. I do not feel authorized, therefore, to accede to the amendment. I presume, if the case is as the Senator states, the House of Representatives will ad-

here to their original rate probably, as fixed in the bill, and then the difference will have to be arranged.

Mr. FRELINGHUYSEN. The insistment of these manufacturers was ten cents a pound. A good deal of investigation was made in the House, and they finally fixed the rate at eight cents. Nothing has been altered in this bill so as to create any propriety in lessening the amount; and I think the Senate had better fix this rate at what will be considered just, especially as there is no serious opposition to the amendment from the committee.

Mr. FESSENDEN. The Senator is not, perhaps, aware that the rates on iron are very considerably decreased from those fixed in the House bill.

Mr. FRELINGHUYSEN. But these springs are manufactured from steel.

Mr. FESSENDEN. There is a decrease in the duty on steel in this bill from that fixed by the House of Representatives; and this item was arranged to correspond with that decrease of duty.

Mr. FRELINGHUYSEN. But the Senate will also remember that the decrease of gold is very great since the House passed the bill, which more than compensates for any decrease in the duty on steel. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 17, nays 15; as follows:

YEAS—Messrs. Buckalew, Cattell, Chandler, Connors, Cowan, Cragin, Creswell, Dixon, Edmunds, Foster, Frelinghuysen, Harris, Johnson, Sprague, Van Winkle, Wade, and Willey—17.

NAYS—Messrs. Davis, Fessenden, Grimes, Henderson, Morgan, Morrill, Nesmith, Norton, Poland, Saulsbury, Sherman, Sumner, Williams, Wilson, and Yates—15.

ABSENT—Messrs. Anthony, Brown, Doolittle, Fogg, Fowler, Guthrie, Hendricks, Howard, Howe, Kirkwood, Lane, McDougall, Nye, Patterson, Pomeroy, Ramsey, Riddle, Ross, Stewart, and Trumbull—20.

So the amendment to the amendment was agreed to.

Mr. FRELINGHUYSEN. I move now to amend the seventh section, on page 34, by inserting after the word "carriage," in line two hundred and seventeen, the words "railroad-car, locomotive, wagon, and truck;" and after "springs" the words "wholly or partially finished;" so as to make the clause read:

On steel carriage, railroad-car, locomotive, wagon, and truck springs, wholly or partially finished, eight cents per pound.

Mr. WILLIAMS. I hope that amendment will not be adopted. I voted against the other amendment proposed by the Senator from New Jersey, and upon the same ground I oppose this amendment. In the State in which I live we use carriages, and we purchase them from persons who manufacture them upon this side of the continent, and I do not know how much more they desire to add to the price of wagons than we are now compelled to pay. Certainly the prices at this time are enormous; and I know of no reason why the manufacturers of these articles may not make them under the existing tariff and be compensated by the prices they now receive.

But in addition to the imposition of an additional duty on carriage-springs, an effort is now made to strike at the railroad interests of the country, in which the people of the Pacific coast and the West are deeply interested. So far as I am concerned, I am determined to oppose these exorbitant duties upon the materials out of which the railroads of the country are constructed; and if there is much more additional duty put upon these articles, notwithstanding the fact that I am one of the committee who concurred in the report of this bill, I shall vote against the whole of it, because there is a limit beyond which the manufacturers ought not to go in the burdens which they impose upon the consumers of the country. In this respect the people of the State which I have the honor in part to represent here are altogether consumers, so far as wagons are concerned, and they will be so far as the materials and articles which enter into the construc-

tion of railroads and railroad cars are concerned. It is for the development of the country, and the promotion of its best interests that these articles, which are necessary for the construction and operation of railroads, should not be put at such exorbitant prices as to check and impede their construction. And I have heard no representation made here to satisfy me that the persons who are engaged in the manufacture of these articles are not now engaged in a lucrative business.

Mr. FRELINGHUYSEN. The object of this amendment, allow me to say to the Senator, is not to increase in any way the cost of or the duty on springs. It is a mere matter of construction of the report of the committee, the committee having intended that the term "carriage springs" should apply to all kinds of carriages, railroad, truck, and wagon; and when I suggested the amendment I stated that it was meant simply to remove a doubt as to the signification of the term "carriage springs," so as not to leave it open to controversy. This amendment is not to raise the duty, but merely to explain and make clear what the committee intended by their report.

Mr. WILLIAMS. I understand that the amendment puts the articles enumerated in it under a tariff of eight cents per pound, and that certainly is adding a duty to the one that was reported by the committee. I object to this additional duty upon these articles; and I understand that if this amendment be adopted these materials which are used in the construction of railroad cars will pay eight cents per pound, while under the report of the committee they would pay only six cents per pound. It is to that increase of duty that I object. I object to it because it is adding greatly and unnecessarily, as it seems to me, to the burdens of the consumer, and because there is no sufficient evidence to my mind that this additional duty is necessary to enable the men who are engaged in the manufacture of these articles to prosecute their business; but it is simply taking so much money out of the pockets of the people on the Pacific coast and in the West and putting it into the pockets of the manufacturers of those articles. That is all there is in it, in my opinion. I know that I am not altogether advised as to the condition of these manufacturing establishments; but before we proceed to impose this additional duty I think there should be some other showing than the one that has been made.

The tariff upon iron, as proposed by the House bill, was reduced by the report of the committee, and the tariff upon steel as proposed by the House bill was likewise reduced. Iron and steel are ingredients from which these articles are made; and yet, notwithstanding the reduction made upon the proposed tariff in regard to the materials, you still propose to put the articles up to the same duty that was fixed in the House bill. I think as this part of the bill was altogether arranged so as to harmonize and systematize all these things the report had better be left in its present condition.

Mr. FRELINGHUYSEN. The amendment now before the Senate, as I understand it, is not to increase the duty on anything; it is to give construction to the word "carriage-springs," that term being intended to apply to wagon-springs, car-springs, and truck-springs. Unless the word "carriage-springs" does apply to these different kind of springs, there is no duty at all on railroad car and truck springs. My amendment is simply a construction of the language used in the bill, which I understand was accepted by the committee. I ask for the yeas and nays on it.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 19; as follows:

YEAS—Messrs. Buckalew, Cattell, Chandler, Dixon, Foster, Frelinghuysen, Riddle, Saulsbury, Sprague, Van Winkle, Wade, and Willey—12.

NAYS—Messrs. Brown, Davis, Fessenden, Fogg, Fowler, Grimes, Harris, Kirkwood, Lane, Morgan, Norton, Patterson, Ramsey, Sherman, Stewart, Sumner, Trumbull, Williams, and Yates—19.

ABSENT—Messrs. Anthony, Connors, Cowan, Cragin, Creswell, Doolittle, Edmunds, Guthrie, Henderson, Hendricks, Howard, Howe, Johnson, McDougall,



Morrill, Nesmith, Nye, Poland, Pomeroy, Ross, and Wilson—21.

So the amendment to the amendment was rejected.

Mr. DAVIS. On page 22, in line ten of section six I move to strike out "twenty-five" and "fifty," so as to read "on Russia, Manila, Italian, and all other hems, unmanufactured, fifty dollars per ton.

In line twelve I move to raise the duty on tow of flax or hemp from five dollars to twelve dollars per ton; in line fourteen, to make the duty on jute, unmanufactured, and Sisal-grass twenty dollars instead of five dollars a ton; in line twenty-six to make the duty on cordage and rope ten cents instead of three cents per pound; and in line thirty-two to add to the specific duty on gunny-cloth, gunny-bags, &c., an *ad valorem* duty of thirty per cent.

The PRESIDENT *pro tempore*. Does the Senator wish his proposition to be regarded as one amendment or as separate propositions?

Mr. DAVIS. Let the question be taken on all the propositions together.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kentucky.

Mr. DAVIS. I have moved a group of amendments that are restricted to a very small space in the bill, all the subjects of which are so closely and intimately united that they may be considered together. With the gentleman from Missouri, [Mr. HENDERSON,] I concede that as abstract propositions or in connection and as parts of a well-arranged tariff bill, the propositions of increase that I make ought not to be allowed; but in connection with the bill under consideration I consider them altogether proper and legitimate; indeed, I know them to be below the rate of protection that is generally afforded by the bill to the interests protected by it.

It seems to me, Mr. President, that this tariff bill has been framed in support of a few leading and controlling interest with the purpose of giving an undue amount, if not a prohibitory protection, to certain classes of capital and industry at the expense of all other interests. Hemp, in any of its forms, does not enter into this ring of high protection. On the contrary, the interests of hemp are among those to which are assigned the lowest protection by this bill.

All the propositions to amend it have been to get higher protection for particular local interests. Gentlemen seem to be merely playing the game of grab. They are dissatisfied with the amount of protection that the bill proposes to give to their special interests, and they make a dash to capture a little more. I confess that I am acting upon the same principle, but not being an adept in the game I am apprehensive that I shall play it without any result or advantage to my constituents. Nevertheless I maintain that the just proportionate *pro rata* protection that hems as articles specified in my amendment ought to receive, in comparison with the other interests that are protected by this bill, are greatly too low. Now, Mr. President, I propose in connection with my amendment at this time to move to commit the bill to the Committee on Finance, with instructions to examine and consider it in connection with the laws to provide internal revenue and the laws imposing duties on foreign importations, and that the committee shall report bills reducing the aggregate amount of taxes imposed by those laws in the sum of at least \$100,000,000.

Mr. President, it is my purpose thus to suggest a decided movement in the regulation of American industry, and the taxes imposed upon the people and the produce of our revenue laws. I wish this bill to be recommitted with the command of the Senate to the Committee on Finance to consider it, in connection with all existing laws imposing duties both on foreign imports and internal taxes, as a revenue system, by reducing the amount of taxes by all existing laws not less than \$100,000,000, and then readjusting the laws imposing duties,

imports, and internal taxes, so to give to the people not less than that amount of reduction.

Sir, ought not such a policy as that to be entered upon at once? Will not the receipts under the revenue laws now in operation authorize that amount of general reduction in the taxes of the people? What was the produce of the revenue laws last year? I am indebted for most of the facts I am about to state to my learned and industrious friend, the Senator from Missouri. He has proceeded, with his usual diligence and accuracy, to collect and collate these facts, and he has presented them to the Senate in connection with arguments and views so forcible that to my mind his positions and conclusions ought to receive the immediate assent of the Senate.

As the reports of the Secretary of the Treasury show, the produce of our revenue laws the last fiscal year was \$558,000,000 and a fraction. The honorable Senator from Missouri gives us a statement of the produce of the first quarter of the present fiscal year, and also including a period of five months; and the same rate of receipts for the whole year, its aggregate would be the rise of \$540,000,000.

Now, what is the object of the bill? It is to increase the taxes upon foreign importations. But for that object the bill would not have been devised. Its friends do not attempt to disguise that the purpose is, by increasing taxes upon certain articles, and numerous articles, to give an additional protection to the producers of those and similar articles at home. Notwithstanding the laws imposing taxes now in existence during the last fiscal year raised \$558,000,000, and this fiscal year promise certainly to produce \$540,000,000, yet the measure under consideration has been devised still further to swell receipts into the Treasury by imposing additional heavy taxes upon the people in the form of additional duties on foreign imports, varying from twenty to forty per cent.

Is that sound policy? Is it good statesmanship? Is it true and able financiering? I believe it was Peter Pinder who said that "there is nothing certain but death and taxes;" and if Wolcot were now living he would have suggested at least another proposition in relation to the United States: which is the most terrible—death or the taxes of our people? They are taxed nearly five hundred and fifty million dollars by our existing laws, and the majority in Congress propose still further to pile upon them. No people were ever before so burdened and ground down by taxes. The cry is, still they come!

I have before me the estimates of the Secretary of the Treasury of the public expenditures for the passing fiscal year, and they exhibit only an aggregate of \$328,000,000. That is the amount which he gives as the proximate necessary amount of revenue required for all the purposes of the Government within the passing fiscal year. When we are just out of a great war, when the industry of the country in all its branches, and especially in the middle and southern States, has been so greatly disorganized, and when the people are groaning under the weight of such enormous taxation, and when the Secretary of the Treasury only estimates that \$328,000,000 are necessary for this year to answer all the purposes of the Government, I ask why is it that new bills to burden the people with still more taxes are devised?

Sir, there is no pretext of any necessity for it. It springs from a sectional and monopolizing spirit—a spirit to rob the many for the benefit of the few; a spirit that exacts from the industry of the producer and the laborer for the purpose of adding to the wealth of the capitalist, the manufacturer, growers of wool, and the great manufacturers of iron. It is impossible that this aspect of the case can be disguised. It is reflected by the official papers from the Treasury Department, and it shows that the people of the United States are being taxed to the amount of about one half of five hundred and forty million dollars above every

legitimate demand of the Government. As was intimated by the Senator from Missouri, this appetite for protection is not sated, but it grows by what it feeds on. The more protection that is given above a certain wholesome and legitimate point the more is rendered necessary. The best protection in my judgment, in addition to moderate duties to prevent ruinous competition with foreign labor, is a moderate amount of capital, industry, manufacturing skill, economy, and cheap subsistence. They are the elements of cheap production, of prosperous manufacturing interests, and of a prosperous people generally. They are principles upon which the whole country flourishes and grows wealthy, without any injustice or oppression from one interest upon another.

The taxes of the country amount annually, as I have said, to over five hundred and fifty million dollars. This enormous amount of taxes enters into the general aggregate of the prices of almost everything. It is an onerous burden upon all the people, and particularly upon the producers and the laborers, who constitute the great mass of the consumers and the tax-payers. If Congress now should remove an aggregate of \$150,000,000 of taxes from this people, as it well might, what a great amount of relief would be afforded to them! If a reduction of but \$100,000,000, as contemplated by my motion, should be made, the whole country would be made to breathe easier by it. But the abolition of an aggregate of \$150,000,000 would leave \$50,000,000 annually of surplus revenue, and that would be enough not only to meet all contingencies, but to make other and large reductions of the public burdens.

Sir, we have had a most deplorable view of our industrial interests given in the decay of our shipping, the decrease of our tonnage; our commercial marine, which was once the largest that floated on the ocean, now being reduced more than fifty per cent. What have the Senator from Vermont and the Senator from Michigan told us? What we all know and what all the gentlemen here tell us who want further protection: that labor and production are so costly in the United States that our products cannot come into competition with the foreign product and foreign labor. The honorable Senator from Vermont told us that while the laborers in the British Provinces were working in the stone quarries at from seventy-five cents to one dollar per day, in his State they were charging three and four dollars. The same statement was made by the Senator from Michigan in relation to the laborers in that State.

It has been said here again and again, and seems to be conceded by everybody, that a mechanic or laborer skilled in the highest workmanship of manufacture wants from four to five dollars per day, while the European laborer of the same class only gets about one fourth or one fifth of the same wages. Why is it, then, that our manufactures and laborers are no longer able to compete with the manufacturers and laborers of the world as heretofore in our market, with the same amount of reasonable protection that they were wont to receive in former years? Why is it? As you informed us, sir, there is but one principal ship on the stocks now in the United States. Why is it that our vast magnificent commercial marine is diminishing to such an extent as to be the shame and the great loss of the whole country? It is because of the enormous amount of taxation that is bearing down the labor and the enterprise of our people; because it oppresses not only their capital and their production, but very labor and subsistence.

Why is it that the man in New Brunswick can afford to work at one dollar or seventy-five cents a day, and a man in Michigan or in Vermont must have from three to five dollars per day? What are the elements of the cost of labor? Independent of the time and muscle of the laborer, there is principally his subsistence and the subsistence of his family. Everything upon which he can live, that is to sus-

tain his life, and to clothe and lodge him and his family, and of the elements of the price of his labor, and every article which he uses, they are directly or incidentally heavily taxed; and the amount of accumulating taxes which this consumer has ultimately to pay constitute the greater part of the cost of the subsistence of himself and his family; and it has all to be saddled upon his labor. If you would unfetter him from this slavery and give him cheap and full and sure subsistence, remove the taxes from those articles which form it.

In the same proportion that you abolish or reduce those taxes you reduce the price of his labor and cheapen production. You do not impoverish him by reducing his labor, because even at his present high rate of wages the most are consumed by the payment of taxes, and he has little or no surplus of profit. The true statesman would relieve the laborers and consumers of our country from their difficulties by abolishing their taxes. To the extent of between one hundred and two hundred million dollars it is your duty to abolish their taxes; they have the right and will demand it of you, and unless you accord it to them they will put other men in your places who will.

The honorable Senator from Missouri made other remarks which ought to arrest the attention of the Senate and receive its most serious consideration: that one of the principal elements of the enormous prices of everything in the United States is our redundant currency. We now have an exclusive paper currency of upward of \$900,000,000. Is not that an excessive currency, greatly beyond the demands of a healthy condition of the country and of its legitimate business? How can prices come down in the presence of such an enormous and spurious currency? We all know, as the Senator remarked, that the currency of the world is gold and silver, and that people who would enter into its trade and business generally on terms of fair competition must also have a similar currency. The idea of one people having a vicious, inflated, and irredeemable paper currency, in amount two or three times greater than the aggregate of gold currency that would be needful and useful for the business of the country, entering into an equal and successful competition with the great manufacturing and commercial nations of the world who have a metallic currency, is preposterous. Our paper currency was not intended to answer the purposes of times of peace. It was the straits and necessities of the war that induced the Government and people to resort to a paper currency. That great need has passed, and it is time that the Government and the country were adopting measures for the resumption of specie payments.

No paper currency will ever answer the necessities of a circulating medium unless it is convertible at the pleasure of the holder. No gentleman would want our country to come back to that condition suddenly. But, sir, to reach it at all, there must be a beginning, and now is the time, and in my judgment the appropriate time, to make the beginning. I think that Congress ought to second the views and policy of the Secretary of the Treasury in relation to the return to specie payments. I would not have it suddenly done. I would have it proceed very slowly and gradually, so as to permit no great disorders in the business of the country and to cause no ruinous losses, or at least to as few a number of persons as possible. But let a tendency toward the resumption of specie payments now be entered upon, and let the enlightened statesmen of Congress and of the country determine that in the course of four or five years that condition of things shall be reached; in the course of that time the resumption of specie payments could be made so gradual that no prudent man's interests need be materially affected.

But, sir, a return to specie payments can never be made without producing more or less of disorder and bankruptcy. Some men must fall, and a great many before such an opera-

tion. It is a necessity, though; to resume specie payments, an absolute indispensable necessity. The true, wise policy is to resume them so gradually and to reach that result with such slow approaches that the smallest number of individuals will be injured in their circumstances and business by it. That policy sooner or later must be undertaken and it must be consummated. This Congress, with all its puissance, cannot long delay that day.

As one of the operations for the resumption of specie payments, as well as for the relief of the people from grievous burdens of taxation and the great charge which is thus made upon their industry, the Committee on Finance, in my opinion, ought to consider the whole question of revenue and protection in connection with every act of Congress imposing taxes in every form, whether by internal excise or duties upon foreign imports, and they ought to fashion and adjust all such measures together. They ought to be settled upon the principle of relieving the people of the United States, I would say from \$150,000,000 of taxes, and then Congress would be enabled to determine with better judgment how much of protection against foreign imports the industry of the country requires by being brought to the scale upon which internal taxation should be adjusted.

I therefore, Mr. President, move the Senate to recommit the bill under consideration to the Committee on Finance, to examine and consider it in connection with the laws to provide internal revenue and the laws imposing duties on foreign importation; and that said committee report bills reducing the aggregate amount of taxes imposed by said laws upon the people by at least \$100,000,000.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kentucky to recommit the bill to the Committee on Finance with the instructions moved by him.

Mr. DAVIS. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. GRIMES. I call for a division of the proposition.

The PRESIDENT *pro tempore*. The Senator from Iowa asks that the motion be divided. It is susceptible of division, and the first question will be taken on the motion to recommit; and the next on the instruction proposed to the committee.

Mr. FESSENDEN. I wish simply to say that it would be useless to recommit the bill without instructions, because we should probably report the bill back as it is; and the effect of recommitting with the instructions proposed would be that we should not be able to report the bill again at this session in time for action.

Mr. GRIMES. When I asked for a division of the question I did not mean or desire that it should be divided as the Presiding Officer has directed that it should be divided. I meant to divide the clauses of the instructions. I should like to see this bill recommitted; or if it cannot be recommitted, I should like to see it postponed until we can have an opportunity of seeing the character of the bill which is said to be under consideration in the other branch of Congress, regulating the internal duties that are to be placed on manufactures and other things. It seems to me that is the place where we should begin; that is the bill which should first be taken into consideration; and after we have passed upon that we shall be prepared to vote understandingly on this tariff bill.

The PRESIDENT *pro tempore*. The Chair did not mean to limit the Senator from Iowa by the decision he made as to the motion to recommit. It is competent for the Senator to move to amend the instructions proposed by striking out any portion of them or adding to them at his pleasure.

Mr. GRIMES. I was going to say that I am in favor of the first clause of the instructions proposed by the Senator from Kentucky; but whether it is advisable to instruct the committee to reduce the amount that shall be levied

under the internal and external taxes to the extent of \$100,000,000 per annum or not I cannot now say. I would rather have some expression of opinion from the committee on that subject, without undertaking by any sort of declaration of this kind to bind them to any specific amount. I shall therefore vote for the motion of the Senator from Kentucky, if we can have a division of the instructions proposed by him.

The PRESIDENT *pro tempore*. It is competent for the Senator from Iowa to move to strike out any portion of the proposed instructions by way of amendment.

Mr. GRIMES. Then I move to amend the motion by striking out the latter clause of the instructions—so much as relates to the specific amount of the proposed reduction of taxation—unless the Senator chooses to withdraw that part of his motion.

Mr. DAVIS. I do not think I have any objection to the proposition of the Senator from Iowa.

The PRESIDENT *pro tempore*. Does the Senator from Kentucky accept the proposed modification of his motion?

Mr. DAVIS. I will make a remark first. I think that all the revenue bills ought to be considered together by the Committee on Finance. I think it would be more convenient, and it would more certainly secure a wise adjustment of our revenue system, internal and external, to have all branches of the subject considered together by the Committee on Finance. I think that if all the laws imposing internal revenue and all the laws imposing duties upon foreign imports were considered together it would be wise. They belong to the same system of revenue. It is true, the features are different; but they are so intimately connected and blended together that it is impossible wisely to adjust one except upon consideration of and in the closest connection with the other. I therefore hope that it will be the sense of the Senate that its Committee on Finance shall not consider the two subjects apart; that the present bill shall be delayed until the bill regulating internal revenue comes from the House, and that the Senate will then instruct the Committee on Finance to consider them together and to report proper bills, and understanding their mutual connection with each other.

In the instructions which I moved I did not propose to restrict the committee to a reduction of only \$100,000,000; I proposed that the reduction should be at least to that extent. But when the estimates of the Treasury Department show that only about three hundred and twenty-eight million dollars will be necessary for the whole service of the year, and also show that under the existing laws the aggregate produce of the revenue will be \$540,000,000, it seems to me that there cannot be a reasonable doubt that a greater reduction than \$100,000,000 could be made in the aggregate taxation. I accept the modification proposed by the Senator from Iowa, by striking out of the instructions moved by me the last clause relative to the amount of reduction.

Mr. HENDERSON. As the motion now stands I really think the Senate ought to adopt it. I feel satisfied that it is the proper disposition of this measure. I appreciate the difficulties under which the Committee on Finance have labored, and I am not at all surprised that they have failed to report a tariff bill that is satisfactory to every interest in the United States. That is an utter impossibility. Taking the bill altogether, it is, on the principle upon which it is based, a good bill; but the principle itself, in my judgment, is wrong. We are attempting to increase, when, in my judgment, if we touch the tariff at all, we ought to decrease the rates. What the country wants is a decrease of the excise taxes, in my judgment. I think that is perfectly clear; it is one of those things that can be demonstrated; and I think we should act on that question before we dispose of this bill. I say so without meaning to put a single log in the way of the pas-

sage of the bill, if the Senate is disposed to pass it. I really do not wish to unnecessarily retard the transaction of business; and, if a majority of the body desire to pass the bill, they may as well do it at once; but if the contrary policy is to prevail, if we are to reduce the internal taxation and then adjust the tariff to the excise taxes, this is the proper course to pursue.

In the remarks I made the other day I indicated that at the proper time, after Senators had got all their interests fastened upon the bill, or else when it had been demonstrated that a majority of the Senators would not consider these special and local interests, and after the bill had been perfected to the satisfaction of the Senate and they had fully discovered the fact that it was not the measure required by the true and the best interests of the country, I should move to postpone it until we should consider the question of internal revenue. The Committee on Finance seem to differ with me as to the general policy. They think there ought to be an increase of the tariff rates: I think not. If the Senate has made up its mind to this effect, of course the bill may as well be pressed to its passage now. That view is contrary to my judgment; and I shall of course vote for this motion, not because I believe the Finance Committee has not discharged its duty, but simply because the bill itself is predicated upon a wrong principle.

If we pass this bill we may as well make up our minds at once that nothing is to be done in regard to the excise taxes. It is useless to speak of a reduction of the excise taxes after the passage of this bill. A reduction of excise taxes is but equivalent to an increase of the tariff in one sense; and if you reduce the excise taxes after having increased the tariff the result will be that, instead of putting the amount of the reduction of the excise taxes into the Treasury, we should pay it as a bounty to the domestic producers. Is not that a clear proposition? Prices are not going to be reduced under this bill; on the contrary its effect will be to enhance them. If you do reduce internal taxation after the passage of this measure, prices will still maintain a higher rate; labor will be higher; the raw material will be higher; everything will be advanced, making it absolutely essential to keep this high, stilted condition of affairs in this country while all of us say that we ought to be looking to and soon should approach specie payments. Sir, it is chimerical and idle to talk about specie payments when we pursue this system of legislation. We cannot arrive at it in that way. I do not want to force specie payments all at once. I think a great many persons are talking wildly on that subject. I do not desire to force specie payments in a moment, but to let the future operations of business bring about that state of affairs. All that we have to do is to discharge our duty, relieve the country of its present burdens in the shape of excise taxes, which come home to every manufacturer, come home to every farmer. Relieve the country from the oppressive weight of those taxes. That being the burden which holds business down, take it off, and business springs up as if it had new life, as if it had new energy. It will be revived from one end of the country to the other. The manufacturer will make money and be satisfied with the present tariff.

I am represented as having said the other day that the present tariff is exactly what the country needs. I said no such thing. I said that this able committee who have digested the present bill and placed it before us, after they have reduced the internal taxes will be perfectly able in my judgment to present a tariff bill founded upon the reductions thus made in the internal taxation, which will secure the confidence of the country as well as the approbation of this body. That is my judgment, and therefore I sincerely hope that the Senate will recommit this measure to the committee. It is the proper motion. Let it go to the committee, not with instructions to make any

specific decrease, but to make a partial decrease anyhow in internal taxation, because we do not need the amount that we must collect under the internal revenue law.

I have said that if you adopt this bill you cannot reduce internal taxation. If you do not reduce internal taxation you get more money than you want. Why is it necessary now to oppress the people of the United States with high, excessive duties in the shape of excise taxes for the mere purpose of filling up the Treasury? Mr. President, as long as you increase the prices of labor and material you cannot arrive at what we all desire, and that is a contraction of the currency; and as long as you keep up the present condition of affairs you cannot secure a better credit for your Government than you have got to-day. Gold, as has been properly said, is the cheapest article to-day in the American market, and why? Because all of us want specie payments, and gold tends in that direction. We all want it. Gold moves more rapidly than other metals. If we want to bring about that desired state of affairs let us begin at the right end and reduce internal taxation, thereby relieving the country.

What is the object of filling up the Treasury with a vast amount of currency and gold? Will any gentleman tell me? Why are our public securities to-day less valuable in the market than the English securities? Can anybody tell me? Great Britain has double our wealth; but Great Britain has nearly double our public debt. Her securities stand twenty per cent. higher in the market than ours, and her interest is only three per cent., while ours is six per cent. Does Great Britain undertake to pay any part of the principal of her debt? Surely not. She looks to the future to pay the principal. Is there any man in the United States in any doubt about the ultimate payment of our securities? Mr. President, let us pay the interest on the public debt, and the principal will be paid in due time. All we want to do now is to relieve the burdens of the community. We have imposed excessive taxes in the shape of impost duties and internal duties for the last five or six years, the country looking forward to the termination of hostilities with the cherished idea that taxes would then cease, except so far as are necessary to maintain the credit of the Government; and now we pursue a system which instead of decreasing will increase them.

I sincerely hope that the Senate will put this measure back before the committee and let us act upon the internal revenue laws first. That is the true plan. If that is not done, the Senate will find that after debating this bill for another week or ten days we shall be just where we are now, with a continual clash of individual interests.

Mr. SHERMAN. When the honorable Senator from Kentucky first made this motion I was not disposed to think it was a serious matter; but now I wish, speaking only as a single Senator, that this should be a test vote. The Senator from Missouri is correct, that if we are to debate this bill and load it down with private interests the sooner we defeat it the better. Unless the friends of an increased tariff, in order to promote our industry and to secure increased revenue, are determined to stand by it, the bill may as well be killed now as at any other time. To refer this bill at this stage of the session is a defeat of the bill.

I have been a little surprised at the course of the honorable Senator from Iowa. At the last session we had two bills before the Senate, one in relation to internal revenue, and the other in relation to the duties on customs. The two bills were here together; they were considered together; this very bill was being considered in the House while the internal system of taxation was considered in the Senate. Then, however, he desired to separate them. He himself moved that this identical bill should be postponed until the present session, at the time when we had the two bills before us. Now it seems he thinks we ought to have the two under consideration at the same time in order to equal-

ize the one with the other. The reference of this bill at this stage of the session, and especially with instructions or intimations that we must not consider this bill until the House matures an internal revenue bill, is a defeat of the bill, and might as well so be considered.

My honorable friend from Kentucky is a great stickler for the Constitution; but he proposes to instruct us substantially to report an internal revenue bill. The Constitution declares that all bills for raising taxes shall originate in the House of Representatives. The Senate have no power to introduce a bill to provide for taxes. We have to await the action of the House. We might, perhaps, by amendments to this bill, add an internal revenue bill; but it would be a violation of the spirit of the Constitution. We have to await the action of the House.

If after having this bill before us for months and months; after having a most patient examination by an officer of the Government; after having it fully considered in committee; after the committee spending days and weeks during the holidays, when everybody else was enjoying himself, in a patient and laborious examination of the bill, the Senate now see proper to recommit it, as a matter of course that is the end of it for this session. I, for one, as an individual member of the committee, have no interest to subserve in this bill; and I may state that so far as the State of Ohio is concerned perhaps our interests are opposed to this bill. There is not a single interest embraced in this bill that affects my constituents except the increased duty on wool of four cents. All the other duties weigh upon us as consumers. So far as my individual interests or the interests of my State are concerned we have none in the passage of this bill. Other Senators seek to load it down with various matters for the protection of their local interests. I, for one, have not offered, and do not propose to offer, any amendments. As I said before, there is not a single interest in this bill that affects favorably my constituents except it is the slight additional protection on wool. As Ohio is one of the great wool-growing States, producing about one sixth of the whole crop, we shall be benefited to the extent of a protection of four cents per pound additional duty on wool. All the other duties weigh upon us as they do upon the rest of the people of the United States.

My object in voting for this bill, and the only reason why I shall vote for it, is because I believe it will yield us more revenue by the amount of about ten or twelve million dollars than the present tariff under present circumstances. My honorable friend from Missouri says that the present tariff last year produced \$179,000,000, and during the first quarter of the present year it produced at about the same rate. Now, I know he is too shrewd and too intelligent not to know the reason why during the last two quarters the present tariff has produced so much. Importations were forced into the country by the pendency of this bill. Now, there is a sudden contraction, and either under the old tariff or under this tariff bill the revenue will fall off largely. If Senators are willing to take the responsibility of leaving a probable deficiency in the gold revenue of the country to meet the interest on the public debt let them do it. I must bear the responsibility with the rest.

I can only state as one member of the committee, and perhaps not the most industrious, because I have not probably been as faithful as some others—the chairman has had the chief part of the labor—that this bill has been considered day by day, after all the benefit of the labors of the House, after an examination and report by an officer of the Government who was especially designated to examine into this particular subject, with all the information that could possibly be obtained on the subject, with interested parties on both sides pulling from diverse views representing their interests before us, their statements patiently heard and patiently examined, and if the result of that deliberation has not produced a bill that in the



main is satisfactory to the Senate it is utterly idle to refer the subject to that committee again. To require us to wait until the House frame a bill in regard to the internal revenue, and then consider the two together, is simply to consign the bill to defeat. That an internal revenue bill will come to us eventually and that it will largely decrease the excise taxes, I have no doubt whatever. I agree with the honorable Senator from Missouri that from the internal taxes we may throw off a very large sum; the larger the better. The passage of this bill would enable us to throw off more than if we leave the tariff stand under the old law. The reason why the Committee of Ways and Means, if I understand it, are holding back the bill in regard to internal taxes is to enable them to judge how much internal tax they may throw off.

If, under these circumstances, it is deemed advisable to recommit this bill, I am sure I am not going to waste any more labor upon it. The chairman, as a matter of course, will have the chief responsibility upon him; but certainly it is unreasonable to ask that committee to consider this bill over again when the appropriation bills, the internal tax bill, and all the bills in regard to currency, finance, and banks have yet to be considered in the next five or six weeks of the session.

Mr. GRIMES. Mr. President, it seems that in the view of the Senator from Ohio I have been guilty of some very inconsiderate conduct, or am likely to be guilty of some when I vote for the motion to recommit this measure to the Committee on Finance. I must confess that he is gifted with a much keener mental vision than most people if he can see any such thing.

What was the condition of this bill at the last session? Did it come before us in conjunction with an internal revenue bill? I am not aware of it, and I do not think he is. I do not think that is a fact known to members of this body. It is true, at the last session I did move to postpone this bill and it went over, or rather that which then formed the basis of this bill. The title is left, and I guess that is about pretty much all there is left, except perhaps the duty on iron and wool alone. We then went to work upon the internal revenue law. We perfected that. We reduced, in the interest of some of these iron men, the internal duty on pig iron and railroad iron. We relieved one establishment with a capital of \$1,000,000, although they have a nominal capital of \$2,000,000, from \$225,000 of internal revenue a year, a very respectable profit, I apprehend, in the judgment of most people upon the amount of capital they had in their concern; but they are not content with that, and they come here this year and ask for this additional protection.

Now, sir, I say, as I said before, that the way to begin to legislate on these financial questions is to begin with the internal revenue law first. We are told that the House is considering such a measure as that. We know that they are. We know that it is necessary that there should be a new law on that subject passed. Some of us believe that that is the place and the only place where relief to the country will be found; and therefore we propose to begin with that law. I have simply asked that this bill—I do not care whether it be recommitted or not; postpone it if you choose—shall not be disposed of finally until the House shall have an opportunity to perfect their bill and send it to us.

The Senator says that the State of Ohio is not interested in this measure. Has not the State of Ohio some salt-works? Has it not got bituminous coal taxed at \$1 50 a ton? Have you not by this bill imposed one hundred and sixty per cent. on salt? Now, for example, suppose the House shall consent to take off the internal revenue duty on salt. I undertake to say they will do it. I think I am justified in saying that the Committee of Ways and Means have already agreed to it. We have put a duty on foreign salt to the amount of one hundred

and sixty per cent., and that is followed the next week by a law which takes off the entire internal duty upon the production of salt. The amount that then comes into the Federal Treasury from the customs only upon salt is just so much additional burden imposed upon the consumer. That is all there is of it; and I think that is a very good illustration to show the necessity of our beginning at that end of the line rather than undertaking to raise the impost duties in the first instance.

Mr. President, I am not as familiar with the history of this character of legislation as the Senators from Ohio or Maine; but, according to my recollection, in every instance during the last six years we have passed our internal revenue law before we passed upon the tariff law. Why should there be a deviation from that rule now?

Mr. SHERMAN. Because you made it necessary by the postponement last session.

Mr. GRIMES. I have not made it. The Senate made it. The Senate made it after due consideration. The Senate made it wisely. I think the country has pronounced a judgment upon that subject, and has said that we did act wisely. Now, I only ask that the same precedent shall be followed that has been followed in the past.

The Senator says that if this bill is recommitted to him he will not labor upon it. He will not perform his duty to the Senate and to the country and to his own State, because the judgment of the Senate may be that they are not prepared to act upon this bill now, but prefer to act upon some other bill in preference to it. Well, sir, I have no remarks to make upon the Senator's idea as to what his duty to himself or to the country may require. I have only to say that when I have a bill recommitted to me as a member of a committee I shall attempt to carry out the views of the Senate that sends it to me as far as I am able.

Mr. SHERMAN. The inconsistency in which the Senator was involved was this: at the last session of Congress a bill in relation to the internal revenue was sent to us, fully considered, and passed, and immediately upon its heels the tariff bill came to us, was brought up for consideration, and on motion of the Senator from Iowa was postponed to the present session. The very course that he now indicates was the course he then prevented. He says the Senate prevented it, but the Senate prevented it upon his motion, and it was by the same course of argument that he now makes. If we had considered this subject at the last session we might have then seen the operation of the two laws together, and we might have made the proper changes at the present session.

But he says that Ohio is interested, and that I am mistaken in saying that Ohio has no special interest in this bill. I say Ohio has not. He instanced the item of coal. Why, sir, no Ohio coal ever reaches the Atlantic coast. It is not in the interest of Ohio that the duty on coal is raised. It is in the interest of Maryland and Pennsylvania, if any. It is for the protection of their coal-fields. The coal of Ohio is consumed in the West. And so with salt. The salt boiler of Ohio does not ask any protection. All the salt that is produced in Ohio is along a single valley on the Ohio river, and is consumed in the neighborhood.

Mr. GRIMES. Will the Senator permit me to inquire in whose interest this duty of six cents additional is imposed?

Mr. SHERMAN. I will state to the Senator that Ohio asks no favors of that kind. The salt that is protected by this bill is the salt of New York and Michigan. No portion of the Ohio salt ever even reaches the lake shore. The Senator is not aware where the salt valley of Ohio is.

Mr. GRIMES. Yes, I am.

Mr. SHERMAN. It all goes down the Ohio river, and none ever touches either the lake shore or the eastern market. It floats down along the Ohio river, and is consumed in that region of country. So that in fact the people

I represent have no particular interest in this bill except that which they share with Iowa in being the owners of flocks of sheep; and on the question of wool, the Ohio wool-grower does not ask the average rate of duty in this or any other tariff bill. The average rate of duty imposed by this bill on wool is not near equal to that imposed on almost any other article—ten cents a pound and ten per cent. *ad valorem*; so that on that point we have no special protection in this bill.

When I said I would not consider this matter I did not say I would disregard the will of the Senate—not at all. I simply said the Committee on Finance could not consider it, and would not because it could not; that is, could not make a reexamination of this whole subject; and why? That committee have got to consider the subject of internal taxation; they have got to consider all the appropriation bills; any bills in regard to loans and currency and debts; and surely they have enough to do without a reexamination of this question, to which they have given all the holidays and every hour of leisure which other Senators have enjoyed to their hearts' content. I simply desired to say that if the bill is referred, no new light could be thrown upon it, no new examination could be had; we could only hear the statements of interested parties. We have now all the official information we can possibly get, and the Senate can dispose of it. There is not a Senator here now but what has access to every report, every document, every information that he can reach by any possible postponement. The only object of a reference is to get information, new light. What new light can the Committee on Finance throw on this subject? None whatever.

As to the question of the postponement of the consideration of this bill, that is a question of the order of business. Everybody knows that we have but five or six weeks left of this session; and if we do not dispose of bills now in their regular order and in much less time than has been consumed in the consideration of this bill, as a matter of course a large portion of the business of the session must go over. It is to be remembered that we must pass at least fifteen or twenty important legislative bills this session before the session closes, and even the debate on this very important bill has been prolonged much longer, it seems to me, than was necessary for the consideration of the subject.

Mr. FESSENDEN. I concur entirely with the Senator from Ohio in saying that if any movement of this sort is successful it is the end of the bill for the present session; there is no doubt about that; and therefore the Senate in voting upon it will express its opinion whether the bill ought to be passed at all or any bill on the subject of the tariff. If it is recommitted to us, in the first place we shall have to wait until the internal revenue bill shall be perfected by the Committee of Ways and Means; and I am informed that that committee is now, supposing this bill about finished, waiting to see what we do about it before acting upon that bill. Then, after that bill has been perfected and carried through the House, it must come to us and be examined by our committee, and in connection with it this tariff bill must be examined, and after all that has been done, and we have acted upon both and sent them both back again to the House, all that remains of the usual description of business is then to be done. It is perfectly obvious to everybody that the thing is utterly impossible. There is not an idea in the mind of any man who thinks a moment on the subject that it can be otherwise. My friend from Iowa unquestionably knows just as well as anybody that that is the effectual way of disposing of this bill, which he has avowed his determination to vote against, and to which he is so much opposed.

Now, sir, the only way by which we can get along by any possibility is to pass this bill as rapidly as we can—we have but very little time left—and send it to the House, and there it may be examined, if the House pleases, in con-

nection with the internal revenue bill, which has not yet been acted upon. Then the House will have the whole subject before it, and it may modify the bill, if we send it there, in a way to suit itself, and act in accordance with that modification upon the internal revenue bill, and then send that to us. That is obviously the only mode that can be adopted which by any possibility will accomplish the object of having this bill, or one like it in any degree, and an internal revenue bill also, become laws at the present session.

Mr. HENDRICKS. I shall vote for this proposition in the hope that it will defeat this bill at this session; but I cannot altogether agree with the statement of the Senator from Ohio that the reference will furnish no work for the committee. This bill now is not what it was when it came from the House; it is not at all what it was when it came from the Committee on Finance into this body. Each Senator has had his particular proposition, and amendments have been made upon particular considerations; and now hardly any Senator can tell exactly what this bill is, and what may be its general effect upon the trade and business of the country; nor indeed can any of us tell how the taxes are relatively upon the different things taxed.

But my main purpose in voting for this motion is to defeat the bill. I am not in favor of the bill. I think the western country is taxed enough now. I saw a statement the other day which I believe in substance, though it may not be literally true. The statement was that the products of the western country, if carried to a market wherever in the world the best prices could be found, could be sold, and from their proceeds twice as much brought back to the people of the western States if there were no tariff as under this proposed bill. In other words, the earnings of western labor under this bill will not bring to the people of that section half as much of the comforts and necessities of life as if there were no taxation like this. As a representative of western labor I could not vote for such a bill. I would cheerfully vote for a revenue bill, and am willing reasonably to discriminate in favor of the industries that have a right to claim discrimination; but we have undertaken in this bill to protect every thing. Some minerals that a good many Senators have never heard of before have been provided for in this bill. Why, sir, it is as if we undertook almost to create minerals.

It is suggested that we shall wait to see what the House is going to do with the internal revenue system. From that intimation I understand we have got to change the internal taxes of the country. This is the fourth session that I have been in this body, and I believe at every session the revenue system of the Government has been changed, the internal revenue and the tariff. Nothing is understood to be fixed, nothing is stable any longer in this country. We give an intoxicating support to a particular industry for a while, and then we change the tax upon that, and so prices go up and come down according to the action of Congress, and Congress changes its action at every session. My opinion is that the manufacturing interests as well as the agricultural interests of this country now ask for stability more than anything else, and I cannot conceive of anything more vicious than the changing at every session of Congress of the revenue system of the Government.

It has been a remarkable spectacle that we have witnessed here for a week past. If you propose to tax a particular article the friends of that article say, "You must give us a compensation in some other direction." If you tax wool the manufacturer of woolen goods says to us, "You must tax the manufactured article from abroad so that we can pay the increased price upon the raw material and still make a profit." If you put an internal revenue tax upon any article of manufacture the producer of that article will say to us, "You must put a prohibitory tariff, at least a tariff so prohibi-

ory as to allow us to raise our prices so that we shall lose nothing by this internal tax;" and the argument being carried into practical legislation an entire interest of the country is exempt from the burdens of Government. Take the manufacturer of woolen goods. For the protection of the farmer a duty is imposed upon wool. He says at once, "Then put an additional duty upon manufactured woolen goods," and he raises his price so as to make a profit, notwithstanding the increased price of the wool. Lay an internal tax upon the manufacturer of woolen goods, and he says at once, "Increase the tariff so as that my profits may be the same still," and in the end, according to this argument, he is to bear none of the burdens of Government.

But, Mr. President, I did not intend to go into the argument of this bill. I do not intend to discuss it now; I do not know but that it will be better that it should pass. I would like the western people to fairly feel for once this policy. They have not understood it yet; but let this bill go into operation and I think they will understand it. I can say to gentlemen that in my opinion from the day a system is firmly adopted here which taxes western labor for the benefit of another section of the country agitation will commence that will not stop until this system is swept out of existence. I think the true interest of the manufacturer is to take such protection as is reasonable, such as will be agreeable to the people of the western country, and such as will throw upon all interests of the country their fair portion of the public burdens. Why, sir, there is nothing that is not now agitated in Congress. When the negro ceases to be agitated here then comes the tariff, then come the banks, and that question is to be agitated—an abandonment of the present system of banking—until at this very hour in the country no man knows what is going to stand. The banks do not know whether they dare loan out any money to-day. They do not know but that next month they will be required to call in their credits. It seems to me it is the duty of the Finance Committee to give the country to understand that there is something settled, some one thing settled and fixed.

Mr. FESSENDEN. I suggest to my friend that if he and other gentlemen will stop talking so much and making so many amendments we will settle one thing very soon.

Mr. HENDRICKS. The remark of the Senator does not apply to me at all. I have offered no amendment to this bill, and this is the first time I have occupied the attention of the Senate for four minutes upon it.

Mr. FESSENDEN. I have no particular reference to the honorable Senator.

Mr. HENDRICKS. I think the Senator refers to the gentlemen on his own side of the Chamber. It has not been a controversy between the Senator from Maine and Senators on this side. It has been a controversy among the various interests, and it has been a strife as to what interest can get the better share of this bill. Everybody can see that. An amendment comes from one interest, and then a corresponding or compensating amendment must come from some other interest. It has been a system of exchanges, bargain, equalization; and what there is in the bill now I doubt very much whether the Senator from Maine has a very clear understanding of himself; he had, no doubt, when the bill was reported to the Senate. I think he will find something to do in correcting all the inequalities in this bill if it should be referred to his committee, even if the bill should ever come back again.

For the interests that I represent here all that I ask is equal legislation; that when a man raises some corn or some wheat or cattle or pork in the western States he shall have some fair show in the markets of the world. I do not think this Government was established to take the profits from profitable labor to build up unprofitable labor. It is an absurdity in political economy. If agriculture in this country is naturally, and because of our condition

and position, profitable, and some other pursuit is not profitable, I cannot understand the wisdom of taking the profits from agriculture and handing them over to build up a labor that is not profitable. But, sir, we need a revenue; we need to maintain the credit of the Government; and I think all the eastern interests are sufficiently protected when we have a revenue system adjusted with a view to the maintenance of the public credit.

It seems to me that the condition of the Treasury to-day ought to attract the attention of Senators. There is locked up in the Treasury to-day about ninety-three millions of gold. The tariff already established has brought into the Treasury \$93,000,000 of gold that no demands upon the Treasury will send out again into the channels of trade. With a currency of eight or nine hundred million dollars, nearly one hundred millions, under your present legislation, is locked up.

Now, Senators say we must increase the tariff, because we are going to fail to meet the public obligations. Upon what statement of fact do Senators assume that? The present tariff has been in existence two years. The first year it brought into the Treasury between eighty and ninety million dollars, and during the fiscal year ending on the 30th of June it brought in \$179,000,000, \$90,000,000 more than during that year could be used, and \$40,000,000 more than can be required the next year. And yet Senators say they are justified in the opinion that the present tariff will not meet the demands of the Government.

The Senator from Ohio asked the question, what will be the responsibility upon Congress should we not increase the tariff and should there be a failure to meet the demands upon the Treasury? Mr. President, I would rather meet that result than to have a revenue system that locks up \$93,000,000 of gold in the public Treasury. I would rather see the Government strained to meet her obligations than to see her holding in her coffers one ninth of the currency of the country. We need this gold now; we need the currency now, as I think, to keep up our trade, to keep it well alive, and I cannot vote for any tariff that proposes upon the short and unsatisfactory experiment we have had of the last bill to increase it.

Mr. President, I am in favor of leaving things for a while as they are. I was not in favor of the present banking system; but it is established; it is fixed upon the country; business is being carried on under its influence, and using the currency that it furnishes; and I think it is madness at the present time to disturb it, to agitate it. I cannot agree altogether with many persons in the popular idea that we must rapidly return to a specie currency or a specie basis. I think that has to be done very gradually indeed. As a Democrat, of course I have been accustomed to the doctrine of a specie currency, and that if we have any paper currency it should be a currency that could be redeemed at any time in specie; but we all know that that is not now possible without bringing on a financial crisis; and my judgment is, that we had better for the present leave the laws as they are. I would rather vote to reduce the taxes. When I see such an excess of money above the present demands of the Government brought into the Treasury and locked up and nobody able to tell what to do with it, I would rather reduce than increase. No Senator can to-day tell us what to do with the gold that is in the Treasury. Some talk about authorizing the Secretary to sell it in New York. As soon as he does that he disturbs prices all over the country, and that is not right.

There are a great many inconveniences brought about by hasty legislation. The present condition of the Treasury, I think, is an illustration of it. Take the tax upon whisky. Everybody knows now that it is not only unjust to the interest, but it is a failure with a view to revenue. All over the country everybody believes it was an unjust tax, and therefore men will cheat the Government. We all know that if the tax was one dollar a gallon

we should receive twice as much revenue as we do now; but see the difficulty! If we reduce it to one dollar, or to sixty or seventy cents, as perhaps it ought to be, then all the men in the country who are holding liquors are broken up and an entire interest destroyed, so far as the holders are concerned. I refer to this as an illustration of the difficulty of coming down after we have once raised the taxes to a high standard. We ought to be very careful about doing it. For these reasons I shall vote for the proposition of the Senator from Kentucky.

Mr. BROWN. Mr. President, I think any one who has listened to the debate on this bill will be satisfied that it is not a measure for increasing the public revenue. Whatever may be alleged generally as the opinion of some of the members of the Finance Committee, yet wherever a single item has come up for discussion, wherever any point in the bill has been subjected to criticism, it has been found that the duty laid is a duty for some other purpose and not for revenue. Is the duty on iron or steel laid for revenue?—or wool or coal or nickel? No one pretends it. The salient features of a so-called protective policy has characterized every part of the debate on this whole bill; has been the burden of every speech, the argument of every plea.

Now, sir, the amendment which is pending increasing the duty or putting rather a prohibition on the importation of hemp, might benefit some of the hemp-growers of the State that I represent. It might enable them to charge a higher price for their hemp and require the balance of the community to pay to them the impost thus indirectly levied. But, sir, because it would benefit a portion of my constituents is no reason why I should approve or sustain a species of legislation that I think wrong in principle. I shall therefore not vote even for the amendment increasing duties on hemp.

It would seem to me, sir, as if those who favor protection as a principle might be content to levy their discriminations against this or that class within the limits of a revenue tariff under the extraordinary surroundings which by virtue of internal taxes go to render its duties necessarily high. Under that disguise they might, perhaps, successfully pluck other sections for a number of years to come, and it would be difficult to expose the injustice in such wise as to force its correction by an appeal to the country. But success hitherto has emboldened the rings who find a profit in this species of legislation to clamor for still greater duties, and the result is a still further concession and a still higher tariff. The Finance Committee make a boast that they have had all these interests before them. Sir, we might have imagined that from the bill that has been reported. But they do not tell us that they have had before them any of those who are to pay these bounties on manufactures, or those who protest against this unfair and unequal legislation.

This question as it stands is in very truth a question not so much of protection as it is a question of prohibition. It is to exclude from importation, and thereby to reduce the revenue derived from the tariff; not to increase that revenue by larger collections on imports, thereby to enable us to reduce the taxes on internal productions. If there were no other reason, therefore, I should be compelled to vote against the bill on that ground alone. I think, however, there are a great many other reasons in the case.

I am perfectly familiar with the argument which has been adduced all along, that if you will only give protection to manufactures you will thereby build them up and enable them to reduce the price of these articles which they manufacture; but it is a singular characteristic of this whole scheme as now presented in national legislation that you find to-day all these manufactures, which for twenty years you have been building up, asking higher rates of duty than they did in their infancy. You find

the manufactures that go into all the uses of domestic life, such as the iron manufactures, the wool manufactures, the worsteds and cottons and chemicals, asking higher rates of prohibitory duty than they have ever asked heretofore. If that is to be the result of a continuation of protection, I think the sooner we get rid of the system the better. At all events, I think it is a very conclusive argument, going to show that there is no truth in what is alleged is its general tenor and effect.

I think, sir, that a system of prohibition such as we are asked to enact here to-day is neither more nor less than a legalized plunder. It is a wrongful taking out of the pockets of one man to put in the pockets of another. It is making lawful that which every morality condemns as wrongful. It is statutory theft and pillage. That is my judgment about the whole prohibitory system. We have just emerged, Mr. President, from a long and exciting conflict, in which we have labored to get rid of one system of oppression; we have abolished slavery in so far as it relates to personal bondage; but, sir, in my opinion, the measure now before you in its principle, and to a very large extent in its applications, is neither more nor less than the incipient reestablishment of slavery in another shape. It is a slavery to capital, a servitude which will be just as onerous, just as trying to this nation, and just as productive of evil consequences to the oppressed classes and sections as ever was any other form or type of slavery.

Mr. FESSENDEN. If we get the negro into this bill we are gone.

Mr. BROWN. That may do as a retort; but, sir, if you get the white man into slavery the western farmer paying his tribute to the eastern manufacturer, and continue to clench his fetters and extort from him more and more, as seems to be now proposed, you will not end without violence either.

Now, sir, so far as this tariff bill goes, if you were to make it equal in its advantages or disadvantages to all parts of the country, if you were to equalize all these prohibitions, if you were to give anything like equipoise to the different interests in the community, the only result that you could by possibility have from it would be a general inflation of all your values, and such an inflation as would necessarily exclude all the great producing interests of the country from the markets of the world. Your high prices being altogether comparative would benefit nobody in this country, and yet would make it impossible to ship abroad and compete with grain or produce or manufactures in foreign markets. That would be the sum and substance of your whole prohibitory system, for bear in mind it is prohibitory duties that are clamored for here to-day. That, I think, is substantially the operation of the existing tariff; and the present bill, I think, so far as its duties are higher, will operate still more strongly in the same way with all the producing interests of the country. I think, therefore, that nothing can result from this measure but a more permanent inflation of prices, a reduction of revenue from custom duties, and a still further exclusion of your products from the markets of Europe and Asia.

I do not intend, Mr. President, to make any extended remarks on the details of this bill. I simply rise now to enter a protest, in the name of the constituency that I represent here, against its passage, as being an unjust and wrongful and detrimental act to them, one in which their interests are sacrificed to benefit those whose interests have long been fostered and protected, who do not require it longer, and who have no right to demand it from them if they did. Sir, the people of my State are looking to this Congress with eager eyes, asking strictest economy in the administration of your Government, and the largest possible reduction in the taxation which is now bearing so heavily upon all their business interests. But, on the contrary, what is it proposed to do? To surrender the revenues Government might derive from customs into the hands of certain large moneyed interests as bonus on their pro-

ductions—for that is what prohibition comes to—and by this surrender to preclude the possibility of any important reduction in the internal taxes.

I think, Mr. President, when this bill passes and goes to the country—loaded down with the extortions practiced in the name and behalf of special interests—you will find that its advocates have not rightly calculated the patience of the people.

The PRESIDENT *pro tempore*. The question is upon the motion of the Senator from Kentucky that the bill be recommitted to the Committee on Finance, with the instructions which have been read at the desk, upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. POLAND (when his name was called) said: I desire to state that the Senator from Iowa [Mr. KIRKWOOD] was obliged to go out for a moment, and I agreed to pair off with him on this question. I should have voted against this motion to recommit, and he would have voted in favor of it.

The result was announced—yeas 15, nays 25; as follows:

YEAS—Messrs. Brown, Buckalew, Davis, Doolittle, Grimes, Henderson, Hendricks, Lane, Norton, Patterson, Riddle, Saulsbury, Sumner, Trumbull, and Wilson—15.

NAYS—Messrs. Cattell, Chandler, Conness, Cragin, Cresswell, Dixon, Edmunds, Fessenden, Fogg, Foster, Frelinghuysen, Harris, Howe, Johnson, Morgan, Morrill, Ramsey, Sherman, Sprague, Stewart, Van Winkle, Wade, Willey, Williams, and Yates—25.

ABSENT—Messrs. Anthony, Cowan, Fowler, Guthrie, Howard, Kirkwood, McDougall, Nesmith, Nye, Poland, Pomeroy, and Ross—12.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment moved by the Senator from Kentucky [Mr. DAVIS] to the amendment made as in Committee of the Whole.

The amendment to the amendment was rejected.

Mr. DIXON. I move to amend the amendment on page 80, section eleven, by inserting after line thirty-three the following:

On lenses for stereoscopes, one dollar per dozen pairs, and, in addition thereto, forty per cent. *ad valorem*.

The PRESIDENT *pro tempore* put the question on the amendment to the amendment, and declared that the yeas appeared to have it.

Mr. DIXON. I should like to have a division on that question. I desire to say that that amendment is consented to by the chairman of the Finance Committee, and I believe by all interests.

Mr. FESSENDEN. I did not understand exactly what it was. I do not know but that it is right, but I should like to have a little explanation of it. It strikes me to be rather high. I should like to hear it read again.

The Secretary read the amendment.

Mr. DIXON. It is precisely the same protection, indeed much less protection, than is given to lenses for spectacles. On this same page, commencing at the twenty-seventh line, there is this provision:

On lenses for spectacles, whether of glass or pebble, forty per cent. *ad valorem*; and, in addition thereto, for lenses ground and polished on both sides, two dollars per gross pairs.

This only asks for one dollar, and I will state that there is a large interest engaged in this manufacture which will be entirely destroyed without this protection. We only ask the same protection that is allowed to lenses for spectacles.

Mr. FESSENDEN. That clause reads:

On lenses for spectacles, whether of glass or pebble, forty per cent. *ad valorem*; and, in addition thereto, for lenses ground and polished on both sides, two dollars per gross pair.

I did not understand how the lenses are described in the amendment. Does that say "ground or polished on both sides?"

Mr. DIXON. These are ground and polished on both sides. We only ask one half what is allowed to lenses for spectacles.

Mr. FESSENDEN. Is it so described in the amendment?

Mr. DIXON. I do not recollect.



Mr. FESSENDEN. Let the Senator correct the description.

Mr. DIXON. I ask the Secretary to read the amendment again.

The Secretary read it.

Mr. DIXON. I understand that these lenses require to be ground on both sides. At any rate, there is a great deal of work upon them.

Mr. FESSENDEN. There is a difference. It is fixed at two dollars per gross pairs on lenses for spectacles. This amendment should read "gross pairs," and the description should be changed. If the Senator will make it read, "on lenses for stereoscopes, forty per cent. *ad valorem*, and, in addition thereto, for lenses ground and polished on both sides, one dollar per gross pairs," I will not object to it.

Mr. DIXON. Very well; I ask the Clerk to make that alteration.

The PRESIDENT *pro tempore*. It will be so modified, and the question is on the amendment as modified, which will be read.

The Secretary read as follows:

On lenses for stereoscopes, one dollar per gross pairs, and, in addition thereto, forty per cent. *ad valorem*.

Mr. FESSENDEN. That is not right. It should read:

On lenses for stereoscopes, forty per cent. *ad valorem*, and, in addition thereto, for lenses for stereoscopes ground and polished on both sides, one dollar per gross pairs.

The PRESIDENT *pro tempore*. It will be so modified.

The amendment to the amendment was agreed to.

Mr. GRIMES. I move to amend the bill on page 93, by inserting at the end of section fifteen as a new line the following:

On barley, twenty cents per bushel.

Mr. SHERMAN. The Senator will see that barley is already in.

Mr. GRIMES. I am aware of the condition it is in. On page 89 there is a clause which reads:

On barley, not including pearl or hulled, fifteen cents per bushel.

That was the way the committee reported it to the Senate, but if I am not mistaken it has been amended since it came to the Senate by striking down the duty from fifteen cents to ten cents. How is that, Mr. Secretary? I wish the Secretary to read lines thirteen and fourteen of section fifteen, page 89, as they now stand.

The SECRETARY. These lines as they have been amended read:

On barley, not including pearl or hulled, ten cents per bushel.

Mr. SHERMAN. That is a mistake.

Mr. GRIMES. I agree with the Senator from Ohio that it is a very great mistake to reduce it from fifteen to ten cents, and I think it is a greater mistake still not to raise it from ten cents up to twenty. As I understand it this bill is intended to promote the interests of all sections of the country, the laborer and the agriculturist as well as the manufacturer and the commercial man. It will be observed by reference to the bill that the agriculturist who raises barley if he imports his machinery from abroad, his rakes, his hoes, his reapers, and his plows, must pay thirty-five per cent. *ad valorem* on the value of the articles, and if he makes them himself he must pay the enormous duties that we impose upon iron and steel. But if the Canadian farmer or the farmer in any of the British Provinces who raises the same description of barley, which he sends into the American market to compete with our barley, chooses to come over into Massachusetts or Vermont to procure his agricultural implements, there is a drawback under the bill of the whole amount of duty that has been paid for the iron and steel that enter into the manufacture of those implements. There is therefore just that extent of advantage given to the farmer in the British Provinces who produces barley against the American farmer on this side of the line.

This is an article that is produced to a very considerable extent in the northern States of the Northwest, in the State in which I live, in Illinois, Indiana, Michigan, Minnesota, and

Wisconsin, and I cannot conceive of any possible argument that can be urged against this amendment, unless it be one which might be considered perhaps a very sound one in the mouths of temperance men, that according to the theory of this bill it will so enormously increase the production of barley that it will render malt and beer so cheap that it may have a demoralizing tendency upon the character of our population. That can be the only possible argument I think which the Senator from Maine can urge against raising this duty from ten cents to twenty.

Mr. FESSENDEN. I do not suppose it makes any difference in point of fact whether this duty be ten cents or twenty cents; the effect on the farmer will be the same; but in order to take the argument out of the mouth of the Senator at home in regard to this bill I will make no objection to this amendment. Let him have it fixed at twenty cents, and I hope we shall hear no more about barley.

Mr. WILLIAMS. I presume now that we shall hear no more from the honorable Senator from Iowa as to the selfishness of certain persons who represent particular local interests in trying to incorporate into this bill legislation favorable to their particular interests. I find that the honorable Senator in that respect is very much like other Senators here. When he supposes that any portion of the bill touches the local interests which he represents, he, like others, is anxious to have the protection increased. I simply wish to say that hereafter when this objection is made to propositions of a like nature I shall plead estoppel upon the honorable Senator and claim that if this particular interest, in which he says his State is concerned so deeply, is to be so largely protected, other interests must have a corresponding protection.

So far as I am concerned I object to the increase of this duty upon barley. I think fifteen cents per bushel is as much as can be reasonably demanded. I have heard no complaints that the duty is not sufficiently large; and the article is one that is used extensively in the United States in brewing. There is a vast amount of capital invested in the business of brewing, and there is a market at good prices for all the barley that is raised in the United States. So far as I know there is no necessity, to promote the interests of the farmer, that this tax should be added to the price of barley, and it is absolutely necessary that importations of this article should be made in order to carry on the business of brewing in the country. I object to the increase.

Mr. GRIMES. The Senator does not seem to understand what the bill is as it now stands. This duty instead of being fifteen cents as he seems to suppose is put at ten cents a bushel.

Mr. WILLIAMS. It has been changed without my knowledge or consent.

Mr. GRIMES. The change was made on the motion of the chairman of the Committee on Finance. I trust the Senator from Oregon has relieved his mind on the subject of my selfishness. All I have to say is that I propose to make this bill as little incongruous as possible, even if I do not vote for it; and because I propose to raise up the duty on wheat or barley or some other agricultural product that may be stricken down by the bill to something like an equality with, or to the level of, the protection given to the manufacturing interest, I do not know that I am to be charged with any peculiar selfishness. There is not a bushel of barley that will find its way from the State of Iowa to an eastern market, but this will be for the interest of other agricultural portions of the country where it may be raised.

Mr. SHERMAN. I suggest to the Senator from Iowa that he had better leave this item in the place where it is in the bill, according to its alphabetical order. The committee proposed fifteen cents a bushel; if it is now put at ten cents there must be some mistake.

Mr. GRIMES. Very well; I am content to strike out "ten" and insert "twenty" at that place.

Mr. SHERMAN. It was put at fifteen cents because that is the same rate at which other agricultural productions are put. Barley is cheaper than wheat.

Mr. GRIMES. I am not content with the rate fixed on wheat. I want to raise that also, and I trust I shall have the cooperation of the Senator from Ohio.

Mr. SHERMAN. If really the Senator from Iowa is afraid that the wheat and barley raised in Iowa and Ohio cannot compete with wheat and barley raised in other parts of the world, I am willing to give them the protection he desires.

Mr. GRIMES. I do really think that under this bill, when you give the agriculturist across the line in the British Provinces a drawback upon all that has been expended under the bill for the iron and steel that go into the composition of his agricultural implements we are not capable of competing with the men who have that advantage over us to the extent that they may raise agricultural products. If the Senate will recur to the twenty-first section of this bill they will see that it provides—

That, from and after the 1st day of April, 1867, there shall be allowed on the following articles, when exported, a drawback equal to the amount of duty paid on the imported materials used in the manufacture thereof, less five per cent. on the amount of such drawback, which shall be retained for the use of the United States, and such drawback shall be ascertained in accordance with regulations to be prescribed by the Secretary of the Treasury, namely: on mowing-machines, reaping-machines, plows, axes, hatchets, scythes, cotton-gins, shovels, spades, hoes, hay and manure forks, chisels, augers, and carpenters' tools.

It includes everything they want—the tools with which they erect a house, the tools with which they plow the ground and cultivate their crops. They have that advantage over us, and surely we on this side of the line should have some protection. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DIXON. I should like to hear the amendment read as it now stands.

The SECRETARY. It is proposed in line thirteen of section fifteen, page 89, to strike out "ten" and insert "twenty;" so as to read:

On barley, not including pearl or hulled, twenty cents per bushel.

The question being taken by yeas and nays, resulted—yeas 23, nays 13; as follows:

YEAS—Messrs. Conness, Creswell, Dixon, Edmunds, Fowler, Grimes, Henderson, Hendricks, Howe, Johnson, Kirkwood, Lane, Norton, Ramsey, Riddle, Sherman, Stewart, Sumner, Trumbull, Wade, Willey, Wilson, and Yates—23.

NAYS—Messrs. Brown, Buckalew, Cattell, Cragin, Fogg, Foster, Frelinghuysen, Harris, Morgan, Patterson, Saulsbury, Sprague, and Williams—13.

ABSENT—Messrs. Anthony, Chandler, Cowan, Davis, Doolittle, Fessenden, Guthrie, Howard, McDougall, Morrill, Nesmith, Nye, Poland, Pomeroy, Ross, and Van Winkle—19.

So the amendment to the amendment was agreed to.

Mr. SUMNER. There is one injustice in this bill to which I wish to ask the attention of the Senate; and that I may bring the Senate precisely to the point I shall move on page 85, line twenty-three of section thirteen, to strike out "\$1 50" and insert "fifty cents."

Mr. FESSENDEN. That whole clause has been stricken out and a new one inserted. All the words from line seventeen to line twenty-four have been stricken out.

Mr. SUMNER. Let the Secretary read the clause that has been inserted.

The SECRETARY. On page 84, lines seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, and twenty-four of section thirteen were stricken out, and in lieu thereof these words were inserted:

On candle or cannel coal, and on all bituminous coal, \$1 50 per ton of twenty-eight bushels, eighty pounds to the bushel.

Mr. SUMNER. I wish to bring back the provision to where it was before that amendment. I therefore move to insert what in the original bill is lines twenty-one, twenty-two, twenty-three, and twenty-four, as follows:

On all bituminous coal, mined and imported from any place not more than thirty degrees of longitude east of Washington, fifty cents per ton of twenty-eight bushels, eighty pounds to the bushel.

Mr. JOHNSON. The honorable member will permit me to suggest that his object will be accomplished by refusing to concur in that amendment made in committee; if the amendment be not concurred in, the bill will stand as reported in that respect.

Mr. SUMNER. Do I understand that the question is upon concurrence with the amendment made in committee?

Mr. JOHNSON. It has not been concurred in that I know of.

The PRESIDENT *pro tempore*. The motion of the Senator from Massachusetts, in the opinion of the Chair, is in order: he moves to strike out and insert.

Mr. JOHNSON. I have no doubt of that; I only wanted to save some trouble.

Mr. SUMNER. But there is another way to get at it, according to the suggestion of the Senator from Maryland, and that would be not to concur in that amendment.

The PRESIDENT *pro tempore*. The question does not arise on that identical amendment, because it was an amendment to an amendment. The amendment to be concurred in is all one amendment.

Mr. SUMNER. Then, in order to make the proposition perfectly clear, I simply move now to insert lines twenty-one, twenty-two, twenty-three, and twenty-four of this section as they stand in the printed bill; and if this amendment be adopted, the other clause can be made to conform to it.

The Secretary read the words proposed to be inserted, as follows:

On all bituminous coal, mined and imported from any place not more than thirty degrees of longitude east of Washington, fifty cents per ton of twenty-eight bushels, eighty pounds to the bushel.

Mr. SUMNER. The object of the amendment is to bring the bill back to where it was at first. The Senate will remember that in committee a motion prevailed by which the duty of fifty cents per ton on the coal mentioned was raised to \$1 50. I am at a loss to understand the precise object of this increased tax on coal. There are strong reasons against any tax on coal; and the reasons are stronger still against this increased tax. Its movers must have an object. What is it?

It seems that there are imported into the United States about five hundred thousand tons, being three hundred and fifty thousand tons from the British Provinces and one hundred and fifty thousand tons from Great Britain. And this coal it is proposed to tax at the rate of \$1 50 a ton in gold. If this same amount of importation continued, this tax would yield \$750,000 in gold—a handsome addition to the revenue. But I am sure the tax is not imposed on this account. It is imposed, of course, with some vague hope of benefit to the coal interest. But here, as we look at it, we are mystified. Is it supposed that the price of coal throughout the country will be raised to this extent? The idea is monstrous. There are some twenty-two million tons now produced, which if raised in price according to this tax will cost the country thirty-three million gold dollars in addition to the present price. This might be advantageous to certain proprietors but it would be damaging to the country. Nobody can expect this. The object, then, is something else. I will not say that it is merely to take advantage of the States that do not produce coal, for this would be sheer oppression. I suppose that it must be to exclude foreign coal, and thus open to that extent the market to domestic coal.

But this tax will be positively oppressive to coal purchasers in New England, to say nothing of New York. Nature has denied coal to this region of country, or rather nature has placed the natural supply for this region outside of our political jurisdiction. It is in Nova Scotia, on the other side of our boundary line. Coal in abundance is there, easily accessible by water, and therefore transported comparatively cheap. But there is another part of our country which has a different supply. On the other side of the mountain ridge which

separates the sea-coast from the valleys of the West, is an infinite coal-field, the source of untold wealth, which, beginning in the mountains and filling West Virginia and western Pennsylvania stretches through the valley of the Ohio, enriching the States that border upon it, and then crossing the Mississippi stretches through other States beyond, even to Colorado. This is the greatest coal-field, as it is also the greatest corn-field in the world. It is magnificent beyond comparison. This is the natural resource for the immense region west of the Alleghanies. But why should New England, which has a natural resource comparatively near at home, be compelled at a great sacrifice to drag her coal from these distant supplies? The supplies are bountiful, and we share in the wealth which they contribute to the whole country.

I hear that at Pittsburg people complain of the price of coal when they pay only two dollars a ton currency. But imported coal in New England costs at the mine two dollars a ton in gold. Add to this three or four dollars a ton for freight. And now it is proposed to pile on this duty of more than two dollars currency. If the people of Pittsburg complain of coal at two dollars a ton, what must the people of Boston say when you make it nine dollars? Is this just? Is it practically wise? But I forget, there can be no wisdom without justice.

If it be said that the interests of New England are protected even by the bill before the Senate, I have to say in reply that no interest of hers is protected at the expense of the rest of the country. All that we ask is fair play. Let it be shown that there is any part of the country which will suffer from the favor you accord to New England to the extent that her coal purchasers must suffer from the favor you accord to the distant coal-owners of the mountains, and I will do what I can to see justice done. I ask nothing but that justice which I am always willing to accord. We constitute parts of one country with common interests, and the prosperity of each is bound up in the prosperity of all.

It is said that this proposed tax will be of advantage to the Cumberland coal in the mountains of Maryland. Perhaps; but not to any considerable extent. I understand that not more than sixty thousand tons of Nova Scotia coal are imported in competition with that of Cumberland. This is mainly at Providence, where it is used in the manufacture of iron. But the Cumberland coal is so completely adapted to glass-works, railways, ocean steamships, blacksmiths' forges, that it may be said to command the market exclusively. Nature has given to it this monopoly. Why not be content?

There are peculiar reasons why coal should be cheap, whether viewed as a necessary or as a motive power. As a necessary it enters into the comforts of life. As a motive power it is the substitute for water-power. What reason can you give for a tax on the motive power from coal which is not equally strong for a tax on the motive power from water, unless it be that one is "black" and the other is "white"? But I plead that you shall not needlessly add to the public burden in a particular portion of the country. I have already alluded to the cheapness of coal at Pittsburg. In other places it is cheaper still. At Pomeroy, in Ohio, it is \$1 40 a ton; and at Cumberland itself it is \$1 50 a ton; always in currency. And yet New England is to pay \$1 50 tax in gold, being more than the coal is worth to its producer, besides the large cost of transportation.

Next after the industry of a people is cheap coal as an element of national prosperity. Without it even industry will lose much of its activity and variety. It is coal which has vitalized and quickened all the mighty energies of England. From coal have come all the various products of her manufactories, and these again have furnished the freights for her ships, so that she has become not only a great manufacturing nation, but also a great commercial na-

tion. Coal is the author of all this. Coal is the fuel under the British pot which makes it boil. It ought to do the same for us, and even more if you will let it. Therefore I end as I began: tax coal as little as possible.

Mr. JOHNSON. The amendment suggested by my friend from Massachusetts, if I understand it, is to reinstate in the bill what was stricken out in committee. That is to say, it is to impose a tax upon all coal imported from beyond a certain point of \$1 50, and a tax of only fifty cents on all that shall be imported from this side of that point. I understood the honorable member from Massachusetts to tell us—and he will set me right if I am wrong—that there are about five hundred thousand tons of coal imported.

Mr. SUMNER. So I understand.

Mr. JOHNSON. One hundred and fifty thousand tons of that he says are imported from a point outside of the line which he has designated. The other is imported from this side of that line. If he succeeds in persuading the Senate to reduce the tax determined upon in committee to fifty cents he will reduce the revenue, provided the coal can be imported, some three hundred and seventy-five thousand dollars, so that the honorable member is wrong in supposing that the tax of \$1 50 is not a tax that will bring additional revenue into the Treasury.

Now, I understand the honorable member to say that the proposed tax of \$1 50 upon coal imported from Nova Scotia, which by the line that he proposes to adopt will be included within this side of that line, will be an enormous and an unjust tax upon the poor of New England. He does not propose to take care of the poor anywhere else; he is very willing to leave the tax of \$1 50 upon the coal to be imported from Europe, and he is willing to do that because that coal is not imported into New England; it goes to New York or the ports south of New York, and if the duty on it operates at all to the prejudice of the poor it is to the poor of New York and the poor elsewhere than in New England. So that the very enlarged view that my friend takes of what should be the philanthropy and charity of the Government is confined entirely to the poor of New England.

I do not know that what I am about to state is true, but I rather suspect it is true. A tax of fifty cents is to operate to the benefit of the New England manufacturers as well as the New England man who uses Nova Scotia coal in his own fireplace. To that extent, therefore, New England is benefited to the prejudice of the rest of the country who have to use, if they use imported coal, coal imported at a revenue tax of \$1 50. But New England may be very materially benefited from another consideration. If her citizens own the Nova Scotia mines in whole or in part, as I have heard is the fact, then they are benefited by having the exclusive market for the coal. Then coal sells at any price they may think proper to charge for it less than the price at which Cumberland or any other bituminous coal can be purchased. New England is benefited therefore to the extent that her manufactures are benefited by the cheap fuel, while some of her citizens are also benefited as the owners of the Nova Scotia coal.

Now, sir, I say in great sincerity to the honorable member from Massachusetts that I am as far from desiring to legislate either now or at any time to the prejudice of New England as he himself. I have a very sincere reverence for New England. It is unnecessary to say why. The reasons are to be found in the history of the country, and they are sufficient as I think to challenge for her the admiration and the respect and the gratitude of all the rest of the people of the United States; but while she is seeking to take care of herself she ought to be magnanimous enough to look to the interests of her fellow-citizens elsewhere.

This tariff system—I hope my friend from Maine will indulge me for a moment in saying a word on the general subject—was forced

upon New England by southern votes, but she has availed herself most enterprisingly and most wisely of the system, and she has grown rich (although she protested against it) in consequence of the system. At any rate, she has not grown poorer than her neighbors because of the system; she has gone on to prosper about as rapidly as any of the people of the neighboring States. What has built up the large and valuable manufactories of New England? Were they not brought into existence and are they not now kept in existence by means of a protective tariff? Frequently a tariff protective upon its face and designed to be protective; at other times a tariff incidentally protective because of the revenue derived from the tax itself.

Now, what does she ask us to do in Maryland and New York and elsewhere? We have in Maryland mines inexhaustible in supply, but at a distance from the sea-board of some three hundred miles. We have to get the material to the sea-board to supply the wants of the whole community. Maryland has been obliged to construct a railroad from Baltimore to the mines, and she has almost entirely—for there was very little aid obtained elsewhere in the construction of the canal—constructed the Chesapeake and Ohio canal. The investment in the latter, the Chesapeake and Ohio canal, has never yielded her one dollar, and perhaps never will. The investment in the railroad for years and years did not give her a dollar. It is now becoming a remunerative enterprise. But the coal never could have been brought to market except by means of the railroad, and we are able to get now to the sea-board coal at a price of some four or five dollars. The present toll upon coal on the railroad may be for aught I know too high; but notwithstanding the toll and the expense of taking it to market it can be sold for some five or six dollars in Baltimore, and sold in Boston after awhile for some seven or eight dollars.

Now, why does my friend object to our having the protection which this duty will afford us as against Nova Scotia coal? Why, to put it in another form; do we legislate in reference to a foreign Government territorially? Is such a thing done anywhere by any other Government? "Bring your coal from Europe," says my friend's amendment, "and we will charge you \$1 50; but we choose to protect your territory, your Provinces, and if you will bring it from your territories or your Provinces we will charge you only fifty cents." Suppose the New England people did not own Nova Scotia coal, would they think of discriminating against the proprietors of coal mines in Europe by making them (although the expense of bringing the commodity to market is five or ten times as great as that of bringing the commodity to market from Nova Scotia) pay \$1 50, and only charge the Nova Scotia coal fifty cents? I am satisfied they would not, and such a thing never has been done anywhere.

The only reason that can be assigned for describing the line as the honorable member's amendment does is because it includes the Nova Scotia mines, in which many of his constituents are interested as owners. I have every reason to believe that the honorable member will not contradict me in that particular; and the rest of them who are not interested as owners are interested as the owners of the factories.

Then, Mr. President, if he is right in his statistics, if you reduce the tax from \$1 50 to fifty cents you lessen the revenue between three and four hundred thousand dollars, and while you are lessening the revenue to the amount of three or four hundred thousand dollars you are striking a blow more or less serious upon the domestic interests of our own country.

Mr. SUMNER. I moved the amendment as I did when informed, as I was for the first time after I rose, that the clause which I moved to insert had been stricken out. I had been told by a member of the committee that the second clause had been preserved, and

therefore had I simply moved, as I proposed, to substitute "fifty cents" for "\$1 50" in that clause, I should have accomplished all my purpose. Understanding, however, that the clause itself was stricken out, I then, in order to bring the question before the Senate, moved to restore the clause; but I think I can bring the question still more closely to the Senate, and as that amendment is entirely within my own power I shall withdraw it, and move to substitute in the clause which has been adopted by the Senate "fifty cents" for "\$1 50," so that the tax on all imported coal shall be fifty cents.

Mr. JOHNSON. That will reduce the revenue a great deal more.

Mr. SUMNER. No, I think very likely it would increase the revenue. I do not go, however, into that calculation. I have not the details. I have not the statistics. By that change in my amendment I meet precisely three quarters of the speech of the Senator from Maryland; I eliminate all that he has said with regard to coal imported from Great Britain and the partialities that I am supposed to show for New England in comparison with New York. I make the proposition general: I ask that all imported coal shall come in at fifty cents a ton; in other words, that the proposed tax shall be reduced from \$1 50 to fifty cents.

Mr. FESSENDEN. Allow me to say to the honorable Senator from Massachusetts that I think he will hardly be so likely to accomplish his object by doing that as he would by his first proposition. I shall feel bound, as chairman of the committee reporting the bill and reporting the conclusion of the committee, to vote against the motion myself, although I should desire to have a fifty-cent duty on Nova Scotia coal, and I think it is enough and would not interfere with anybody; but if the Senator makes his amendment general, so as to put me in the situation of voting against the conclusion the committee came to, I shall be obliged to separate from him on this question.

Mr. SHERMAN. I simply rise to express the hope that the friends of this bill will not give the enemies of it the right to make the allegation that my honorable friend from Missouri did awhile ago, that when we come to an article that yields us a handsome revenue we throw that away and abandon the idea of protection. There are four or five articles in the tariff list on which we propose to throw off revenue, and one of these is the article of coal. We now get a duty of \$1 25 per ton, and the Senator from Massachusetts says we imported five hundred thousand tons last year. He states it too strongly, I think.

Mr. SUMNER. I am so informed.

Mr. SHERMAN. Taking it at his own measurement, then, the Senator proposes that we should surrender \$625,000; or, if we reduce the duty to fifty cents, \$375,000. If we do that on the article of coal, and then on the article of scrap iron throw off about one hundred thousand dollars, and go on in that way with regard to various articles which are consumed wholly in the East, along the coast, we shall subject this tariff bill to the very objections already made against it by western Senators.

I preferred to keep the duty on coal at \$1 25, but in voting for the proposition of the Senator from Maryland to fix it at \$1 50 my motive was simply to secure the revenue derived from the article. The United States possess more coal than is possessed in all the continent of America besides. The United States contain more coal than is contained in all Europe, and our coal is finer than any in the world, our anthracite being unsurpassed anywhere. If, therefore, there is any article that ought not to be imported into this country it is the article of coal, because we have the raw article in unbounded extent, it is quarried out by our own miners, thus giving employment to a class of hardy and adventurous laborers; we employ in its transportation our own railroads and canals, thus supplying our internal im-

provements; and our ships carry every ton of coal that is transported along the sea-coast from one port of the country to another; so that every item in the price of coal in Boston is American labor; and hence if there is any article to which the doctrine of protection ought to apply it is coal.

Now, you propose to surrender the revenue derived from coal under the tariff, upon the principle that cheap coal would be advantageous to New England. Then you surrender the whole argument. If it is important to have cheap coal in New England, is it not important to us in Ohio to have cheap iron? Is it not important to us to have cheap cloth? Is it not important to us to clothe all the poor people with the coarse jeans that are necessary for their comfort? Is it not necessary to reduce the price of the commodities which enter into our consumption? Are not food and clothing and all those articles which we purchase as important to us as coal is to New England?

I think Senators ought to apply the principle logically. I believe I have not in any case voted to reduce the duty on any article that now yields a revenue, and I think I shall not do so. I consented originally, at the urgent request of several others, to waive it on coal to a certain extent; but, on consideration, I think that if we waive it on so important an article of revenue as coal, we shall subject this bill to the criticism that has already been very forcibly made against it, and we shall probably lead to its defeat, because we cannot surrender the revenue derived from these various sources without endangering the passage of the bill; and certainly the revenue consideration is the only reason I have for supporting the measure.

I shall vote, therefore, for a reasonable duty on coal. Now, a duty of \$1 25 a ton, although it appears to be high, is only about thirty per cent., and therefore a less rate of duty than is imposed on many other articles. The value of Cumberland coal in the mountains, I suppose, is not more than two dollars a ton; but when brought to market at Baltimore it is worth five or six dollars, I presume, so that a duty of \$1 25 is only about twenty-five per cent. on the article in the market. It is at the lowest revenue rate. It seems to me that to throw off this duty or to reduce it to fifty cents a ton, which is only ten per cent. on the market value, when the article yields \$625,000 according to the Senator from Massachusetts, is going too far.

Mr. SUMNER. I am obliged to the Senator from Ohio for the speech he has interpolated into the remarks I was making.

Mr. SHERMAN. I thought the Senator was through.

Mr. SUMNER. I am obliged to the Senator. I always listen to him with pleasure. He knows that. He has certainly shed light on the discussion now. But he will allow me to call him back to the precise point. The Senator says we should lose a revenue. Are we not now disposed to reduce the taxation of the country? Is not that an urgent need? Is not that a call that we have from all quarters? You have listened to-day to a proposition from the Senator from Kentucky to instruct the committee to reduce the taxation \$100,000,000. Now, without following the Senator from Kentucky in that proposition, I do insist that, where we can, on articles of prime necessity, we should reduce taxation. Therefore when the Senator from Ohio tells me that if my proposition is adopted we shall lose a certain amount of revenue derived from coal, I have an easy reply. Very well, let us lose that amount of revenue derived from coal; you ought not to obtain it; coal ought not to be one of your taxed articles. So far as possible coal should be cheap. That is the proposition with which I began and ended; and if I do not impress that upon the Senate I certainly fail in what I attempted.

Mr. GRIMES. Why should it be cheap?

Mr. SUMNER. Because it enters into the necessities of life, and because it is a motive power that works our manufactories.



Mr. GRIMES. Will the Senator from Massachusetts allow me to inquire how much of this Pictou coal is used for any other purpose than manufacturing purposes and for making gas? Is it ever used at all for fuel?

Mr. SUMNER. I think it is.

Mr. CRESWELL. The Senator from Maine [Mr. FESSENDEN] the other day based his entire argument on the supposition that Cumberland coal could not come in competition with Pictou coal, for the reason that the latter was used exclusively for gas and the other was not fitted for that use. Now, sir, let us have the argument in some shape consistent.

Mr. SUMNER. Very well, I give you the argument in the shape in which I use it. I say that the article is necessary to us in New England. It enters into our daily life; it enters into the economies of every house; it enters into the expenses of every citizen. It enters, therefore, into the welfare of the community, and you cannot tax that coal without making the whole community feel it, whether rich or poor. Every poor man feels it. If I said the rich man felt it, you would reply, "That makes no difference, let him feel it." I insist that every poor man feels it, and I insist still further that all who are interested in the manufactures, of the country necessarily feel it, not only the producers and the owners of the manufactories but all who use the products of their looms. I say that as a motive power it ought to be made cheap and to be kept cheap. Now the policy seems to be to make it dear and keep it dear.

Mr. HENDRICKS. Will the Senator allow me to ask him one question?

Mr. SUMNER. Certainly.

Mr. HENDRICKS. I like the Senator's argument just where he is now; but I wish to ask him whether, if by a tariff you raise the price of every yard of cheap woolen goods and cheap cotton goods, it is not a direct tax on the labor of the poor man of the West who has to buy them?

Mr. CRESWELL, [to Mr. SUMNER.] That is the application of your argument.

Mr. SUMNER. The Senator from Maryland says that is the application of my argument. Pardon me, not at all; because the tax that is imposed on cotton and on woolen goods, though on that I say nothing—I have had very little to do with imposing any such tax—is not oppressive on any part of the country, it does not bear hard on the constituents of the Senator nor on the constituents of any Senator on this floor, whereas the proposition now under consideration, the increase of the tax on coal, will bear hard upon a whole community and upon all its interests; and that is the precise difference between the two cases.

The Senator from Ohio seemed to speak of this with perfect tranquility, as if there was nothing in it oppressive or even open to criticism. He thought we might tax coal as we tax any other article. I differ from him on that proposition. I do not think you should tax coal as you tax other articles, and I further do not think you should impose any tax which bears with special hardship, so as to be something akin to injustice, on any particular part of our country. That is my answer to the arguments that have been put forth by the Senator from Maryland and to the inquiry of the Senator from Indiana. And now I come back—

Mr. FOWLER. I should like to ask the Senator from Massachusetts if there is any difference in the uses made of the coal which is brought from beyond the thirtieth degree of longitude and that which is brought from within that degree?

Mr. SUMNER. I am not aware that there is any difference. I think that the two coals are very much alike.

Mr. FOWLER. Do I understand the proposition to be to put all down to fifty cents?

Mr. SUMNER. I am coming to that now. When the Senator interrupted me I said that I would now ask attention to the form of the proposition. When I made my motion a little while ago I moved to restore a certain clause

which had been struck out. The Senator from Maryland [Mr. JOHNSON] objected to that on the ground of the discrimination it would introduce between what we will call Nova Scotia coal and British coal. To meet that argument, and at the suggestion of those who were interested in the question, I proposed to modify my amendment. I should prefer the amendment in the modified form, as I should prefer to have all coals as cheap as possible; but the Senator from Maine, who is chairman of the Committee on Finance, having the subject specially in charge, objects to that proposition. He says that it cannot have his support; he does not think so favorably of it as of the proposition that I first presented. I shall, therefore, without hesitation, go back to the proposition I first presented, for I wish to unite upon it as many votes as possible. I do not wish by broadening it to throw off any support which it might naturally have. I therefore shall renew that proposition and shall leave open the question after the Senate has acted upon that proposition, what shall be done with coals coming from east of the line of thirty degrees of longitude.

And now one word as to the discrimination between those two coals. I understand that we derive that from what I may call the traditional policy of the country for ten or fifteen years certainly, beginning with the reciprocity treaty. By the reciprocity treaty the other coal came in free, and it was then arranged that the English coal should be taxed \$1 50. If that tax should be left in the bill we should only continue the traditional policy of the Government. What I desire now is to have a vote of the Senate with regard to what we will call the Nova Scotia coal; the coal trade with the British Provinces which is this side of the line of thirty degrees of longitude, east of Washington, and therefore I will move to restore the clause that was stricken out on page 85, being lines twenty-one, twenty-two, twenty-three, and twenty-four, the effect of which will be that all coal from any place not more than thirty degrees of longitude east of Washington will come in at fifty cents a ton duty.

Mr. CRAGIN. When this question was before the Senate a day or two since on the motion of the Senator from Maryland, [Mr. JOHNSON,] I voted for the amendment to place the duty upon this coal at \$1 50, the same duty as that provided in the bill for coals from Europe. For one I could see no good reason why coal coming from New Brunswick or Nova Scotia should pay a less duty than coal coming from Great Britain of the same description and precisely alike. Being the only Senator in this Chamber from New England, I believe, who voted for that amendment, I desire to make this statement. I yield to no man on this floor in my love for New England or my desire to promote her substantial interests; but I remember that there is an impression abroad in this country that the people are greatly taxed for support of New England interests and New England manufactures; and as a New England man I do not believe that it is for our interest as a whole that we should single out one article, like this coal coming from Nova Scotia, and make a difference in favor of that section of country. As a man interested in New England and its prosperity I believe such legislation is injurious to our interests.

I agree that coal is an essential article for manufacturing purposes and for fuel, and I should be glad if it could be furnished cheap to all the people of this country; but our necessities require that certain taxes should be raised; and if it is the policy to tax coal coming from beyond thirty degrees of longitude east of Washington \$1 50 a ton, then I shall adhere to my vote on the amendment of the Senator from Maryland and vote to place the coals of New Brunswick and Nova Scotia in precisely the same category.

My impression, Mr. President, is that the owners of the coal mines in Nova Scotia are more interested in this proposition than the consumers of that coal. I am not aware that

my constituents to any considerable extent have any interest in these mines in Nova Scotia; but I know that there are gentlemen in Massachusetts who are interested in these mines, and who have already made large fortunes out of the working of these mines and the sale of the products. Sir, I am in favor so far as possible of equal legislation upon this subject, not class legislation, not legislating specially for any one interest, but for the whole country; and let us not make any discrimination in this direction. I believe that New England's interests will be safe if we are judicious and prudent in our legislation; but if we attempt to grasp too much, if we seek to confirm this impression, which I think is not correct, that our interests are being provided for unduly, we may in the end lose. Therefore, I think that in my vote the other day and the one I shall cast to-day I vote for the substantial interests of New England.

Mr. CRESWELL. This question was so fully discussed the other day that I do not deem it necessary to enter into any complicated investigation of the figures as applicable to the amount of importations and the amount of revenue. It is sufficient, I think, to say, as the Senator from Ohio said in reply to the Senator from Massachusetts, that the proposition cannot certainly in any light be regarded as a measure for revenue, because by the admission made by the Senator from Massachusetts, there being an importation of five hundred thousand tons, under the present rate of duty the amount derived would be \$625,000. Now, sir, one of two things is true: either the gentleman expects that the revenue will be diminished, or else he expects that the importation will be greatly increased. Take either horn of the dilemma and he must abandon one or the other of the arguments which he makes, because in the first place he must no longer contend that it is with a view to revenue, or in the next place he must cease to insist upon the bill remaining as he designs it shall because of the small amount of importations into New England when the very expectation entertained is that the importation shall be increased four or five fold. It fell with great pertinency from the Senator from New Hampshire when he said just now that this controversy was not as between the consumer and producer, but between different producers, and any gentleman who will review the history of this measure cannot but be led conclusively to that opinion.

This measure started in the other House in the custody of this Nova Scotia interest; and the fact is that they were not content merely to insist that coal should be imported from a line west of the thirtieth meridian at a low duty, but in order to increase their profits they actually increased the rate of duty upon coal to be imported from any port east of that meridian. Who asked for that increase? Was it the coal interest of Maryland or the coal interest of West Virginia or the coal interest of Pennsylvania? Was it any coal interest in this country? No, sir; that addition was made to this tariff, started in the other House, in the interest of these Nova Scotia operators and with a view to give them an opportunity to charge an additional price for the coal they might import into New England.

How was it when the bill came to this House with the provision making the distinction by a geographical line stricken out and with a rate of duty on this article the same that we now ask for, namely, \$1 50 a ton? This same interest went before the Finance Committee, and they were not content there to have the duty remain as the entire coal interest of this country was content it should be, at \$1 25 a ton; but in order to increase their profits, in order to give them an opportunity to charge an enhanced price in the ports of New England, they again interpolated the same clause into the bill, and provided that there should be an increase in the rate of duty charged upon coals coming from any point east of the thirtieth meridian of longitude.

Are there any petitions before this body, or were there any before the other House, asking that Nova Scotia coal shall be imported free of duty for the reason that the consumers are affected? I ask if there has been before the Finance Committee of either House of Congress one solitary man in the interest of the consumer asking that this Nova Scotia coal shall be admitted free of duty, or at the low rate proposed? If so, I wish some member of the committee would inform me of the fact. I have not heard a word of that kind. It is only when gentlemen find themselves driven to the wall that they change their ground.

The distinguished Senator from Massachusetts has treated us to a free-trade speech in the Senate of the United States. The commentary of the Senator from Indiana was just and correct; it was a deduction that he had a right logically to make; and I tell the Senator from Massachusetts that his course in the Senate to-day is in its effects a better free-trade speech than has ever been made in any of the middle States during the last ten years. "Cheap coal" is the Senator's cry. Why not "cheap woolen goods?" Why not "cheap cotton goods?" I have in my hand a statement showing the advance made in this tariff bill upon cotton goods, the rate of duty being from fifty-four to thirty-nine per cent. upon everything; and yet they cannot allow us a duty of \$1 25 on coal because they use it in their manufactures! And that is the whole story.

Sir, I have honored New England; I have looked to New England, during at least portions of my life, for lessons upon political economy; but I wish to tell the Senator from Massachusetts that if I am to regard his teachings logically I shall no longer look to him for any lessons on that subject. I must abandon him, because his position neither he nor any living man can maintain before the people of this country. If this is to be the course of New England, if this is to be the system she is to give us, dear upon everything that we consume, cheap upon everything that we produce and she consumes; if this is to be her teaching, the Senator has satisfied me and every man in the coal-producing regions that New England manufactures shall also be cheap, or else that they shall not compete with foreign manufactures. That is the whole case.

The question then is, shall the home producer of coal be protected, or shall these gentlemen speculators—I do not use the word in any offensive sense, for I know that pretty much everybody is anxious to make all that he can out of his money—shall these operators who have left New England, carried their capital into Nova Scotia, invested it upon such terms as they deemed profitable when the reciprocity treaty was in force, produce the coal? Or shall the men who remained at home in our own country with their capital, subject to all the taxation which it is necessary now to impose with a view to protect the credit and interests of this Government, have the benefit of this protection? If our policy is to be to take coal from the foreign producer let us vote down this bill; all the time we are expending on it is futile, and the only question we should consider is the question of revenue, and there is the end of the whole matter; and if it is not free trade, it is to be tariff only for the sake of revenue; no discrimination for protection.

Sir, I am not jealous of New England. I have no disposition in any way to restrict any industrial interest in New England. On the contrary, it has been the study of my life, so far as I have been able to carry it into effect, to promote the interests of New England and every other industrial interest in the country. Upon that position I stand to-day, and upon that position I consider that my argument is the only consistent and the only proper one.

I made a remark the other day to which I did not intend to allude again in regard to the operation of the reciprocity treaty and the purposes for which it was made, but the Senator from Maine took exception to it and said

he was here in the Senate at the time that treaty was made, and that he perhaps understood all about the treaty and the purposes for which it was made as well as any gentleman who was then in the Senate. I do not doubt it.

Mr. FESSENDEN. I did not say any such thing; I beg pardon of my honorable friend. He quoted from the present chairman of the Committee of Ways and Means of the House something that he had said about the motives which led to the adoption of the reciprocity treaty. I said that I was a member of the Senate at that time, and he was not a member of the House then; and I thought I knew as much of the motives that influenced the adoption of that treaty as he did. I did not say "as much as any member of the Senate."

Mr. CRESWELL. Then my remark was a little too general; and in order to bring it within the scope of what the gentleman intended, I will say that he knew as much about it as the chairman of the Committee of Ways and Means of the House.

Mr. FESSENDEN. Of the considerations which led to its adoption.

Mr. CRESWELL. That brings the issue up still more sharply, and it comes up between the Senator and the authority I am about to read, and he must settle it with his New England brother. As everybody knows, Mr. MORRILL, of the other House, has given this subject a vast deal of labor and study, and everybody is disposed to pay deference and respect to his judgment and opinion on all subjects of this kind. On the 6th of March, 1866, in debate upon a bill which he introduced with a view to restore some of the features of the reciprocity treaty which had before that time been discontinued, he said:

"When the reciprocity treaty was made a low tariff prevailed in Canada, and England only eight years previously had adopted the doctrine of free trade. Great expectations were held out by the negotiator, Lord Elgin, feeding the not unwilling hopes of our people, of an increased demand for American manufactures; but suddenly the Canadas adopted the principles of protection and largely increased their tariff on manufactures. The imperial Government did not veto these acts, and these great expectations were nipped in the bud. The United States never expecting to find in the Provinces a market for the productions of its agriculture, nor of its mines, forests, or fisheries, at once found their manufactures also practically excluded. But now, making no complaint, we yet tender a law conceding certain privileges. If this shall not be met by a corresponding liberality, sufficiently indicated in the conditions embodied in the bill, we have the right, and it will be our duty, to change the terms of the present bill for such as will be most advantageous to us, regardless of the interests of others."

Now, when the reciprocity treaty has been disposed of, and when the little benefit that could be derived from it in other shapes has been taken away from our people, we are to have restored and fastened upon us that feature of it which was to us the most objectionable, namely, the point wherein they brought their coals directly in competition with ours and with our great and all-absorbing branch of industry.

The Senator says reduce taxation as much as possible. So say I; but are we reducing taxation? The point, as I understand it, and the very turning point of this whole struggle, depends upon the fact of our raising sufficient means to maintain our credit for the payment of our debt, and sustaining such a policy as will enable us properly to diminish our currency until we can come down to a gold standard, and then prices will be reduced and the spirit of speculation will be in some manner checked. I am rather old-fashioned in my notions in regard to currency; but I still entertain the notion that a gold and silver coin basis is best and the one to which we must ultimately return. Our struggle is to get back to that as gradually as possible and with the least possible injury to the various interests of the country.

But, sir, I have spoken longer than I intended when I rose; and I apologize to the Senate for having occupied so much time.

Mr. WILSON. The Senator from Maryland said, and I thought he said it in a manner as though some of us were concerned in it, that

if certain views were to prevail here we had better vote the bill down. I wish simply to say to the Senator from Maryland that I shall have no regrets if the bill should be voted down. If anybody in Massachusetts believes that this great tax upon coal, upon iron, upon steel, and upon wool is to be compensated by anything in this bill, he is mistaken. It is not a Massachusetts measure; and in my judgment it is more against her than for her; and if I vote for the bill—

Mr. CRESWELL. The general principle of the tariff is usually supposed to be a Massachusetts measure, and if this tariff does not suit Massachusetts it is only because the old tariff suits her better. My argument went to the whole tariff system. If the argument of the gentleman from Massachusetts—and I beg the Senator's pardon for interrupting him—prevails, it applies equally and as forcibly against all tariffs as against this tariff.

Mr. SUMNER. Oh, no.

Mr. CRESWELL. I think it does.

Mr. SUMNER. Oh, no.

Mr. CRESWELL. Well, I will maintain it anyhow.

Mr. WILSON. Mr. President, I do not enter into that controversy. I am speaking of this tariff, the measure before us; and I say that Massachusetts does not demand it, and in my judgment there is nothing in the bill to compensate her for this increased duty upon coal, upon iron, upon steel, and upon wool. You increase the duties upon these articles that enter into our manufacture and our mechanic arts in their various forms. I see what the contest is to be in the future. It will be pretty hard lowering the duties on iron, on steel, or on wool; but the war upon textile fabrics and upon the various productions of the mechanic arts in our part of the country will go on; it will be made upon every stump in the country against us; and while the benefits of this measure are to go to others, the reproaches are to be heaped upon us; and that is about all we shall get of it.

You cannot smuggle iron, nor steel, nor wool into the country, but you can smuggle articles similar to the products of our manufactures and of our various mechanic arts to a great extent if the duties be very high. There is a good deal of smuggling now, and after the passage of this bill there will probably be more. Now, I want gentlemen here to take the full responsibilities of this measure upon themselves. I protest against this talk here in the Senate or in the country, in the press or before the people, that this bill before us or the bill passed by the House of Representatives at the last session is demanded by the people I represent, or is to promote their interests. If I had my way to-day I would prefer, for our interests, to stand upon the laws as they now are.

There is one interest of ours, and but one interest alone, that I see is to be promoted to any considerable extent by this bill, and that is the worsted interest. That interest grew up under the reciprocity treaty, the wools being imported chiefly and mainly from Canada, and when that treaty went down, the eight or ten million dollars invested in that product was imperiled. The persons who made those investments have lost hundreds of thousands and probably millions of dollars. This tariff will be a benefit to them; but as regards the varied mechanical interests, the vast interests of my section of the country, I see nothing in this measure, and I have no anxiety about it. What I protest against is, that anybody here or elsewhere shall name it or consider it as a measure called for by the State of Massachusetts. We have various mechanic shops into which iron and steel enter to a great extent. Our people are largely engaged in railroads in our own section, in the West, and everywhere else in this country. Our people are interested in railroads all over the West, and largely in the central and southern States. What are we to gain by this great increase of duty on iron or on steel? And taking the next

half a dozen or ten years before us, I do not see that the cotton manufacturers are to gain by this great advance of duty on wool.

Sir, if I vote for this measure, I shall vote for it on grounds general to the country, without expecting any special benefit for my own section. I have noticed that nearly all the votes that have been taken have a squinting to crowd us very hard in this matter; and I see very plainly from what has been said here that when this measure is passed, if it be passed at all, the responsibility for it and the war upon it is to be made upon us and upon the productions of our manufactories and machine-shops and the various mechanic arts.

Mr. HENDRICKS. I move that the Senate adjourn.

Mr. FESSENDEN. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 11, nays 19; as follows:

YEAS—Messrs. Brown, Creswell, Davis, Fowler, Hendricks, Howard, Johnson, Patterson, Sumner, Van Winkle, and Yates—11.

NAYS—Messrs. Buckalew, Cattell, Chandler, Conness, Cragin, Edmunds, Fessenden, Fogg, Foster, Frelinghuysen, Grimes, Howe, Morgan, Morrill, Sprague, Stewart, Wade, Willey, and Wilson—19.

ABSENT—Messrs. Anthony, Cowan, Dixon, Doolittle, Guthrie, Harris, Henderson, Kirkwood, Lane, McDougall, Nesmith, Norton, Nye, Poland, Pomerooy, Ramsey, Riddle, Ross, Saulsbury, Sherman, Trumbull, and Williams—22.

So the Senate refused to adjourn.

Mr. SPRAGUE. I should have contented myself with giving my vote in favor of the amendment proposed by the Senator from Massachusetts had not the debate gone to a considerable length and covered a good deal of ground. I sympathize with the ideas of the Senator from Massachusetts, but I desire to take a ground that he has not ventured upon, and that is, that this increase of duties is of no advantage whatever to the mineral regions of the respective States that are desirous to have this increase of duty. I know something about the mineral region of Maryland, and also of the mineral region of Pennsylvania; and I know that under the present system there is hardly a mine in that whole region that is not connected with a great railroad interest that can pay a dollar. With all the prospectuses and all the advertisements of mines that are brought to the attention of capitalists there is not one, in my judgment, that possesses sufficient remunerative prospects to enable them to invest in that description of property. The fact is, that the whole country, other than those engaged in the railroad interests in these particular localities, pay a tribute to the railroad interests. Why, sir, I know that during the war, one or two gentlemen controlling the railroad interests of Pennsylvania, and having also an interest in the mines, were able to absorb many millions of dollars when the coal was at eight or ten or twelve dollars per ton.

Now, sir, that system is no advantage to anybody. As for the great States of Maryland and Pennsylvania, thinking to obtain advantages growing out of building up a great railroad system whose owners are foreigners to them, as I know the fact to be, it is most suicidal to their interests and unprofitable in every respect.

Sir, New England will very soon get out of the difficulties that are placed upon her in this respect. By a recent improvement in mechanics she has discovered that one ton of coal will produce the power which has heretofore been obtained out of two tons of coal. She has also discovered another important fact in the matter of fuel, and it is a fact that should receive the attentive consideration of the gentlemen who are advocating this protective tariff upon coal. She has within her own territory a fuel which she is developing, which will soon make her independent of both Pennsylvania and Maryland in this respect. Why then drive this thing to these extremities? You will certainly destroy your own interests, and you are promoting nobody's interest except the interest that I speak of, and that is the railroad interest, and the rail-

roads are not owned by your own people. They are concentrated in the hands of the great capitalists of the country, and the people who consume this article pay them tribute.

Sir, it seems to me that there should be reason in all things, that there should be some sort of consideration of the exact condition of this article. There is hardly a mine disconnected from the railroad interests that can get over seventy-five cents per ton for coal delivered into the railroad car. Not more than a year or two ago I visited the district in western Pennsylvania which has for its center the Cumberland coal region. They could deliver coal into the cars at a particular point at seventy-five cents per ton, and it cost six dollars per ton for railroad freighting. Look at that! The coal interest is not prosperous, because these people have a monopoly of that territory, and because they put these restrictions upon the development of the country and particularly of the State that the gentleman [Mr. CRESWELL] has so much at heart and so ably represents. It really does nobody any good except those connected with this railroad interest, who are owners in both railroad and coal mines, and no territory can be developed unless it is owned by them.

Mr. President, I should have contented myself with simply giving a vote in the affirmative on the question brought up by the Senator from Massachusetts had not the debate covered the ground that I spoke of, and was it not as clear to me as it is possible for anything to be that the market for the gentleman's coal, if this high duty be imposed, will be somewhere else than where it now is, in New England.

Mr. CRESWELL. As the gentleman speaks of the restricted policy of Maryland, I will avail myself of this opportunity to give him and all other capitalists like him an invitation to come down and invest in our lands and mines of all sorts. We shall give him a most cordial welcome and be delighted to see him.

Mr. SPRAGUE. But we cannot do it. No capitalists in this country can go into Maryland with the restrictions put upon them by the Baltimore and Ohio Railroad Company. It is an impossible condition of things. You cannot develop another mine disconnected from that railroad. Now, the gentleman is playing into the hands of this great railroad interest and to the prejudice of his State; and so are the gentlemen from Pennsylvania. There is not a coal mine that can be developed at present disconnected with the owners of the great systems of railroads who own coal lands. Nobody is benefited by such a condition of things. These States are not benefited. The coal lands are not being developed. I know of these things. I have had experience of them. I know who gets the money. It is not the people of these States.

Mr. CONNESS. It is rather a late hour to inflict even a short speech on the Senate, and I shall confine myself to a very few remarks.

Mr. President, I was more interested in listening to the brief speech of the honorable Senator from Massachusetts [Mr. WILSON] than to any other that has been made to-day. It was a very singular speech, to my mind, for a Senator from Massachusetts to make. I have not the language before me, but the substance of it was this, as I understood it: "This is not a Massachusetts tariff. It does not stop with the protection of the products of the laborers of Massachusetts, but it goes further and protects coal and wool and iron and steel and a few other articles. There is something exceedingly scandalous in a high tariff. Whoever votes for or supports a high tariff must expect to be abused, because it is something that should not be done. Since you do not confine this tariff to the support of Massachusetts interests, but go outside of them and make a tariff to protect interests outside of Massachusetts, we of Massachusetts wash our hands of the whole matter; we take no further responsibility. You have stopped giving us all the profits of a tariff; you now begin to divide them with others, and those others must take

the odium: we will not bear it all." So I understand the honorable Senator in effect to have spoken.

The honorable Senator will excuse me for saying that that was not a speech for a Senator from Massachusetts to make at this time. Massachusetts has arrived at her distinction as a manufacturing State because of tariff; because they gave the necessary protection against the cheaper labor of Europe and other portions of the earth, and enabled the mechanics of Massachusetts, paid better and higher wages for their labor than those of England or France or Germany, to produce articles and find a market for them at home against the product of foreign labor. It was laws for this purpose that made Massachusetts what she is, preëminent now in the product of nearly all the articles for which skilled labor in this country is so remarkable in the production of. But when she attains that position, if you extend to others the same kind of protection that she has had, and that she yet wants, and that she can still profit by, we are told "we wash our hands of it; we have nothing to do with it; your iron and your steel and your coal and your wool-producers must take the scandal of the attacks that are made, for it is a kind of scandalous business at any rate!"

Mr. President, I do not know that it ought to be considered that protecting American industry is a scandalous business. The people of the State that I in part represent pay more to the manufacturers of Massachusetts and the East, in proportion to their numbers, than the people of any other State in the Union, by reason of extravagant habits contracted during a period of gold production for fifteen or eighteen years last past. Our people probably buy more to each inhabitant than any other State in the Union. They produce less in the shape of manufactured articles. They buy more in proportion to what they consume; and they buy it where? Abroad? Not at all. They would like undoubtedly to buy in the cheapest market; but the wise legislators from Massachusetts and the other States of the Union—I say wise, I believe they were wise who so legislated as to encourage the production of articles necessary to man for many years past—made such a home market and have protected it so well that our people buy in it, and they pay their money and they pay their profits to eastern labor and eastern capital for what they consume.

Sir, if California and I, as one of her Senators here, were to consider what might be called the immediate interests of the people of that State I should vote against all tariffs and vote to import our goods from England, from Germany, from France, from Italy, or wherever they produce anything, getting those articles that we require from the cheapest market. But, sir, we believe that that is not good national policy. We believe that we as a nation attain a better and more leading position in the world by building up in our own country such industries as have made Massachusetts, Vermont, and New Hampshire the great workshops that they are; and we want to get into our own midst those very manufactures by which they have grown rich and opulent and powerful; and there is no way for us to get them but by favoring the passage of such laws as will encourage capital in engaging in those various industries.

But the Senator from Massachusetts concedes the whole argument by admitting that strokes are to be given and received because we support the doctrine of protection. I do not concede it, and I am less interested in maintaining it than the Senator from Massachusetts. I am prepared, in my humble way, to defend the votes that I give here as given for the benefit of the entire country, Massachusetts included, Maryland with her coal included, New England and Ohio and California with their wool included, and Pennsylvania with her iron and steel included. And who is it that will attack us because that protection is given? Those



who prefer foreign markets to domestic markets; those who prefer to buy of the Englishman or the Frenchman or the German when they can buy in their own country articles better adapted to them merely because they are at a little higher price here.

Mr. President, I vote thus because I believe the more we make at home and buy from each other at home the more solid and substantial and powerful we become as a people. At the same time, sir, I would reach our statesmanship a little further, and I would encourage the carrying trade too. I would have commerce one of the great branches of the industry of the nation; and in place of seeing our steam marine driven from the Atlantic ocean by foreign subsidized lines, I would reach out a little of the money that pours so freely from the pockets of the people into the Treasury of the United States; and I would have the star-spangled banner still keeping the van of commerce in these waters. It is a shame and a scandal that while we have voted the freest measures of legislation for the protection of manufactures, we who believe in the system, and I agree with those who believe in it, have at the same time almost turned our backs upon our great marine.

But, sir, I said that I should only make a few remarks, and I shall keep my word good. I am very anxious for a vote; I only make these remarks to warn Senators who represent States that have grown rich and great by a protective policy against any such want of generosity and fair dealing to their neighbors as to propose an abandonment of the measures by which they have grown rich and great because their neighbors now propose to come in and participate in the benefits of the same policy.

Mr. WILSON. I have but a word to say in reply to the Senator from California. The Senator thinks that the remarks I saw fit to make should not come from a Senator from Massachusetts, for the reason, I suppose, that during the last forty years Massachusetts is supposed to have been greatly benefited by the tariff policy of the country.

Mr. CONNESS. "Supposed!" Do you not know that she has been?

Mr. WILSON. I have only to say on that point that we had to raise money to support the Government, and we adjusted the duties generally on revenue principles. Sometimes and in some things we departed from the revenue principle and adopted protection; but generally the protection that we have received in Massachusetts and in the country generally has been incidental to revenue. Now, we have to raise one hundred and forty or one hundred and fifty millions a year in gold. Duties must be laid to produce that result. I know that as a consequence of the imposition of duties to that extent, if they are laid fairly and according to any principles acknowledged and accepted as sound principles at home or abroad, there will be incidental protection enough to the productive interests of the country; and I have no anxiety upon that point.

But, sir, I have no idea that there is any principle in this bill. Put a principle of any kind in it, and you can blow it to atoms. It is simply an arrangement, a sort of a conglomeration. I do not complain of it because it is so, for I do not see how we could adopt anything else in the present condition of the country. Our great trouble has been brought upon us by the necessities of the country, by the enormous currency that we have. The Senator from Indiana [Mr. HENDRICKS] told us in his speech to-day that he was opposed to reducing this currency; and I have discovered lately that from portions of the country where the bill now pending is denounced, and portions of the country, too, from which denunciations are heaped upon Massachusetts or New England in regard to it, petitions are coming in against any reduction of this seven or eight hundred millions of irredeemable paper. I believe sound policy requires that this Government should tend toward the resumption of specie payments at as reason-

able a day as possible. I would not press it beyond a reasonable, steady policy. In adjusting these tariff duties at this time I have no fear whatever of the result so far as my State is concerned.

But I have noticed another thing here, and I have noticed it with pain, that the general drift and tendency of the amendments that have been made has been to strike at my State or section of the country. Now, sir, I am ready to take my share of the responsibility of the action upon this bill. I voted last year against acting upon the House bill in order that the measure might be deliberately and carefully considered; and I believe more mind, more thought, more reflection has been put upon this tariff bill than all the tariff bills that have been made for the last half a century in this country. I have not a doubt of it; and we shall have a better bill now than we would have had if we had acted upon the House bill at the last session. I say I am ready to take my share of the responsibility of passing this measure and of every denunciation that may be made upon it. I am anxious to make these adjustments on as sound principles as possible, to make the bill as perfect as we can, to take care, not only of the interests of Massachusetts, but of all sections of the country, manufacturing, agricultural, mechanical, and commercial. But what do we have here? Everybody is talking just as though we of Massachusetts were living on the bounty of this Government; as though they hold us in the hollow of their hands, and if they close their hands we die. I tell them we can live, adjust your tariff as you please. We are no pensioners, and we are reasonably independent.

Mr. CATTELL. I suggest to the gentleman that that arises in part from the fact that you have been protected for the last thirty or forty years.

Mr. WILSON. Not half as much as you gentlemen are disposed to say. We have been protected as others have been protected under this Government, nothing more and nothing less. While I do not denounce the policy of the past nor deny the reasonable benefits that have grown out of it, I do object to this holding up of Massachusetts and of my section of the country as responsible for this measure. What did we hear here to-day? What have we heard on the stump during the last few months? What have we heard in the public press and everywhere? Denunciations of the manufacturers and the mechanics and machine-shops of Massachusetts and of the eastern States, as though we were getting up, advocating, and forcing through measures unjust to the other sections of the country. Now, sir, what I said just now is true: that the great duties upon coal, upon iron, upon steel, and upon wool are not compensated to us by anything in this bill; and in no sense of the word is it a Massachusetts measure.

I say that here. I am ready to stand by it, and events in the future will demonstrate it. The war in the future will not be upon Pennsylvania steel and iron, nor upon Ohio wool, but it will be after all upon "the manufacturers, the great mammoth corporations of Massachusetts and New England." What I demand here is that gentlemen who are putting on these duties for their own sections of the country shall take their full share of the responsibility for the tariff we are passing; and I want the country to hold them to the same responsibility they hold us.

Mr. BUCKALEW. I voted against adjourning some time ago in the hope of getting a vote on this amendment; but as there is evidently no quorum present, I move that the Senate do now adjourn.

Mr. FESSENDEN. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 16; as follows:

YEAS—Messrs. Buckalew, Conness, Creswell, Morrill, Sumner, Van Winkle, Willey, and Yates—8.  
NAYS—Messrs. Cattell, Chandler, Cragin, Edmunds, Fessenden, Fogg, Foster, Frelinghuysen,

Grimes, Howard, Howe, Morgan, Sprague, Stewart, Wade, and Wilson—16.  
ABSENT—Messrs. Anthony, Brown, Cowan, Davis, Dixon, Doolittle, Fowler, Guthrie, Harris, Henderson, Hendricks, Johnson, Kirkwood, Lane, McDougall, Nesmith, Norton, Nye, Patterson, Poland, Pomeroy, Ramsey, Riddle, Ross, Saulsbury, Sherman, Trumbull, and Williams—28.

The PRESIDENT *pro tempore*. On this question the yeas are 8, the nays 16. The Senate refuse to adjourn, but there is no quorum voting.

Mr. FESSENDEN. I move that the Sergeant-at-Arms be directed to request the attendance of absent members.

Mr. GRIMES. I move to amend the motion by adding "to appear to-morrow at twelve o'clock." [Laughter.]

Mr. FESSENDEN. "And to stay until dinner is ready."

The PRESIDENT *pro tempore*. Does the Senator from Maine accept the modification of the motion?

Mr. FESSENDEN. No, sir.

Mr. GRIMES. Then I move that amendment to the motion.

Mr. WILSON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, January 29, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### CIVIL SERVICE.

Mr. JENCKES. I desire to call up a motion that I made last evening.

The SPEAKER. When the House adjourned last evening the gentleman from Rhode Island had moved to suspend the rules so as to enable him to report bill of the House No. 889, to regulate the civil service of the United States and promote the efficiency thereof. The gentleman from Rhode Island stated that many gentlemen voted last evening with the understanding that the bill would come up this morning. Is there objection to the consideration of the bill? The Chair hears none.

The House accordingly proceeded to the consideration of bill of the House No. 889, to regulate the civil service of the United States and promote the efficiency thereof.

Mr. SPALDING. I call for the reading of the bill.

Mr. JENCKES. Let the bill be read.

The bill was read, and is as follows:

A bill to regulate the civil service of the United States, and promote the efficiency thereof.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That hereafter all appointments of civil officers in the several departments of the service of the United States, except postmasters and such officers as are by law required to be appointed by the President by and with the advice and consent of the Senate, shall be made from those persons who shall have been found best qualified for the performance of the duties of the offices to which such appointments are to be made, in an open and competitive examination, to be conducted as herein prescribed.

SEC. 2. *And be it further enacted,* That there shall be appointed by the President, by and with the advice and consent of the Senate, a board of three commissioners, who shall hold their offices for the term of five years, unless sooner removed by the President by and with the advice and consent of the Senate, to be called the civil service examination board, among whose duties shall be the following:

1. To prescribe the qualifications requisite for an appointment into each branch and grade of the civil service of the United States, having regard to the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter.

2. To provide for the examination of all persons eligible under this act who may present themselves for admission into the civil service.

3. To establish rules governing the applications of such persons, the times and places of their examinations, the subjects upon which such examinations shall be had, with other incidents thereof, and the mode of conducting the same, and the manner of keeping and preserving the records thereof, and of perpetuating the evidence of such applications, qualifications, examinations, and their result, as they shall think expedient. Such rules shall be so framed

as to keep the branches of the civil service and the different grades of each branch, as also the records applicable to each branch, distinct and separate. The said board shall divide the country into territorial districts for the purpose of holding examinations of applicants resident therein and others, and shall designate some convenient and accessible place in each district where examinations shall be held.

4. To examine personally, or by persons by them specially designated, the applicants for appointment into the civil service of the United States.

5. To make report of all rules and regulations established by them, and of a summary of their proceedings, including an abstract of their examinations for the different branches of the service, annually, to the President, to be submitted to Congress at the opening of each session.

Sec. 3. *And be it further enacted*, That all appointments to the civil service provided for in this act shall be made from those who have passed the required examinations, in the following order and manner:

1. The applicant who stands highest in order of merit on the list of those who have passed the examination for any particular branch and grade of the civil service shall have the preference in appointment to that branch and grade, and so on, in the order of precedence in examinations, to the minimum degree of merit fixed by the board for such grade.

2. Whenever any vacancy shall occur in any grade of the civil service above the lowest, in any branch, the senior in the next lower grade may be appointed to fill the same, or a new examination for that particular vacancy may be ordered, under the direction of the department, of those in the next lower grade, and the person found best qualified shall be entitled to the appointment to fill such vacancy: *Provided*, That no person now in office shall be promoted or transferred from a lower to a higher grade unless he shall have passed at least one examination under this act.

3. The right of seniority shall be determined by the rank of merit assigned by the board upon the examinations, having regard also to seniority in service; but it shall at all times be in the power of the heads of Departments to order new examinations, which shall be conducted by the board, upon due notice, and according to fixed rules, and which shall determine seniority with regard to the persons ordered to be examined, or in the particular branch and grade of the service to which such examinations shall apply.

4. Said board shall have power to establish rules for such special examinations, and also rules by which any persons exhibiting particular merit in any branch of the civil service may be advanced one or more points in their respective grades; and one fourth of the promotions may be made on account of merit, irrespective of seniority in service, such merit to be ascertained by special examinations, or by advancement for meritorious services and special fitness for the particular branch of service, according to rules to be established as aforesaid.

Sec. 4. *And be it further enacted*, That said board shall also have power to prescribe a fee, not exceeding five dollars, to be paid by each applicant for examination, and also a fee, not exceeding ten dollars, to be paid by each person who shall receive a certificate of recommendation for appointment or for promotion or of seniority, which fees shall be first paid to the collector of internal revenue in the district where the applicant or officer resides or may be examined, to be accounted for and paid into the Treasury of the United States by such collector; the certificate of payment of fees to collectors shall be forwarded quarterly by the commissioners to the Treasury Department.

Sec. 5. *And be it further enacted*, That said board shall have power to prescribe, by general rules, what misconduct or inefficiency shall be sufficient for the removal or suspension of all officers who come within the provisions of this act, and also to establish rules for the manner of preferring charges for such misconduct or inefficiency, and for the trial of the accused, and for determining his position pending such trial.

Sec. 6. *And be it further enacted*, That any one of said commissioners may conduct or superintend any examinations, and the board may call to their assistance in such examinations such men of learning and high character as they may see fit, or, in their discretion, such officers in the civil, military, or naval service of the United States as may be designated, from time to time, on application of the board, as assistants to said board, by the President or heads of Departments; and in special cases, to be fixed by rules or by resolutions of the board, they may delegate examinations to such persons, to be attended and presided over by one member of said board or by some person specially designated to preside.

Sec. 7. *And be it further enacted*, That the said board may also, upon reasonable notice to the person accused, hear and determine any case of alleged misconduct or inefficiency, under the general rules herein provided for, and in such cases shall report to the head of the proper Department their finding in the matter, and may recommend the suspension or dismissal from office of any person found guilty of such misconduct or inefficiency; and such person shall be forthwith suspended or dismissed by the head of such Department pursuant to such recommendation, and from the filing of such report shall receive no compensation for official service except from and after the expiration of any term of suspension recommended by such report.

Sec. 8. *And be it further enacted*, That the salary of each of said commissioners shall be \$5,000 a year, and the said board may appoint a clerk at a salary of \$2,000 a year, and a messenger at a salary of \$900 a year, and these sums and the necessary traveling expenses of the commissioners, clerk, and messenger, to be accounted for in detail and verified by affidavit, shall be paid from any money in the Treasury not otherwise appropriated. The necessary expenses of any person employed by said commissioners, as assistants,

and to be accounted for and verified in like manner, and certified by the board, shall also be paid in like manner.

Sec. 9. *And be it further enacted*, That any officer in the civil service of the United States at the date of the passage of this act, other than those excepted in the first section of this act, may be required by the head of the Department in which he serves to appear before said board, and if found not qualified for the place he occupies he shall be reported for dismissal, and be dismissed in the manner hereinbefore provided, and the vacancy shall be filled in manner aforesaid from those who may be found qualified for such grade of office after such examination.

Sec. 10. *And be it further enacted*, That all citizens of the United States shall be eligible to examination and appointment under the provisions of this act, and the heads of the several Departments may, in their discretion, designate the offices in the several branches of the civil service the duties of which may be performed by females as well as males, and for all such offices females as well as males shall be eligible, and may make application therefor and be examined, recommended, appointed, tried, suspended, and dismissed, in manner aforesaid; and the names of those recommended by the examiners shall be placed upon the lists for appointment and promotion in the order of their merit and seniority, and without distinction, other than as aforesaid, from those of male applicants or officers.

Sec. 11. *And be it further enacted*, That the President, and also the Senate, may require any person applying for or recommended for any office which requires confirmation by the Senate to appear before said board and be examined as to his qualifications, either before or after being commissioned; and the result of such examination shall be reported to the President and to the Senate.

Mr. DAWES. Does the gentleman propose to put the bill upon its passage to-day without its being printed?

Mr. JENCKES. It has been printed two or three times and is upon the files of members.

Mr. DAWES. We want to know if the gentleman has kept it in the same shape in which it was first printed.

Mr. JENCKES. I do not wish to interfere with the morning hour. If the Committee on Military Affairs are desirous of reporting to-day, and if, by unanimous consent, this bill can be taken up after the morning hour I will yield for that purpose.

Mr. KASSON. I desire to go into Committee of the Whole on a regular appropriation bill after the morning hour.

Mr. DAWES. I suggest to the gentleman that nobody will object to his recommitting his bill and entering a motion to reconsider.

Mr. JENCKES. If I am entitled to the floor now, unless I can yield it by unanimous consent and resume it after the expiration of the morning hour I prefer to proceed, as this is a very important measure not second to any now before Congress.

Mr. DAWES. I hope the gentleman will submit the proposition to the House and see if there will be objection to his recommitting his bill and entering a motion to reconsider.

Mr. ALLISON. I object to that proposition.

Mr. JENCKES. If this bill is to be presented at all for action, it is full late to present it now; and as my proposition for postponement is objected to, I prefer to proceed now.

Mr. DAWES. Will the gentleman yield to me to make a report from the Committee on Elections upon a question of privilege?

Mr. JENCKES. I will yield willingly if I do not by that means lose my right to the floor.

The SPEAKER. The gentleman can yield for a question of privilege without losing his right to resume the floor when the question of privilege shall have been disposed of.

Mr. JENCKES. Then I will yield.

#### ELECTIONS IN MARYLAND.

Mr. DAWES. The Committee of Elections, who were instructed by a resolution of the House of the 21st instant to enter into a certain investigation, have directed me to make a report, and with the indulgence of the House for a few moments I will submit the views of the committee. The resolution, with its preamble, is as follows:

Whereas by the constitution and laws of the State of Maryland persons who were disloyal to the Government of the United States, or gave aid and encouragement to the recent rebellion are deprived of the elective franchise; and whereas it is alleged that at the last election in the State of Maryland large numbers of the persons disqualified as aforesaid did vote for Representative in the Fortieth Congress and

other officers; and whereas it is further alleged that armed forces of the United States were ordered by Federal authority to, and did, cooperate with the Executive of the State of Maryland and others who were engaged with him in overriding the constitution and laws aforesaid, and in securing the votes of rebels and persons disqualified as aforesaid, and whereby loyal and qualified voters of Maryland were deterred from the free exercise of the elective franchise and from resisting and preventing the violation of the constitution and laws aforesaid: Therefore,

*Resolved*, That the Committee of Elections shall inquire into and report whether the constitution and laws have been violated as aforesaid, and whether the President or any one under his command has in any manner interfered with the said election, or has in any way used or threatened to use the military power of the nation with reference to the said election, and if so, whether it was upon the requisition of the Governor of Maryland; and the committee shall have power to send for persons and papers.

The House will observe that the only matter embraced in this proposed inquiry over which this Congress can possibly have jurisdiction is the conduct of the President in reference thereto. The Committee of Elections were of opinion that inasmuch as the House had deemed it proper to instruct the Committee on the Judiciary to inquire into the official conduct of the President of the United States, it would serve only to distract and dissipate the investigation of that matter to instruct another committee to pursue the same inquiry. Therefore the Committee of Elections have instructed me to report back this resolution, ask that the Committee of Elections be discharged from its further consideration, and that the same be referred to the Committee on the Judiciary; and on that I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion of Mr. DAWES was agreed to.

Mr. DAWES moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

#### ORGANIZATION OF THE MILITIA.

Mr. FERRY, by unanimous consent, presented communications from the Governor and adjutant general of the State of Michigan, in relation to the militia bills now pending before the Committee on the Militia of the House of Representatives; which were referred to the Committee on the Militia, and ordered to be printed.

#### BOUNTIES AND LOST DISCHARGES.

Mr. SCHENCK. With the permission of the gentleman from Rhode Island, [Mr. JENCKES,] I desire to remind the House that while waiting for some disposition to be made of the bill in charge of the gentleman from Pennsylvania, [Mr. STEVENS,] and which yesterday was referred to the Committee on Reconstruction, I gave notice that as soon as that bill was disposed of I would, having leave to report at any time, report from the Military Committee the bill in relation to bounties and lost discharges. My friend from Rhode Island [Mr. JENCKES] has anticipated me by reporting another bill, one in relation to the civil service of the United States, with which I have no disposition to interfere, because I recognize its importance. But I desire very much to report the bill to which I have referred; and I would inquire of the Speaker whether I can now, the floor being yielded to me for that purpose, report this bill, and let it come up the next thing after the bill introduced by the gentleman from Rhode Island [Mr. JENCKES] shall have been disposed of.

The SPEAKER. The gentleman from Ohio, [Mr. SCHENCK,] with the consent of the gentleman from Rhode Island, [Mr. JENCKES,] can report the bill to which he refers, and it will come up after the morning hour, whenever there is a morning hour. The House granted permission for the bill to be reported at any time upon giving one day's notice, the bill to be considered after the morning hour.

Mr. SCHENCK. I now report back from the Committee on Military Affairs House bill No. 836, to equalize the bounties of soldiers, sailors, and marines, who served in the late

war for the Union, with an amendment in the form of an additional section.

Mr. STEVENS. I desire to state that whenever I can get the opportunity I will move to go into Committee of the Whole upon a public appropriation bill, which is very necessary, and will not take a very long time for consideration.

Mr. SCHENCK. As I do not know how soon we may be able to take up and consider the bill I have just reported, I will move that it and the amendment to it be printed.

The motion was agreed to.

#### ORDER OF BUSINESS.

Mr. SCHENCK. Do I understand that the gentleman from Rhode Island [Mr. JENCKES] is compelled to go on now, because there is objection to laying his bill over till after the morning hour?

The SPEAKER. The gentleman from Rhode Island asked unanimous consent that the bill might be postponed till after the morning hour. The gentleman from Iowa [Mr. KASSON] objected, stating that he desired after the morning hour to move that the House go into the Committee of the Whole for the consideration of an appropriation bill.

Mr. SCHENCK. I hope the gentleman from Iowa will withdraw that objection. This bill has to be considered at any rate, either now or after the morning hour.

Mr. KASSON. At the time I made the objection I understood that the morning hour had begun, that the bill of the gentleman from Rhode Island was a regular report of a committee, which the committee had the right to make at this time, and that the proposition was now to pass it over until after the morning hour. I learn now that the bill has come in by unanimous consent. I was under an entire misapprehension, or I should have felt it my duty to object. As the chairman of the Committee on Appropriations has stated, the committee desire that the House shall go into the Committee of the Whole to-day on one of the regular appropriation bills. If we cannot bring that bill up as early as we desire I do not wish to interfere with allowing the morning hour to take precedence of the bill of the gentleman from Rhode Island.

The SPEAKER. If the gentleman from Iowa withdraws his objection the Chair will again state the question.

Mr. STEVENS. I object to anything that will prevent our going into the Committee of the Whole after the morning hour.

The SPEAKER. The gentleman from Pennsylvania objects to the arrangement suggested by the gentleman from Rhode Island, and the gentleman will proceed now.

#### CIVIL SERVICE—AGAIN.

Mr. JENCKES. Mr. Speaker, the bill just reported, and to which I am instructed by the committee to invite the favorable attention of the House, is intended to work an entire reformation in the method of making appointments to the subordinate offices in the civil service of the United States. It has been framed, and is now proposed, for no political or partisan purpose. It has no regard to the existing condition and relations of parties in the Republic, and no bearing upon the controversies between the different departments of the Government. The first draft of the bill was prepared when there was another head to the Administration, and before the present complications existed, and was presented to the House before these had become serious. The measure was the result of some study and thought in its origin. It has been subjected to the scrutiny and has been improved by the revision of two select committees. It is now presented and its passage urged in the hope that it will be found the suitable basis of a system which will improve the character and promote the efficiency of the civil service of the Government, and as a measure which has due regard to the magnitude of the subject with which it undertakes to deal.

#### THE SCOPE OF THE BILL.

This bill has relation to all that class of persons in the civil service which are described in the Constitution as "inferior officers."

"The Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

THE SAME PRINCIPLE HAS BEEN APPLIED TO THE MILITARY AND NAVAL SERVICE.

This clause in the Constitution covers all branches of the service. Congress has exercised the power therein granted by making provision for the selection of competent persons for officers in the military and naval service. With regard to these branches of the public service it has done more than this bill proposes. Military and naval schools have been established for the proper education of those who aspire to positions in those services. No one is admitted to even a probationary position except after a thorough examination into his qualifications and probable fitness for the service he seeks to enter. If he fails at any period of his preliminary career he becomes ineligible to promotion and is dismissed. Experience has taught us that in these branches of the public service the public interest demands the selection of the best applicants, who should be thoroughly trained to the performance of their duties before entering upon them, and who by thorough education and by gradual promotion and the teachings of actual service may become fitted to lead our armies and guide our navies.

It has been conceded that the laws which require satisfactory evidence of the probable fitness of each candidate for the career he enters upon are wise and just. The evils resulting from incompetency in its servants are among the greatest that can befall any Government in an emergency which requires it to put forth all its powers. Recent examples are too numerous to make any invidious mention or distinction. But every one knows that unto every young man who enters the military and naval service of the United States the portals of a glorious career are thrown open, and they cannot complain that the people require them to show that they possess talent which may ripen into the genius fit to conduct campaigns, organize and maneuver fleets, command armies, wage war, and win battles.

NOT APPLIED TO THE CIVIL SERVICE, AND REASONS.

No such regulations have been made applicable to the civil service. While careful in the highest degree in the selecting and training of those who adopt the profession of arms, we have been negligent and even reckless in the mode of choosing our civil servants. Perhaps we have unconsciously deferred to the old idea that war was the nobler pursuit. Perhaps, also, it may have been thought hardly worth while to attempt to organize and systematize the civil service and put it under discipline while its members were few and its force widely scattered. The fact is that it has been left almost entirely to personal and partisan control, and its members recruited and selected from local and political influences. While the annual expenditures of the Government were less than \$50,000,000 and the revenue was derived almost entirely from customs, there was substantially but one Department of the civil service—that of the Treasury. The number of its officers was then not large, and their selection and appointment was comparatively a light duty. But the "Blue Book" has swelled from a small duodecimo "Official Register" to a large octavo volume. The expenses of the Government must for a long time exceed \$300,000,000 a year. The growth of the nation, notwithstanding the check of civil war, is more rapid and sure than ever. Its civil servants will soon, if indeed they do not now, outnumber the military and naval forces combined. This increase shows the necessity for laws and regulations to govern them.

In the early days of the Republic, even with the rigid application of Jefferson's maxim,

there was not entire success in the appointments to the civil service. Yet the plan was tolerable in its results until the change of policy in the administration of President Jackson. From the date of that change the evil results have increased in even a greater degree than the growth of the service. For a while they were not so glaring as to call for correction by positive legislation. The frauds and defalcations which then occurred, and were from time to time exposed, were considered as mere ulcers on a comparatively healthy organization, and not as the evidence of disease which required a thorough renovation of the system for its cure.

NECESSITY OF A THOROUGH REFORMATION IN THE MODE OF APPOINTMENTS TO OFFICE.

But the committee have become convinced, and they believe that the evidence taken before them and before other committees will convince the House and the country, that the true interests of the Government can be best served, its expenses lessened, the character of its officers improved, and its business more effectually done, by an entire reformation in the mode of making appointments in the civil service. It may be questioned whether a more vicious system, or rather want of system, than that now existing can be devised or imagined. The public sale of offices could hardly be worse, for in such case the tenure of the office would be required to be defined and its emoluments made certain before the office could have any marketable price. Something definite must be offered for sale before a sale can be effected. But at present nearly every one of these subordinate offices is filled by some person who gained his appointment by the recommendation of personal and political friends, and not by the application of any test to discover his fitness for the place he occupies. His compensation is subject to assessments or forced contributions to pay the expenses of conducting elections in which he is not a candidate for office. If he should show any decided ability or special aptitude for the service he has no assurance of promotion, or even of retention. His term of office is limited by the pleasure, caprice, or interest of his superior.

In the corruption of our politics all these places have become the rewards of partisanship. At every change of administration which brings a different political party into power, the time within which a clean sweep can be made depends upon the industry and zeal with which the incoming authorities can hear and decide upon the claims of the new horde of office-seekers clamorous for the reward of their partisan services. The good of the service is seldom consulted in making appointments, and more rarely in making removals, and the applicants care far less for the public interest than for their own. There is little or no scrutiny into the character and antecedents of the applicant other than as to his political services; no examination to test his qualifications; no probation even during which his fitness or unfitness for the office might be discovered. Not but that occasionally some good or faithful men, possessing both character and intellect, do find admission into these offices; I know, and each of us can name, many of them who do not only their own proper work, but that of many of the indolent and incapable who have been quartered upon the service through influential friends. These men also act as a check to the vicious and dishonest, and give to the service all the character it possesses, and more than on the whole it justly deserves. Many of these men have sought the public service as a temporary calling, moved thereto by accident or misfortune; for it must be admitted that the Government service holds out few attractions as a career to young men who are skillful, energetic, ambitious, and well trained to business. Though a young man may possess all these qualities and be diligent and faithful in the performance of his duty, yet he holds his place, if such a person should be unfortunate enough to accept one, by no definite tenure;



he has no certainty of promotion either from seniority or from merit; and surrounded, as he must necessarily be as things now are, by men of lesser qualifications, his very virtues may impede his progress, and his ability to succeed may prevent his success.

Very few who feel themselves competent to attain eminence or even reputable positions in the learned professions or in business, ever enter the subordinate grades of the civil service. It has no rewards or honors to stimulate ambition; it gives the individual no position either in society or in the State. It must be confessed that this service has sunk into a sort of disrepute. Those active, energetic, and capable men who are scattered among its places feel called upon to give some reason for their being found there, whenever the character of their employment is the subject of conversation in their presence. The employés in the public service have not an equal standing in the community with those in corresponding positions employed by private persons or corporations. The merchant's bookkeepers and clerks, the bank cashiers, clerks, and tellers, the agents of express and insurance companies, and others who, although in subordinate capacities, urge forward the business of the world, stand higher in public esteem than those who have dropped into this treadmill of the public service. Even the great but more poorly paid class of teachers, with lives as monotonous, and with as slight rewards for successful toil, are much more respected. The reason is plain. In the pursuits of active life there is no place for the idle, the corrupt, the ignorant, the dissolute, or the dishonest.

If a man be an inferior lawyer or noisy primary-meeting politician, or both, no presumption is raised thereby in his favor that he will make a good bank-teller or accountant; although these qualities seem to avail him if he aspires to similar employment in a post office or custom-house. As a general rule, those who from some defect or incorrect habit in mind or character have been unable to succeed in the open competition of business, are quartered by their relations and political friends, as occasion may offer, upon the public service; and although, taken as a whole, the pay is greater and the labor lighter under Government than in other employment, yet the work is done with less promptitude and thoroughness. The Government runs every custom-house and considerable post offices with more men and greater pay and with greater loss from inefficiency and dishonesty than every successful individual or corporation manages an equal amount of business. In truth no merchant, manufacturer, or business corporation could succeed who selected their clerks and agents upon the recommendation of politicians and without examination into their qualifications or scrutiny into their private character. The wonder still is, not so much that the Government is served as well as it is, but that with such a mode of selecting its servants it is served at all.

#### DUTIES OF HEADS OF DEPARTMENTS AND MEMBERS OF CONGRESS WITH REGARD TO APPOINTMENTS TO OFFICE.

Beside, the people have a right to demand that the time and talents of their chief public servants should be employed in performing the duties of the offices to which they are elected or appointed. Of their members of Congress they require results in legislation; the enactment of wise laws, and the establishing of the best means for enforcing their execution. Of their heads of Departments they demand an unremitting attention to the management of the vast public interests they have in charge. Of their revenue officers they demand the utmost vigilance, fidelity, and zeal, in order that fraud and perjury shall not diminish the means by which we are to redeem the burdens of taxation. And above all, of the President of the United States they demand that his mind and heart, his whole time, energies, and talents shall be given to the high duties of that more than imperial office, to the general oversight and direction of its vast

business, and the conduct and guidance of the great affairs of the Republic.

Yet what member of Congress does not find a large portion of his time taken from his legislative duties by the solicitations of office-holders and office-seekers? Who has not felt that his dignity has been lowered, as well as his time wasted, and that the independence of the legislator from executive influence, which the Constitution provided for, and which the fathers of the Republic so greatly esteemed, had been compromised by waiting in the ante-chambers of Secretaries and heads of bureaus for his turn to see the high official about the appointment to or retention in office of perhaps some deputy collector, assistant assessor, customs inspector, or temporary clerk, whom his political friends recommend as having claims upon his attention?

When Congress shall have regulated the mode of making these appointments by law, in exercise of its constitutional power, members of Congress would not be called upon and would have no right to interfere with the appointing power, but would be left free for the performance of their proper duties.

What Secretary of the Treasury has not been compelled to give to a contest for a collectorship of customs or of internal revenue or for the thousands of inferior officers within his control, the time and thought which might have been better bestowed upon the questions which constantly beset him in the performance of his duties, on the workings of the tariff with regard to revenue and protection, on the internal revenue law, so as to relieve the people from unjust and unequal taxation, on our finances and currency so as to propose measures which might tend to equalize the values of gold and currency and to prevent the great fluctuations which perplex, astonish, and frequently create ruin in the commercial world?

We have seen also that at the change of the collectorship in one of our great ports upwards of four thousand new applications for office were laid before the new collector, all urged against the incumbents and in favor of the applicants upon personal and political considerations. For hearing and decision upon this vast amount of cases his official term would hardly be long enough. In another port a most estimable man and worthy officer was driven out of his mind and into the sea unto death by the hordes of hungry office-seekers who beset his path by day and left him no rest at night. The time of all these principal officers is wasted and their energies diverted from their duties in listening to the contests of those who are competing to become their assistants, and whose claims, resting almost entirely upon political grounds, the officer being a politician himself, and looking beyond the uncertain tenure of his present office at the chances for the future, does not find it politic to ignore. And even the President himself is not secure from the importunities of rival local politicians for these subordinate places, and by entertaining and sometimes acting upon them himself, encourages the scramble for office on political grounds, which disgraces the administration of our Government.

Thus the people are deprived of a great portion of the time and services of their highest and most responsible officers. Assistants have to be provided by law in order that the duties of the great offices may be performed; and with the increased number of officers comes additional salaries and expenditures.

#### TENDENCY TOWARD CENTRALIZATION.

Another evil, and one which may become of greater magnitude and threaten greater danger to the Republic than any other, is that already suggested, of the direct interference of the Chief Executive in the appointment of officers which by law is vested in the heads of Departments, claiming to exercise over these chiefs the power of removal without the assent of the Senate, as well as exercising the power of appointment with the Senate's advice and consent. His will controls the heads of De-

partments, in whose discretion the Congress has by law under the Constitution vested the selection of these inferior officers. Thus the whole public civil service, in the language of the resolution appointing this committee, is "being used as an instrument of political or party patronage;" and with the leader of the political party in power, or of one that seeks to be in power, in the Executive Mansion, one of the greatest evils which can endanger the existence of a republic springs into existence in the very heart of ours—that of the centralization of all appointing as well as executive power in one person. The framers of the Constitution wisely guarded against this centralizing tendency by the clause already quoted; but under the present system that guard is a nullity.

#### CONCLUSION OF THE COMMITTEE UPON THIS SUBJECT.

When, therefore, the committee were instructed "to consider the expediency of so amending the laws under which appointments to the public service are now made as to provide" "for withdrawing the public service from being used as an instrument of political and party patronage," they, after deliberation, concluded to meet the evil at its two extremes, and to propose legislation against interference by the Chief Executive as the head of a party while the head of the nation, as well as against the management of that unofficial party machinery which selects and recommends for the subordinate offices none but political partisans. The appointing power is thus vested where Congress, acting under the Constitution, has seen fit to place it.

When, also, the committee were "instructed to inquire into the expenditures in all the branches of the service of the United States, and to report whether any and what offices ought to be abolished," they took into consideration the whole civil service of the Government, and came to the conclusion, after taking evidence and giving deliberation to the subject, that its present great expense and inadequacy of result to the expense which is everywhere found, is due rather to the quality and character of the *personnel* of that service and their mode of appointment, than to large salaries or to too great a number of employés. And when the committee came to the instruction respecting the amendment of "the laws under which appointments to the public service are now made," so "as to provide for the selection of subordinate officers after due examination by proper boards, their continuance in office during specified terms, unless dismissed upon charges preferred and sustained before tribunals designated for that purpose," it seemed to them that they had reached the root of the evil.

The further the investigation proceeded the better satisfied did the committee become that the best and surest mode of "curtailing the expenses of the services of the country" was by using proper care and judgment in selecting the persons whom it pays for such service. Thus, when in a division in a custom-house, or in a class of departmental clerks, they found twelve clerks, three of whom were competent and nine of various grades of inefficiency, and all were barely getting through the work which seven well-trained persons could perform with ease, they could not recommend the abolishment of five of the places, because under the present system there could be no assurance that the three competent men would be retained and that four of equal efficiency would supplant the nine inefficient ones. Unless the future seven should be competent to discharge the duties of the present twelve, the loss to the public from the obstruction and delay of business would be greater than the gain from the five discontinued salaries. The great point to be gained is in competency, efficiency; and the suppression of a five-hundred dollar office here and a thousand-dollar office there, although many such might be dispensed with, is but a small saving compared to the great gain which might be obtained from an improvement in the personal qualities of all our public servants. Let us seek to obtain skill,

ability, fidelity, zeal, and integrity in the public service, and we shall not be called upon to increase either salaries or the number of offices. It is safe to assert that the number of offices may be diminished one third, and the efficiency of the whole force of the civil service increased one half, with a corresponding reduction of salaries for discontinued offices, if a healthy system of appointment and discipline be established for its government.

#### THE PROPOSED REMEDY.

The several Departments of the civil service are established by law; they are necessary for the proper administration of the Government; the salaries of the subordinate officers are fixed by statute, and are the subject of annual appropriations, and as compared with the amounts paid in other countries for similar services are ample and even liberal. The proposition upon which the bill is founded is, that the people are entitled to the best ability that can be obtained for the money they pay for the service required. This result is sought to be attained by tests and scrutiny applied to each person who seeks to enter this service. It is much easier and far better to exclude the ignorant, the incapable, the careless, the lazy, the idle, and the dissolute at the threshold, than to eject them if under partisan favor they are once admitted. Our present mode, as already described, is to appoint the man first and try to teach and discipline him afterward. The result is, that when once admitted into office, the incumbent does as little as, and no more than, will suffice to keep his place. Sometimes, also, persons of positive vices gain admission into the service.

This committee have initiated inquiries into the conduct of peculators in some Departments, and two committees of the House are now engaged in developing fraudulent practices, and seeking evidence against those who perpetrate them. It is certain that there are swindlers and thieves in the pay of the Government who cause a greater loss to it than the amount of their salaries. If only men of honesty and good repute were admitted into the service we should have less need of these investigating committees and their barren results. It is easier, cheaper, and better to keep the rascals out than to keep them under discipline and to remedy the consequences of their thieving propensities after they have once got in. In fact, the reports of our investigating committees, being rarely followed by legislation to prevent the frauds exposed, have served to educate the plunderers of the Treasury to sharper practice and more extended operations. If one set of full-fed thieves are removed in consequence of such reports, a new set of politicians, sharpened by hunger and guided by the experience of their predecessors whose acts go unpunished, are appointed to enter upon the same career of peculation. I doubt if there has been a single report of the evidence taken by an investigating committee which has been made public that has not proved injurious to the public interests. These publications, like the lives of notorious criminals, have disseminated the knowledge of successful vice, and as no one has suffered from them in any more severe manner than removal from office, the officer who has made up his mind to become peculator is stimulated to make the most out of his brief career, and these disclosures teach him how to do it.

The measure now before the House is an approximation to a remedy for these evils. The systems regulating the civil service of other nations have been examined, and the results of their experience have been embodied in this bill. The principle is not new, nor is the mode in which it is to be wrought out. The attempt has been to adapt it to the wants of this country, and therein is its merit, if it has any. This principle is to place practically in the hands of the Government the power of employing the services of the capable and of dispensing with the services of the incapable in every subordinate place and every executive department. In other words, "let the best attainable talent, the greatest attainable fitness, in every case be

placed in office," and thus approximate as near as possible to having the right man in the right place. Let merit be the sole title to office, and we work a thorough reformation in our mode of appointments, and infuse new life and vigor into every branch of the executive service.

#### THE MODE OF APPLYING THE REMEDY.

##### I. Admission open to all.

All will agree abstractly upon this principle. The civil service, like the military and naval, should be conducted by the highest talent that can be procured. How it is practicable to obtain that highest talent is the first question that meets us. The best solution of this question seems to us to be to throw open all places in the initial grades of the service to the competition of all. It is the right of the people to have the best administrative officers which their allotted pay can procure; and as it is the duty of every one of the people to serve the country when required, so also it should be the privilege of every one to have an opportunity to enter the service if he wishes it and can show that he can serve better than any other in the position which he seeks. Let every one have a fair chance. Nor is there any danger that the people will become demoralized and all turn office-seekers when place is accessible to all. The preliminary tests, rigidly enforced, will exclude all those who cannot prove themselves to possess the requisite fitness. Any one can now obtain a place in the medical department of the Navy who can bring evidence of good character and pass the prescribed examination, and yet the roll is not full. So at West Point and Annapolis; the first nominations have rarely filled the class. So in the civil service, where the necessity of ascertaining the candidate's fitness is equally great, the requirement of a proper examination into qualifications and scrutiny into character will greatly diminish the number of applicants. The great class who are conscious of infirmity, and who now creep into office through political influence, will not make their appearance. Another great class, and one which now infests every branch of the service, will fear a scrutiny into their antecedents and habits, and will stay away.

While we may not allure the most promising in talents and character of our young men by the meager rewards of the subordinate service, yet by throwing the doors of admission wide open to all, one point will be gained absolutely, and another approximately. The problem is to find the best attainable talent for the place and pay offered. While the leading graduates of our colleges and academies, and the enterprising, energetic, self-trained youth will, notwithstanding the great obstacles, still continue to strive for the great rewards of the learned professions or of business, there will still be a large class of well-educated young men wishing for immediate compensation, and willing to be satisfied with slow and sure increase of recompense, who will come forward and compete for and gradually fill these offices. By leaving application free to all, the Government will ascertain to a certainty all who are attainable; and by open competitive examination they will discover approximately the best of those attainable. Inquiry into character will deter the knavish and the dissolute who will not risk the brand of rejection for cause, and the dull, the ignorant, the lazy, the imbecile, and the unambitious will not overcome their terror of open competitive examinations. Through these preliminary trials will pass only those who are worthy to enter upon the career which is offered to them. And by allowing promotions also from merit, the emulation and competition will continue after the career has been entered upon, and every man will be spurred to do his best, or else, while lagging in the race, become liable to be dropped from inefficiency.

##### II. The most worthy to receive appointment.

The theory of our appointment system, as best stated in, and, so far as it could be, justified by, the maxim of Jefferson, is that offices should

be given to those worthy of them, *detur digno*. But this maxim implies that many equally worthy or worthier even may be excluded. Then how is this worthiness to be ascertained? A Secretary of the Treasury who, though sitting in his room in the Treasury building, should know everybody in the country, the education and antecedents of each person and any special talent he may have shown, and who could and would act without partiality, might select without difficulty or delay the best attainable person for each of his many hundred subordinate offices. He would simply have to telegraph for his man. But unfortunately our Secretaries are not omniscient, nor altogether wise, nor wholly just and free from prejudice. Yet when the population of the country was but a few millions, inhabiting the fringe of the Atlantic coast, it may not have been a laborious or difficult task for the chief executive officers to select worthy assistants and subordinates. But now, with our vast territory and increasing millions, it is simply impossible for them, with their accumulation of duties, to give the time to the subject necessary to secure a good result.

Hence the mode of appointment from local political influence and recommendation has crept into our system. It is intermediate between appointments from pure patronage, the favor and condescension of the superior, and a primary meeting selection of a party candidate. It has the vices of each system and the redeeming qualities of neither. The patron was not always guided by favor, and the people sometimes select from worthiness. In England the evils resulting from this hybrid mode of selection were sought to be obviated in the manner we adopted at the last session for regulating the appointments to the Military Academy. Several persons were nominated to any vacant office, and that one of the nominees who proves himself the better qualified on a test examination receives the appointment. *Detur digniori* expresses the result of this compromise.

But the American people have reached that point in their experience where they have found that the best thing for them to do in their public business is to do away with all compromises with error in all its forms, and to stand upon the firm ground of principle and justice. With regard to this class of offices the public sentiment undoubtedly is, as the public interest demands, that while competition for them should be open to all, yet only those who show the best fitness for them should have them. *Detur dignissimo*, let the most worthy have it, should in respect to office be the motto of the people of this great Republic. Their Government is of the people and for the people, and its rewards and honors should be given to those most fit and worthy for its service.

##### III. How the best attainable talent can be secured.

But how can this result be accomplished? Are not the extent of the country, the great and increasing number of its population, the multiplication of officers and their new duties,—reasons urged for the adoption of this measure,—the very reasons which will prevent it from being successfully carried into effect? Let us consider. If a measure is good and wise in itself the obstacles in the way of carrying it into effect should not deter a statesman from urging its adoption. All good things are difficult; even the *vis inertiae* of evil are not to be overcome except by strenuous efforts; but things which are difficult are not impossible. It would have been easier to have put this measure into operation thirty years ago than now. It is easier to do it now than it will be ten years hence. But that such a measure is necessary now, and will become more and more essential with the increasing years of the Republic, is as plain as that the Republic must live. A well-trained and thoroughly disciplined body of civil servants is as necessary to the preservation of the State as are an Army and Navy thoroughly trained and disciplined in arms.

This bill provides for a central board of examiners, who may call to their assistance eminent civilians and officers in all branches of the service of the Government in any part of the country, for the purpose of hearing and deciding upon the claims of all applicants for their subordinate civil offices. Upon the results of their examinations certificates of fitness are to be given or refused.

The fact that such a system has worked with great success in other countries may not satisfy every one of its practicability in this. In Prussia it has been more effectual than the needle-gun in perfecting, establishing, and enlarging the nationality. In the minor States of Germany it has been of vital importance. Such a system has enabled the French nation to carry on its Government, without great shock to its credit, although the heads of it have often been victims of the guillotine and the bayonet. In England the system, though but partially adopted, has given new life to the home service, and its full application to the colonial service is the vital element in its administration. It has been found necessary for the proper government of the vast colonial possessions of Great Britain that its officers should be selected out of the number of those who stood the closest scrutiny as to their fitness. This requirement has not been considered as a hardship, but the opportunity has been accepted as a favor by the aspirants for the service. In the colonial department the door is swung open to all. Power, favor, patronage, political influence are naught before health, energy, and merit. The young men of every nation, caste, or color, under the protection of the Crown of Great Britain, have the privilege of contending for admission to a career of certain independence and honorable though limited rewards.

What is practicable in and for Great Britain and its vast colonial possessions is practicable for the United States. If a central board of examiners, sitting in London, can select a class of persons from which the offices in India, Australia, New Zealand, and British North America, as well as in the home service, can be filled, not only without complaint on the part of the applicants, but with gratitude for the privilege of making application, then our board of commissioners, with the assistance provided for in this bill, can do the same thing for this country. In Great Britain it is necessary that the applicants should go to London; by the provisions of this bill it is not necessary that the applicants should all go to Washington, or that the commissioners should themselves go to Maine or to Oregon. The central board at Washington would determine the minimum degree of qualification for every subordinate grade of the civil service. They settle upon the questions to be asked of the candidate and the scrutiny to be made into his character. If the place of examination is at Washington they conduct the examinations themselves. If at New York or any other place conveniently accessible, they may all attend or send one of their number to act with other competent persons called specially to their assistance. In no part of the country can there be any deficiency in competent assistants. Well-educated officers of the Army and Navy, including surgeons, are stationed within or adjacent to every State and Territory. In every State are experienced educators who would gladly perform the service of examiners from an honorable sense of patriotic duty. In most of the States the members of the boards of education and school committees serve without compensation. Those of us who have selected our nominees for the Military and Naval Academies through competition have found no difficulty in securing the willing service of competent examiners.

Suppose the heads of Departments report that they need a hundred qualified persons to fill vacancies in the clerkships at Washington: thereupon the central board give notice that they will receive applications for such places within a given period from all parts of the country. In the mean time they will deter-

mine what questions shall be put to the applicants, and what inquiries shall be made as to their health, character, and antecedents. They will appoint places where the candidates shall appear, and designate the persons who are to conduct the examinations. The result will at once be reported to the central board. There may be ten thousand applicants for the vacant hundred places, and out of those ten thousand the board may find that two thousand are qualified for the appointments. The leading hundred get the places, and the people are sure of that number of good servants.

#### GENERAL EFFECT OF THIS SYSTEM.

The unsuccessful nineteen hundred get certificates of their fitness for such places, and may, under rules to be established by the board, become entitled to appointments within a limited time without further examination. Such is their relation to the Government; but to the world the certificate of fitness is a letter of credit, worth more than the diploma of any commercial college, scientific school, or even of any university, as a recommendation for employment, because it is the evidence of merit in a contest for prizes in which the alumni of all such institutions are competitors. The civil service commission will prove to be here what it has become elsewhere, the grand assay office, where all young men desirous of entering the public service have their qualities tested; as the mint, where those who show that they have the required fineness of metal receive the stamp which will give them currency throughout the nation. Such has been the result in Germany, in France, and in England. Young men strive to obtain the certificate of the civil service commissioners, although it does not bring them into office, because it is the best evidence of their qualifications for commercial or other business.

Although not ten out of a hundred who pass the examination and scrutiny enter the public service, yet the ninety find employment perhaps more profitable elsewhere. The fact once established and promulgated that the public service is a career that is open to all who possess certain well-defined qualifications, and that all those who prove themselves thus qualified can have either a place in the public service and a certificate of fitness for such place, will raise the standard of excellence in all the schools and colleges in the country. The certificate of the commissioners will have the same advantage over the diploma of a college as the bill of a national bank has over that of a State institution; it will have currency throughout the country by virtue of the national indorsement. Education is thus stimulated and nationalized; the result will be felt in every family in the nation, and the benefit will inure to the whole people and not alone to the educated individuals. When it was proposed to introduce this system into the British service John Stuart Mill wrote thus:

"The proposal to select candidates for the civil service of Government by a competitive examination appears to me to be one of those great public improvements the adoption of which would form an era in history. The effects which it is calculated to produce in raising the character both of the public administration and of the people can hardly be overestimated."

#### THE PROPOSED BILL DESTROYS WHAT IS CALLED "PATRONAGE."

It must be admitted that there still exists in this Government, with all its popular tendencies, some vestige of the thing once called "patronage." The word is used in connection with almost every appointment. The appointing officer, President or Secretary, thinks that he has "patronage," and is using it, whenever he orders a commission to be made out. Those who sign "the papers" of the fortunate recipient of the commission also think that they are patrons, and that the appointee is an officer of their own creation. The poor recipient of the commission finds before him a divided duty. The first to the Administration, the next to his friends who recommended his appointment and who may, if he does not serve them, require his removal and the appointment of some other more sub-

servient. In most cases the interests of the Government and of the politicians are adverse, and the appointee finds that he must choose between two masters or patrons; the high appointing officer representing the Government on the one side, and his political friends and backers on the other. The collectorship of the port of New York is a notable example of this class of cases.

This measure proposes to extirpate, eradicate, or, in plain Saxon, dig up, root out, and throw aside any, every, and all kinds of "patronage" in appointments to the public service. The word, the thing, the act, have no place in a republic. In other countries and in past ages Government was the patrimony of princes, the heritage of kings; here and now it is the inheritance of the people. Unto every man who casts a ballot in this country is remitted at every election day his portion of the sovereignty of this great nation. The political career is open to all; the public service should be a career equally accessible. There is no place for "patronage" in our system; it is a solecism in itself. In practice it is a great public injury: "It 'curseth' him that gives and him that takes." The assumed right of control by one class of public servants over another on other than meritorious grounds ought not to be tolerated. The people do not elect a man President in order that he may have the privilege, the "patronage" of quarantining all his relations and personal and political friends upon the Treasury, but because they believe that their Government will be best administered by him. Inherent in the common sense of the people is the maxim concerning government, "That which is best administered is best," and the people demand that in their Government, which this is, all obstructions to the best administration shall be removed. The best way of doing this has seemed to us to be the securing of the services of the best administrators. When merit is the key that opens the gate to a career in the public service, the "patronage" which has introduced dullness, mediocrity, laziness, and profligacy into it, becomes extinct.

#### MINOR DETAILS OF THE BILL—THE EMPLOYMENT OF WOMEN.

Another feature of this bill is, that it authorizes the heads of Departments to designate certain offices for which women as well as men may compete. There are already hundreds of women in the public service, all of whom come within this class of temporary appointments, who have no clearly-defined duties and no certain tenure of office. It has been the fashion of late to decry them and to underrate the value of their services, and even to urge the dismissal of all of them. But here, as in all other branches of the service, the evils complained of are incident to the mode of appointment. They are thrust without previous training into places sought for them, and are retained under lax discipline, and the result is what might be expected of persons who have no hope of the recognition of merit or of the reward of promotion, and who are continually admonished that they may be dismissed at any time without notice and without cause. But once open and secure this career to them and the result is not doubtful. In many branches of the service, as in many branches of teaching, they will succeed to the exclusion of males, and at far less expense to the Government. In other branches they must yield altogether, or succeed only in rare instances, as they now do in sculpture, poetry, and in the arts and sciences. The fact that some do succeed, even under the adverse circumstances now surrounding the attempt, may, under the stimulant of an assured career, and through education and emulation, bring forward thousands of those who are now languishing for want of employment. The prejudice against the employment of women in the public service is only another mode of expressing the feeling that labor is a degradation, which feeling and prejudice it is one of the duties of the free people of this Republic to extirpate thoroughly and forever.



## PREPARATORY TRAINING.

It may be asked how are young persons to become trained for the performance of the duties of these public offices? Let it be known that certain qualifications are required for admission into the service and there will be no lack of schools to furnish the training. We have already schools and branches of collegiate education which furnish the teaching upon most subjects where practical wants and scientific knowledge meet each other. It is one of the healthiest signs of these times that every educational want is supplied almost as soon as made known, and that our universities throw wide their gates to all seekers of knowledge, and make thorough search for and give due rewards to those who can give the desired instruction. In every other country where this educational training has been regarded as preliminary to employment in the public service schools have sprung up and universities have proposed to furnish the required education, and we do not admit that we are behind any other nation in educational skill. This system, if adopted, will call into existence new branches of study in those schools which endeavor to meet the wants of the times—I mean not alone the study of the principles of our Constitution, but of political science, the science of government, which few have mastered, and fewer still have presumed to teach, but which the exigencies of our times demand should be reduced to its elements and expressed in the "hand-book" for all who present themselves for admission into the public service.

## THE ADVANTAGE OF CONTINUED DISCIPLINE.

Not inferior to the advantages expected to be derived from the proposed mode of admission into the service is that which will be due to the subsequent discipline. The rules and regulations under which each public servant labors will be constantly before him; the causes for which he may be suspended or removed will be impressed upon his memory; the certainty that no amount of personal or political influence can prevent charges being preferred against him if he violates these rules, or retain him in his place if he is found guilty of their violation; and the assurance of reward and promotion if he excels in the performance of his duties, will tend to make him observant, exact, faithful, diligent, earnest, and laborious. All these influences will create in the civil service that great stimulant to success so potent among companions in arms; that *esprit du corps*, that enthusiastic endeavor for success, which infuses a zeal into the career of arms and enwreaths it with the emblems of honor, although the pathways to its renown are more often the roads to death than to living success. Who can calculate the dynamic force of this power in the civil administration? We know what it is in war and under the flag. Let us utilize it and make it honorable in time of peace and in aid of peace.

## THE CHARACTER OF THE PROPOSED BOARD.

I am aware that during all the time I have been explaining the provisions and scope of this bill the question has pressed itself upon the mind of every listener, how do you propose to secure the required degree of talent in these commissioners who are to form the central board and adjudicate upon the qualifications of all candidates; and how do you expect to prevent their acting upon political considerations in the selection of officers? Are you not constituting *imperium in imperio*, which may lead to abuses as great as those sought to be remedied?

This commission should undoubtedly be in good hands; and if constituted we must rely upon the President and the Senate in placing it in such hands, in the first instance, and keeping it there hereafter. There is a wide field from which to select these commissioners. I could name at least twenty fit and competent persons who would enter upon these duties with enthusiasm, and discharge them without reproach. I trust that the President and the Senate know many more. The proposed com-

pensation is large enough to command the services of the most accomplished educators, men skilled in the arts of war and peace, and none others ought to be admitted into these offices. And no one need fear that the power of appointment will be attempted to be taken from heads of Departments and vested in these commissioners, or that the board will become a political instrument under the provisions of this bill. *It gives them no political power or authority whatever.* They merely select a class of persons from whom appointments are to be made, and they have no power to determine whether any incumbent of office should be removed, except upon trial after charges regularly preferred. They are, as before intimated, merely the assay officers in this great mint of mind and character, and they can have no inducement to betray their high trust. I do not fear the result of the mode of appointment provided in the bill. We have no fault to find with the appointees for similar commissions, and I doubt not both President and Senate will be desirous of procuring the services of the best men.

## EXPENSE OF THE COMMISSION.

Nor am I disturbed by the cost of the proposed commission. The salaries may reach \$20,000, and the expenses as much more in each year. A great portion, if not the whole, of this sum will be paid by the fees required of the applicants. But this sum is not equal to what has been paid in each year for many years for the expenses of investigating committees, whose reports have indeed exposed great rascality in the public service, but whose recommendations have led to very few enactments of positive law. If this commission can even approximately keep the rogues out of the public service, it will save tenfold more than all its expenses, and even more than all the proposed increase of salaries. In place of investigations which lead to nothing we shall have reports of the actual working of our reformed system in all its parts and details, with such recommendations as the officers who execute it may suggest for its improvement. The element of arbitrary power does not enter into the system. And by improving the quality and character of the public servants it is expected that the retrenchment and expense will be at least one third and probably one half of what is now paid, with a gain of fifty per cent. in efficiency. If our civil servants are appointed from their "official aptitude," as shown by their test examinations, and not from political or personal favor, it is safe to say that the Government will save all it now has to pay, or submit to be plundered for, by means of *arrangements* which hereafter could have no existence.

Thus, while this proposed system will stimulate education and bring the best attainable talent into the public service, it will place that service above all considerations of locality, favoritism, patronage, or party, and will give it permanence and the character of nationality as distinct from its present qualities of insecurity and of centralized power. A career will be opened to all who wish to serve the Republic; and although its range is limited, yet success in it will be an admitted qualification for that higher and more laborious and uncertain competition before the people, if any one should be tempted to enter upon it. The nation will be better served; the Government will be more stable and better administered; property will be more secure; personal rights more sacred; and the Republic more respected and powerful. The great experiment of self-government, which our fathers initiated will have another of its alien elements of discord removed from it, and in its administration, in peace as well as in war, will have become a grand success.

Mr. Speaker, I am also instructed by the committee to present a report on this subject, which I ask may be laid on the table, and ordered to be printed.

The SPEAKER. That will be done unless objection be made.

There was no objection.

Mr. HALE. I desire to ask my colleague on the joint committee whether he wishes to bring this bill to a vote to-day. I wish to suggest that its consideration be postponed till after the morning hour, so that we may have at once the regular morning hour.

The SPEAKER. That motion would be in order.

Mr. JENCKES. I am willing to yield for that motion.

Mr. HALE. Is it the desire of the gentleman to bring the bill to a vote to-day?

Mr. JENCKES. As soon as practicable—perhaps not to-day.

Mr. HALE. I move that the further consideration of the bill be postponed till after the morning hour.

The motion was agreed to.

Mr. FARNSWORTH. If I had obtained the floor just now I desired to move the postponement of this bill for a longer time.

The SPEAKER. When the bill is reached that motion will be in order.

SARAH A. GRAHAM.

Mr. HILL, by unanimous consent, introduced a bill for the relief of Sarah A. Graham; which was read a first and second time, and referred to the Committee on Invalid Pensions.

## RECONSTRUCTION COMMITTEE.

The SPEAKER announced the appointment of Mr. FARNSWORTH to fill the vacancy on the joint Committee on Reconstruction occasioned by the leave of absence granted to Mr. WASHBURN, of Illinois, for the remainder of the session.

## ORDER OF BUSINESS.

The SPEAKER announced as the first business in order during the morning hour the call of committees for reports, beginning with the Committee on Agriculture.

## DEPARTMENT OF AGRICULTURE.

Mr. BIDWELL. Mr. Speaker, there was referred to the Committee on Agriculture the bill introduced by the gentleman from Minnesota [Mr. DONNELLY] to reorganize the Department of Agriculture. I am under the necessity of stating to the House that the committee are not ready to report upon that bill; and for this reason I desire to ask that they may be allowed another morning hour at a later period. This is an important bill; and as chairman of the committee I desire to use every proper effort to have the committee consider the bill, so that we may report it to the House for its action. I am under a pledge to the House—I am under what I consider a responsibility in the discharge of my duty as a member of this House as well as a member of the Committee on Agriculture—to do what lies in my power to place the Department of Agriculture upon a footing that shall be commensurate with the wants of our country. I therefore ask that the Committee on Agriculture be allowed another morning hour in which to report on this subject.

Mr. STEVENS and others objected.

Mr. BIDWELL. Then I will state to the House, as an individual member of Congress, I will at an early day endeavor to bring before the House a bill to reorganize that Department. I will also state, in order to bring the matter before the House and country, that I have prepared a bill for that purpose; and I am willing it shall go upon the Journal of the House, so that members may see what it is proposed to do.

The bill proposed to be offered was, by unanimous consent, ordered to be printed.

## PURCHASE OF SEEDS, ETC.

Mr. RITTER, from the Committee on Agriculture, reported a bill to regulate the purchase and distribution of seeds, &c., by the Commissioner of Agriculture; which was read the first and second time.

The bill provides that the Commissioner shall be instructed and directed to purchase for distribution only such seeds, plants, and flowers as are not common in the United States; and

that all seeds, plants, and flowers which have been generally cultivated or raised in the majority of the States during the period of four years shall be considered as common in the country, and therefore are not to be purchased for distribution by or for the Department of Agriculture; and it provides further, that the moneys appropriated by Congress for specified objects and purposes for the use of said bureau shall not be used for any other object or purpose than the one appointed without the consent of Congress; provided seeds, plants, and flowers purchased by said Commissioner before the passage of this act shall be distributed as heretofore.

Mr. RITTER. That bill is for the purpose of attaining the object sought by the Government since the organization of that bureau. At the last session a provision was put into the appropriation bill that the Commissioner should only purchase such seeds as were new and useful.

Mr. ALLISON. I move to amend by inserting the word "Department" for "bureau." The amendment was agreed to.

Mr. WASHBURN, of Indiana. The gentleman from Kentucky yields to me for a few moments.

Mr. Speaker, I do not think the House fully understands the full importance of this measure. The Department of Agriculture was, in my view, established for the purpose of disseminating seeds grown in the United States, and the only benefit I can see arising from that Department is the exchange from one State to another of the different seeds grown in those States.

The proposition of this bill is to cut off this interchange from one State to another, and to confine the Department entirely to the purchase and distribution of seeds not generally grown in the United States. The great benefit now derived from the Department is in the fact that seeds grown in Illinois are brought here and sent to Pennsylvania, while the seeds grown in Pennsylvania are sent to Illinois, and we in the West derive the benefit from the experience of Pennsylvania. For my part I think the bill as now framed is entirely wrong, and will confine the Department to the purchase of seeds which we do not need.

Mr. RITTER. I yield now to the gentleman from Illinois.

Mr. WENTWORTH. Mr. Speaker, as one of the agriculturists of the country I hope this bill will pass. The abuses of the Department as now practiced will eventually discredit and ruin the Department. The object of the Department was originally to distribute such seeds as were rare. Now, we get no seeds that are rare, but only those that can be bought out of any seed-shop in any portion of the United States are sent to us for distribution. So common are these seeds that members of Congress are made the laughing-stock of all the seed merchants of the country. The restriction is a proper one, that no seeds shall be purchased which have been common in the country for four years prior to the date of purchase.

The friends of the Department should see it is not broken down by existing abuses. I do not blame the present Commissioner. Twenty-five years ago I was here and distributed seeds from this bureau. The mail facilities and railroad facilities were not then as now. From that day to this great changes have taken place; but I do think it is the smallest business this country can engage in—to run in opposition to the seed merchants with money out of the public Treasury. Therefore I hope the bill will pass.

Mr. HILL. It appears to me the bill in its present shape will destroy the usefulness of the Department of Agriculture. It provides that it shall only purchase seeds, &c., not common to the United States within four years of the purchase. It does not say particular kinds of wheat or corn, but all plants, all grains; all kinds that have been cultivated shall be deemed common. Now, I would like to know what is

to be purchased under this bill by the Commissioner. He cannot purchase wheat because almost all kinds of wheat have been commonly cultivated. Now, it was suggested the other day by the gentleman from Ohio [Mr. DELANO] that the usefulness of this Department is in transmitting from one portion of the country to another seeds that have, so to speak, been worn out, but which by a change of climate may be made to produce much more bountifully. The benefit to the country from that practice which the Department has been carrying out has been very great.

Mr. DONNELLY. Will the gentleman yield to me?

Mr. RITTER. Yes, sir.

Mr. DONNELLY. I thoroughly concur in the purpose of the gentleman from Kentucky in offering this bill. It is, as I understand, to prevent the Department of Agriculture from degenerating into a mere seed-store. There is no doubt very just cause of complaint on that score, but it seems to me this bill would go too far. It is crude and imperfect. Now, the difference between certain portions of the territory of the United States is in respect to climate and soil as great as between almost any different portions of the world. The difference between the southern portion of the United States and the northern is as great as regards climate and soil as between Europe and the United States. I think therefore that a bill that would utterly exclude everything but foreign seeds would be improper.

I move that the bill be recommended to the Committee on Agriculture. The chairman of that committee in the bill to which he referred this morning has incorporated a proviso which I think would elevate the Department to new usefulness, making it the duty of the Department to superintend, transmit, and exchange the seeds from one portion of the country to the other, a work of itself of great magnitude and of great use, but which it seems to me would be utterly prevented by the passage of this bill. I would make that motion if it is in order, with leave to the committee to report at any time.

The SPEAKER. That motion cannot be made until the gentleman from Kentucky [Mr. RITTER] surrenders the floor.

Mr. KELLEY. Will the gentleman from Kentucky yield?

Mr. RITTER. Certainly.

Mr. KELLEY. I hope this bill will be passed. I regard it as one of the most revolutionary that has been introduced.

A MEMBER. Radical. [Laughter.]

Mr. KELLEY. It proposes to break up settled habits of the people, and is therefore, if not radical, certainly revolutionary. For six years I have been in the habit of sending to my constituents china-asters, sweet-williams, pinks, and a long list of simple flower seeds, as contributions from the Agricultural Department, and I know nothing that would more astonish them than to get the seed of a new flower or one from a distant country.

A MEMBER. Do you get hollyhocks?

Mr. KELLEY. Yes, hollyhocks in great abundance, single and double, but always out of the same bag, which has doubtless been on hand since 1860. I therefore regard the bill as a revolutionary one, and as a Radical I give it my hearty support. I regret exceedingly that the chairman of the Agricultural Committee could not report his bill to reorganize the Department to-day.

Mr. WASHBURN, of Indiana. I would suggest to the gentleman whether, under this bill, any flowers can be purchased.

Mr. KELLEY. If that be so, it would be so much the greater economy, for I doubt whether the Department would purchase any that are valuable or novel, so devoted are its agents to the old catalogue. I hope the bill will pass and any other bill contracting the power of this Department until it can be reorganized so that of the many thousands of dollars we appropriate to it some few tens of them may go to some useful purpose.

Mr. RITTER. Mr. Speaker, I cannot claim the credit of originating this bill, for the subject has been before Congress since 1862, at the time the Department of Agriculture was established. I therefore am not desirous of claiming honors I am not entitled to.

Now, sir, as I remarked before, Congress very clearly in passing the law establishing this Department of Agriculture confined the business of the Department to new and rare seeds, showing conclusively that they did not intend the Department should purchase and distribute the common seeds of the country. They had no idea of making it a depot for the purpose of distributing seeds. Sir, in 1865 the Department purchased seeds amounting to \$28,000, and the putting up of those seeds in little paper or cotton bags cost upward of forty thousand dollars. The gentleman knows that they might have been put up at a less cost. The largest proportion of the business of the Department is done in the furnishing of the common seeds of the country; and everybody knows that a large proportion of the seeds furnished do not germinate, do not come up at all. It requires a large expenditure of money to provide for the distribution of these seeds, and it is well known that the seeds when received amount to nothing.

But the gentleman says that we want this Department of Agriculture as a channel of exchange between one part of the country and another. Well, sir, after an article of seed goes into the ground throughout the country for four years it certainly becomes a matter of importance to the country, but it will not be wanted through the Department of Agriculture, for it can be obtained through the ordinary channels. Of the important seeds that are distributed over the country this Department sends out a very small amount, as the gentleman very well knows.

I do not deem it necessary to detain the House any longer by remarks upon this subject. It is one that seems to have engaged the attention of every Congress, and therefore I move the previous question upon the bill.

Mr. MORRILL. Will the gentleman yield to me for a moment?

Mr. RITTER. I will.

Mr. MORRILL. I desire to call the attention of the gentleman from Kentucky to the phraseology of this bill, and I would inquire whether it is in the language of the head of the Department of Agriculture or in the language of the Committee on Agriculture? One clause of it reads as follows: "Seeds and flowers that have been generally cultivated or raised in a majority of the United States."

Mr. RITTER. That is a mistake, and it can be corrected.

Mr. MORRILL. There are several other little mistakes, and I hope that the bill will be recommitted, so as to afford the gentleman an opportunity of revising the language. Until it is revised the bill should certainly not be passed.

Mr. RITTER. I understand that, it is clear enough for the gentleman to understand it, and any mistakes in grammar can be corrected hereafter. I insist on the previous question.

Mr. HILL. I move to lay the bill on the table.

The question was put, and there were—ayes 45, noes 33; no quorum voting.

Mr. WENTWORTH called for tellers.

Mr. MORRILL. I hope the gentleman from Kentucky will withdraw the previous question and allow this bill to be recommitted to his committee with authority to report at any time, provided that it shall not interfere with the morning hour.

Mr. ALLISON. I object, for the reason that this committee has the morning hour to-morrow.

The SPEAKER. They have not.

Mr. HOOPER, of Massachusetts. I object. Tellers were ordered; and Messrs. HILL and RITTER were appointed.

The House divided, and the tellers reported—ayes 61, noes 48.

So the bill was laid on the table.

Mr. HILL moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

Mr. WILLIAM G. MOORE communicated to the House of Representatives a message in writing from the President of the United States.

#### MASSACRE AT FORT PHIL. KEARNEY.

Mr. DONNELLY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Interior be, and is hereby, requested to furnish to this House such information as he may have in his possession in relation to the late massacre of United States troops at Fort Phil. Kearney, and the causes which produced the same; and also as to the causes which, in his judgment, have led to the present alarming condition of our relations with the Indian tribes of the interior.

#### INDIAN DEPREDACTIONS IN OREGON, ETC.

On motion of Mr. WINDOM, the Committee on Indian Affairs were discharged from the further consideration of House bill No. 1023, to indemnify the citizens of the Territory of Washington and State of Oregon for property destroyed by Indians in the years 1855 and 1856; and the same was laid on the table.

#### INDIAN AFFAIRS IN ARIZONA.

On motion of Mr. WINDOM, the Committee on Indian Affairs were also discharged from the further consideration of House bill No. 29, for the better organization of Indian affairs in Arizona Territory; and the same was laid on the table.

#### DR. F. P. CULVER.

On motion of Mr. WINDOM, the Committee on Indian Affairs were also discharged from the further consideration of House bill No. 769, for the relief of Dr. F. P. Culver, late the special agent and commissioner to negotiate a treaty with certain Indian tribes; and the same was laid on the table.

#### INDIANS IN NORTHERN CALIFORNIA.

Mr. WINDOM also, from the Committee on Indian Affairs, reported back House bill No. 572, in relation to Round valley and other Indian reservations in northern California, with an amendment in the nature of a substitute.

The substitute was read, as follows:

A bill to provide for the care and maintenance of the Indians in northern California.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Interior be, and he is hereby, authorized to adopt such measures as he may deem necessary for the public interest, in order to obtain possession of the whole or so much as he may deem advisable of Round valley, in Mendocino county, California, and render the reservation now established there of suitable proportions to answer the purpose of a home for the protection and maintenance of so many of the Indians in northern California as it may be found compatible with the public interest to locate on said reservation; and to this end he is hereby empowered to fix the limits of the said reservation at such average distance, not to exceed ten miles from the border of the said valley and circumjacent thereto, as he may determine; and to purchase the improvements belonging to settlers, in order to acquire full and complete possession of all the land within the limits so established.

*Sec. 2. And be it further enacted*, That the sum of \$100,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of enabling the Secretary of the Interior to carry into effect the provisions of this act and of any other existing law authorizing him to establish a reservation in northern California: *Provided*, That no liabilities shall be incurred under this act in excess of the amount hereby appropriated.

Mr. MORRILL. As this bill provides for an appropriation, should it not be first considered in Committee of the Whole?

The SPEAKER. It is an appropriation bill; and if the gentleman insists upon his point of order, it must go to the Committee of the Whole.

Mr. WINDOM. I ask the gentleman from Vermont [Mr. MORRILL] to withdraw his point of order until the gentleman from California [Mr. BIDWELL] can explain the bill.

Mr. MORRILL. I will reserve my point of order for the present.

Mr. BIDWELL. The care and maintenance of the Indians in California have already cost the Government a very considerable sum. But the duty still devolves upon the Government to care for and protect the Indians of that State. The Indians there are very differently situated from what they are in most of the Territories of the United States. They do not consist of tribes as they do in the other Territories; tribes with whom you can enter into treaties and negotiations for the purchase of their lands, and for the assignment to them of reservations where they may live upon their hunting grounds or cultivate the soil for their own proper maintenance.

Before the acquisition of California the Government of Mexico never under any circumstances pretended to purchase the land of the Indians. The Government of the United States, succeeding to the rights of Mexico, have never purchased a single acre of land, to my knowledge, from the Indians of California. On the contrary, the white settlements have been extended throughout the entire State, almost into every valley, however secluded, in the mountains of that State; thereby taking from the Indians their hunting grounds and every possible means they have in their power for their support.

I say, therefore, notwithstanding the immense sums which the Government may have heretofore appropriated for the maintenance of the Indians in California, it is still an obligation upon the Government to properly provide for them. Here is a valley in the mountains of the coast range, distant from the settlements, and large enough to support a considerable portion, if not all of them, of the Indians in northern California. That valley at this time is partially occupied by a reservation on which a large number of Indians are located; it is also partially in the occupation of settlers.

The object of the bill now before the House is this: to enable the Government to acquire possession of the entire valley. Now, the reason for that is evident; you cannot take care of the Indians, you cannot have that complete control over them if they are located in the vicinity of white settlements which you could if they were distant from them.

I may state here that in California one of the great obstacles to the management of the Indians there is the existence of a class of loose people, men of bad morals, who congregate around the Indian reservations, furnish the Indians with liquor, teach them every vice, and induce them to run away from the reservations. Now to prevent these troubles it is necessary to get a location for them distant from the settlements. This Round valley, spoken of in the bill, seems to be peculiarly fitted for a reservation for Indian purposes. It possesses a fertile soil, a salubrious climate, and it is ample in its extent. Being in the mountains, which are incapable of settlement, it will be so isolated that no white settlers can come near its borders.

There is another view to be taken of this matter: the settlements in this valley have been threatened for a number of years with being dispossessed by the Government on the ground that it was the intention of the Government to take possession of the entire valley, and dedicate it to the purposes of an Indian reservation. But they have gone there as they have on all other public unsurveyed lands and established their preemption claims; and now over a hundred settlers, I believe, occupy that valley in connection with the Indian reservation. It is the duty of this Government to come to a decision and say whether it intends to make that entire valley a reservation. It is inconsistent with the interests of the Indian Department, the proper management and control of the Indians, that white settlements should be in juxtaposition with the reservation; and I say that the Government ought either to take possession of the whole valley and make it a suitable reservation or abandon it altogether. There is some fear in the State of California, which I have learned from the

public prints, that the Indians might possibly be disturbed upon the other reservations. In order to do away with any such apprehension, I am willing to offer a substitute for this bill, to which I think there can be no objection, and which I think, too, will harmonize with the views of the Committee on Indian Affairs. I ask to have the substitute read.

Mr. SPALDING. I object to the consideration of this bill unless it be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The point of order being made, the bill, as it contains an appropriation, must go to the Committee of the Whole on the state of the Union.

Mr. BIDWELL. When will the bill come up for action?

The SPEAKER. Probably not during this session, except under a suspension of the rules by a two-thirds vote, when that motion is in order.

Mr. BIDWELL. Can the rules be suspended on any Monday to take it up?

The SPEAKER. At this period of the session it is impossible for the Chair to state when any Monday will be open for a suspension of the rules.

Mr. BIDWELL. I hope the gentleman from Ohio [Mr. SPALDING] will withdraw his objection.

Mr. SPALDING. I must decline to do so.

The SPEAKER. The bill will be referred to the Committee of the Whole on the state of the Union.

#### INSPECTION OF INDIAN AFFAIRS.

Mr. WINDOM, from the Committee on Indian Affairs, reported back, with amendment, the bill (S. No. 204) to provide for an annual inspection of Indian affairs, and for other purposes.

The bill, which was read, provides in the first section that there shall be established five inspection districts of Indian affairs, as follows: one to embrace the States of California and Nevada and the Territory of Arizona; one to embrace the State of Oregon and the Territories of Washington and Idaho; one to embrace the Territories of Colorado, Utah, and New Mexico; one to embrace the State of Kansas, the Indian Territory, Nebraska, and southern Dakota; and one to embrace the State of Minnesota and that part of the Territory of Dakota north of Nebraska, and the Territory of Montana. The Secretary of the Interior, under the direction of the President, is authorized from time to time to change the boundaries of these inspection districts.

The second section provides for the creation of five boards of inspection of Indian affairs, each to consist of three members, one chief inspector, to be appointed by the President, by and with the advice and consent of the Senate, who shall hold his office for the term of four years; one inspector, to be an officer of the regular Army, who shall be annually detailed by the Secretary of War for that purpose; and one, to be annually appointed by the President, by and with the advice and consent of the Senate, from among such persons as may be recommended by the annual meetings or conventions of the religious societies or denominations of the United States as suitable persons to act upon said boards; or in case of their failure to make such recommendation, from such persons as he shall deem proper. Each of the inspectors appointed by the President is to receive a salary of \$4,000 per annum, in full for services, mileage, and all other expenses, and the officer detailed to act as inspector is to serve without additional pay or allowance as such inspector, but is to be entitled to the same pay, mileage, and allowances as when employed in the military service.

The third section provides that it shall be the duty of said boards of inspection to visit all the Indian tribes within their respective districts at least once in each year; to examine into their condition, and into the condition of their farms and schools; to hear their complaints; to ascer-



tain whether all the stipulations of treaties are kept; and whether all moneys, goods, and supplies are faithfully and justly applied, purchased, and distributed; to examine into the books, accounts, and manner of doing business of the superintendents and agents within their respective districts; to make diligent inquiry into the conduct of the officers and employes of the Indian department, and into the conduct of the military forces toward the Indians, with power to summon witnesses, and by the aid of the military, who are directed to aid them, to compel their attendance; each member of the board being authorized to administer oaths. The board is authorized to suspend for cause any officer or employe of the Indian department in their respective districts, subject to the approval of the President. The board is to report annually, or as often as may be required, to the Secretary of the Interior, and in all cases of suspension from office by the board of any officer or employe of the Indian department the board is to make immediate report thereon in writing, stating the cause thereof, for the action of the President.

The fourth section provides that all superintendents of Indian affairs, all Indian agents, and the chief inspectors to be appointed under this act, in addition to the powers now conferred by law, shall also possess all the powers and perform all the duties now conferred by law upon circuit court commissioners or court commissioners in all cases or matters wherein any Indian tribe, or any member of any Indian tribe, shall be concerned or be a party. And that in all matters or proceedings wherein any Indian tribe, or member of an Indian tribe, shall be concerned or be a party, the testimony of Indian witnesses shall be received in all courts and before all officers of the United States.

The fifth section provides that the salaries of all Indian agents, who reside in the Indian country upon reservations or among the Indians of their agency, shall hereafter be fixed at the sum of \$1,800 per annum.

The sixth section provides that no member of the board of inspectors, during his continuance in office, shall, in any manner whatever, become engaged in any business connected with trade or intercourse with Indian tribes, or with any member of any Indian tribe, or become in any manner interested therein. And upon entering upon the discharge of their official duties the inspectors are to take the oath of office now prescribed by law.

The seventh section provides that any loyal citizen of the United States of good moral character shall be permitted to trade with any Indian tribe, provided he shall execute the bond required by law and complies with the regulations prescribed for carrying on intercourse with the Indian tribes.

Mr. WINDOM. I am instructed by the committee to move to strike out "complies" and insert "comply."

The amendment was agreed to.

Mr. WINDOM. I am also instructed to move to add the following to section seven:

And with such other regulations and conditions as may be prescribed by the board of inspection hereby created.

The amendment was agreed to.

Mr. MORRILL. I ask the gentleman from Minnesota to yield, to have this bill printed. It involves a large annual expenditure, and I am sure a bill as important as this should be fully understood.

Mr. WINDOM. I should be glad to yield to have it printed if it will not prevent its being acted upon at this session of Congress. I will yield to have it printed if I shall have leave to call it up at any time.

Mr. MORRILL. Will it not involve the country in an annual expenditure of \$100,000?

Mr. WINDOM. It will do no such thing.

Mr. Speaker, I will say in answer to the gentleman that the bill does involve an expenditure of \$40,000, but will save half as many millions, as I believe can be shown by an investigation.

The SPEAKER. The bill will be pending at the expiration of the morning hour and will go over until to-morrow.

Mr. SCHENCK. I wish to make one remark. This is, sir, as the gentleman from Vermont has said, an important bill, containing a great deal of detail in relation to the organization of the Indian Bureau, and involving a new system of operations in some degree. I dare say, though read at the Clerk's desk as it is, it will be impossible to follow it understandingly; I dare say it is framed with a view to inaugurating a reform in that bureau. It is a long bill, which we ought to act on with at all comprehension of its scope and effect, and for that reason, if for no other, it ought not to be carried through under the previous question.

In addition to that I wish to remark there is a bill pending now in this House transferring all that relates to the charge of the Indians to the War Department. The matter has been fully under consideration by the Military Committee, and I am directed to report in favor of that bill with some few amendments. Here, then, will come into conflict a question to be presented to this House, whether it is not time to take the responsibility from one and transfer it to another Department of the Government. I shall be glad on that account if this bill should not be acted on without being printed, so the two propositions may be considered together. We make a radical reform by transferring the Indian Bureau to the War Department, where it was at first, from its present place, where it cannot be denied it has become a den of thieves.

Mr. SPALDING. Has not this bill already passed the Senate.

Mr. WINDOM. It has.

Mr. KASSON. I have examined the Senate file in vain for it.

Mr. WINDOM. It was printed at the last session. I have no objection to the printing of the bill. I move that the bill and amendments be printed.

The motion to print was agreed to.

The SPEAKER. The morning hour has expired, and the bill goes over.

FRAZER, TRENHOLM AND COMPANY.

The SPEAKER laid before the House the following message from the President of the United States:

*To the House of Representatives of the United States:*

In compliance with a resolution of the House of Representatives of the 7th instant in relation to the attempted compromise of certain suits instituted in the English courts in behalf of the United States against Frazer, Trenholm & Co., alleged agents of the so-called confederate government, I transmit a report from the Secretary of State and the documents by which it was accompanied.

ANDREW JOHNSON.

WASHINGTON, January 28, 1867.

On motion of Mr. DEMING, the message and accompanying documents were referred to the Committee on Foreign Affairs, and ordered to be printed.

AMERICAN PROTESTANT CHAPEL AT ROME.

The SPEAKER also laid before the House the following message from the President of the United States:

*To the House of Representatives of the United States:*

I transmit herewith a report from the Secretary of State in answer to the resolution of the House of Representatives of the 24th instant.

ANDREW JOHNSON.

WASHINGTON, January 29, 1867.

*To the President:*

The Secretary of State, to whom was referred a resolution of the House of Representatives, passed on the 24th of January 1867, requesting the President, if not inconsistent with the public interest, to communicate to the House of Representatives any information which may have been received by the Government in relation to a removal of the Protestant church or religious assembly meeting at the American embassy from the city of Rome by an

order of that Government, has the honor to report that the Department of State has received no information concerning the subject inquired of in the said resolution.

WILLIAM H. SEWARD.

DEPARTMENT OF STATE,

WASHINGTON, January 29, 1867.

The message and accompanying document were referred to the Committee on Foreign Affairs, and ordered to be printed.

NEW ORLEANS RIOT.

The SPEAKER also laid before the House the following message from the President of the United States:

*To the House of Representatives:*

In compliance with the resolution of the House of Representatives of the 12th ultimo and its request of the 28th instant for all correspondence, reports, and information in my possession in relation to the riot which occurred in the city of New Orleans on the 30th day of July last, I transmit herewith copies of telegraphic dispatches upon the subject, and reports from the Secretary of War, with the papers accompanying the same.

ANDREW JOHNSON.

WASHINGTON, January 29, 1867.

On motion of Mr. ELIOT, the message and accompanying papers were referred to the select Committee on the New Orleans Riot, and ordered to be printed.

COMMITTEE OF CONFERENCE REPORT.

Mr. PERHAM, from the committee of conference on the disagreeing votes of the two Houses on the bill providing for the payment of pensions, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendment of the House of Representatives to the bill (S. No. 69) to provide for the payment of pensions, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from their first amendment to the amendment of the House, and agree to the same with an amendment as follows:

Strike out the word "October" and insert "July." Strike out all after the word "act" in line eleven of the House amendment to the end of said amendment.

That the Senate recede from their second amendment to the amendment of the House, and in lieu thereof agree to insert the words "and the commissions of all other pension agents now in office shall continue for four years from the passage of this act, unless such agents are sooner removed."

SIDNEY PERHAM,

J. P. BENJAMIN,

NELSON TAYLOR,

*Managers on the part of the House.*

H. S. LANE,

L. TRUMBULL,

C. R. BUCKALEW,

*Managers on the part of the Senate.*

The report was agreed to.

Mr. PERHAM moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DEFENSE OF NORTHEASTERN FRONTIER.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed for the use of the House three thousand extra copies of the majority and minority reports of the Committee on Foreign Affairs on the bill providing for the defense of the northeastern frontier.

MINERAL RESOURCES.

Mr. LAFLIN, from the same committee, reported the following resolution, which was read, considered, and agreed to:

*Resolved*, That there be printed for the use of the Treasury Department one thousand copies of the report of J. Ross Browne upon the mineral resources of the States and Territories west of the Rocky mountains.

CLERK TO A COMMITTEE.

Mr. LAFLIN, from the same committee, offered the following resolution:

*Resolved*, That the Committee on Printing be authorized to employ a clerk.

Mr. STEVENS. I hope not.

The SPEAKER. The gentleman from New York [Mr. LAFLIN] is entitled to the floor upon his resolution.

Mr. LAFLIN. I am nearly convinced that if the gentleman from Pennsylvania understood the amount of work that is before the Committee on Printing he would not interpose an objection of this character at this time. If the Committee on Printing had availed itself of the privilege which was conceded to many committees of this House it would have had a clerk during the last session; and it is because that committee has been endeavoring to prosecute its work without a clerk, and because it is now so overwhelmed with business that it is perfectly impossible for it to transact that business without some outside assistance that it asks the House to allow it this clerk.

In this connection I desire to call the attention of the House to the fact that the House has passed a resolution requiring the Committee on Printing to inquire into all contracts connected with the furnishing of paper to the Government, and although I do not desire to claim for the committee any special credit, I may say in their behalf that the examinations they have made for themselves, without the assistance of any clerk, required a long and tedious investigation, and have resulted in a conclusion which will save the Government at least \$40,000, by providing for a reduction of the weight of the paper upon which the public documents are to be printed.

There are subjects which require much care and attention, and I do not deem it very immodest when a committee so burdened ask, even at this late hour of the session, for the services of a clerk.

Again, gentlemen of the House will remember that they have referred to us numerous resolutions touching the publication of the Congressional Globe. No committee can report to the House on such a subject without carefully deciding what they propose to do. If it cannot be demonstrated to the House that it will be for the interest of the Government of the United States to discontinue their reports we do not propose so to report. But if it shall be found by the committee that such a course will be for the interest of the Government, we want the facts upon which we base our opinion to be recorded so that the House may act intelligently thereon.

Again, it has already been proposed to reorganize the whole printing department, involving a thorough and radical change in the administration of that department; and I submit to any gentleman connected with any committee if it would be in the power of any committee to give such careful and considerate examination to such subjects without aid?

Again, yesterday the chairman of the Committee on the Judiciary had referred to the Committee on Printing a bill which will require them to make an examination into the manner in which the laws, treaties, and proclamations made and issued since the year 1861 are to be published in the States lately in rebellion, a subject which will require much investigation. I might go on and mention instance after instance, but I believe I have already said enough to convince the House that the Committee on Printing is entitled to a clerk.

Mr. CONKLING. How long do you want your clerk?

Mr. LAFLIN. For this session; and I may say further, lest some gentleman may suppose that this resolution is introduced in the interest of some member of the committee, that we have no person in view for the position, and that if the resolution pass, we shall have to seek a man to fill it. I now move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. LAFLIN moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. LAFLIN also moved to reconsider the votes by which the various resolutions reported by him from the Committee on Printing were

agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADVERTISING IN THE NATIONAL REPUBLICAN.

Mr. UPSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Printing be requested to inquire, and report under what law the advertisement for proposals for paper for the public printing is published in the National Republican of this city.

Mr. UPSON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PRINTING THE ARMY REGISTER.

Mr. ANCONA, by unanimous consent, submitted the following resolution; which went to the Committee on Printing under the law, namely:

*Resolved*, That there be printed for the use of the House two thousand copies each of the Army Register for the years 1866 and 1867.

#### INDIAN DEPREDACTIONS IN OREGON—AGAIN.

On motion of Mr. WINDOM, by unanimous consent, House bill No. 1023, to indemnify the citizens of the Territory of Washington and State of Oregon for property destroyed by Indians in the years 1855 and 1856, which was reported upon adversely this morning by the Committee on Indian Affairs, was taken from the table, and recommitted to the Committee on Indian Affairs.

#### APPROPRIATION BILLS.

Mr. STEVENS. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the appropriation bills.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair.)

#### PENSION APPROPRIATION BILL.

The CHAIRMAN. The first business in order is the House bill No. 903, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1868.

On motion of Mr. STEVENS, the first reading of the bill was dispensed with by unanimous consent.

The Clerk then proceeded to read the bill for amendments.

The bill appropriates for the payment of pensions for the year ending the 30th of June, 1868, as follows:

For invalid pensions under various acts, \$10,000,000.

For pensions of widows, children, mothers and sisters of soldiers, under various acts, and for compensation to pension agents and expenses of agencies, \$23,000,000.

For Navy pensions to widows, children, mothers and sisters, as provided by various acts, and to be paid from the Navy pension fund, \$280,000.

No amendment being offered, the bill was laid aside to be reported to the House.

#### CONSULAR, ETC., APPROPRIATION BILL.

The CHAIRMAN. The next bill in order is House bill No. 904 making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1868, and for other purposes.

Mr. STEVENS. I ask unanimous consent that the first reading of this bill be dispensed with.

Mr. SLOAN. I object.

The bill was then read at length.

The Clerk then proceeded to read the bill by clauses for amendment.

The following clause was read:

For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Republic of Mexico, China, Italy, Chili, Peru,

Switzerland, Rome, Belgium, Holland, Denmark, Sweden, Turkey, New Grenada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, Paraguay, and Salvador, \$301,000.

Mr. NIBLACK. I move to amend this clause by inserting the word "Portugal" after the word "Brazil;" and also by increasing the gross amount appropriated by this clause by the addition of \$7,500.

Mr. Chairman, I understand, from an examination of all the records to which I have had access, and by inquiry at the State Department, that we still have a minister resident near the Government of Portugal. And on further inquiry I understand that the salary of that minister is \$7,500 a year. It seems that from some cause (I do not profess to be familiar with all the reasons) at the last session of Congress the appropriation for the payment of the salary of that minister was omitted. I learn that the minister now residing near the Government of Portugal was appointed on the 28th day of March, 1861, by Mr. Lincoln; his nomination was confirmed by the Senate, and he is still in commission as the present minister of this Government to that country.

I take it, therefore, that the reasons for withholding the appropriation to pay his salary as minister must be very urgent indeed, or the Congress of the United States will not longer be induced to pursue that course. I certainly have heard of no good reasons for thus refusing to pay this man his salary. I confess that I regarded the withholding of his salary at the last session as very extraordinary legislation on the part of Congress. I do not say that it was unjustifiable legislation, because I do not pretend, as I before remarked, to know all the reasons which induced it. But it is a precedent which I think we should be very reluctant to set in matters of this kind. Matters pertaining to the diplomatic affairs of the country are committed to the Executive. Many of the duties pertaining to this branch of the public service are kept from the public view—are what are commonly known as state secrets. Many things occur in that branch of the public service which are not deemed fit matters for publication. When we call for information from the Department of State we usually make the call through the President, with the reservation that he shall communicate the information asked only in case he shall consider it not incompatible with the public interest to do so. Very great discretion, therefore, is intrusted to the President in the management of the foreign affairs of this country. And I think we should not attempt to abridge that discretion, except for weighty and sufficient reasons, well known to ourselves and to the country.

It is with a view, therefore, of ascertaining why the salary is withheld from our minister to Portugal that I have moved this amendment. I am quite sure the House ought to adopt the amendment, unless some good reasons can be urged to the contrary.

I now yield to the gentleman from Pennsylvania [Mr. STEVENS] the chairman of the Committee on Appropriations, for any explanation he may desire to make.

Mr. STEVENS. I shall very willingly give the gentleman from Indiana [Mr. NIBLACK] the reasons why the appropriation to which he refers has been left out of this bill. It was left out of the appropriation bill of last year and an express enactment was made that no further payment of salary should be made to that minister. I am sorry to hear the gentleman say that that minister still continues there in defiance of Congress. The reason the appropriation was omitted last year was that there had appeared in the New York papers a very long letter from Mr. Harvey to the Secretary of State, in which, among other things, after a fulsome eulogy of the President, to which I did not object because I thought it very becoming, he indulged in a most foul and vulgar abuse of Congress.

I am sorry that the letter is not here now to be read. It was published in the Globe of the last session. In that letter Mr. Harvey

denounced Congress as corrupt, and said everything else which it was possible for him to say to please gentlemen at the other end of the avenue. This letter was sent to the President, and he deemed it so good a thing that he sent it to a New York paper to be published. The House called upon the Secretary of State for a copy of that letter to ascertain its authenticity. Its authenticity was certified to by the Secretary of State, who sent us a full copy of the whole letter. The letter, when read to the House, will I think be found to bear the character which I have given it, as a most abusive, vulgar, vile attack upon Congress, which it denounces as fit for anything else than its duties.

This is the same Mr. Harvey who was believed to have communicated information to the enemy upon the eve of the bombardment of Fort Sumter; and in consequence of this fact being discovered the Union Senators, a short time after his confirmation, waited in a body upon the President and asked that his appointment should be revoked. But the President, in the goodness of his heart, could not think of doing such a thing; and Harvey was suffered to retain the position. He remained there until he wrote this attack upon Congress. If he is there now he is there in defiance of the will of Congress; and I trust he will be allowed to pay his own expenses. His name was stricken from the appropriation bill of last year, and this further provision was added:

And no money shall be paid to the present minister resident at Portugal out of any fund whatever on account of further services in his office.

Mr. MAYNARD. I have that act before me, and I desire to ask the gentleman whether he supposes that the effect of that provision was to repeal the general consular and diplomatic act regulating our foreign relations, passed, I believe, in 1856, which act provides for a minister resident at Portugal, and fixes his salary. If the provision in the act of last year does not have the effect to repeal the act of 1856, then I desire to inquire whether simply leaving the name of this minister out of the appropriation bill will do anything more than throw over the payment of this officer, to be provided for as an item in a deficiency bill.

I will remark further, if the gentleman will allow me, that I have no doubt that either the executive or the legislative department of the Government may with propriety object in the most emphatic manner to continuing in an official position abroad one who would slander or abuse or in any way misrepresent that particular department of the Government. I can conceive why the Executive should refuse to accredit any officer who would so misrepresent that department. It seems to me that we may with equal propriety refuse to appropriate money to pay a man who abuses and misrepresents the legislative department of the Government. But I desire to inquire of the gentleman whether in his opinion the act of last session repeals the act of 1856, to which I have referred, and if it does not, whether the omission of the appropriation from this bill does not simply throw over the item to be provided for in a deficiency bill.

Mr. STEVENS. I suppose that the act to which I have just referred is a legitimate enactment. This Congress declares that so long as this man retains the position he shall have no pay; and if this is not a sufficient hint for him and for the Government I do not know what would be. There is a general continuing provision of law that this man shall receive no money; and I propose that we shall do now as we did last year—omit from the appropriation bill any provision for his payment as minister abroad. If he chooses to stay there till doomsday let him do so. I think that out of the country is the best place for him to be.

Mr. MAYNARD. I submit to the gentleman whether the object he has in view will be accomplished in that way. Suppose that we should refuse to make provision for the pay-

ment of this officer, either in the regular appropriation bill or in a deficiency bill; if he should apply to the Court of Claims will not that court, in executing the law, be compelled to render judgment in his favor, which will be a charge upon the Treasury?

Mr. STEVENS. I do not see how the Court of Claims could render judgment in opposition to a direct act of Congress declaring that a man occupying a particular place shall be paid nothing.

Suppose under the act to which the gentleman refers it had been provided the minister at Portugal should be paid \$800, and Congress afterward passed a law he should not be paid anything, does not that repeal the substantial part of the first law?

Mr. MAYNARD. I fail to make myself understood by the chairman of the Committee on Appropriations. The question I proposed goes behind that. Does the act of the last session have any other effect than to suspend the payment of the salary for that year, leaving the law afterward to be revived in full force?

Mr. STEVENS. The act to which I refer is a general act. So far as this salary is concerned the committee of conference of the two Houses at the last session thought it best to put it in this shape.

Mr. RAYMOND. Mr. Chairman, I desire to say one word in regard to this proposition, especially as I was instrumental to a certain extent in procuring the publication of the letter on account of which the present minister at Portugal is deprived of his salary. I have no very distinct recollection of the precise language of that letter, but I have no hesitation in expressing the opinion that it does not deserve the characterization just given to it by the gentleman from Pennsylvania, [Mr. STEVENS.] It was a letter which did express differences of opinion from Congress; but I fail to recollect any language or any sentiment in it which ascribes to Congress corrupt motives, or which can be properly styled "a foul and vulgar abuse of Congress." I do not think, sir, those terms are warranted by the language of the letter. That, however, can speedily be decided, if any one is interested in fastening that character upon it, by referring to the Globe, in which it is published.

Now, sir, it must be borne in mind this was strictly a private letter, written by Mr. Harvey as an American citizen, residing abroad, to the Secretary of State, his personal friend. It was not an official letter; it was not intended to be made public at all; and but for the act of the Secretary of State and my own agency in the matter it would not have seen the light. If any one is to be punished for the publication of that letter it certainly is not the gentleman who wrote it.

Mr. Chairman, it is confessed, it is avowed here the only object of this provision is to punish Mr. Harvey for writing that letter, to punish him as a citizen for expressing different opinions from those held by Congress. It is said this is the only way in which we can get rid of a man who expresses opinions adverse to Congress. Well, sir, if that is so, and if Congress chooses to enter upon a general scheme to get rid of all office-holders who speak disrespectfully of its conduct and its opinions, let us make our action general; let us apply the rule to all. That I can understand; but I see no special reasons for now singling out this particular office-holder for this species of punishment.

The gentleman from Pennsylvania, I know, does not suppose for one moment Mr. Harvey is the only man in possession of office who has expressed differences of opinion from Congress. If, then, he wishes to make this a general rule, let him bring in a bill to that effect. Let him remove all office-holders or deprive them of their salaries when they are guilty of the presumption of expressing opinions different from those entertained and acted upon by Congress. Mr. Harvey was appointed to this office, it must be remembered, by Mr. Lincoln, and confirmed by the Senate after the act to

which the gentleman from Pennsylvania has alluded, and after the charges to which he now refers were investigated and inquired into.

Mr. STEVENS. Mr. Harvey was appointed before it was known, and when it was known the Republican Senators went in a body and asked the President to remove him.

Mr. RAYMOND. The whole of them—all the Republican Senators?

Mr. STEVENS. I think so—the large majority of them.

Mr. HALE. Let me ask a question. I understand one of the charges made against Mr. Harvey is that he communicated information to the enemy at the breaking out of the war. I understand it is said by the chairman of the committee those facts were brought to the attention of Mr. Lincoln by a body of Republican members of Congress, who urged his removal on that ground, and on those facts he declined to remove him from office. I wish to inquire of the chairman of the Committee on Appropriations whether he charges President Lincoln with complicity either after or before in the treasonable conduct of Mr. Harvey.

Mr. STEVENS. I did not say that the appropriation was stricken out on that account; I said it was on account of the letter. Then I went on to describe who Harvey was, and stated that Mr. Lincoln did not know of his having written this letter when he appointed him, and being a good-natured man he never wanted to remove anybody after he had appointed him. I do not think Mr. Lincoln approved of him at all, but he had not the heart to turn out a man whom he had put there.

And while I am up allow me to say that the gentleman from New York [Mr. RAYMOND] rather perverts the grounds upon which I put it. I did not put it on the ground of expressing opinions—God knows we should remove a good many if we did—but on the ground of vulgar abuse of Congress; not because he supported the policy of the President and opposed that of Congress, but because he acted like a black-guard. I have sent for the letter in order that the House may understand it, and after it is read I will move to pass this over.

Mr. HALE. Will my colleague allow me a single question, following out what he has already said?

Mr. RAYMOND. Yes, sir.

Mr. HALE. My question is this: whether when this subject was presented to Mr. Lincoln the gentleman is not satisfied that Mr. Lincoln was convinced that the charges against Mr. Harvey were unfounded, otherwise he would have been removed?

Mr. RAYMOND. In regard to the original appointment of Mr. Harvey by Mr. Lincoln, which was confirmed by the Senate, the gentleman from Pennsylvania now says that Mr. Lincoln was requested, as he believes, by a majority of the Senate to remove Mr. Harvey for certain reasons which they assigned. The President did not see fit to remove him. The gentleman thinks it was because he had not nerve—because he was too kind-hearted. Sir, I never knew an instance during my acquaintance with President Lincoln when he had not the nerve to do justice to his country by the removal of any public officer whose case called for such interposition, especially any one who had been guilty of treasonable practices such as are charged upon Mr. Harvey. I know that at that time many things which he did were complained of by members of Congress and others, but I think the judgment of the country then sustained him rather than those who made complaint, and that it has reaffirmed that judgment since. I believe if Mr. Lincoln had known Mr. Harvey to have been guilty of the acts charged upon him and with the motives now ascribed to him he would have been promptly removed.

But that is not, as the gentleman says, the reason for striking out his salary. He now assigns as the reason, not that Mr. Harvey expressed opinions different from those held by Congress, but because he did it in a coarse and abusive style—that he was guilty of vulgar



abuse of Congress and "acted like a black-guard." Now, sir, that is to a certain extent a matter of taste. The gentleman's tastes are more refined and more fastidious in that respect probably than my own or those of other members of the House; but I submit that he ought to be careful in applying so stringent a rule on points of taste to persons holding official positions in the Government. It is barely possible that a large number of the office-holders throughout the land might not come up to his high requirements in matters of taste in the use of language. I submit that he should make the matter of taste of more general application and not restrict it to Mr. Harvey or to any single man.

Why, sir, I can produce a hundred, yes a thousand other men holding office who have expressed their opinions of Congress in a great deal stronger and more flagrant terms than any used by Mr. Harvey in the letter now in question. Why not apply the same rule to them? Why not, if all men are to be brought to this rigid rule and made to conform to the fastidious taste of the gentleman from Pennsylvania in the use of language, why not introduce a section in the appropriation bill that such a postmaster at such a place, that such a naval officer in such a city, that such a revenue collector in such a port, having been detected in expressing their opinions of Congress in terms which strike the gentleman from Pennsylvania as vulgar and indecent, shall receive no salaries during the remainder of their official terms. I submit that this is no ground upon which we can act with due regard to our self-respect. If we want these men out of office let us make a law to get them out. Let us make representation in the proper quarter, and get them out by the proper means. Let us do it, if we do it at all, in a straightforward manner—one which we can persuade ourselves at least is consistent with our sense of justice and fair dealing if we cannot vindicate it before the people.

I do not believe the people of this country desire that any man should be thrust out of office by simply starving him out, by depriving him of the salary which the law awards him as long as he holds his place and does its duties. I have no special interest in this case. It is a matter of not the slightest consequence to me whether Mr. Harvey receives his salary or not. But it is of some consequence to us all to pursue a course in this matter which will meet the approbation of our sober judgment when the excitement of party and personal resentment has passed away.

Mr. MAYNARD. Before the gentleman from New York [Mr. RAYMOND] resumes his seat, I desire to make an inquiry of him. I have heard it stated, but I do not know how true it is, and I call the attention of the gentleman to it, believing that he may perhaps be able to verify or refute the statement, that a dispatch was found in the telegraph office of this city, in the handwriting of Mr. Harvey, and addressed to the Governor of South Carolina, which dispatch was prepared and sent with the privacy of the Administration of Mr. Lincoln, and perhaps of the Department; that the object was not clandestinely or secretly to prevent Fort Sumter from being reinforced, but to let the rebels have full knowledge of the intentions of the Government so that if a collision occurred they would be put clearly and manifestly in the wrong before the country in making war upon the garrison which we were endeavoring to succor. I have heard that explanation given of the conduct of Mr. Harvey, and also that Mr. Harvey was selected for the purpose by reason of his being a South Carolinian. The question I desire to ask of the gentleman from New York is, whether the information in his possession tends to confirm or to refute those statements.

Mr. RAYMOND. I am unable to say anything about that, because I have no personal knowledge of the facts of the case. I understood at the time that Mr. Harvey was not the originator of the dispatch referred to by the

gentleman, but that it was sent through him because he was known at the time to be the Washington correspondent of a Charleston paper and acquainted with prominent persons in South Carolina, as well as the gentleman to whom the dispatch was addressed; of that, however, I am not sure.

Mr. BANKS. I think a very simple explanation can be given of the dispatch communicated to the papers in South Carolina in 1861. There was a doubt on the part of the southern people whether the North would fight them if they entered into an armed rebellion. It was the interest of the Administration to satisfy the southern people that if they did proceed against the authority and laws of the United States they would meet resistance from the Government with all its power. And I imagine that the dispatch of Mr. Harvey was sent to Charleston in order to satisfy the leaders of the rebellion that if they did move against the authority of the United States they would have to encounter the whole power of the Government. In that view it was not a criminal act on the part of Mr. Harvey. If he had communicated information for himself which he had obtained from the Government, the knowledge of which information would have operated against us and in their favor, that certainly would have been a treasonable act. But I do not understand that dispatch to have been of that character. Nor do I understand that the provision inserted in the appropriation bill of last year was inserted in consequence of that affair at all. I understand the facts for striking the appropriation for the salary of Mr. Harvey from the appropriation bill to have been these: Mr. Harvey disagreed with Congress in regard to the course of the Government and was in favor of the policy of the President. But he was not content with simply expressing his difference of opinion. The letter which he wrote and which was made public was interpreted to mean that the President would be justified in using force against Congress; that was the understanding. I do not know whether that letter will bear out that construction or not; but that was the interpretation generally given to the letter.

Now it would be very proper, as the gentleman from New York [Mr. RAYMOND] suggests, that if we do not like Mr. Harvey we should remove him or abolish the law under which he was appointed. But there is another matter involved in the matter. We have now amicable and friendly relations with the Government of Portugal. To pass an act discontinuing diplomatic relations with that Government would be in the nature of an offensive act against the Government of Portugal which the Government of the United States should not take without some cause growing out of the diplomatic relations between the two Governments. Yet no person should ask that we should retain as an officer of this Government a man who has published to the people of the United States a recommendation to one department of the Government to proceed against another department with force. No person would expect us to continue in office in such relations to the Government a man who had expressed such opinions, and therefore Congress did the only thing that was left for it to do, it declared in the most solemn manner by a vote of the two Houses, followed by a vote of a conference of the two Houses, that the salary of this officer ought not to be paid and they instructed the executive department under no circumstances to continue the payment of the salary, and I think that if this officer remains at his office in defiance of the legislation of last year some course should be pursued by Congress to remedy the evil unless some explanation is made.

Mr. SCHENCK. I do not propose to add anything to what has been said or to anticipate anything that may be said in regard to the merits of Mr. Harvey as a representative of the whole American people abroad. I do not propose to go back into Mr. Harvey's antecedents. I will make only the general remark that the representative of our country abroad

ought to be the representative of the whole country, and that he was traveling out of his proper sphere when, being abroad and representing the public sentiment of the whole country, he indulged in anything which by direction or indirection he laid before the President to be read abroad and criticised reflecting upon the Government. We recollect very well the history of the case of Mr. Van Buren, and how he was rejected by the Senate for dragging into observation at the court to which he was accredited questions which belonged to us at home only.

The objection to Mr. Harvey I understand to be that he wrote home to the Secretary of State a letter which seems to have been designed for the public, and which was published, in which he takes occasion to commend himself to one branch of the Government by an attack upon another branch of the Government. Such men are not fit to represent any branch of the Government abroad.

The gentleman from New York [Mr. RAYMOND] says we should repeal the law authorizing his appointment. Why, sir, we have no law authorizing the appointment of representatives abroad. The Constitution provides for that. It is the prerogative of the Executive to appoint ambassadors and other ministers and consuls to foreign Governments. He does it without law. No law needs to be repealed and no law needs to be passed. And no law ever has been passed declaring what shall be the representation of this country in this, that, or the other country. Now, further than this, Congress fixes what shall be the grade of its ministers abroad. When the Executive says that he wants a minister to Portugal Congress has to make provision for his pay, and that is the only check we have upon the Executive. While the Constitution gives him the power to appoint representatives of the Government to any foreign Government on earth, it is our place to withhold our sanction to such appointments by denying the supplies for the payment of his appointees. In other words, the only way in which we can get Mr. Harvey is to "starve him out." And there is a peculiar propriety in our taking this course when it effects one of this "bread and butter brigade." If the President chooses to keep Mr. Harvey or any one else as our representative at a foreign Court it is for Congress to say, "If you choose to keep such men as our ministers at these Courts, we will not pay them;" and in that way, although the President may not recall them, I apprehend that these "bread and butter" gentlemen will soon be found wending their way homewards. [Laughter.]

But, sir, it does not lie in the mouth of the Executive to complain, for this matter was before the House at its last session, and the House struck out this appropriation. The Senate reinserted it, and the matter went finally to a committee of conference. The bill, as it finally passed, not only withheld the appropriation, but prohibited the payment of any such salary; and that bill, with that clause in it, the President signed and approved.

Mr. ELDRIDGE. I understand the gentleman from Ohio [Mr. SCHENCK] to insinuate that this gentleman, Mr. Harvey, belongs to the "bread and butter brigade." I understand that he was one of the appointees of Mr. Lincoln, and I was not aware that the "bread and butter brigade" was organized at that time. I would like to hear from the gentleman at that point.

Mr. SCHENCK. The political army is like other armies. There are deserters from it as from other armies. This "bread and butter brigade" to which I have referred only for the purpose of characterizing Mr. Harvey as one of those composing it, has been made up of recruits from not only the Republican party and the Democratic party, but even from among the very men appointed to civil or even military stations by the Administration that preceded this and by the party to which these men have proved renegade. There is no necessity for bandying words about this matter.

Many a "bread and butter" man has gone from the Republican party and may have enjoyed its honors. The only thing that can be said of such is that they are more detestable than any others, because they have fallen from a higher estate. [Laughter.] It did not need perhaps that a Democrat should go down very much lower than he was in order to take a position in this "bread and butter brigade." But let a man in a higher position fall, and it is very much like the fall of woman—the best of all God's gifts—or as a gentleman suggests, very much like the fall of Lucifer himself, the depth of whose plunge into hell was just in proportion to the height of those battlements of heaven from which he was precipitated.

But this is aside from the question of which I was speaking. I say the only way in which we can effectually reach any man sent abroad by the Executive, in the exercise of his prerogative as Chief Magistrate, to represent the country, is to deny the supplies for paying any such man; and the committee have very properly taken the only course that was open to them in this case.

Mr. STEVENS. I have sent to the Clerk the original letter of Mr. Harvey, and I ask that the part which relates to Congress be read.

The Clerk read as follows:

"While any collision between the majority in Congress and the President is to be regretted, the recent explosion will operate like electricity in clearing the atmosphere. The common strong sense of the country will vindicate itself again, as it has often done before, by an instruction likely to be remembered by those who would 'rule or ruin.' The people are weary of agitation merely for the sake of agitation, and they demand that peace, order, and law shall be reestablished throughout the length and breadth of the Union. Faction can no more arrest the march of those events than the march of the waves, which will not go so far and no further at their bidding, though they may command with the tongue of a thousand Canutes.

"Let the Administration go straight forward and without shrinking, and all will be well, how as partisanship may at its heels. Look at the record of your own individual experiences since 1861, if instruction and encouragement be needed. Who so persecuted, outraged, and traduced, and by many who should hang their heads down in very shame, and who so triumphantly honored and sustained, even to the dangerous point of being praised by the compelled homage of revilers?

"If it were possible to destroy the Union and with it all hopes of the future, the men engaged in and exciting the crusade would be exactly the appropriate instruments. All their endeavors, their enthusiasm, and their desires have been directed to that end, if not with intention, at least with a mischievous policy, that if successful could produce no other result. They seem to have taken their lessons of wisdom from the Duke of Alva, whose advice, unreason, and obstinate conduct cost Philip II one of the fairest parts of his dominions. Minus the form of the Inquisition—of which the modern Alvas would preserve all the punishment—there is a striking parallel between the champions of harsh and headstrong zeal three hundred years ago and that which lashes itself into fury now, and merely because it cannot have 'its own way.'

"We are fighting a new battle for the Union, and against foes the more dangerous for being insidious and within the lines of our camp. But I have not a particle of doubt about the result, any more than I had about the issue of the other war, when our proper strength could be collected and judiciously applied.

"The crisis demands positive remedies and direct treatment. Quackery will kill in this extremity. Therefore the sooner it is understood that the line must be drawn broadly and clearly the sooner will the Administration be relieved from some of the dangers which incidentally menace it.

"Whoever has studied the events of the war must be convinced that the black man cared very little for his own status or was willing to make much effort to change it. No such opportunity was ever offered to an enslaved race to strike for itself, and certainly encouragement enough was given to it to do so in some directions. Every proper and humane man feels that, emancipated as that race now is, it should have every just aid and protection until able to help itself. But let me tell you, from some little observation on the subject and some knowledge of the people, that human ingenuity could not devise a more effective method for fastening another form of bondage upon them than this ballot, which is proposed as their sovereign panacea. Give them that right and I would pledge my life on the result, if the test could be fairly made, that almost ninety per cent. of the whole black population would vote on the side of their old masters; or, in other words, become the instruments of fastening new chains upon themselves. And if ever the day comes (which I hope never to see for fear of the consequences) when these people may vote without condition, you may expect to see the South compacted by negro suffrage and uniting with the northern so-called 'Democracy' to regain possession of the Government and overthrow everything thus far accomplished. And such a result would be

quite in keeping with the sagacity and the moderation of those who are ready to sacrifice everything sacred to the one idea of their foolish fanaticism."

Mr. STEVENS. I will not ask the Clerk to read any further.

Mr. BANKS, Mr. NIBLACK, and others. Let the whole letter be read.

The CHAIRMAN, (Mr. POMEROY.) The gentleman from Pennsylvania, [Mr. STEVENS,] who has the floor, has the right to say how much of the document shall be read.

Mr. WILLIAMS. I see, on looking at the Blue Book, that Minister Harvey is set down to the credit of Pennsylvania. I have been informed that he is a citizen of South Carolina, and never did hail from the State which I have the honor in part to represent.

Mr. STEVENS. The fact is, he roamed about, wrote letters, and insinuated himself among the men of the lobby here. Why he should have been appointed minister to Portugal, with a salary of \$7,500 a year, I do not know.

Mr. RAYMOND. Mr. Chairman, I wish to make one or two remarks by way of comment on the discussion which has just taken place. The gentleman from Ohio [Mr. SCHENCK] says that the Executive had no right to complain of this act inasmuch as he had approved and signed the bill which cut off Mr. Harvey's salary last year. I trust nothing so far as I have had connection with this discussion has left the impression that the Executive has complained. I have never certainly heard that he did in any way, shape, or manner make any complaint. I spoke simply and exclusively on behalf of the self-respect of Congress, and I desire we shall act here so as to meet our own approval in this matter.

Another point the gentleman from Ohio made was to draw a parallel between the action of Mr. Harvey in sending a letter home referring to divisions of party here and Mr. Van Buren's action while minister to England; but I call his attention to the fact that Mr. Van Buren's offense consisted in making party divisions here the basis of official action. Having failed to obtain from England certain concessions while one party was in power Mr. Van Buren attempted to raise the same question again, reminding them another party had come into power here and assuring them they might expect different action at the hands of the Government. It was for that, sir, if I remember aright, he was rejected. There is no parallel to that in this case, and the gentleman from Ohio will not pretend there is.

The letter has been read on account of which Mr. Harvey is to be deprived of his salary as minister to Portugal. I am willing to submit to the House the question I did submit before, whether there is anything in that letter which deserves the epithets which the member from Pennsylvania applied to it.

It is strong in its expressions of opinion, I admit, but there is nothing in it I think, unless my taste is lamentably defective, (and on that point I defer to both the gentlemen who addressed the House on the subject, the member from Pennsylvania and the member from Ohio,) unless my taste is lamentably below the congressional standard, I submit it does not justify such epithets.

Mr. STEVENS. He charges that we are conspiring to rule or ruin the country; that we are worse than the infamous Duke of Alva. I ask whether those charges do not justify my epithets?

Mr. RAYMOND. The question is pertinent, but I think it betrays a sensitiveness on the part of the gentleman from Pennsylvania I did not expect he would display. Mr. Harvey in these passages makes no allusion to Congress. He alludes to partisans and partisans only. He says nothing about Congress. If the gentleman from Pennsylvania applies the term to himself, it is only the "galled jade" that is likely to wince.

Mr. STEVENS. The gentleman is mistaken. Mr. Harvey commences his letter by an attack upon Congress.

Mr. RAYMOND. If I understand it, in the beginning of the letter Mr. Harvey expresses regret a collision has arisen between the President and Congress; and then he goes on to speak of the divergence of opinion, not between those two merely, but of that which prevails in the country. He speaks of the country at large and the divisions in the country, and uses phrases not stronger than I have heard upon this floor many times without exception.

Mr. STEVENS. If I understand the gentleman then, because he slanders the whole country it is not personal in regard to Congress?

Mr. RAYMOND. If I had understood that it is because he speaks disrespectfully of the whole country that his salary is to be stopped I should consider the remark more pertinent. He may have spoken disrespectfully of the country, and he may have committed the enormity to which Sydney Smith alludes, in speaking disrespectfully of the equator; but I submit his salary should not be stopped on that account.

Mr. SCHENCK. The gentleman from New York with his usual astuteness cannot comprehend the point which I make. I did allude to the case of Mr. Van Buren, but I alluded to it with the general remark under no circumstances ought the representative of our country abroad, who should represent this country as a unit, be permitted to call attention to differences at home or to the existence of struggles between coordinate branches of the Government.

Now, the gentleman draws a distinction in this; Mr. Van Buren's communication was made to that foreign Power, and Mr. Harvey's was a letter to the Secretary of State at home, and that it must have gone to the Secretary of State, to whom it was addressed, before it could get into the newspapers.

I make, then, this general remark on that view of the subject; that if the Secretary of State, representing the Foreign Department of our Government, keeps a minister abroad who indulges in writing political and partisan essays attacking those who differ from the President or the Administration, and then the Secretary of State permits himself to be the conduit through which such tirades reach the public by being printed in the newspapers, it is time to let Mr. Seward know that he had better keep such partisan defenders in the petty political offices at home. I do not care to know whether it was with Harvey's original consent, or whether it was a specimen of the judgment of Mr. Seward or of the President that this paper was made public; wherever it was published its effect must necessarily have been to react abroad and to leave the people to infer, "Here is a minister from the United States who entertains and expresses views of this kind in regard to the squabbles at home; he could not be sent here to represent that great Government unless he was pretty well informed upon these subjects, and capable of making them comprehensible to those who surround him here and in the country from which he is sent."

I care not therefore how it got into the public papers; I say there is a minister of the United States who writes a partisan tirade abusing those who differ from his master, the man who has become his master, and toward whom he seeks thus to be obsequious, and by this means seeks to commend himself to that master; that letter goes to the Secretary of State, and by the connivance of that Secretary of State, or perhaps of the President, by one or both of them, who thought it was a good political essay and would answer some partisan purpose, it is thrust into the public prints and then goes back again to affect the position of Harvey as minister to that Government.

Mr. STEVENS. Will the gentleman allow me here to say that we have received a communication from the State Department expressly stating that the President directed it to be made public.

Mr. SCHENCK. Well, sir, the President ordered it to be published; then by my vote the

President shall not keep a man at Lisbon or anywhere else to write these partisan tirades to go back to the people of Portugal in order to have them understand what the representative of our Government thinks about our squabbles at home.

Mr. ELDRIDGE. I would like to make this suggestion to the gentleman; that as it is understood that this was a private letter written to the Secretary of State, not intended to be published, but was made public by the Secretary of State and published by order of the President, we may make a mistake in cutting off the salary of this minister; that we ought rather to stop the pay of the President or of the Secretary of State or of the gentleman from New York. [Laughter.]

Mr. SCHENCK. Well, sir, it will not be a bad thing perhaps in some way to stop the President's pay in due time. [Laughter.]

A MEMBER. How about that of the gentleman from New York?

Mr. SCHENCK. That is not the question before us.

Mr. RAYMOND. I would suggest whether my connection with the publication is not part of the inducement by which Congress voted me \$2,000 extra pay last year. [Laughter.]

Mr. SCHENCK. I cannot say whether it was or not.

Mr. STEVENS. I understand it was given to the gentleman from New York as an outfit for the convention at Philadelphia. [Great laughter.]

Mr. RAYMOND. I accept the explanation, and I am free to admit that the service I performed was worth all the pay I received for it. [Laughter.]

Mr. SCHENCK. Mr. Speaker, I do not wish this matter, so far as I am concerned, to be mixed up with anything that is aside from the question. I put it distinctly upon the broad ground that the representative of our country, whatever may be the difficulties at home or the differences about our domestic affairs, ought to represent it as a unit, and that when he, either directly or through the agency of those who send him, is used as a medium to bring such tirades before the world, it is time to say to those who placed him there, "We will pay no such man, we will make no provision for his support there, and you had better reconsider the matter so far as the mission to Portugal is concerned, and send somebody else who will deport himself in a more becoming manner."

Mr. HILL. I rise to a question of order. I wish to know if we are not acting under the operation of the five-minutes rule?

The CHAIRMAN. The five-minutes rule has not been adopted.

Mr. NIBLACK. I will yield now for a moment to the gentleman from Kentucky, [Mr. Hise.]

Mr. KASSON. I wish to say, in behalf of the committee and by the wish of its chairman, that it will very soon be necessary to rise and close this debate unless the five-minutes rule shall be adopted by unanimous consent.

Mr. NIBLACK. I will not prolong the discussion much. I will yield only to the gentleman from Kentucky.

Mr. HISE. I have but a few words to say. I understand the gentleman from Pennsylvania to assume as the basis of his remarks that there is no law existing that precludes the right of Congress to withhold an appropriation for the payment of a minister abroad whose political opinions are opposed to those of this House. Now, sir, I have a pretty distinct recollection that during the first year of Mr. Pierce's administration there was a law passed by Congress by which the pay of all the ministers to Europe, and also, I think, to Central and South America, was established. The Constitution gives the President the right to appoint ministers to foreign Governments, and this law fixed the salary or compensation to be paid to the ministers at those foreign Courts.

Mr. SCHENCK. Let me say to the gentleman that the only way in which the law of

Congress makes a recognition of and establishes those missions is by making an appropriation.

Mr. HISE. No, sir. That law legalized all these missions and fixed a salary for the minister at the Court of Great Britain, of France, and of Spain, and of all the other ministers. It was not a mere temporary act of appropriation, but a permanent law, fixing the salaries which these gentlemen were to receive. Now, would it be acting in good faith—would it not be perfidious on the part of Congress—after legalizing these offices and fixing the compensation which is attached to them, to refuse to make the appropriation for one of the incumbents? Would it be lawful? Would it be honest? This man is in office under the law, and is, for aught I know, in the faithful discharge of the duties of his position. Shall we, on account of a political difference in opinion with him, turn round and refuse to make the appropriation necessary to pay his salary as provided by law? Shall it be said that we have a minister rendering services at this Court of Portugal, appointed under the law at a fixed compensation, who receives no pay because he happens to differ from the majority here in his political opinions? Are gentlemen here prepared to establish the principle, or to advocate it, that now and forever hereafter they will by this means control the executive patronage of the Government; that they will resort to this practice of striking out the appropriation for an officer, either civil or diplomatic, because he belongs to a different party from their own? What is this letter which has been read? It is but an expression of political opinion in a letter addressed to the Secretary of State.

Mr. NIBLACK. I must now resume the floor.

Mr. STEVENS. I hope the gentleman will move that the committee rise for the purpose of closing debate. We have been "running empties" for the last hour.

Mr. HISE. A word more. Mr. Van Buren's letter was addressed to a foreign minister; and it was, perhaps, upon that ground that the Senate refused to confirm him, and that he was recalled.

Now, I want the country to know, because there is an important principle involved, whether or not the party in power have reached that degree of partisan fierceness that they are prepared, in order to control the executive patronage, to withhold appropriations, and refuse to provide for the payment of officers of the Government whose salaries are fixed by law in order to get rid of them?

Mr. NIBLACK. I shall detain the committee but a few moments and then I will yield the floor to the chairman of the Committee on Appropriations [Mr. STEVENS] and let him move such disposition of this subject as he may see fit.

I am now in possession of the information which I sought to obtain by the amendment which I moved. I had seen going the rounds of the public press statements of a similar import to those which have been made here in regard to this matter; but I did not consider the information thus obtained of such a character as would justify me in speaking of the reasons which controlled Congress at the last session in relation to this matter. It seems, however, that for certain differences of political opinion expressed in a private letter which became public by some accident, or perhaps by some design, certainly by some means for which the one who wrote the letter is not to blame, his salary is sought to be withheld.

It is charged by the gentleman from Pennsylvania [Mr. STEVENS] that that letter was an attack upon the majority in Congress. I think the gentleman from New York [Mr. RAYMOND] has pretty well disposed of that. But if that letter contained an attack upon Congress, as it is called, if it was a criticism upon Congress—because it is nothing more than the ordinary newspaper criticism upon the acts of public men and of parties in the country—if that crit-

icism was intended to apply to the majority in Congress, I hold that it constitutes no sufficient reason for withholding his salary as the accredited minister to the Government of the country in which he is now resident.

The President of the United States is every day charged here with corruptly removing men from office for speaking disrespectfully of him. When a man is removed from office, as we are informed, simply for differing with the President and speaking disrespectfully of him, it is said that it is a corrupt use of the power vested in him by the Constitution in relation to removals and appointments. But it seems a different rule is to be applied by Congress. Speaking disrespectfully of Congress is to be regarded as sufficient to authorize the withholding of the salary of a public officer.

Now, if I am correctly informed, there is a gentleman connected with one branch of the Congress of the United States holding an elective office in that body who is the editor of two papers, "both daily" papers. I believe he makes it his daily occupation to assail the executive department of this Government in every possible manner. Yet I never heard anybody urge that that was a sufficient reason for the Senate of the United States ejecting him from the office he holds, or for withholding his salary. He is but exercising the right guaranteed by the institutions of the country to its citizens—the right of free speech and of a free press.

The gentleman from Pennsylvania [Mr. STEVENS] intimates that Mr. Harvey never was a proper person to have been appointed to this office, and that the failure of the President to remove him was an omission of a duty. Now, if he never was a proper person to hold this office, then I submit that this way of cutting off his salary and starving him out ought to have been adopted by Congress immediately after his appointment. But his salary was paid regularly up to the last session of Congress; and now for reasons purely political, out of which some personal irritation has resulted, it is sought to starve him out of office.

The gentleman from Ohio, [Mr. SCHENCK,] in referring to this matter, speaks of the "bread-and-butter brigade." Now, I am not here to defend the rather small body of men to which he refers. Nor am I here to defend the executive department of this Government, for, properly speaking, it is not properly within the line of this debate. I am not here to defend our minister to Portugal, for I have no personal acquaintance with him. I have only to say that when members of Congress talk about the "bread-and-butter brigade," about the spoils of office controlling the political opinions of men, about the "loaves and fishes," figuratively speaking, I am sometimes under the impression that such remarks, considering what has occurred in this House, come from us with rather a bad grace. One of the prominent and leading ideas that seems to have pervaded the action of this Congress is to see to it that the offices are not taken away from the friends of the majority here. The bill regulating the tenure of office, the movement for the impeachment of the President, and many of the leading measures of this Congress, as I understand them, have been for the purpose of securing to the friends of the majority in Congress the possession of the Federal offices, or the "bread and butter" of the Government, to use the expression of the gentleman from Ohio, [Mr. SCHENCK.] That seems to me to be the principal object in view of certain gentlemen, judging from the ideas some of them have expressed. All remarks, therefore, which apply to this "bread-and-butter brigade" the peculiar friends of the Administration might, I think, well apply with redoubled force to the majority here in Congress. I think that a disinterested person, with the newspapers of the country as his only means of information, would come to the conclusion that how to save the possession of the offices was the great question with Congress at this time, the settlement of which has held us in the disorganized, con-



dition in which we have been for the last year and a half, and to which everything else was subordinate.

Mr. LYNCH. Will the gentleman allow me to ask him a question?

Mr. NIBLACK. Yes, sir.

Mr. LYNCH. I wish to know whether the fact that this man at the beginning of the war sent a telegram to persons in South Carolina, notifying them of a secret expedition fitted out by the Government for the relief of Fort Sumter, is not, in the opinion of the gentleman, a sufficient reason why we should refuse to continue him in office, or if we cannot procure his removal, refuse to appropriate money to pay him.

Mr. NIBLACK. Mr. Chairman, the gentleman from Maine [Mr. LYNCH] has not, I think, heard this debate or he would not ask that question. The gentleman from Massachusetts [Mr. BANKS] has already stated—

Mr. LYNCH. With the gentleman's permission, I wish to say a single word in regard to the explanation made by the gentleman from Massachusetts, which was that this telegram was probably sent by Mr. Harvey by the advice or with the connivance of the Administration for the purpose of letting the southern rebels know that we were going to fight. Now, it will be recollected that there was a secret expedition sent out by the Government, and that in consequence of the receipt of this telegram the rebels opened their bombardment. I ask, is it probable that the Administration, having sent a secret expedition right into the jaws of the rebel batteries, would have taken means to send by an agent here a notification which would induce the rebels to open fire upon our vessels? To my mind the explanation of the gentleman from Massachusetts is the most improbable that could be given.

Mr. NIBLACK. Mr. Chairman, if the objection which the gentleman from Maine urges against Minister Harvey is a valid one, then his pay ought to have been withheld six years ago. But, sir, whether or not the objection be a good one, the party represented by the majority in this House are estopped from making that objection now, because so long as that party had possession of all the departments of the Government it continued him in office. The occurrence to which the gentleman alludes happened soon after Mr. Harvey's appointment, but before he left the country. With a full knowledge of all the facts Mr. Lincoln's Administration declined to recall him, and sent him abroad on his mission. The suggestions of the gentleman from Maine [Mr. LYNCH] are unfortunate for a friend of the late Administration.

Mr. HISE. I desire to ask the gentleman from Indiana whether the present Secretary of State did not some time ago, in writing to our minister at Paris, and instructing him to make explanations to the French Government in regard to the enforcement of the Monroe doctrine, request our minister to inform Napoleon that the action of this House furnished an indication of its sentiment, but was not to be regarded at all as having any control or influence over the executive department of the Government of this country. And if the salary of this minister to Portugal is to be withheld on account of the letter which has been read, is not that dispatch of Mr. Seward an equally strong reason why Congress should make no appropriation for the salary of the Secretary of State?

Mr. NIBLACK. I thank the gentleman for his suggestion; but I cannot allow myself to digress for the purpose of discussing that view of the question now. The object which I had in view in offering this amendment was to have it understood why we are asked to depart from what has been heretofore the uniform practice of Congress, so far as I know, in making appropriations of this kind. As has been well said by some gentlemen who preceded me, if we desire to get rid of this minister unconditionally we have but to abolish the office; and I think this, in all fairness, is the proper way to meet the question. So long as this minister

is permitted to reside abroad, representing this country, I do think we owe it to ourselves to see that he is paid, and to look somewhere else for a remedy if we are dissatisfied with the minister. Nothing that has been said here is sufficient to induce me to vote to withhold the salary of this gentleman or any other gentleman under like circumstances. I do not think it is legitimate political warfare, and will establish a precedent that will demoralize our institutions and degrade us as a people.

Mr. STEVENS. I hope, by unanimous consent, the rest of this bill will be considered under the five-minute rule.

Mr. ELDRIDGE. Will the gentleman allow a vote to be taken on this question in the House?

Mr. STEVENS. I have no objection at all. Mr. ELDRIDGE. Then we make no objection to the five-minute rule.

The CHAIRMAN. Then by common consent the amendment will be considered adopted, so that a vote may be taken on it in the House.

Mr. WILLIAMS. Is it in order to move to strike out "Rome"?

The CHAIRMAN. It is.

Mr. WILLIAMS. I make that motion, and I desire only to say I know no sufficient reason why our Government should have diplomatic relations with a foreign hierarchy. The last information we have had, although it does not come in an official form, is of the removal of the American Protestant church outside of the city of Rome. I do not know whether the Papal Government, comprising now no more than the city of Rome, is anything more than an ecclesiastical jurisdiction. There is no resident here from the Papal States, and I should like the chairman of the committee to give the reason why we should be represented by a minister resident at the Papal court.

Mr. STEVENS. If the gentleman had waited I should myself have moved an amendment striking out the word "Rome" and inserting what I will send to the Chair.

The Clerk read as follows:

Strike out Rome at the end of line fifteen, and insert as follows:

Whereas it is beneath the dignity and contrary to justice that this nation should be represented at any Court or Government which prohibits free worship by American citizens within its jurisdiction of the Christian religion; and whereas the Roman Government has lately ordered the American churches to be removed outside of the city and prohibited the free exercise by them of the Christian religion therein: Therefore no money hereby appropriated shall be paid for the support of the United States legation at Rome or for the future expenses of such legation.

Mr. WILLIAMS. I accept that amendment as a modification of my own.

Mr. CHANLER. Mr. Chairman, I ask whether the same line of argument does not apply to the Court of Constantinople and the Court of Spain, and whether the tyrannical exercise of power by the Mussulmans toward the Christians is not as just a basis for legislation toward that Court as that which we are now considering. And I will ask the gentleman whether the rule which he is now seeking to break down at Rome has not been in existence for centuries, and did not exist at the time our mission to that Court was established. I wish gentlemen to draw a line just here, and to take into consideration that at Rome exclusion by reason of faith is the established rule of the Government. Let us not act in the very face of existing institutions established at Rome and recognized by us before any minister was sent there.

Mr. STEVENS. I will answer the gentleman's question, as I suppose he wants an answer. In Constantinople the exercise of the Christian religion is perfectly protected, and I am not aware it is prohibited in Spain. And it is only lately that our churches have been excluded from Rome—I think within six months. I saw recently by the London papers that our churches had been removed outside of the walls of Rome.

Mr. CHANLER. We all know that the Christians of the Empire of Turkey are subjected to the most tyrannical oppression. The

existing revolution in Crete is the result of the oppression by Turkey of the Christians of that island.

Mr. STEVENS. I have not risen to defend Turkey, but only to say that in the city of Constantinople the exercise of the Christian religion is allowed. I think we have several churches there.

Mr. BANKS. If there were any official information in the possession of the House that would justify changing our relations with the city of Rome I would not object to it, but at present we have nothing but the reports of newspapers. We have sent for information, but it has not yet been given to us. This can be passed over now and taken up and acted on hereafter. I hope the House will not agree to any amendment until we have official information on the subject.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. CHANLER. I move to strike out the last word of the amendment. Mr. Chairman, in opposing the motion made by the gentleman from Pennsylvania I make no objection to a proper, dignified expression of opinion on the part of this Government; but I do object to a special case of this character brought up now without any broader or deeper reason than that presented in the preamble to the amendment. The gentleman should extend his amendment to the Government of Turkey for its treatment of Christians. There are Governments throughout the world with which we have intimate diplomatic relations which limit the rights of sepulture and of religion and sometimes banish men for differing with the governing power; and I believe that the secret motive of every Government in maintaining the peculiar opinions of its own people should be respected here, for toleration is the basis of our own institutions. Ours practically has become a Protestant Government, at least made to appear such by such sectarian acts as this. If the amendment of the gentleman from Pennsylvania means anything, it is a direct expression of Protestant resentment against the Papal Government of Rome. It is a renewal in a form most objectionable in my mind of a system long worn out and which for wise reasons the Government of the United States has always passed over and left to sleep in the oblivion of ages, beneath the ruin of empires that have fought out these questions of prejudice, of religious sects in the Christian church.

Sir, the Christian who goes to Rome for purposes of faith goes there as the Mussulman goes to Mecca, and if the gentleman from Pennsylvania [Mr. STEVENS] were to attempt a pilgrimage to Mecca to-day his valuable life would be sacrificed and lost to his excellent constituency; he would be immolated upon the altar of Mohammedan prejudice. The reason, good or bad, for which the Catholic hierarchy of Rome excludes the Protestant church from its walls is not a matter of debate here. It is an established principle of the Roman hierarchy that the ritual of its establishment must be exclusive, and though myself a Protestant, I cannot as a member of this Government, representing a Catholic constituency, under the tolerant principles of our Constitution, consent to this bold attack, upon an established religion, equally Christian with our own. They have as much right to exclude the Protestant church from the walls of Rome as the gentlemen on this floor and elsewhere who, under the organization of Know-Nothingism, would have branded every man who differed with it on the question of religion. We have had this issue fought out at the ballot-box in this country, and it has been fought on more bloody fields than can be numbered here in the five minutes allowed for debate. I protest against inaugurating this petty cause of discord between the head of the papal church and the Government of the United States. The system of that hierarchy organized throughout this country is one of the greatest instruments of civilization that we possess. It has done as much to advance civilization here as

any other sect of the Christian church. I withdraw the amendment.

Mr. BROOMALL. I suggest to my colleague to strike out from his amendment the word "worship," where it occurs and insert instead of it the word "exercise."

Mr. STEVENS. No objection.

Mr. HALE. I move to amend the amendment of the chairman of the committee by striking out the preamble down to and including the word "therefore" and by inserting in lieu thereof the words "provided that." I do it for the purpose of asking the gentleman whether we have any authentic information which can be depended upon, that there has been any such action by the Government at Rome as is recited in that preamble. I suppose it is merely a matter of newspaper rumor.

Mr. STEVENS. I can only say, while there is no official authority for it, all the newspapers that I have seen contain it; and I saw it in an English paper.

Mr. KASSON. I desire to state that there came to-day from the State Department a communication on this subject which has been referred to the Committee on Foreign Affairs.

Mr. BANKS. I beg leave to state that in that communication, in answer to a resolution of the House, the Secretary of State says the Department has no information of any fact of the kind, and I will add that the newspaper reports inform us that the Protestant church has been removed from the city with the consent of the American minister.

Mr. HALE. I trust that my amendment will prevail, and that this recital of supposed facts, which may not be facts, will be stricken out. And more than that, I suggest for the consideration of the gentlemen whether, if it were true that acts of the Papal Government which are considered unjustifiable have deprived the Protestant residents of Rome of the privilege of worshipping in their own way, that is not a controlling reason why our diplomatic relations ought to be continued, unless we are prepared to follow out this proposition with a measure that shall make, perhaps, *casus belli*.

If we propose to preserve any peaceful relations whatever with the Government there, it seems to me that we certainly ought to have a minister there, for the very reason that we have Protestant residents at Rome entitled to the protection of their Government, and that they may enjoy their own form of worship at the chapel of the embassy, if not elsewhere. I have seen nothing developed in this debate so far that would justify the adoption of the amendment of the gentleman from Pennsylvania.

Mr. FINCK. I rise to oppose the amendment of the gentleman from Pennsylvania, and I oppose it in the first place because he is trying to induce the House to legislate upon a subject upon which he has no official information. He does not know, nor does the House know anything with certainty in reference to this matter. We have no intelligence officially communicated to the Government that the order stated by the public press has been made by the Papal Government, or that the Protestants of the city of Rome have been compelled to remove their churches outside of the limits of that city. We do not know it as a fact that any such order has been made, neither do we know (if such an order has been made) under what circumstances or for what reasons it was made.

Now, I submit that before the House takes any action on this question it ought at least be put in possession of all the facts and of the reasons which operated upon the minds of the authorities at Rome in making the order, if in fact it was really made.

For the gentleman from Pennsylvania to press this question in the absence of all official information seems to be a mere thrust at the Catholic population of this country and at the authorities at Rome. The gentleman before he asks such action as this ought to be sure of all the facts upon which he bases it. Five minutes, Mr. Chairman, is no time in which to

explain or discuss such a matter as this; but when the question is properly before the House I shall desire to be heard upon it. For the present I can only say that I trust the amendment of the gentleman from Pennsylvania will not prevail.

The question being upon Mr. HALE's amendment to the amendment, it was put; and there were—ayes 67, noes 30.

So the amendment to the amendment was agreed to.

Mr. STEVENS. I move that the committee rise as it is about time to adjourn.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the State of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House No. 903, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1868, and had instructed him to report the same to the House without amendment.

Also, that the committee had had under consideration the bill of the House No. 904, making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1868, and had come to no resolution thereon.

#### PENSION APPROPRIATION BILL.

Mr. STEVENS. I move the previous question on the pension appropriation bill just reported from the Committee of the Whole on the State of the Union.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PRINTING OF BILLS.

Mr. SCHENCK. I wish to give notice that at the proper time I shall offer as a substitute what I send to the Clerk's desk for the bill pending this morning reported from the Indian Committee. I move that the substitute be printed.

The motion was agreed to.

And then, on motion of Mr. CONKLING, (at four o'clock and thirty-five minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. BUNDY: The petition of William Wilson, for compensation for service in the Army, &c.

By Mr. BURLEIGH: A memorial of the Legislative Assembly of Dakota Territory, praying for an appropriation by Congress to erect a capitol building at the seat of government in said Territory.

By Mr. COBB: The petition of citizens of Glen Haven, of Grant county, Wisconsin, against any reduction of the volume of the currency.

By Mr. CONKLING: The petition of citizens of Aiden, Erie county, New York, praying the impeachment of the President.

By Mr. DARLING: The memorial of 1,500 soldiers of the late war who have lost their discharges or are from other accidental causes debarred from the benefits of the special bounty law, praying that they may be put on the same footing as their more favored comrades.

By Mr. NICHOLSON: The petition of Olivia W. Cannon, widow of Joseph S. Cannon, for a pension.

By Mr. PAINE: The memorial of the Historical Society of Wisconsin, in favor of the purchase by Congress of the library of Peter Force.

By Mr. RICE, of Massachusetts: The petition of E. B. Stackpole, and 41 others, citizens of Kenduskeag, Maine, for increase of duty on imported wool.

By Mr. SCHENCK: The petition of tanners, saddlers, harness-makers, and leather dealers of the third congressional district of Ohio, praying for a reduction of the tax on the commodities manufactured by them to two per cent.

Also, the petition of manufacturers of and dealers in cigars and of growers of leaf tobacco, praying for a change in the tax on cigars.

Also, the petition of officers of the United States Army, praying that the commutation price of the ration may be restored to fifty cents.

By Mr. TAYLOR, of Tennessee: The petition of L. M. Jarvis, F. M. Turner, and others, of Hancock county, Tennessee, against further curtailment of currency and suggesting a modification of whisky tax.

#### IN SENATE.

WEDNESDAY, January 30, 1867.

Prayer by Rev. J. W. PARKER, D. D., of Boston, Massachusetts.

The PRESIDENT *pro tempore*. The Journal of yesterday will be read.

Mr. SPRAGUE. I move to dispense with the reading of the Journal.

Mr. GRIMES. I think this practice of dispensing with the reading of the Journal is becoming altogether too frequent, and we may ascertain hereafter that it may probably contain something unpleasant for us to read.

Mr. SPRAGUE. Nobody hears it.

Mr. GRIMES. I hear it.

Mr. SPRAGUE. Nobody else does.

Mr. GRIMES. The questions upon which we are acting are too important for me not to know how my name is recorded upon them.

The PRESIDENT *pro tempore*. The Chair will endeavor to preserve order so that the reading of the Journal shall be heard.

Mr. SPRAGUE. I move that the reading of the Journal be dispensed with.

The PRESIDENT *pro tempore*. Is there any objection? It requires unanimous consent to dispense with the reading of the Journal.

Mr. GRIMES. I object.

The PRESIDENT *pro tempore*. Objection being made, the Journal will be read, and the Senate will be in order.

The Secretary proceeded to read the Journal of yesterday, but before concluding was interrupted by

Mr. SHERMAN. I move to dispense with the further reading of the Journal.

Mr. GRIMES. I object.

The PRESIDENT *pro tempore*. Objection being made, the reading must be proceeded with.

The reading of the Journal was then resumed and concluded.

#### CREDENTIALS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the secretary of State of Alabama, certifying that John Anthony Winston was elected on the 22d of December, 1866, by the Legislature of Alabama a Senator in Congress from that State for six years from the 4th of March, 1867; which was ordered to lie on the table.

Mr. NESMITH presented the credentials of Hon. Henry W. Corbett, elected by the Legislature of the State of Oregon a Senator from that State for the term of six years from the 4th of March, 1867; which were ordered to be filed.

#### ADMISSION OF NEBRASKA—VETO.

The PRESIDENT *pro tempore* laid before the Senate the veto message of the President of the United States on the bill for the admission of Nebraska into the Union.

Mr. WADE. I move that that message be laid on the table and printed. I do not know that anybody wants it to be read.

Mr. FESSENDEN. It is very short.

Mr. WADE. If anybody insists on the reading or wants it read of course I have no objection. It takes up time, and nobody listens to it.

Mr. BUCKALEW. I ask for the reading of the message.

The PRESIDENT *pro tempore*. The reading of the message is asked for. It will be read.

The Secretary read as follows:

To the Senate of the United States:

I return for reconsideration a bill entitled "An act for the admission of the State of Nebraska into the Union," which originated in the Senate, and has received the assent of both Houses of Congress. A bill having in view the same object was presented for my approval a few hours prior to the adjournment of the last session, but, submitted at a time when there was no opportunity for a proper consideration of the subject, I withheld my signature, and the measure failed to become a law.

It appears by the preamble of this bill that—

"The people of Nebraska, availing themselves of

the authority conferred upon them by the act passed on the 19th of April, 1854, have adopted a constitution which, upon due examination, is found to conform to the provisions and comply with the conditions of said act, and to be republican in its form of government, and that they now ask for admission into the Union."

This proposed law would therefore seem to be based upon the declaration contained in the enabling act, that upon compliance with its terms the people of Nebraska should be admitted into the Union upon an equal footing with the original States.

Reference to the bill, however, shows that while, by the first section, Congress distinctly accepts, ratifies, and confirms the constitution and State government which the people of the Territory have formed for themselves, declares Nebraska to be one of the United States of America, and admits her into the Union upon an equal footing with the original States in all respects whatsoever, the third section provides that this measure—

"Shall not take effect except upon the fundamental condition, that within the State of Nebraska there shall be no denial of the elective franchise, or of any other right, to any person by reason of race or color, excepting Indians not taxed; and upon the further fundamental condition, that the Legislature of said State, by a solemn public act, shall declare the assent of said State to the said fundamental condition, and shall transmit to the President of the United States an authentic copy of said act, upon receipt whereof the President, by proclamation, shall forthwith announce the fact, whereupon said fundamental condition shall be held as a part of the organic law of the State; and thereupon, and without further proceedings on the part of Congress, the admission of said State into the Union shall be considered as complete."

This condition is not mentioned in the original enabling act, was not contemplated at the time of its passage, was not sought by the people themselves, has not heretofore been applied to the inhabitants of any State asking admission, and is in direct conflict with the constitution adopted by the people and declared in the preamble "to be republican in its form of government;" for in that instrument the exercise of the elective franchise and the right to hold office are expressly limited to white citizens of the United States. Congress thus undertakes to authorize and compel the Legislature to change the constitution, which it is declared in the preamble has received the sanction of the people, and which by this bill is "accepted, ratified, and confirmed" by the Congress of the nation.

The first and third sections of the bill exhibit yet further incongruity. By the one Nebraska is "admitted into the Union upon an equal footing with the original States, in all respects whatsoever;" while by the other, Congress demands, as condition precedent to her admission, requirements which in our history have never been asked of any people when presenting a constitution and State government for the acceptance of the law-making power. It is expressly declared by the third section that the bill—

"Shall not take effect except upon the fundamental condition that within the State of Nebraska there shall be no denial of the elective franchise or of any other right to any person by reason of race or color, excepting Indians not taxed."

Neither more nor less than the assertion of the right of Congress to regulate the elective franchise of any State hereafter to be admitted. This condition is in clear violation of the Federal Constitution, under the provisions of which, from the very foundation of the Government, each State has been left free to determine for itself the qualifications necessary for the exercise of suffrage within its limits. Without precedent in our legislation, it is in marked contrast with those limitations which, imposed upon States that from time to time have become members of the Union, had for their object the single purpose of preventing any infringement of the Constitution of the country. If Congress is satisfied that Nebraska at the present time possesses sufficient population to entitle her to full representation in the councils of the nation, and that her people desire an exchange of a territorial for a State government, good faith would seem to demand that she should be admitted without further requirements than those

expressed in the enabling act, with all of which it is asserted in the preamble her inhabitants have complied. Congress may, under the Constitution, admit new States or reject them; but the people of a State can alone make or change their organic law and prescribe the qualifications requisite for electors. Congress, however, in passing the bill in the shape in which it has been submitted for my approval, does not merely reject the application of the people of Nebraska for present admission as a State into the Union on the ground that the constitution which they have submitted restricts the exercise of the elective franchise to the white population, but imposes conditions which, if accepted by the Legislature, may, without the consent of the people, so change the organic law as to make electors of all persons within the State, without distinction of race or color.

In view of this fact, I suggest for the consideration of Congress, whether it would not be just, expedient, and in accordance with the principles of our Government, to allow the people, by popular vote or through a convention chosen by themselves for that purpose, to declare whether or not they will accept the terms upon which it is now proposed to admit them into the Union. This course would not occasion much greater delay than that which the bill contemplates when it requires that the Legislature shall be convened within thirty days after this measure shall have become a law for the purpose of considering and deciding the conditions which it imposes, and gains additional force when we consider that the proceedings attending the formation of the State constitution were not in conformity with the provisions of the enabling act; that in an aggregate vote of 7,776 the majority in favor of the constitution did not exceed one hundred, and that it is alleged that in consequence of frauds even this result cannot be received as a fair expression of the wishes of the people. As upon them must fall the burdens of a State organization it is but just that they should be permitted to determine for themselves a question which so materially affects their interests. Possessing a soil and a climate admirably adapted to those industrial pursuits which bring prosperity and greatness to a people, with the advantage of a central position on the great highway that will soon connect the Atlantic and Pacific States, Nebraska is rapidly gaining in numbers and wealth, and may within a very brief period claim admission on grounds which will challenge and secure universal assent. She can therefore wisely and patiently afford to wait. Her population is said to be steadily and even rapidly increasing, being now generally conceded as high as forty thousand, and estimated by some whose judgment is entitled to respect at a still greater number. At her present rate of growth she will in a very short time have the requisite population for a Representative in Congress; and, what is far more important to her own citizens, will have realized such an advance in material wealth as will enable the expenses of a State government to be borne without oppression to the tax-payer. Of new communities it may be said with especial force—and it is true of old ones—that the inducement to immigrants, other things being equal, is in almost the precise ratio of the rate of taxation. The great States of the Northwest owe their marvelous prosperity largely to the fact that they were continued as Territories until they had grown to be wealthy and populous communities.

ANDREW JOHNSON.

WASHINGTON, January 29, 1867.

The PRESIDENT *pro tempore*. The bill to which this message refers is now reconsidered, and the question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. WADE. I move that the message be printed, and laid on the table.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before

the Senate a message from the President of the United States communicating, in answer to a resolution of the Senate of the 7th instant, information upon the subject of an alleged recent emigration of citizens of the United States to the dominion of the Sublime Porte for the purpose of settling and acquiring landed property there. The message and accompanying documents, on motion of Mr. SUMNER, were ordered to lie upon the table and be printed.

PRINTING OF A DOCUMENT.

Mr. CRESWELL. The report of the Secretary of the Treasury, in response to a resolution of December 4, 1866, in relation to the amount of money paid or ordered to be paid for advertising notices and proposals for each of the Executive Departments, has not yet been ordered to be printed. I submit a motion that the usual number of copies of that document be printed for the use of the Senate.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. WADE presented a petition of cultivators of the vine in the vicinity of Cincinnati, Ohio, praying for a reduction of the tax on the distillation of brandies; which was referred to the Committee on Finance.

He also presented a memorial of citizens of Washington city, District of Columbia, praying for an appropriation in aid of the Guardian Society of that city, and that the act granting certain privileges to that Society may be amended; which was referred to the Committee on the District of Columbia.

Mr. WILLEY presented the petition of R. Smith, cashier of the Northwestern Bank of Virginia, of Parkersburg, West Virginia, praying for the payment of a balance due on certain quartermaster's vouchers issued for the purchase of horses for the Army under the command of General Hunter; which was referred to the Committee on Claims.

Mr. KIRKWOOD presented a petition of citizens of Iowa, praying for a specific tax on all domestic cigars, and that the stamp be made a revenue stamp sold by the collector only to the licensed manufacturers in his district with proper guards and checks to prevent frauds and counterfeits; which was referred to the Committee on Finance.

Mr. SPRAGUE. I present the petition of James Walsh; and as it is in regard to a matter which concerns a large number of people I will read it:

"The petitioner James Walsh, late private of company L, third United States artillery, who was discharged at Fort Adams, Rhode Island, on surgeon's certificate of disability in consequence of a wound received in action at Molino del Rey, in Mexico, and who is now receiving a pension of eight dollars per month, respectfully petitions your honorable Congress for an increase of said pension, so that he may receive the same as now allowed by law for those disabled in the last war—his present pension being inadequate to support him among his friends, and his injuries being of such a nature as to disqualify him from earning a livelihood by manual labor."

I desire to say that I cannot see why soldiers who received wounds in wars in defense of their country prior to the recent war should not be put upon the same footing with soldiers wounded during the late war. I therefore beg leave to suggest to the Committee on Pensions the propriety of taking this matter into their serious consideration. I move that the petition be referred to that committee.

The motion was agreed to.

Mr. WILSON presented the petition of James M. Ellison, praying for payment for property taken and destroyed by United States troops in Virginia in 1864; which was referred to the Committee on Claims.

Mr. CRESWELL presented the memorial of James L. McPhail, Voltaire Randall, and Eton G. Horner, praying for compensation for services rendered in the arrest of Samuel Arnold and Michael O'Laughlin, two of the conspirators in the assassination of President Lincoln, and for valuable information furnished to the officers of the United States in the development of the facts of the general conspiracy and in the trial of other of the assassins.



sins; which were referred to the Committee on Claims.

Mr. SUMNER. I present a petition of citizens of New York, against the introduction of any State into the Union with a constitution excluding any class of citizens from the right to vote by reason of color or race; and they add that they mean not only new States, but now reconstructed States. I move the reference of this petition to the joint Committee on Reconstruction.

The motion was agreed to.

Mr. SUMNER. I also present the petition of the chairman and vestry of St. Michael's church, in Charleston, South Carolina, and other citizens of that place, in which they represent that "the chime of bells, originally cast in England before the colonial revolution, having been recently shipped in a mutilated condition to the same foundry to be there recast; and their arrival being now daily expected, and having been for a long time without public bells, and finding it difficult to defray the cost of recasting as aforesaid in addition to the heavy import duty of thirty-five per cent. under the existing tariff law accruing thereon, they pray," in behalf of themselves and the city of Charleston at large, that "Congress will relieve them from the duty, and if the circumstances of the case warrant compliance with their request, authorize the collector of the port of Charleston to grant free entry to their bells upon their arrival as aforesaid." This petition is signed by the officers of the church, and it is further signed by all the Federal officers, as I understand, at Charleston, the United States marshal, the United States judge, &c. I move the reference of this petition to the Committee on Finance.

The motion was agreed to.

Mr. POLAND presented the petition of Orlando Runnamaker and others, employes at the Fortress Monroe arsenal, praying for an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. TRUMBULL presented two petitions of farmers and growers of flaxseed in the West, praying that the duty on flaxseed be fixed at not less than thirty cents per bushel; which were ordered to lie upon the table.

He also presented the memorial of Sergeant D. M. Embry, praying that compensation be made for horses taken from him for the use of the United States Army; which was referred to the Committee on Claims.

Mr. COWAN presented a petition of citizens of Philadelphia and brewers of white beer, praying for the repeal of the section of the revenue law concerning the carrying away of malt liquors from the brewery for the purpose of bottling, so far as white beer is concerned; which was referred to the Committee on Finance.

He also presented a petition of seamen, firemen, coal-passers, and marines, who served in defense of the Union during the late rebellion, praying for a bounty of \$100 a year, or eight and one third dollars per month for each month of service; which was referred to the Committee on Military Affairs and the Militia.

Mr. PATTERSON presented the memorial of A. W. Walker, praying for compensation for services rendered as a captain in the eighth Tennessee infantry; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN presented a petition of residents of the towns of Wayne and Urbana, Steuben county, New York, praying for an increased duty on wool; which was ordered to lie upon the table.

He also presented a letter from Moses H. Grinnell, inclosing resolutions of the Chamber of Commerce of the State of New York, in favor of the passage of the joint resolution repealing so much of the China mail act as requires the steamship line thereby authorized to touch at the Sandwich Islands; which were referred to the Committee on Finance.

Mr. SHERMAN presented two petitions from citizens of Ohio, praying for the passage of House bill No. 718, to provide increased

revenue from imports, and for other purposes, now pending in the Senate; which were ordered to lie upon the table.

Mr. HENDERSON presented a petition of citizens of Missouri, praying for an increased duty on flaxseed; which was ordered to lie upon the table.

He also presented the memorial of Logan Hutton, of Missouri, praying for compensation for services rendered in the prosecution of Narcisso Lopez and others, for a violation of the neutrality laws of the United States; which was referred to the Committee on the Judiciary.

#### REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 276) to establish a department of education, reported it without amendment.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the bill (H. R. No. 457) for the relief of Hiram Paulding, rear admiral in the United States Navy, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1051) for the relief of Henry P. Blanchard, reported it without amendment.

Mr. MORGAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 1030) to regulate the sale of gold by the Secretary of the Treasury, reported adversely thereon.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 918) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1868, reported it without amendment.

Mr. LANE, from the Committee on Pensions, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 1044) for the relief of John Gray, a revolutionary soldier;

A bill (H. R. No. 1045) for the relief of Daniel Frederick Bakeman, a revolutionary soldier;

A bill (H. R. No. 1050) for the relief of Lemuel Worster;

A bill (H. R. No. 1054) for the relief of Hiram Hedrick; and

A bill (H. R. No. 1052) granting a pension to Mrs. Jane Clements.

He also, from the same committee, to whom were referred the bill (H. R. No. 1055) for the relief of John Moreau, of Machias, New York, and the bill (S. No. 1053) granting an increased pension to John J. Sohan, reported them with amendments.

He also, from the same committee, to whom were referred resolutions of the Soldiers' and Sailors' Union of Washington city, in favor of the payment of pensions to those pensioners from whom they were withheld agreeably to the provisions of the law withholding pensions from persons holding office under the Government, which law has been since repealed, reported that the prayer of the petitioners ought not to be granted.

He also, from the same committee, to whom was referred a petition of pensioners of the United States, praying for an amendment to the act entitled "An act supplementary to the several acts relating to pensions," approved March 3, 1865, so as to restore to them pensions from the 3d of March, 1865, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of the Cincinnati Relief Union, praying for an increase of the clerical force in the Pension Office that greater dispatch may be used in the preparation of papers for pensions, asked to be discharged from its further consideration; which was agreed to.

Mr. RAMSEY. I am instructed by the Committee on Post Offices and Post Roads, to whom was referred the petition of J. Nolestine and others, mail route agents on the western division of the Ohio and Mississippi

railroad, praying for an increase of compensation, to ask to be discharged from its further consideration, the subject having been disposed of by legislation at the present session of Congress.

The report was agreed to.

Mr. POLAND. The Committee on the Judiciary, to whom was referred the joint resolution (S. R. No. 137) authorizing special juries in the District of Columbia, have had the same under consideration, and recommend that it be indefinitely postponed. A bill has been reported by the Committee on the District of Columbia embodying somewhat the same provisions, and the committee therefore recommend that this resolution be indefinitely postponed.

The report was agreed to.

Mr. POLAND. The same committee, to whom was referred a bill (S. No. 442) to prevent courts being used as instruments of persecution against loyal persons, have had the same under consideration, and recommend that the bill be indefinitely postponed. An act that was passed at the last session seems to cover substantially the grounds that this bill does.

The report was agreed to.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the petition of Henry Addison and Henry D. Cooke, praying for such an amendment to the act authorizing the construction of a jail in the District of Columbia that the cities of Washington and Georgetown be required to contribute only their equitable proportion of the expense, reported a bill (S. No. 550) to amend an act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved June 25, 1866. The bill was read, and passed to a second reading.

#### REMOVAL OF LIQUOR CASES.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a resolution of the Senate directing the committee to inquire concerning the removal of cases from the State courts to the Supreme Court of the United States on indictment for the sale of spirituous liquors, have instructed me to report it back to the Senate with a recommendation that it be indefinitely postponed. I will state that the Supreme Court has recently made a decision which I think accomplishes the object that was sought to be inquired into by this resolution. It was insisted in some of the States that where parties had paid the excise duty or license to the Government of the United States to pursue a certain calling they had authority to follow it in defiance of the State laws; as for instance, to sell liquors where the laws of the State prohibited the selling of liquors, or to vend lottery tickets where the laws of the State forbade the selling of lottery tickets; but the Supreme Court, I understand, have decided that the imposition of this excise duty or the collection of this tax by the Government of the United States does not override the State law or make valid that which is made invalid by the laws of the State, and therefore there is no necessity for action on this subject. The committee recommend that the resolution be indefinitely postponed.

The report was agreed to.

#### JAMES C. PICKETT.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the memorial of James C. Pickett, formerly chargé d'affaires of the United States at Peru, praying for the passage of a resolution authorizing the readjustment of his accounts, have had the same under consideration, and directed me to report it back to the Senate with a recommendation that it be indefinitely postponed. This petition has already once been under the consideration of the committee at the last session. They then reported it with a request to be discharged from the further consideration of the petition and giving leave to withdraw the petition. Now it reappears. The petition is founded on services

as chargé d'affaires more than twenty years ago, and it asks that his accounts during that period should be reopened in order that he may obtain from the Government, according to a recent precedent, the loss of exchange at that time. The committee have thought that whatever might be the merits of such claims when comparatively recent it was not expedient to open one so far back in our history as this. They therefore instruct me to ask that the petition be indefinitely postponed.

Mr. HENDRICKS. Before the vote is taken on the report of the committee I desire to say that I presented that petition from Colonel Pickett upon the assurance of the fact that just such claims had been allowed by the Committee on Foreign Relations and had been passed by Congress—not quite so old, but in the case of Mr. Clay, perhaps Cassius M. Clay.

Mr. JOHNSON. No; J. Randolph Clay.

Mr. HENDRICKS. J. Randolph Clay; and in one other case, perhaps, the allowance had been made. I will oppose its indefinite postponement for the present. I do not care about discussing it now in the morning hour.

The PRESIDENT *pro tempore*. It is reported from the committee to-day, and is not before the Senate, unless by unanimous consent, for consideration, and goes over under the rule, objection being made.

#### BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 551) for the construction of a Government telegraph from Washington to New York city; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 552) to incorporate the Colored Mutual Building Association of the city of Washington; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 553) to provide for the care and maintenance of the Indians in northern California; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. HENDRICKS. I ask the unanimous consent of the Senate to introduce a joint resolution without previous notice, that it may be printed and referred to the Committee on Public Lands. I am requested to introduce this joint resolution. I do not know anything about its merits. It does not concern the people that I represent. I do it to accommodate a friend.

There being no objection, leave was granted to introduce a joint resolution (S. R. No. 162) to fix the construction of the act granting lands in Nebraska Territory to the Burlington and Missouri River Railroad Company; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

#### COMPENSATION OF CIVIL EMPLOYÉS.

Mr. WILLIAMS. I ask leave to present an amendment which I propose to offer to-morrow to the joint resolution (H. R. No. 224) giving additional compensation to certain employés in the civil service of the Government at Washington, which I desire to have printed so that it can be laid upon the desks of Senators.

The amendment was ordered to be printed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 900) to fix the compensation of the officers of the revenue-cutter service, and for other purposes;

A bill (H. R. No. 903) making appropriations for the payment of invalid and other pen-

sions of the United States for the year ending June 30, 1868; and

A joint resolution (H. R. No. 251) to extend the time for codifying the laws relating to customs authorized by the joint resolution approved July 26, 1866.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker had signed the enrolled bill (S. No. 69) to provide for the payment of pensions; and it was thereupon signed by the President *pro tempore* of the Senate.

#### COUNTERFEITING, ETC., PUBLIC SECURITIES.

Mr. HENDRICKS. I now move to take up the motion, which I submitted two days ago, to reconsider the vote on the passage of House bill No. 719. The Committee on the Judiciary have since considered that bill informally, and have agreed on such amendments as ought to be made to the bill before it passes. The chairman will present those amendments, if it is the pleasure of the Senate to reconsider the bill.

The PRESIDENT *pro tempore*. It is moved that the Senate reconsider its vote passing the bill (H. R. No. 719) to punish certain crimes in relation to the public securities and currency, and for other purposes.

The motion was agreed to.

The PRESIDENT *pro tempore*. It is now moved that the vote of the Senate ordering the bill to a third reading be reconsidered.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is now before the Senate, and open to amendment.

Mr. TRUMBULL. This is a bill "to punish certain crimes in relation to the public securities and currency, and for other purposes." It was reported by Mr. Clark, of New Hampshire, who is not now a member of the Senate, at the last session, and was called up a day or two ago at my instance, in consequence of information I received from the Treasury Department, that they desired the bill passed. It is a House bill. I had not particularly looked at the bill since the last session, and had forgotten all about the punishment prescribed after the bill had passed, and my attention was called to it, and also that of the Senator from Indiana; we thought the punishments prescribed were unusually severe, and probably would defeat the object of the bill itself, as convictions perhaps never would be had if such punishments were prescribed. It was with the view in correcting the bill in those respects that the motion to reconsider was made. As has already been stated by the Senator from Indiana, the Judiciary Committee reconsidered the subject this morning, and we have agreed to propose certain amendments. I now move to amend the first section of the bill, in line eighteen, by striking out the word "fifteen" and inserting "ten;" and in the same line by striking out the words "more than ten" and inserting "exceeding five;" so that it will read:

And on conviction thereof shall be imprisoned not more than ten years, or fined not exceeding \$5,000, or both, at the discretion of the court.

The amendment was agreed to.

Mr. TRUMBULL. In section second, line thirteen, I move to strike out the words "on conviction be fined \$1,000," and to insert in lieu thereof "be subject to a penalty of \$1,000;" so that it will read:

Any person or persons offending against the provisions of this section shall be subject to a penalty of \$1,000, to be recovered by an action of debt, one half to the use of the informer.

The amendment was agreed to.

Mr. TRUMBULL. In section three, line nine, I move to strike out the word "three" and insert the word "one;" so as to read:

A penalty of one hundred dollars.

The amendment was agreed to.

Mr. TRUMBULL. In section four, line seventeen, I move to strike out the word "fifteen" and insert "ten;" and in line eighteen

to strike out the words "nor less than five years," and also the words "less than," in the same line, and to insert the word "exceeding;" so that it will read:

And on conviction be punished by imprisonment not more than ten years, or by fine not exceeding \$5,000, or both, at the discretion of the court.

The amendment was agreed to.

Mr. TRUMBULL. In section five, line two, after the word "shall," I move to insert the words "with intent to defraud;" so as to read:

Who shall, with intent to defraud, have in his possession, &c.

The amendment was agreed to.

Mr. TRUMBULL. I move further to amend the same section in line seven by inserting after "shall" the words "with intent to defraud."

The amendment was agreed to.

Mr. TRUMBULL. In section five, line eleven, I move to strike out "fifteen" and insert "ten," and also to strike out the words "nor less than five years," in line twelve, and strike out the words "less than" and to insert "exceeding;" and also to strike out the words "at the discretion of the court;" so as to read:

Not more than ten years, or by fine not exceeding \$5,000.

The amendment was agreed to.

Mr. TRUMBULL. In section six, line thirty-one, I move to strike out "fifteen" and insert "ten;" and in the same line to strike out the words "nor less than five years," and also "less than," and the word "not," and to insert the word "exceeding;" so that it will read:

Be punished by imprisonment not exceeding ten years, or by fine not exceeding \$5,000, or both, at the discretion of the court.

The PRESIDENT *pro tempore*. These alterations will be made in this section, to make the section conform to the other sections of the bill, if there be no objection.

Mr. TRUMBULL. In section seven, line twenty-three, I move to strike out "fifteen" and to insert "ten;" and also to strike out the words "more than ten" and to insert "exceeding five;" so that it will read:

And on conviction be imprisoned not more than ten years, or fined not exceeding \$5,000, at the discretion of the court.

The PRESIDENT *pro tempore*. That change will also be made to make the section conform to the other sections of the bill.

Mr. TRUMBULL. Those are all the amendments that I desire to propose.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read a third time, and passed.

#### MINISTER AT VIENNA.

Mr. SUMNER. I offer a resolution, on which I ask the present action of the Senate:

*Resolved*, That the President of the United States be requested to communicate to the Senate, if in his opinion not incompatible with the public interest, a copy of the letter on which the Secretary of State founded his recent inquiries, addressed to Mr. Motley, minister of the United States at Vienna, with regard to his reported conversation and opinions, and to furnish the name of the writer of such letter.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. SUMNER. Mr. President—

Mr. CONNESS. Let it be adopted.

Mr. SUMNER. So I say; let it be adopted. I have the honor to be a friend of Mr. Motley, and therefore it is that I have introduced the resolution. I am also a Senator of the United States, and I deem it important to the public interest that we should know on what authority the Secretary of State has undertaken to address one of our foreign ministers as he has. I received a letter identical in language, so far as I can judge, with that which seems to be set forth by the Secretary of State in his letter, and it was addressed to me from Europe, as chairman of the Senate Committee on Foreign Relations; but it was from a person so entirely obscure that I regarded the letter as nothing but anonymous, and I threw it into the fire. The Secretary of State has made it the basis of inquiries addressed to Mr. Motley, which I

will not here characterize. I wish to see the letter.

Mr. JOHNSON. Mr. President, I certainly have no objection to the production of the letter—

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. SUMNER. Let this resolution pass.

Mr. CONNESS. I object, because the resolution might have been passed a few minutes ago if the Senator had not made a speech; and by making a speech he has deprived some of us of the opportunity of offering resolutions.

The PRESIDENT *pro tempore*. The morning hour having expired, the Chair is bound to call up the special order.

Mr. JOHNSON. I have no objection to that coming up.

#### TARIFF BILL.

The Senate resumed the consideration of the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes.

Mr. DIXON. I desire to correct an error of my own in regard to the amendment adopted by the Senate yesterday relating to stereoscopes. In drafting the amendment which was adopted by the Senate I made a mistake, which by general consent I desire to have corrected; and I have the assent of the chairman of the Finance Committee. The amendment as adopted should have been in this form: after line thirty-three of section eleven, page 80, insert these words:

On lenses for stereoscopes, with or without frames, forty per cent. *ad valorem*, and, in addition thereto, for such lenses ground and polished on both sides, one dollar per dozen pairs.

The PRESIDENT *pro tempore*. The correction will be made if there be no objection. None being made, the amendment will be made as stated.

Mr. CONNESS. On page 47, line one hundred and forty-six, I move—

The PRESIDENT *pro tempore*. The Chair will state that there is an amendment pending on which a vote was taken last evening, and the Senate dissolved for want of a quorum. The pending amendment will be read.

Mr. CONNESS. I have been led into error by the Chair receiving an amendment from another Senator.

The PRESIDENT *pro tempore*. That was stated to be a correction of a mistake in regard to an amendment adopted yesterday; and it was done by unanimous consent.

Mr. CONNESS. I did not understand it to be the correction of a mistake.

The PRESIDENT *pro tempore*. It was so stated. The Chair knows nothing of it but from the statement. The Chair understood the Senator from Connecticut to say there was a mistake in the amendment adopted yesterday which it was desired to correct. The Chair asked if there was any objection to the correction of the mistake; none was made, and the correction was therefore ordered.

Mr. GRIMES. Let the amendment before the Senate be read.

The PRESIDENT *pro tempore*. The Senator from Massachusetts [Mr. SUMNER] moves to amend the amendment made as in Committee of the Whole by inserting after line sixteen of section thirteen, on page 84, the words which will be read.

The Secretary read the words proposed to be inserted, as follows:

On all bituminous coal mined and imported from any place not more than thirty degrees of longitude east of Washington, fifty cents per ton of twenty-eight bushels, eighty pounds to the bushel.

Mr. JOHNSON. I stated yesterday and the previous day, when this subject was before us, that it was really a controversy between the American owners of American mines and the British owners of mines in Nova Scotia or Americans who have become the owners of those mines. And I stated also, independent of that, the grounds upon which I supposed it was just to ourselves and proper to protect our

own mines as against the competing mines referred to. I was not so well advised then of the facts as I am to-day. I find upon my desk—I do not know whether other members have seen it—the paper of the morning, in which is an article written by a gentleman who is perfectly familiar with the coal trade, and is in the habit of writing strongly upon the subjects to which he addresses himself, stating that it really is a contest of that description; that the question which this amendment involves is whether the American owner of the mines within our own limits is to be sacrificed either to the foreign owner of the foreign mines or to the American refugee, who, leaving his own country and unwilling to engage in mining in his own country because it promised to be more profitable elsewhere, has purchased foreign mines. Now, it is not for me to use such a term as that as applicable to any American citizen. Every citizen of the United States has a right to go anywhere that he thinks proper, and buy coal mines or any other property under the expectation or for the purpose of making it profitable by introducing the product of these mines into the United States.

I would not, therefore, apply to any gentleman who may think proper to invest their funds in that way the term "refugee;" but I call the attention of my friend from Massachusetts to the fact that he is now supporting, or seeming to support, the interest of American refugees, as contra-distinguished from American loyal men who are looking to the true interest of their country; and that he is doing something more than that: he is seeking to protect, and to promote by protecting, in our own legislation the interest of the foreigner as against the interest of the American citizen. It seems to me a little singular that when he is protecting as against all other American citizens, or at least against a vast majority of American citizens, the interests of his own section, and particularly of his own State, from the effect of competition by importation from abroad, he should be found urging so strenuously the protection of the interest of foreigners where they are alone concerned as against his own fellow-citizens, and especially that he should be found protecting American citizens who, in the language of the paper to which I have adverted, are designated as refugees. I have no objection to the article, except that the language in which it is couched would, I think, be hardly parliamentary to use here, and certainly, with my notions of what decorum requires in debate, I should not apply it to the constituents of any member of this body upon any such evidence as that to which the editor refers.

But there is a further intimation—and I call the attention of my friend from Massachusetts to that fact—there is not only an intimation, but there is a further charge in the article that we are being influenced (not I in this particular instance, but I suppose my friend from Massachusetts and those who may be found to concur with him in this matter) by the persons who are hanging around our Chamber, foreigners in point of fact, or the agents of foreigners, who are seeking in every way to which they can resort to strike down American industry, for the purpose of protecting foreign industry. I hope the fact is not so; and certainly if the fact is not so, the paper to which I advert is the last paper in which such a charge should be found.

Mr. WILSON. I have always made it a habit to read newspapers, to let them criticize me just as much as they please, and never to take any notice of their remarks on the floor of the Senate. I do not propose to do so at this time. I will simply say, without any reference to this article in this paper or any other paper, that the manufacturers, the farmers, wool-growers, business men of every kind and degree, are coming here, writing here, using their influence as far as they properly can, to see that in adjusting this tariff their interests are taken care of; and they have a right to do it. The importers, the free-traders, all classes

and conditions of men who do not wish the tariff changed, or rather who would wish to see it reduced; are coming here, writing here, and using their influence to affect our legislation.

I do not suppose any member of the Senate closes his ears to whatever is written him or whatever he hears; but it is proper that he should listen to all persons in the country in regard to this matter, and act conscientiously and according to the dictates of his own judgment. That persons will go to the presses of the country and there express their views on both sides of these matters, so as sometimes to do injustice, is to be expected; and for one I do not think it worth while for us here on the floor of the Senate to take any notice of such things or feel at all troubled about them, but to do our duty, and the people of the country will judge of us by our daily lives, by our general course of action, rather than by any particular vote we give here on the subject.

Mr. SUMNER. So far as I am personally concerned I find no inducement to make any reply to the article which the Senator from Maryland has brought into this body; but when that article undertakes to speak of a gentleman in the service of the Government as it does, I find a motive for adding one word, which I certainly do not find in any references which it makes to myself. That article, as I say, which the Senator from Maryland has introduced into this body, uses the following language—

Mr. JOHNSON. The Senator will permit me to say that I introduced it because I understand it is on the desk of every Senator, put here for the purpose of enlightening us.

Mr. SUMNER. I make no complaint of course of the Senator's introducing it; I simply referred to the fact. It is stated: "The importations of provincial coal for the year 1863 are erroneously and deceptively stated by Mr. Wells to have been only two hundred and ninety-one thousand eight hundred and thirty-nine tons." There is certainly a grave charge against Mr. Wells, whose report is on our tables and whose faithful attention to this question all Senators must have already recognized. You observe the language in which he is characterized. It is absolutely unjust. Refer to his report, and you will find it is not in any respect sustained. In that report he sets out in the form of a table the tons introduced each year, beginning with 1855 and ending with 1866, under two different heads, the tons under the reciprocity treaty and the tons paying duty. The tons paying duty in 1866 were two hundred and ninety-one thousand eight hundred and thirty-nine; and this article says that this is erroneously and deceptively stated by Mr. Wells. I think, sir, a cause that requires such language from those who represent it ought to be suspected. I do suspect the cause. I do suspect that peculiar interest which is now trying to intrude into the legislation of the country to such an extent as to be positively oppressive in that part of the country from which I came. It not only asks much for itself, but in the support of its cause it misrepresents and vilifies responsible gentlemen who stand in the way.

However, I have said enough on this calumny; and now, as I have the report of the Commissioner of Public Revenue, to which reference has been made, in my hands, I will go further with the indulgence of the Senate and ask your attention to a few sentences. I think if you will listen to them you will find an answer to all that my eloquent friend from Maryland on my right [Mr. CRESWELL] said yesterday, and to all that my ingenious and able friend from Maryland on the other side [Mr. JOHNSON] said. Mr. Wells thus reports:

"Is there any reason why a furnace in Maine or Georgia should have the cost of its iron increased by a duty on the coal which it consumes, or by the cost of transportation from Pennsylvania, while the Pennsylvania manufacturer has his coal at his own door, cheaper, at least, by the cost of its transportation? Is it wise to adopt a policy which inevitably tends to concentrate so important a manufacture as this in a single section of the country?"

"That the American coal proprietor obtains a suffi-



cient price for his coal is evident from the prices which prevail in the markets where there is no competition. He supplies the Ohio and the Mississippi and their tributary streams, and through all the territory which they water, with coal at a less expense than on the sea-board. He received no more for his coal at the mine in 1866, with a duty on foreign coal of \$1.25 in gold, than he did in 1865, when provincial coal was free. It has been no boon to him that New York and the New England States have had the cost of their bituminous coals increased more than half a million dollars in currency value paid in the form of duties.

"If the miner has not received the benefit from this protection, it must have inured to the benefit of the transportation arrangements. If, however, neither the miner nor the transportation company has derived any benefit from it, the duty has been of no avail as protection.

"The object of a duty is either revenue or protection. A smaller duty would increase the revenue by increasing importations. The present duty does not seem to have afforded protection.

"It is, perhaps, unnecessary to recapitulate here the well-known arguments for making coal free of all duty. The manufacturing industry of any country, to be permanently successful, must be based on cheap raw materials; and if there be any article then that should be exempted from taxation, both internal and customs, and afforded at the cheapest possible rate to all consumers, it is coal. Every person in this country has a direct interest that his house shall be warmed and lighted at the lowest cost, and that his food shall be cheaply cooked; while cheap steam and cheap iron are essential if the country is to maintain its position with other and competing commercial and manufacturing nations.

"The commissioner, therefore, having in view the general welfare rather than any special interest, recommends that the duty on coal be either entirely removed or placed at the lowest point consistent with the requirements of the Treasury for revenue."

Now, I am ready to adopt every word which is so well said by the commissioner. I agree with him that you ought not to impose the duty you now propose, because you in that way will interfere with the general welfare. I plead for that general welfare which is one of the objects of our Constitution; but I plead still further that you should not impose any tax which in its nature is peculiarly oppressive on a particular part of the country, especially when there is no corresponding advantage derived from it. On that principle I am ready to stand and to accept its application to all the interests on which I have to act. I say therefore, sir, in one word the proposed tax on coal is contrary to the general welfare of our country, and it is a positive oppression on an important part of the country.

Mr. GRIMES. I do not rise, sir, to take part in the discussion of this coal question, but to express the hope that while the Senator from Massachusetts adopts the views of the special commissioner of revenue, Mr. Wells, on the subject of coal, he will extend his co-operation and give his influence to the support of the other recommendation, contained in the commissioner's report. I must also express my surprise that the Senator should deem it at all strange that the commissioner's statement should be called in question, or that he should be maligned and slandered for the statements he has made. Why, sir, I think I told the Senate that any man who opposed the passage of this bill must expect to be slandered, and I think that the prophecy is being fulfilled throughout the country.

As another illustration to be added to that furnished by the Senator from Massachusetts of the truth of this, I wish to state that in the report of the special commissioner made to the Secretary of the Treasury, when discussing the subject of wool, a subject which I have had occasion to investigate somewhat, he gave a statement of the amount of production and consumption in this country and the amount of importation into it; and as the basis of his statement he adopted the report of the Wool-Growers' Association themselves, accepting even their precise figures. Now, within the last few days we have an article in the newspapers, and telegraphed all over the country, stating that a Mr. Dodge—who he is I do not know, but said to be connected somehow as a clerk in one of the Departments of the Government—has furnished an altogether different statement. The wool-growers were mistaken about their own production it seems, and Mr. Wells is mistaken, and Mr. Dodge, by some species of information which he says he has been able to

gather, is able to present an altogether different state of facts in regard to wool, woolen manufactures, and woolen fabrics, and consumption.

Mr. BROWN. A new "dodge."

Mr. GRIMES. Yes, sir; as my friend from Missouri says, it is simply a "new dodge" to secure the adoption of this bill.

Mr. President, I have my own views in regard to this question of coal now before us, and I wish it to be distinctly understood that any vote I may give upon this amendment is not predicated upon any principle involved in the general subject or in the bill as an entirety, upon which I profess to stand.

Mr. SUMNER. The Senator from Iowa has appealed to me to carry out my principles with reference to this bill. Now I appeal to that Senator to carry out his principles with reference to coal. He must be in favor of cheap coal: I know that he must be; and I ask for his vote.

Mr. HOWE. Mr. President I am in favor of cheap coal myself and I like to have everything cheap when I have to buy it. I am not so particular about it being cheap when I have it to sell.

On this question of coal I shall feel compelled to vote against the amendment submitted by the Senator from Massachusetts, and I should give my vote silently but for the fact that the Senator has pressed upon us the idea that this tax of one hundred and twenty five cents—

Mr. SUMNER. One hundred and fifty.

Mr. HOWE. One hundred and twenty-five I believe it stands now—a dollar and a quarter.

Mr. JOHNSON. That is the present law.

Mr. HOWE. Either a tax of \$1.25 or \$1.50 would, he says, be oppressive and unjust upon an important section of the country. If I believed it were oppressive, peculiarly oppressive, or at all unjust to any section of the country, whether important or unimportant, I should vote with the Senator from Massachusetts; and if there were not a coal mine in Pennsylvania or Maryland or in the United States to be protected, if the idea of protection were altogether, as it is almost, abandoned by this bill, if we had no regard to anything in the world but revenue, I would still think that this was the mildest revenue duty to be found in the bill. This coal, for the importation of which Senators seem to be struggling at a low rate of duty is used I understand for two purposes, mainly to make gas and oil of—

Mr. FESSENDEN. Not oil: to make gas and iron.

Mr. HOWE. I understand you get your oil coal from the same neighborhood.

Mr. FESSENDEN. Yes.

Mr. HOWE. And it comes in under the same duty. It is used for these two purposes mainly. It is said to make about from sixty to one hundred gallons of oil to the ton, and it will make about ten thousand feet of gas. Is that an oppressive tax upon the consumers of either the oil or the gas? It will be about twelve and a half cents on a thousand feet of gas. That gas I suppose sells for three or four dollars a thousand feet in the different cities where it is made. This duty increases the cost of that gas about twelve and a half cents. You will not let a citizen of the United States use a pound of chicory root, which I do not suppose you mean to protect at all, unless he pays for the privilege of consuming in his family that pound of chicory root five cents, the same as on coffee. You charge him five cents for consuming a pound of coffee; and that as a pure revenue measure. Well, if you charge as high for the privilege of consuming a pound of chicory root as five cents, I think you are bound to charge as high as twelve and a half cents for consuming a thousand feet of gas. This is much the lowest rate of tax, and I do not feel that I am oppressing New England or unjust to any portion of New England by the vote I give. I do not mean to be.

Sir, I regret I indulged in any reflection upon the general character of this bill. I re-

gret it for two reasons. I am not entirely sure that I was not unjust to the bill, and I am not entirely certain, in view of what I saw here last night, that I was not a little imprudent myself. I believe it is rather the fashion not to express any very decided opinions about this bill one way or the other; it is considered a little safer to find fault with it than to approve it; but there was a degree of fluttering exhibited here last night that I had not witnessed before, and could not account for on the occasion.

I am going to vote for this bill, and I am going to vote for it with a steady nerve, I think, unless it is hurt between this time and the time of its final passage more than I anticipate it will be hurt. I know, Mr. President, that there is a difference of opinion in the country about these measures, and has been for a great many years. We have been debating them very fiercely for some forty or fifty years, and we have been experimenting upon them. There is a class of people in the United States who think it is for our interest to buy everything we want to buy where we can buy it for the least money, and that no impediments ought to be put in the way of our doing so; and therefore they are opposed to all systems of duty laid for the purpose of effecting purchases in our own country. There is another class of gentlemen who think that whatever can be made here, whatever labor can produce here as readily as it can be produced elsewhere, ought to be produced here. These two classes of opinions seem to be about as far apart as they ever were in their real beliefs, but they come very much nearer together in their forms of expression than they used to do years ago. Those who hold to the latter opinion used to be called protectionists; those who hold to the former opinion used to be called the apostles or disciples of free trade. Just now I believe we do not find any very loud advocates of free trade, and certainly none of protection. We find some gentlemen who are in favor of tariffs for revenue with incidental protection, but not for protection; and some gentlemen, like the Senator from Iowa, for instance, who are not for free trade, but for judicious tariffs or systems of duty—

Mr. GRIMES. For revenue purposes.

Mr. HOWE. Mr. President, I shall not take up the time of the Senate by expounding my own views upon this matter at any length; but I have an impression that if we had as much labor here as they have elsewhere in the world trade ought to be as free as possible; that you ought not to impose a heavier tax upon the consumer of a foreign article than an article of home production for the mere purpose of revenue; that there is no reason why you should charge us any more for using a pound of tea than for using a pair of boots in proportion to the value of the two articles. The only object for which I want to see industry protected here at home, or rather to see the articles that we can produce here as readily as they can be produced elsewhere produced here, is for the purpose of evening the amount of labor in this country and in other countries. We are now purchasing and paying for a large proportion of the products of foreign labor. I think it is much cheaper and much better to import that labor than to import those products; and it is for that reason I want to see the United States confine themselves more and more to the consumption of their own productions. I have reference to those productions for which we have the same facilities that they have elsewhere, with the exception of the mere article of labor.

But, sir, I did not mean to be betrayed into the discussion of the general features of this bill, and I should not have said a word upon them if I had not accidentally dropped a remark in the outset which looked like finding fault with it. I only say in conclusion that when we get, if we ever get, to the final vote on the bill I shall vote for it. I do not expect the whole country will be satisfied with this bill. I am not satisfied with it myself, as I said before. I do not expect the whole coun-

try will be satisfied with my vote. The question which is the best system for the United States remains to be settled. It has got to be settled. It is not my habit to take a stand astride both sides of any great controversy. I am very apt to be found on one side or the other of it. I belong on one side of this controversy. I have indicated on which side of the controversy I do belong. At some time I shall find an opportunity of stating at some length and with some particularity why I am on that side.

Mr. SUMNER. I ask for the yeas and nays. The yeas and nays were ordered.

Mr. SPRAGUE. Before the vote is taken I desire to say in reference to my colleague [Mr. ANTHONY] that he was yesterday and is to-day confined to his house by indisposition.

The question being taken by yeas and nays, resulted—yeas 11, nays 25; as follows:

YEAS—Messrs. Fessenden, Fogg, Foster, Harris, Morgan, Morrill, Poland, Sprague, Sumner, Williams, and Wilson—11.

NAYS—Messrs. Buckalew, Chandler, Conness, Cowan, Cragin, Creswell, Dixon, Doolittle, Frelinghuysen, Henderson, Hendricks, Howe, Johnson, Kirkwood, McDougall, Nesmith, Patterson, Ramsey, Riddle, Saulsbury, Stewart, Van Winkle, Wade, Wiley, and Yates—25.

ABSENT—Messrs. Anthony, Brown, Cattell, Davis, Edmunds, Fowler, Grimes, Guthrie, Howard, Lane, Norton, Nye, Pomeroy, Ross, Sherman, and Trumbull—16.

The amendment to the amendment was rejected.

Mr. CONNESS. On page 47, in line one hundred and forty-six of section nine, I move to strike out "seven" and insert "ten," so as to make the clause read: "On borax, refined, ten cents per pound," instead of seven cents, as the duty is now fixed in the bill. In this connection I desire to call attention to the fact that the present tariff law imposes on this article a duty of ten cents; that the estimate of the commissioner puts it at ten cents; and that in California we have a considerable deposit and manufactory for producing this article, the capital for the manufacture of which has been invested under the present tariff as it now stands; and I am well advised that it will simply lead to the material injury, if not ruin, of the establishment unless the rate be kept up to what it is in the present tariff. I have in my hand a dispatch from one of the gentlemen interested in this manufacture, but at the same time I will say one whose character stands so high with those who know him that his statement will not be questioned. I allude to Frederick Billings, of California. I hope that this change will be made.

Mr. FESSENDEN. I do not feel like making any disturbance about this matter. It is true, as the Senator states, that the present tariff law fixes the duty at ten cents a pound, and that rate was recommended by Mr. Wells; but we had before us some statements on the subject from persons appearing on the other side which induced us to change the duty on borax and put it as it is in the bill. If on the whole the Senate think it proper to let it stand as it is in the present tariff, I shall not make any strenuous objection. I merely state the reason why we changed it. We were induced to suppose that the interest did not require so much protection.

Mr. CONNESS. I knew that. The difficulty in the case was that the parties interested on the other side had not an opportunity to appear before the committee, and but one side was heard. It is not the fault of the committee.

The amendment to the amendment was agreed to.

Mr. CONNESS. Some other amendments must necessarily follow to make the various items consistent. On the same page, in line one hundred and forty-five, I move to strike out "three" and insert "five;" so as to make the clause read:

On borax, crude or lineal, and on crude borates not otherwise herein provided for, five cents per pound.

Five cents is the present rate, as well as the rate recommended by the commissioner.

The amendment to the amendment was agreed to.

Mr. CONNESS. I now move in line one hundred and forty-seven, on the same page, to strike out "three" and to insert "five;" so as to read:

On boracic acid, crude, five cents per pound.

The amendment to the amendment was agreed to.

Mr. CONNESS. In line one hundred and forty-eight, I move to strike out "eight" and insert "fifteen;" so as to read:

On boracic acid, refined, hydrated, fifteen cents per pound.

Mr. FESSENDEN. I hope that amendment will not be made.

Mr. CONNESS. That is the rate fixed in the House bill.

Mr. FESSENDEN. I know that, but I think that the House bill put it too high.

Mr. CONNESS. The recommendation of the commissioner is twelve cents. I desire to say in this connection that Professor Torrey, who is good authority on the subject, says that fifteen cents on the hydrated, and twenty-seven cents on the anhydrous is equivalent to the other rates in the present tariff.

Mr. FESSENDEN. I do not know who Professor Torrey is. He may be a very good chemist, but I am not aware that he knows everything that may be advisable with regard to a tariff bill. I remember now distinctly the ground on which we put these duties. It was stated to us that there is one firm in New York that has contracts for the California borax and its products for a considerable length of time, which gives them the entire control of it in the New York market. On the other side we had a letter from that firm, in which it was admitted that they had the monopoly of it. It is an entire monopoly, and the duties are so high as to keep everybody else out. I think now that, on reflection, the commissioner is satisfied with the changes we made, and acceded to them, believing the duties as we have placed them to be high enough. I shall not, however, make any objections to the changes made by the Senator from California as far as they have gone if he will be satisfied with putting the hydrated at twelve cents and the anhydrous at twenty-five, instead of fifteen and twenty-seven, as he proposes.

Mr. CONNESS. I do not like to make any contest on these points against the honorable chairman of the Finance Committee. I am satisfied, whatever the parties in New York referred to may do, that the California manufacturers have never made a dollar from their investments up to this hour; and I am also entirely satisfied that the rates proposed by me, fifteen and twenty-seven cents, judging from the statements made to me upon competent authority, are the equivalent of ten cents upon the refined. Boracic acid, hydrated and anhydrous, are the articles out of which the refined borax is made; and unless a comparative rate of duty is put upon these articles the result is simply to let into the country at a lower rate of duty the articles out of which the refined borax is made, thus competing severely with our products and with our manufacture. I think that the motion I have made is entirely right.

Mr. FESSENDEN. I hope it will not be adopted.

The question being taken; there were, on a division—yeas 10, nays 11; no quorum voting.

Mr. CONNESS. I ask for the yeas and nays.

Mr. FESSENDEN. I think there is a quorum present, as will be seen if the Chair will put the question again. It is a pity if we have to take the yeas and nays on every question.

Mr. CONNESS. I do not insist on the call.

Mr. EDMUNDS. I wish to submit an observation in reply to what was said by the Senator from Maine.

The PRESIDENT *pro tempore*. Business cannot proceed until the presence of a quorum is ascertained. The vote just taken disclosing the want of a quorum, no business can be done until it is ascertained that a quorum is present.

Mr. FESSENDEN. The Chair can do that, I suppose, by counting.

The PRESIDENT *pro tempore*. (after counting the Senators present.) The Chair ascertains by counting that there is a quorum of the Senate present.

Mr. EDMUNDS. Is it in order to proceed with the debate upon this question now?

The PRESIDENT *pro tempore*. The Chair ascertained the fact by counting, and announces that a quorum is present. The Senator from Vermont is now in order.

Mr. EDMUNDS. I only wish to say respecting this subject of boracic acid, that it is one of the substances out of which the borax which is used in trade is made; and of late years, as is stated in a very respectable book on the subject of arts which I hold in my hand, borax has been obtained by combining native boracic acid with soda. That is the way now that borax is made. Therefore, if we wish to protect the manufacture of borax, it is necessary, in order to adjust this rate to the other rates that have been agreed upon, to make the advance which is suggested by the Senator from California.

The PRESIDENT *pro tempore*. The Chair will again put the question. The question is on the amendment of the Senator from California to the amendment made as in Committee of the Whole.

The question being put, there were on a division—yeas 18, nays 7.

The PRESIDENT *pro tempore*. There is not a quorum voting, but a quorum is present, as the Chair has ascertained by actual count.

Mr. FESSENDEN. Why cannot gentlemen give themselves the trouble to stand up?

The PRESIDENT *pro tempore*. There are thirty members present, and but twenty-five voting.

Mr. GRIMES. Let us have the yeas and nays.

Mr. FESSENDEN. I will let the amendment go unless somebody objects. I "give it up."

The PRESIDENT *pro tempore*. That cannot now be done. The last vote disclosed the want of a quorum. The fact of there being a quorum must be ascertained.

Mr. HENDRICKS. Can we not have a recount?

The PRESIDENT *pro tempore*. The yeas and nays being called for, the question will be put upon seconding that call.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 14; as follows:

YEAS—Messrs. Chandler, Conness, Cowan, Cragin, Creswell, Dixon, Edmunds, Fowler, Frelinghuysen, Harris, Hendricks, Howe, Johnson, Poland, Ramsey, Stewart, Van Winkle, Wade, Wiley, Williams, and Yates—21.

NAYS—Messrs. Brown, Buckalew, Doolittle, Fessenden, Foster, Grimes, Henderson, Kirkwood, Morgan, Patterson, Saulsbury, Sprague, Sumner, and Wilson—14.

ABSENT—Messrs. Anthony, Cattell, Davis, Fogg, Guthrie, Howard, Lane, McDougall, Morrill, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Sherman, and Trumbull—17.

So the amendment to the amendment was agreed to.

Mr. FRELINGHUYSEN. I move on page 86 to strike out lines fifty-seven, fifty-eight, fifty-nine, sixty, and sixty-one of section thirteen, and in lieu thereof to insert:

On soapstone, freestone, sandstone, granite, and all building or monumental stones, except marble, four dollars per ton of thirteen cubic feet.

Mr. FESSENDEN. That amendment leaves out paving stones and lets them come in free.

Mr. FRELINGHUYSEN. An amendment can be made on that point afterward. This amendment relates principally to freestone, which is found, as we know, in large quantities in Connecticut, New Jersey, and Ohio, and in which business there is a large amount of capital now invested, and there are several thousand laborers employed, to whom a large amount of money is annually paid by way of wages. The freestone which is spoken of in this amendment cannot be delivered in the market for less than \$1 35 a cubic foot, with a

reasonable profit, which is about seventeen dollars and fifty cents a ton. That I am well certified of. This Nova Scotia stone, I am credibly informed, is invoiced at less than three dollars a ton, and sells in the market at as high a price as the freestone, \$17 50 a ton. The whole of this \$1 35 a cubic foot is labor, with the exception of ten cents for rent. The highest rent these quarries ever command is ten cents per cubic foot. This amendment, then, is clearly protecting American labor against the labor of Nova Scotia. I am very clear in my mind that we are under no obligation to these British Provinces to legislate for their benefit, but that we are bound to protect the hardy men who are employed in our quarries and to protect our own capital.

It has been said that this increase of duty will make building material higher. I do not think it will affect the price of building materials at all. There is so wide a margin between the cost of the Nova Scotia stone and the price at which it sells in market that even with the four dollars a ton duty it will still be largely imported into our market, and compete with the freestone of our States.

The object of this amendment is twofold. It will give us a large revenue, for the business will be still carried on at a good profit by those engaged in quarrying in Nova Scotia even after taking off the four dollars. The quarrymen of the States are interested in having this amendment adopted, because, unless the profits of that business are thus pruned, large amounts of capital will be invested in it, and the market will be flooded with stone from the Nova Scotia quarries. I think the amendment must commend itself to the judgment of the Senate. It will give us a revenue, and it will not increase the price, but will prevent the stone from these quarries commanding the market.

Mr. FESSENDEN. What is the rate of duty proposed by the amendment?

Mr. FRELINGHUYSEN. Four dollars a ton.

Mr. FESSENDEN. I ask what is the object of striking out all these lines? Why not simply say "on freestone" distinctly so much? Why strike out "paving stones, slabs, and flags not dressed?"

Mr. FRELINGHUYSEN. I took the amendment as it was offered to the Senate before, simply striking out "grindstones."

Mr. FESSENDEN. But the Senator strikes out several lines that he cannot really want to interfere with. Why not leave the fifty-seventh, fifty-eighth, and fifty-ninth lines, and then insert a portion of his provision as a distinct amendment? Why not make a distinction between the uncut and undressed stone and that which is cut and dressed?

Mr. FRELINGHUYSEN. A distinction between the dressed and undressed Nova Scotia stone would not reach the purpose. The other suggestion of the honorable Senator as to paving stones, slabs, and flags, I have no objection to adopting; but if the distinction referred to should be made this stone would come in partially dressed so as to evade the duty.

Mr. FESSENDEN. That would depend altogether on the officers of the custom-house. They ought to be able to tell whether the stone was dressed or undressed. The result of this proposition is to exclude the Nova Scotia stone altogether. That is simply the object of this amendment on the Senator's own showing.

I really did not suspect that my honorable friend from New Jersey would repeat what we have so often heard on similar propositions, because I thought he was a little above that sort of thing; but he brings in the old story about foreign labor, &c. That may do very well for an article in the Chronicle, and it may do very well for cases where there is no argument that can be used; but it is hardly fitted for anything beyond that. Now let us take the Senator's own statement. He says the Nova Scotia stone comes in here and sells in our market for the same price that is charged for our own stone. If it sells at the same price

and does not undersell our stone, where is the injury to our own production? Unless he wants to exclude the Nova Scotia stone altogether the argument is not applicable, and I apprehend the amendment is so drawn as to produce that result, to exclude the Nova Scotia stone altogether. If it could undersell our own stone that would be one thing. If the importers were able to sell the Nova Scotia stone at a rate for which the owners of the quarries in our own country could not sell their stone it would seem to be an argument for protection; but the Senator says both sell at the same price.

I have heard these broad statements about the price of labor in Nova Scotia, but I have not yet heard any authority given for them. It is taken for granted that labor there is at the very low figures which have been stated here. Now, I am informed on the contrary that in the Nova Scotia quarries laborers receive \$1 50 a day in gold. I think Senators would be a little wiser if they did not pay too much attention to these broad statements that are made by interested parties with regard to things of which no proof whatever is furnished.

The only view the Committee on Finance had in reference to this matter was one which gentlemen in debate do not seem to recognize. The committee thought that with regard to articles of use for building purposes, which were rough materials, it was not worth while to lay on so heavy a duty as to oppress the consumer. Gentlemen forget that there are three parties to these compacts. There is, in the first place, the grower of the raw material; there is in the next place the man who manufactures out of the raw material. Senators seem to think that if these two parties agree the matter is settled—it is all right; but I beg leave to remind them that there is a still larger class interested, and that is the people who use the material after it is brought to a State where it can be used. I think it is worth while to remember their interests as well as those of the other two classes, while, as I have said more than once, I am in favor of and have endeavored to so act in arranging this tariff all through, as to afford, with the duties which we must necessarily place upon imported articles, adequate protection, all that is needed to our own various manufacturing interests, I am not in favor of going beyond that merely for the sake of carrying out a principle of protecting American labor. I want to protect it just as far it needs protection, and I think the tariff affords ample opportunity to do that as it has been arranged; but I do not want to go further than that in laying burdens upon the consumer.

I differ entirely with my honorable friend from Wisconsin [Mr. Howe] in the remark he dropped, that this was not a tariff for a protection. And while I am up I want to state one other thing, and then of course gentlemen will do as they please; the matter does not interest me particularly more than any one else. The tariff bill as it came from the other House was a higher tariff than this in almost every article. We have adhered to that bill in only one particular, and that is in regard to the duty on wools and woolens. In regard to all other items, I will not say all, but as a general rule on pretty much all the other items this is a protective tariff, but not so high as the tariff of duties imposed by the House bill as it came to us. And yet a member of the House which passed that bill, and one of those who voted for it, came to me this morning and complained that we in the Senate had put on such an enormous tariff of duties. I asked him what he sent the bill here for, and he could not answer that question.

Here let me state, once for all—because I do not want to make any general speech on this subject; I am obliged to make too many small speeches to indulge myself or to afflict the Senate by making an extended one—that we endeavored faithfully, as well as we were able, on an examination of testimony and on a study of the subject, carried through days and weeks, to arrange the duties in such a way as would

afford all the protection that we judged to be needed. If we have made mistakes it is the business of the Senate to correct them; and the Senate has seemed disposed very much to correct them, because I have observed that whenever a gentleman here, at the suggestion of somebody at his elbow outside who is interested in a particular thing and wants a higher rate of duty on it, makes such a proposition, it seems to be taken for granted that he must necessarily know more and have acquired more information upon the subject than could ever have been acquired by the commissioner or by the Committee on Finance. Of course I cannot complain of this. Every gentleman is entitled to vote as he deems proper, but that seems to be the result.

Now, sir, with regard to those building-stones, I do not believe any such consequences will follow from leaving the bill as it stands, as are predicted by the Senator from New Jersey. I have been informed, on authority that is certainly entirely satisfactory to me, and would be, I think, to the Senate if the name of my informant was stated—a gentleman who is not at all interested in this business in any shape whatever—that our own quarries are flourishing and have been from the beginning, and flourished even under the reciprocity treaty. I should like to know how they got along under that treaty. They established their quarries and they went on laboring, and did not particularly complain at that time. Their business flourished under the reciprocity treaty, which allowed building-stones to come in free from Nova Scotia. The reciprocity treaty expired and a duty came upon the article, and they have been suffering ever since, according to their story; suffering a great deal more than they did when it came free, for then they did not complain. The thing does not look to me probable.

Sir, I have stated the view which the committee took. The Senate will arrange the matter in its own way according to its own judgment.

Mr. FRELINGHUYSEN. In reference to the counsel of the honorable Senator, not to put too much confidence in the statements that are made to me, I admit that that is certainly very proper; but the fact is that the House committee had a full investigation of this subject, had the parties before them, and they, knowing the facts, fixed the duty at five dollars, when we now only ask four dollars; so that it seems a thorough investigation of the facts led them to think that that duty was necessary, and I believe (perhaps I am wrongly informed) that the committee of the Senate had no investigation in regard to it; that the parties were not before them. Probably this was the fault of the parties themselves.

The argument of the distinguished Senator, that this stone coming into our market does not injure American stone, because Nova Scotia stone is offered at the same price, is not a sound argument, for the reason that the Nova Scotia stone is more readily worked than the stone of Connecticut, New Jersey, and Ohio, and consequently has that advantage at the same price.

I cannot agree that it is an unworthy argument or consideration for us to bear in mind the difference between the cost of labor here and in Nova Scotia. It is American labor that this bill is intended to protect—just that. I do not believe that this bill, whether it is passed or not, makes a great deal of difference to the capitalist. If a man has got a factory he can close it and let it stand still; the doors shut for six months, and he can bring the laborers and the artisans of the United States to his terms, make them take what wages he gives, even if it is as low—

Mr. FESSENDEN. Let me say that my friend's statement is exactly in the teeth of all the statements made to us by the manufacturers. They told us their laborers would not work for low prices, and that they were compelled, on account of the workmen demanding high prices for their labor, to ask additional protection.



Mr. FRELINGHUYSEN. That is exactly my idea. The capitalist can close his factory and keep it closed for six months, but the laborers and artisans must work or starve. It is to the credit of the employers that they will not force them to that predicament, but that they come here and ask for a tariff which will protect American labor and enable them to pay such wages as the mechanics are entitled to receive. But even, on the statement of the distinguished Senator, there is a vast difference between the price of labor in Nova Scotia and in the United States. If labor is in Nova Scotia \$1 50 a day, it is here \$2 25; but I am informed that the price of labor there is much lower than the sum stated, and that not more than a dollar a day is paid in Nova Scotia.

The Senator is also in error, I think, as to the prosperity of our quarries, for I have been informed that for a course of years where they are conducted by companies they have passed dividends and returned no profit to those who had their capital invested in them.

Mr. DIXON. The fact just stated by the Senator from New Jersey is true to my knowledge. During the continuance of the reciprocity treaty these quarry companies did pass their dividends entirely. The Senator from Maine has stated that they were prosperous under that treaty while they had no protection. That is not the case; he has been misinformed; and I will state now, without going further into this subject, that it is, as the Senator from New Jersey has said, wholly a question of the protection of American labor. The difficulty is that the prices of labor are so greatly increased by—I may almost say the action of the Government—the consequences of the war, the inflation of the currency, and the great internal taxes; all these causes which have raised the expenses of living have increased the price of labor so that they are paying now \$2 50 a day for laborers of the same class who are employed in the Nova Scotia quarries at seventy-five cents a day. It is perfectly evident that the company cannot compete with the quarries of Nova Scotia with that distinction in the prices of labor, and all they ask is such a rate of duty as shall make in some degree an equilibrium with regard to labor. They ask for this amendment four dollars per ton, or four dollars per thirteen cubic feet of stone.

I notice by this bill that another article, which is very similar to this in many respects as a building material, is taxed, the very lowest and cheapest kind—I allude to marble—eight dollars a ton. This is as much a luxury as marble; it is used mainly for the facings of buildings; a thin veneering of it is placed on a building precisely as marble is used. I cannot see why there should be so heavy a protective duty upon marble and no protective duty upon this article.

The Senator from Maine said the other day it paid no internal revenue tax. There again the Senator is misinformed. Every building which is erected of this stone or faced with this stone is treated as a manufactured article and pays a duty of five per cent., and the contractor is obliged to consider that in his estimates, and he does; so that the Government receives upon every one of these stone buildings or brown-stone fronts a duty of five per cent. on the value of this article.

Only a word more with regard to one single point—for I do not feel able to say much at this time—with regard to this being a building material which ought not to be heavily taxed because we do not desire to discourage building. There is a misunderstanding with regard to that. A large portion of this stone is sold at a very cheap rate; a very large portion of it is actually given away; all the loose rubble-stone is allowed to be taken from the quarries for absolutely nothing. Then again, the large blocks of stone which every Senator has seen laid as the foundation of large buildings pay at the quarry only one dollar a ton. It is sold at that low rate. Why is it that the worked stone is so much more expensive? For the very reason the Senator from New Jersey has stated: because of the labor upon it. After having

obtained it from the quarry you then place upon it the labor of hewing and it rises in value, and is sold at the quarry for one dollar a ton, thirteen cubic feet, and in New York at \$1 35.

Now, with regard to the allegation that Nova Scotia stone is a better article, I will say as the Senator from New Jersey has stated, that it is a little easier wrought; and it is used somewhat for ornamental purposes; but I do not think people will obtain any advantage by increasing the importations of Nova Scotia stone and destroying our own quarries. The result of that would be to compel consumers to pay the same rate that the Nova Scotia stone would cost if our own brown-stone was excluded from the market. When that happens the owners of the Nova Scotia quarries will raise their prices to probably just about the same that the owners of the brown-stone quarries now ask.

If there is in this bill anywhere a question of protection it is raised upon his very point. The stone is valueless as it lies in the quarry, and it only becomes valuable by a very large amount of labor being bestowed upon it; and for that reason we ask what I think is a reasonable amount of protection, four dollars per ton of thirteen cubic feet.

Mr. CATTELL. I desire, Mr. President, to indorse all that was said by the chairman of the Committee on Finance as to the care which was bestowed by that committee on this bill, and further to indorse the remark which he has made, that the duties in this bill have been very largely reduced from what they were in the bill that came to us from the House; and while I have in almost all cases voted with the committee, I nevertheless think that there were a few errors committed by the committee, that there were some mistakes in the bill to be rectified, and among them, in my judgment, is this one in reference to stone. I so represented to the committee my views. I believe that the protection which is asked by the gentleman connected with this interest is not more than that accorded to other departments of industry in the country, and no more than is absolutely essential to the protection of the interest; and as I am bound in this case, in accordance with my own judgment, to vote against the report of the committee, I felt a desire to explain the reason.

While I am on my feet I wish to make another remark, and that is with regard to the assertions which have been so frequently made during the course of this discussion that this is an extravagantly high tariff. The Senator from Missouri [Mr. Brown] does not call it a tariff for protection; he calls it a tariff for prohibition. Now, I have only to say that from a careful observation of this tariff bill as reported by the Finance Committee, in my judgment it is not an advance of ten per cent. upon the duties of the existing tariff, taking the whole tariff through. The rates imposed by this tariff bill do not add as much as the manufacturing interests of this country directly and indirectly are taxed by the internal revenue laws in addition to what they were taxed when the last tariff bill was passed.

Gentlemen in the adjustment forget of this tariff that there are an enormous number of indirect taxations to which our people are subjected. Gentlemen forget that the laborer here cannot perform service upon the same terms with the laborer in other countries, when every article which he uses, everything which he wears, everything that enters into his consumption, except that which comes directly from God Himself without charge, like water, is taxed; and taxed for what? Taxed by the very necessities of your Government; taxed for the purpose of paying the expenses of sustaining the Government, and of having a Government that exists and that is worth having; and it is because these interests are necessarily burdened and taxed that we are obliged to place impost duties on articles imported, so that they shall be incidentally protected.

It has been stated by gentlemen on this floor, in their desire that this bill shall be recommit-

ted to the Committee on Finance, that there are errors and defects which should be corrected. I respectfully submit to the Senate that the Committee on Finance sat here during the whole Christmas recess, five or six hours per day, while other gentlemen were at home enjoying themselves during the holidays, and that the Senate and the country are indebted to the distinguished chairman of the Committee on Finance for the fidelity with which the work has been done with regard to this bill. I am not here to quarrel with gentlemen who dispute the principles upon which the bill is based, who deny, as the Senator from Iowa does, the whole principle of protection to American industry. It is an honest conviction of his, and he has a right to enjoy that opinion, and express it in the Senate. I honor him for the boldness with which he does express it. I have just the same right to express my own; and I claim that the tariff bill before the Senate has been subjected to unjust charges, as being an exceedingly high protective tariff.

The Finance Committee of this body in almost every case, as has been stated by the chairman, with the exception of wools and woollens, reduced the rates which were agreed upon by the House; and be it remembered that at the head of the Committee of Ways and Means there is a gentleman celebrated all over the country for his knowledge of these subjects, and that the bill was worked up with a great deal of care and consideration. In my judgment some of the duties in that bill were too high, and I concurred with the Committee on Finance in their reduction. I believe this bill as it comes to the Senate from the Finance Committee is a better bill. Of course there are some faults, some errors, some omissions; and after the Senate shall have done with it it will not be a perfect bill. But I assert that as it came from the committee it was a good bill; it was one which the country would have approved in its general features; I would have been content with it. Nevertheless, there are some points in which I differed from the committee; some in which they differed from me, and in regard to which I surrendered my judgment; and there are a few others where I could not do so, and this stone question is one of them.

Mr. President, as I had the floor for the purpose of giving the reasons why, after a careful examination of this subject, I was induced to believe that this interest requires the protection of four dollars a ton, I thought I would take the opportunity to express these views upon the bill itself.

Mr. GRIMES. I did not desire to interrupt the Senator from New Jersey in the remarks he made, or else I should have stated what I have stated on several occasions: that he is entirely misinformed as to my views on the subject of tariffs. I have never declared that I was a free trader or that I was opposed to the protection of American industry; on the contrary, I have always avowed that I was in favor of a revenue tariff, with incidental protection to such branches of American industry as needed the fostering care of the Government; and the question is between the Senator from New Jersey and myself as to what these branches of industry are, and how these duties can be properly laid. I think they are not properly laid in this bill; and the fact that it required the Committee on Finance the whole time during the recess to adjust what they thought was a proper schedule of rates of duties to be imposed by the bill is no evidence that we should take it without thorough investigation and discussion, or that we ought to take it at all; certainly not if our judgments are convinced that they have not hit upon the right scheme.

I do not know but that this constant iteration and reiteration of the charge of free-trader against me will finally lead me to believe myself that I am actually one, but I did not come here with that conviction on my own mind, and up to this time I have never avowed myself to be such.

Mr. CRAGIN. Some three or four years ago, when I was acting as an agent of the Treasury Department, I had occasion to visit the quarries in Connecticut, at Portland, for the purpose of making investigations there as to the charge of fraud against the importers of Nova Scotia stone, and while there I became fully satisfied and convinced that the quarry there could not prosper under the reciprocity treaty which then existed. The works were languishing and almost absolutely doing nothing.

All the questions that have been presented here in connection with this subject were there discussed and investigated. Very few members of the Senate, perhaps, understand the magnitude of these works. Some \$1,700,000 are invested there, and from twelve to fifteen hundred men, in prosperous times, are employed upon these quarries, and the owners of the quarries own some hundred vessels that reach these quarries on the Connecticut river to transport their products. It appeared in that investigation that the stone in Nova Scotia was easier wrought and gotten out of the quarries much cheaper than this in Connecticut; and the labor there being cheaper they were of course unable to undersell in our markets the producers of this stone in Connecticut. So far as other quarries are concerned, I am not personally acquainted with them. I rose merely to correct the impression that these quarries were prosperous under the reciprocity treaty. They certainly were not at the time that I visited them.

The question being put; there were, on a division—ayes 12, noes 10; no quorum voting.

Mr. HENDRICKS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 18, nays 14; as follows:

YEAS—Messrs. Cattell, Chandler, Conness, Cragin, Dixon, Edmunds, Fogg, Foster, Fowler, Frelinghuysen, Howe, Kirkwood, Trumbull, Van Winkle, Wade, Willey, Wilson, and Yates—18.

NAYS—Messrs. Buckalew, Fessenden, Harris, Henderson, Hendricks, Morgan, Morrill, Norton, Patterson, Riddle, Sherman, Sprague, Sumner, and Williams—14.

ABSENT—Messrs. Anthony, Brown, Cowan, Creswell, Davis, Doolittle, Grimes, Guthrie, Howard, Johnson, Lane, McDougall, Nesmith, Nye, Poland, Pomeroy, Ramsey, Ross, Saulsbury, and Stewart—20.

So the amendment to the amendment was agreed to.

Mr. CHANDLER. I move to strike out lines seven and eight of section seven, on page 25, and in lieu of them to insert:

On old metal scrap iron, four dollars per ton.  
On old wrought scrap iron, eight dollars per ton.

I am satisfied that there is a misapprehension on the part of the Committee on Finance and its chairman in regard to this subject. The Senator from Maine, in his remarks the other day, said:

"Then the other iron manufacturers said this is not to be considered at all with reference to the price of pig iron; in reality the pig iron that is imported does not come in competition with any of our iron that we manufacture. The pig imported is the soft Scotch pig metal that is not to be found in this country, is not made in this country, it does not come into competition; but so far as we are concerned we would just as lief you should put the pig metal down to three dollars if you choose, but that was put up for the purpose of revenue and was kept up for that particular reason.

"Under these circumstances, with that object, it was thought best to put old scrap iron at what they said was enough, and that is three dollars per ton on both descriptions. They said another thing, that there are a great many rolling-mills established on the Atlantic border, in New York and Massachusetts and some in Maine—I believe one or perhaps two. They have to bring their iron to the mills and pay freight on it, whereas the manufacturers of iron in Pennsylvania and other places have their iron and their coal at their door. They came to the conclusion, and they said that was the foundation of the resolution of the Iron and Steel Association sent to us, that it was no more than fair that it should come in at the same rate, that it is sufficiently guarded by the proviso we put in. That old iron has to be remanufactured."

I think the chairman of the Committee on Finance would never have made that argument if he had really understood the workings of the proposition. I hold in my hand a letter addressed to the Senator from New Jersey by

a gentleman largely interested in the manufacture of iron, which I will read:

OFFICE HUNTINGDON AND BROAD TOP MOUNTAIN RAILROAD COMPANY,  
PHILADELPHIA, January 28, 1867.

DEAR SIR: Excuse me for calling your attention to the low duty in the tariff bill now before the Senate on scrap iron, three dollars per ton on cast and wrought scrap. This will be disastrous to the manufacture of pig iron, in which this State and New Jersey have such a large interest. Cast scrap should not pay a less duty than six dollars per ton and wrought scrap from nine to twelve dollars. The rail mills are the great buyers of pig iron now, but under this bill they would import English scrap nearly entirely for their mills.

Hoping that you will see the necessity of protecting the great Pennsylvania interests, iron and coal, I remain  
Yours truly,

L. T. WATSON, President.

Hon. A. G. CATTELL.

It is not true as was stated by the Senator from Maine, he is mistaken as to the fact, that the iron and coal are together even in Pennsylvania. The State of Pennsylvania takes about three hundred thousand tons of Lake Superior ore to mix with her inferior ore, and transports it by water some seven or eight hundred miles and afterward by land carriage, a very expensive carriage, from fifty to three hundred miles. This ore is mixed with the Pennsylvania ores and transported there a long distance at a very great expense. To-day the great demand for pig iron is for rolling. It costs the manufacturers a ton of scrap iron to take the ore and the coal from the mine: calling the material nothing it costs to-day sixty dollars a ton—every cent of which is labor—to make a ton of scrap iron. To make a ton of pig costs just about half as much. Pig iron has gone through one process; it has been put into the blast-furnace and gone through one process; but before it is fit for rolling it has to be puddled and go through another process yet more expensive than manufacturing it into pig. After this second process, which actually costs on an average throughout the United States to-day sixty dollars per ton in labor, counting the material nothing, you propose to give a protection of three dollars or five per cent.—five per cent. on scrap.

There is another way of manufacturing this iron, and that is by what is called blooming it. That has to be done with charcoal, which is a very expensive fuel; and while it makes the best iron, it goes through but one single process and comes out in the form of blooms, and then is ready for the rollers; and that costs even more than this other double measure which costs sixty dollars. The wrought iron, the Senator says, has to go through a process of manufacture, and that he thinks is a sufficient protection. Now, what is that process of manufacture through which wrought scrap iron has to go? They take little boxes holding what is called a bloom, heat an oven to the requisite degree, shove these boxes of bloom into that oven until they have reached not a white heat but a welding heat; they are then brought out and put under the trip-hammer, and are ready for the rolling-mill. In other words, I can take wrought scrap, and in one half hour, and without scarcely any expense, prepare it for the rollers, for they are not obliged even to use fuel in this preparation where the blast-furnace is in operation, for they use the heated gas from the blast-furnace to heat the oven, and the labor is scarcely anything. In other words, this wrought iron is just prepared for the rolling-mills with no expense save the heating of the iron to the requisite extent to enable it to pass through the rollers. It, in point of fact, is worth twenty-eight dollars a ton for rolling-mill purposes more than pig metal, for you have to put the pig metal through the puddling process, which costs twenty-eight dollars a ton to put it in the same shape and form which the wrought scrap is in when it is landed upon your shores.

I do not think it possible that the Committee on Finance could have understood the operation of their amendment on this point, or they never would have offered it. The Senator from Maine says that this is a very small item, that

only 14,000 tons were imported last year. The reason why only 14,000 tons were imported last year was because we had a duty that kept it out. It was profitable to import 14,000 tons last year at a duty of eight dollars a ton; but if you reduce it to three dollars the result will be to make this country the grand receptacle of all the scrap iron in the world. Now, sir, look at the figures and see whether this is an insignificant matter.

There are in the world to-day 100,000 miles of railroad, of which 36,000 miles are in the United States and 64,000 miles in the rest of the world. These railroads are laid, on an average, with rails weighing fifty-six pounds to the yard, and use 49,000 tons net to the mile. The 64,000 miles of railroad abroad have consumed 3,136,000 tons or 6,272,000,000 pounds of iron. This has to be rerolled on an average once in ten years; consequently there is one tenth of that amount of scrap iron let loose upon some country every year. That would give the amount of railroad scrap alone at 313,600 tons per annum or 6,272,000 pounds, which you propose to admit at a duty of three dollars a ton, and which costs to-day to put it in the form of scrap iron sixty dollars a ton in the United States.

Sir, this is free trade in the broadest sense; and it is worse than that. I call the attention of the Senator from Maine to the fact that if you admit this vast amount of scrap iron at a low duty you will receive no duties on iron except what you receive on the scrap; nothing but scrap will be imported. This is gotten up by the rolling-mills for their special benefit, and the Committee on Finance have been fooled—I beg leave to be respectful; I will not use so strong a word; I will say deceived by these rolling-mill men. It is the most judicious and ingenious thing I have ever seen in my life for the interests of the rolling-mills. I have been told that there was a combination formed of some six or eight, or perhaps more, rolling-mills on the Atlantic coast to have free trade so far as their interests were concerned; and the Senators from Massachusetts during the last week have been pressing you to carry out the views of this combination in regard to coal. They propose to bring coal into Massachusetts from the British Provinces at a nominal duty. That has been voted down, and I hope this scrap part of the committee's bill will be too, for it is part of the same scheme. Both propositions together bring in foreign coal and foreign iron almost free; and for the benefit of whom? Of the rolling-mills, and to the sacrifice of your revenue and to the sacrifice of every other iron interest in the United States.

Look for a moment at this bill, for the Senator from Maine admits that the committee changed it at the request of the rolling-mills. They had agreed on eight dollars a ton, just what I propose to place it at, which is not enough; but at the request of these highly patriotic rolling-mill men they made the change. Now let us see what the effect of that change is.

Mr. FESSENDEN. I beg leave to say to the Senator with entire respect that if he will keep within the limits of what I did say I shall be obliged to him. I did not say anything about its being changed at the request of the rolling-mill men.

Mr. CHANDLER. The Iron and Steel Association?

Mr. FESSENDEN. Yes, I said that.

Mr. CHANDLER. I do not wish to misrepresent the Senator. They are the rolling-mill men. Now, sir, see the disinterested patriotism of this Iron and Steel Manufacturer's Association. They propose to let in at three dollars three hundred thousand tons of scrap iron from railroads alone annually, which it would cost sixty dollars a ton in labor alone to manufacture here. You are to let in iron for the rolling-mills at three dollars a ton, ready to go through the roller with one heat. But what do these patriotic individuals propose? I read from the bill:

On iron in pigs, nine dollars per ton.

They are going certainly to protect the man-

ufacturers of pig. Why? Because scrap is worth twice as much as pig to them; and is ready for use. Oh, yes, they will protect pig, most assuredly; but they let in scrap at three dollars per ton, and it costs them twenty-eight dollars a ton to turn pig into scrap. Will you not get a large amount of duties from pig under that? Oh, they were very patriotic; they were really anxious that the manufacturers of pig iron should be protected!

On all iron in slabs, blooms, loops, or other forms less finished than bars, and more advanced than pig iron, except castings, one and one fourth cents per pound.

Mark you, their material comes in at three dollars a ton ready for this operation, and they fix this duty at the exact cost of putting it through their rolling-mills. They are going to have free trade so far as they are concerned, and yet they are going to have just exactly duty enough to pay them for rolling. That is what they have done. They have charged a duty which exactly covers the cost of rolling, and they get their material free. Where are your duties to come from? They have gone through this whole list in the same way. They put twenty-five dollars per ton upon this rough material, which costs them about twenty dollars per ton to run through their mills. Then—

On iron bars for railroads and inclined planes made to pattern, ready to lay down, seventy cents per hundred pounds.

Or fourteen dollars per ton. That you see gives them a protection of just eleven dollars per ton over any foreign iron-roller. You bring in the material ready for the heat at three dollars, and then you give them a protection of eleven dollars per ton, which more than pays the difference in the cost of labor between Great Britain and the United States. Again:

On iron bars rolled or hammered, comprising flat bars not less than one and a half nor more than four inches wide, nor less than half an inch nor more than two inches thick, one and one fourth cent per pound.

Or twenty-five dollars a ton. There again you give them the exact expense of rolling precisely. That is just what it cost. Is not this very patriotic? Bring the material at a nominal duty, and break down every forge in the United States while you build up your rolling-mills! Certainly that will be the result, and you will stop our mines in Michigan, that yield richer than any other in the world. We cannot send a pound of ore to Ohio if this bill passes, because they will use old scrap. You stop the forges throughout the State of Pennsylvania, because you admit the highest grade of iron at three dollars per ton duty, ready for the rollers. But again:

On all sizes of flats, rolled or hammered, less than three eighths of an inch in thickness, and not thinner than No. 8 wire gauge, one and three fourths cent per pound.

Or thirty-five dollars a ton. Here they have carried out the same rule. They have gauged this bill from end to end, and given the rolling-mills protection to the amount of the whole cost of this, as the Senator from Maine calls it, remanufacture. I need not go through all the items to show that this is carried out throughout, but here is another:

On all sizes of oval, half oval, and half round iron, two and one fourth cents per pound.

Or forty-five dollars a ton. They apply here the same rule as they do in regard to articles more cheaply rolled. This whole list, from end to end, is simply for the benefit of the rollers, and to exclude all foreign rolled iron.

Now, Mr. President I have been trying for the last two days to ascertain the amount of duties received from iron imported into the United States during the past year, but I cannot ascertain it precisely. I then desired to approximate the amount, and I asked the commissioner if ten million dollars would be about it. He said that he thought not; that would be within bounds. I think the sum actually received would reach fifteen million dollars: but assume for the sake of the argument that we receive ten million dollars as duty upon iron and the manufactures of iron last year: how much will you receive under

this tariff? Six months from this day you will not receive one fourth what you receive now. You are cutting off for this present year, 1867, at least five million dollars from your receipts. You will receive all the railroad scrap iron of the world. This will be the great *entrepôt* for scrap; we shall be a nation scrapped to death! If we get three hundred thousand tons of scrap it will give us a duty of nine hundred thousand dollars, and you sacrifice the ten millions you now receive, and in whose interest? Will you get iron cheaper then? Not at all; but this is entirely in the interests of the rolling-mills.

Mr. President, if free trade is the rule, if that is what you are after, say so; but do not permit this great iron interest, scattered all over the United States, to be sacrificed for the benefit of some ten or twelve rolling-mills. Perhaps I am mistaken in the number of rolling-mills, but they are certainly very few in comparison with the great number of forges and manufactories of iron all over the United States.

Again, after they have got through with these rolling-mills, they do not stop, but they carry it out in regard to the finer manufactures of iron. For instance:

On railway frogs, frog points, side bars, and finger bars of iron, three cents per pound.

Or sixty dollars a ton, while they admit the material from which these are manufactured at three dollars per ton. These very articles are manufactured from the scrap, admitted at three dollars per ton, and yet the bill gives a protection of sixty dollars a ton to the manufacturer. Then on screws the duty is eight cents a pound, or \$160 a ton.

Mr. GRIMES. That has been raised.

Mr. CHANDLER. How much?

Mr. GRIMES. I do not know, but I know that it has been raised.

Mr. CHANDLER. Again:

On horse-shoe nails, five cents per pound.

So you see that the effect of this bill will be to utterly destroy the manufacture of iron from the ore. It will benefit the Iron and Steel Association who are engaged in rolling-mills. The rolling-mill interest will be benefited, and all other interests connected with iron in the United States will be sacrificed.

I cannot believe that the honorable chairman of the Committee on Finance understood the working of this thing. I do not believe he would have brought in such a proposition if he had understood it. This whole section of the bill is gotten up in the interest, and solely in the interest, of the rolling-mills of the United States. It is gotten up to destroy your revenue from all the products of iron. I know the Senator from Maine did not introduce it for any such purpose; but that will be the immediate effect of it.

Now, Mr. President, I propose to fix the duty on cast scrap iron at four dollars a ton, and on wrought scrap at eight dollars. The duties ought to be eight and twelve dollars, as I proposed the other day; but fearing that I may not be able to get that adequate protection for this great interest of the country I have proposed the smallest amount that will be any protection at all.

Mr. FESSENDEN. I do not pretend, sir, to compete with the honorable Senator from Michigan in the knowledge of this or any other subject, however much I may have considered it; and certainly, so far as I am individually concerned, I have no knowledge on this particular subject except what I derive from the statements of other people on whom I have relied. If this duty is wrong, if it will have the effect the honorable Senator supposes, if he is right, I hope the Senate will adopt his amendment, because I have no other motive or wish than to place the matter on a right foundation.

I will merely repeat briefly what I said before on this subject and then leave it, because I cannot undertake to quarrel with gentlemen's statements continually. The Senate must judge of them. The bill came from the House with a

duty of five dollars a ton on scrap iron. In that body, as is perfectly well known, there are several gentlemen interested in the manufacture of iron, and one of the principal ones is upon the Committee of Ways and Means; I allude to the honorable member from Pittsburg, who is perfectly acquainted with the whole subject, and has been engaged in the business for many years. The bill came to us, as I have said, with a duty of five dollars a ton on both descriptions of scrap iron. When we were considering that subject we had before us quite a numerous delegation from the city of Pittsburg. They were men who wanted an increase of duties, and they stated that upon old metal three dollars was ample; that there was no competition in that matter which would hurt anybody; and they were perfectly satisfied with three dollars instead of five; but they thought the wrought iron ought to be put up higher. We took into consideration their arguments and agreed to oblige them in two particulars. They demanded, in the first place, that we should raise the duty upon bar, hammered, and rolled iron; and in order to raise that duty they demanded a different classification, making five divisions instead of three; and that new classification, when examined, as we are assured—and I take it there is no dispute about the fact—carries up the duties nearly half a cent a pound from the rates proposed by the commissioner.

They demanded, also, this increase upon wrought scrap iron. We came to the conclusion to accommodate them in the main thing, and that was the additional protection which they demanded upon their own manufacture, and we gave them precisely what they asked, and put it in their own words—all the protection they needed. We came to the conclusion also, on their statement, not going quite so high as they asked, but putting the duty at what it stands in the present tariff, to put eight dollars a ton on wrought scrap iron, leaving three dollars, which they said was all they asked, on the old metal cast iron. The Senator now says it is necessary to have four dollars on that. Therein he differs from the manufacturers, who say that three dollars is enough.

Mr. CHANDLER. What duty does this old cast metal pay now? Does it not pay eight dollars a ton?

Mr. FESSENDEN. I do not remember whether it does or not. The Senator can see for himself by turning to the book. What it pays now is not the question. The question is what it ought to pay. The manufacturers said there ought to be a distinction between the two, and that the old metal was sufficiently protected at three dollars a ton, but they demanded considerably more on the wrought iron scrap.

I think we were very liberal to the manufacturers of iron. We increased the duties largely by changing the classification, and we increased them as they demanded, though not quite to the extent they demanded, in putting wrought scrap iron at eight dollars a ton. We found out afterward, however, when we came to examine the matter, that they had coupled with it a proviso which, from its description of the article, as I said the other day, would absolutely exclude the wrought iron from the country, and thus destroy not only all the advantage which might be got from its remanufacture, but all the advantage derived by its being picked up in South America and elsewhere and brought here in our vessels. That we learned before we made the report, and consequently we corrected it. I believe some of them laughed in their sleeves at the idea that they had imposed on the committee in that way. It stood, therefore, as we arranged it, at three dollars a ton on old metal, as they asked, and at eight dollars a ton on old wrought iron, as the Senator now asks. Subsequently we received a communication from the Iron and Steel Association, and we supposed that that association included a considerable number of men engaged in all branches of the iron business. By the vote they passed they expressed a desire to have all scrap iron placed at three dol-



lars a ton. It was not known to us whether the men who passed that vote belonged to this or that particular branch of the business; we knew that they were the Iron and Steel Association. In my simplicity I supposed they knew what their own interest demanded; I did not assume to know more than they did on such a subject, nor did the other members of the committee, and accordingly we put it all at three dollars a ton, as they recommended. That is the history of it.

Now, the Senator says that that is in the interest of the rolling-mills. The reason why it was done is stated to me by a gentleman who is present, to whom I have referred before, who knows the facts, and I have never known him to be mistaken in any fact stated as of his own knowledge. He has drawn up a statement of the reasons for this action. Of the correctness of these reasons, how far they should weigh, the Senate will judge; each of the Senators can judge as well as I can, and most of them a great deal better. He says:

"The Iron and Steel Association was attended by a large delegation from Pittsburgh, who are manufacturers of bar iron, by the agent of the Cambria Company at Johnstown, Pennsylvania, the Phoenix Iron Company at Phoenixville, Pennsylvania, the Scranton Iron Company at Scranton, Pennsylvania, the Trenton Iron Company, who are large producers of pig iron, and a large number of flat and bar iron men all through Pennsylvania; and the resolution putting scrap iron at three dollars per ton was a concession to the rail-mills as they get an advance in duty."

There is no advance whatever in the duty on railroad iron, and therefore the rail-makers get no additional benefit from this bill—

"and the other manufacturers of bar and flat iron get an average of \$7.50 per ton. In June old rolls were worth in New York forty-three dollars per ton. The price was run up by the bar and flat mills, so that in October old rails were worth fifty-two dollars per ton. The consequence was that the railroads reaching the sea-board were selling their old rails at fifty to fifty-two dollars per ton, and buying English rails, that were only costing them seventy dollars, or a difference of only twenty dollars per ton between new rails and old rails, when these old rails could not be rolled or manufactured into new rails on the sea-board for less than forty dollars a ton, making a saving to the railroads that sold their old rails and imported new English rails of twenty dollars a ton.

"Last year there were imported sixty-four thousand tons of new English rails, and if the importation should continue as it has done the last three months there will be over one hundred thousand tons per year. The increase of duty to the bar and flat mills will enable them to pay so high a price for old rails that the consequence will be that the roads on the sea-board will not get their old iron rolled, but will sell that and import new English rails. It was stated in the convention that this country had not furnaces enough to manufacture pig iron for the rolling mills. Last year there was only imported thirteen thousand tons of scrap iron against between three and four hundred thousand tons of new iron."

There is the difference between the importations. Senators, therefore, can judge of the danger there would be of destroying the business of manufacturing pigs. Now, sir, I feel not a particle of interest in this matter. I have no doubt the statements I have just read are true. What influence they should have on the minds of Senators it is for each Senator to say. But it is manifest how the thing was done by the Iron and Steel Association. They advised us by their vote, and we supposed that in doing what they asked we were doing what was proper and wise.

This is all I have to say on the subject. If the Senate chooses to put the old metal at one dollar a ton higher than all agree was perfectly sufficient to answer the purpose, and to put up the wrought scrap to eight dollars a ton, on the statement of the Senator from Michigan, so be it. I do not feel a vast deal of interest in the question now, for I am fatigued with meeting these things day after day. These broad statements are reiterated so often, and I have to meet them so frequently, that I begin to feel that I may just as well give up the whole concern and let it slide.

Mr. CHANDLER. The letter which the Senator read only corroborates what I said, that this whole thing was gotten up in the interest of the rollers of iron. All the establishments named in the letter are, I believe, without exception, rolling establishments. Now, if manufactured iron is to come into this country against the interests of our mines, our forges,

our blast-furnaces, I desire that it shall come in paying the highest rate of duty.

It costs, as I said before, sixty dollars a ton to put ore into the form of scrap. I would just as soon you should bring in a ton of new railroad bars as a ton of old. The expense of rerolling is very small. If the old railroad iron is sold instead of being rerolled, what is it sold for? It is sold to manufacture into scrap and bar iron instead of rails; sold because your duty on railroad bars is less than your duty on bar iron. It is sold because the rollers of bar iron can afford to pay a higher price than the excess of duty on rails. That is all there is to that.

If you are to bring in manufactured iron from abroad, then by all means encourage the introduction of that which pays the highest duty for the benefit of the country. If you are going to introduce three hundred thousand tons of manufactured iron, I would rather have it of that kind which pays fifty-five dollars a ton than that which pays three dollars, for the interest of the Treasury. This wrought scrap iron is perfect, all but one process, to wit, heating and putting through the rolling-mill. Now, sir, do not defraud your Treasury by encouraging the introduction of this class of iron that pays little or no duty, to the detriment of other interests that pay enormous amounts into the Treasury in the shape of internal revenue taxes. The duty is too low. The duty ought to have been, as this gentleman from Pennsylvania, whose letter I read, says, six and twelve dollars. It ought to have been six on pig and twelve on wrought, and that would have been no more than a fair protection. The Senator has been misinformed as to this article of cast scrap. This cast scrap is of exactly the same value as pig. There is no difference whatever in the value. It is simply thrown into the furnace and melted in the same way that pig is, and has to go through the same process. There is no difference. You should have the same duty on scrap that you have on pig. But, sir, I have placed it very low indeed, at what every other than the rolling-mill men will say is too low, to wit, four and eight dollars. I hope the Senate will adopt the amendment.

The PRESIDING OFFICER put the question, and declared that the yeas appeared to have it.

Mr. CHANDLER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 18, nays 15; as follows:

YEAS—Messrs. Buckalew, Chandler, Cowan, Creswell, Dixon, Doolittle, Frelighuysen, Grimes, Henderson, Hendricks, Howard, Howe, Lane, Sherman, Van Winkle, Wade, Wiley, and Yates—18.

NAYS—Messrs. Edmunds, Fessenden, Harris, Kirkwood, Morgan, Morrill, Patterson, Poland, Ramsey, Saulsbury, Sprague, Stewart, Sumner, Williams, and Wilson—15.

ABSENT—Messrs. Anthony, Brown, Cattell, Conness, Cragin, Davis, Fogg, Foster, Fowler, Guthrie, Johnson, McDougall, Nesmith, Norton, Nye, Pomerooy, Riddle, Ross, and Trumbull—19.

So the amendment to the amendment was agreed to.

Mr. DIXON. On page 86, section seven, after line two hundred and eighty two, I move to insert the following:

On case-hardened fire-irons, known in the trade as polished steel fire-iron sets, in sets of three pieces, composing shovel, tongs, and poker, forty cents per set; tongs imported separately, twenty cents per pair; shovels imported separately, ten cents each; pokers imported separately, ten cents each, and, in addition thereto, forty-five per cent. *ad valorem*.

Without taking up the time of the Senate I will state that I have papers here showing that without this additional protection this business cannot be carried on. If this amendment shall be adopted, I propose afterward to move in line two hundred and seventy-seven to insert before the words "fire-tongs and shovels," the words "common, unpolished," as this amendment applies to the highly finished article.

Mr. FESSENDEN. I cannot contradict the statement made by the Senator, for I do not know anything about it. It is a new matter which is now brought up. It has not been

before the committee at all; but as the Senate seem to be going on and putting on everything that everybody asks for, I do not know but that this may just as well go on as a thousand other things, to suit customers all around.

Mr. DIXON. I have not asked for much, and I should not have asked for this if I did not believe it on examination absolutely necessary to save this branch of manufactures. I have a statement here which shows that at the present rate these articles can be furnished in New York at so large a decrease from the cost of the American articles that the business cannot be carried on in this country without some additional protection. It will be observed that not much is asked. The forty-five per cent. *ad valorem* is in the bill already. What I propose is, to impose on a fire-set of a highly finished character, costing perhaps to the purchaser ten dollars a set, a duty of forty cents a set. Some of them come as high as ten dollars, some fifteen dollars, and some as high as twenty dollars, and forty cents is all that is asked for. It is not too much.

I will state once more to the Senate that if this amendment shall be adopted, I propose, so that this additional duty shall not apply to the common article in common use, to insert in the two hundred and seventy-seventh line, before the words "fire-tongs and shovels," the words "common, unpolished."

Mr. FESSENDEN. I will state that the commissioner has examined this proposition, and his opinion is that it is not objectionable. I cannot tell myself. I know nothing about it.

Mr. HENDERSON. Inasmuch as this is a proposition that nobody seems to understand, and this is an interest that it seems necessary should be protected, and nobody understands it except the honorable Senator who proposes it, and inasmuch as other interests of course will have to follow, and as the committee did not have this subject before them, and it is necessary to protect everybody's interests, I apprehend this proposition ought to be adopted. We shall then begin to get something in the bill that nobody understands. Heretofore, in regard to the amendments generally, I believe somebody supposed he understood them. Now we have arrived at that stage in the proceedings when amendments that are not understood must necessarily be adopted. In the course of a day or two we shall have an admirable bill, I apprehend, taking together that which everybody understands, that which a portion of the Senate understands, and that which nobody understands.

The amendment to the amendment was rejected—aye one, noes not counted.

Mr. SUMNER. I now move, Mr. President, to make all books printed prior to the year 1840 free; in other words, to enter them on the free list. This is a motion which at an earlier day I have already made, but I desire to try the sense of the Senate again upon it. If the Senate sees fit to vote it down, it can; but I deem it my duty to present the proposition again. I do not wish to have this bill needlessly odious. I move, therefore, to insert on page 99, section eighteen, these words, to come in between lines thirty and thirty-one: "Books printed prior to the year 1840."

Now a tax on books printed prior to 1840 must have one of two objects, protection or revenue.

Mr. WADE. Or both.

Mr. SUMNER. Or, as the Senator says, both. Very well. As for protection there is nothing of it, for there is no American product of the press which can come into competition with a book printed here to 1840. Therefore, the whole question of protection is eliminated. Then it is for revenue. But the revenue on those books is not large; it is trivial; it is not enough to justify this exercise of your power.

But what is accomplished by the provision? You do exclude books which you ought to welcome. You impose what I shall insist upon calling a tax on knowledge, and you give a bad name to the legislation of your country. I believe there is no other country in the world

where imported books are subject to any taxation, unless it be merely nominal. It is for a Republic, founded on knowledge, to set the example of this unprecedented tax on knowledge.

I wish I could communicate to Senators something of my own conviction on this question. I approach it with no other object than the welfare of my country. I do wish to do what I can on this question in order to introduce these books as free of duty as possible. Since the discussion the other day I have received a letter from a gentleman engaged in literary pursuits, from which I will read a brief extract. He says as follows:

"The present tariff is to a great degree prohibitory; especially so as regards books printed before the close of the reign of King Charles I. Such books are extremely scarce, and many of them are enormously dear without the added cruel penalty of twenty-five per cent. for the privilege of bringing them into our country. I have been for the past year busily engaged on a new edition of the works of an Elizabethan writer, and it seems peculiarly hard that my own country should throw in my way a stumbling-block in the shape of a severe fine on the importation of my working materials. I know that I need not remind you, who are so well versed in curious and rare old books, that original editions of the works of the early English writers can be obtained by scholars only by their purchase by themselves or by loan through the courtesy of brother scholars or collectors, the public libraries of our country being lamentably bare of them.

"I have just returned from Europe. There I found that every facility was extended to the scholar. Where duties were levied on books they were of so light a character—being chiefly a small tax per pound—as to amount to scarcely anything. Our country boasts of an enlightened civilization, but at the same time taxes knowledge as if it was a crime that should be suppressed or a luxury that should be indulged in only by the rich. It seems very strange to me that even the most despotic countries in Europe favor the scholar more than does our liberty-loving Republic."

I do not know, sir, that I can add anything to this compact statement of the question. I will therefore content myself by asking a vote.

Mr. FESSENDEN. I hope the amendment will not be adopted. The Senate has settled this question once by a vote of two to one.

The amendment to the amendment was rejected.

Mr. SHERMAN. I desire to amend the twenty-third section of the bill, in one or two particulars. It is the confiscation section, and I suppose there is no interest involved in it. On page 108, section twenty-three, line three, after the word "may," I move to insert, "when undervalued, as herein stated," and in lines seventeen, eighteen, nineteen, I move to strike out the words:

And to ascertain such undervaluation he shall cause full and detailed inventory and valuation to be made, a copy whereof shall be delivered to the said consignee.

And in lieu thereof to insert the following:

And to ascertain such undervaluation the collector shall, at the request of the consignee, cause a full and detailed inventory and revaluation to be made by such officers or experts as the Secretary of the Treasury may by general rules and regulations prescribe.

The amendment to the amendment was agreed to.

Mr. HARRIS. I move to amend the bill on page 22, section six, line twenty-two, by striking out all of the paragraph after the word "specified," and inserting:

When valued at thirty cents per square yard or less four cents per square yard, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over thirty cents per square yard, six cents per square yard, and, in addition thereto, forty per cent. *ad valorem*.

So that the clause will read:

On all brown or bleached linens, ducks, canvas padings, cot bottoms, burlaps, drills, coatings, brown Hollands, blay linens, Spanish linens, diaper, damasks, crash, huckabacks, haddockchiefs, lawns, or other manufactures of flax, hemp, or jute, or of which flax, hemp, or jute, is the component material of chief value, not herein otherwise specified, when valued at thirty cents per square yard or less, four cents per square yard, and in addition thereto, thirty-five per cent. *ad valorem*; valued at over thirty cents per square yard, six cents per square yard, and, in addition thereto, forty per cent. *ad valorem*.

This amendment is offered with a view to furnish greater protection to the coarser kind of linen manufactures. Its effect will be to protect not only agricultural productions, the production of flax, but also the manufacture of

flax. By the bill as passed by the House of Representatives a specific duty of six cents per square yard on the articles mentioned in this paragraph was imposed. That was reported by the Senate committee at three cents per square yard, and by some means or other, I do not know how—I did not observe the manner in which it was done—this specific duty of three cents per square yard has been stricken out, so as only to leave a duty, I believe, of thirty-five per cent. *ad valorem*, as it has been altered, upon these articles. It is entirely too low as compared with other manufactures of flax; so low that those who are engaged in this kind of business assure me that if the bill is allowed to pass in the form in which it is now presented they will be obliged, for their own safety and protection, to leave this kind of business and to go into the manufacture of the finer article of linen. The effect will be to injure not only the manufacturing business, but also the agricultural production. If the amendment which I propose shall be adopted, it will have the effect to encourage agriculture, the raising of flax, as well as the manufacture of this coarser article. I am informed that the American flax can only be manufactured into the articles which are included in this amendment. I hope, therefore, that this amendment may be adopted. Instead of the six cents duty passed by the House of Representatives, it proposes four cents upon the cheaper article and six cents upon the more valuable article.

Mr. FESSENDEN. I believe we had this question up the other day and settled it by a very decided vote. I do not know but all the amendments that are offered have to come up several times in different shapes. I do not very clearly see my way through with the bill any time in this generation the way the Senate are going on. I understood from the Senator from Rhode Island [Mr. SPRAGUE] that he proposed to offer an amendment which I thought I should not object to, but it seems that it has gone out of his hands into the hands of the honorable Senator from New York, and is not the same.

The House bill fixed a duty of thirty per cent. on crash. The Senator from New York is mistaken. It fixed a high rate of duty upon everything but crash, but fixed thirty per cent. on crash. Now, I understood the Senator from Rhode Island proposed to offer an amendment fixing upon crash a duty of thirty-five per cent. *ad valorem*, and on these other articles as suggested by the honorable Senator from New York. I stated the other day the reasons why I thought that upon these coarse articles there should not be this large duty that will operate so injuriously. It places a heavy duty on an article that is used by everybody, the coarse crash towels that are imported from Russia and are in everybody's hands. I thought the duty was fixed at about what it ought to be; that we ought not to put a duty upon it which will effectually exclude it, because that will be the result from its very low cost. The article that is manufactured in this country is not the same article. That is composed of clear linen, and the article manufactured is linen and cotton, a very inferior article which does not last so long, and is more expensive to the purchaser from the mere fact of its composition. I am opposed to the amendment as it stands, and I hope it will not be adopted.

Mr. HARRIS. It seems to me, unless I am greatly misinformed in relation to this thing, that this amendment ought to receive favor in the Senate. The manufacture of flax in this country is in its infancy; there is but little of it; and if capitalists are willing to go into the manufacture of this article they ought to be encouraged as much as those who are engaged in the manufacture of cotton and woolen goods. Now, if I understand this question, they are not thus protected in this bill; and unless there can be an increased protection provided in some such manner as I have suggested in the amendment I have proposed this manufacture must go down. Here

is a cheap article of linen goods manufactured from American flax, and the only thing that is manufactured from American flax. Now, it is proposed to reduce the duty upon that to a mere *ad valorem* which will not furnish adequate protection, and these gentlemen, some of them my own personal friends and acquaintances, engaged in this business, gentlemen of capital and intelligence, will be driven from this manufacture into the other kind of manufactures of linen where they are obliged to import their flax. It seems to me wise that this kind of manufacture should be encouraged, and it can only be encouraged by giving this specific duty.

Mr. FESSENDEN. If our growers will only attend to it, and water-rot it and raise it, they can make as good material out of American flax as any other flax. There is no superiority except in the way in which it is produced; and I do not think any very great harm will come of letting a great many of these very coarse articles be manufactured abroad, used as they are—

Mr. HARRIS. If that is the policy of the Committee on Finance of course you will vote down the amendment.

Mr. FESSENDEN. Let me tell the Senator the policy of the Committee on Finance is not, where a manufacture does not exist here at the present time but is just starting, to impose such duties on the foreign article as will charge everybody in the country, in the beginning and until they can get them established, with this enormous increased burden upon the article; but the policy is to place such a duty as will be sufficient encouragement to begin the manufacture, and take it gradually, if we are obliged to take it at all.

Mr. SPRAGUE. I suppose that there is really no interest that is so little understood as the one now under discussion, and none that has been so misrepresented—unintentionally I have no doubt, but nevertheless it is misrepresented. Here is this article of crash. The duty upon it as proposed by this amendment is four cents per square yard. The price of this article of crash cannot be in gold more than twelve cents per square yard when it is imported. The four cents per square yard would amount to just this, and no more: it takes to make a square yard about two lengths and a half; or, if I can make myself better understood, crash is about fifteen inches in width. It is made in Prussia, it is made in England, in France, in Germany, in Ireland; it is made everywhere. It is the principal product of the flax manufacturers in the United States. The suggestion that it is not made here and is not a perfect product of manufacture is in no wise correct. Then, if upon this four cents per square yard you calculate it, all that you get for the running yard, as proposed by the Senator from New York, is the number of times that two and a half will go into four. I will let any Senator reckon that up. It would be about one and one half cents on a running yard; that is in addition to the thirty-five per cent. *ad valorem* as suggested in the bill.

Now, the addition which has been made of five per cent. to the thirty per cent. that the Committee on Finance reported has decreased the protection upon this article two cents per yard; because five per cent. upon the gold cost abroad would not be more than one cent. For that one cent that they increase upon these coarse articles they take off three; and that is the exact condition of it as it now stands.

In the article of burlaps, for instance, of which I spoke the other day, under the bill as reported by the committee you get two and eight tenths cents by this thirty-five per cent. on the gold valuation as it would be at the port of shipping. The duty of fifteen dollars a ton takes off that eight tenths, so that it allows but two cents for a square yard. This article does not come in as a square yard; it is about thirty or thirty-two or thirty-three inches; so that really on this article of burlaps the protection is not more than one and one half cent per running yard, or about the same as that on

crash. Although the article is not taxed five per cent. on the manufacture, yet by the five per cent. otherwise that this article indirectly pays the Government will take off every cent of the protection that you give; so that as the bill now stands there is not one single cent of protection given to any of the coarser articles now manufactured in this country. I challenge contradiction here or elsewhere. I assert that neither upon crash nor upon burlaps nor upon any of these coarser articles is there one single mill of protection. You offset everything.

Mr. JOHNSON. How much is made?

Mr. SPRAGUE. There is a vast quantity of it. There are \$10,000,000 probably invested in the business in this country. The consequence is that there is not to-day, and has not been for the past six months, a single mill that can start one step in this business. As I said the other day, it costs about three times as much as it does to make common cotton cloth. A weaver will attend five of those looms, here he can attend to but one. A cotton spinner will attend to five spindles, where a person can attend to but one in this business. You can bleach a yard of coarse cloth for half a cent a yard, and it costs three cents to bleach this. The result is that there cannot be one yard produced in this country after the passage of this bill in its present shape. The consequence of that will be that the consumption of flax, heretofore entering into this product—and the report of Mr. Wells shows that after this manufacture had gone into operation, it increased the price of your hemp and flax one hundred per cent.—will go back to its original condition. There is not an article in this bill but what has an advantage of twenty-five per cent. over the article now in question.

Sir, I have no particular interest in this thing. I simply desire to establish and perfect this branch of industry. It has a standing now and I am influenced only upon that consideration of the subject. I do not want these men to make money now when the country is suffering and when laborers are turned out of employment; but I do not want to see legislation here that is favorable to the production of these goods on the other side of the water.

The other day two Senators took occasion to speak of me as one interested in the manufacturing interests of this country. Well, sir, that is a fact. I am interested in this linen manufacture. When our ports were opened for the free admission of the machinery employed in the manufacture of this article I availed myself of the occasion to import that machinery. I have not been able, nor shall I be able, to make a single yard of the articles that are embraced in this clause. I did not do it to make money; I did it to start this branch of industry, as my record shows. I am a manufacturer of cottons it is true; and I am a manufacturer of woollens, of steam engines, of locomotives, everything almost embraced in this bill. I did not do it to make money; I let everybody into every interest I am connected with. If they show that there is a new principle to be developed, a saving of labor, something that will cheapen commodities, everybody has always found my interest and my willingness there. I challenge contradiction. I challenge anybody to show to the contrary.

Why, sir, I am an importer. I know the operations of the importing interest. There are but few men in this country who have as large an importing interest as I have. There are but few men in this country that have as large a general distribution of goods, both foreign and domestic. I am connected with the bank interests, too; I have been connected with them for the last fifteen or twenty years. I am connected with the insurance business also. Everything known in this bill, I am more or less directly connected with. I presume that I pay more than any dozen people in this country upon the articles enumerated in this bill coming from abroad which are introduced into the manufacture of our American products. I go abroad, I go into all the

cities, and if I find there an improved article I endeavor with all the wits and means I have to bring it back into this country in order to develop it here. If there is something to grow or something to manufacture, or anything of that kind, I am interested simply to have it established here.

If gentlemen say that I am a cotton manufacturer, they may just as well say that I am a woolen manufacturer, a linen manufacturer, and a manufacturer of steam-engines. I can make the best locomotive engine in the world. I challenge anybody to compete with it. I can make the best piece of cotton cloth, and the best and cheapest calico in the world. There is no doubt about it.

But, sir, I do not like to be charged with having my mind run simply in one idea. I do not like, when I advocate an interest here, to have it intimated or thought that it is because it is my interest, because I am interested in it. Sir, the interest of this whole country is my interest. I would rather to-day sink beneath this floor than advocate any interest here because it was mine or that I was to make money out of it. I should feel that I was underserving the position I occupy if I were to do so.

It may seem strange to Senators, but in all my life I have never asked a man to vote for me or for any proposition except in the few cases of Senators that I have called upon in reference to this linen manufacture. Contrary to the general acceptance of the fact, as regards my position politically and otherwise, I never, directly or indirectly, asked the first man from the time I came into political office until the present time, or upon any measure, legislatively or otherwise, for the support of anything until this flax interest came up. I have been abroad and seen what an immense interest this flax interest was. I have seen forty and fifty and sixty yards of this article which would only weigh a pound. I have gone down to the very gradations of that, and I have seen hundreds of thousands of people getting their livelihood from this branch of business. I have seen immigrants coming into this country in vast crowds who have heretofore been employed in that business. Is it not natural that I should feel an inclination to have it established in my own country that they might be employed here?

Now, Mr. President, the facts are that this interest has never had any advocate. They have never felt strong and powerful. They have never combined together except indirectly for the purpose of showing exactly how their interests stood in reference to other commodities. I endeavored to show the other day that it was the least protected. I did not know then but that it was somewhat protected; I did not know but what there was some breakwater against the importation of these articles from foreign products; but there is not one single mill—rather to the contrary—to offset, what? To offset the increased price of labor in this country. I trust this amendment will prevail.

Mr. FOWLER. I only wish to make a single remark on this subject. As a general rule I am opposed to the policy of protection. However, I am very willing to vote at the present time for the imposition of duties on most articles for the purposes of protection. I think there is a necessity for it under present circumstances and in the present condition of the country. But I do not intend to discuss the principle of protection at all. I should like very well to see this bill carried, however. I believe it is proper and necessary. So far as protection is required, I believe the infant manufactures are the ones that should receive the benefit of that protection. I have always understood that the idea was to afford them protection to enable them to stand until they could gain sufficient strength to manufacture without protection. I find that the friends of protection here assert a very different doctrine on the subject.

But, sir, I rose principally to protest against the discussion of the whole system of the protective tariff on every little interest that is proposed to be taxed for the sake of protection.

We do not want any such discussion. I think if Senators will confine themselves strictly to the questions that are before the Senate that we shall get through with this bill much sooner.

Sir, allow me to make one further remark. A stranger here would suppose that almost every Senator was engaged in some species of manufacture, and came here for the purpose of protecting his own self-interest and nothing else. I do not consider it in that light. I do not suppose Senators are governed or controlled by any such motives. If I thought they were, I should vote against every proposition that is offered here, and the whole bill itself.

I wish to protest also against the charges that are made against New England or against the West that they are acting upon selfish motives entirely. I do not see that Senators are acting exactly in that way; nor have I seen that this or that section of the country was influenced entirely by any such motives or any such considerations. I think it is time to put a stop to such allegations. I shall listen with a great deal of patience to gentlemen who are discussing these questions solely on their own merits; but I do hope that this kind of discussion to which I have alluded will cease.

Mr. HARRIS. I only desire to add one word. I offered this amendment, not at the suggestion of the Senator from Rhode Island, but in consequence of an interview which I had with two gentlemen engaged in the manufacture of the article which is involved in the amendment. These gentlemen I know personally. They are gentlemen of intelligence, honorable men, largely engaged in this business. They were satisfied with the bill as it passed the House, because it gave them the protection of a specific duty of six cents per square yard; and they were satisfied, or at least were willing to submit to the bill as reported by the Committee on Finance to the Senate, because it gave them a specific duty of three cents a square yard. Now, this duty of three cents a square yard, as I understand it, is stricken out, and I proposed only to make it four cents a square yard. It is a different proposition to be sure, and gives a little more protection than the bill of the Committee on Finance did, but not so much, only two thirds what was given by the House. The three cents a square yard is stricken out, and I propose to substitute only four cents per square yard for the cheaper article and six cents per square yard for the more expensive article. I am assured by these gentlemen, and I believe them as I would believe any Senator on this floor, that if they cannot have this protection they must abandon this kind of manufacture and go into a manufacture of a different kind of linen goods where they import their flax. The question is, whether we shall follow the suggestion of the Committee on Finance and import this cheaper article of linen manufacture, or whether we shall encourage our own citizens in entering into this infant manufacture.

Mr. STEWART. I only wish to make a single remark on this subject. I am in favor of this amendment, for this reason: this is a great flax-producing country, and those of us who are not very familiar with the details of manufacturing generally can readily see that there is very little of this flax used by the manufacturing establishments. They have been unable to succeed in their manufacturing, showing that they must have protection if they are to succeed. During the last summer I had occasion to visit Rhode Island, and I found the Senator from that State engaged in what he termed an experiment—not to make money out of it, however. He had got a large establishment for the purpose of making the experiment, to see if this could be manufactured in this country, to bring up the interest. He called my attention to the fact that this was a great flax-growing country, and the flax was not being used in this country at all. The fact that nobody to any great extent has succeeded in this department of manufacture, and that this country is producing a large amount of flax, and is capable of doing so, shows, if we are to



act upon the protective principle at all, that this is an interest to be protected. If we did not grow flax in this country, but imported it, and there was no manifest propriety in entering upon this branch of industry, I would take no interest in it. But that it has not been protected is shown by the fact that it has not been profitable to manufacture it here, or it would have been done. It seems to me flax is an article of such general growth throughout the United States that we should make some use of it at home, and I am in favor of this amendment. From the statements I get from all quarters I am satisfied that it will be impossible for the manufacturers to succeed unless they can have protection to the extent proposed by the Senator from New York.

Mr. FESSENDEN. I refer the Senate to the statement made by the commissioner in his report, to which I referred the other day, showing that there is an abundant sale for all the flax that can be raised in this country at largely increased prices. However, I do not feel disposed to argue it.

The amendment to the amendment was agreed to.

Mr. WILLEY. I offer the following amendment: on page 79, section eleven, line eighteen, after the word "pressed" insert "other than flint;" so that it will read:

On glass vials, jars, bottles, and other vessels of glass, plain, molded, and pressed, other than flint, not cut, engraved, &c.

Mr. FESSENDEN. I suppose there is something else to come after that, and I should like to have the whole proposition offered at once.

Mr. WILLEY. I will ask the Clerk to read the next amendment which I shall offer, which has relation to this.

The PRESIDING OFFICER, (Mr. EDMUNDS in the chair.) It will be read for the information of the Senate.

Mr. FESSENDEN. I should like to hear it, so that we can have the whole question before the Senate.

The Secretary read the proposed amendment, which was on page 80, section eleven, after line twenty-four, to insert:

On flint glassware, plain, molded, and pressed, not cut, engraved, or printed, fifty per cent. *ad valorem*.

And in line thirty-eight to strike out "forty" and insert "fifty;" so as to read:

On all articles of glass, cut, engraved, painted, colored, printed, stained, silvered, or gilded, not including plate-glass silvered, or looking-glass plates, fifty per cent. *ad valorem*.

Mr. WILLEY. The first amendment which I offer proposes to take flint-glass out of the clause where it now is, with a view of making a distinct clause having reference to that class of manufactures; so that flint-glass shall not be included in the clause which reads, "(On glass vials, jars, bottles, and other vessels of glass, plain, molded, and pressed;)" but that there shall be a duty fixed in regard to flint-glass in a separate and distinct clause of fifty per cent. *ad valorem*.

I have felt embarrassed all the way through the discussion of this bill by the want of practical knowledge of these various articles of manufacture. What I have to state now I state from information derived from gentlemen who are engaged in the business, both in my State and in the State of Pennsylvania, who have done me the honor to confer with me on the subject, and upon whose statements I have entire reliance. I believe that they are honest men, and they have made to me statements apparently in perfect candor, statements which I required them to make upon the understanding that they were made candidly and truly. It will be perceived, then, that I desire to take flint-glass out of this clause and to make a distinct clause having reference to that article, namely, as has been read:

On flint glassware, plain, molded, and pressed, not cut, engraved, or plated, fifty per cent. *ad valorem*.

I am informed that the material out of which flint-glass is made costs perhaps two or three times as much as the materials out of which these other characters of glass are made, and that there is a difference in the amount of labor

necessary to manufacture them, and that owing to these two facts, the increased cost of the material and the increased labor required in the manufacture, there ought to be a distinction between flint-glass and these other kinds of glass. The clause as it now stands, which would include flint-glass if not modified in the manner I propose, fixes a duty on glass vials, jars, bottles, &c., of less than eight ounces capacity each, of two and a half cents per pound; of eight and less than twenty ounces capacity each, three cents per pound; of twenty ounces capacity, and over each, four cents per pound.

Mr. FESSENDEN. What would this *ad valorem* duty amount to per pound?

Mr. WILLEY. These gentlemen inform me that this duty of fifty per cent. *ad valorem* would amount to about five cents per pound. I have been so informed, and so believe from my information.

I simply desire to make this statement to the Senate, hoping that the Committee on Finance, and the chairman especially, may be better advised of what are really the facts in the case than I am. I desire to state again that I offer this amendment upon the statements that have been made to me by glass manufacturers, by gentlemen engaged in the business, who have assured me that the business of manufacturing flint-glass must go down unless they receive protection to the amount which I have indicated in the amendment.

While I am up, sir, I will make all the remarks I have to make in regard to the other amendment, in line thirty-eight of the same section, on page 80. I am told that the manufacturers of cut glass will not be able to sustain themselves under the clause in the bill as it now stands. They inform me that really they would be entitled, in order to derive anything like a fair protection upon this class of manufactures, to sixty per cent. *ad valorem*; but in conferring with them I have induced them to agree that I shall put it at the lowest possible sum which they could stand, and have offered the amendment to strike out forty and insert fifty. I understand that the principal part of the cut glass which comes to this country is made in Germany, where labor is exceedingly low, and that it is impossible to compete with German labor, which is so low, in the manufacture of this article without protection to the extent of at least forty per cent. *ad valorem*. It is unnecessary to mention that the ingredient entering into the value of cut glass consists in the labor, and that that fact brings American labor directly in competition with foreign labor; and the foreign labor in Germany, where this article is principally manufactured, as I understand, being so much cheaper than it is in this country, it becomes absolutely necessary, if we would sustain our own domestic industry, to have the protection asked by these gentlemen engaged in the manufacture of this article.

I have thus made, as briefly as I could, the statement in regard to this manufacture; and I hope that the protection they ask will meet with the concurrence of the Committee on Finance.

Mr. FESSENDEN. This is a matter that is an entire surprise to the Committee on Finance and a surprise to the commissioner. This subject was not brought before us for our consideration at all, and I am unable to say from any evidence that has been adduced to the committee whether the amendment is right or wrong. It strikes me, however, that it varies very largely from the duty on the other glass. The honorable Senator from West Virginia says that fifty per cent. *ad valorem* is about five cents per pound. On the other glass the duty varies, I think, from two and a half cents per pound up to four cents. It is divided into three classes:

On glass vials, jars, bottles, and other vessels of glass, &c., of less than eight ounces capacity each, two and a half cents per pound; of eight and less than twenty ounces capacity each, three cents per pound; of twenty ounces capacity and over each, four cents per pound.

Now, I understand the Senator to say that this proposition amounts to about five cents per pound on the whole, small as well as large, and he will see it is double the duty on the small articles from what it is on glass of the other descriptions. Therefore, sir, I cannot say, from any data in my possession from which I could form an opinion, whether the matter is right or wrong. I do not know, and I cannot know, for the subject has not been brought before me, and I am entirely unfamiliar with the manufacture of glass. I do not happen to be a practical man to understand that. I suggest to the honorable Senator whether he is not content to place it at forty per cent. *ad valorem*. I think that certainly is a larger percentage than any except the small, and as much as it is on the largest kind of glass. As the bill must go back to the House, I suppose if we should commit any error about this matter it will be reexamined there and set right. I do not feel disposed to make a strenuous opposition to the amendment when I confess myself so unacquainted with the facts in relation to it. Having had no evidence offered on the subject I cannot say what it is. The question is before the Senate. If they see fit, on the statement of the honorable Senator from West Virginia, to make this change they can do so. If he said he knew anything about it personally, of his own personal knowledge, I should take it for gospel, because he never says anything he does not believe and understand; but inasmuch as he relies upon interested parties he will excuse me if I do not attach quite so much value to it as I should to his own word, which would be entirely satisfactory if he really knew anything about it.

Mr. WILLEY. I stated very candidly to the Senate that I did not personally know anything about it. That is the truth; but I stated also at the same time that in conferring with these gentlemen interested in the manufacture, as I acknowledged, they assured me that this trade would not be able to maintain itself without additional protection to that provided for in the bill as it stood.

Mr. FESSENDEN. I will state to the Senator that if he will put it at forty per cent. I will make no objection. That would be a large increase on the lower articles of the same description and come up fully to the highest, and probably be more.

Mr. WILLEY. Well, sir, as we shall have another chance in the House I will agree to that modification.

Mr. FESSENDEN. Then I will make no objection to it. I shall make an objection to the other amendment in the thirty-eighth line on page 80. The duty there I think is sufficient as it is now from all the information in the possession of the commissioner, who examined that subject carefully.

The PRESIDING OFFICER. The amendment as modified by the Senator from West Virginia will be read for the information of the Senate.

The SECRETARY. The amendment is to insert on page 80, section eleven, after line twenty-four, the following:

On flint glassware, plain, molded, and pressed, not cut, engraved, or printed, forty per cent. *ad valorem*.

Mr. WILLEY. There is also an amendment on page 79, line eighteen, to insert after the word "pressed" the words "other than flint."

Mr. FESSENDEN. Let those amendments be taken together.

The PRESIDING OFFICER. The question is on these two amendments proposed by the Senator from West Virginia.

The amendments to the amendment were agreed to.

The PRESIDING OFFICER. The question now is on the other amendment proposed by the Senator from West Virginia, on page 80, section eleven, line thirty-eight, to strike out "forty" and insert "fifty."

Mr. WILLEY. I am obliged to the chairman of the Committee on Finance for yielding to me so much as he has. I submitted to the

modification as proposed by him to the other amendment, and I hope he will reconsider his opposition to this amendment. The manufacture of cut glass is a matter of very considerable importance to a large part of the capital of this country. It has invested in it a large amount of capital. It has engaged in the manufacture of it a great number of people. It employs a large amount of capital and a large amount of labor; and cut glass is an article which brings directly in competition the cheap labor of Europe with our well-paid labor in this country. As I have already stated, the principal ingredient entering into the value of cut glass is the labor. That glass is largely manufactured in Germany, where labor is perhaps cheaper than in any other even of the European countries. We pay for the same labor engaged in the manufacture of this article in this country three or four times as much as is paid for it in Germany and in other countries; and the question presents itself whether we shall so protect our American labor as that it shall be able to sustain itself against foreign labor or not, besides paying its internal revenue taxes. I understand from these gentlemen, upon whose statements I rely, engaged in this manufacture, who are certified to me by gentlemen whom I know very well as reliable, that unless they have protection to the extent of at least fifty per cent. the capital now engaged in the manufacture of the article must be withdrawn from it and the labor must be withdrawn from it, and the manufacture of the article must go down.

If that be so then the principle of the whole bill applies equally to this as to any other part of it. I understand the principle to be admitted that where we apply protection at all we shall so apply it as to create at least an ability upon the part of the domestic manufacturer to compete fairly with the foreign producer; and upon the representations which I have had I believe that the protection which I ask, the increase of duty which I ask, is necessary to accomplish that very thing. I trust it will not be the pleasure of the Senate to discriminate on that principle in regard to this single article, and give less protection, or rather to withdraw the protection from this article, which the Senate has everywhere given to other articles that demanded that kind of protection. If the principle is just in regard to one article, I think it should be in regard to all other articles. Believing as I do that it is necessary here to enable our home manufacturers to compete with the foreign article, I trust the Senate will increase this per cent. by ten, and make it fifty per cent. instead of forty per cent.

Mr. HENDRICKS. I move that the Senate take a recess until seven and a half o'clock.

Mr. WADE. I second that motion.

Mr. HENDERSON. Before that is done I hope I shall be allowed to offer a resolution calling for some information which I desire to have acted upon.

Mr. HENDRICKS. Very well; I will yield for that purpose.

#### INDIAN MASSACRE AT FORT PHIL. KEARNEY.

Mr. HENDERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War and the Secretary of the Interior, each, be requested to furnish to the Senate all official reports, papers, and other facts in possession of their respective Departments which may tend to explain the origin, causes, and extent of the late massacre of United States troops by Indians at or near Fort Phil. Kearney, in Dakota Territory.

#### TREATY WITH HAWAIIAN ISLANDS.

Mr. CONNESS. Will the Senator from Indiana yield to me for a moment? I desire to offer a resolution which will excite no debate. It calls for a report from one of the Departments, and as it is late in the session I desire to have it considered now. It will not take a moment:

*Resolved*, That the Secretary of the Treasury be requested to report to the Senate whether, in his opinion, American interests would not be subserved by a treaty of commercial reciprocity with the Hawaiian Islands.

Mr. GRIMES. I object to the adoption of the resolution.

The PRESIDING OFFICER, (Mr. Howe in the chair.) Is there any objection to the present consideration of the resolution?

Mr. GRIMES. Yes, sir; I object to it.

Mr. CONNESS. Then let it lie over.

The PRESIDING OFFICER. It lies over under the rule.

#### PROPOSED RECESS.

Mr. HENDRICKS. I now insist on my motion.

The PRESIDING OFFICER. The Senator from Indiana moves that the Senate take a recess until half-past seven o'clock.

Mr. WADE. Say seven o'clock; that will be long enough.

Mr. HENDRICKS. I do not care myself about the hour; I would as lief say seven o'clock.

Several SENATORS. Say seven.

Mr. HENDRICKS. Well, then; I move that the Senate take a recess until seven o'clock.

Mr. FESSENDEN. I understand that the motion is modified so as to take a recess until seven o'clock. Well, sir, it is rather against my views, but as I have become satisfied that we shall never pass this bill until the Senate gets sleepy, perhaps we may just about as well do that.

Mr. HARRIS. I hope this motion will not prevail. It takes many Senators, I think, by surprise. I know that several Senators have made engagements for to-night. I am one of them. I cannot be here to-night, and I desire to offer two or three amendments. I have not troubled the Senate much during the consideration of this bill.

Mr. FESSENDEN. The Senator will have to take his choice between sitting right straight on until this bill is passed or taking a recess.

Mr. HARRIS. We have been threatened a little that way by the Senator from Maine before, and he has not succeeded very well in sitting right straight on and passing the bill.

Mr. FESSENDEN. I gave notice yesterday that I should ask the Senate to dispose of the bill to-day, and I hope the Senator will not take it as a threat. He can do as he has repeatedly done, go off and leave us without a quorum and attend to his engagements; and so can other Senators, and leave a few of us here to work on until there is no quorum. The Senator can do it again to-night and to-morrow night, if he chooses. If the Senator's engagements are so much more important than the public business, which is pressing at this period of the session, he knows best. I only say I hope the Senate will do one thing or the other: either sit on until we get through with it and pass the bill to-night, or take a recess and return at seven o'clock. That is my wish. Whether the Senate do it or not I am indifferent. I only say it is my advice.

Mr. HENDRICKS. I think that the amendments that ought to be proposed to this bill might be considered to-night; and we might have an understanding that we shall vote on the bill say at three o'clock to-morrow. I do not think that this bill ought to take up all the session, though it seems to be an important bill, for I observe that each Senator, as he introduces a proposition to protect a particular interest, says that that interest is going to languish and die if we do not do it; and that assurance has been given in reference to almost every industrial interest in the country. Judging from this unanimous expression of opinion the country is in a most critical crisis.

Mr. GRIMES. What is the question before the Senate?

Mr. HENDRICKS. I propose that we have an understanding that we have a night session to-night, and that then we shall take the vote on the bill to-morrow.

Mr. SPRAGUE and Mr. HENDERSON. I object to that.

Mr. HENDRICKS. If that is objected to, I insist on my motion to take a recess.

The motion was agreed to, there being, on a division—ayes 17, noes 11; and the Senate accordingly, at nine minutes to five o'clock, took a recess until seven o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 903) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1868, was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 900) to fix the compensation of the officers of the revenue-cutter service, and for other purposes, and the joint resolution (H. R. No. 251) to extend the time for codifying the laws relating to customs, authorized by the joint resolution approved July 26, 1866, were severally read twice by their titles, and referred to the Committee on Commerce.

#### CHANGE OF NAME OF VESSEL.

Mr. SHERMAN. While the Senate is gathering together, I move to take up for consideration joint resolution No. 159, which has been reported from the Committee on Commerce.

The motion was agreed to; and the joint resolution (S. R. No. 159) authorizing the Secretary of the Treasury to permit the owner of the yacht Mayflower to change the name of the same to that of Silvie, was read the second time, and considered as in Committee of the Whole.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### ABSENCE OF TERRITORIAL OFFICERS.

Mr. WADE. I move to take up Senate bill No. 32, which we had under consideration day before yesterday.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 32) to prevent the absence of territorial officers from their official duties.

The PRESIDING OFFICER, (Mr. Edmunds in the chair.) When this bill was last under consideration, an amendment was proposed by the Senator from Iowa [Mr. GRIMES] changing the phraseology of the first section.

Mr. WILLIAMS. I hope that amendment will not be adopted. The original phraseology of the bill is, I think, entirely correct, and comprehends all the cases for which the bill was intended to provide. The adoption of the amendment may defeat, in some respects, the object of the bill.

The amendment was rejected.

The bill was ordered to be engrossed after a third reading; and was read a third time, and passed.

#### JAMES STARKEY.

Mr. RAMSEY. I move that the Senate proceed to the consideration of House bill No. 660. It is a private bill, which can be readily disposed of—a very small affair.

The motion was agreed to; and the bill (H. R. No. 660) for the relief of Captain James Starkey, was considered in Committee of the Whole.

It proposes to appropriate \$100 to pay to James Starkey, late captain of the St. Paul light cavalry, the amount by him paid to Richard Postel, for the loss of a horse killed in a fight with Indians in 1857.

Mr. GRIMES. I call for the reading of the report in that case.

The Secretary read the report made by the Committee on Indian Affairs of the House of Representatives, from which it appears that in August, 1857, certain bands of Chippewas committed some depredations upon the frontier settlements of Minnesota, and a serious outbreak was threatened, to quell which and to restore peace and order the Governor of Minnesota Territory, Mr. Medary, ordered out the St. Paul light cavalry, of which James Starkey

was captain. This company, under his command, at once marched to the frontier and fought with the Indians. The horse of Richard Postel, a private in the company, was shot and so wounded that it died. Captain Starkey, believing the Government liable to pay for the horse, paid private Postel \$100 in full satisfaction of his claim and took his receipt. It was worth a much larger sum. The accounts connected with the expedition and growing out of it were afterward sent to the War Department, and most of them, excepting this one, were paid. Postel has left the country, and his place of residence is unknown. Under the circumstances the committee believe that the Government was liable to pay the value of the horse, and as Captain Starkey has discharged that liability they can see no reason why he should not be substituted in the right of Postel and receive the \$100.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### SOLDIERS' AND SAILORS' ORPHAN HOME.

Mr. WILSON. I move to take up House bill No. 848, amending the act of incorporation of the Soldiers' and Sailors' Orphan Home.

The motion was agreed to; and the bill (H. R. No. 848) to amend an act entitled "An act to incorporate the National Soldiers' and Sailors' Orphan Home," approved July 25, 1866, was considered as in Committee of the Whole.

It proposes to repeal sections one, two, three, four, five, six, and seven of the act of July 25, 1866, and to revoke all rights, powers, and privileges thereby granted to the persons therein named, and to constitute U. S. Grant, W. T. Sherman, David G. Farragut, John A. Dahlgren, Oliver O. Howard, Lorenzo Thomas, Amos B. Eaton, Abram D. Gillette, Charles H. Hall, Henry D. Cooke, and James C. Carlisle, and their successors, a body-corporate in the District of Columbia, by the name of the National Soldiers' and Sailors' Orphan Home.

The Committee on Military Affairs and the Militia reported two amendments. The first was in section one, to strike out the names "U. S. Grant, W. T. Sherman, David G. Farragut, John A. Dahlgren, Oliver O. Howard, Lorenzo Thomas, Amos B. Eaton, Abram D. Gillette, Charles H. Hall, and James C. Carlisle," and in lieu of them to insert "David K. Cartter, John H. Semmes, Franklin A. Dick, W. B. Woodward, Byron Sunderland, J. W. Alvord."

Mr. WILSON. I move to amend the amendment by striking out "Byron Sunderland" and inserting "J. R. Elvans."

The amendment to the amendment was agreed to.

Mr. HENDRICKS. I wish to inquire why the amendment is proposed?

Mr. WILSON. Mr. Sunderland's name was put in without his knowledge, and he really does not desire it.

Mr. HENDRICKS. Why strike out the names already in the House bill?

Mr. WILSON. Because we want to get the institution into the hands of persons who can attend to the business. These admirals and generals have something else to do. We therefore take it entirely out of the Army and Navy, and put it into the hands of the men here proposed. Henry D. Cooke, and David K. Cartter, are well known. John H. Semmes is a large business man here. Franklin A. Dick is a lawyer here. W. B. Woodward is a lawyer. J. R. Elvans, whose name I proposed to put in, is a business man. Mr. Alvord is a very active, energetic, organizing man. The object of the amendment is to put the institution into the hands of men who can attend to it. It is certainly a matter that General Grant and General Sherman and men of that class cannot attend to. The institution is located here in the city. The corporation has about twenty-eight or thirty thousand dollars in money

and is taking charge of twenty or twenty-five very poor children.

The amendment, as amended, was agreed to.

The next amendment was in section three, line seven, to strike out "five" and insert "four;" so as to make the section read:

Sec. 3. *And be it further enacted*, That the persons named in the second section of this act shall be the board of trustees of this corporation; and all vacancies caused by death, resignation, or otherwise in the office of trustee, shall be filled by the board by ballot, without unnecessary delay, as may be provided in the constitution and by-laws of the corporation. Four of such trustees shall constitute a quorum for the transacting of all business of the corporation, and a majority of the votes present shall decide all questions before it.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. WILSON. In the fifth section, after "sailors," in the eighth line, I move to insert "and marines, without distinction of color;" so as to read:

Sec. 5. *And be it further enacted*, That immediately upon accepting this charter said trustees shall take entire control and management of all property, moneys, or other security or interest now held or used for the benefit of the National Soldiers' and Sailors' Orphan Home in the District of Columbia, of which they are hereby created trustees, and shall have power to establish a home for and to support and educate the destitute orphans of soldiers, sailors, and marines, without distinction of color, who have died in the late war in behalf of the Union of these States, from whatever State or Territory they may have entered the national service, or their orphans may apply to enter the Home, and which is hereby declared to be the object and purpose of said corporation, and to such end and for such use the said corporation may take and hold property, real or personal, only to an amount necessary for the support and maintenance of the Home and the orphans partaking of its benefits.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time. It was read the third time, and passed.

#### ORGANIZATION OF THE HOUSE.

Mr. TRUMBULL. As the chairman of the Finance Committee does not propose to take up the tariff bill yet, I move that we proceed to the consideration of House bill No. 874.

The motion was agreed to; and the bill (H. R. No. 874) to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House, and for other purposes, was considered as in Committee of the Whole.

The bill provides in its first section that before the first meeting of the next Congress, and of every subsequent Congress, the Clerk of the next preceding House of Representatives shall make a roll of the Representatives-elect, and place thereon the names of all persons claiming seats as Representatives-elect from States which were represented in the next preceding Congress, and of such persons only, and whose credentials show that they were regularly elected in accordance with the laws of their States respectively, or the laws of the United States.

The second section provides that in case of a vacancy in the office of Clerk of the House of Representatives, or of absence or inability of the Clerk to discharge the duties imposed on him by law or custom relative to the preparation of the roll of Representatives or the organization of the House, those duties shall devolve on the Sergeant-at-Arms of the next preceding House of Representatives; and in case of vacancies in both of the offices mentioned, or of the absence or inability of both the Clerk and Sergeant-at-Arms to act, the duties shall be performed by the Doorkeeper of the next preceding House of Representatives.

The third section makes a violation of the provisions of the act by any of the officers mentioned a felony, punishable, upon conviction of the offender, by imprisonment at hard labor for a term of not less than one year nor more than five years, in the discretion of the court.

The Committee on the Judiciary proposed to amend the bill by striking out the third section.

Several SENATORS. Why strike it out?

Mr. TRUMBULL. The committee recommended the striking out of the third section, which imposes a penalty for violation of the performance of duty, on this principle, that that is an unusual provision to put in a law. We impose a duty upon an officer, and then to make it a felony if he does not perform it is a new feature in legislation; and a majority of the committee recommended that that section be struck out on that ground.

The amendment was agreed to.

Mr. BUCKALEW. I think, sir, we passed a bill or joint resolution at a former session on this subject. I should like to know in what respect this bill differs from the existing law, there being one, as I understand, on this subject.

Mr. TRUMBULL. This is a House bill. I understand that it differs by providing for other officers. My recollection is that the law as it stands provides only for the Clerk doing this duty, and in case of the sickness or absence of the Clerk there is nobody now provided for to perform it. This bill provides that in case of his absence or sickness the Sergeant-at-Arms, and in case of his absence the Doorkeeper, shall perform the duty. I think that is all the difference there is between this bill and the existing law. It was before the Committee on the Judiciary and I think we all agreed to it with the exception of the third section.

Mr. BUCKALEW. I have no objection to the addition of other officers besides the Clerk in case of his absence; but if that be the only object of the bill I do not understand why we have so much matter.

Mr. TRUMBULL. There are but two sections in it now.

Mr. BUCKALEW. A provision enacting simply that the duties charged upon the Clerk by the former law in case of his absence should be performed by some other officer would occupy but two or three lines, I suppose, and would accomplish the whole purpose of the House, as I understand the explanation.

Mr. TRUMBULL. Perhaps it might have been more briefly drawn. I think the first section reiterates what the former law is, though I am not certain but that the clause is new, which provides "that the Clerk shall place on his roll the names of all persons claiming seats as Representatives-elect from States which were represented in the next preceding Congress." I think that is new. It applies only to those Representatives from States that were in the preceding Congress, and provides that he shall not put on others from other States.

Mr. BUCKALEW. What would be the action in the case of a new State?

Mr. TRUMBULL. He would not put that on unless they were represented in the preceding Congress under this bill.

Mr. BUCKALEW. I should like to understand what is the object of this bill. If it be to exclude persons not excluded by the existing law we ought to have the point distinctly understood.

The bill was reported to the Senate, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill be read a third time. The bill was read the third time.

Mr. BUCKALEW. As the bill is now on its final passage I ask that it lie over until tomorrow until I can examine it in connection with the former law. I move to postpone it for the present.

Mr. TRUMBULL. I have no objection to its being laid aside if the Senate desires to look at it.

The motion to postpone was agreed to.

#### TARIFF BILL.

On motion of Mr. FESSENDEN, the Senate resumed the consideration of the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes, the pending question being on the amendment of Mr. WULLEY, to strike out in line thirty-eight of section eleven of the committee's amendment "forty"



and insert "fifty;" so as to make the clause read:

On all articles of glass, cut, engraved, painted, colored, printed, stained, silvered, or gilded, not including plate-glass silvered, or looking-glass plates, fifty per cent. *ad valorem*.

Mr. FESSENDEN. I will simply say that the cut-glass referred to in that particular clause, as every one knows, is the most expensive kind of glass, and the more expensive it is, the more it costs, the more the duty amounts to *ad valorem*. The *ad valorem* is forty per cent., and the Senator proposes to raise it to fifty. I think that would be too high, and I must therefore object to it.

Mr. WILLEY. The question is, I imagine, whether we can manufacture the glass in this country with any less duty than that proposed. That seems to be the question with those with whom I have conversed who are engaged in the manufacture of it. If it be proper to encourage the manufacture of the article at all in this country, or if it be to the interest of the country that it should be manufactured here, it seems to me, so far as my information extends, necessary that this additional protection should be given; otherwise I am sure the manufacture of it must cease entirely, and the production of the article be surrendered to the foreign manufacturer. As I stated to-day, I make this assertion upon the assurance of gentlemen who profess to be skilled in the matter and to have experience in the manufacture of the article, and the reliance I have upon their integrity and candor, stating again that for myself I am wholly ignorant of the question; but I believe those who have represented this matter to me and under the influence of that belief, and not wishing to see this class of industry entirely destroyed, I shall vote for the increase of duty. I hope that the Senate will also do so, unless they desire to see the manufacture of cut glass entirely destroyed and surrendered to the foreign producer. I feel pretty certain that that will be the practical result of the duty as it now stands in the bill. The gentlemen with whom I conversed desired that I should offer an amendment increasing it to sixty per cent. Upon conferring with them and with others who seem to have some knowledge on the subject, I was assured that fifty per cent. was the very lowest rate at which manufacturers of the article could live in this country under existing circumstances.

As I said to-day, I beg Senators to remember that the main ingredient entering into the value of this article is the labor. It requires a great deal of labor to cut the glass as I understand. It requires skilled labor, labor that can command the highest price; and that fact brings into competition the high-priced labor here with the low-priced labor of Europe; and therefore it not only involves the existence of the manufacture of cut glass in this country, but also involves the interests of a large amount of capital, as I understand, already invested in the manufacture and a large amount of industry connected with it. Having submitted the case, as I understand it, to the Senate I have nothing more to say in regard to it.

Mr. WILLIAMS. I think that if those who are engaged in manufacturing this sort of glass in this country cannot proceed with their business under a tariff of forty per cent. on this glass they had better engage in some other pursuit, because if I am not misinformed—and I derive my information from pretty good authority—the present tariff is very nearly prohibitory, and if it be made fifty per cent. almost all this glass will be excluded from the country and we shall lose the revenue upon it, and the price will be very greatly enhanced to the consumer. It does seem to me that on an article of this description, an expensive article, forty per cent. ought to be sufficient to protect those who are engaged in its manufacture. I hope that this amendment will not be adopted.

Mr. WILLEY. In respect to the question of revenue, there are always two sides to it. We have revenue derived from imports and we have an internal revenue. In our efforts to

increase our revenue on imposts it would be well to consider whether we may not destroy our internal revenue on the articles manufactured at home and the income derived from it at home. The result will be precisely that if by want of proper protection to our domestic industry in reference to any article we destroy its manufacture here. We may perhaps to some extent by increasing the importation into the country of that article increase the revenues derived from that source; but if at the same time we destroy the manufacture of that article at home and withdraw from it the capital now invested in it, and the industry now connected with it, we may destroy prolific sources of internal revenue, and the revenues of the country may suffer detriment in that direction to a greater degree than they will derive benefit in the other direction.

The amendment to the amendment was rejected.

Mr. HOWE. I wish to offer two other amendments to this bill. I proposed to offer an amendment on page 31, but the information upon which I intended to move it has been corrected. Page 31, line one hundred and forty-one of section seven, authorized a duty on the wrought-iron tubes and flues there provided for of three and a half cents a pound. I was told they were made out of iron such as is mentioned in line seventy-six, on page 28, on which there is a duty of three and a quarter cents per pound. But since then I have been told they are made out of a different description of iron.

Mr. FESSENDEN. They are made out of iron on which the duty is two and a quarter cents a pound.

Mr. HOWE. On page 32, line one hundred and seventy, after "hollow-ware," I move to insert "and on all descriptions of wrought-iron enameled ware;" so as to read:

On glazed, tinned, or enameled wrought-iron hollow-ware, and on all descriptions of wrought-iron enameled ware.

Mr. FESSENDEN. I suppose that is a mere matter of description.

Mr. HOWE. It does not change the duties; it is merely a description.

The amendment to the amendment was agreed to.

Mr. HOWE. On page 39, in the thirty-eighth line of section eight, I move to amend by striking out "two and a half" and inserting "three;" so as to read:

"On lead in pigs or bars, three cents per pound."

I have only to call the attention of the Senate to the table I read the other day: I will not produce it again. When the duty was three cents a pound all the lead needed was delivered in New York from the mines of this country and sold at less than four cents a pound: four dollars a hundred; there was none imported. Under the recent rates of duty there is only about a million pounds—less than two million pounds—now sent to New York, and the price in New York is over ten dollars a hundred, and there are over thirty million pounds imported. Under these circumstances I think we can well afford to raise the duty another half cent.

Mr. FESSENDEN. What is the duty now?

Mr. HOWE. Two cents a pound.

Mr. FESSENDEN. This lead is of course in very great demand for many purposes. The statement made to the committee was that it was impossible for the lead mines of the West to supply the demand of the country, and for the reason that they could not get their workmen to do it. Their workmen had left and gone to other mines, and they could not get the mines worked—I would like to know whether that is a fact—and the consequence was that lead was absolutely imported and sent West. With all their advantages for making lead, they had not and could not get the force to get the mines fully worked. The tariff did not have any effect on it; the duty is high. It seems they had three cents some time ago, and it was put down to two; we have raised it to two and a half, and that ought to be sufficient.

Mr. GRIMES. I think the Senator from Maine has been misinformed as to there being any considerable importation to the West from the East of lead that had come from abroad. This is an article that is produced to a very considerable extent in the western part of Wisconsin, the northern part of Iowa, and in Illinois and Missouri. It was formerly produced to a much greater extent than at present, I admit. That falling off has been owing to two causes, as I am told: first, to the fact that a number of the miners have gone into the gold-producing Territories of the West; and second, because it is said of the want of this very protection which the Senator from Wisconsin proposes to afford. All I have to say in regard to this proposition is, that the relative proportion of increase suggested by the Senator from Wisconsin is not near as great, I think, as has been put already by the Senate upon copper, upon nickel, and upon that article which is almost a constituent of lead—zinc. We have raised them all, and it would seem to me that if we are going to continue this raising of metals, lead should go up *pari passu* with the others.

Mr. FESSENDEN. I will ask the Senator from Iowa whether in his judgment this duty ought to be increased from two and a half to three cents per pound? I want an answer.

Mr. GRIMES. My views in regard to this tariff bill are very well known. I say that if you are going to raise upon one article that is produced in the country, you ought to raise a corresponding amount upon other articles. That is what I say.

Mr. FESSENDEN. That is no answer to my question.

Mr. GRIMES. And as you have raised upon copper, upon iron, upon zinc, upon nickel, I cannot conceive of any substantial reason why there should not be a corresponding increase upon lead.

Mr. FESSENDEN. We have not raised the duty on those articles fifty per cent. This is an increase of fifty per cent.

Mr. GRIMES. No.

Mr. FESSENDEN. Certainly it is; from two to three cents. It stands at two now; we make it two and a half, or twenty-five per cent., and now it is proposed to go to three cents. But I do not get an answer to my question from the advocate of this increase of duty. He will not give his own opinion on the subject. Lead is produced in the upper part of Iowa.

Mr. GRIMES. One reason why I do not give an opinion on the point put to me is, because I have expended so much good opinion on the Senator from Maine without producing any effect upon him that I am conscious that any opinion I should give him now would not influence his judgment.

Mr. FESSENDEN. The Senate, I think, will be able to infer what the Senator's opinion is on that subject.

Mr. GRIMES. I have no hesitation in saying candidly that if this proposition was a new proposition and stood by itself I would not vote for it; but after having raised the duty on all the other products of the earth, all the other minerals that are dug out of its bowels, I cannot conceive why there should not be a proportionate amount, a ratable proportion put upon lead.

Mr. FESSENDEN. That is, as the bill is bad, make it as much worse as possible!

Mr. HOWE. I will only add a word or two. If my judgment had not led me to think this duty ought to be raised to three cents a pound I should not have made the motion. My judgment was formed on no practical experience in this business; I am not interested in it at all; but it was formed on the advice and information communicated to me by others. But I will say of this motion, as I have said of one or two articles before, that if there were no lead mines to be protected in this country the duty we propose to levy here is not a high duty even for the purpose of revenue. It is only three cents on an article which is worth from

ten to twelve cents in market; from twenty-five to thirty per cent. That is not a very high revenue duty on foreign products. But there are mines to be protected, mines which twenty years ago furnished you all the lead you had in the United States, and furnished it to you at less than half the price you now get it at. It is said that now we cannot get labor to work it. There is nearly double the labor in the country that there was then, and these miners could employ that labor just as well as anybody else if they could pay them as well; but they certainly cannot employ them unless they can find a market for the lead when it is produced. I have seen no article produced here which exhibits so strikingly the necessity for protection as this very article.

Mr. WILLIAMS. I should like to ask the Senator from Wisconsin if he knows what the price of lead is in the pig?

Mr. HOWE. I do not.

Mr. WILLIAMS. I should think that would have something to do with this proposition which has been submitted, as it does not appear what per cent. this will be *ad valorem* upon the article. Now, the other day the Senator from New York [Mr. HARRIS] who is now absent moved to reduce the duty from two and a half cents, as reported by the committee, to two cents, and represented that the necessities of the country imperatively demanded that reduction in the price of lead. Now, the Senator from Wisconsin represents that it is necessary that the tariff should be increased from two and a half to three cents. I think that it is a very large percentage; think that is a very high *ad valorem* tariff upon lead; and according to all the representations that have been made on both sides of this question I should think that two and a half cents was as much as ought to be imposed upon this article, and that such a tariff is as high in proportion as the tariff that has been imposed upon other articles of a similar description produced in the country. The tariff was three cents on lead in 1842. In 1851 it was put at one cent; then it was increased to one and a half cent, and finally to two cents; so that the present tariff is two cents per pound on pig lead.

Mr. HOWE. Was that increase in 1864 or 1866?

Mr. WILLIAMS. In 1864 the tariff was increased to two cents per pound. The committee now report an additional half cent; and upon an article of that description, of comparatively so little value or at such low price, a half cent a pound is a considerable addition; and when you come to make the duty three cents per pound I think it is one hundred per cent. *ad valorem*.

Mr. CATTELL. The gentleman from Iowa has indulged in a little pleasantry in looking over to New Jersey in regard to zinc and nickel. I ask permission to say that the tariff now placed upon lead is a higher *ad valorem*, almost double that which has been laid upon either nickel or zinc. The *ad valorem* duty upon lead at two and a half cents a pound is, in my judgment, about sixty per cent. That is a rate of duty which my friend from Iowa, I think, pretty strongly objects to upon the highest degree of manufactures in the country: and upon an article in its first stage of preparation, like lead in the pig, it ought to be abundant even for a protective tariff man like myself.

Now, I do not like to oppose what is advocated by my friend from Iowa, for I am under a sort of implied contract with him that in his absence I will not move to reduce the duty upon anything in this bill. I think I made that bargain a day or two ago; and therefore I do not like to oppose his view of advancing the duty on lead. A reference to Commerce and Navigation Reports will show the importations of lead and its invoice value. The latter is between four and five cents a pound on the other side, and consequently two and a half cents a pound is a tariff of something like sixty per cent. If any more was needed I am the last man who would hesitate to grant it. In my judgment, however, two and a half

cents is a fair and liberal allowance of duty, more so, in my judgment, than that on any other metal on the list.

Mr. HOWE. I only want to say, in reply to the Senator from New Jersey, that I do not think it fair to take the price at which an article is invoiced for the purpose of assessing duties as really the market price of lead in the foreign market. I now call for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. I should like to ask the Senator from Wisconsin if five cents is not the foreign valuation of this article, and whether he wants more than fifty per cent. on this production?

Mr. HOWE. I have already said that I am not prepared now to state what the foreign price is.

Mr. SHERMAN. I can find it in the prices current.

Mr. HENDERSON. It is between five and six cents a pound.

Mr. HOWE. Fifty per cent. is not a high protection; it is not a very high revenue tariff. But lead is an article which can be imported at very low freights. It is a desirable kind of freight, but little bulk and a great deal of weight. But, however, I am not going to occupy the time of the Senate in discussing this matter. I just want to know who is for my motion and who is not.

Mr. HENDERSON. I suggest to the Senator that the price upon which the duty was levied upon the importations last year was between five and six cents. I would suggest to him, however, and to the Senator from New Jersey that the proposition of the Senator from Wisconsin is not more than half the *ad valorem* duty which was voted this afternoon upon building-stone, an article that can be furnished, as I understand, for three dollars a ton, and there we voted this evening four dollars per ton duty.

Mr. BUCKALEW. A single remark on this amendment. This bill, after the Senate has concluded its action upon it, will go again to the House of Representatives, and afterward will go to a committee of conference. The House bill is a bill much higher than the one reported from our Committee on Finance. The practical result will be that all the changes made in this bill after it passes here will be in the direction of increasing rates. There will be no reduction in the committee of conference upon any vote taken by the Senate: all the changes will be to raise the rates: our committee will be obliged, as is usual in such cases, to give up the judgment of the Senate upon perhaps half the items upon which we are passing. Now, this being the condition of this measure, it follows that the Senate ought not to vote to increase any item in this bill as reported from the committee, unless the case is perfectly clear that it ought to be increased. If there is any doubt about it, if the question is dubious and uncertain, we ought to stand by the report of the committee and enable them to have a fair basis upon which to make an ultimate agreement with the House of Representatives. On that principle, on this and many other amendments, I vote steadily to sustain the report of the Committee on Finance and to retain the bill at the level of rate upon which they have reported it to the Senate, deviating from this rule only in cases where a particular argument excludes an item from the general rule.

Mr. McDOUGALL. I do not choose to give my vote on this question without the expression of an opinion. This whole bill, in my best judgment, does not improve past legislation. It is my opinion that we should return again to the system which treats equally all departments of the industry of the country. I made a little mistake this morning in the vote which I cast upon an amendment of the Senator from Massachusetts, but I discovered my mistake in time to correct it. He proposed to give a special privilege to New England to bring down coal from the British colonies. I believe about all

this matter, that we should legislate for every State; as well as for mine as for the State which is distinguished by the gentleman who is now temporarily presiding [Mr. HENDRICKS in the chair] as well as for all the States. Special legislation is an evil. Why should we legislate for New England as against Iowa? Why should we make distinctions as against or for California? Why should we discriminate in legislation for or against Oregon, or any other part of the United States? Special legislation is the evil of the day, and until we can again return to the old policy of legislation for revenue we cannot have much harmony on this subject of taxing imports. My opinion is that we should return to that policy as soon as possible, and that this extra, particular, special legislation is all wrong.

I believe that we should approximate free trade as soon as we can consistent with the interests of the Government, and that would bring us down again to the tariff of 1846, as near as can be; for I believe that the then Secretary of the Treasury organized a revenue system better than has been organized since, and I think it should be returned to now. We are not required to make those great demands upon the resources of the country. Why should we legislate against foreign commerce? Sir, commerce is the hand-maid of civilization, has been for ages, and should not be restrained and prevented by putting a Chinese wall around our country as there is about China. As near as we can afford to have commerce free it should be free.

But, sir, this measure as it stands is against the whole law of progress, as it is understood in Great Britain, as it is understood in France, as it is understood even in Belgium, a small State, as it is understood in every civilized foreign country. This legislation is against the whole law of progress, as laid down by every prudent legislator and high thinker of the last century. We should make our charges on foreign commerce upon a revenue basis; and the sooner it is perfectly free the richer we shall become. Why? The reason has been stated so often that I dare not even repeat it. It has been published, printed, and recorded by the great men of many States and the great men of our own country. That we do not understand it is a great fault, and it is because the subject is not carefully inquired into by those among us who undertake the high office of legislation. When they have studied and inquired into this they may improve. Perhaps the evil may be this: we are a new country; we have not passed through many centuries; we have not studied the institutions of other nations; in our busy life we have not had leisure to inquire into those laws that govern the condition of States and the necessities of their prosperity.

I do not affirm free trade absolutely, because we are a concrete people, and we cannot exist yet in the abstract. In the abstract free trade is a truth. All students of the science of Government and its policy know it. An approximation to it is demanded of us. If we cannot approximate to that we shall approximate to the other extreme; and the other extreme, in my judgment, leads to chaos.

I have made these remarks simply in order to give expression to my views as to what is the true policy in regard to the question before the Senate.

Mr. MORGAN. I suppose we are all striving for a common object, and that is to make this bill as near right as possible. It has been said that it is not a perfect bill, and in that opinion I concur. It was not a perfect bill when it came from the committee, and not in all respects satisfactory. I do not think it has been improved or is likely to be improved much by the amendments made in the Senate. As we are now called upon to vote on this question of lead, I think it would be well enough to state that no persons interested in producing lead asked for an increase before the committee, while there were before the committee several persons consumers of lead

who asked that the duty might be reduced instead of increased. The duty now being two cents the consumers ask that it might be reduced to a cent and a half a pound; and my colleague, who is not present to-night, made a motion to have it so reduced. That motion did not prevail; but I wish to say that there is no demand for this increase, there is no necessity for it; it is not required. It is true, as has been said here to-night, that for two years past imported lead has been taken to the West and bought very largely. It has been bought very largely for the market at St. Louis within the last two years. I do not know that that is the case now. Perhaps it may have been owing in part to the small quantity of lead produced at the western mines during the war; but I am satisfied that the rate fixed by the committee, two and a half cents a pound, is all that is needed, and I hope the Senate will adhere to the report of the committee.

Mr. SHERMAN. Since the colloquy about the price of lead I have sent and got the prices-current as given in the Iron Age of December 27. I find that the price of lead in England was twenty pounds per ton, or equivalent to four cents and four mills a pound. A duty of two and a half cents a pound is sixty per cent. on the present cost. I find the value of pig iron is \$16 22 a ton, and the duty proposed on that is nine cents a pound, about the same rate. The duty on railroad iron is about the same rate, between fifty and sixty per cent. The duty on bar iron is higher than any other duty on metals in the list, probably nearly one hundred per cent.; but certainly the duty on lead is high enough as the bill stands; it is as high as any other metal on the list, except probably bar iron. I shall not vote for an increase.

Mr. HOWE. I wish to say a word in reply to the Senator from New York. He says that the producers of lead have not been here. That I think is a fact; they have not been in the Senate; they have not been before the Finance Committee; they were before the Committee of Ways and Means in the House of Representatives; they did insist upon higher protection, and the House conceded that they were entitled to it and put the duty at three cents a pound, just what I ask to have it put here. In the absence of the producers of lead, and as it seems to me by the statement of the Senator from New York, in the presence of those who import it the Finance Committee put down the duty to two and a half cents—put it down from what the House agreed it should be half a cent. I wish to have it put back.

In reply to the Senator from Ohio I simply wish to call his attention and that of the Senate to the difference between pig lead and pig iron. Pig iron is not what may be strictly called a raw material, but it is a very raw manufacture. Pig lead, when you get that put into market, is the article that you want for all uses. It is refined lead.

The question being taken by yeas and nays, resulted—yeas 15, nays 20; as follows:

YEAS—Messrs. Chandler, Connors, Cowan, Doolittle, Edmunds, Frelighuysen, Grimes, Howard, Howe, Kirkwood, Lane, Norton, Trumbull, Wade, and Yates—15.

NAYS—Messrs. Buckalew, Cattell, Cragin, Creswell, Davis, Fessenden, Hendricks, Johnson, McDougall, Morgan, Morrill, Patterson, Poland, Ramsey, Sherman, Sprague, Van Winkle, Willey, Williams, and Wilson—20.

ABSENT—Messrs. Anthony, Brown, Dixon, Fogg, Foster, Fowler, Guthrie, Harris, Henderson, Nesmith, Nye, Pomeroy, Riddle, Ross, Saulsbury, Stewart, and Sumner—17.

So the amendment to the amendment was rejected.

Mr. HOWE. On page 55 I have been informed that the duty we have raised on these places: in lines three hundred and fifty-two, three hundred and fifty-eight, and three hundred and sixty, on "white lead or carbonate of lead, dry;" on "red lead or minium;" and on "red lead, moist, or ground in water or in oil." It is fair to say that in reference to this matter I move entirely upon the opinion furnished me by others. The duty on lead, as has

already been noticed, has been raised from what it was before; and as these paints are manufactured from pig lead it of course necessitated raising the duty on them. That duty has been raised to be sure, but it is said that it is not sufficiently raised. I will submit a motion to insert "and a half" in line three hundred and fifty-two after "four;" so as to read:

On white lead or carbonate of lead, dry, four and a half cents per pound.

Mr. WILLIAMS. I think when a proposition is made to increase the tariff upon an article of that description some good reason should be given for the change. Now, this is an article that is very generally used; it is one of the necessary ingredients of paint, and its consumption is very large in the country; and to add to the duty would impose a tax upon a very large number of persons who use the article, and I do not think there is any disproportion between a tariff of two and a half cents on pig lead and four and a half cents on white lead. Why should white lead be raised to four and a half cents, when the material out of which it is made is only subjected to a duty of two and a half cents? I think that if two and a half cents on the pig lead would protect that business, as I presume it would, four cents on white lead would protect the manufacturers of that article. I have had experience enough in connection with this tariff bill to know that all persons who take pains enough to come to Washington to make representations about this tariff say that it is necessary that the tariff should be very high so far as their particular interest is concerned; and I have become satisfied that it will not do to take the representations made by interested parties, and ask the Senate to adopt an increase of duty, when the duty already proposed is certainly reasonable, and in many cases a large duty. I have not had time to compare this duty on white lead as reported by the committee with the duty that was fixed in the House bill. I am not able to say now what the present duty is on white lead; but these matters were considered by the committee in view of both sides of the question; and to say simply that somebody who is interested in the manufacture of this article desires to have it raised seems to me to be a very poor reason for adding so much to an article of this description.

Mr. FESSENDEN. It is raised more than the lead is: it is raised a cent a pound and the lead half a cent.

Mr. HOWE. The simple question for the Senate to pass upon is this: the lead can be exported by foreign producers to this country at two and a half cents; the paint at one and a half cent more. The question is whether they will export the lead or whether they will put it into paint and export it in that form; whether the foreign producer will send it over here as pig lead at a duty of two and a half cents or send it over here as paint at four cents.

The amendment to the amendment was rejected.

Mr. HOWE. On page 66, between the lines six hundred and twenty and six hundred and twenty-one, I move to amend by inserting, "on aluminate of soda two and a half cents per pound."

Mr. FESSENDEN. That is a very high duty. The other salts of soda are only at half a cent a pound.

Mr. HOWE. On the sulphate of soda the duty is one and a half cent. I cannot testify what the precise rate should be. Such are my instructions.

Mr. FESSENDEN. I do not know what the article is. I only say how it is with regard to the salts. Soda-ash is at half a cent; nitrate of soda is half a cent; sulphate of soda is half a cent. Why not put this at the same rate?

Mr. HOWE. Soda-ash and nitrate of soda are the basis of this.

Mr. FESSENDEN. Suppose you put it at three fourths of a cent a pound, precisely what soda is. I do not know what the article is, and the Senator it seems does not.

Mr. HOWE. No; I am not acquainted with the article.

Mr. FESSENDEN. Then I doubt whether it ought to be put in at all.

Mr. HOWE. I think that is no objection to putting it in. I do not understand that there is any objection to putting in this article if Senators can be satisfied with the rate. Well, put it at three fourths of a cent.

Mr. GRIMES. I object to anything of this kind going in unless the Senator can tell us what it is. It may be some generic term that includes some half a dozen other sodas. "Aluminate of soda." The Senator cannot tell us what it is.

Mr. FESSENDEN. Let it go to the House. It can be put in there.

Mr. HOWE. I would tell the Senate what it was if I knew, [laughter;] but I trust they will take my word upon the other branch of the proposition, and that is that I do not know. [Laughter.]

The amendment to the amendment was rejected.

Mr. HOWE. Now I wish to move an amendment in reference to an article that I think I do know what it is. It is on page 93, line one hundred and ten. It is "wheat." [Laughter.] I move to raise the duty to thirty cents a bushel. I move to strike out "twenty" and insert "thirty."

Mr. FESSENDEN. I do not know that that there is any objection to that. I understand it is prohibitory now.

Mr. HOWE. If there is no objection to it—

Mr. FESSENDEN. It is for the Senate to say.

Mr. SHERMAN. I object to it.

Mr. HOWE. I have one reason for thinking that the duty of twenty cents is not prohibitory, and that is that about half a million of value was imported last year of wheat and flour.

I have another reason for thinking that it is not prohibitory. A year or two ago the Congress of the United States was vehemently importuned to rescind what was known as the reciprocity treaty—a treaty that we had with Canada—under which wheat and flour could come from Canada here free, and our wheat and flour could go to Canada free; and as an argument to induce us to rescind that treaty we were pointed to the enormous importation of wheat and flour from Canada. My reply was that I was perfectly willing, so far as the farmers who are my constituents were concerned, to compete with the Canadian wheat-growers upon equal terms. I was perfectly willing that they should send their wheat and flour here without duty if we could send ours there without duty. I insisted upon it that we had the best soil and the best climate, and that our productions would excel theirs, and that we should sell them more, and we were selling them more than they were selling us.

But the argument that it was necessary in order to save our markets to rescind the treaty prevailed. Very well, sir, the treaty is gone. Now you have a duty of twenty cents per bushel to keep Canadian wheat out of our markets. That is not what it costs to get the wheat from the Northwest to the Atlantic markets. It often costs twenty cents a bushel to get wheat from the Mississippi river to Lake Michigan, and I think it is very seldom that it happens that wheat can be transported from Lake Michigan to New York for twenty cents a bushel.

Mr. GRIMES. It costs seventeen cents from the Mississippi to Lake Michigan.

Mr. HOWE. The Senator from Iowa says that seventeen cents is the price now for transporting wheat from the Mississippi river to Lake Michigan, and it is very rarely the case, and I do not think ever happens, that wheat can be sent from Lake Michigan to New York for twenty cents. Therefore we do pay a duty; we do not pay it to the custom-house, but we pay it to your transportation companies; a duty of much more than twenty cents a bushel to get to these markets, and we pay twenty cents a bushel over what it costs the



Canadian farmer. The consequence is, that by virtue of rescinding the reciprocity treaty and renewing these duties the Canadians have a monopoly of the Atlantic market so far as their productions can supply it and we are excluded from the Canadian markets. Now, that is the justice that you mete out to us by this sort of legislation! The House, I believe, put up the duty to forty cents a bushel. I have learned to be modest during the discussion of this tariff bill and to ask for but very little, and not insist much upon that. I have proposed to put this up to thirty cents, and I hope the Senate will agree to it.

Mr. EDMUNDS. I hope that this amendment of my friend from Wisconsin will be adopted. Vermont is a State that produces very little wheat and consumes a great deal of flour; but I, for one, as a Vermonter, am perfectly willing to protect the products of Wisconsin or Iowa or the West, any part of the country that is able to produce a thing which we want ourselves. I do not think we owe any gratitude or consideration whatever of any kind, except our own interests, to the Canadians. The policy which they pursue is hostile to us in all respects, political, economic, and every other. I beg to call the attention of the Senate to a paragraph which I find in this evening's paper, which could not have been gotten up for this occasion, touching Canadian policy:

"The report of the Canadian minister of customs recommends that American vessels be refused the privilege of passing through the Welland canal for a few months. 'By doing this,' he says, 'we will bring the Americans to reason.'"

Well, if it will bring the Americans to reason, I hope they will stop our passage through that canal, so that we shall have public works of our own by which we can transport our own products from one part of the country to the other. I hope this amendment, by which Canadian wheat will be taxed higher than it is now, will be agreed to, although it may for the present moment bear hardly upon the constituents whom I represent. I believe that when we are able to produce wheat enough for ourselves, and when we have the means of home transportation, as we may have, we shall be unwise in every respect if we admit the products of a community who are hostile to us into the country without their paying a fair share of the burdens which fall upon our own producers. I am willing, therefore, to pay a little more for Wisconsin and western wheat than I should be obliged to pay for Canadian wheat, in the hope that by mutual protection to all parts of the country we shall develop our own productions and be independent of those foreigners who entertain toward us the spirit which this paragraph shows.

Mr. HOWE. I am urged by several gentlemen to modify the motion so as to put the duty at forty cents, the House rate, instead of thirty, and I will do so. I suppose it is at my option.

The PRESIDING OFFICER. (Mr. HENDRICKS in the chair.) The question is on the amendment proposed by the Senator from Wisconsin, increasing the duty on wheat from twenty to forty cents a bushel.

The amendment to the amendment was agreed to.

Mr. HOWE. Now, Mr. President, on page 89, section fifteen, line twenty-four, corresponding with that, I move to strike out "fifteen" and to insert "thirty;" so as to read:

On flour and meal, middlings, and mill-feed of wheat, rye, oats, or other grain not herein otherwise provided for, thirty per cent. *ad valorem*.

Mr. WILLIAMS. I have no particular interest in this matter one way or the other, and I suppose my constituents have none; but one Senator represents the men who produce the wheat; another Senator proposes this legislation because of the action of the people in Canada; but nobody represents the vast proportion of the people of this country who consume this article, and who are compelled to

pay a very much higher price for the bread which they eat on account of this additional tariff. It seems to me that this class of people, constituting a very large proportion of the community, ought not to be wholly ignored. Before we put fifty per cent. or forty per cent. or thirty per cent. upon wheat and flour, we ought to remember that there are thousands of poor people in this country who have families to support who will be oppressed by this additional tariff, and it is on their account that I protest against this addition to these taxes upon the food which the people of the country consume.

Mr. EDMUNDS. I am much obliged to the Senator from Oregon for speaking for the poor, although I fancy that he can have very little knowledge of that class of people; but I represent in part three hundred and twenty-five thousand poor people who do not raise any wheat, but who eat it, and I will take the responsibility of speaking for that portion of the community. I do not oppose this section as it stood on wheat and favor the increase on the ground of the hostility of the Canadians to us merely; but I said that we ought not to enter into any legislation which would favor foreigners at the expense of our own producers and laborers and agriculturists for people of that description. That is what I said.

Now, we have repeated the reciprocity treaty and set it aside; but if we are to give the Canadians almost the same privileges under a low tariff that they had under the reciprocity treaty, while we receive none of the corresponding benefits, as few and feeble as they were under that treaty while it lasted, then I say we shall be carrying generosity a great deal further than we do justice. We are able to produce, and we do produce all the agricultural products that all the people of the country need; and if by protecting manufactures and the industrial arts we give employment to the poor of the eastern States, then they will have the means of paying the western States for the products which they furnish for their consumption. Therefore, if the western States are willing, as they seem to be, to protect the mechanic arts and manufactures so as to furnish the means of industry and of earning to the poor of the East, I say I am willing to protect the agricultural products of the West, so that we shall consume them rather than the products of a foreign country; and I believe that on such a policy the country will grow rich instead of poor. That is my position.

Mr. FESSENDEN. I should like to ask gentlemen if they have entirely forgotten that this bill has some reference to revenue?

Mr. EDMUNDS. I have not forgotten it.

Mr. HOWE. I do not know but that I had forgotten that. [Laughter.] But I wish to make a suggestion in reply to the Senator from Oregon. He objects to a raising of the duties on flour after assenting to a raising of the duty on wheat. If we refuse now to raise the duty on flour, the only effect will be that the farmer will send his grain in here in the shape of flour instead of wheat. It will cheat our bill, and still the Canadians have all the benefit.

The PRESIDING OFFICER put the question on the amendment to the amendment, and declared that the yeas appeared to have it.

Mr. HOWE and Mr. GRIMES called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 29, nays 8; as follows:

YEAS—Messrs. Cattell, Chandler, Conness, Cowan, Cragin, Creswell, Doolittle, Edmunds, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Howard, Howe, Johnson, Kirkwood, Lane, Morrill, Norton, Patterson, Ramsey, Sherman, Sprague, Van Winkle, Wade, Willey, Wilson, and Yates—29.

NAYS—Messrs. Brown, Buckalew, Davis, Fessenden, McDougall, Morgan, Poland, and Williams—8.

ABSENT—Messrs. Anthony, Dixon, Fogg, Foster, Guthrie, Harris, Nesmith, Nye, Pomeroy, Riddle, Ross, Saulsbury, Stewart, Sumner, and Trumbull—15.

So the amendment to the amendment was agreed to.

Mr. WADE. I move to amend the bill on page 85, section thirteen, line thirty-six, by

striking out the words "unfinished, per cent. *ad valorem*," and inserting "three dollars per ton of thirteen cubic feet;" so as to read:

On grindstones, three dollars per ton of thirteen cubic feet.

This article of grindstones was included with freestone and other stone when the subject was considered in the Committee of the Whole before, and those stones have since been put up. They have been put at four dollars per ton; and now I propose to put grindstones under that, at three dollars per ton. I do not propose to argue the question over again; but I take leave barely to read the statement of one of the gentlemen engaged in this business. I do it with the more freedom because I know from what has been said here that the committee who arranged and settled upon these duties did in a great measure get their information from men who were interested, as they had to do, because those interested in a business are the ones generally, and frequently they are the only ones, who really know all about the business, and if they are honest they must be trusted. All that I can say is, that the gentleman whose statement I propose to read is a gentleman fully acquainted with the business, who has worked at it for a long time, and a gentleman of veracity and truth, and whose word is taken and believed ordinarily in what he says. Here is what he says on this subject:

"Nova Scotia grindstones can be imported into the eastern market at from six to eight dollars per ton less than those of Ohio owing to the difference of freight and labor. They allow us to establish the market price, they selling just enough below us to take the trade, there being no other competition. A higher duty would not raise the price to the consumer as they would lessen their profits to keep the trade, which they can do, and then make a better profit than we can. Advancing the duty would not advance the price in the western market, as our competition at home is too strong for that, it being always our only market, and the West is now flooded with these grindstones. There are in northern Ohio fifty quarries that employ in all over two thousand men. In Michigan there are a number of quarries working by a large number of men, and also large quarries in southern Ohio, Pennsylvania, West Virginia, Kentucky, and Illinois. If we cannot have a proper protection, fully one third, and perhaps one half of our men, will be compelled to seek other employment, as our market is being cut down by the foreign competition. The quality of our stone, both for grindstones and building purposes, is not probably surpassed in this country, and we have enough to satisfy the markets of the world. The duty at four dollars per ton is about twenty per cent. of the selling price of the Nova Scotia stone. The item of stone is a small matter in comparison with the other stock the manufacturer uses, such as iron, steel, and coal. Small grindstones will cost the farmer about three dollars and will last over a year."

That I suppose will answer the argument that is made that this is going to burden the farmers very much. It appears that their grindstones cost almost nothing. The only competition is in the large article, used I understand in manufacturing establishments, and they come in almost dressed and finished. The bill makes a distinction between finished and unfinished grindstones; but the trouble is that they come in under the head of unfinished grindstones with almost the entire work done upon them before they come here, as this gentleman states. But I do not wish to add anything to his statement of the case. I believe that he has stated the facts in relation to it.

There are more workmen engaged in this business than I supposed there were. He says that there are two thousand men employed in Ohio in this business of getting out these stones. It is a very heavy, large business. Some revenue would be derived from this duty should it be levied, and as they believe some protection would be given to the business and it would continue these laborers in their employment. If it would have that effect I think it would be well to adopt it. I do not believe anybody will be hurt by it. I think the reasoning of this gentleman to show that it would not enhance the price of these stones, either in the eastern or western market, is good. They can produce them in Nova Scotia very much cheaper than we can, and then they

bring them in and gauge their prices just under the western prices so as to command the market. I believe the effect of this duty would be to decrease their profits but not to increase the cost of the article.

Mr. RAMSEY. I should like the Senator to inform us how a ton of grindstones is ascertained by the cubic feet.

Mr. WADE. Well, sir, that is done by mathematics, I take it, very easily. I have no time to work out the problem now, but I believe I could do it. There is no difficulty about that. I will state that we have already protected building-stone, and these stones are used for building-stones as much as for grindstones. We have already protected building-stones to the amount of four dollars per ton of thirteen cubic feet, and I ask now for three dollars on these. I leave to the Senate to decide what they will do with the question.

Mr. FESSENDEN. I wish to reply to one remark made in that paper where the gentleman, whoever he is—Mr. Wilson, I suppose—states that the other people were represented before the committee and he had no chance to be, &c.

Mr. WADE. No; he does not say any such thing.

Mr. FESSENDEN. Then you said it.

Mr. WADE. No; I did not.

Mr. FESSENDEN. There was something of that kind said.

Mr. WADE. I think not. I do not think he mentions anything about that. He strikes right on his subject.

Mr. FESSENDEN. Then the Senator said something about it.

Mr. WADE. No; I did not say one word about it.

Mr. FESSENDEN. It is either one way or the other; I do not know which. Now, all the evidence there was before the committee I read to the Senate.

Mr. WADE. I will state what I did say, as it occurs to me now. I said I would read a paper from a gentleman engaged in this business, because I had observed from the statements of the committee that they derived much of their information in the same way; that that was the only way they could derive it, as these men engaged in the business were the only ones that knew all about it. That is what I said—nothing more.

Mr. FESSENDEN. We will not dispute about it. All the information the committee had on the subject, besides what they knew themselves, was derived from the two letters which I read to the Senate. From one of the letters I read it appears—and that contradicts one statement in the paper read by the Senator—that these grindstones cost in the Provinces ten dollars per ton, and the rate of duty, ten per cent. *ad valorem* on the finished article, was one dollar per ton; and this one company that I speak of at one dollar per ton paid \$4,500 a year for duty on grindstones. At the rate in this amendment they would pay \$13,500 a year duty on grindstones, and it would be in that proportion all through.

Now, sir, there is one thing that this Mr. Wilson stated in his letter to me—I am sorry I have not the letter here; I left it in my room—that he was kept out of the eastern market. I asked him if they did not have the entire control of the western country. He said yes, they did; but they could not get their grindstones down in the eastern market at the rates fixed because freights were so high. I met him afterward and had a conversation with him.

The result simply is this: the object is by getting this heavy duty to bring their grindstones from the western market, where they have the entire control, to the eastern market by imposing this heavy additional duty, so that we must do one thing or the other: pay the heavy additional duty, or we must pay the freight from the western country over the railroads of this very heavy, bulky article. That is the amount of it; and if the Senate think that is just or proper, when these men have the con-

trol of the market in the West, the Senate will so vote.

Mr. WADE. The gentleman speaks of this as a very heavy additional duty.

Mr. FESSENDEN. I think so.

Mr. WADE. It is among the lightest duties that have been put upon any article on which you have placed duties. I do not suppose it is over fifteen per cent. There is four dollars per ton on building-stones, which would amount to just about twenty per cent.; but I suppose the increase here would be about fifteen per cent.

Mr. FESSENDEN. If you strike out the ten per cent., which is about one dollar, and put the duty at three dollars, it will be nearly thirty-three and one third per cent.

Mr. WADE. It is a very light duty and it is analogous to all the duties levied on these things, and it is difficult now to distinguish between the principle I am advocating and that the Senate has already passed upon in regard to this other building-stone.

Mr. FESSENDEN. One of the arguments used in regard to freestone was that it was an article of luxury used in veneering and making fine articles, and all that. This is an article of prime necessity, used by everybody, a very cheap article, while that is an expensive one. This is mere rough stone.

Mr. WADE. No, sir, it is not rough stone, not the way they are brought in. Nearly all the work is done upon them that is found necessary to fit them for the business for which they are desired. I can see no difference between the principle of this and the others, and the duty I place lower than it was fixed on the other. But I did not wish to continue the argument upon it; it is understood by the Senate. I ask for the yeas and nays upon it, as I am afraid a division would not disclose a quorum.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 19; as follows:

YEAS—Messrs. Chandler, Conness, Edmunds, Fowler, Frelinghuysen, Howe, Patterson, Sherman, Van Winkle, Wade, Willey, and Yates—12.

NAYS—Messrs. Brown, Buckalew, Cattell, Cragin, Davis, Fessenden, Hendricks, Johnson, Lane, McDougall, Morgan, Morrill, Norton, Poland, Ramsey, Sprague, Trumbull, Williams, and Wilson—19.

ABSENT—Messrs. Anthony, Cowan, Creswell, Dixon, Doolittle, Fogg, Foster, Grimes, Guthrie, Harris, Henderson, Howard, Kirkwood, Nesmith, Nye, Pomeroy, Riddle, Ross, Saulsbury, Stewart, and Sumner—21.

So the amendment to the amendment was rejected.

Mr. EDMUNDS. I move to amend the bill on page 89, section fifteen, by striking out the word "twenty" in lines six, seven, eight, and nine, and inserting "thirty;" so that the clause will read:

On animals living, namely, on horses, mares, colts, asses, and mules, thirty per cent. *ad valorem*; on neat cattle, thirty per cent. *ad valorem*; on sheep, goats, calves, and swine, thirty per cent. *ad valorem*; on all kinds not otherwise herein provided for, thirty per cent. *ad valorem*.

I think that the rate imposed upon these animals, as compared with the *ad valorem* rate upon all other classes of importations, is below the just average; and inasmuch as all these animals are of Canadian production, or else are very high-priced imported animals from abroad, that thirty per cent. *ad valorem* is not too much, either for revenue or protection. I call for the yeas and nays upon the amendment.

The yeas and nays were ordered; and being taken, resulted—ayes 14, nays 16; as follows:

YEAS—Messrs. Chandler, Creswell, Edmunds, Frelinghuysen, Grimes, Kirkwood, Lane, Norton, Poland, Ramsey, Trumbull, Van Winkle, Wade, and Yates—14.

NAYS—Messrs. Brown, Buckalew, Cattell, Davis, Fessenden, Hendricks, Johnson, McDougall, Morgan, Morrill, Patterson, Sherman, Sprague, Willey, Williams, and Wilson—16.

ABSENT—Messrs. Anthony, Conness, Cowan, Cragin, Dixon, Doolittle, Fogg, Foster, Fowler, Guthrie, Harris, Henderson, Howard, Howe, Nesmith, Nye, Pomeroy, Riddle, Ross, Saulsbury, Stewart, and Sumner—22.

So the amendment to the amendment was rejected.

Mr. EDMUNDS. I have two or three other amendments I should like to offer.

Mr. SPRAGUE. If the Senator will give way, I desire to add a proviso to the section he is upon that I think will commend itself to him and to the Senate.

Mr. EDMUNDS. I hope my friend will allow me to go through with the amendments that I propose to this section. I propose to amend on page 92, section fifteen, by inserting after line seventy-nine:

On oats, ten cents per bushel.

I think that is an accidental omission in the bill. On a careful search I am unable to find any place in the bill where any impost is laid upon oats. The present rate is ten cents per bushel, and is probably right. It ought to be at least that; and I presume it to be an accidental omission.

The amendment to the amendment was agreed to.

Mr. EDMUNDS. I move to amend the bill touching the subject of lumber. On page 93, section sixteen, line nine, I move to strike out the words "whitewood and" and to insert after the words "basswood," in the same line the words "and pine, valued at not over ten dollars per thousand feet;" so that the clause will read:

On sawed boards, plank, deal, and other lumber of spruce, hemlock, basswood, and pine, and valued at not over ten dollars per thousand feet, one dollar per thousand feet, board measure.

The object of this amendment is to place whitewood, which is a costly wood and enters into the finer descriptions of architecture, under the two dollars a thousand head which follows. That is the first object.

Mr. CHANDLER. You put whitewood in a higher class?

Mr. EDMUNDS. Yes, sir.

Mr. CHANDLER. That is right.

Mr. EDMUNDS. With the high-priced pine in the two-dollar class. I presume no objection will be made to that.

Mr. FESSENDEN. I presume the Senator is mistaken in that.

Mr. EDMUNDS. Very likely; I generally am; but having been, with a great many other Senators, born and brought up in a country where lumber is one of the chief commodities, we have some personal knowledge, not derived from any interested party either, as to the respective classifications and values of lumber. Now, if the object of the committee be to obtain revenue from lumber, whitewood, which sells in the New England markets at from twenty-five to fifty dollars a thousand, ought to be in the higher class, so as to pay the highest rate of duty per thousand feet. It will be remembered that this is a specific duty and not an *ad valorem* one; and so in order to make the higher-priced and higher-valued commodities pay their proper per cent. we must classify them as they ought to be; so that whitewood ought to be in the class that pays the higher rate of duty. So much for that.

Now, as to pine. Pine by my amendment is inserted in this first class together with the other descriptions of wood, provided the valuation in the foreign market does not exceed ten dollars per thousand feet. There is, as is well known to everybody who is acquainted with the subject, a certain class of pine lumber which in the foreign market and in the home market is very inferior. It is knotty, or shaky, or otherwise unsound, and it is used for the commonest and cheapest purposes of business—the making of fences, the covering of cheap buildings, and of the inferior and humble houses, so to speak, to which other cheap descriptions of lumber are applied. Therefore, it seems to me that all this class which comes in under the dollar a thousand head ought to be limited in its price in the foreign market to ten dollars, and thus to pay ten per cent. by the tax of a dollar a thousand upon it; and all the rest of the commodity that comes under the two dollars per thousand rule will be covered by the increased valuation above ten dollars per thousand.

This is a subject in which my constituents

have no other interest than that which is felt by every class of the community, because they are neither great producers nor great consumers of lumber; but from my acquaintance with the subject, and from the acquaintance with the subject which my constituents have who deal in it, and who do not particularly care, so far as they are concerned, what the duty may be, except to have it best for the country, in this view I have proposed this amendment.

Mr. FESSENDEN. As I understand, whitewood is a very cheap wood. It is used a great deal for linings for furniture and one thing or another of that sort. I suppose the next move will be, after raising that from the lower class, to put up the duty on furniture, because it costs so much more for whitewood than the furniture will cost more. Pine is considered the most valuable lumber; and in this, as in other tariffs, has been placed in a higher scale than other kinds of wood of that description.

I think it operates a little differently up there in Vermont, where the Senator lives, from the duty on animals. They have got animals enough, but they have not got pine enough, and "for the benefit of the American laborer" they would like to get pine a little cheaper from the Provinces. I cannot account in any other way for the fact that the Senator wants to change the present classification, which is the proper one, as I believe. The Senate will do as it pleases about it. I believe my friends up in Michigan feel a little interest in this matter with regard to the duty on pine and the transfer of it to the two-dollar instead of the one-dollar schedule. I leave the question, therefore, to the honorable Senator from Michigan.

Mr. CHANDLER. I ask the Secretary to read the amendment again.

The Secretary read the amendment:

Mr. FESSENDEN. I will suggest in addition, before the honorable Senator from Michigan goes on, that as this is to be a matter of valuation we do not know what kind of lumber will come in under the valuation of ten dollars a thousand feet.

Mr. CHANDLER. I hope the amendment will not be made if pine is put in. I understood the Senator from Vermont to say that he proposed to put whitewood at two dollars a thousand of a certain quality; but I object to inserting pine. I hope the amendment will not be made.

Mr. EDMUNDS. I wish to say one word in reply to my friend from Maine, who suggests the difficulty as to valuation. I have discovered the secret of making this classification by valuations from the committee itself. In the case of oil paintings, which I take it is quite as difficult to classify in respect to valuation as lumber, they take exactly that rule; that is, upon pictures valued at not exceeding a certain sum they place a certain tax; and upon pictures valued exceeding that sum a certain other tax; and I think that is not an unusual or improper proceeding. The committee did right in that respect; but having done right in that respect, I am sorry to see them turn around and object to a similar proposition based upon the same principle upon the mere ground that it will be difficult to ascertain the classification between one kind and another.

Now, it is well known to the customs officers in the United States, in every port into which lumber is introduced, that there is practically a classification now by value, although there is a simple *ad valorem* duty; and the first thing that the inspector of lumber does is to see that the lumber is properly classified into the assortments that are sold in the market under one head or another. That classification having been made, then the duty of twenty per cent., as the present law is, is imposed upon it. There is no practical difficulty whatever among practical men in reaching a classification of that description.

Mr. CHANDLER. This valuation of course will be the Canadian valuation. If you come to a classification it will be open for very great

fraud. Lumber, as is well known, all costs about the same, and it is then graded for manufacture. Somewhere about one fifth is clear lumber; another portion of it middling clear; another common; another culls. It is shipped usually altogether, and sold altogether, and then assorted by the purchaser, and he fixes its different grades of valuation. The commonest pine lumber is worth in our markets much more than the price fixed in this amendment; but with the Canadian valuation, and with the opportunities for fraud, I am satisfied that this amendment will work injury to the lumber interest. I hope that it will not be adopted in this present form. I should be in favor of putting whitewood of a certain quality into the higher list, but not of putting pine in a lower one.

Mr. KIRKWOOD. I think there cannot be any practical difficulty whatever in distinguishing between lumber at ten dollars and lumber valued at over ten dollars. I know there is no practical difficulty when you go to buy it. There are but few kinds of lumber that will come in under the reduced duty. The lowest-priced article sold in the Chicago market is now selling at twenty-one and twenty-two dollars per thousand; and that is only fencing lumber, joists, scantling, and small timber. There is none except that which is selling in the Chicago market at less than thirty dollars and from that to sixty dollars per thousand. There is not, and cannot be, any practical difficulty whatever in making the distinction between lumber worth ten dollars and lumber worth more than ten dollars; and the adoption of this amendment will have a tendency to reduce the price of the lower grades of lumber that enter into the fencing of the West, that every man living in the West is interested in having reduced. I had occasion to say the other day, in a few remarks on this subject, that we used pine boards in fencing our prairies. It is an absolute necessary for us; and it does seem to me strange that we insist upon placing duties upon articles that are thus of prime necessity to men living in our western States at least.

Mr. WILSON. Did you vote to raise the duty on wheat?

Mr. KIRKWOOD. Certainly I did.

Mr. EDMUNDS. Canadian wheat is not a necessity.

Mr. WILSON. It is a raw material.

Mr. KIRKWOOD. We can raise all the wheat in this country that we consume, and do raise all that is necessary for the consumption of our country and a large surplus besides.

Mr. FESSENDEN. Then why do you want a duty of forty cents on it?

Mr. KIRKWOOD. To prevent that of Canada coming into competition with ours. I am told, I do not know how truly, that the extent of pine forests in this country is not very large. We have some in Michigan, some in Wisconsin, some in Maine, perhaps some upon the upper waters of the Susquehanna river. It is not an inexhaustible supply. We were talking about taxing coal the other day, of which we have an inexhaustible supply, a supply that will last for centuries, and gentlemen were unwilling to put a tax upon that to develop that which we had in inexhaustible quantities. The quantities of lumber we have are far from being inexhaustible. They are small compared with the demands of the country; and it does not seem to me to be wisdom to follow such a plan as will exhaust our own forests and compel us to rely in the future entirely upon the forests of Canada.

We have then, I think, two objects to secure by this proposition: to get the lower grades of lumber, the very commonest kinds of lumber, such as are absolutely essential for the development of the prairie country at a low price, and at the same time save to some extent our own forests for future use.

Mr. HOWE. There is no practical difficulty in fixing the valuation of lumber, especially if you leave the Canadian manufacturer to do it. The practical effect will be that all pine lumber

manufactured in Canada will be valued at less than ten dollars, and will come in at one dollar duty under the amendment proposed by the Senator from Vermont. Now, one of the great inducements held out to induce the country to repeal the reciprocity treaty was that Canadian lumber was coming in competition with ours. Carrying out the promise of greater protection to our lumber interest, it is now proposed to admit all pine lumber from Canada at one dollar a thousand. That is practically the proposition. That will be the practical effect of it. That does not begin to pay the difference between the cost of manufacture in this country and the cost of manufacture on the other side of the line.

The internal duties that our lumbermen have to pay on their machinery, and the indirect taxes they have to pay, will more than eat up the two dollars that is provided for by the bill as it now stands, and this duty is therefore very light, and I can hardly believe the Senate will be prepared to reduce it, notwithstanding, I suppose, there are but very few of the Senate whose constituents are directly interested in this manufacture. That is true of a great many other manufactures that we have endeavored to take care of in this bill. If one article so important as this, the manufacture of which amounts to about one hundred million dollars annually, is selected out and made a burnt-offering, as it were, for all the rest, it does not look to me like equal justice, and I hope the Senate will not agree to it.

The amendment to the amendment was rejected.

Mr. EDMUNDS. I now propose another amendment on the subject of lumber, which I trust will meet the approbation even of the committee. It is on page 93, section sixteen, line nine, to strike out "spruce, whitewood, and basswood;" so that that clause will read:

On sawed boards, plank, deals, and other lumber of hemlock, one dollar per thousand feet, board measure.

And after line ten to insert the following:

On spruce and basswood, \$1 50 per thousand feet, board measure.

On pine, whitewood, ash, and oak, two dollars per thousand feet, board measure.

On black walnut, \$2 50 per thousand feet, board measure.

The classification which I have proposed in this amendment is suggested to me by a gentleman engaged in importing lumber, and I think the committee will agree that it increases on the higher-priced and more valuable descriptions of lumber somewhat the rate. The interest of this gentleman, if he has any to injure his country, would be in the opposite direction; and so far as my knowledge goes—I admit it is not equal to that of the committee on the subject of lumber or anything else—it is a classification which is much more appropriate than the one proposed by the committee. It leaves hemlock lumber just as it stands.

Certainly on the northern frontier spruce lumber and basswood bear a much higher rate of value than hemlock does, and therefore it is just that they should pay a somewhat higher rate of duty. Then pine is left by this amendment just as it stands now. Whitewood is put with pine. That subject has already been discussed sufficiently. Ash and oak are also put with pine, and there is no change on those, because under the present amendment of the committee they come in under the head of "other varieties of lumber" at the same rate of two dollars per thousand, while black walnut, which is a much more costly article, and also one of a higher degree of luxury, so to speak, is put at half a dollar a thousand feet more. It does seem to me, if you look at it candidly and with a reasonable desire to classify it correctly, that these classifications ought to be satisfactory to the committee.

Mr. FESSENDEN. I hope the amendment will not be adopted.

The PRESIDING OFFICER put the question, and declared that the ayes appeared to have it.



Mr. FESSENDEN. Let us have a division. This duty is as low as it ought to be.

Mr. EDMUNDS. This amendment makes it higher for the higher-priced lumber.

Mr. FESSENDEN. We have got on the importer's side now, and I shall make the same objection to that that I did to the other.

Mr. EDMUNDS. I ask for the yeas and nays on the amendment. We cannot get a quorum in any other way, it seems.

The yeas and nays were ordered.

Mr. SHERMAN. Since the yeas and nays are called for on this amendment I desire to say a word or two about it. There is very little difference between the proposition made by the Senator from Vermont and the proposition contained in the bill. My own individual interest, the interest of the people of my State, is against this proposition. The State of Ohio, of course, uses a considerable amount of lumber. Fifty years ago the whole of the State was an immense forest, with scarcely a plain or an opening; but now most of the lumber used in the State of Ohio is imported from Michigan.

This change has all been effected in fifty years. We import a great deal from Canada, and therefore the interest of our people is to have cheaper lumber; but at the same time it will be seen that the duty on lumber is lower than on any other article in the whole tariff list. The rate proposed by the Senator from Vermont, to my knowledge, will not exceed five per cent. I do not think it is five per cent. The rate proposed on walnut is \$2 50 a thousand, and the market price ranges from thirty-five to fifty dollars a thousand; sometimes seventy-five dollars a thousand. So on ordinary sawed lumber. Clear pine is worth even in Detroit from thirty-five to sixty-five dollars a thousand. It seems to me two dollars a thousand is a very small rate of duty. Although I am perfectly willing to vote for the bill as reported from the committee, yet it seems to me there is so little difference between it and this classification of duty that I feel disposed to vote for it, and perhaps the chairman will be willing to let it go, because the classification is much better. The division into three or four classes is just to correspond to the difference in the value of the various kinds of lumber. I could not understand the proposition made by the Senator a little while ago to put a duty on lumber that is worth less than ten dollars a thousand, because I do not know that lumber of any kind can be bought for ten dollars a thousand. With us on the border, right near the market, the coarsest quality of lumber, even slab lumber, would be worth ten dollars a thousand, and that proposition would not apply to any lumber; but as this amendment is now drawn I think it makes a fair discrimination, and makes a rate of duty not to exceed five per cent. That is certainly not too much.

Mr. FESSENDEN. The amendment as offered does not describe it as sawed lumber at all. It simply means lumber.

Mr. EDMUNDS. No, sir; you are mistaken about that.

Mr. FESSENDEN. I should like to hear it read again.

Mr. EDMUNDS. It preserves the first branch of the clause as it stands, and then follows right on.

Mr. FESSENDEN. How would it read?

The SECRETARY. The first branch of the amendment is to strike out the words "spruce, whitewood, and basswood;" so that the clause will read:

On sawed boards, plank, deal, and other lumber of hemlock, one dollar per thousand feet, board measure.

And after line ten to insert:

On spruce and basswood, \$1 50 per thousand feet, board measure.

On pine, whitewood, ash, and oak, two dollars per thousand feet, board measure.

On black walnut, \$2 50 per thousand feet, board measure.

Mr. FESSENDEN. I should like to have it described as sawed lumber throughout, so that there shall be no mistake.

Mr. EDMUNDS. I have no objection to that. Following in the same classification, I thought that the words "sawed," &c., would apply to them. If the Senator from Maine has any doubt about that, I will modify the amendment by adding before each one of these subsequent clauses, "on sawed boards, plank, deal, of pine, of spruce, and basswood," so as to attach that description to each one of the classifications. It did not appear to me that it would be open to this construction as it stood.

Mr. FESSENDEN. Does the Senator leave in the proviso?

Mr. EDMUNDS. Oh, certainly; the proviso attaches to all other varieties of lumber.

Mr. FESSENDEN. The proviso attaches to lumber of every sort.

Mr. EDMUNDS. Certainly; I leave it just as it stands, applying to everything.

Mr. FESSENDEN. I should like to have the whole read as it will stand, if amended.

The Secretary read as follows:

On sawed boards, plank, deals, and other lumber of spruce and basswood, \$1 50 per thousand feet, board measure.

On sawed boards, plank, deals, and other lumber of pine, whitewood, ash, and oak, two dollars per thousand feet, board measure.

On sawed boards, plank, deals, and other lumber of black walnut, \$2 50 per thousand feet, board measure.

Mr. FESSENDEN. The next lines "on all other varieties of lumber" should be retained.

Mr. EDMUNDS. My motion does not apply to the succeeding part. That stands just as it now reads.

Mr. FESSENDEN. Very well.

The PRESIDING OFFICER. The Secretary will call the roll on the amendment.

Mr. EDMUNDS. If there is no real objection to the amendment, I will ask the unanimous consent of the Senate to withdraw the call for the yeas and nays.

The PRESIDING OFFICER. Is there any objection to the withdrawal of the call?

Mr. FESSENDEN. All I can say is this: I suppose this proposition would suit my constituents; it raises the price of lumber, and I live in a lumber State; but the bill as it stands was discussed and considered and finally adopted in the committee, and I feel disposed to act with regard to this clause in good faith as I have upon all other matters upon which the committee agreed, and not to change my position simply because it happens to apply to my own State particularly in this instance. I am obliged, I find, to contend against members of the committee, as well as other gentlemen, and I am pretty much tired of the whole thing.

Mr. SHERMAN. There was no occasion for the last remark of the Senator from Maine. I will do in regard to this matter as I think right. I never committed myself to vote for this particular clause; on the contrary, I expressly disclaimed it in committee, and said that if necessary I should move to increase the duty on lumber; and it is unnecessary for the Senator to make such remarks here to me.

Mr. FESSENDEN. I have no recollection of anything of that sort.

Mr. SHERMAN. I stated it in committee, and I state it now; and even if it were not so, I did not propose to bind myself to adhere in all cases to the action of the committee, not by any means. Where I think they are right I adopt the suggestions made in debate, and shall do so.

Mr. FESSENDEN. The Senator is at liberty, unquestionably, to do just as he pleases; I do not dispute his perfect right to do it; but it makes it very difficult for me as chairman of the committee to bring in a bill here, upon all the items of which the committee have agreed, with perhaps one or two exceptions where notice was given in committee of a disagreement, and not only be obliged to meet gentlemen on the different sides of the Senate, who have their particular objects to accomplish with regard to particular things, but while I must adhere to it, as chairman of the committee, representing the committee in all cases, to have the different members of the committee

at perfect liberty to vary just as they think proper to be right, after the matter has been decided, and leave me to stand alone to defend the action of the committee, and see if I can get the bill through. While I do not dispute the right of Senators to do so, I say it makes it pretty difficult for the chairman. I think the chairman has a right, ordinarily, to the aid of the members of the committee.

Mr. EDMUNDS. I have only to say this in respect to the committee, and it may as well be said once for all: I entertain the highest respect for the ability, the fidelity, the faithfulness, and the courage of the committee; but I do not think it right for the committee to say that it is not perfectly right and just and fair and fit for the Senate to make any suggestions of amendment to the report of the committee.

Mr. FESSENDEN. I do not complain at all of the Senator or any other Senator.

Mr. EDMUNDS. There ought to be no feeling about it, because the committee are not necessarily infallible. If the committee were, we might as well dispense with the rest of the Senate. I know it is sometimes said, "What is the use of having a committee unless you follow their report?" I reply by saying, what is the use of having a Senate unless they can review the report of the committee? I think we had better all dismiss any feeling on this subject, because this subject of basswood and whitewood, and so on, is not a very exciting subject, [laughter,] and proceed to consider for a moment, with candor and without any feeling, the precise point which is under consideration.

This classification leaves hemlock just as it stood; and we may dismiss that. It leaves pine just where it stood. There is no occasion to have any quarrel about that. It increases the duty on spruce and basswood fifty cents per thousand feet. Now, I assert (and if I am incorrect I call upon the honorable chairman of the committee to correct me) that the market price, in every place where the two articles are sold of spruce above hemlock is greater than the difference which is here made. It is a higher class lumber. It is used generally for different purposes: for floors, for the finishing of the poorer classes of houses; whereas hemlock is not generally. In addition it may be said that many varieties of basswood are used for the finer descriptions of carriage-making; also in some degree for interior finishing. It can therefore justly bear a higher rate of duty. I am not speaking in the special interest of my constituents when I venture to make the suggestion, but in the interest of the revenue and in the interest of the country. There is no occasion, therefore, for any feeling upon this subject at all.

With the consent of the Senate, in order to expedite proceedings, I will withdraw my call for the yeas and nays, in the hope that upon a division, if one should be demanded, Senators will vote one way or another so as to produce a quorum.

The PRESIDING OFFICER. Is there any objection to the withdrawal of the demand for the yeas and nays?

Mr. FESSENDEN. I would rather that the vote should be taken by yeas and nays.

The PRESIDING OFFICER. Objection being made, the question will be taken by yeas and nays.

The question being taken by yeas and nays, resulted—yeas 15, nays 17; as follows:

YEAS—Messrs. Cattell, Chandler, Cowan, Edmunds, Fowler, Frothinghams, Henderson, Howe, Morrill, Poland, Sherman, Sprague, Van Winkle, Wade, and Willey—15.

NAYS—Messrs. Brown, Buckalew, Connors, Creswell, Davis, Fessenden, Grimes, Hendricks, Johnson, Kirkwood, McDougall, Norton, Ramsey, Trumbull, Williams, Wilson, and Yates—17.

ABSENT—Messrs. Anthony, Cragin, Dixon, Doolittle, Fogg, Foster, Guthrie, Harris, Howard, Lane, Morgan, Nesmith, Nye, Patterson, Pomeroy, Riddle, Ross, Saulsbury, Stewart, and Sumner—20.

So the amendment to the amendment was rejected.

Mr. EDMUNDS. I ask the indulgence of the Senate for a few moments to submit one other amendment, which may possibly meet the same fate with some of the others, but which is nevertheless just. On page 86, section thirteen, line forty-nine, I move to strike out the words "fifty cents" and to insert "one dollar;" and in line fifty to strike out the words "and twenty per cent. *ad valorem*;" so that the clause will read:

On all other marble, in slab or block, one dollar per cubic foot.

Mr. President, when this subject was under consideration the other day it was stated as an effective argument, by my friend from Maine, against this provision which was agreed upon in the House and sent to us, that the marble interests, as he understood it, of Vermont were not suffering, and he called upon me to state whether they were or not. Not having information of a reliable description upon that subject I would not say that they were, because I felt it to be my duty to the Senate to be careful, as I trust every other Senator is, in stating any matter of fact upon which the Senate is to act, to state it within bounds. Since that time I have had a conversation with an eminent and highly respectable gentleman of that State engaged in the business of quarrying and working statuary marble of the description that comes under this clause that I am seeking to amend, and who, although he has a complete knowledge of the whole subject has no interest in this description of marble.

This gentleman tells me that at the present rates of duty and with the present competition of Italian marble, introduced, as it undoubtedly is, at a false valuation, at only sixty cents or thereabouts per foot instead of sixty-five, as I stated the other day, the marble production of Vermont is absolutely in distress, and that the stock of marble produced of the veined description is accumulated on the hands of the quarrymen and the marble-workmen. He also states, what I stated before, that under the present tariff increasing the rate from the old law the increase of revenue has been very considerable. He also states, what I was in error in stating otherwise the other day, that not only is the revenue increased but under this present increased rate the importation still continues to increase above what it was before.

We have, therefore, this case for the candid consideration of the Senate: here is an interest in which millions of dollars are invested; and a very large number of persons are engaged in labor in making this capital invested productive. The product, this veined marble which comes in competition with the cheaper descriptions of the Italian marble at the present rates, with the present internal revenue tax, with the present price of gold, being nearly one hundred cents lower than it was when the last tariff act was passed in 1864, is unable to compete with this foreign production, and therefore the foreign importer sells his blocks of the veined marble, which comes in competition with this description of which I am now speaking, at a rate which enables him to command the market against the home producer.

Now, upon these facts, which I am willing to vouch for myself, because I know so well the honor and integrity of this gentleman, who lives in the marble district and states the fact to me, I submit it to the candid judgment of the Senate whether it is right when you have increased the duty almost up to the House rates, and increased it on everything above the old law almost, that you should still leave this one single interest just as the present law is. Is it right? Is it just? Is it doing that justice to one description and one class of industry which has been done—and I am glad it has been done—to other classes of industry that needed it?

I was not able to say upon my knowledge the other day that this class of industry did need it in the face of the statement of my friend from Maine, that these gentlemen had more orders than they could fill. As applied to the

white or statuary marble, which is superior to the Italian altogether, it is true; because that description of marble is somewhat scarce and therefore the orders for it are as great as can be filled. As to this veined description of marble which makes your table-tops and your wash-stands, and most of your mantels and that sort of thing, the truth is otherwise.

Now, upon this state of facts I think it right that the Senate should extend to this branch of industry the same protection which you have extended to other branches of industry, and to give us that protection which, while it increases your revenue, as your experience so far has shown that this increase of duty does, will protect in some measure this large branch of industry.

Mr. MADDOUGALL. Mr. President, the question now is, whether everybody shall be protected in building and working marble, or whether we shall all be protected ourselves. In that lies the whole problem. We hear now persons constantly asking for protection, from Salem, for instance, from Boston, from Lynn, wanting something about the introduction of coal from the Provinces and a duty on wool. Wool came first. The first question of wool was from the State of the Senator from Vermont, where they made first the whole question about protection. It comes now from some parts of the West, and at last we have got to have wheat protected, and lumber protected, and we here talk about the difference between whitewood and basswood, but without understanding their distinction, as if pine were of the same family. It all amounts simply to this: that all of us in our great country, bordered by the seas and the great lakes, from every locality are looking constantly and continually after our own little local interests. Sir, if we cannot avoid that and lay the base of our system upon the revenue and the needs of the Government with regard to equality, East, West, North, and South, over this great continent, we cannot last.

I did not have the opportunity to express my views about the matter when I had to change my vote yesterday. I misunderstood the pending question about the introduction of coal from the Provinces here, to promote industrial operations in New England, as against all the people of the United States. We have coal and iron and all those things in the mountains and in the valleys throughout the country where I inhabit. But my people ask no protection: they protect themselves. The objection to all these measures that are multiplied upon us until they are almost infinite is that they make us a diverse people instead of being one people. If an interest grows up in Rhode Island connected with the reeling of cotton it must be specially attended to by the Senators and Representatives from that State, and so throughout the country. I believe my friend from Ohio [Mr. SHERMAN] has not asked for protection upon pork, at least not that I remember; but there are gentlemen here asking for the protection of wheat. Suppose that I should ask that gold should be protected in its production, or silver, or copper, or any of the results of our great mining interests, or any of those things that are being now developed on the Pacific coast; what would be thought of it? I should be laughed to scorn; I should not get the approbation of even a small minority; and yet I have the same right to ask that the laborers in the mines of the West, Colorado, Dakota, Idaho, Montana, Oregon, and California, my own State, should be protected, and that interest is more worthy of protection on account of the internal economy and according to the true rules of conducting a Government that wants a money basis for its circulation. This interest is entitled, I will not say to protection, but to promotion, and in any State in Europe would be aided, not protected, advanced by the Government. Those interested in these pursuits have never asked protection. All they have asked is not to be crowded with impositions.

Sir, until we go back to a system of legisla-

tion that shall treat North and South and East and West upon the same cardinal principle of equality we shall never have recovered our former status, and shall not be in as healthy a condition as when we passed the tariff law of 1846. My constituents seek no legislation for protection; but if there is any part of the continent of North America that might ask for it with justice it is a people who have developed the wealth that has built your palatial residences in New York, Newport, Boston, and elsewhere. But, sir, they have asked nothing; they have rendered their labor and sent you gold. I am satisfied that the chairman of the Committee on Finance is endeavoring to conduct business properly, but I wish we might get back to some basis governed by a systematic policy.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Vermont.

Mr. EDMUNDS. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken resulted—yeas 12, nays 15; as follows:

YEAS—Messrs. Chandler, Connors, Edmunds, Fowler, Frelinghuysen, Hendricks, Howe, Kirkwood, Poland, Sprague, Wade, and Wilson—12.

NAYS—Messrs. Buckalew, Cowan, Davis, Fessenden, Grimes, Lane, McDougall, Morrill, Ramsey, Sherman, Trumbull, Van Winkle, Willey, Williams, and Yates—15.

ABSENT—Messrs. Anthony, Brown, Cattell, Cragin, Creswell, Dixon, Doolittle, Fogg, Foster, Guthrie, Harris, Henderson, Howard, Johnson, Morgan, Nesmith, Norton, Nye, Patterson, Pomeroy, Riddle, Ross, Saulsbury, Stewart, and Sumner—25.

So the amendment to the amendment was rejected.

Mr. CHANDLER. I move on page 66, in line six hundred and nineteen of section nine, to insert "one and" after "ash;" so as to read:

On soda-ash, one and a half cent per pound.

Soda-ash is an article that goes largely into the consumption of the country. We import an immense quantity of it—eighty thousand tons. I propose to put up the duty from a cent to a cent and a half.

Mr. WILSON. What is it used for?

Mr. CHANDLER. For the manufacture of glass, for the raising of bread, and for a thousand purposes. It is an article of absolute necessity. The constituents of it are salt, sulphate of copper, limestone, and wood; and that is all there is in soda-ash; these are the entire articles used in the composition.

At this time we have one establishment that cost several hundred thousand dollars in Pittsburgh, Pennsylvania; but we have the materials in the greatest abundance all over the country. Now, in case of a war with Great Britain the price of soda-ash might go up to fifty cents a pound in ten days. At one time there was a prevalence of westerly gales for a few weeks, and the price of soda-ash went up from four or four and half to fifteen cents, and remained there for two months. It is an article of prime necessity, and we have the materials for its manufacture in the greatest abundance and ought to produce it. It is a very cheap article, costing now only four and a half cents a pound. The manufacturers tell us that with a duty of a cent and a half a pound they can produce and will produce within a very short time all that the country requires. This increase of duty will not diminish the use of it to the amount of a pound while we are getting under way. We have salt in the greatest abundance. Sulphate of copper is to-day exported from the Lake Superior region to England to be turned into soda-ash and brought back to Michigan, and there used in the manufacture of glass and for the raising of bread.

It seems to me that if so small a duty as a cent and a half a pound will enable our own manufacturers to produce this enormous quantity, for it is really enormous, that is used in the country, we ought to grant that little protection, and I hope this amendment will prevail. It will increase the revenue immensely and enable us to take the duties off tea and coffee and things that the poor people use.

Beside the articles that I have named for which soda-ash is used, I might mention soap, and I might name many other things in the manufacture of which it is used. It is an article of prime necessity. We now use about eighty thousand tons of it. This establishment in Pennsylvania, which cost some two or three or four hundred thousand dollars, is lying idle for want of a little protection. I think the article is one which should receive protection in this way, and I hope the amendment will prevail.

Mr. HENDRICKS. I do not know whether this bill has any friends in this body or not. If it has any they had better come to its rescue. I think, judging from the debates and the amendments which have been offered, that this city is full of the representatives of every interest in this nation, and that every night they see somebody, and some gentleman of this Senate suggests this amendment, and another that one, and so on, and every night furnishes material for amendments and food for debate in this body. If the bill is going to pass at all, it seems to me that its friends had better come to a conclusion and pass it. There is no difficulty, so far as the enemies of the bill are concerned, I believe. The little squad on this side, I believe, are unanimous against it, having some little support on the other side; but we do not intend to throw any difficulties in the way of the speedy conclusion of the consideration of the bill; but it would be a matter of comfort if there could be some prospect in the future of getting through. "Variety is the spice of life," and I would like to hear of another bill being taken up in the course of this session. [Laughter.] I think myself the bankrupt bill will be the next bill in order properly: pass this, and then we ought to take up the bankrupt bill. [Laughter.] I think it has a logical connection with this bill. Let us finish this bill, pass it, then pass the bankrupt bill, and then adjourn.

The purpose I had in taking the floor at this time was to make a suggestion to the friends of the bill to show their attachment to it by coming to some results. The supply seems exhaustless; one amendment is considered and voted down; another amendment very much like it is brought up; we have got to discuss that at equal length, and so on. Now, there are some things that can be understood without great elaboration. Take my friend's subject [Mr. WADE] of grindstones. It seems to me one man can see as far into a grindstone as another. A reasonable amount of speaking on the subject of the grindstone would enable us to understand it. I use this merely as an illustration. My friend's argument was exceedingly brief and very clear, and went as far into the grindstone as was possible; but when a thing is reasonably understood I think we might as well vote upon it. I do not intend to abuse the Senate by occupying any more of its time on this bill; I intend to take about two seconds in recording my vote against it.

Mr. CATTELL. I agree most heartily with the Senator from Indiana that both the Senate and the country would be very much rejoiced if the Senate got through with the tariff bill and were engaged in something else; and I most perfectly agree with him, too, that if the result he desires shall be accomplished, namely, the defeat of the bill, the most appropriate thing to pass next would be the bankrupt bill. I have not the slightest doubt that with the views he has expressed and entertains with regard to the bill he wishes its defeat; and if that result should ensue the bill to which he has alluded as coming in such proper connection with this would then be very well in place.

I shall be exceedingly happy, quite as much so as the Senator from Indiana, when the Senate shall have disposed of this question; and I think I express most heartily the sentiments of the chairman of the Finance Committee, who has stood here day after day faithfully attending to what he conceived to be the interests of the country and of the Senate in regard to this bill, when I say that he will also be

pleased at that result. It is neither his fault nor the fault of the friends of the bill particularly that it is embarrassed by these long discussions. It is a natural result which must come from a bill of such importance as the one before the Senate—so much of detail—a bill which proposes to sweep out of existence six or seven remnants of tariff bills, and to supply their place with one which, it was hoped, would be considered more perfect.

But I did not rise for the purpose of doing other than objecting to the amendment of my friend from Michigan relative to soda-ash. I have only to say in regard to that that if I could have it so soda-ash would be one of the articles I would admit free of duty, as being the base of a large number of our manufacturing articles, a very large number. I do not think our country is adapted to the manufacture of soda-ash; it has been tried; experiments have been made with it without success in a number of instances, and it has hitherto been free or nearly free. It is now proposed to put on a duty of half a cent a pound, ten dollars a ton, simply as a matter of revenue. That will give us an importation of eighty thousand tons; \$800,000 of revenue. I think it is wise and proper to impose a duty of half a cent a pound on this article, which, in the present condition of the country, cannot, I think, be manufactured here even if we impose the proposed duty. Even if it could be, that rate is too high, because the article on the other side in ordinary times is not worth more than a penny or a penny and a half penny. The duty proposed by the committee is for revenue, and I think it ought to be maintained.

Mr. FESSENDEN. Before the question is put I merely wish to make one observation, not to argue it. There are a great many other things in this bill that are predicated upon the duty on soda-ash and if you change the duty on soda-ash you must necessarily go through with those articles and change the duties on them also. I suppose the Senator from Michigan is prepared to do that, to change them all, to make them square with what they should be, provided this duty is raised from half a cent to a cent and a half.

Mr. SPRAGUE. This article of soda-ash is used in bleaching—used probably more extensively than any one article for that purpose. I hope the duty will not be increased.

The amendment to the amendment was rejected.

Mr. GRIMES. On page 91, in the seventy-fourth line of section fifteen, I move to strike out "thirty" and insert "forty," so as to read "on malt, forty per cent. *ad valorem*." The Senate yesterday raised the duty on barley from fifteen cents, which the committee reported as the proper rate, to twenty cents a bushel. My amendment is to raise the duty on barley after it shall be converted into malt from thirty to forty per cent., exactly the same increase that has been voted on barley. This amendment becomes necessary in consequence of the amendment made yesterday increasing the duty on barley. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FESSENDEN. Let us vote it down.

Mr. GRIMES. I desire simply to say that this is a question whether or not we shall have the barley that is raised in Canada converted into malt on the other side of the Canada line or on our own side. We have already increased the duty on barley to twenty cents, and this amendment carries up the duty on malt exactly in the same proportion that we have carried up the duty on barley.

Mr. FESSENDEN. There is no need of carrying it up in the same proportion. That argument is a *non sequitur* entirely. The question is whether thirty per cent. is high enough.

The question being taken by yeas and nays, resulted—yeas 15, nays 12; as follows:

YEAS—Messrs. Chandler, Davis, Edmunds, Grimes, Hendricks, Howe, Kirkwood, Lane, Ramsey, Sherman, Trumbull, Van Winkle, Wade, Wiley, and Yates—15.

NAYS—Messrs. Brown, Buckalew, Cattell, Conness, Cragin, Fessenden, Fowler, Frelinghuysen, Morrill, Poland, Williams, and Wilson—11.

ABSENT—Messrs. Anthony, Cowan, Creswell, Dixon, Doolittle, Fogg, Fester, Guthrie, Harris, Henderson, Howard, Johnson, McDougall, Morgan, Nesmith, Norton, Nye, Patterson, Pomeroy, Riddle, Ross, Saulsbury, Sprague, Stewart, and Sumner—25.

So the amendment to the amendment was agreed to.

Mr. WILSON, (at twenty minutes past ten o'clock p. m.) I move that the Senate do now adjourn.

Mr. FESSENDEN. I ask for the yeas and nays on that motion.

Mr. SHERMAN. I hope the Senator will withdraw the motion to allow me to offer an amendment.

Mr. WILSON. I withdraw it for that purpose.

Mr. SHERMAN. I offer this amendment, to come at the end of line seventeen of section seven, of page 26:

And all provisions of law requiring any railroad company to purchase railroad iron of American manufacture exclusively are hereby suspended for two years from and after the taking effect of this act.

This amendment was submitted to the Committee on Finance, but it was thought better to present it to the Senate, because it modifies several important laws relating to the Pacific railroad. I do not know that it is necessary to explain it very fully, because it explains itself. By the provisions of the act organizing the Pacific railroad that road and its several branches are required to be made of iron exclusively of American manufacture. They have found it very difficult during the last summer to get that iron in sufficient quantities at reasonable rates. The California branch of the road especially has found it extremely expensive to transport railroad iron from Pennsylvania and other parts of the country around to California; and this exclusion prevents them from entering into ordinary competition, a competition which is but reasonable and fair. The United States has a very large interest in the Pacific railroad; it is interested in its rapid construction; and yet the railroad companies are now compelled to pay largely advanced rates on the iron consumed by them on account of this restriction. There is no reason for the restriction in my judgment, because if these companies purchase the iron abroad, as any other railroad company may do, they have to pay the duty when it is introduced here.

I may state the fact that the Pennsylvania Central Railroad Company and other railroad companies connected with it are now purchasing iron in Wales, and transporting it and laying it down alongside of the very works which are making American bars, and shipping them to Omaha and thence westward for the Pacific railroad. To require a company in which the United States has so large an interest to enter into a competition of this kind is simply suicidal.

It may be said that to repeal these provisions of law would be unreasonable, and therefore I have provided only for their suspension for the next two years, in which time it is impossible for the American works now in operation to supply the enormous demand for railroad iron. There is not a single establishment engaged in rolling railroad iron that is not now employed to its fullest capacity. The great number of railroads now building, and the enormous quantity needed to supply the waste material, will keep every rolling-mill, in my judgment, working to its fullest capacity for two or three years.

I think there is no reason for continuing this restriction, at least during the next two years. Perhaps at the end of that time our rolling-mills may be able to supply the demand at reasonable rates. The present price of railroad iron in Wales is only between five and six pounds per ton, not over thirty dollars. Under these circumstances to require this railroad in which we are so much interested to pay the present rates, which I believe are from eighty to ninety dollars, is, it seems to me, unreasonable.



Mr. WILSON. I move that the Senate do now adjourn.

Mr. FESSENDEN. I ask for the yeas and nays on that question.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 14; as follows:

YEAS—Messrs. Brown, Buckalew, Chandler, Creswell, Davis, Fowler, Henderson, Kirkwood, Ramsey, Willey, Wilson, and Yates—12.

NAYS—Messrs. Conness, Cragin, Edmunds, Fessenden, Frelinghuysen, Hendricks, Howe, Lane, Morrill, Poland, Sherman, Trumbull, Wade, and Williams—14.

ABSENT—Messrs. Anthony, Cattell, Cowan, Dixon, Doolittle, Fogg, Foster, Grimes, Guthrie, Harris, Howard, Johnson, McDougall, Morgan, Nesmith, Norton, Nye, Patterson, Pomeroy, Riddle, Ross, Saulsbury, Sprague, Stewart, Sumner, and Van Winkle—26.

The PRESIDING OFFICER. (Mr. EDMUNDS in the chair.) The Senate refuses to adjourn.

Mr. WILSON. Let us have a vote on the amendment.

The PRESIDING OFFICER. The call for the yeas and nays appears to show the fact that no quorum is present.

Mr. TRUMBULL. Some other Senators have come in since.

Mr. McDOUGALL. I desire to have my name recorded.

The PRESIDING OFFICER. The result having been announced, the vote of the Senator from California cannot be received except by unanimous consent.

Mr. SHERMAN. I suppose his appearance makes a quorum.

The PRESIDING OFFICER. By unanimous consent the name of the Senator from California will be recorded in the negative on the motion to adjourn. The Chair hears no objection. The question is on the amendment of the Senator from Ohio.

Mr. RAMSEY. I call for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. HENDRICKS. I do not think the repeal of so important a law as the one proposed to be repealed should take place in a bill like this. My impression is that I was opposed to the original measure which is proposed to be repealed, but the repeal ought not to be in this bill. We have not time properly to consider the question nor to review the considerations that influenced Congress in the adoption of that policy. I have some recollection, though not very distinct, that there were certain privileges granted to the Pacific road in the iron and coal mines along the route that had something to do with this particular provision; but I am not able to-night to refresh my memory about it. I think the proposition is of sufficient importance to come before the Senate as an independent bill. I cannot vote for it as an amendment to this bill.

Mr. SHERMAN. This is the proper place to put this provision if we intend to suspend these laws or repeal them. There is no other bill likely to pass at this session to which it would properly apply. The objection that it is out of place I think is not well taken. This bill levies duties on railroad iron. There is a provision in two or three railroad laws limiting corporations created by Congress to the purchase of American iron. This bill is designed to raise revenue from duties on railroad iron. It seems to me no place could be better for such an amendment. The question is perfectly understood, and I do not want to debate it to-night. I am willing to take the vote without discussion.

Mr. CONNESS. I beg to suggest to the Senator from Ohio that it is very evident that it is unwise to come to a vote to-night on this proposition. As has been stated, it is a pretty important one. I do not know just now how I shall vote upon it myself. There is probably less than a quorum in the Senate at the present time.

Mr. SHERMAN. If any Senator wants to offer any other amendment, I am willing to withdraw this now and offer it in the morning.

Mr. CONNESS. It is very evident to my mind that we shall not be able to proceed any

further to-night. I voted against an adjournment before, but I do not think there is any more business left in the Senate to-night. That is my impression; and I move therefore that the Senate do now adjourn.

Mr. FESSENDEN called for the yeas and nays, and they were ordered; and being taken resulted—yeas 12, nays 16; as follows:

YEAS—Messrs. Buckalew, Conness, Creswell, Davis, Henderson, Howe, Kirkwood, Ramsey, Sprague, Van Winkle, Willey, and Wilson—12.

NAYS—Messrs. Cattell, Cowan, Cragin, Edmunds, Fessenden, Frelinghuysen, Grimes, Hendricks, Lane, McDougall, Morrill, Poland, Sherman, Trumbull, Wade, and Williams—16.

ABSENT—Messrs. Anthony, Brown, Chandler, Dixon, Doolittle, Fogg, Foster, Fowler, Guthrie, Harris, Howard, Johnson, Morgan, Nesmith, Norton, Nye, Patterson, Pomeroy, Riddle, Ross, Saulsbury, Stewart, Sumner, and Yates—24.

So the Senate refused to adjourn.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Ohio.

Mr. FRELINGHUYSEN. I understood that the Senator from Ohio proposed to withdraw it.

Mr. SHERMAN. If there are other amendments to be offered I am willing to withdraw it to-night and renew it to-morrow. I do not wish to break up the Senate.

Mr. WILLIAMS. I thought we were staying here to-night in order to finish the bill.

Mr. SHERMAN. If we are going to sit it out I insist on my amendment, otherwise I am willing to withdraw it.

Mr. FESSENDEN. How can it be withdrawn after the yeas and nays have been ordered?

Mr. CONNESS. I hope it will be withdrawn to-night.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio.

The question being taken by yeas and nays, resulted—yeas 12, nays 17; as follows:

YEAS—Messrs. Brown, Conness, Davis, Henderson, Howe, Kirkwood, Lane, Morrill, Sherman, Trumbull, Williams, and Yates—12.

NAYS—Messrs. Buckalew, Cattell, Cowan, Cragin, Creswell, Edmunds, Fessenden, Frelinghuysen, Grimes, Hendricks, McDougall, Poland, Ramsey, Van Winkle, Wade, Willey, and Wilson—17.

ABSENT—Messrs. Anthony, Chandler, Dixon, Doolittle, Fogg, Foster, Fowler, Guthrie, Harris, Howard, Johnson, Morgan, Nesmith, Norton, Nye, Patterson, Pomeroy, Riddle, Ross, Saulsbury, Sprague, Stewart, and Sumner—23.

So the amendment to the amendment was rejected.

Mr. McDOUGALL. I desire to give notice that I shall move to reconsider the vote just taken. I voted in the negative in order to be able to move a reconsideration. I now give notice of that motion.

Mr. FRELINGHUYSEN. On page 57 I move to insert "of seven and a half pounds" after "gallon" in line four hundred and fourteen of section nine. This amendment is in reference to linseed oil. A gallon of that oil is seven and a half pounds, and it is sold constantly and uniformly by weight. The reason is because the bulk of it is very much affected by the temperature, so that a cask will at noon hold two or three gallons more than it will at night. Great errors occur in gauging it. I have consulted with the commissioner on this subject, and this amendment meets his approval.

Mr. SHERMAN. I suppose that they have custom-house regulations upon this subject, and that will apply if they are now in force. Why not leave them alone?

Mr. FRELINGHUYSEN. The custom-house regulation is to have some process by which they gauge the quantity of gallons there are in a cask, and errors are constantly occurring.

Mr. SHERMAN. You are introducing here, without inquiring, a new system and a new mode of gauging, which is a departure from the general rule. It seems to me rather an unwise step. What assurance has the Senator that seven and a half pounds constitute a gallon? We have never heard of that before. The gentleman who appeared before us never made the representation.

Mr. FRELINGHUYSEN. This is my information from gentlemen with whom I am well acquainted, who are extensively engaged in this business, and I have no doubt of its correctness. Of course, if there should be any deception in this matter it can be corrected before the bill becomes a law; it has to pass through the other House. I am perfectly satisfied, or I would not make the motion.

Mr. HENDERSON. I desire to ask the Senator from New Jersey if he has any information in reference to the weight of the different kinds of oil mentioned in this clause. I apprehend that when he speaks of oil being seven and a half pounds to the gallon he refers to flaxseed oil simply. Is it not true that hempseed oil is less in weight? I presume the flaxseed oil is heavier. If there is any difference in the weight of these oils, it would not be proper to apply this rule to all the oils mentioned here.

Mr. FRELINGHUYSEN. There may be something in the objection of the Senator which had not occurred to me. My amendment was intended to relate to linseed oil. I withdraw it.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. FRELINGHUYSEN. I now move on page 30 to strike out from line one hundred and twenty-seven to line one hundred and thirty-two inclusive of section seven, and in lieu thereof to insert:

On chains, trace-chains, halter-chains, and fence-chains made of wire or rods not less than three eighths of an inch in diameter, two and a half cents per pound; less than three eighths of an inch in diameter and not less than No. 9 wire gauge, six cents per pound; less than No. 9 wire gauge, eight cents per pound.

Persons engaged in making these chains and cables referred to in this amendment have expressed great dissatisfaction with this bill. This amendment was placed in my hands by the commissioner, I believe written by him, stating that it would be satisfactory; and I offer it that a vote may be taken upon it, without making any remarks about it.

Mr. HENDRICKS. I hope it will not be adopted. It is a very great increase, as I understand it, from the proposition of the committee, which was protective in its character.

Mr. FRELINGHUYSEN. Persons employed in manufacturing these chains and cables assure me that under the present tariff they cannot carry on their business; and the object of this amendment is to have an increase of tariff. That is the purpose of it; and instead of that being an objection to the amendment, it is its very merit. The increase has been adjusted by the approval of the commissioner in a manner satisfactory to him.

Mr. HENDRICKS. I dare say that the Senator from New Jersey has his information from very respectable sources, but it is from persons who are interested in this pursuit. I am astonished, sir, that this country is threatened with such an entire ruin of all her interests if this bill does not pass. If we take the assurances made here by Senators, based upon information they receive from parties interested in particular pursuits, there is not a single pursuit of importance in this country that is going to survive two weeks the defeat of this bill.

Now, with the greatest respect in the world to the Senator's information, I do not believe a word of it. I do not believe this country is in any such imminent danger. These pursuits have gone on, and men invested their money with a full understanding of the business long before they had such a system of protection as existing laws furnish, and they have made money. But, sir, what is to compensate the men who are to use these chains? What increase does the farmer get when he has to pay one third more for the chains he uses, by a policy that cuts him off from a foreign market and makes him look exclusively to a home market? None in the world.

Mr. KIRKWOOD, [at eleven o'clock and five minutes.] I move that the Senate adjourn.

Mr. FESSENDEN. I ask the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 6, nays 17; as follows:

YEAS—Messrs. Buckalew, Creswell, Howe, Kirkwood, Sprague, and Van Winkle—6.

NAYS—Messrs. Cattell, Cragin, Edmunds, Fessenden, Foster, Frothinghuyssen, Harris, Henderson, Hendricks, Lane, McDougall, Poland, Sherman, Trumbull, Wade, Wiley, and Williams—17.

ABSENT—Messrs. Anthony, Brown, Chandler, Conness, Cowan, Davis, Dixon, Doolittle, Fogg, Fowler, Grimes, Guthrie, Howard, Johnson, Morgan, Morrill, Nesmith, Norton, Nye, Patterson, Pomeroy, Ramsey, Riddle, Ross, Saulsbury, Stewart, Sumner, Wilson, and Yates—29.

The President *pro tempore*. There is not a quorum voting.

Mr. HENDERSON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 30, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### REVENUE-CUTTER SERVICE.

Mr. ELIOT. I ask leave to report from the Committee on Commerce a bill which the chairman of that committee [Mr. WASHBURNE, of Illinois] was to have reported had he not been compelled to leave in consequence of sickness. It is a short bill and one that it is very necessary should be passed. I hope there will be no objection to it.

No objection was made, and Mr. ELIOT accordingly reported back House bill No. 800, to fix the compensation of the officers of the revenue-cutter service, and for other purposes.

The question was upon ordering the bill to be engrossed and read a third time:

The bill was read at length. The first section provides that from and after the 31st day of December, 1866, the compensation of the officers of the revenue-cutter service shall be at the following rates: *Duty pay*—Captains, \$2,500 per annum; first lieutenants and chief engineers, \$1,800 per annum; second lieutenants and first assistant engineers, \$1,500 per annum; third lieutenants and second assistant engineers, \$1,200 per annum. *Pay on leave of absence or while waiting orders*—Captains, \$1,800 per annum; first lieutenants and chief engineers, \$1,500 per annum; second lieutenants and first assistant engineers, \$1,200 per annum; third lieutenants and second assistant engineers, \$900 per annum.

The second section provides that from and after the 31st day of December, 1866, each officer of the revenue-cutter service while on duty shall be entitled to one Navy ration per day.

The third section provides that, to enable the Secretary of the Treasury to carry out the provisions of this act during the last half of the current fiscal year and during the fiscal year ending June 30, 1868, the sum of \$133,400 is hereby appropriated for the expenses of the revenue-cutter service out of any money in the Treasury not otherwise appropriated.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### FORT RILEY RESERVATION.

On motion of Mr. ANDERSON, the Committee on the Public Lands were discharged from the further consideration of a petition of citizens of western Kansas in relation to the Fort Riley reservation; and the same was referred to the Committee on Military Affairs.

### POTAWATAMIE INDIAN CLAIMS.

On motion of Mr. KASSON, the Committee on Appropriations were discharged from the

further consideration of the memorial and papers of a delegation of Potawatamie Indians, asking an appropriation of \$164,584 75 due them from stipulations of various treaties made between them and the United States, and the same was referred to the Committee of Claims.

### BRANCH OF BALTIMORE AND OHIO RAILROAD.

On motion of Mr. KOONTZ, Senate bill No. 507, to amend an act entitled "An act to authorize the extension, construction, and use by the Baltimore and Ohio Railroad Company of a railroad from between Knoxville and Monocacy Junction into and within the District of Columbia," approved July 25, 1866, was taken from the Speaker's table, and referred to the Committee for the District of Columbia.

Mr. KOONTZ. I ask that the committee have leave to report this bill at any time.

Mr. SPALDING. I object.

Mr. KOONTZ. I hope the gentleman will withdraw his objection; for the reason that this is a measure of great importance, not only to Washington city, but to the whole country.

Mr. F. THOMAS. I would suggest to the gentleman from Pennsylvania [Mr. KOONTZ] that he can accomplish the object he is aiming at by simply entering a motion to reconsider the reference.

Mr. KOONTZ. Very well; I submit that motion.

The motion to reconsider was entered upon the Journal.

### CAPTAIN DANIEL C. TREWHITT.

Mr. STOKES. I ask unanimous consent to introduce for consideration at this time a joint resolution for the relief of Captain Daniel C. Trehwhitt, of Tennessee, and late of the United States Army. I will in a few words state the reason for this bill. Captain Trehwhitt was placed upon the staff of one of the generals of the Union Army; his name was submitted to the President, who sent the nomination to the Senate, and the Senate put upon the nomination the proper indorsement, and he was duly commissioned. But the paymaster refused to pay him unless he could produce the paper from the Senate. That he could not do, for he had lost it, with all his other papers, at the battle of Stone river. Now, he served faithfully, and I think he should be paid for his services.

Mr. ALLISON. I would suggest to the gentleman from Tennessee [Mr. STOKES] that the case to which he refers is fully covered by a general law now upon the statute-books. I do not recollect the precise provisions of that law, but I am certain it covers this case.

Mr. STOKES. Very well; I will not press this matter until I can examine the law to which the gentleman from Iowa [Mr. ALLISON] refers.

### CONSTANCE BATEMAN AND OTHERS.

On motion of Mr. HIGBY, by unanimous consent, the Committee on Appropriations were discharged from the further consideration of papers relating to the claim of Constance Bateman, Augustine De Caidry, and Julia L. Wamaling, and the same were referred to the Committee of Claims.

### RIGHTS OF NATURALIZED CITIZENS.

Mr. COOK. I ask unanimous consent to introduce a resolution, and I may state that I propose to have referred to the Committee on Foreign Affairs certain memorials on the same subject. The resolution is as follows:

*Resolved*, That the Committee on Foreign Affairs be instructed to inquire into the expediency of an assertion by Congress of the principle that naturalization by the United States of a native-born subject of any other State exempts such naturalized citizen from the performance of military service under any foreign Government so long as he does not voluntarily renounce the rights of a citizen of the United States.

There being no objection, the resolution was considered and agreed to.

### FLORA MEIGS.

Mr. HUMPHREY, by unanimous consent, introduced a bill for the relief of Flora Meigs;

which was read a first and second time, and referred to the Committee on Invalid Pensions.

### COMMON SCHOOLS IN THE DISTRICT.

Mr. STEVENS, by unanimous consent, introduced a bill to establish a system of common schools for the District of Columbia; which was read a first and second time, referred to the select committee on the subject, and ordered to be printed.

### PROCEEDINGS IN FEDERAL COURTS.

Mr. WILSON, of Iowa, by unanimous consent, introduced a bill to conform the rules, practice, and pleading in the courts of the United States to the laws of the respective States; which was read a first and second time, and referred to the Committee on the Judiciary.

### PRACTICE IN SUPREME COURT.

Mr. BENJAMIN. I ask that the bill which I introduced some time ago in reference to the practice of the Supreme Court may be ordered to be printed.

There being no objection, it was ordered accordingly.

### CIVIL SERVICE.

The SPEAKER announced as the first business in order the consideration of bill of the House No. 889, to regulate the civil service of the United States and promote the efficiency thereof; on which Mr. HALE was entitled to the floor.

Mr. HALE. To accommodate gentlemen who are interested in the business of the morning hour I move that the further consideration of this bill be postponed till after the morning hour.

The motion was agreed to.

### INSPECTION OF INDIAN AFFAIRS.

The SPEAKER announced as the first business in order during the morning hour the bill (S. No. 204) entitled "An act to provide for an annual inspection of Indian affairs, and for other purposes," on which Mr. WINDOM was entitled to the floor.

Mr. SCHENCK. I ask the gentleman from Minnesota [Mr. WINDOM] to permit me now to offer the substitute of which I gave notice yesterday.

Mr. WINDOM. I have no objection to allowing the substitute to be voted on.

Mr. SCHENCK. I move to amend the bill by striking out all after the enacting clause and inserting the following:

That from and after the 1st day of July, 1867, the Secretary of War shall exercise the supervisory and appellate powers, and possess the jurisdiction now exercised and possessed by the Secretary of the Interior in relation to all the acts of the Commissioner of Indian Affairs, and shall sign all requisitions for the advance or payment of money out of the Treasury on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the Auditors and Comptrollers of the Treasury, or either of them.

SEC. 2. *And be it further enacted*, That the Secretary of War shall be authorized, whenever in his opinion it shall promote the economy and efficiency of the Indian service, to establish convenient departments and districts for the proper administration of the duties now imposed by law on the superintendents of Indian affairs and upon agents and sub-agents, and to substitute for such superintendents and agents officers of the Army of the United States, who shall be designated for that purpose, and who shall then become charged with all the duties now imposed by law upon the superintendents and agents thus superseded, and without additional compensation therefor. The Secretary of War shall also detail an officer not below the rank of brigadier general to fill the office and discharge the duties of Commissioner of Indian Affairs. Officers of the Army designated to perform the duties of commissioner, superintendent, agent, or sub-agent shall not be required to give the bonds now required of civil appointees, but shall be responsible for any neglect or maladministration according to the Rules and Articles of War.

SEC. 3. *And be it further enacted*, That all contracts for transportation connected with the Indian service shall hereafter be made in the same manner and at the same time provided for transportation for the use of the Army.

SEC. 4. *And be it further enacted*, That the Secretary of War shall be authorized to withhold all special licenses from traders, and under regulations to be by him prescribed, to provide the times and places at which all traders complying therewith may present themselves for bargain, barter, and exchange with the several Indian tribes, according to the laws of the United States regulating the same.

*Sec. 5. And be it further enacted, That all laws and parts of laws inconsistent with the provisions of this act are hereby repealed.*

Mr. WINDOM. Mr. Speaker, regarding this as the most important bill with reference to our Indian affairs that has been introduced since I have been in Congress, and as better calculated to remedy existing evils than any other, I desire to state very briefly what it is and how it comes before the House.

In 1865 a commission was appointed for the purpose of making an investigation into our Indian affairs. That commission traveled over a large part of the Indian country and gathered a vast amount of information in reference to this subject. They heard the complaints of Indian chiefs and of all others who were aggrieved in any way in Indian matters. They investigated numerous charges of fraud, and sought as the result of their labors to devise some way of preventing a recurrence of the evils complained of. In order to do this the committee have reported the bill now before the House. Its purpose is to provide boards of inspection of high character, who shall visit the Indian tribes once every year for the purpose of correcting any evils which may exist among them.

I have yielded the floor to the gentleman from Ohio [Mr. SCHENCK] to submit an amendment to the bill, not because I favor the amendment, but because I desire the gentleman may have an opportunity fairly to test the question before the House. He endeavors by this amendment to place the management of Indian affairs under the entire control of the War Department, and insists if it shall be adopted there will be no necessity for the bill under consideration.

This bill, which I had the honor to introduce from the Committee on Indian Affairs yesterday, received the unanimous sanction of the joint select committee to which I referred a moment since. I believe it had also the unanimous recommendation of the Committee on Indian Affairs in the Senate, and that it passed the Senate by a large majority. The Committee on Indian Affairs in this House have given it a thorough examination and are almost unanimously in favor of its passage. So it has received the sanction of one select committee, the sanction of the committee in the Senate, and the sanction of a very large majority of the Indian Committee in the House.

Mr. Speaker, as I said a moment ago, the purpose is to provide five boards of inspection, who shall be clothed with the power to supervise and inspect the entire Indian system. They are to be appointed in such way as the committee deem will most surely secure the selection of the best men that can be found. The difficulty with our Indian system now is not perhaps so much in the system itself as in the fact that the best men are not always selected to execute it. Agents are sent a thousand miles into the interior among the Rocky mountains and the vast plains of the West. They feel they are beyond the reach of civilization almost; that nobody will be sent to investigate their conduct, and in too many instances I am aware they unlawfully make money out of their position. The object of this bill is to send a commission clothed with full power to investigate their transactions and to suspend or remove them from office if necessary. It is a commission to be composed of the best men that can be found, and who shall have full authority to examine their books and everything appertaining to their official conduct.

This commission is to be appointed in the following manner: one commissioner selected at large from the mass of the people by the President of the United States; another from such persons as may be recommended by several religious denominations of the country at their annual conferences. The third is to be detailed from the Army. It will scarcely be doubted by the gentleman from Ohio, who wishes to place the whole bureau under the War Department, that the Secretary of War will appoint an honest and competent man. Then we will have a guarantee that at least one

member of the board will be a gentleman of high character.

Can it be believed, Mr. Speaker, that the religious denominations of the country at their annual conferences will select any other than the best men for this duty?

A MEMBER. Which church is to make the selection?

Mr. WINDOM. My friend asks me which church is to make the selection. Under this bill all the churches which hold annual conferences or conventions are to make their recommendation, and the President is to make his selection from such persons as may be thus recommended. There are to be five appointed each year.

A MEMBER. By this President?

Mr. WINDOM. I suppose if the bill passes now they will be appointed by this President. But it cannot be that men of the high character of those who compose these annual conferences and conventions will recommend any other than pure, straightforward, high-minded men for this position; so that we may be sure of securing on each one of these boards at least two men who will be above suspicion, above indulging in any of the frauds now charged against the Indian system. As to the honesty of the other member of the board, who may be a politician, the House can judge as well as myself.

Mr. COOK. I would like to ask if any provision has been made for those religious societies that have no general annual meeting.

Mr. WINDOM. There is no such provision.

Mr. COOK. Some of the largest religious denominations in the United States I believe have no general convention of any sort—for instance the Baptists and Congregationalists.

Mr. WINDOM. I am not aware that any provision is made in the bill to meet that case. I will yield to the gentleman to offer an amendment for that purpose.

The special committee of investigation to whom I have referred have submitted a report upon this bill. As it is very brief and states succinctly the grounds upon which this bill is based, I desire to have a portion of it read.

The Clerk read as follows:

The purpose of the bill is to provide boards of high character, and to organize them in such a manner and to clothe them with such powers as to supervise and inspect the whole administration of Indian affairs in its threefold character—civil, military, and educational.

To the position of chief of this board there should be appointed an assistant commissioner, with a salary sufficient to command the services of a man of character and great ability, whose whole time is to be devoted to this important work.

One of the board is to be an officer of the regular Army, to be assigned by the Secretary of War; (it is believed that he would be an officer of high standing in the Army;) and the third is to be selected from among those persons who may be named by the great religious conventions or bodies of the United States. It is impossible to believe that these great bodies could name any other than a man of high character and great ability. Such a board not organized upon political grounds at all, and possessing, as they will, the important powers conferred in the third section of this bill, will, in the judgment of the committee, do more to secure the faithful administration of Indian affairs than any other measure which has been suggested.

The assistant commissioner will report to the Secretary of the Interior; the officer of the Army to the Secretary of War; and the third will report, not only to the Government, but to that religious body which may have recommended his appointment. Thus the treatment of the Indians by the civil authorities, by the military authorities, and by their teachers and missionaries will be subject to constant inspection and supervision.

It is urged that the expenses of these boards will be considerable; but in comparison with the greater economy and efficiency their supervision would secure that expense will be comparatively trifling.

Such boards charged with the duty, among other things, to preserve amity, will doubtless sometimes save the Government from unnecessary and expensive Indian wars.

As an instance bearing upon this point, when that portion of the committee who were charged with the duty of inquiring into the condition of Indian affairs in Kansas, New Mexico, and Colorado, arrived at Fort Larned, they found that the officer there in command had just issued an order to his troops to cross the Arkansas, going south into an Indian territory where not a single white man lived, to make war upon the Camanches, a most powerful tribe, which roams over all that region from the Arkansas to Mexico. Your committee felt that such an

expedition would of necessity bring on a long war with that tribe; that it was wholly unnecessary, and they took the responsibility of advising General McCook, a member of the staff of General Pope, who accompanied them, to countermand that order until he could communicate with General Pope at St. Louis. The order was countermanded: the troops then in motion were recalled, and thus by the mere presence and advice of the committee a war was avoided with the Camanches, which, had it once begun, would not have been prosecuted to a successful termination without an expenditure of \$20,000,000.

Your committee took the testimony, among others, of Colonel Ford, then in command at Fort Larned, upon this subject. He says, speaking of the Camanches: "From the best information I can get, there are about seven thousand warriors well mounted, some on fleet Texan horses. On horseback they are the finest skirmishers I ever saw. How large a force, mounted and infantry, would be required to defend the Santa Fe road and wage a successful war against the Indians south of the Arkansas? It would require at least ten thousand men; four thousand constantly in the field, well mounted; the line of defense to extend from Fort Lyon to Fort Riley, and south about three hundred miles. All supplies would have to come from the States. Contract price for corn delivered at this point was \$5 25 per bushel." With corn at this enormous price, and hay and wood and all supplies in proportion, the expense of such an Indian war is beyond belief. By many it was estimated that such a war would have required at least ten thousand men, and a war of two or three years' duration, to make it successful, with an expenditure of more than thirty million dollars.

It is believed that such boards of inspection, thus organized and composed of the men who should be appointed to fill them, would save the country from many useless wars with the Indians, and secure in all branches of the Indian service greater efficiency and fidelity. If such boards should cost the Government \$150,000 annually, and should avert but one Indian war in ten years, still, upon the score of economy alone, the Government would be repaid five hundred per cent.

Mr. WINDOM. Having shown how these boards are to be organized, I desire to call attention for a single moment to what their duties are, and to ask the candid consideration of this House as to whether, if such duties are faithfully performed, it will not correct the evils of the system?

Under the third section they are required to visit all of these tribes once every year; to examine into their condition; to hear the complaints of every one who may be in any way injured or aggrieved by our agents and officers; to examine the books of accounts, the manner of doing business of the superintendents and agents in their respective districts. They are not to go among them as mere inspectors to report to somebody else, but they are to be clothed with authority when they find any one cheating or swindling to at once suspend or remove him from his office, and they are to ascertain this by the examination of witnesses to whom they are authorized to administer oaths.

Now, sir, I believe that when these gentlemen, who are a thousand miles from your capital among the savages on the plains, and who now feel that they are never to be supervised by anybody, remember that a commission such as this, clothed with powers such as these, composed of men selected as these will be, is to visit them once every year and inspect all their transactions, they will be very careful to give no cause of complaint.

But how does the gentleman from Ohio [Mr. SCHENCK] propose to prevent this difficulty? by simply turning over the Indians to the War Department. A man may be dishonest now who is an Indian agent; but if, under the system of the gentleman from Ohio, you put shoulder-straps upon his shoulders, with stars or eagles, or even a couple of bars, he becomes entirely honest, and will not steal from an Indian.

Now, we have had some experience in the last four years. I have as much faith as the gentleman in those who are engaged in the military service; but I have no faith that to put stars and bars on men's shoulders will make them more honest than they are now. But even if the gentleman's system should prevail, and Congress should propose to turn over this management of the Indians to the War Department, we shall have the same necessity for the bill that we have to-day.

I want to call the attention of the House to this point: whether the agents to whom the interests of these Indians are committed shall



be under the control of the Interior or the War Department they will still need that supervision which this bill provides for them. We have treaties with a great many of these tribes; and whether it is the Secretary of the Interior or the Secretary of War who is to pay out the appropriations at the time they need them, it will be superintended by this commission just as much in the one case as in the other.

It is proposed to provide in this bill for a sort of civil jurisdiction among the Indians, and the agent is authorized to exercise the power of a court commissioner to the extent that our civil laws may be practically extended over them. There will be somebody to execute those laws when we have thus given to the agent among the Indians the power to punish them, and send a commission every year to inquire into his action.

I ask the House if it is not worth while to try this remedy and see if the great evils which now exist in our Indian department cannot be removed. Now, as I have often said here, I know that in any matter that is presented in reference to the Indians, there are those who suspect there is steal in it somewhere. And I do not wonder, for the system of managing our Indian affairs has been a bad one and productive of much evil. I ask every gentleman who believes that there are those evils to give this measure a fair and honest trial. I will not take up further time, but will yield to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. While I trust the discussion of so important a subject will not be closed even within an hour, without reference to the possibility of that I shall submit very briefly the reasons which have induced the Committee on Military Affairs—for it is from that committee this substitute I offer comes, the subject having been referred to them—to offer it as a substitute for the bill reported from the Indian Committee. The bill which I offer as a substitute is a bill with amendments added to it by the Committee on Military Affairs, introduced into the House by the gentleman from Iowa [Mr. KASSON] originally, and referred to the committee of which I have the honor to be chairman. It presents now, being offered as a substitute, the antagonism between the two schemes of managing the Indians, consisting on the one hand in leaving their management to the Interior Department, or on the other of transferring it to the Department of War.

The gentleman has explained his bill to the House. It is simple; it is no doubt designed to correct the evils which he and I and all of us admit exist in the present management of our Indian affairs, evils which result from the dishonest practices of the Indian agents. Perhaps, sir, I used too strong language yesterday when I spoke of the Indian Bureau as constituting little better than a nest of thieves. But I do not understand that the gentleman who represents the Indian Committee differs with me on that point. The original bill was introduced for the purpose of breaking up a system that entitles us to characterize it in that way.

When I speak of this matter, I want to be understood as not referring particularly to the management of Indian affairs here in Washington, but to all the ramifications of wrong, injustice, oppression, and fraud which run through the various Indian agencies and employes of the Government in any way having charge of or dealing with the Indians.

Now, sir, what is the mode of correction which is proposed by the bill of the Committee on Indian Affairs? It is proposed to appoint five boards of inspection for five inspection districts, these boards to consist each of three men, to be appointed by the President. One of each board is to be an officer detailed from the Army; so far admitting the justice of our claim that the Army should be represented in this matter. Another member of each board is to be selected directly by the President. The third member of each board is to be selected from those recommended by the churches of this country for the purposes or if they fail to

make such recommendations the President is to select the third member as in the case of the other civilians, directly without the intervention of the church.

Now, the first objection to this plan is that it is too cumbersome a piece of machinery. There are to be five inspection boards, consisting of three inspectors each, and comprising fifteen members in all, who are to be scattered all over the country and to be charged with investigating and reporting upon the frauds practiced in relation to Indian affairs, so that they may be guarded against.

Another objection is the mixture of the various interests in the plan, which interests, if not antagonistic to each other, certainly will hardly tend to promote harmonious action. You are to have the politician, the priest, and the warrior upon each board of inspectors. I suppose the politician is to wink at the contracts to be made for cheating the Indians; the priest is to pray for the Indian who is to be cheated, and the warrior is to kill him if he does not behave himself. [Laughter.]

However that may be, I take it for granted that the churches in the selection of persons to be recommended to the President will ordinarily recommend those of their own cloth. This is the first instance, I believe, in which any legislation has been attempted in this country to bring the church and State so completely together. A man's eligibility for appointment to one of these places is to depend upon his getting the indorsement of some of the churches of this country. As a matter of course each church will recommend one of its own faith; and equally as a matter of course we shall have a great many candidates made eligible by these recommendations, from among whom the President must make his selections. A squabble will take place, therefore, between the Quaker, the Methodist, the Presbyterian, the Baptist, and the Episcopalian at the very initiation of the attempt to organize one of these boards.

But putting all that out of the question there is another difficulty, the want of economy in this proposed system of inspection. In the first place, these fifteen inspectors are to be appointed. Five of them, it may be said, will not have any salary paid to them in consequence of their performing the duty of inspectors, because they are already officers of the Army, and are to act without additional compensation. But the other two members of each board are to be paid \$4,000 each per annum. Then there are to be ten inspectors at salaries of \$4,000 each, making \$40,000 a year for the inspectors alone. The gentleman from Minnesota [Mr. WINDOM] has said, and said very properly, that if his scheme be a good one the \$40,000 paid for these inspectors will be as nothing compared with the millions which will be saved by it. I concede to that argument all the strength there may be in it. But I meet it by saying that not only is the expense of \$40,000 added by the appointment of these inspectors under this system, and which is contrasted with the proposition to turn this whole matter over to the military supervision of the War Department, but all the Indian agents are to be paid as they are now paid, each of them a yearly salary. Now, by committing this matter to the supervision of the War Department you save not only the \$40,000 for the inspectors, but all the salaries to be paid to the agents and sub-agents, for all these duties will be performed by officers of the Army, according to my substitute, without any additional compensation whatever.

But I think the gentleman is mistaken, upon the score of economy, in supposing that his plan proposes only \$40,000 additional annual expenditure. I think \$300 is added to the salary of each Indian agent; they now receive \$1,500 a year each, whereas his bill proposes to raise the salary to \$1,800 a year each.

Mr. KASSON. And mileage.

Mr. SCHENCK. Yes, sir; and mileage. This, however, is in my opinion a matter entirely subordinate and inferior to the great

question as to which Department shall have charge of the Indian Bureau, and which Department, if intrusted with it, will probably conduct its affairs with not only most economy, but most security to the Indian, and most protection of both the Indians and the Government from all manner of fraud.

The gentleman says that if the management of Indian affairs be turned over to the military we have no security that men with straps or stars on their shoulders will be any more honest than civilians. Mr. Speaker, we have this security: if we turn this bureau over to the military we turn it over to a class of men who receive no additional compensation for the performance of this duty, who perform it as they perform any other duty to which they may be assigned by the head of the Department or the head of the Army; who perform it, not under official bonds, which are ordinarily, I think, of very little consequence in any case, but under the still stronger security imposed upon them by the fact that their commissions are at stake and a trial by court-martial will be the consequence if they do anything which may fairly be construed into a violation of the law or a disregard of their proper obligations in connection with this duty imposed upon them.

The SPEAKER. The ten minutes of the gentleman from Ohio [Mr. SCHENCK] have expired.

Mr. SCHENCK. I hope the previous question will not be sustained, that we may have an opportunity to discuss this question fully.

Mr. WINDOM. I yield to the gentleman from New York [Mr. HART] ten minutes.

Mr. RAYMOND. With the permission of my colleague, [Mr. HART,] I desire to ask the gentleman from Ohio [Mr. SCHENCK] a question. This is a subject of very great importance, and of course it is one on which the House desires all possible information needed for the formation of a correct judgment. I have understood—whether from proper authority or not, I do not know—that a communication has been addressed to the committee of which the gentleman from Ohio is chairman, from the general of the Army or from some of his staff specially qualified to give information and express valuable views on this point. I should be glad if the gentleman from Ohio would inform the House whether this is so or not. If there be such a communication, it would be proper that it should be printed for the examination of the House before action is taken on this bill.

Mr. SCHENCK. I am very happy to have the opportunity to answer that question. I have here a communication made in the shape of a report to the General-in-Chief of the Army by Colonel Parker of his staff, who was himself an Indian chief, and who is a man of remarkable intelligence and sagacity. His report covers this whole matter, referring not only to the transfer of this bureau to the military department, but also to the plan which should be pursued by the United States for preserving peace with the Indians and making the whole management of their affairs under the control of the United States: just what it ought to be. I had intended to ask that this document should be printed; and I had hoped there would be an opportunity to have it printed before the discussion of this bill. The report is a most able and indeed an exhaustive paper on this subject. It comes to the Committee on Military Affairs from the General-in-Chief and the Secretary of War, with a request that special attention may be given to it. I should be very glad to have it read now.

Mr. WINDOM. I cannot yield sufficient time to have it read. I yield to the gentleman from New York, [Mr. HART.]

Mr. HART. Mr. Speaker, I regret very much that I find myself compelled to differ with my colleague on the committee [Mr. WINDOM] in regard to the bill now before the House. I was not present during the consideration of the bill by the committee at this session of Congress; but during the last session it was discussed by the committee; and

on a cursory examination of the bill I was disposed to oppose it, although I am in favor of any system which may in any way elevate the condition of the Indians or reform the gross and flagrant abuses which evidently prevail in the conduct of Indian affairs. There is much in the bill I commend, but I regard the measure as entirely too superficial in its character. I do not think it will accomplish the object the committee had in view. The bill provides for a commission of fifteen men to supervise and inspect the whole Indian country, covering territory larger in extent than the rest of the United States. They can by no possibility visit the Indians more than once a year. And when they do visit them what object can be accomplished? They will go about much as an annual board of visitation or board of trustees. They will find the Indians set up in their best bib and tucker by the several Indian agents; and when the visitation is over they will make a fine white-washing report. Then when they are gone the Indian agents will relapse into the system of treatment which is to-day so much condemned.

How much light can such a commission throw upon the matter by an annual visit? They are surrounded by influences which are interested in deceiving them. The Indian is dependent upon the traders, and the traders seal their lips against making complaints to the commission. The commission will go away with their eyes blinded and with no just comprehension of the condition of the Indians they have visited.

I do not like the composition of the commission. It is a most extraordinary manner in which to make up a commission. There are to be five military men, five politicians, and five churchmen. I suppose the five churchmen are put on for the reason, it is taken for granted, that the politicians are little above total depravity, and it is necessary these men should be there to lighten the rest of the mass.

But there is a possibility even those who might be selected from all the churches would condescend to steal. They have to certify the accounts of all the Indian traders. The whole thing rests in their hands. But who are to supervise this commission? No one in any case whatever. It is a position of greater value to a corrupt man than any in this Government. A corrupt man on that commission can make anywhere from fifty to one hundred thousand dollars per annum if he may choose to take advantage of it.

I do not believe because a man is in the Army he cannot be an honorable man. I think we have as much right to look for a gentleman, an honorable man, in the Army, as outside of it. There is this in addition: the safeguards thrown around the officer of the Army are double those of civilians. He is not only subject to military regulations, to the rules and regulations of war which are very stringent in their character, but he is amenable to the law to which any civil appointee is amenable.

How are the churches to select? There are only five commissioners to be selected from forty different denominations. Hardshell Baptists will oppose Congregationalists, and *vice versa*; Roman Catholics will oppose Protestants, and the Protestants will oppose Roman Catholics. How are they going to get together to make the selection?

What assurance, then, will you have you will get better officers in that way? There is a possibility a man may be a politician and a member of church, though such things may be rare. There is a possibility the men in the Army who may be detailed by the Secretary of War may also be members of church. So far, then, we may do away with the necessity of the churches of the country designating members of this commission. Is it not a reflection upon our character that pure men, upright men, cannot be obtained without having a convention of the churches?

Now, Mr. Speaker, I am decidedly in favor of any plan that will look toward a thorough reformation in the Indian department. It is

possible that men in the Army when they come to administer the affairs of the Indian department will be guilty of the same corruption we have seen everywhere in that department in the past. This will be a new broom that will sweep clean at least for a while. For the next year it will be an improvement on the present condition of things.

I object to the bill on the ground of economy. Here we have salaries of \$4,000 each for these commissioners, and salaries of \$1,800 each for I do not know how many agents.

It is a well-known fact, Mr. Speaker, that one half of these disturbances among the Indians are produced by these very Indian agents and employés of the Government, in order that the Indians may be brought here to negotiate new treaties and that new sources of complaint may in that way be brought out. It is notorious that Indians are induced to massacre whites and foment other disturbances for the purpose of having this Government negotiate treaties in order that new annuities may be paid to the Indians, which, as soon as they are paid, are divided among these voracious men. Now we need some measure which will remedy this evil. We need an army, in my opinion, directly in contact with the agents, so that the Indians may see before him the power of the General Government, and may feel that he is in more direct communication with this Government when he finds himself dealing with the various officers of the Government. When he sees the insignia of office, the shoulder strap of the military officer, he will feel that the power of the Government is close at hand.

I trust the House will favor the proposition of the gentleman from Ohio, [Mr. SCHENCK.] because I believe it will be a reform in the right direction. I would be glad to see some commission appointed or anything done that will ameliorate the condition of the Indian tribes; but I believe the best plan is to transfer the charge of the whole business to the War Department.

Mr. KASSON. Will the gentleman from Minnesota allow me to offer an amendment?

Mr. WINDOM. I want to ascertain first what the House desire to do with the bill. The morning hour has nearly expired. I have been requested by one or two gentlemen to make it a special order. I wish to know whether if that is done it will be likely to be reached.

The SPEAKER. The Chair will state that there are four special orders on the Calendar made during the first week in the session and not yet reached, having been interrupted by privileged reports and matters introduced by unanimous consent. There are now two measures pending of the latter character: the bill in relation to the civil service and the bounty bill. After all these were out of the way this would come up, unless some committee authorized to report at any time intervenes, or some motion of privilege, or some of the bills should be brought up now pending on motions to reconsider.

Mr. KASSON. There is hardly a special order before the House of so much consequence to the Treasury as this bill.

The SPEAKER. There is one special order, the bill in regard to removals from office, reported by the gentleman from Pennsylvania, [Mr. WILLIAMS;] one in relation to the counting of illegal presidential votes, reported by the chairman of the Judiciary Committee, [Mr. WILSON, of Iowa;] another in relation to banking, reported by the gentleman from Massachusetts, [Mr. HOOPER,] and one or two others, that have all been pending since the first week of the session, and not yet reached or decided.

Mr. KASSON. I think the importance of this will justify us in making it a special order for an evening session.

Mr. ROSS. I would like to be allowed a short time on this bill.

Mr. WINDOM. I will yield if we go on with it to-day, after the previous question is ordered. In order to test the wishes of the

House on this subject I propose to call the previous question now, and if the House prefer to continue the discussion of this question in the morning, of course they will sustain it.

Mr. DONNELLY. Before the previous question is seconded I desire to offer an amendment to the third section of the original bill by adding the following:

And in case of the suspension of an Indian agent, the duties of his office, until the confirmation or rejection of his successor by the Senate, shall be performed by the assistant agent, or in case there shall be no such assistant, then by the chief clerk of such agent; and it shall be the duty of the President to transmit to the Senate, with the nomination of his successor, a statement of the causes of such suspension.

Mr. CHANLER. I desire to offer the following amendment to come in at the close of the one just offered:

That the rights, privileges, and franchises conveyed to the black men within the States and Territories of the United States by established law thereof be, and hereby are, given and secured to all the Indians having the protection of this Government under existing laws.

That all laws or parts of laws inconsistent with this section be and are hereby repealed.

The previous question was seconded and the main question ordered.

Mr. HIGBY. Mr. Speaker, I will say, outside of the question now in debate, that this is a matter of very great importance, and one that ought to be fully investigated before the House, and that the two hours—the one previous to the call of the previous question and the one that follows it—are not sufficient time to make such investigation. I should hope that we could have some evening set apart, as suggested by the gentleman from Iowa, [Mr. KASSON,] to debate this question and gather together the information that is within our reach in regard to it.

I will state I am particularly anxious about this matter, for I was a member of the special committee appointed in 1864 to make this investigation, and I will state a large amount of information was gathered by that committee and furnished to the House, and it ought to have been printed by this time. It might help us to some light upon this subject.

I agree that it is a lamentable condition of things that in a nation such as we claim to be a matter of this kind cannot be properly attended to without such a vast amount of stealing as has been spoken of here, and which cannot be denied. And I must say I was thoroughly convinced, after several months' examination in a portion of this Indian Territory, that there has been an amount of stealing that would startle the public mind if fully developed.

I will say in regard to the bill introduced by the Committee on Indian Affairs providing for a change in the administration of this department, or for its transfer to another branch of the Government, that I think the House ought to approve of it and pass it. It has been devised, examined, and got up under the supervision of a special committee, and meets with its approval. We have believed that under all the circumstances this was the only way to check the vast swindle which has been carried on in this Indian department of the Government for years past.

Either one thing or the other should be done by Congress. Either it ought to pass this bill leaving the Indian department where it now is, but giving some security for the check of this swindling, or else let the whole system pass into other hands. I am not prepared to say that this change will be for the better. I should be inclined to favor the passage of the bill without any change. But I would like to hear from those who are in favor of this policy a little more and to obtain some insight into it. That is the reason why I am in favor of fixing some time for more debate, as suggested by the gentleman from Iowa, [Mr. KASSON.] With the permission of the gentleman from Minnesota [Mr. WINDOM] I will move a reconsideration of the vote by which the main question was ordered, and then move to make this bill a special order.

Mr. WINDOM. I cannot agree to that. It will never be reached.

Mr. HIGBY. Then I will not make the motion. I will leave it to the chairman. But one hour is worth nothing in the investigation of a question like this.

Mr. SCHENCK. With the permission of the gentleman from California [Mr. HIGBY] I will state that for one, having charge of this subject, I have been taken somewhat by surprise. I ought to have known better, but I was under the impression that the bill would go over after the previous question was seconded until to-morrow. And I have a very great desire that a paper upon this subject from Colonel Parker, which contains more and— with due deference to every gentleman who has spoken, including myself—is better stated than it has been stated by any of us, shall be printed and laid before us for consideration. I hope, therefore, that the motion to reconsider whatever disposition may be afterward made of the subject, whether it comes up to-morrow morning or some evening is fixed for its consideration—will prevail; so that we may get this information, as well as the information referred to by the gentleman from California, [Mr. HIGBY,] who was on the committee appointed to examine this subject. This will aid us in arriving at a correct conclusion.

Mr. WINDOM. I desire to make one word of explanation. I stated distinctly, when I called the previous question, that I did it for the purpose of testing the wishes of the House upon this subject; that if they desired to continue this discussion during the morning hour, they would of course vote down the call for the previous question. Neither the gentleman from Ohio [Mr. SCHENCK] nor any other gentleman arose in his place and objected to the call for the previous question; and the previous question was therefore sustained.

Now, I should much prefer that this subject should be further discussed; but I do not see how it can be done without losing the bill. I am willing to have the vote reconsidered by which the main question was ordered, provided that will leave the bill open to consideration during the morning hour. But I would rather have unanimous consent to have it assigned for a certain evening, when it can be fully discussed.

Mr. HIGBY. Then I would suggest that we set apart to-morrow evening, and in the mean time the report of Colonel Parker can be printed.

Mr. WINDOM. Do not say to-morrow evening; say this evening.

Mr. HIGBY. I want time to have this report printed.

Mr. WINDOM. Then say Friday evening.

Mr. HIGBY. Very well; I will say Friday evening.

Mr. WENTWORTH. I must object to that, unless it is understood that no vote will be taken upon that evening.

The SPEAKER. The proposition then will be to assign Friday evening for debate on this bill, the vote to be taken the next morning after the reading of the Journal.

Mr. KASSON. I do not think that arrangement will accomplish the result desired. If gentlemen do not come here and listen to the debate upon that evening and hear the facts then to be developed, the arrangement will fail entirely of its purpose.

Mr. HIGBY. Then I will simply move to reconsider the vote by which the main question was ordered.

The SPEAKER. The effect of that motion, if adopted, will be to leave this bill open for debate during the morning hour of each day; and no committee will be able to report during the morning hour until this bill shall have been disposed of.

The motion of Mr. HIGBY was agreed to.

Mr. SCHENCK. I now move that the report of Colonel Parker, together with communications from General Grant and the War Department upon this subject, be printed for the use of the House.

The motion was agreed to.

The SPEAKER. The morning hour has

now expired, and this bill will go over till the morning hour of to-morrow.

#### CODIFYING CUSTOMS LAWS.

Mr. GARFIELD, by unanimous consent, introduced a joint resolution to extend the time for codifying the laws relating to customs authorized by the joint resolution approved July 26, 1866; which was read a first and second time.

The joint resolution was read at length. It provides for extending the time for codifying the laws relating to customs for a period of three months after the expiration of the present session of Congress.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MICHAEL McCANN.

The SPEAKER laid before the House a communication from the Secretary of War, in answer to a resolution of the House of the 9th instant, transmitting papers in the case of Michael McCann's claim for the service of the bark Charles Warner; which was referred to the Committee of Claims; and ordered to be printed.

#### ST. CLAIR FLATS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in reply to a resolution of the House of January 15, 1867, General Cram's report on the St. Clair flats; which, on motion of Mr. TROWBRIDGE, was referred to the Committee on Commerce, and ordered to be printed.

#### TEXAS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, in reply to a resolution of the House of January 14, 1867, relative to the condition of affairs in Texas; which was referred to the joint Committee on Reconstruction, and ordered to be printed.

#### SURVEYS OF THE UPPER MISSISSIPPI.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of December 20, 1866, the report of the Chief of Engineers, with General Warren's report of the surveys of the Upper Mississippi and its tributaries; which, on motion of Mr. DONNELLY, was referred to the Committee on Commerce, and ordered to be printed.

#### DISBURSEMENTS OF NAVY DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Navy, transmitting, in compliance with the act of August 26, 1846, a statement of expenditures from the contingent fund during the fiscal year ending June 30, 1866; which was laid on the table, and ordered to be printed.

#### DISBURSEMENTS OF STATE DEPARTMENT.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of State, transmitting, in compliance with the act of August 25, 1842, a statement of disbursements from the contingent fund during the fiscal year ending June 30, 1866; which was laid on the table, and ordered to be printed.

#### LEAVE OF ABSENCE.

Mr. J. L. THOMAS asked and obtained leave of absence till next Friday.

#### ORDER OF BUSINESS.

Mr. INGERSOLL. I now move to proceed to business upon the Speaker's table.

Mr. STEVENS. I would inquire of the

gentleman if there is any particular bill upon the Speaker's table which he desires to reach. I want to get through the appropriation bills in Committee of the Whole. If the gentleman wants to reach any particular bill I hope he will confine his motion to that bill.

Mr. INGERSOLL. There are several bills there which require action now, but there is one bill in particular I desire to reach, amending the registry law of the District of Columbia.

Mr. STEVENS. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the appropriation bills.

The SPEAKER. The motion of the gentleman from Illinois [Mr. INGERSOLL] is in order at any time at the conclusion of the morning hour, notwithstanding a special order may have been assigned for that time, but the motion of the gentleman from Pennsylvania [Mr. STEVENS] takes the precedence of the motion of the gentleman from Illinois, because it is a motion to suspend the rule under which he is entitled to make the motion.

Mr. STEVENS. Before the question is put on my motion to go into Committee of the Whole I desire to move that all general debate upon the consular and diplomatic bill, the Military Academy bill, and the fortification bill terminate in ten minutes after their consideration is begun in the Committee of the Whole.

The motion was agreed to.

The question being taken upon the motion of Mr. STEVENS that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union for the consideration of the regular appropriation bill, there were—ayes 46, noes 31; no quorum voting.

The SPEAKER, under the rules, ordered tellers; and appointed Messrs. STEVENS and INGERSOLL.

The House divided; and the tellers reported—ayes 67, noes 30.

So the motion was agreed to.

#### CONSULAR, ETC., APPROPRIATION BILL.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of House bill No. 904, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1868, and for other purposes.

The pending question was upon the amendment of Mr. STEVENS as amended on motion of Mr. HALE, reading as follows:

In line eleven, strike out the word "Rome;" and at the end of line fifteen insert the following:

Provided, That no moneys hereby or otherwise appropriated shall be paid for the support of the United States legation at Rome, or for the future expenses of any such legation.

Mr. DODGE. I have received several communications in regard to the action of the Government at Rome.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. DODGE. I move to strike out the last two words.

Mr. Chairman, I have received this morning from a friend who is spending the winter in Rome a letter which I will send to the Clerk's desk to be read:

The Clerk read as follows:

ROME, January 4, 1867.

For six years and more the Scotch Presbyterians have had a station here. Indeed they have two: one the Free Church, the other the Church of Scotland. The chaplains have held service every Sabbath in their own apartments with a few of their countrymen, rarely more than thirty or forty being present. No sign or notice is allowed to be put up on the house to designate it as the place of worship. The stranger finds it advertised at his hotel, and coming to the number, prows up the dark, stone stairways to some very upper chamber; and there, as secretly as the early Christians in the catacombs of Rome or in the dens and caves of the earth, he finds a few like-minded, who pray and hear the Word. These services disturb no one and the authorities do not notice them. They affect to ignore their existence alto-



gether. On Saturday, December 29, 1866, the chaplains of these two missions were served with the following warning, issued by the British consul. I copy it *verbatim* from the original now before me:

BRITISH CONSULATE AT ROME,  
December 29, 1866.

SIR: It is my official duty to inform you that Monsignore Randi, Governor of Rome, has just communicated to me that you are holding illegal religious meetings in your house, which you must know are prohibited by the Roman law, and that you have thus placed yourself in the power of the Inquisition, both for arrest and imprisonment. But as the Monsignore permits me to give you this notice I would seriously advise that you at once put an end to these innovations, and that you visit Monsignore Randi at Monte Citorio and assure him that you will never again repeat these illegal acts. I hope in this way you may possibly suspend your exile which is now hanging over you.

I am, sir, your most obedient servant,  
JOSEPH SEVERN, *British Consul*.

To REV. JAMES LEWIS.

January 5, 1867.

Worse than our worst fears, the blow has been struck, and Presbyterians are ordered to desist from public worship in the Papal dominions!

Yesterday Mr. Odo Russell, as the acting representative of the British Government, had an interview with Cardinal Antonelli, the Prime Minister of the Pope. Mr. Russell expressed his surprise on being informed that an order had been issued requiring the Scottish Presbyterians to desist from the worship they have been holding in the private houses of their pastors. He asked the Cardinal if he had been aware that these meetings had been held for six years past, without objection being made by any one, and if there was any special reason why they were now so summarily suppressed. The Cardinal intimated in reply that the Government had for many years past been under restraint; but now that foreign protection was removed, they would administer it according to their own views of duty; that one English chapel was open, and that was enough for the English in Rome.

Mr. Russell said that the Cardinal must be aware that the suppression of Presbyterian worship would produce a great excitement in Britain, and the action of the Pontifical Government would be loudly condemned. This suggestion, however, produced no effect, and Mr. Russell remarked that the Americans are allowed to have a place of worship. To this the Cardinal answered that the Government would attend to that also. Finding argument and remonstrance vain, Mr. Russell retired and reported the result of his interview. The two places of worship are, therefore, peremptorily closed. There is, therefore, no place in Rome or in the Papal dominions, where Presbyterians are permitted to meet for divine worship.

Paul could preach two whole years in his own house in Pagan Rome. But Papal Rome forbids the Protestant follower of the Apostle to worship God with his friends in his own hired house. Pagan Rome was more tolerant in Paul's day than Papal Rome is ours.

IRENEUS.

[Here the hammer fell.]

Mr. DODGE. I am not through. I withdraw my amendment.

Mr. KASSON. I renew the amendment and yield the floor to the gentleman from New York.

Mr. DODGE. I take the floor and ask the Clerk to read a letter I have received this morning, which will give the House a better view than I can myself.

The Clerk read as follows:

"We are curious to see the issue of this affair. If the report be confirmed; if the Pope has issued such an order, and if our minister submits to it, then is our country disgraced. Why should we suffer ourselves thus to be turned out of Rome? It has come to a pretty pass if the minister of the United States of America cannot have worship in his own private house. Next he will be forbidden to say his prayers inside the city walls! To all such interference with private liberty there is but one answer—a firm and dignified remonstrance. If that fail, then let our minister pack up his trunks and turn his back on Rome. It would be no great loss either to Rome or to his own country. Our embassy to the Pope is a ridiculous absurdity. What do we want of a minister to Rome? England has none and gets along as well as we with our potty embassy. There might have been some excuse for it a few years ago, when the Papal States were quite a respectable Power. But since the late revolutions those States have shrunk away almost to nothing, and the little remainder is just ready to be swallowed by the kingdom of Italy. To keep up an embassy at such a shadow of a court is a farce. We have no more need of a minister to the Pope of Rome than the Khan of Tartary. Let him pack his trunks and come away, and if there is any need of diplomatic interference we are very sure that our excellent minister at Florence, Mr. George P. Marsh, will interfere promptly and to some effect. "But if he remains, we trust our Government will insist inflexibly on his right to have Protestant worship in his own house. A little firmness here will have an excellent effect. It is time that the Pope heard a voice from this side of the Atlantic which may bring him to his senses, like the warning of stern old Oliver Cromwell, who put an end to Papal persecution by a message that 'if favor were not shown to the people of God, the thunder of British cannon should be heard in the castle of St. Angelo.'"

Mr. HALE. Upon whose authority does the gentlemen depend for his statements?

Mr. DODGE. Dr. Prime, a friend of mine, who is spending the winter in Rome. This is directly from him.

Mr. HALE. I supposed it to be an anonymous communication.

Mr. DODGE. In addition I simply wish to say, as we are all in favor of economy and restricting our expenses, I hope this item will be stricken out.

Mr. STEVENS. Mr. Chairman, I wish to say that Rome has no minister resident here. She does not condescend to send one here, and I do not know any reason why we should send one there.

Mr. KASSON. I withdraw the amendment for the purpose of making another proposition, although I have not had time to submit it to the chairman of the Committee on Appropriations. I move to add:

No money hereby or otherwise appropriated shall be paid for the support of the American legation at Rome.

Mr. STEVENS. If the gentleman will say "any American legation at Rome" instead of "the American legation at Rome" I will accept it.

Mr. KASSON. I do not object to that.

Mr. BANKS. I am opposed to the amendment of the gentleman from Iowa. If the Committee on Appropriations do not wish to make an appropriation for the minister at Rome I would not resist the action they propose perhaps; but I do object to the House acting on the information which has been presented here. We have been notified by the Secretary of State that the Government has no official information from our minister at Rome upon the subject presented to the House. The letter read at the Clerk's desk relates to the positions of Englishmen at Rome, not to that of American citizens; and we are under no obligations to take up their complaints and right their wrongs.

If we propose to sever our diplomatic relations with Rome altogether, we ought to have some facts to justify our action. If there are any such complaints of American citizens, and the committee proposes for that, I make no objection. But I submit to gentlemen that we ought to have something from our officers more substantial than these newspaper reports before we by legislative act deprive American citizens and the American Government of a representative at the Court of Rome.

The suggestion, which is a very natural one perhaps, one which may weigh with gentlemen, made in the paper which has been read here, that the Roman States are weak, is undoubtedly very true; but, sir, the Italian Government, which is ultimately to control those States in all secular matters, does not find in this weakness a sufficient reason for withdrawing her diplomatic representatives. It still maintains its diplomatic relations with the Roman Government. That Rome has no minister in the United States is true, but that is an omission to which we ought not to object. In the diplomatic relations existing between independent nations, originated chiefly in Catholic countries, they concede to the minister of the Roman Government precedence in all matters. If, therefore, Rome should send a minister here, he would be entitled to precedence over other ministers representing all other Governments. Our people would certainly object to it, and therefore we have no reason to complain if Rome does not send a minister to us.

Mr. KASSON. Will the gentleman allow me to say that I understand that is simply a rule of etiquette and nothing more?

Mr. BANKS. It is the rule wherever Rome is represented, and it is sometimes unrepresented in Protestant countries for that reason. In Catholic countries it is less objectionable than it would be here.

Mr. KASSON. They put it on the score of the supremacy of the church.

Mr. BANKS. I do not object if gentlemen

desire to omit the appropriation for the representative at Rome; but I trust the House will not take that decisive action proposed in the amendment moved by the gentleman from Pennsylvania and repeated in a different form by the gentleman from Iowa, [Mr. KASSON,] putting our action in exactly the same words that we have applied to a representative of this Government who, we think, has committed an offense against the people and the Government he represents. I would not have our action expressed in that form. If we do not like to make an appropriation for the diplomatic representative of our country at Rome, let us wait until we have some official information as to the facts affecting the rights of American citizens, and then take such action as the dignity of the Government may demand.

Mr. STEVENS. If I understood the letter correctly, all Presbyterian worship within the walls of Rome is prohibited. Now, sir, there is a letter here from Dr. Adams which has not been read, which states that Mr. King has hired a chapel outside of the walls of Rome, according to the order of the Pope.

Mr. BANKS. Dr. Adams says that if the statements be true, then the American minister has not done his duty. But it does not appear that they are true. The letter read at the desk refers to the interests of British subjects.

Mr. MORRILL. I move to add at the end of the proviso moved by the gentleman from Iowa the words "after the 30th day of June, 1867." In my judgment we ought not to have had a ministerial representative at the Court of Rome for the last ten years. There is no possible reason why we should have one there. It is a useless expenditure, merely to provide a place for some one who wants the position. If there were any important matters of business requiring one there I should be the last to object; but under the circumstances as now presented, with the present territory of the Pope confined to the city of Rome, I certainly think that a mere consul is all we require. I deem the present an opportune moment for withholding any appropriation that calls for the continuance of a minister at that place, and I trust the amendment will be adopted.

Mr. FINCK. I rise to oppose the amendment. I regret, Mr. Chairman, that this proposition should again be pressed this morning, in the absence, as has been stated by the chairman of the Committee on Foreign Affairs, of all official information on the subject. It strikes me that the gentleman from New York, [Mr. Dodge,] who has had read at the desk a letter and an extract from a newspaper, is exceedingly anxious to become a champion on this particular question. Now, the letter which he has had read at the desk is a letter referring entirely to English Protestant citizens residing at Rome; and I think the Government of Great Britain will be fully competent to take care of its own interests at that Court without the assistance of the able gentleman from New York, [Mr. Dodge.]

We, so far as we are concerned, have received no official intelligence whatever from our minister at Rome in relation to this question. And it does seem to me this committee is showing a disposition to be rather swift to find some difficulties and objection to the action of our minister at Rome and the conduct of the Papal Government. I submit that the course most consistent with the dignity of this Government and of the American people is to wait until we receive official information as to the action of the Government at Rome and of our own minister. That information has been asked for, but has not yet come to hand. We do not know, as a matter of fact, whether there has been an order issued to the American minister requesting that Protestant churches be removed outside the limits of the city of Rome. We have no reliable information on the subject. Although while I should regret that there should exist any cause in the minds of the authorities of Rome deemed by them sufficient to induce such an order, yet we all know and must

admit that we have no right to regulate the internal concerns of the Government at Rome. It is true, we have the right to withdraw our minister from that Court or from any other Court when, in the opinion of our Government, it should be done; but this attempt to do it, in this indirect manner, by cutting off the appropriation to pay the salary of the minister, without a single word of official information, seems to me to be going a great distance in order to attack the Papal Government, and to do an act, to say the least, distasteful to the great body of Catholics in this country.

This Government is not a Protestant Government, neither is it a Catholic Government. No particular religion is recognized or established by the Constitution; all are free before the law and the Constitution. But it is not so in every Government. It is not so in Great Britain. It is not so in Russia. It is not so in many other Governments. We desire that every person should be left free to worship the Almighty according to the dictates of his own conscience. And the first great example of this religious toleration in this country was set by the Catholics of Maryland as early as 1649, when they declared this great principle by statute. But this is a question with which this House to-day has nothing to do. Most fortunate for the people of this country Congress has no control over the question of religious belief. But as to this proposed amendment, I repeat we have no reliable information as to the existence of the order complained of or of the reasons which induced it, if really it has been made as reported by the newspapers.

Mr. MORRILL. Is there any more reason for our having a minister at Rome than for our having one at Patagonia?

Mr. FINCK. I do not propose, Mr. Chairman, in the few minutes to which I am limited in this debate, to discuss the necessity of having a minister at Rome. What I object to now is the manner gentlemen propose to take for getting rid of the minister at that Court. But I will say in answer to the gentleman that there is just as much necessity for having a minister at Rome to-day as there was when he was first appointed.

[Here the hammer fell.]

The question was upon Mr. MORRILL's amendment.

Mr. KASSON. I will modify my amendment, so as to make it read "after the close of the present year."

Mr. MORRILL. All I desire is that this minister shall not be required to return home at once; but I will agree to the modification.

Mr. BIDWELL. I move *pro forma* to amend the amendment by striking out the letter "e" at the end of the word Rome, and inserting instead the letter "a;" so that it will read "Roma."

Mr. Chairman, under the circumstances I do not think we ought to be hasty in removing the American legation at Rome. I am in favor of extending the influence and authority of this Government every way in every locality where it can be done with advantage to the country. The American people now go to almost all parts of the globe; but there is no place which Americans visit more than Rome. Every one who goes to Europe makes it a point to visit that city on account of its great historical interest and the associations that attach to it.

Now, whether or not Rome is represented in this country, I believe that the United States ought to be adequately represented at Rome, not on account of any respect which we owe to the Papal Government, but for the purpose of extending protection to those of our own citizens who visit that city. And as we have no official information upon this subject, I hope we will not withdraw the support to the American legation there.

Mr. MORRILL. I would ask the gentleman if a consul would not be as fully competent to give protection to our citizens in Rome as a minister is?

Mr. BIDWELL. If that be the case, then we should send a consul and not a minister to

the Courts of St. James and at Paris. But I think a minister has a power and a dignity that do not attach to a consul. I was in Rome during the past summer; and although I did not, for want of time, call upon the American minister there, yet when I passed by the residence and saw the American flag waving over it, and knew that there was an American minister there, I felt a degree of security and a degree of pride in the power of my country that I should not have felt if we had had no legation there. I hope, therefore, that we will not take the action proposed in this matter, for I think there is no necessity for it.

Mr. HILL obtained the floor.

Mr. BANKS. Will the gentleman from Indiana [Mr. HILL] yield to me for a moment?

Mr. STEVENS. I move that the committee rise, for the purpose of closing debate.

The CHAIRMAN, (Mr. POMEROY in the chair.) The gentleman from Indiana [Mr. HILL] is entitled to the floor.

Mr. HILL. I will yield to the gentleman from Massachusetts [Mr. BANKS] for a few moments.

Mr. BANKS. I desire to state a reason why this mission to Rome should not now be discontinued. The reasons given for the discontinuance urged by those who favor the proposition might have been assigned as well five years ago as to-day. The reason why we should not at this moment discontinue our mission to Rome is that the Papal Government is in peril, and also it has rendered to this Government essential service in regard to a most important matter.

Upon the first suggestion through our minister the Roman Government expressed entire willingness to give up a person who is alleged to have been concerned in the conspiracy to assassinate President Lincoln, and to give him up without imposing any condition whatever upon us. There is not probably another Government in all Europe which would have so acted under the same circumstances. We had no extradition treaty with the Roman States; we had made no formal demand for the surrender of the criminal; but the Roman authorities acceded to the simple request of our minister, without imposing any condition whatever. But when application was made to the Italian Government by our minister, Mr. Marsh, for the surrender of the assassin, the authorities stated distinctly that they would not surrender him except upon the condition that he should not be subjected to capital punishment if found guilty.

Mr. GRINNELL. I desire to ask a question of the gentleman from Massachusetts, [Mr. BANKS.]

Mr. HILL. I cannot yield further, but will resume the floor. As I came in after a temporary absence from the Hall, the gentleman from New York [Mr. DODGE] was occupying the floor and having some correspondence read by the Clerk. From all that I have been able to learn, I gather that the only reason for now terminating the existing relations between this Government and Rome, the only ground upon which it is sought to terminate those relations, is on account of some religious difficulties. It seems to me that is a new ground upon which to take action of this character in relation to any foreign nation. Each nation, of course, regulates all these matters of religion for itself. Whether or not there are sufficient grounds for terminating the existing relations between this Government and Rome, or abolishing the office of minister at Rome, it seems to me that it is improper to do it upon the ground which has been assigned here and in this indirect way.

The complaint is that a certain church has not been permitted to exercise its ordinary religious worship within the city of Rome. Now, I am in favor of the utmost freedom of religious worship, but I do insist that it is not in accordance with the principles, theory, or practice of this Government hitherto to interfere in this indirect way any more than to interfere more directly with the religious practices of another Government. If Rome has in

any way violated the rights of American citizens, or has committed any indignity upon American citizens, then inflict the proper punishment upon her for her act. But if it is only a regulation of religious worship which she has established, and to which all are alike subject, I insist that it is not in accordance with our principles or our practice to take any action upon the subject; therefore I must oppose the amendment at least upon the ground upon which it is placed here.

If it is to be placed upon some other ground, if, as suggested by the gentleman from Vermont, [Mr. MORRILL,] there is no occasion for a minister at Rome, and a consul will do as well, then let our action be based upon that ground, so that no erroneous impression in regard to the matter will go abroad.

Mr. BIDWELL. I now withdraw my amendment to the amendment.

Mr. CHANLER. I regret, Mr. Chairman, that this whole subject has assumed somewhat of a religious character, and that the question of church and state has been drawn into this debate. I am sorry too that I have been referred to as having in any way attempted to characterize this Government as being specially for one side or the other in religious matters. All I mean to say on that head is, that inasmuch as our Government is based upon the people, and as the statistical returns show a majority of our population to entertain the Protestant faith, in that light only do I mean to assert that this is a Protestant Government. So far as my personal views are concerned I adhere to no doctrine which would favor a union of church and State, and I have no purpose whatever to introduce religious questions into a political discussion.

But, sir, this is a practical question, and as such it has been treated with force and appropriateness by the chairman of the Committee of Ways and Means, [Mr. MORRILL,] who has said that this position of minister at Rome is but an ornamental post of no advantage to the people of this country. That argument, sir, in common with a whole line of argument introduced by those who are trying to stop our appropriations for the mission at Rome, applies with equal force to nearly the whole list of diplomatic positions; and I am in favor of abolishing a large majority, if not all, of these diplomatic posts, which are absorbing to an immense amount the proceeds of the people's labor without affording them any return.

I believe, sir, that a well-organized consular system based upon the commercial interests of our country will be better administered, and more consistent with our form of government. I recognize in the system of diplomatic appointment a subtle and indirect subserviency to the European form of government, which, from its monarchical character, is altogether unsuited to be a model for the enlightened Government of a free Republic. The chairman of the Committee on Foreign Affairs [Mr. BANKS] has in his remarks this morning given us the key to that whole system. The Court of Rome refuses to send an ambassador here—why? Because that ambassador would not hold his position here with that dignity which, under the rules and precedents of European diplomacy, is accorded to the representative of the Church of Rome in all countries where the Catholic religion is predominant. That is the secret of the European system, governed as it is, by the strictest rules of diplomatic etiquette; and it will be found in the history of our diplomatic relations that in order to meet those obstacles of etiquette we have absolutely been obliged to change the order of our organization in diplomatic affairs and waive if not surrender the principles of our Government.

Sir, I desire that our country shall withdraw from participation in the system of European diplomacy. We should have nothing whatever to do with it. Our principle is that of the common interest of our people in governmental affairs. I wonder, however, that in assailing the Pontiff of the Church of Rome gentlemen have not applied the same line of argument to

the sovereign to whom we send on large salaries the supple-kneed representatives of this Government—

[Here the hammer fell.]

Mr. MORRILL. I desire merely to remind the House of what I believe is the fact, that the Pope is the only foreign Power that formally recognized the southern confederacy.

Several MEMBERS. That is true.

Mr. BANKS. The gentleman from Vermont will allow me to say that he is mistaken in that statement.

Mr. MORRILL. What other Power gave that confederacy recognition?

Mr. BANKS. I do not say that any other Power did; but I deny that the Pope did so. The facts are these: Jeff. Davis wrote to the Pope, introducing to him some persons; and the Pope made a reply in which he addressed Davis by the same title by which he had subscribed himself. I will not be positive; but I think there is no act on record which shows that the Roman Government recognized the southern confederacy in any other way than this.

Mr. GRINNELL. Did he not express sympathy for the rebel government?

Mr. BANKS. I think not. My belief is the correspondence will show that he merely expressed a desire for peace.

Mr. STEVENS. What title did he address him by?

Mr. BANKS. The same as he signed himself.

[Here the hammer fell.]

Mr. BANKS. I ask that the correspondence of Mr. King with the Papal Government in reference to the surrender of Surratt be read.

Mr. STEVENS. I move that the committee rise for the purpose of closing this debate. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House No. 904, making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1868, and had come to no resolution thereon.

#### ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bill No. 69, to provide for the payment of pensions; when the Speaker signed the same.

#### CONSULAR, ETC., APPROPRIATION BILL—AGAIN.

Mr. STEVENS. I move that all debate on the pending section of the consular and diplomatic appropriation bill in the Committee of the Whole, together with all the amendments thereto, be closed in five minutes after the consideration of the same shall be resumed.

The motion was agreed to.

Mr. STEVENS. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering House bill No. 904, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1868, and for other purposes.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair.)

Mr. WILLIAMS. Mr. Chairman, as I am responsible for this debate in having moved the amendment yesterday, it may perhaps be proper for me to submit one or two remarks before the vote is taken. I wish to say that in moving the amendment I was not influenced by the intolerance of the Papal Government, although it might add force to the argument in favor of the discontinuance of our present mission to that Court. The same objection might be taken to any further continuance of

our diplomatic relations with Peru on account of the refusal of funeral rites to a deceased British minister.

It was on the score of the political insignificance of the Papal Government that I moved the amendment. I never could understand the reason for this mission. There might have been some ground for it when the Pope exercised temporal jurisdiction over all of the Roman States, but he has not any such jurisdiction now, being "sealed up," as I believe he is, in the city of Rome by the kingdom of Italy. And if he is confined to the city of Rome our relations there now are purely spiritual and not diplomatic; not political, unless intended for the benefit of a particular church and a particular party. And looking at it in this aspect it would be just as reasonable to send an ambassador to the Court of the Grand Lama of Tibet, who, perhaps, has more devotees than the head of the Court of Rome; or it might be more sensible to send an ambassador to the little republic of San Marino in Italy, which remains as an oasis in that great waste, as I may call it.

I do not know what may be the occupation of our minister at Rome unless it be of a spiritual character. He may turn it, perhaps, into a pastoral life, as I presume he has nothing to do, and he may feel tempted to say with the shepherd in the first Eclogue of Virgil, who waked the sylvan echoes with his pipes:

"Et quæ fuit Roman tibi causa videndi?"

I ask what has this Government to do at Rome? Nothing that I can see.

[Here the hammer fell.]

The CHAIRMAN stated that under the order of the House the debate was exhausted.

Mr. KASSON's substitute was agreed to.

The question then recurred on the amendment as amended.

The committee divided; and there were—ayes, 51, noes 48.

So the amendment was agreed to.

The Clerk read as follows:

For salary of the interpreter of legation to Japan, \$2,500.

Mr. CHANLER. I move to strike that item out. The same line of argument that has been used in regard to the conduct of the Roman Government applies to that of Japan.

Mr. KASSON. I raise the point of order, that debate is closed by order of the House on the entire section.

The CHAIRMAN. By the usage of the committee each paragraph has been heretofore treated as a section, and the Chair will so rule unless the committee direct otherwise.

Mr. KASSON. The chairman of the committee on Appropriations made his motion in the form he did for the express purpose of embracing the whole.

The CHAIRMAN. The custom has been to treat each paragraph as a section.

Mr. CHANLER. My object in rising is to draw the attention of the House to the fact that if they intend to carry out any consistent plan with regard to their diplomatic relations with foreign countries they must select those which are within the pale of a certain system agreeable to the men who seek to govern this country. It appears that the Court of Rome has some system disagreeable to a party connected with this Government; and if the system established in Japan is in accordance with the wishes of these men who are hostile to the Court of Rome why they are welcome to the distinction. If, however, these gentlemen have any principle based upon the system of civilization and of the Christian religion they are bound, in view of the exclusive, barbarous, and unchristian system in Japan, for consistency's sake, to exclude from the pale of American diplomacy the whole Japanese Government. Hence, to hold communication with these outside barbarians, even through an interpreter, seems to me very inconsistent on the part of gentlemen who are so very easily outraged, as the majority on this floor have just shown themselves to be, and I think prayers

ought to be offered on their behalf in all the Presbyterian churches in this country.

Sir, the foreign missionary association of that church should take this case in hand. You should be preceded by a Presbyterian minister at Jeddo before your interpreter is allowed to speak to barbarians. You should pass a resolution recognizing and indorsing the Presbyterian church before you pay the salary to an interpreter who may be speaking with that unchristian nation which will not allow you the right of sepulture, whose people will cut your throat if you attempt to trade with them in a certain line, and who will make you commit hari-kari in a worse way than the gentleman on the committee who introduced the amendment in relation to the mission at Rome is doing it. Sir, the meanness and malignancy of that proposition will be made so evident that the question of the possession of the feeling of Christianity will be solved against the mover of it. The spirit of American Christianity is tolerant. I have no objection so far as I am personally concerned to your sending a full mission to Japan. I am very proud of the representative we have there; but I cannot understand how a majority of this House can vote to cut off diplomatic relations with Rome and then vote to continue them with Japan.

[Here the hammer fell.]

Mr. MAYNARD. I call the attention of the chairman of the Committee on Appropriations to this item in this point of view: it provides for the salary of the interpreter to the legation of Japan; but I do not see that this bill makes any appropriation for this legation itself. If there is any such appropriation it has escaped my notice. Either this ought to be out or the other in.

Mr. KASSON. That, I believe, is provided for; I cannot find it just at present, and I will not detain the House to examine it now.

Mr. BANKS. It is probably provided for in the act of 1856, which originated this legislation.

Mr. MAYNARD. My point is, that this makes no appropriation for that legation, but merely for the interpreter.

The question being taken on the amendment of Mr. CHANLER, it was disagreed to.

Mr. KASSON. I find there is an omission in the bill to provide for the consulate at Quebec. I move, therefore, on behalf of the Committee on Appropriations, to insert in line seventy-four, after the words "Prince Edward Island" the word "Quebec."

The amendment was agreed to.

Mr. KASSON. In view of the action already taken by the committee abolishing the mission to Rome, I move to insert after the word "Rotterdam," in this clause, the word "Rome;" so that there may be a consul there.

The amendment was agreed to.

Mr. KASSON. I move to insert, at the close of line eighty-one the following:

And the salaries of the consuls at Rome, Quebec, and Spezia shall be respectively \$1,500; the salary of the consul at Spezia to commence at the beginning of the current year.

The amendment was agreed to.

Mr. KASSON. In order to correspond with the amendments already made the appropriation should be \$429,000. I move that amendment.

The amendment was agreed to.

Mr. SCHENCK. I move to insert after line ninety-nine the following:

No money appropriated by this act shall be applied to the payment of salary or compensation to any diplomatic representative of any grade, or to any consul or commercial agent of the United States who is not a citizen of the United States, native or duly naturalized; nor shall any consul or commercial agent not a citizen of the United States be authorized to charge or receive fees of any kind for services as such consul or agent.

I think the object of this amendment appears clearly upon its face, and that it needs scarcely a word of explanation.

It may be said in reference to the appointment of aliens to these offices of minor grade—such as consulates and commercial agencies—that they get so little compensation that it is



impossible to induce citizens of the United States to reside abroad at the places where the offices are to be held, and to exercise the function of the offices. I hardly suppose that to be the case. But I do know that it is right and proper to do something to correct the abuse which exists in the appointment of irresponsible persons in the countries where they reside to fill these offices.

In the first place these people, who are there to guard American interests and to meet the wants of American citizens abroad are not themselves full of American sympathies, are not supplied with American knowledge, and are not, therefore, competent, really and truly, to represent American interests. I know that there are a great many places, even where Americans reside and might be employed, where persons are appointed to fill official positions who are aliens, and in some instances have never even been in the United States. For instance, there are many who are partners in foreign houses with others who find it convenient to recommend one of their partners for such appointment, because of some commercial advantage to be derived from having one of the concern to represent the Government. There are also persons who are instigated to apply for such places for the reason that they can wear cocked hats and a little gold lace, and strut among their fellow-citizens at home in the enjoyment of certain privileges as representing a powerful Government abroad.

It may be that my amendment is too broad in the classes it embraces; but it seems to me that some corrective needs to be applied. It seems to me to be obvious that the representatives of America abroad ought to be Americans, either by adoption as naturalized citizens or as natives of the country.

An objection has sometimes been made that our representatives abroad do not always understand the language of the country to which they are accredited. That is an objection which every day, under the progress of education, is ceasing to exist, and especially by this provision for consular pupils which now exists. In view of this educational progress among our people, I apprehend that wherever America needs to be represented an American of some sort can be found competent to fill the place.

Mr. MAYNARD. I would suggest to the gentleman from Ohio whether he has not made his amendment too broad. We have vice consuls, who act temporarily during the absence of the consul, whose emoluments are not such as would justify any man in going abroad from this country. There are also consular agents, whose whole compensation would be insufficient to pay the expenses of a person in going to Europe and returning.

Mr. KASSON. If the gentleman from Tennessee [Mr. MAYNARD] will allow me, I will propose an amendment which I think my friend from Ohio [Mr. SCHENCK] will accept: to exclude from the operation of his amendment all those embraced in schedule C; that is to say, let his rule apply to all who receive \$1,500 and upward a year.

Mr. MAYNARD. Would it not be well also to exclude vice consuls and consular agents?

Mr. KASSON. I do not understand that they are included in the amendment.

Mr. MAYNARD. Very well; I have no objection to that.

Mr. KASSON. I move to amend the amendment of the gentleman from Ohio [Mr. SCHENCK] by striking out the following:

Nor shall any consul or commercial agent not a citizen of the United States be authorized to charge or receive fees of any kind for services as such consular agent.

And insert in lieu thereof the words:

Except the consulates and agencies embraced in schedule C.

Mr. SCHENCK. I understand the object of the gentleman representing the Committee on Appropriations [Mr. KASSON] is to get rid of that portion of my amendment which applies this rule to those who are only paid by fees.

Mr. KASSON. And also to those who are

allowed the privilege of trading. In some very bad places where Americans will not go, our agents are allowed the privilege of trading.

Mr. SCHENCK. I will modify my amendment, in accordance with the suggestion of the gentleman from Iowa, [Mr. KASSON,] so that it will read:

No money appropriated by this act shall be applied to the payment of salary or compensation to any diplomatic representative of any grade, or to any consul or commercial agent of the United States who is not a citizen of the United States, native or duly naturalized, except the consulates and agencies embraced in schedule C.

I want to try the experiment of being represented abroad by Americans.

Mr. SCHENCK's amendment was agreed to.

The Clerk resumed the reading of the bill.

The following clause was read:

For salaries of the marshals for the consular courts in Japan, including that at Nagasaki, and in China, Siam, and Turkey, including loss by exchange thereon, \$9,000.

Mr. STEVENS. I move to insert after the clause just read the following:

For the salaries of consuls at the Mahé-Seychelles Islands, and at St. Domingo, which consulates are hereby established and added to schedule B, \$1,500 each, \$3,000.

The amendment was agreed to.

The Clerk resumed reading the bill.

The following clause was read:

For expenses under the act to encourage immigration, \$20,000.

Mr. CHANLER. I would like to ask for the sake of information the gentleman who is in charge of this bill what is really the object of this appropriation. I understand that the person who was placed in charge of this Immigration Bureau in the State Department has left it to take some position in his native State or in the State of New Jersey. Now, I would like to be informed if that Bureau of Immigration is really in practical operation at this time; where it reaches the immigrant in Europe; and where are its officers on this side of the Atlantic, whereby the immigrant can be expedited to the place to which he would go. So far as I know every State, and nearly every county in every State, has its agents in Europe for the very purpose of encouraging immigration to this country, and they incur large expenses for this purpose. Now, it seems to me to be rather inconsistent and useless to be taxing the people twice over for the same thing, unless some particular benefit arises from this bureau in the State Department. I think it is due to the country that we should vote knowingly upon this matter, and for the purpose of bringing the question to a test I move to strike out the clause relating to the encouragement of immigration.

Mr. STEVENS. I suppose the gentleman from New York [Mr. CHANLER] does not need to be informed by me that the Bureau of Immigration is established by law and is now in operation, the officers having been appointed by the President under an existing law. The Committee on Appropriations have only recommended the appropriation necessary to carry that law into effect. If you wish to avoid carrying out that law it must be repealed. If the House chooses to repeal it I do not know that I shall have any particular objection to it. But until that is done the gentleman must see that the committee were bound to recommend the appropriation.

Mr. CHANLER. The gentleman misunderstands the drift of my inquiry. My object is not really to strike out this appropriation, but to learn whether the existing law is really being carried out: whether the State Department is really doing its duty in this matter. I understand that the person who was placed in charge of that bureau is not now in his place; that that bureau at this moment really has no head to it. I desire information from the gentleman from Pennsylvania on that point. I was fully aware that this appropriation was in accordance with existing law; therefore what the gentleman has said does not meet my inquiry.

Mr. STEVENS. I did not fully understand

the gentleman before, probably because there was so much noise about me here. Whether the Secretary of State has properly carried out this law or not I should of course feel great delicacy in inquiring. I took it for granted that all the officers of this Government were doing their duty, and until some malfeasance is alleged against them I shall presume that every officer of the Government is fulfilling his duty and executing the law.

Mr. CHANLER. I will ask the gentleman in this connection whether it is not the practice of the Committee on Appropriations to send to the different Departments for information with regard to the propriety of the appropriations which are called for. Is it supposed that these gentlemen who send in their estimates are always right? Is not the committee appointed for the purpose of ascertaining whether the facts justify the appropriations asked for by the different Departments?

Mr. STEVENS. All I can say is that it has not been the custom of the Committee on Appropriations to send to the heads of Departments to ascertain whether they are doing their duty. We are without any precedent whatever of that sort. When a Department sends us, as in this case, its estimate, and when we find that estimate to conform to an existing law providing for such an appropriation, we report in favor of the appropriation, unless there be some allegation against the Department. We presume, in the absence of information to the contrary, that they do their duty.

Mr. CHANLER. Then I ask the gentleman with what consistency he moved his amendment striking out the appropriation for the embassy at Rome? Where are his allegations, where is his proof on this subject? If on this question ignoramus is his plea, he is welcome to it.

Mr. STEVENS. I shall not go back to Rome to-day. [Laughter.] We have passed that matter. All I can say is, that where we ourselves know facts which appear to justify us in withholding an appropriation, we suppose it to be our duty to withhold it. We know of no allegation against the administration of this bureau by the Secretary of State; and I am satisfied that the gentleman will not now bring a railing accusation against that officer for the purpose of inculpating the Committee of Appropriations.

Mr. CHANLER. I think that is impossible. [Laughter.]

Mr. STEVENS. Yes, sir; I supposed so. Hence this appropriation ought to pass.

Mr. CHANLER. I withdraw the amendment.

Mr. MAYNARD. I move to strike out the clause from line one hundred and twenty-four to line one hundred and twenty-seven, reading as follows:

For expenses of the commission to run and mark the boundary line between the United States and the British Possessions bounding on Washington Territory, \$28,070.

This appropriation seems to me one of those barnacles which are trying to fasten themselves on the Treasury of this Government. If the committee will grant me their attention, I will endeavor to give the history of this matter and the reasons why I think we had better look into it.

It will be recollected that some twenty years ago it was supposed that our title to the whole of Oregon was clear and unquestioned. The doctrine at that day was "54° 40', or fight." But in the summer of 1846 a treaty was negotiated between our Government and that of Great Britain through the agency of our Secretary of State, Mr. Buchanan, and the British minister, Mr. Packenham. The first article of that treaty was in these words:

"From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the Territories of the United States and those of her Britannic Majesty shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's island, and thence southerly through the middle of the said channel and of Fuca's straits to the Pacific

ocean: *Provided, however, That the navigation of the whole of the said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both parties.*"

The matter remained in this condition for a period of ten years. In the summer of 1856 Congress passed this law:

"An act to provide for carrying into effect the first article of the treaty between the United States and her Majesty the Queen of the United Kingdom of Great Britain and Ireland, of the 15th day of June, 1846.

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of carrying into effect the first article of the treaty between the United States and her Majesty the Queen of the United Kingdom of Great Britain and Ireland of the 15th day of June, 1846, there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, a commissioner, and chief astronomer and surveyor, to unite with similar officers to be appointed by her Britannic Majesty's Government; and there shall be appointed by the President an assistant astronomer and surveyor:*

*"SEC. 2. And be it further enacted, That the said commissioner shall have power to appoint a secretary; and the said chief astronomer and surveyor shall have power to appoint a clerk.*

*"SEC. 3. And be it further enacted, That, for the purpose of carrying into effect the said first article of the said treaty, there be appropriated, out of any money in the Treasury not otherwise appropriated, the following sums: for the salary of the commissioner, for one year, \$3,000; for the salary of the secretary, for one year, \$2,000; for the salary of the chief astronomer and surveyor, for one year, \$3,000; for the salary of the assistant astronomer and surveyor, \$1,800; for the salary of the clerk, for one year, \$1,200; for provisions, transportation, and contingencies, \$60,000.*

*"SEC. 4. And be it further enacted, That, until otherwise provided for by law, the proceedings of the said commission shall be limited to the demarkation of that part of the said line of boundary which forms the boundary line between Washington Territory and the British Possessions.*

*"SEC. 5. And be it further enacted, That, for the purpose of aiding in the demarkation of the said line, the President be authorized, in his discretion, to direct the employment of such officers, assistants, and vessels, attached to the coast survey of the United States, as he may deem necessary or useful."*

Ever since that day we have had in the appropriation bill an item for running this boundary line. I see by the bill at the last session the sum appropriated was \$13,110; exact, very nice, and precise, and the only wonder is that a fraction of a dollar was not included. We have in this bill another item for the same thing, which has manifestly been fixed with the same mathematical accuracy. It is for \$28,070.

I find the running of this boundary line, not a long one, has called for these appropriations for the last ten years. Why does it take so long to run this boundary line? We do not know what kind of progress is being made. The provision of the act to which I have alluded is "until otherwise provided," and I suppose these commissioners are to continue running that line until we otherwise order. I think, therefore, we had better provide otherwise, and it is with that view I have moved my amendment.

If there be any good reason why we should not strike out this appropriation let us know it. I think it is time we should at least have the facts before the House.

Mr. STEVENS. Our corps of surveyors and engineers are out in Oregon, and have been for the past year, and this is asked to pay the necessary expenses of the Government as required by law. Whether or not it is all required for running this boundary line I do not know. It is a rough country out there.

Mr. MAYNARD. Why I thought we were told that was the most feasible route for a railroad from ocean to ocean?

Mr. STEVENS. The railroad route to which the gentleman refers is somewhat south of this boundary line, in some places two hundred and in others three hundred miles. That it is the most feasible route for a railroad from the waters of the Atlantic to the waters of the Pacific, I say, after careful examination, I have not the least doubt. That it will become the great thoroughfare between the waters of the Atlantic and China I have no doubt whatever.

But, sir, that is not the question now. We are running the line through that country which is now inhabited by Indians. How it is so much has been expended I cannot tell. I

do not know how we are running it. There is no report of what has been done.

I am sorry that we did not get "fifty-four degrees and forty minutes." I think it is a shame we did not go up to Vancouver's island; I am sorry we were compelled to split the channel of one of the best harbors in the world. That is one of the errors of the past. It is now for us to make what we have available.

Mr. MORRILL. I move to reduce the sum to \$15,000.

I am satisfied, Mr. Chairman, so long as we continue to make this appropriation, increasing and doubling it every year, these gentlemen will have employment from now to 1900.

Mr. MAYNARD. I am willing to make it the same as that of last year, \$13,110. If the gentleman will modify his amendment in that way I will accept it.

Mr. MORRILL. I will modify it in that way.

Mr. STEVENS. As these are step-children of the Republic, if gentlemen in the center are unwilling to take charge of them I shall not object.

Mr. DENNY. Mr. Chairman, although I do not regard Washington Territory as being much more interested in this question than any other section of the country, as it is the line between the United States and British Possessions, it consequently is a national question. I will, however, say that the work has progressed very well, and that it has been so far well executed. I think this is acknowledged by every one who has any knowledge of it. I certainly think the gentleman from Tennessee is mistaken in his statement, that any Delegate from Washington Territory asserted that this precise line was the most practicable route for the Pacific railroad; but we do assert that very near to it is found the best and most practicable route for a railroad across the continent. I join him in regretting that we did not get all up to the line of fifty-four degrees and forty minutes, and I think every other American citizen who has a personal knowledge of the country will do the same. I am not only sorry that we did not get it, but think most decidedly we ought to have it. I hope that the amount called for by this bill will be allowed.

Mr. MORRILL. I modify my amendment so as to say:

*Provided, That when this sum shall be exhausted no further payments shall be made or authorized.*

Mr. HILL. This seems to be an attempt to bind future Congresses from further legislation.

Mr. MORRILL. I beg the gentleman to understand that this applies only to the executive department. They are in the habit usually of going on and acting precisely as if they had authority to make expenditures when there has been no appropriation made. If this shall be made, it will merely preclude the executive department from going on and involving the Government in the expense without authority.

Mr. HILL. I am glad of having given the gentleman an opportunity to make the explanation.

Mr. MAYNARD. I will say in regard to the amendment of the gentleman from Vermont, I am not particular as to the precise form nor as to the amount being a thousand dollars more or less. We have already appropriated for the purpose of running this boundary line \$500,000; and certainly the statement made by the Delegate from Washington Territory [Mr. DENNY] has failed to give us any adequate reason why this work should be continued any longer. I accept the amendment of the gentleman from Vermont, and hope it will be adopted.

The amendment was agreed to.

Mr. STEVENS. I move to amend by inserting in line fourteen, page 2, "Japan" after "Paraguay." It is to supply an omission in the printed bill.

The amendment was agreed to.

The Clerk resumed, and concluded the reading of the bill.

Mr. WILLIAMS. I offer the following amendment, to come in at the end of the bill:

*Provided, however, That the missions at New Granada, Bolivia, Ecuador, Venezuela, Guatemala, Nicaragua, Costa Rica, Honduras, Paraguay, and Salvador, shall be filled by consular appointment for each of the said States at such point therein as may be deemed most convenient for purposes of intercourse with the said Governments respectively; and no part of the appropriation herein made shall be applied to the payment of any agent or minister of higher grade.*

I intended to move to amend by striking out this, but was prevented. I now offer this proposition, embracing as it does no less than ten of these States, called by courtesy republics, but which I hold are under the dominion of anarchy and chaos.

Mr. KASSON. I make the question of order that this amendment proposes to change the provisions of existing law, and therefore needs further legislation to give it effect.

Mr. WILLIAMS. I have stated my reasons for moving the amendment.

The CHAIRMAN. Does the gentleman withdraw it?

Mr. WILLIAMS. I do not.

The CHAIRMAN. The Chair sustains the point of order and rules the amendment out.

Mr. KASSON. I move that the bill be laid aside, and that the committee take up bill No. 912, the Military Academy appropriation bill.

Mr. SCIENCK. Before that is done I would like to offer an amendment. When we declined to make an appropriation for the mission to Rome it was moved, as from the Committee on Appropriations, to insert a provision for a consul at Rome, upon the ground that there was no consul there. I thought it strange at the time. It seems upon consulting the Blue Book from which this list is copied that there is not only a consul but a vice consul there—Mr. Cushman and Mr. Brown. I therefore would like to understand from the Committee on Appropriations whether the consul and vice consul have been kept at work there drawing pay without any appropriation whatever.

Mr. STEVENS. I presume that this appropriation was accidentally omitted in the estimate, as they do not appear in the estimates upon which we acted.

Mr. WILLIAMS. If it be in order, I will move to go back to the first section of the bill, in order to strike out the names of the several States included in my amendment.

The CHAIRMAN. It is not in order if objection be made.

Mr. STEVENS. I must object.

The bill was then laid aside, to be reported to the House.

#### MILITARY ACADEMY BILL.

The committee then proceeded to the consideration of bill of the House No. 912, making appropriations for the support of the Military Academy for the year ending June 30, 1868.

By unanimous consent the first reading of the bill was dispensed with, and the Clerk proceeded to read it by clauses for amendment.

Mr. MORRILL. I observe somewhat peculiar phraseology in this bill. It is as follows:

For additional appropriations for which estimates were not made last year.

I desire to ask whether these appropriations, amounting altogether to quite a large sum, one being for \$7,500, one for \$75,000, and so on, are absolute deficiencies, or whether they are not appropriations which we should consider?

Mr. STEVENS. These are not deficiencies; because last year we declined to make any appropriation for these purposes, although I believe the Board of Visitors to the Military Academy thought that they were necessary. I would ask the chairman of the Military Committee what information he has in regard to them?

Mr. MORRILL. I move to strike out all of them. There is no pressing reason why we should make these appropriations; and I hope that we shall not go into extravagant appropriations this year.

The CHAIRMAN. The gentleman cannot

move to strike out all of them, as they have not yet been read.

Mr. MORRILL. I move, then, to strike out what has been read, and which is as follows:

For additional appropriations for which estimates were not made last year:

For enlarging cadet laundry, \$5,000.

Mr. SCHENCK. As the chairman of the Committee on Appropriations has appealed to me upon this subject and has referred to the fact that these items, or some of them, were brought to the attention of the House at the last session of Congress, I will make a moment's explanation.

Some of these items, but not all of them, are such as were recommended by the Board of Visitors as necessary appropriations for improving the condition of the Academy at West Point. I had the honor to be president of that board, and thus my attention was attracted to the subject as well as by the communications which I received as chairman of the Committee on Military Affairs. There is an item "for enlarging cadets' laundry, \$5,000." Then there is one, "for furniture for soldiers' hospital, an item of only \$100." The third is in relation to increasing the supply of water. These, I believe, were all recommended by the Board of Visitors. In relation, too, to the item "for a fire-proof building," it was deemed absolutely necessary for the preservation of the records and other valuable property at the Academy.

Mr. MORRILL. I would ask the gentleman whether this sum of \$15,000 will complete the building, or whether this is but an initiatory step to further expense?

Mr. SCHENCK. I am not able to answer the gentleman's question, because I do not know what kind of building they propose to put up, and therefore I have no data on which to determine the amount of appropriation that may be requisite. I speak only of the general necessity of such an appropriation. And the same may be said of the item for a fire-proof building for a chemical laboratory. That was deemed to be essentially necessary.

As to the two remaining items, "for a stable and forage house" and "for a permanent derrick on the wharf," I have no recollection. In regard to the derrick, it relates to an improvement which has been completed since the time of which I have been speaking. The most of these items, therefore, designating them as I have done, I can only answer for as items which, in the opinion of those who examined the Academy and the condition of things there, it was deemed necessary to appropriate for. This is the only explanation I can make to the chairman of the Committee of Ways and Means, [Mr. MORRILL.] For the rest I must refer him to the War Department, which made the estimates and asked for the appropriations.

Mr. MORRILL. I do not understand that there has been any new information before the Committee on Appropriations or before the House. My experience is that when we make appropriations for improvements, the first step is really the one that involves all the cost. Having commenced the improvements we shall become involved in the expenditure of unknown sums for each and every item. Some of these items here which begin with the modest sum of ten or fifteen thousand dollars will very probably in the end cost not less than \$100,000. I therefore warn the House against the commencement of these improvements.

The question was then taken upon the amendment of Mr. MORRILL; and upon a division there were—ayes 50, noes 24; no quorum voting.

Tellers were ordered; and Messrs. KASSON and MORRILL were appointed.

The committee again divided; and the tellers reported that there were—ayes 43, noes 54.

So the amendment was not agreed to.

The Clerk resumed reading the bill.

Mr. MORRILL. I move to strike out the following:

For increasing the supply of water, replacing mains, &c., \$15,000.

I desire to call the attention of the commit-

tee to the fact that these appropriations are for the beginning of large expenditures, which, I think, will involve the Government in an expenditure of not less than five or six hundred thousand dollars to complete them. Now, unless we are prepared to go on and complete these works we should not make these appropriations.

Mr. STEVENS. My friend from Vermont [Mr. MORRILL] is in the habit of seeing things very largely; and I do not know but it is a very good idea. Just think of the idea of the replacing some old mains to convey water from a spring costing the Government some four or five hundred thousand dollars. I remember the other day we were told by the gentleman from Vermont [Mr. MORRILL] and the gentleman from Ohio [Mr. DELANO] that if we passed poor old Ames's bill we would be letting in a flood of claims to the amount of \$2,000,000,000. Now, upon a fair estimate, I think it will require only some fifty or a hundred million dollars.

Mr. MORRILL. Did the gentleman look beyond the claims for the county of Lancaster?

Mr. STEVENS. I did not look there at all, for Lancaster has no claims that I know of. I believe there was an appropriation of \$500,000 made in Pennsylvania for some purpose; and perhaps the member for Lancaster was too lazy or indifferent to look after his share, and we may have a claim. But this habit of making such large exaggerations to frighten men who have not time to look into the matter I think ought to be checked.

Mr. MORRILL. I move to amend the clause I proposed to strike out by reducing the appropriation from \$15,000 to \$10,000, merely for the purpose of saying to the committee that the remarks I made do not apply to this item alone, but to the items for an ice-house, for fire-proof buildings, for public offices, and for a chemical laboratory, for breast-high wall of water battery, for stable and forage-house, &c. I desire to have them all stricken out. I now withdraw my amendment to the amendment.

The question was then taken upon the amendment of Mr. MORRILL; and upon a division there were—ayes thirty-six; noes not counted. So the amendment was not agreed to.

The Clerk read as follows:

For ice-house and additional stove in servants' rooms, \$7,500.

Mr. MORRILL. I move to strike out that clause.

Mr. KASSON. I would ask the gentleman if he does not want the servants to have a stove?

Mr. PRICE. One that will cost \$7,500?

Mr. KASSON. That is for the ice-house as well as for the stove.

The question was taken upon the motion of Mr. MORRILL; and upon a division there were—ayes 43, noes 40; no quorum voting.

Tellers were ordered; and Messrs STEVENS and HILL were appointed.

The committee again divided; and the tellers reported that there were—ayes thirty-six; noes not counted.

So the motion to strike out was not agreed to.

The Clerk read as follows:

For fire-proof building for public offices, \$15,000.

Mr. MORRILL. I move to amend by striking out that appropriation. I will merely say that these things have been asked for for some six or eight years past, but they have never before been granted by any committee of this House.

Mr. DRIGGS. The very reason the gentleman assigns for rejecting these items is the very reason why we should vote for them. It is not economy to allow public property to go to waste.

The amendment was not agreed to.

Mr. MORRILL. I move to amend by striking out lines sixty-four and sixty-five, as follows:

For breast-high wall of water battery, \$5,000.

On agreeing to the amendment there were—ayes 36, noes 37; no quorum voting.

Mr. MORRILL. I withdraw the amendment.

The Clerk read as follows:

For fire-proof building for chemical laboratory, \$25,000.

Mr. MORRILL. I move to strike out the clause just read.

On agreeing to the amendment there were—ayes 47, noes 33; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Messrs. STEVENS and MORRILL.

The committee divided; and the tellers reported—ayes forty-nine; noes not counted.

So the amendment was agreed to.

The Clerk read as follows:

For stable and forage-house, \$10,000.

Mr. MORRILL. I move to amend by striking out the clause just read.

The amendment was agreed to.

Mr. STEVENS. I move to amend by adding the following as new sections:

*And be it further enacted, That the cadets of the Military Academy be entitled to the ration now received by the acting midshipmen at the Naval Academy, commencing at the date of the approval of the law authorizing the same.*

*And be it further enacted, That hereafter the assistant professor of Spanish shall receive the same pay and emoluments allowed to the assistant professors of the Academy.*

Mr. PIKE. I desire to inquire of the chairman of the Committee on Appropriations what increase of pay this will give to the cadet?

Mr. STEVENS. Simply one ration, the same that is now allowed to the midshipmen in the Naval Academy.

Mr. PIKE. The amendment seems to me a little obscure, and it may be so to other members. I would be glad if the gentleman from Pennsylvania or some member of the Committee on Appropriations would explain it a little more fully. I would like to know just what it means. I suppose it means a little more money in some shape to these cadets.

Mr. KASSON. This amendment is in accordance with the recommendation of the inspector general and the Secretary of War. In their communication they ask for some additional provisions which would involve a direct increase of pay and which the committee declined to report. This is only a proposition to equalize in the matter of rations the cadets at West Point and the midshipmen at the Naval Academy. It is supported by the chairman of the Committee on Military Affairs and is in accordance with the recommendation of the Secretary of War and the chief officer in charge of the Military Academy. It seems to be but a matter of justice and equality.

Mr. MAYNARD. Is the gentleman quite sure that the midshipmen of the Naval Academy draw rations?

Mr. KASSON. Yes, sir.

Mr. MAYNARD. My impression is that unless the law has been very recently changed, of which I am not aware, such is not the fact.

Mr. BLAINE. This amendment provides that the cadets shall be entitled to "the ration now received by the acting midshipmen at the Naval Academy;" so that if the midshipmen do not receive any ration the cadets will receive none.

Mr. PIKE. I move to amend the amendment by striking out the provision for an additional ration. I do not wish to vote on this point without a proper understanding of the question. If I understand the proposition correctly—and if I do not the gentleman in charge of the bill will correct me—its effect will be to give to each cadet at West Point something like one hundred dollars additional pay. I believe that is what it means. The question is whether or not we shall pay to the boys there \$100 additional. For my part, without some further explanation I am not willing to do it. The ordinary way of raising pay at the other end of the avenue has been by equalizing it. I do not know while I have been in Congress any direct increase of pay has been made. Some one is always paid more than another, and then



the other comes in and asks his pay may be equal to the higher pay. Here comes a proposition to allow the cadets at West Point the same as the midshipmen at the Naval Academy. It is the old fashion of equalizing pay.

Mr. FARNSWORTH. What is a midshipman's pay?

Mr. PIKE. Five hundred dollars a year, I think.

Mr. HILL. I think midshipmen have no ration; and I desire to know whether, if so, this will give the cadets at West Point any ration?

Mr. KASSON. This does not deprive any one of any pay. It simply gives the cadets at the Military Academy a ration which they have not now. Midshipmen receive a ration in addition to their pay; and the object of the amendment is to give an actual ration to the cadets to eke out their present meager compensation.

Mr. HILL. I desire to say if this increases the pay of cadets of the Military Academy at West Point one dollar I am opposed to it. I doubt not every member of this House has application upon application piled up upon his table for the position of cadet at the present pay. It is not right to pay them any more. If we are to make additional appropriation, let us do it for the widows and orphans of those who have fallen in battle, and not for those who occupy a position which hundreds and thousands are unsuccessful in obtaining at the present pay.

Mr. PIKE, by unanimous consent, withdrew his amendment.

Mr. FARNSWORTH. I think the cadets at West Point receive \$500 and no rations, and the midshipmen forty-one dollars a month and a ration.

A MEMBER. Five hundred dollars a year.

Mr. FARNSWORTH. Then the pay is precisely the same, with the exception that the midshipman gets a ration and the cadet does not. If we pass this amendment it will make them alike in all respects; they will have the same pay and the same rations.

Mr. PIKE. If the midshipman has no ration, would not this be considered as giving them both this ration?

Mr. FARNSWORTH. No.

Mr. PIKE. I think the midshipman receives \$500 and no ration, but I am not certain about it.

Mr. SCHENCK. Do not the midshipmen have a ration? I think they do. I yield to the gentleman from Massachusetts, chairman of the Committee on Naval Affairs, to answer.

Mr. RICE, of Massachusetts. Mr. Chairman, I do not think the midshipmen while they are members of the Naval Academy do draw rations. At the time their salary was raised provision was made that when they left the Academy and were waiting for the appointment of ensign they should receive rations. Therefore, this refers to midshipmen who have been members of the Academy and are waiting for their appointments as ensigns. There are no acting midshipmen in the Naval Academy.

Mr. SCHENCK. If the gentlemen who oppose this amendment succeed in showing anything, it is that it is a most simple one in its character. If the midshipmen at the Naval Academy receive no ration now, neither will the cadets at West Point receive any; but if the one receives it so will the other. It puts the cadet at West Point upon the same footing precisely with the midshipman at Annapolis.

I differ with the gentleman from Massachusetts, and believe the midshipman does get a ration. My impression is that every one in the Navy is allowed rations, beginning with the highest down to the lowest. I submit that the cadets are as much entitled to this ration as the acting midshipman.

Mr. RICE, of Massachusetts. What does the gentleman mean by "acting midshipman"?

Mr. SCHENCK. I mean one appointed to the Naval Academy who goes through the transition state from midshipman to ensign. They

have no other name given to them. I would have offered this amendment if I had not been anticipated by the chairman of the Committee on Appropriations, having had a communication on the subject from the War Department, and having looked into it.

The committee divided; and there were—ayes 40, noes 44; no quorum voting.

Tellers were ordered; and Messrs. SCHENCK and PIKE were appointed.

The committee divided; and the tellers reported—ayes 54, noes 44.

So the amendment was agreed to.

Mr. STEVENS. I move that the committee rise and report the bills to the House, with the amendments.

Mr. LE BLOND. I hope the gentleman will allow us to have a separate vote on the appropriation for the minister at Rome.

Mr. STEVENS. I will not ask for any vote on the bills in the House to-day.

The CHAIRMAN. The gentleman can demand a separate vote on any of the amendments in the House.

The motion that the committee rise was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House No. 904, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1868, and for other purposes, and had instructed him to report the same to the House, with sundry amendments thereto.

Also, that the committee had had under consideration the bill of the House No. 912, making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1868, and had instructed him to report the same to the House, with sundry amendments thereto.

Mr. STEVENS. I move the previous question on the pending bills.

The previous question was seconded and the main question ordered.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (H. R. No. 719) to punish certain crimes in relation to the public securities and currency, and for other purposes, with amendments, in which he was directed to ask the concurrence of the House.

#### EVENING SESSION.

Mr. HOOPER, of Massachusetts. I move that the House take a recess from now till half past seven o'clock this evening, with the understanding that the bank bill shall then be taken up for consideration.

Mr. POMEROY. I object to the latter part of the motion.

Mr. HOOPER, of Massachusetts. Then I modify it by moving that the evening session be devoted to the business of the House.

The motion was disagreed to.

And then on motion of Mr. STEVENS, (at four o'clock and twenty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ALLEY: A petition from A. E. Larkin, and others, asking for reduction of the tax on cigars.

By Mr. BANKS: The petition of John Forsyth, soldier of the eighth infantry of the United States, for invalid pension.

By Mr. BUNDY: A resolution of the working-men of Portsmouth, in Seio county, Ohio, against any reduction of the present tariff on iron.

By Mr. DARLING: A memorial of citizens of New York, against the impeachment of President Johnson.

By Mr. GROSSBRENNER: The petition of B. K. Spangler, J. H. Waggoner, and others, manufacturers of and dealers in cigars in Cumberland county, Pennsylvania, praying for a modification of the present internal revenue tax upon cigars.

By Mr. HOOPER, of Massachusetts: A petition of

the insurance companies of the city of Boston, praying relief from the tax imposed by the one hundred and fifth section of the internal revenue law.

By Mr. HUMPHREY: The petition of cigar-makers of Buffalo, for reduction of tax on cigars.

By Mr. KERR: The memorial of James W. Webb, Esq., of Orleans, Orange county, Indiana, for certain amendments in the pension laws.

By Mr. KETCHAM: The petition of A. B. Knapp, and 63 others, citizens of Stamford, Dutchess county, New York, for increased protection on American wool.

By Mr. PERHAM: The petition of Lewis A. Horton, for arrears of pension.

By Mr. RAYMOND: A memorial of Murphy, McCurdy & Warden, and a large number of other business men in the city of New York, remonstrating against movements for the impeachment of the President, and urging the necessity of adopting measures to strengthen public confidence, allay excitement, revive the interests of labor and capital, and promote the peace and prosperity of the country.

By Mr. SITGREAVES: The petition of William B. Stewart, and others, of Plainfield, New Jersey, asking for additional protection on flax.

By Mr. SPALDING: A petition of many citizens of Cleveland, Ohio, for the repeal of the law authorizing the Secretary of the Treasury to retire \$4,000,000 per month of the national currency.

By Mr. F. THOMAS: The petition of citizens of Howard county, Maryland, praying an investigation into the acts of President Johnson in countenancing and encouraging Thomas Swann, Governor of Maryland, in attempts to overthrow the loyal authority of that State.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, January 31, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

HON. E. H. WEBSTER.

Mr. DAWES. I ask unanimous consent to introduce the following resolution; and I will state that it is the last one of this kind, and is in precisely the words of the resolutions previously adopted:

*Resolved*, That the Sergeant-at-Arms be, and is hereby, authorized and directed to pay to Hon. E. H. Webster the amount of increased pay of a member of this House provided by law from the commencement of the Thirty-Ninth Congress to the date of his resignation.

The resolution was agreed to.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PREVENTION OF SMUGGLING.

Mr. ELIOT. I ask consent to take from the Speaker's table Senate bill No. 525, an act supplementary to an act to prevent smuggling, and for other purposes, in order to put it on its passage, with an amendment from the Committee on Commerce.

No objection being made the bill was taken up and read. It provides that the act to prevent smuggling approved July 18, 1866, shall be so construed as not to affect any right of suit or prosecution which may have accrued under any prior act of Congress, repealed or supplied by said act previous to July 18, 1866, and that all such suits as have been or shall be commenced under such prior acts for acts committed previous to July 18, 1866, shall be tried and disposed of as if said act of July, 1866, had not been passed.

Mr. ELIOT. The committee have instructed me to move to amend by adding the following sections:

SEC. 2. *And be it further enacted*, That section twenty-six of the act aforesaid be so amended that the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to make such regulation as shall enable vessels engaged in the coasting trade between ports and places upon Lake Michigan exclusively, and laden with American productions and free merchandise only, to unlade their cargo without previously obtaining a permit to unlade.

SEC. 3. *And be it further enacted*, That section twenty-five of said act be hereby amended by inserting the word "March" in place of "July" in said section.

Mr. SPALDING. I would inquire of the gentleman from Massachusetts why this is confined to Lake Michigan.

Mr. ELIOT. It is confined to Lake Michigan because that is the only lake where there

is no foreign country contiguous; and the bill is so framed as to give permits only to those vessels where no smuggling can be committed. It could not be extended to the other lakes without repealing substantially the previous act prohibiting smuggling.

Mr. SPALDING. It has a bearing upon vessels going up through the Welland canal to Lake Michigan.

Mr. ELIOT. It is confined in its operations to vessels that go from port to port on Lake Michigan.

Mr. HALE. I desire to ask the gentleman if the bill saves the rights of the Government for the enforcement of penalties which ensued under the former law in cases where suits have not been commenced.

Mr. ELIOT. That is the object of the first amendment to the Senate bill.

Mr. HALE. I understand that under the former law that was not saved where the suits had not been commenced at the time of the passage of the act of last session.

Mr. ELIOT. That is so exactly.

Mr. HALE. The object of this is to save the forfeiture where the suit had not been commenced the same as if it had been.

Mr. ELIOT. That is so.

The amendments reported by the committee were agreed to.

The bill was then ordered to a third reading; and was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PRINTING OF A REPORT.

Mr. DONNELLY, by unanimous consent, submitted the following resolution; which was read, and under the law referred to the Committee on Printing:

*Resolved*, That there be printed for the use of the House five thousand extra copies of the report of the Secretary of War in relation to the improvement of the navigation of the Upper Mississippi and its tributaries.

#### ALMANSON EATON.

On motion of Mr. DONNELLY, by unanimous consent, the Committee on Public Lands were discharged from the further consideration of bill of the House No. 387, for the relief of Almonson Eaton, receiver of public moneys for the district of lands subject to sale at Stevens's Point, Wisconsin; and the same was referred to the Committee of Claims.

Mr. ALLISON moved to reconsider the vote by which the bill was so referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### LUCAS COUNTY, IOWA.

Mr. KASSON, by unanimous consent, introduced a bill for the relief of Lucas county, Iowa; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. HALE. I now insist on the regular order of business.

#### CONSULAR AND DIPLOMATIC BILL.

The House resumed the consideration of the bill reported yesterday from the Committee of the Whole on the state of the Union, making appropriations for the consular and diplomatic services of the Government for the year ending June 30, 1868, the pending question being upon the amendments reported by the committee.

The SPEAKER. Those amendments upon which separate votes are not demanded will be considered as agreed to.

Mr. LE BLOND demanded a separate vote on the amendments in regard to the missions to Portugal and Rome.

The other amendments reported by the Committee of the Whole on the state of the Union were agreed to.

The question then recurred on the amendment in reference to the mission to Portugal.

Mr. LE BLOND demanded the yeas and nays; and called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The amendment was disagreed to.

The next amendment upon which a separate vote was demanded in relation to the mission to Rome, was in line eleven, to strike out the word "Rome," and to add at the end of line fifteen the following:

And no money hereby or otherwise appropriated shall be paid for the support of an American legation at Rome from or after the 30th day of June, 1867.

Mr. ANCONA. I demand the yeas and nays upon that amendment.

The yeas and nays were not ordered.

The question was taken upon the amendment and there were—yeas 82, noes 18.

So the amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MILITARY ACADEMY APPROPRIATION.

The SPEAKER. The next business in order is the consideration of amendments reported from the Committee of the Whole to House bill No. 912, making appropriations for the support of the Military Academy for the year ending June 30, 1868, upon which the previous question has been ordered.

Mr. STEVENS. There were two amendments made by the Committee of the Whole upon which I desire separate votes. I refer to the amendments striking out the following clauses:

For fire-proof building for chemical laboratory, \$25,000.

For stable and forage house, \$10,000.

The first question upon which a separate vote was asked was upon agreeing to the amendment of the Committee of the Whole striking out the appropriation for the chemical laboratory; and being taken, upon a division, there were—yeas 60, noes 38.

So the amendment was agreed to.

The next question upon which a separate vote was asked was upon the amendment to strike out the appropriation for stable and forage house.

Mr. STEVENS. I will not insist upon a separate vote upon that amendment; but will let the question be taken upon all the amendments reported from the Committee of the Whole.

The amendments of the Committee of the Whole were agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### AMNESTY—SUFFRAGE IN TERRITORIES.

Mr. TROWBRIDGE. I am instructed by the Committee on Enrolled Bills, which committee are authorized to report at any time, to report for consideration at this time, the preamble and resolution which I send to the Clerk's desk to be read.

The Clerk read as follows:

Whereas the bill to repeal section thirteen of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862, and the bill to regulate the elective franchise in the Territories of the United States, were severally passed by both Houses at the present session of Congress, and have been reported by the Committee on Enrolled Bills to have been presented to the President of the United States, the former on the 9th and the latter on the 12th instant; and whereas the President has failed to

notify the House that he has signed the same, and has also failed to return the same to the House of Representatives, in which they originated, with his objections; and whereas by section seven, article one, of the Constitution of the United States the said bills have now become laws; and whereas the same have not been published as laws of the United States:

*Resolved*, That the Secretary of State be directed to inform the House whether the said laws have been filed in his Department.

Mr. TROWBRIDGE. This, I think, is the first instance in the history of this Government—

Mr. FINCK. I rise to a point of order. I would inquire of the Chair in what manner this resolution has come before the House.

The SPEAKER. It is reported by the gentleman from Michigan [Mr. TROWBRIDGE] from the Committee on Enrolled Bills, which is authorized to report at any time.

Mr. FINCK. That means enrolled bills and joint resolutions.

The SPEAKER. On page 89 of the Digest, the gentleman will find the rule which authorizes that committee to report at any time.

Mr. FINCK. Mr. Speaker, I submit the question of order that that rule will not allow the Committee on Enrolled Bills to report original resolutions; it only allows them to report enrolled bills and enrolled joint resolutions, not an original resolution upon some other subject. This resolution is in regard to the passage of some law in regard to the Constitution of the United States, and in regard to the duties of the Secretary of State. I object to the resolution as not in order.

The SPEAKER. The Clerk will read the rule.

The Clerk read as follows:

"It shall be in order for the Committee on Enrolled Bills to report at any time."—Rule 101.

The SPEAKER. There is no qualification nor limitation; they are authorized "to report at any time." This resolution is in relation to enrolled bills submitted by them to the President of the United States.

Mr. SPALDING. Have they the right to report an original bill at any time?

The SPEAKER. They have the right "to report at any time." The Chair cannot limit their report on any proper subject any more than any other committee.

Mr. FINCK. I admit that they have the right to report at any time. My point is, that they have no right to report anything but enrolled bills and enrolled joint resolutions.

The SPEAKER. This matter has been referred to that committee by the House. Bills passed by both branches of Congress are submitted, as the rules require, to the Committee on Enrolled Bills, and they report when they submitted them to the President of the United States for his signature. The committee report that they have submitted certain bills to the President, that they have not been returned by the President, nor have they been published officially among the laws.

The Clerk will read from the ninth joint rule of the two Houses.

The Clerk read as follows:

"The said committee shall report the day of presentation to the President; which time shall also be carefully entered on the Journal of each House."—November 13, 1794.

Mr. FINCK. Have not the committee already reported the fact that they did present these bills to the President for his signature?

The SPEAKER. The Chair has no doubt that they have so reported, and this resolution appears to grow out of the duties devolved on them. The Chair rules that they have the right to report at any time upon any matter growing out of the business referred to them.

Mr. FINCK. Have I a right to take an appeal from the decision of the Chair?

The SPEAKER. Certainly; the gentleman has that right.

Mr. FINCK. Then I appeal from the decision of the Chair.

The SPEAKER. The question is, Shall the decision of the Chair stand as the judgment of the House?

Mr. WASHBURN, of Indiana. I move that the appeal be laid on the table.

Mr. FINCK. I withdraw the appeal.

Mr. HALE. I rise to a point of order. My point is, whether this resolution, being a call for executive information, does not come within the general rule requiring such resolutions to lie over one day, unless unanimous consent be given for their consideration?

The SPEAKER. The Chair thinks that point would have been a good one if it had been made in time.

Mr. HALE. I made it as soon as I could get the floor.

The SPEAKER. The gentleman from Michigan [Mr. TROWBRIDGE] had commenced his speech before the point of order was made by the gentleman on the right, [Mr. FINCK.] By the usage, the point of order suggested by the gentleman from New York must be made when the resolution is read at the Clerk's desk.

Mr. HALE. If the gentleman from Michigan will allow me, I wish to inquire whether there is any precedent for this action; whether a resolution of this character is by the practice of the House the ordinary course of giving the House or the country official information as to when a bill has become a law. I suppose that heretofore there must have arisen cases in which bills have become laws by the operation of this very provision of the Constitution; and I should be inclined to think that no further action would be necessary; that in some form it should be taken for granted that the bill had become a law.

The SPEAKER. With the consent of the gentleman from Michigan, the Chair will reply to the inquiry of the gentleman from New York. This matter has been examined by officers who have been connected with both branches of the Government for a long time, and they cannot find or remember any case in which a bill which has become a law by the declination of the President to give it his signature has not been officially published. The laws mentioned in this resolution have been laws for some time, and it appears have not yet been published.

Mr. HALE. I have no objection to the resolution, if it is in accordance with the ordinary course.

Mr. TROWBRIDGE. If the gentleman will listen to me, perhaps some of his doubts will be removed.

When the gentleman from Ohio [Mr. FINCK] raised his point of order I was about to state that this is the first instance in the history of our Government in which a bill which has been passed by both Houses of Congress, and has failed to secure the signature of the President or to be returned with his objections, has not been officially published. These two bills, the titles of which are rehearsed in the preamble of the resolution, have passed both Houses of Congress, been signed by their respective Presiding Officers, and by the Committee on Enrolled Bills have been presented to the President of the United States on the 9th and 12th of January respectively. The time during which the President is allowed to retain in his hands a bill which has passed both Houses of Congress has some time since expired; but he has neither returned these bills to the House with his objections, nor has he notified Congress of his approval of the same. Therefore they have become, under the imperative requirement of the Constitution of the United States, laws. But, Mr. Speaker, the Secretary of State is required to publish the laws which shall have been enacted by Congress. He has published bills which have obtained the approval of the President, and by that approval have become laws, since the time when these two bills became laws in accordance with the provisions of the Constitution. But he has not published these two bills.

It seems, then, to the Committee on Enrolled Bills important and essential that these bills shall be filed with the Secretary of State and placed where they may be published as the other laws of the United States are; and as the first step toward placing them in that position

the committee recommend the passage of the preamble and resolution which they have reported to this House.

Mr. WENTWORTH. I would like to ask the gentleman whether he has found the bills; whether he knows where they are now; whether he has seen them.

Mr. TROWBRIDGE. That is the very purpose of the resolution, to find the bills; and if they are not with the Secretary of State, then the Committee propose to follow this action by some proposition requiring the Clerk to make a new enrollment of the bills to be filed in the Department of State, or proposing some other action which after full consultation the committee may deem appropriate. Mr. Speaker, I now call the previous question.

Mr. STEVENS. I have not heard the resolution, and I should like to have it again read.

Mr. SCHENCK. I hope the gentleman will withdraw the demand for the previous question as we ought to be careful of what steps we take in this matter.

Mr. TROWBRIDGE. I will yield to the gentleman after the preamble and resolution have been again read.

The Clerk again read the preamble and resolution.

Mr. TROWBRIDGE. I withdraw the demand for the previous question, retaining the floor, before I yield to the gentleman from Ohio. I suggest to him by this resolution we may obtain from the Secretary of State information whether the bills have been filed at his office; and if that be so no further action may be necessary. If not, then the committee will introduce some resolution to supply the deficiency; and under that resolution this whole subject will come before the House properly for discussion.

Mr. SCHENCK. It is only because this is a new question I desire to say anything at all, and that in the nature of inquiry rather than anything else. Here are two laws which have become such by force of constitutional provision through the neglect or by the refusal of the President to take any notice of the action of Congress. Now, sir, all laws upon the statute-book have some authentication. If the law receives the approval of the Executive it is published in the statute-book with the statement of the date when signed and approved. If not approved by the President, but returned with his objections and passed over the veto, it is then published as having been thus passed over the veto by the requisite two-thirds majority of each branch of Congress.

It seems to me this resolution does not go far enough. Suppose the Secretary of State says these laws are enrolled and he will publish them with the other laws, then they will go upon the statute-book without any authentication. They will not be marked as approved by the President, or as having been passed over the President's veto by the requisite two-thirds majority. These two Houses, it seems to me, ought to take some action, by joint resolution or otherwise, to publish these laws with the statutes to show what the facts are, that they have become laws notwithstanding the neglect of the President. Therefore I ask whether this proposes to rest satisfied with the statement, he has inclosed these with other statutes in his keeping at the State Department, and whether it would not be necessary, before publishing them to the people of the United States as statutes, to accompany them by some act of authentication which will verify the facts that the President having retained them without adjournment of Congress beyond the period of ten days and not returning them they have by the Constitution become laws.

Mr. TROWBRIDGE. My opinion is the latter alternative is the course that will be taken, and a declaration made when these laws shall take effect. That is in contemplation of the committee. I call the previous question.

The previous question was seconded and the main question ordered; and under the opera-

tions thereof the preamble and resolution were adopted.

Mr. TROWBRIDGE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER subsequently said: There was a question before the House this morning in relation to a resolution reported by the Committee on Enrolled Bills, in regard to the manner of attesting bills which have gone into operation and become laws, but which have not been signed by the President. The Chair since then has looked into the matter, and the Clerk will now report two precedents which occurred during the administration of President Buchanan.

The Clerk read as follows:

"A message was received from the President of the United States, by A. J. Glossbrenner, his Private Secretary, notifying the House that an act for the relief of Hockaday & Liggett having been presented to the President on the 16th of February, 1861, and not having been returned by him within ten days, (Sundays excepted,) it has now become a law under the Constitution of the United States."

"A message was received from the President of the United States, by A. J. Glossbrenner, his Private Secretary, notifying the House that a joint resolution (H. R. No. 62) for the benefit of George H. Giddings, having been presented to the President on the 18th of February, 1861, and not having been returned by him within ten days, (Sundays excepted,) it has now become a law under the Constitution of the United States."

#### CIVIL SERVICE.

The SPEAKER announced as the first business in order the consideration of bill of the House No. 889, to regulate the civil service of the United States and promote the efficiency thereof, on which Mr. HALE was entitled to the floor.

Mr. HALE. To accommodate gentlemen who are interested in the business of the morning hour I move that the further consideration of this bill be postponed till after the morning hour.

The motion was agreed to.

#### PURCHASE OF THE STEAMSHIP ILLINOIS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, in response to a House resolution, transmitting papers relative to the purchase of the steamship Illinois; which, on motion of Mr. TAYLOR, of New York, was laid on the table, and ordered to be printed.

#### COMMON COUNCIL OF BALTIMORE.

The SPEAKER, by unanimous consent, also stated by request he presented the memorial of the common council of Baltimore; which was referred to the Committee on the Judiciary.

#### INSPECTION OF INDIAN AFFAIRS.

The SPEAKER announced as the first business in order during the morning hour the bill (S. No. 204) entitled "An act to provide for an annual inspection of Indian affairs, and for other purposes," on which Mr. HIGBY was entitled to the floor.

Mr. HIGBY. I supposed the arrangement was to take this matter up to-morrow evening, but I find by the Globe it comes up this morning. I move the bill be left open for debate Friday evening.

Mr. SCHENCK. We can dispose of it this morning.

Mr. HIGBY. I withdraw the motion. Mr. Speaker, there seems to be a disposition on the part of a portion of the House, I do not know but a majority of it, that this whole matter in reference to the care and custody of Indians should be transferred to the War Department. In general terms I expressed myself somewhat in doubt yesterday whether it should be continued where it is now, in the hands of the Interior Department. If we will abandon the reservation system entirely, leave the Indians to go wild, as many tribes do now, I think the decidedly better plan would be to transfer this whole subject to the War Department, as it would simply then be a matter of distributing the annuities that are devoted to the Indians, and as the War Department would then



be more immediately the guardians of the Indians they would be more obedient to that Department. I think under the circumstances that would be the best plan that could be devised.

But it is a fact, and an important fact, that the reservation system has been introduced very largely, especially in the States and some of the Territories. In my own State—I have to speak more particularly of those portions which I canvassed in 1865—the Indians that have been so extremely troublesome and that have occasioned the Government so much expenditure of money in order to subdue them and bring them to peace, are now upon our reservations and are now living and being supported by the Government under the reservation system. Several thousand Indians in the State are cared for in that way.

I desire to call the attention of the gentleman from Ohio, [Mr. SCHENCK,] who has introduced a substitute proposing to transfer this business to the War Department, to this point. It was said here yesterday that by transferring this to the War Department the expense would be very much lessened; that the officers now in the military department would take all the care of the Indians and superintend all the manual labor, and would not receive any additional compensation therefor, and the Government would thus get rid of employing other superintendents and agents. Now, let me ask the gentleman from Ohio, who will have an opportunity to speak on this subject, to give the House some information upon it. On those reservations in California and Nevada which I have visited, and I presume it is the same elsewhere, the Indians are placed upon some of the best lands in those States, not simply for occupancy and residence, but for cultivation and producing food for their sustenance and support. There has to be a superintendent in the State who has more or less acquaintance with agriculture, and he must give his attention and his supervision, in going from reservation to reservation throughout the State, to these matters as well as to the distribution of the annuities that are voted annually to the Indians.

An agent is also placed in the reservation. There may be five hundred, one thousand, or fifteen hundred Indians on the reservation. The reservation is dealt with as a farm is dealt with, provided these men who have the supervision do their duty. In one reservation in Round valley, California, there were less than a thousand Indians when I visited it, but they had raised in the years 1864 and 1865 with their own hands, assisted by some two or three men who are under pay at the rate of fifty dollars a month, and an agent at \$1,800 a year, full supplies of provisions. They raised some four thousand bushels of wheat in 1864. They had a large crop then on the ground. Those who were examined on the reservation report that in everything it was carried on like a farm by a man who understood his business.

Now, sir, these Indians have been producing everything they needed, so that the Government has had to make no purchases of food nor incur any expense for transportation to the reservations. I found on every one that I visited, with one exception, that they were prospering. In the exceptional case the Government came into possession so late in the year that they could not get their crops in in season. I was told by the agent there that they would have nearly or quite enough to last them through the year. But in all the other reservations there was abundance raised by the Indians for their own support; that the laborers would simply want the agents to superintend and care for them, and they would raise abundance for themselves, and those who are employed by the Government to look after them.

It is not so favorable in the State of Nevada, because the reservations there had not been cared for. But all the information that I could obtain went to the point that with proper care, in the first place furnishing them with tools

and seeds, and in the second place receiving a proper administration of Indian affairs, the Indians were ready to go to work and produce all they would need for their own support. In my own State it so happened that in the year 1865 the administration of the Indian department was in a very flattering condition. It was in a far better condition than would have been found to be the case in other portions of the Union. It happened to be in a far better condition than it had been during former years. As I remarked yesterday, in some of those years while the Government was making large appropriations and was exhibiting great benevolence there was no beneficence in that benevolence, for the simple reason that the Indians got little or nothing of what the Government was appropriating.

Now, it is for the reason that the Indian system is not properly arranged that this bill has been introduced by the Committee on Indian Affairs, in order to see if we cannot bring such a stringency into the system that it will be more properly carried on and the Indian more fairly dealt with by the agents of the Government. It seems to me that if this whole matter should be turned over to the War Department it will result in an increased expenditure; or at least the same expenditure will be incurred in order to care for the Indians and keep them engaged in agricultural pursuits. The whole testimony which has been taken goes to show that there is no more difficulty in obtaining labor from the Indians than there would be in obtaining labor from so many whites. In every examination that I made on every reservation the testimony was universally the same: that there was no difficulty in obtaining labor from the Indians to raise all that was necessary from the reservation.

The only thing the Indians want to be assured of is that they will not be robbed of what they raise when it is produced from the soil; that is the only assurance they ask. They make good laborers on those conditions. If the Indian can have the grain he raises to make into bread, can have his vegetables to eat, and if there is a surplus can be allowed the benefit of it to obtain clothing and other comforts, that is all he wants; and under that system he becomes a good laboring man. I saw scores of them entirely naked, working in the harvest field as hard as any other laborers would have worked. They were working there with great willingness.

The only trouble was that the Government was charged with not furnishing them with sufficient clothing. Whether the clothing was not furnished by the Government, or if furnished it by some means failed to reach them, I do not know. It was ascertained that in some cases the clothing was furnished by the Government, but never reached the Indians.

Now, if the War Department would relax its stringent rules so that the men in the military can become agriculturists, and look after the Indians with care in that regard; and not only that, but will also look after the mechanical, the moral, and intellectual interests of the Indians; then it would be immaterial to me where the management was placed. All that I want is that the Department which shall have the care of these Indians shall do the best for the Indians. It is for that reason that I am in favor of the bill reported by the Committee on Indian Affairs. I think if that bill should pass it will result in a vast improvement upon the lax system that is now in operation. I think it would be far better for the Government to pass this bill and try it at least for a time. Let us have this supervisory power in the different districts, whose duty it shall be to make annual examinations, who shall have power to remove any man whom they may find there not performing his duty, and who will have opportunities to find out and prevent frauds, if any are being practiced there. That cannot be done under the present system. It seems to me this bill will be a vast improvement upon the system now existing. Almost any change would be for the better.

I am inclined to the opinion that if we do not make some improvement in this system we better give up entirely the reservation system, for it is nothing but a mockery now. It is a notorious fact that with the system pursued in my own State during the years 1865 and 1866 the reservations might be made self-supporting.

This was but a man; it was not the system. We want some one to see that the Indians receive not only all that the Government has appropriated for them, but see also that they have proper care and attentions on their reservations. We must do either one thing or the other. We must either have more stringency in the system, which I think this supervisory board would provide, or we must give up the reservation system entirely. If the control of this department goes into the War Department we must either give up that system, unless we can have some such board as this who will look after the Indian, teach him agriculture, and make him a laborer.

I ask the gentleman from Ohio [Mr. SCHENCK] to tell me how, under a military jurisdiction, you are going to give the Indians that information in regard to agriculture and the methods by which he shall subsist himself.

I will now yield the floor to the gentleman from Ohio, [Mr. SCHENCK.]

The SPEAKER. For how long?

Mr. HIGBY. For fifteen minutes, if he wishes all that time; or, sir, I will yield the floor indefinitely.

Mr. SCHENCK. I do not propose to occupy more than ten or fifteen minutes, and will afford an opportunity to the gentleman from Minnesota [Mr. WINDOM] to move the previous question long before the expiration of my hour.

Mr. Speaker, if I comprehend the argument of the gentleman from California [Mr. HIGBY] against the transfer of this Indian Bureau to the Military Department, it is that we must, in case of such transfer, abandon the whole system of Indian reservations and all attempts to introduce among them the habits of civilized life by teaching them to cultivate the soil and making them, in some degree, self-sustaining.

Now, sir, I see no such difficulty in the way. If the gentleman will look at the bill he will see that while we propose to transfer this whole matter to the War Department, we provide that there shall be detailed officers of the Army to act as superintendents, agents, and sub-agents. The duty of such officers, thus acting as agents and sub-agents, will be precisely what they are now as provided by law. It is so provided in the bill.

Now, what is the difficulty the gentleman foresees? He says that these military gentlemen who will become agents and sub-agents will not have a knowledge of agriculture, and therefore will be unable to direct and instruct the Indians in the cultivation of their reservations.

Why, sir, in all human probability, they will have as much knowledge of agriculture as the men who now fill these places have. I can say for myself that I have secured the appointment of two Indian agents, and one of them was a physician and the other a lawyer. The men who get these places are those who have sufficient political influence to secure an appointment worth \$1,500 a year; or, as it will be under this bill, \$1,800. But these agents and sub-agents have under them farmers and blacksmiths to aid them on the reservation; and that system will go on under the War Department just as it does under the Department of the Interior. The bureau will be conducted under the existing law authorizing the employment of the men needed to aid the superintendent, whose duties, after all, will be only supervisory. That, I think, disposes of the whole objection made by the gentleman from California, and, as it seems to me, the gentleman must see that no such difficulty can exist. The gentleman is laboring under a misunderstanding in supposing that we propose to wipe out the present provisions of law. We only propose that military officers shall take supervisory

control of these matters, retaining all the laws for Indian reservations just as they now are.

Again, the gentleman says that if you adopt the system proposed by the Committee on Indian Affairs there will be by these commissioners a regular inspection at each of these agencies. Well, now the gentleman must certainly admit that if you put this whole matter under military rule the officers detailed to perform these duties will be all the time under rigid inspection. An inspector general of the Army would be sent to each post and garrison, and they will necessarily keep up a strict inspection of the conduct of those officers who may be detailed to perform duty in connection with the Indians. We shall secure, in short, from the head of the Army down, that rigid inspection, accountability, and responsibility on the part of the persons so employed which, it seems to me, we cannot have under any civil administration of this branch of the public service.

It is an old and homely proverb that "the proof of the pudding is in the eating." Now, sir, we did not have these difficulties to anything like the same extent when this whole matter was under the charge of the War Department. There were abuses then; there was maladministration then; but I aver as a general fact, shown by the history of Indian affairs in this country, that abuses never arrived at anything like the same height to which they have grown since the management of these affairs was transferred to the Department of the Interior and has become purely a matter of civil administration. What is the condition of things now? The Committee on Indian Affairs, by the very introduction of this bill, wisely intend to adopt some scheme to correct abuses which have grown to be enormous; and if we cannot transfer the whole matter to the Military Department, I hope some such bill as that the committee have introduced will prevail. I do not object to the effort of the Committee on Indian Affairs to bring about a reform of these abuses by their bill; but it is because I think the whole management of Indian affairs would be better administered by a complete and radical change, putting the entire system under military rule, that I propose a substitute for the bill of the committee. Their bill is good so far as it goes, and if the administration of Indian affairs is to be left with a civil department, then I trust this bill or some other embracing its general principles will be adopted. But I think a still further, greater, more effective and radical case of crushing abuses may be made by wiping out the whole relation of this bureau of Indian affairs to mere civil administration and putting it under strict military rule, military responsibility, and military accountability.

Now, sir, the general fact is simply this: we have two Departments of the Government having concern with the treatment and care of the Indians: a civil Department—the Department of the Interior—and a military Department. These two Departments cannot in the very nature of things act harmoniously; and what is the consequence? Upon the civil side your Indian agents, acting in conjunction with the traders, breed wars; if they do not directly and designedly encourage them, they do those things which lead to wars; and the military are only called in at the last moment in order to put these wars down. It is far better that those who have the responsibility of fighting the Indians should have thrown upon them the inducement to keep peace with the Indians by managing them well. In this way there would be complete harmony and entire uniformity of interest on this point. Let the responsibility of keeping the peace, as well as restoring it when broken, be thrown upon those whose interest it will be that the peace shall not be broken, because then there devolves upon them the work of restoring it by fighting, which of course they do not desire if it can be avoided.

Upon every score, therefore, of economy, of simplicity, of effectiveness, it seems to me

we ought to transfer this bureau. As to the general objection made by the gentleman from California, [Mr. HIGBY,] that this change will not be attended with any economy, surely the gentleman, in making the objection, cannot have considered the subject aright. We pay now a host of officers, agents, sub-agents, &c., from the Commissioner down through the whole category of those employed in attending to the affairs of the Indians. If we transfer this bureau to the control of the War Department we shall get the services of a class of men who are already in the pay of the Government, whose compensation is not to be increased, upon whom all these duties are to be devolved without cost to the Government beyond the expense to which we are already subjected in keeping up the military establishment of the Government. We shall pay no agents; we shall pay no sub-agents; we shall pay no Commissioner; we shall pay nobody except the subordinates actually employed on the reservations; and they are to be employed and paid whether the Indian Bureau should be under civil or military administration. But the long line of intermediate officers, from the Commissioner down until you reach the Indian himself, is to be supplied by the detail of officers from the military service; and then a very large proportion of the present expense would be entirely saved to the Government.

Sir, as we have all promised to be short in this matter, I will yield to the gentleman from Iowa, [Mr. KASSON,] upon whose bill introduced on this subject the report of the Committee on Military Affairs was based, and therefore it is proper he should be heard.

Mr. KASSON. Mr. Speaker, I think no gentleman of this House can have examined the Indian appropriation bills for the last four or five years without having been alarmed at the constant increase in the appropriations demanded for the maintenance of that department. I think no gentleman who desires to promote economy in the administration of the Government can fail to have his attention aroused to the necessity of some action on the part of Congress with a view to accomplish that result. At the last session of Congress I submitted a table showing the increasing amount of expenditure required for the continuance of our present Indian system. I showed how the estimates had grown from something like one hundred thousand dollars up to nearly four million dollars per annum, according to the estimates submitted to the Committee on Appropriations at the last session of Congress. No other bureau of the Government has made such strides in the amount of expenditure.

It becomes important to us to ask what return the United States and the people of the United States are getting for this enormous expenditure. When that inquiry is made we find instead of peace we are getting more of war, and that every season the whole country is alarmed by Indian attacks and outrages and the fear of a general Indian war. If, then, the present system, which has been attended with a continually increased expenditure, has failed to accomplish the result sought by that expenditure, which is peace and civilization of the Indian tribes, has not the time arrived when Congress should try another system calculated to combine the enterprises connected with the Indians under a single head, instead of the two heads under which they are now managed.

I learn from the Commissioner of Indian Affairs that the outrages recently committed by the Indians near Fort Laramie have been attributed to the conflict between the civil and military authorities. He tells me that when the Indians came in large numbers up to the fort for the purpose of having a talk and making a treaty, rations at his request were served out to them from the fort. Well, sir, Lieutenant General Sherman thought it necessary to aggregate a military force there at that time. Consequently the rations to the Indians were stopped. When that was done and these In-

dians could not be held there during the delays taking place in the administration of the civil branch of the service without food, as the Indians were likely to starve, then the Commissioner of Indian Affairs ordered the cattle in the neighborhood to be bought for their support. In the mean time the Indians were there and nothing was accomplished. Then the military came in again and ordered the stopping of supplies, for military reasons. The Indians were again left unsupported and obliged to maintain themselves in some way or starve, and so came outrages, according to that bureau. It is to prevent results like this that it is proposed to place the superintendency of Indian affairs under one head, and that the War Department.

Does any gentleman here say, as I believe it has been said, that by this you will put a stop to the civilization of the Indians? I say, on the contrary, you will promote that civilization, and I think I could, with time enough, satisfy the House it must result inevitably from change in our Indian system. Does it civilize the Indian who hates a "forked tongue" to send an agent to him who makes a promise in the name of the "Great Father" to give a certain annuity in money and goods, and then when the time comes appropriates the money and most of the goods to his own use? Does it civilize the Indian to teach him dishonesty? Does it civilize him to give him instead of plows small steel mirrors? Does it civilize the Indian when he wants a good blanket to give him a string of beads? Does it civilize the Indians to send agents among them, as in the case of one in 1861 and 1862, who demanded that an Indian chief should take a fraction of the goods he was allowed under treaty and give a receipt in full? That chief, (an Ogalalla Sioux, I think,) indignant at the outrage and fraud attempted upon him, left the fort in disgust, and a messenger was sent after him with the message that the military would be ordered to arrest and shoot him if he did not give a full receipt.

He did so; he refused every particle, even the small package that was tendered, and left in just indignation against the fraud sought to be perpetrated in the name of the United States Government, and there came soon after an Indian war, as it always does come.

Do gentlemen say that they cannot better be protected under the War Department? Here is the testimony of Rev. Mr. Maxfield, a missionary among the Pawnees, a very short extract of which I will read for the purpose of showing what they think upon this subject. And let me pause here to make my acknowledgment not only on behalf of myself, but of the country, to the diligence of the newspaper correspondents of this House, who have sought for and obtained certain reports that were made by the investigating committees sent out nearly two years ago to examine into these matters. I find some passages from one of these reports, none of which have been presented to this House so far as I know, published in the Cincinnati Gazette. I would like to read them all, but I will content myself with a single extract.

Mr. HIGBY. One word. I am quite as much surprised as the gentleman himself that those reports were not distributed. I do not know why they were not.

Mr. KASSON. That is just what we all do not know. But, sir, they disclose facts that should go before the country. This missionary, among other things, says this:

"My opinion is, in regard to Indian affairs and the present system, that they are miserable failures. Millions of money have been spent, thousands of lives sacrificed, and yet that the Government has signally failed either to civilize the Indians or secure the safety of the frontiers is patent to all; it can never be done under the present system. No wholesome fear of the Government has been impressed on their minds. Deal with them as with other men and we have nothing to fear. As long as the Government continues to buy their friendship so long will it be held in contempt."

Under this system we are continually being

called upon to appropriate annuities and presents to these Indians. If they have not all the blankets they want it is the boast of the Indians that all they have to do is to go down on the Platte and kill a few whites and there will be a proposition made to have a talk with them in order to make peace, and with the talk comes as usual the distribution of more presents. Thus the whole authority and practice of the United States is justly brought into contempt under the present management.

And I wish to say that we must be rid of the whole treaty system in regard to the Indians, and treat them as wards of the Government. We must have an Indian code. We must have a system sufficiently flexible to meet the various emergencies of tribes, civilized and half-civilized, within our jurisdiction. We must take care of them, and not treat them as foreigners. Treating them as foreign nations gives them the right as such to make war. If an Indian agent breaks a treaty, according to the principles of international law they have a right to make war upon us to obtain their remedy. In this the Indian is more logical than the white. Now, we must get rid of this system of treaties with these Indians within our jurisdiction and treat them as wards of the United States, and have a proper code of laws for their government. But for the present we must do what we can to relieve the present system from all the outrages that arise under it both to whites and to Indians.

Now, sir, what does the Indian himself think of this system. I will read an extract from the testimony of an officer of the Indian race, who is on the staff of General Grant, given in the paper laid on our table this morning. He says, after urging the transfer of the Indian Bureau to the control of the War Department:

"Most of Indian treaties contain stipulations for the payment annually to Indians of annuities, either in money or goods, or both, and agents are appointed to make these payments whenever Government furnishes them the means. I know of no reason why officers of the Army could not make all these payments as well as civilians. The expense of agencies would be saved, and I think the Indians would be more honestly dealt by. An officer's honor and interest are at stake, and impel him to discharge his duty honestly and faithfully, while civil agents have none of those incentives, the ruling passion with them being generally to avoid all trouble and responsibility, and to make as much money as possible out of their offices."

Now, sir, every man, I think, who has been out in the Indian country knows this to be true. We have scarcely ever had a civilian among these wild tribes who could secure their respect as military men, who understand them, always secure it. We have rarely had any complaints of Indian agents when they were military men; but I have known Indian tribes to refuse to treat with civilians, and to ask their Great Father to send them a captain to deal with them, because they find that the word of a civilian is not so much to be depended upon.

Now, sir, the substitute offered by the gentleman from Ohio, [Mr. SCHENCK], from the Military Committee, is unanimously reported to the House by his committee. It is the bill which last session I reported from the Appropriation Committee. It is supported by a part of the Indian Committee. The subject requires prompt and early action on the part of Congress to relieve the Government from the rapidly increasing expenditures of this branch of the public service and from the various wrongs arising from the present system.

Mr. BURLEIGH. I would like to ask the gentleman when and where an Indian tribe which has made a treaty with the Government with Indian agents has violated its treaty obligations. I have heard common charges of this kind made against them, but I will say that the charges were all upon Indian agents and traders.

Mr. KASSON. Let me speak from the record, and so far as Dakota is concerned I refer the gentleman to the appendix to the report of the Indian Commissioner. I will read from Mr. Nesmith's report.

Mr. BURLEIGH. Will the gentleman answer my question?

Mr. KASSON. Let us see what the record says:

"Three of these questions were as follows:

"14th. Ought money annuities to Indians be discontinued as far as consistent with treaty obligations?"

"15th. What proportion actually reaches the hands of the Indians?"

"16th. What proportion is received by the trader for goods and supplies already advanced?"

"To these, with others, numerous replies were made, among which were the following:

"Colonel John F. Sprague, of the seventh infantry, who has spent over twenty years of his military life among the Indians, thus writes:

"Question 14. Ought money annuities to Indians to be discontinued as far as consistent with treaty obligations?"

"Answer. Money annuities should be discontinued to the Indians.

"Question. What proportion actually reaches the Indians?"

"Answer. Very little, if any.

"Question 16. What proportion is received by the trader for goods and supplies already advanced?"

"Answer. The whole, if he can wrest it from the Indian. During the period previous to paying the annuity liquor is often sold to Indians and entered upon his account as calico, shirts, blankets, strouding, beads, &c.

"Brigadier General James H. Carlton, commanding the department of New Mexico, replies:

"Question 14. Money annuities should be discontinued as far as practicable.

"Question 15. A very small proportion.

"Question 16. A very large proportion.

"Question 17. What proportion is expended for intoxicating drinks or in gambling?"

"Answer. Nearly or quite all that the Indian gets over and above what he owes, and what is literally grabbed from him, at 'the payment,' by the trader."

"J. Harlan, United States Indian agent for the Cherokee nation, writes:

"Of the amount paid to the Indians nominally by the Government I think it would be safe to say more than ninety-nine per cent. was actually paid to the traders and less than one per cent. to the Indians. I only saw seven dollars paid to an Indian. When an Indian's name was called a trader stated his claim; the Indian said, 'Uhi!' Whether that was yes or no I could not say; but the money was paid to the trader."

"Question 16. In the only payment I ever saw made the proportion was as I stated in the preceding answer. It was all claimed, and nobody disputed it, for goods and supplies already advanced."

The testimony of all honest men who have been out in the Indian country and who know anything about the manner in which our Indian business is conducted is that the present system of Indian traders and agents and sub-agents is wrong. There is a volume of testimony upon this subject taken by a committee of this House which for some reason has been kept back from Congress.

Sir, we cannot, without injustice and dishonor to the United States, allow this system to longer continue; and when a remedy is proposed, which is the only practical remedy, one supported by the men best acquainted with Indian affairs, supported by General Pope, who has spent years upon the plains among the Indians, and who declares this measure to be a necessity, and by other officers of the Army high in the public confidence, I submit that it is time for Congress to consider and adopt it.

Mr. HIGBY. I would ask the gentleman from Iowa [Mr. KASSON] if he thinks we cannot have a system in the civil service which will take care of the Indians.

Mr. KASSON. I give up the present system.

Mr. HIGBY. I agree with the gentleman in regard to the present system, but I go for a more stringent system.

Mr. KASSON. The system proposed by the Committee on Indian Affairs merely changes the present system in a way to lead to greater expenditures. It proposes to have upon each board a military man, a priest, and a politician, three different interests being represented. I notice that by that bill you actually compel the military men to come before these boards and testify and act under their direction. You thereby increase this very conflict upon the plains between the military and the civil authorities. And I think those boards will satisfy themselves very soon that they can do nothing without the aid of the military. Wherever they go, over the plains or through the mountains, you must send the military with them. Why not, then, put the management of Indian

affairs under the control of the War Department of the Government? In that way it will all be united under one head, and if you choose he can send out civilian inspectors. He can order military reports by telegraph over half the continent in a week's time. Under the present system you could not and did not get a report before the House for two years after you sent out a special commission for the purpose.

I thank the gentleman from California [Mr. HIGBY] for the time he has yielded to me. I did not intend, when I commenced, to take so much time as I have.

Mr. HIGBY. How much time, Mr. Speaker, have I left?

The SPEAKER. The gentleman has eleven minutes of his time remaining.

Mr. HIGBY. I will yield three minutes of my time to the gentleman from Illinois, [Mr. ROSS.]

Mr. ROSS. Being a member of the Committee on Indian Affairs, I desire to occupy more time than three minutes, and I therefore decline the offer of the gentleman from California, [Mr. HIGBY.]

Mr. HIGBY. I now yield three minutes of my time to the gentleman from New York, [Mr. DARLING.]

Mr. DARLING. I suppose that time will be all I shall desire to occupy. I desire to say, as a Representative of the great State of New York, that I thank the distinguished Representative from Ohio [Mr. SCHENCK] for introducing this subject as he has done. I think the time has come when there should be a change in the policy of the Government in reference to the management of our Indian affairs. And I can see no other way out of the difficulties that surround us in this matter than to transfer this bureau to the War Department. By so doing we will secure the discipline and efficiency of that arm of the service, and secure the fidelity which results from that system and that discipline. We will secure friends for the Indians and punishment for those who inflict upon them the wrongs which for a long series of years have induced them to commit atrocities upon the unoffending whites upon our borders. It seems to me that the only idea which has controlled the Government has been to get rid of the irregularities and troubles which have resulted from the intercourse between the Indians and the whites, by driving the Indians still further into the wilderness.

The nomadic as well as the permanent tribes have been subject to this process as the advancing tide of civilization and emigration has overtaken them. I am glad to see the opportunity now offered for the American Congress to do justice in this matter, by taking completely the control of our Indian affairs from the bureau where it is alleged these abuses have so long existed and transferring it at once and without delay to the War Department.

[Here the hammer fell.]

Mr. HIGBY. I now yield three minutes to the gentleman from Wisconsin, [Mr. SLOAN.]

Mr. SLOAN. Mr. Speaker, I only desire to say that I have been long of the opinion that any change in the management of our Indian affairs must of necessity be a change for the better. The present system of appointing Indian agents is essentially vicious. These appointments are conferred as rewards for political and partisan services. Selected from the States the appointees have in most cases very little experience in Indian affairs and very little knowledge of the Indian character. Going among the tribes many of these men, as appears from authentic evidence, are governed by the mere motive of making all that is possible during the short time that they can expect to hold their offices. The result of this system is that plundering and fraud are common in the management of our Indian affairs. The wrongs which the Indians suffer drive them into armed conflict with the whites, and then the military force of the country is turned upon them to ravage and destroy.



We need some permanent and efficient system for the management of our Indian affairs. It was urged yesterday by the gentleman from Minnesota [Mr. WINDOM] that men can be selected from civil life of as high a character as any military officers. Yet I submit that, under the prevailing system of giving appointments as rewards for political and partisan services, we are not likely to obtain suitable men. On the other hand, the accountability of the military officer to the War Department must work a beneficial change in the management of Indian affairs if we adopt the plan advocated by the chairman of the Military Committee. I trust that his proposition will meet the favor of the House.

[Here the hammer fell.]

Mr. HIGBY. I yield three minutes to my colleague, [Mr. BIDWELL.]

Mr. BIDWELL. Mr. Speaker, I am very glad that this question is being agitated by this House. It is my fortune to have been intimately acquainted with the condition of the Indians west of the Rocky mountains for the last twenty-five years, and I can say that the disposition manifested by the Government toward those Indian tribes has it seems to me had in view the welfare of the Indians. Congress I believe has had the best intentions in making appropriations for the maintenance of those Indians. I believe that in a great majority of cases the agents themselves have done their utmost to benefit the Indians under their charge. I know from personal experience that it has been the intention of the Indian Bureau to make appointments and spend money in such a manner as to benefit to the greatest possible degree the Indians.

But, sir, it is a lamentable fact that all the efforts which have been made and are being made are not adequate to accomplish what is designed. Some change is absolutely necessary; and I, for one, see no better mode of working the needed reform than by transferring this whole business to the War Department. While I say that I believe this to be the best plan, I do not intend to impugn the action or the motives of any agent or any Department of the Government; for I have already stated that I believe the officers of the Government have acted in good faith. The present system, however, is radically wrong. A change is demanded, and I believe that a military officer is better fitted to superintend an Indian reservation than a civilian. I will tell you why—

[Here the hammer fell.]

Mr. HIGBY. I now yield the floor to the gentleman from Minnesota, [Mr. WINDOM.]

Mr. WINDOM. I call the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from Minnesota [Mr. WINDOM] is entitled to the floor to close the debate.

Mr. WINDOM. I yield five minutes to my colleague on the committee, the gentleman from Oregon, [Mr. HENDERSON.]

Mr. HENDERSON. Mr. Speaker, I feel unwilling to trouble the House with any remarks at the present time; but as a member of the Committee on Indian Affairs I deem it my duty to express my views in reference to the question now under consideration.

I could not, sir, but be surprised to hear the gentleman from Iowa [Mr. KASSON] make the declaration that the expenses of the Indian department have been increasing for years. It is the most natural thing which could possibly be imagined, for every year the Government of the United States is grasping large portions of the Indian territory. We absorb the lands of the Indians, and every year large numbers of Indians are brought under the care of the Government. Just so long as the Government continues to grasp Indian lands we may expect an increase of expenditure in the Indian department.

It is not my purpose to speak in favor of the present system. I am in favor of a change. I

think the plan reported from the Indian Committees is best for the protection of the Indians and for economy in Government expenditures.

I object to turning the charge of the Indians over to the War Department. Experience has proved that the Indians corrupt the military and the military corrupt the Indians. I will not stop to advance proof of that fact; but I repeat that the Indians corrupt the military and the military corrupt the Indians. They work mutual corruption on each other, and the less they have to do with each other the better.

It is true that this Government can pursue toward the Indians the policy of extermination and extinction; and let me say if you want to hasten their extinction you can take no surer mode than by putting them entirely into the hands of the military. I doubt not when you do that your progress will be rapid. If, on the contrary, the Indians are placed under the charge of civilians, their morals will be cultivated, and they will be led through a knowledge of the Christian religion to civilization and peace. The bill under consideration looks to that end; and for that reason, believing it is the best, I will support it. It has been framed in the interest and welfare of the red children of the forest, and I hope it will be passed.

Mr. WINDOM. I now yield twenty minutes to my colleague on the committee, the gentleman from Illinois, [Mr. ROSS,] and when he has concluded, I now give notice I can yield no further.

Mr. ROSS. Mr. Speaker, of the various questions presented to this House none is more entitled to our consideration than the one now pending in relation to these poor wild men of our forests and plains. We should inaugurate a policy of justice and humanity toward them.

And first I desire to call attention to one significant fact concerning our Indian affairs. In 1865 a commission, consisting of four Senators and five members of the House, was appointed, with directions to visit the Indian country and gather as much information as possible of their condition, &c. The fact to which I wish to attract attention is, that although this commission, in consequence of the vast extent over which the investigation was to take place, was divided into three parts, each to take a different direction, yet the nine individuals who did this work unanimously approve and recommend the passage of the measure reported by the Committee on Indian Affairs.

I will call attention to another significant fact, that the committee in the Senate having charge of Indian affairs have sent this bill to this House with the indorsement of that body; and the Committee on Indian Affairs in this House also recommend its passage. The indorsement of these three committees should commend it to the favorable consideration of the House.

I do not pretend there is perfection in the present Indian system. I believe it is wrong from the bottom to the top, and needs a radical reformation; but I am not disposed to go in the direction indicated by the chairman of the Committee on Military Affairs.

Mr. Speaker, I understand the first objection urged by the gentleman from Ohio [Mr. SCHENCK] is that this bill is a union of church and State. I am satisfied I would be as much opposed to a union of church and State as any gentleman upon this floor. Is there anything like a union of church and State in asking for recommendation from religious societies in the country of civilians for appointment to office? Are these great religious societies to be ignored? My judgment is they can make as suitable recommendations as the Committee on Military Affairs. The gentleman from Ohio says he has had appointed two friends as Indian agents upon his recommendation.

We have had a little experience in this country of military superintendency of the Indians. It became my duty as a member of that commission to visit Bosque Rodondo, in New Mexico, an Indian reservation, where from nine thousand to ten thousand were forcibly held

by military authority. They had been forcibly taken from their mountain homes in Arizona Territory, their corn and orchards destroyed and villages burned; driven away from their homes, men, women, and children, in the most inclement season of the year. After this wanton and cruel destruction of their homes and means of subsistence they fled to the mountain fastnesses, and were hunted down like beasts of prey, and compelled at the point of the bayonet to travel hundreds of miles in mid-winter, with snow on the ground, to New Mexico, many perishing by the way from the inclemency of the weather, hunger, and exhaustion.

The seven to ten thousand Indians held by military authority on this reservation in New Mexico have been costing the Government over one hundred thousand dollars a month independent of the expense of the military at the post. I defy gentlemen to controvert the evidence which is furnished unmistakably upon this point. The evidence may be found in the War Department.

And, sir, look at the inhumanity of the manner in which these Indians are treated! I do not desire to say anything against General Carlton or his subordinate officers, who have charge of the Indians. I regard them as gentlemen. But the defect is inherent in the system itself and cannot be remedied. I would be glad if you would look into the report of the Indian agent for New Mexico and see the demoralization that is growing out of this connection between the military and the Indians in this country. The evidence shows that it costs twenty-nine and a half cents a ration for these Indians, when individuals in that country offer to furnish them for fifteen cents. This is a part of the system of governing these Indians by military authority.

They are put upon reservations for the purpose of working the lands. Sir, the system has proved a failure. Why? Because the white man cannot raise anything there. These Indians have been driven from their hunting grounds to that portion of the country where they cannot subsist either by hunting or agriculture. Let gentlemen go out and look at the reservations in the West that have been left for the Indian tribes, and they will find that they are those portions which the white men will not occupy. This reservation is located on a small stream of water called the Pacos, without any timber for firewood or the erection of buildings within fifteen or twenty miles; and when the water gets low in the summer time it is so brackish with alkali, as the evidence shows, that it causes disease and death among them, and the report shows that the mortality among them is very great. Their only chance for fuel is to go out in the inclement weather and dig mesquite roots out of the ground and pack them in on their backs. This is your humane method of governing the Indians by military authority!

Gentlemen tell us it is going to cost us nothing for officers and agents to manage Indian affairs if we transfer this business over to the War Department, for the reason that the officers and men are already in the service. Why, sir, I apprehend that the distinguished gentleman at the head of the Military Committee [Mr. SCHENCK] has found himself with more military officers on his hands than he knows what to do with, and would like to shove them into the civil service to make places for them. According to his theory you may take the greatest villain, thief, or scoundrel in all the country, and you have only to appoint him into the Army and put shoulder-straps on him and all his guilty stains are washed away, and he becomes as white as the driven snow. Now, sir, I am inclined to think that if a man will steal before he gets into the Army there may be a little propensity in that direction left in him afterward.

I can see no good reason for transferring the Indian Bureau to the Military Department. The evidence collected by the commissioner sent out by Congress shows that nineteen out

of twenty of all the difficulties that have arisen between the whites and the Indians have grown out of aggressions upon the part of the white men against the Indians. Why, sir, what was the reason alleged for taking these seven or ten thousand Indians from their native home in Arizona and placing them in New Mexico? It was that they made forays in New Mexico and stole horses, sheep, and cattle. And yet the evidence shows that the New Mexicans had stolen from the Indians two horses, sheep, and cattle where the Indians stole one. Nor is this all: the New Mexicans had taken about five thousand of their women and children and sold them into slavery, where they are held as slaves to-day.

Mr. Speaker, while we are looking into this question we should look at it in a spirit of justice. What have we done to these men of the forest, who have heretofore occupied all this vast region of country? We have driven them westward, westward, westward! We said when we got them beyond the great Father of Waters that there they would have a resting place. But the discovery of gold in California and the Territories has changed our resolution; the tide of emigration has reached almost every part of the western country. The buffalo and game, from which the Indians have heretofore procured a subsistence, are disappearing before the onward and irresistible wave of population, and the aborigines are passing away like autumn leaves.

All the land that is fit for hunting, for mining, or for agriculture was taken possession of by the white man. The Indian reservations are planted away off in some place where life cannot be sustained except it be the owl, the wolf, or the snake. And we ask the Indian to remain there and cultivate the soil as no white man, with all the appliances of civilization, would undertake to do. The country where they are located lacks many of the prerequisites for a habitable country. It lacks soil, it lacks timber, and it lacks water; and if they succeed in overcoming some or all of these difficulties, and they make some improvements, get some small portion of the land under cultivation, then the grasshopper, the caterpillar, and the hail-storm come to destroy their crops.

Now, it is perfectly ridiculous to ask people to live in such a country and obtain a subsistence. Take, for instance, the eight or ten thousand Indians now held by the military in the Territory of New Mexico. Why, sir, you could take all those Indians, bring them into the settlements, and board them at hotels and boarding-houses far cheaper than they are now maintained in New Mexico. I think great injustice has been perpetrated upon the Indians in that Territory. While in New Mexico I had an opportunity to see them and talk with them. They came around the committee, old men and women, with tears streaming down their cheeks, and told us how their children were dying from want of proper sustenance and from being compelled to drink the alkali water there. They told us how they had been treated by the military; that they had been driven from their former homes by the soldiers at the point of the bayonet and forced to go on reservations where they could not possibly raise enough to support them. They said they wanted to go back to their old homes. They asked us, when we returned to Washington, to say to their "Great Father" that they wished to be returned to their old homes, where they would be peaceable and quiet. They said that if that was done they would overlook the great iniquity which had been practiced upon them by the people of New Mexico, in stealing their wives and children and selling them into slavery, and they would guaranty that they would be able to support themselves.

Sir, these Indians did support themselves for one hundred and fifty or two hundred years in Arizona, where they formerly lived. But they have been forced away from there by the military and placed upon reservations where white men would starve to death, and now the Government has to pay some \$100,000 per month

to subsist the Indians there. The care of the Indians in New Mexico is a fair test of what we will have if the whole management of Indian affairs is placed under the War Department. What may we expect? A man is sent out there from the Military Academy; the young officer wants of course to see his name in print; and how is he to do it? Why, he must "punish the Indians," in western parlance. He starts out upon a war hunt, and kills some old men, women, and children, and thereupon his name is paraded in the papers as that of a great military chieftain. All these Indian difficulties are generally brought on by the inexperienced officers who have charge of affairs out there.

I believe the remedy proposed by the joint committee who visited the Indian territories, in the shape of the bill now before us, is the best measure we can have. I have confidence that the bill will, if passed, prevent the speculation now practiced upon the Indians.

Mr. BIDWELL. The gentleman complains of the treatment of the Indians in New Mexico by the military. Now, I ask him if that is not under the present system, which leaves the management of Indian affairs in the Department of the Interior?

Mr. ROSS. I tried when I was out there to find out by what authority the Indians had been hunted down like wild wolves and placed upon reservations where a white man would starve; but I could not find out. In my judgment it is done by the military without authority of law. There are there in New Mexico ten thousand human beings, the wards of the Government, whom we should look after and protect, but who are now held in absolute slavery there.

The gentleman from Ohio [Mr. SCHENCK] asks us to extend that legislation and to give to officers of the Army and permit officers of the Army to go out upon the plains and lord it over the red man of the forest. Sir, I will never give my sanction to so great an iniquity attempted to be fastened on any people. Many of them are placed upon these reservations against their own will, and I know that there are orders made that if they attempt to escape from the reservations and go back to their native mountain homes they are to be shot down like dogs.

These are facts for the House to consider and deliberate upon in determining whether we shall place these Indians, whom we have robbed of their possessions, under the control of such men. I wish all the members of the House could go out and see the payments made to these Indians. They are the wards of the Government and look to us for support and protection. They have no right to sue or be sued, and when imposed upon what is their remedy? They have none in Congress and none in the courts. They have none and know none but retaliation. And it is the injustice practiced on these Indians by vicious white men on the frontier that brings about all the difficulty and trouble between this Government and the Indians.

We inquired, sir, into these difficulties. We made it our special business to look into them, and our report shows that our presence there, in conjunction with the action of General Pope, stopped a war which would have cost the Government millions of dollars.

There are always some men out there of the Army who are anxious to fight the Indians. They all talk about "chastising the Indians." Speculators and contractors urge the Government to send out troops to fight the Indians that they may reap a rich harvest in contracts for transportation and supplies.

My judgment is that if you would withdraw all the troops from the Territories there would not be one man killed of the ten who are now killed. I cannot in the House relate all the facts that came to my knowledge in reference to the abuse and the treatment of the Indians. It could not be related in language that would be proper here. The facts are all incorporated in the testimony which has been presented to

the country in a published volume which all may see.

[Here the hammer fell.]

Mr. WINDOM. Mr. Speaker, the importance of this measure justifies me in soliciting for a few minutes the serious attention of the House.

I have yielded the floor in almost every instance since this discussion commenced to those who were opposed to the bill, and the House has had the argument presented, I presume, in as strong a light as it can be in favor of a transfer of the Indian Bureau to the War Department. Frauds have been alleged against the administration of the Indian system as it now exists. We admit the existence of frauds; we admit that there has been mismanagement; and the object of this bill is to prevent their recurrence. We believe that after a careful investigation of this subject we have devised a remedy for these evils. It is agreed on all hands that some change is necessary, and because there has been for years a hue and cry throughout the country against the Indian Bureau, it is therefore thought by many that the only remedy is to transfer the management of Indian affairs to the War Department. I think, Mr. Speaker, that before I conclude my remarks I shall be able to show, from some few specimens of the management of Indian affairs by the War Department, that if we adopt the amendment of the gentleman from Ohio we will vastly increase all the evils of which we now complain. I believe, sir, that the transfer of the Indian Bureau to the War Department will add tenfold to the present expenses of the management of Indian affairs; and I will endeavor to present facts establishing this position.

The gentleman from Iowa [Mr. KASSON] seems to be the father of this movement; and by the by I understand that in 1865 he made a trip across the plains, and wandering away from his comrades was chased and terribly frightened by a lone squaw. [Laughter.] He thinks that squaw should be placed under the immediate control of the military authorities; and he hastens here and introduces a bill for that purpose. [Laughter.] The gentleman says that his proposition is approved by all who are best acquainted with Indian affairs. Now, Mr. Speaker, I happen to know something on that point. The bill now reported from the Committee on Indian Affairs passed the Senate nearly a year ago. We were not able to reach it in the House during the last session. The attention of those throughout the country who have interested themselves in Indian affairs has since been turned to it; and I have in my possession numerous letters from gentlemen who have given much attention to this subject, all of whom most thoroughly and cordially approve it. Bishop Whipple, of my own State, than whom there is no man in the country better acquainted with Indian affairs, is most anxious for its passage. A delegation from the Society of Friends has addressed me on the subject urging favorable action upon it. Without stopping to read those letters, for I have not the time, I may say that throughout the entire country you will find scarcely a single individual whose attention has been seriously given to Indian matters who does not believe that this measure presents the best remedy that has been proposed for correcting existing abuses in the administration of Indian affairs.

The gentleman from Iowa [Mr. KASSON] and the gentleman from Ohio [Mr. SCHENCK] both oppose this bill and defend the amendment emanating from the Military Committee on the ground of economy. On that point I wish the attention of the House for a few moments. The gentleman from Iowa says that when we look at the fearful increase in the appropriations for Indian affairs, it is time that we should pause and ascertain whether some remedy cannot be found for the extravagance of the present system. He says that the expenses have increased within a few years until they now reach nearly four million dollars.

The fact, as stated by the Commissioner of Indian Affairs in a letter to the chairman of the Committee of Ways and Means, is that the appropriations in 1866, instead of being \$4,000,000, were \$2,468,050 for the entire Indian service. This included all payments under treaty stipulations and the providing for and taking care of three hundred thousand Indians. Mr. Speaker, this is the alleged extravagance of the Indian department.

Mr. KASSON. I understand that a little while ago, during my absence from the House, the gentleman made some personal allusion to myself. I should be glad to know what it was.

Mr. WINDOM. I will yield to the gentleman in a moment.

Now, let us look for a moment at a specimen of the management of Indian affairs by the War Department. There are six thousand Indians in New Mexico on the Bosque Rodondo, who are under the entire management and control of the War Department; and documents now before me show that the expenditures for those six thousand Indians were \$1,500,000 in one single year. That is what it cost the War Department to take care of those six thousand Indians; while this terribly extravagant Indian Bureau takes care of three hundred thousand Indians for less than double that sum. The cost of subsistence of those six thousand Indians in New Mexico was a little less than \$700,000, and the cost of transportation for them a little more than \$800,000. Documents before me show that the cost of transportation for the \$2,468,050 expended by the Indian Bureau is only \$127,868. It will be seen, therefore, that in the item of transportation alone, it costs the War Department six times as much for six thousand Indians as it does the Interior Department for three hundred thousand Indians. Yet we are asked with apparent sincerity to transfer the control of Indian affairs to this wonderfully economical War Department in order to save money to the Treasury.

But a little further on that subject. When the gentleman from Ohio was addressing the House yesterday and speaking of the protection given to the Indians by the military, the gentleman from Pennsylvania [Mr. STEVENS] asked me how much it cost to kill one Indian; to which I replied about one million dollars. He seemed to think that was a little extravagant, and I agreed to compromise on \$500,000 per Indian. Now, after further reflection and investigation, instead of compromising on \$500,000 for each Indian killed, I should double my former estimate.

On the 7th of June last I had the honor to introduce into this House a resolution calling upon the Secretary of War to inform us what was the cost of the military expeditions for the suppression of Indian hostilities in 1864 and 1865, and I ask the Clerk to read the answer.

The Clerk read as follows:

WAR DEPARTMENT,  
WASHINGTON CITY, December 3, 1866.

SIR: In compliance with a resolution of the House of Representatives of June 7, 1866, directing the Secretary of War to inform the House what amount of money has been expended for the suppression of Indian hostilities, &c., during the years 1864 and 1865, I have the honor to send herewith reports on the subject from the Quartermaster General, the Commissary General of Subsistence, and the Paymaster General, from which it will be seen that—

The Quartermaster's department expended in 1864.....	\$9,110,372 00
1865.....	19,263,850 00
The Subsistence department expended in 1864.....	155,459 74
1865.....	359,788 46
And the pay department expended in 1864.....	508,953 95
1865.....	1,132,512 78

And that the total expenditures in 1864 and 1865 amount to.....\$30,530,942 93

Some of the above information having been only recently received, this report could not be made in time for the last session of Congress, but the earliest opportunity is now taken for presenting it.

Your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

39TH CONG. 2D SESS.—No. 57.

Mr. WINDOM. Mr. Speaker, you will perceive by this report of the Secretary of War that the Indian military expeditions of 1864 and 1865 cost over thirty million dollars. The expedition in the Northwest under General Sully cost in quartermaster's stores alone \$6,636,000. Let me give the result of that expedition, as stated by one well acquainted with the facts:

"General Sully, with ten hundred and sixty-three officers and men and eighteen hundred and sixty-seven horses and mules, during a campaign of several months, having marched more than sixteen hundred miles, did not succeed in killing a single Indian, except probably one Indian killed after the expedition returned to Fort Rice. An express rider claims that he killed one; so that matter is in dispute. The Indian at any rate was admitted to be friendly and foolish. General Sully is an excellent officer; it was not his fault because he did not find the Indians; he could not overtake them; they were too cunning and too fleet for him. His loss of course was not heavy; he did, however, kill about one hundred horses, to prevent them from falling into the hands of the Indians. I have been informed by a general officer in the United States Army, who has had a large experience in Indian affairs, who says it costs nearly two million dollars a year to support a regiment in the Indian country—\$2,000,000 to kill one Indian."

The report of the Secretary of War shows that over six million dollars were spent in killing this one Indian; and it is still doubtful whether he is living or dead. [Laughter.]

So much for the question of economy. These are specimens of what the War Department can do. Over thirty million dollars expended in two years, and excluding the massacre of friendly Indians by Colonel Chivington in cold blood, I venture to say it has cost the Government on the average over two million dollars for every Indian killed by the War Department.

Mr. KASSON. When I was absent from the House I understand the gentleman from Minnesota alluded to me, saying that a squaw followed me when I was upon the plains and did not catch me. In his case I suppose the squaw did overtake him. [Laughter.]

Mr. WINDOM. I admit the gentleman can run faster than I can. [Laughter.]

Mr. KASSON. One other point I wish to present, and that is touching the number of Indians killed.

Mr. WINDOM. That settles the squaw question, and I cannot yield further. [Laughter.]

Mr. KASSON. I want to state one fact touching the number of Indians killed in that war. That is one side entirely of the question of what caused the war. The number of Indians killed in the fight north of the Upper Platte and near the Powder river in a single engagement by military report appears to have been much larger, four or five times at least, than the number now stated by the gentleman. I was on the plains at the time the battle took place.

Mr. WINDOM. Was that General Pope's report?

Mr. KASSON. No, sir.

Mr. WINDOM. I did not know but it was one of those battles where ten thousand prisoners were taken.

There is a point made by the gentleman from Ohio [Mr. SCHENCK] to which I wish to allude, namely, that this transfer will be for the benefit of the Indian himself. Let us look at a few facts on that point and see how much the friends of the "poor Indian" propose to do for him by this transfer. As I have said before, we can only take a few instances, because there are but few of them where the military has had entire control, for the purpose of showing what they would do if clothed with full powers. In these few instances we may ascertain what would be the result if the substitute proposed by the gentleman from Ohio should pass.

Take, for instance, the case of the Indians at Bosque Rodondo, to which I have referred. I ask the Clerk to read a short extract from the report of Mr. Norton, the superintendent for New Mexico, as to the manner in which gentlemen of the military profession treat the Indians under their control.

The Clerk read as follows:

Extract from the Annual Report of Superintendent Norton for 1866.

"Of the state of the health and morals of the Navajos you can form some idea from the inclosed report of the surgeon of the hospital; and from the best information I could gather when I visited the Basque the tale is not half told, because they have such an aversion to the hospital that but few of those taken sick will ever go there. What a commentary is this on the humanity, Christianity, and civilization of the white man! what a disgrace to the nation that seven thousand Indians, while held as prisoners of war, are thus treated; that the family circle is invaded and their women, their wives, and daughters, are thus prostituted and diseased by the embraces of licentious soldiery! You will also see by the report of my conference with the chiefs that they complained of being molested by the soldiers. The only remedy for all this unbridled sensuality and licentiousness must come through the Secretary of War, in an order through the proper channels, to the commander of the post."

Mr. WINDOM. I will leave that extract, without comment, to make its own impression upon the House and the country.

But there is one other case to which I will refer, and that is the management by the War Department of Indian affairs in Colorado Territory. I send to the desk to be read the deposition of James D. Connor, lieutenant of the first infantry New Mexico volunteers, taken by the special committee of investigation. I have erased from this report certain portions describing the action of white soldiers, because they are too atrocious and revolting to be read in the hearing of this House; too horrid even to be spread on paper.

The Clerk read as follows:

FORT LYON, COLORADO TERRITORY,  
January 16, 1865.

Personally appeared before me, Lieutenant James D. Connor, first New Mexico volunteer infantry, who, after being duly sworn says: "that on the 28th day of November, 1864, I was ordered by Major Scott J. Anthony to accompany him on an expedition (Indian) as his battalion adjutant; the object of that expedition was to be a thorough campaign against hostile Indians, as I was led to understand. I referred to the fact of there being a friendly camp of Indians in the immediate neighborhood, and remonstrated against simply attacking that camp, as I was aware that they were resting there in fancied security under promises held out to them of safety from Major E. W. Wynkoop, former commander of the post of Fort Lyon, as well as by Major S. J. Anthony, then in command. Our battalion was attached to the command of Colonel J. M. Chivington, and left Fort Lyon on the night of the 28th of November, 1864; about daybreak on the morning of the 29th of November we came in sight of the camp of the friendly Indians aforementioned, and were ordered by Colonel Chivington to attack the same, which was accordingly done. The command of Colonel Chivington was composed of about one thousand men; the village of the Indians consisted of from one hundred to one hundred and thirty lodges, and as far as I am able to judge of from five hundred to six hundred souls, the majority of which were women and children; in going over the battle ground the next day I did not see a body of man, woman or child but was scalped, and in many instances their bodies were mutilated in the most horrible manner."

"I heard another man say that he had cut the fingers off an Indian to get the rings on the hand; according to the best of my knowledge and belief these atrocities that were committed were with knowledge of J. M. Chivington, and I do not know of his taking any measures to prevent them; I heard of one instance of a child a few months old being thrown in the feed-box of a wagon, and after being carried some distance left on the ground to perish."

"All these matters were a subject of general conversation, and could not help being known by Colonel J. M. Chivington."

"JAMES D. CONNOR,  
First Lieutenant First Infantry New Mexico Vols."

Mr. BIDWELL. I would like to ask whether the conduct of Colonel Chivington was not rebuked by the War Department at the time?

Mr. WINDOM. I presume, Mr. Speaker, that it was rebuked; but when gentlemen stand here arguing that it is for the benefit of the Indian to turn him over to the hands of men who have shown themselves capable of such brutal conduct, I think it is but fair that some examples of their mode of treatment should be presented to the House.

Here was a band of about five hundred friendly, quiet, and peaceable Indians, encamped with their wives and children, attacked by one thousand United States soldiers, massacred in cold blood, and treated in a manner which would make the very fiends below blush for shame.

I would have preferred not to call the attention of the House to this revolting subject, but



I do it as an offset to the charge made against the civil service. If anything can be found in the conduct of the civil authority half as bad as this, I will vote for the amendment of the gentleman from Ohio, [Mr. SCHENCK.]

Mr. HIGBY. I have the best authority for stating that before I left San Francisco in the fall of 1865 a lieutenant in command of a squad of men then in the service of the United States in Nevada came across the dead body of a squaw who had upon her breast a living infant, and the lieutenant ordered one of his men to take that child and throw it over a precipice and throw stones upon it so as to destroy it. I have the best authority for making that statement.

Mr. WINDOM. The gentleman from Iowa [Mr. KASSON] referred to the events which occurred near Fort Laramie. I desire at this time to call the attention of the House to some other facts in connection with that post.

"FORT LARAMIE, D. T., December 26, 1866.

"Christmas is come and gone, and we are heartily glad of it. Never during our course of human events have we been blessed with the liberty of viewing so much obscenity, debauchery, and drunkenness. The whole garrison was on a 'bust.' With one or two exceptions, every officer, non-commissioned officer, and private were more or less under the influence of liquor yesterday. The scene beggars description, and even did it admit of minute record pen and ink would rise in revolt at such atrocious application. Last evening the officers resolved to celebrate the event of it being Christmas night, and right merry did they do it, too; in a measure equaling, or rather reenacting the day's glories, and the night was made hideous by many a jest and song of an intoxicated officer and soldier. Fighting was the order of the day, and the unemployed bullies were in all their glory. At all hours of the day we might see some disgraceful brawl going on—no effort on the part of the proper authority to restrain them. In fact, but a reenactment of the New York riot of 1863 on a small scale, and the fact of there being many of that honorable fraternity present (still unhung) rendered the simile semi-perfect.

"And yet, while all this was transpiring, we hear the rumor—which we dare not doubt—of a bloody and sanguinary fray at Reno, resulting in the loss of life of many of our comrades and soldiers. The rumors are conflicting, yet at least fifty men are the victims of the Indian massacre. Yet later reports even exceed this. So soon as full particulars are received I will transmit them to you."

Here, in this far off Indian country, was a garrison sent out to keep peace between the whites and Indians, and while they are on a drunken frolic fifty white men are massacred within a short distance of them. Oh, how rapidly all evils and abuses would disappear if the entire Indian system could only be placed under the control of such men! Sir, I do not doubt that there are many good men among these officers. The gentleman from Ohio [Mr. SCHENCK] asks whether there was an Indian agent there. There is, I believe, no Indian agent at Fort Laramie. It is one of those places where the gentleman's system is carried out to perfection; there is no Indian agent there to interfere with the operations of the military in any way. There was no conflict of authority either arising out of the presence of an Indian agent at Sand Creek, where Colonel Chivington murdered over one hundred and eighty peaceable Indians, men, women, and children. There would be no conflict of authority at any point where there is an Indian agency if the military authorities did not always interfere in what is not their business.

Mr. SCHENCK. I desire to ask the gentleman how it is that he can claim that the carrying on of wars against the Indians, cruelly or otherwise, affects the question of the administration of the Indian department? Does the gentleman propose that under his system no troops shall be kept there, and that if there is trouble with the Indians that no troops shall be employed to suppress it.

Mr. WINDOM. It has a great deal to do with it in this connection, to show how the War Department treats the Indians when left unobstructed by Indian agents.

But, sir, I am aware that I labor under great disadvantage in presenting this bill for the reason that there exists a strong prejudice against the Indian department, and I know that it is not wholly unfounded. Gentlemen believe that any change would be for the better, and jump at the conclusion the one pro-

posed by the amendment will accomplish the desired object. I am very sure they are mistaken, and that if the amendment shall become a law it will not only cost the Treasury untold millions but will produce consequences at which humanity will blush.

Now, I ask members of the House to pause and consider well this question before they make so radical a change as is proposed. There will be time enough to adopt this proposition of the gentleman from Ohio [Mr. SCHENCK] when his committee is called for reports. Have I not shown facts enough concerning the treatment of the Indians by the military authorities to justify me in saying that even if a transfer should be made there will be quite as great necessity as now for a supervisory board, such as proposed by the bill?

The gentleman from Ohio [Mr. SCHENCK] proposes to strike out all after the enacting clause of the bill, which is simply to transfer this bureau to the War Department without providing for any supervisory authority. The system proposed by the Committee on Indian Affairs, as I stated the other day, will cost the Government some forty thousand dollars per annum for the salaries of the members of the boards of inspection. I have attempted to show you something of the expense of Indian wars. Now, if by sending out these boards we can prevent one war in a half a century it will result in a vast saving to the Government. Is it not at least worthy of a trial?

I now ask that a vote be taken upon the bill and pending amendments.

The first question was upon the amendment offered by Mr. DONNELLY to the original bill, to add to section three the following:

And in case of the suspension of any Indian agent the duties of his office until the confirmation or rejection of his successor by the Senate shall be performed by the assistant agent or in case there shall be no such assistant agent then by the chief clerk of such agent; and it shall be the duty of the President to transmit to the Senate with the nomination of his successor a statement of the causes of such suspension.

The amendment was agreed to.

The next question was upon the amendment offered by Mr. CHANLER to the original bill, to add the following section:

SEC. —. And be it further enacted, That the rights, privileges, and franchises conveyed to the black men within the States and Territories of the United States by established law thereof, be, and are hereby, given and secured to all the Indians having the protection of this Government under existing laws; and that all laws or parts of laws inconsistent with this section be, and are hereby, repealed.

The amendment was disagreed to.

The next question was upon the amendment offered by Mr. SCHENCK, to strike out all after the enacting clause of the bill reported from the Committee on Indian Affairs, and insert in lieu thereof the following:

That from and after the 1st day of July, 1867, the Secretary of War shall exercise the supervisory and appellate powers, and possess the jurisdiction now exercised and possessed by the Secretary of the Interior in relation to all the acts of the Commissioner of Indian Affairs, and shall sign all requisitions for the advance or payment of money out of the Treasury on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the Auditors and Comptrollers of the Treasury, or either of them.

SEC. 2. And be it further enacted, That the Secretary of War shall be authorized, whenever in his opinion it shall promote the economy and efficiency of the Indian service, to establish convenient departments and districts for the proper administration of the duties now imposed by law on the superintendents of Indian affairs and upon agents and sub-agents, and to substitute for such superintendents and agents officers of the Army of the United States, who shall be designated for that purpose, and who shall then become charged with all the duties now imposed by law upon the superintendents and agents thus superseded, and without additional compensation therefor. The Secretary of War shall also detail an officer, not below the rank of brigadier general, to fill the office and discharge the duties of Commissioner of Indian Affairs. Officers of the Army designated to perform the duties of Commissioner, superintendent, agent, or sub-agent shall not be required to give the bonds now required of civil appointees, but shall be responsible for any neglect or maladministration according to the Rules and Articles of War.

SEC. 3. And be it further enacted, That all contracts for transportation connected with the Indian service shall hereafter be made in the same manner and at the same time provided for transportation for the use of the Army.

SEC. 4. And be it further enacted, That the Secretary

of War shall be authorized to withhold all special licenses from traders, and, under regulations to be by him prescribed, to provide the times and places at which all traders complying therewith may present themselves for bargain, barter, and exchange with the several Indian tribes, according to the laws of the United States regulating the same.

SEC. 5. And be it further enacted, That all laws and parts of laws inconsistent with the provisions of this act are hereby repealed.

Mr. SCHENCK. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 73, not voting 42; as follows:

YEAS—Messrs. Allison, Ancona, Delos R. Ashley, Baxter, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Bromwell, Bundy, Sidney Clarke, Cobb, Conkling, Cullom, Darling, Dawes, Deming, Driggs, Eckley, Eliot, Farnsworth, Garfield, Grinnell, Griswold, Hale, Hart, Hayes, Hill, Holmes, Hooper, Hotchkiss, John H. Hubbard, Edwin N. Hubbell, Hunter, Kasson, Ketchum, Koontz, Kuykendall, Lufkin, George V. Lawrence, William Lawrence, Loan, Longyear, Marston, Maynard, McRuer, Mercer, Moorhead, Morrill, Moulton, O'Neill, Orth, Pike, Pomeroy, William H. Randall, Raymond, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Stevens, Stokes, Nelson Taylor, Trowbridge, Upson, Burt Van Horn, Henry D. Washburn, Welker, Wentworth, Williams, James F. Wilson, and Wright—76.

NAYS—Messrs. Alley, Ames, Anderson, Baker, Baldwin, Beaman, Bergen, Boyer, Broomall, Campbell, Reader W. Clarke, Cook, Cooper, Davis, Dawson, Denison, Dodge, Donnelly, Eggleston, Ferry, Finck, Glossbrenner, Goodyear, Aaron Harding, Abner C. Harding, Harris, Hawkins, Henderson, Higby, Hise, Hogan, Chester D. Hubbard, Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Le Blond, Leftwich, Marshall, Marvin, McClurg, McCullough, McIndoe, Myers, Newell, Niblack, Nicholson, Noell, Paine, Patterson, Perham, Plants, Price, John H. Rice, Ritter, Ross, Shanklin, Spaulding, Taber, Nathaniel G. Taylor, Thornton, Trimble, Van Aernam, Robert T. Van Horn, Andrew H. Ward, Warner, William B. Washburn, Whaley, Windom, Winfield, and Woodbridge—73.

NOT VOTING—Messrs. Arnell, James M. Ashley, Banks, Barker, Brandegee, Buckland, Chanler, Culver, Deffrees, Delano, Dixon, Dumont, Eldridge, Farquhar, Asahel W. Hubbard, Demas Hubbard, James R. Hubbell, Hulburd, Johnson, Jones, Kerr, Latham, Lynch, McKee, Miller, Morris, Phelps, Radford, Samuel J. Randall, Alexander H. Rice, Rogers, Rousseau, Stigraeves, Starr, Stilwell, Strouse, Thayer, Francis Thomas, John L. Thomas, Hamilton Ward, Elihu B. Washburne, and Stephen F. Wilson—42.

So Mr. SCHENCK's amendment was adopted.

Mr. SCHENCK. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

On the question, Shall the motion to reconsider be laid on the table? there were—ayes 74, noes 68.

Mr. WINDOM. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 70, not voting 44; as follows:

YEAS—Messrs. Allison, Ancona, Delos R. Ashley, Barker, Baxter, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Bromwell, Bundy, Sidney Clarke, Cobb, Conkling, Darling, Davis, Dawes, Delano, Deming, Driggs, Eckley, Eliot, Farnsworth, Garfield, Griswold, Hale, Hart, Hayes, Hill, Holmes, Hooper, Hotchkiss, John H. Hubbard, Edwin N. Hubbell, Kasson, Koontz, Kuykendall, Lufkin, George V. Lawrence, William Lawrence, Loan, Longyear, Marston, Maynard, McKee, McRuer, Mercer, Moorhead, Morrill, Moulton, O'Neill, Orth, Pike, Pomeroy, William H. Randall, Raymond, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Stevens, Stokes, Nelson Taylor, Trowbridge, Upson, Burt Van Horn, Henry D. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Wright—77.

NAYS—Messrs. Alley, Anderson, Baker, Baldwin, Beaman, Bergen, Boyer, Broomall, Buckland, Campbell, Reader W. Clarke, Cook, Cooper, Dawson, Denison, Dodge, Donnelly, Eggleston, Finck, Glossbrenner, Aaron Harding, Abner C. Harding, Harris, Hawkins, Henderson, Higby, Hise, Hogan, Chester D. Hubbard, Humphrey, Hunter, Ingersoll, Jenckes, Kelley, Kerr, Le Blond, Leftwich, Marshall, Marvin, McClurg, McCullough, McIndoe, Niblack, Nicholson, Noell, Patterson, Perham, Phelps, Plants, Price, Samuel J. Randall, John H. Rice, Ritter, Ross, Shanklin, Spaulding, Strouse, Taber, Nathaniel G. Taylor, Francis Thomas, Thornton, Trimble, Van Aernam, Robert T. Van Horn, Andrew H. Ward, Warner, Whaley, Windom, Winfield, and Woodbridge—70.

NOT VOTING—Messrs. Ames, Arnell, James M. Ashley, Banks, Brandegee, Chanler, Cullom, Culver, Deffrees, Dixon, Dumont, Eldridge, Farquhar, Ferry, Goodyear, Grinnell, Asahel W. Hubbard, Demas Hubbard, James R. Hubbell, Hulburd, Johnson, Jones, Julian, Kelso, Ketchum, Latham, Lynch, Miller, Morris, Myers, Newell, Paine, Radford, Alexander H. Rice, Rogers, Rousseau, Stigraeves, Starr, Stilwell, Thayer, John L. Thomas, Hamilton Ward, Elihu B. Washburne, and William B. Washburn—44.

So the motion to reconsider was laid on the table.

Mr. WINDOM. I move that the bill, as amended, be laid on the table, and on that motion I demand the yeas and nays.

The SPEAKER. The gentleman can call the yeas and nays on ordering the bill to be read the third time.

Mr. WINDOM. Very well; I withdraw the motion to lay on the table.

The SPEAKER. The question recurs on ordering the bill, as amended, to be read the third time.

Mr. WINDOM. On that I call the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 91, nays 52, not voting 48; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Delos R. Ashley, James M. Ashley, Baxter, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Bromwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Dawes, Dawson, Delano, Deming, Driggs, Eckley, Eliot, Farnsworth, Garfield, Griswold, Hale, Hart, Hayes, Hill, Holmes, Hooper, Hotchkiss, John H. Hubbard, Edwin N. Hubbard, Ingersoll, Julian, Kasson, Kelley, Ketcham, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Loan, Longyear, Marston, Maynard, McKee, McKuer, Mercer, Moorhead, Morrill, Moulton, O'Neill, Orth, Pike, Pomeroy, William H. Randall, Raymond, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stokes, Nelson Taylor, Francis Thomas, Trowbridge, Upson, Burt Van Horn, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Wright—91.

NAYS—Messrs. Anderson, Baker, Beaman, Bergen, Buckland, Campbell, Cooper, Dodge, Donnelly, Eggleston, Finck, Glossbrenner, Aaron Harding, Abner C. Harding, Harris, Henderson, Higby, Hise, Hogan, Chester D. Hubbard, Hunter, Jenckes, Kerr, LeBlond, Leftwich, Marshall, McClurg, McIndoe, Niblack, Nicholson, Noell, Piine, Patterson, Perham, Phelps, Plants, Price, Ritter, Ross, Shanklin, Strouse, Taber, Nathaniel G. Taylor, Thornton, Trimble, Van Aernam, Robert T. Van Horn, Andrew H. Ward, Warner, Whaley, Windom, and Winfield—52.

NOT VOTING—Messrs. Alley, Arnell, Baldwin, Banks, Barker, Boyer, Brandegee, Chanler, Culver, Davis, Defrees, Denison, Dixon, Dumont, Eldridge, Farquhar, Ferry, Goodyear, Grinnell, Hawkins, Asahel W. Hubbard, Demas Hubbard, James R. Hubbard, Hulburd, Humphrey, Johnson, Jones, Kelso, Koontz, Latham, Lynch, Marvin, McCullough, Miller, Morris, Myers, Newell, Radford, Samuel J. Randall, John H. Rice, Rogers, Rousseau, Sitgreaves, Stilwell, Thayer, John L. Thomas, Hamilton Ward, Elihu B. Washburne, and Woodridge—48.

So the bill was ordered to a third reading.

The bill was accordingly read the third time.

Mr. SCHENCK demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. SCHENCK. I move to amend the title so as to make it read "A bill to transfer the Bureau of Indian Affairs to the War Department;" and on that demand the previous question.

Mr. WINDOM. I move to make it a bill to massacre the Indians and deplete the Treasury.

The SPEAKER. It is not in order.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of Mr. SCHENCK was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 660) entitled "An act for the relief of Captain James Starkey;" whereupon the Speaker signed the same.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House was requested:

An act (S. No. 32) to prevent the absence of territorial officers from their official duties; and

A joint resolution (S. R. No. 159) author-

izing the Secretary of the Treasury to permit the owners of the yacht Mayflower to change the name of the same to that of Silvie.

The message further announced that the Senate had passed without amendment an act (H. R. No. 660) for the relief of Captain James Starkey.

#### ORDER OF BUSINESS.

Mr. INGERSOLL moved to go to the business on the Speaker's table.

The motion was agreed to.

Mr. HALE. I ask unanimous consent that all prior orders be postponed to take up the bill regulating the tenure of civil officers.

Mr. WRIGHT. I object.

#### EXEMPTION OF PROPERTY IN DISTRICT.

The SPEAKER laid before the House, as the first business upon his table, amendments of the House to Senate bill No. 218, exempting property of debtors in the District of Columbia from levy, attachment, sale, or execution, returned by the Senate, with concurrence in the first and non-concurrence in the second amendment.

Mr. INGERSOLL moved the House recede from its second amendment.

The motion was agreed to.

#### ILLEGAL VOTING IN THE DISTRICT.

On motion of Mr. INGERSOLL, by unanimous consent, the House took up Senate bill No. 479, to punish illegal voting in the District of Columbia, and for other purposes; which was read a first and second time.

The first section of the bill provides that any person not duly qualified to vote in the District of Columbia, who, knowing that he is not so qualified, shall vote or offer to vote therein, or who shall procure or attempt to procure himself to be registered therein as a voter, shall be punished by imprisonment not exceeding six months, and not less than two months; and the second section declares that if any person, being a qualified voter in the District, should knowingly vote or attempt to vote in any other ward or election precinct than that in which he shall be lawfully entitled to vote, or should unlawfully and knowingly vote or attempt to vote more than once, or in more than one ward or election precinct, or should so vote double therein, he should be punished by imprisonment not exceeding six months and not less than two months, and be disqualified from voting thereafter in the District.

The third section provides that there shall be five judges of elections within and for the city of Washington, and three within and for the city of Georgetown, the same to be appointed by the supreme court of the District of Columbia, who shall hold their office for two years and until their successors shall be appointed and qualified, and whose duty it shall be, prior to each election, to prepare a list of the persons qualified to vote in the several wards of said cities in any election; and said judges shall be in open session in their respective cities to receive evidence of the qualification of persons claiming the right to vote in any election therein, and for correcting said lists, on two days, not exceeding five days prior to each election for the choice of city officers, giving prior notice of the time and place of each session in some newspaper.

Section four declares that prior to said election the said judges in the respective cities shall post up a list of voters thus prepared in one or more public places in said cities, and at least ten days prior thereto; and section five further declares that all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

The bill was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. STEVENS. I rise to a privileged motion. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the fortification appropriation bill.

Mr. HALE. I hope the gentleman will not insist upon that. There is a very important bill lying on the Speaker's table which we ought to reach and can reach by proceeding with the order now.

Mr. STEVENS. I think you cannot get through that to-day, and I therefore insist on my motion.

The motion was disagreed to—ayes 38, noes 64.

#### BALTIMORE AND POTOMAC RAILROAD.

The next business on the Speaker's table was the consideration of the amendments of the Senate to House bill No. 388, to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia.

The amendments of the Senate, which were mostly of a verbal character, were concurred in.

Mr. INGERSOLL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### UNITED STATES COURTS.

The next business on the Speaker's table was the consideration of the amendment of the Senate to House bill No. 605, to amend an act to establish the judicial courts of the United States, approved September 24, 1789.

The amendment of the Senate was to insert after the word "courts" the words "within their respective jurisdictions."

Mr. COOK. I move that the House concur in the amendment.

Mr. WRIGHT. I would ask whether anybody in this House, when he gives his vote on these amendments, knows what he is voting upon? [Laughter.]

The SPEAKER. The gentleman from New Jersey is not in order. The question is on the motion to concur.

The motion was agreed to.

Mr. COOK, moved to reconsider the vote just taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PUNISHMENT OF CRIMES.

The next business in order on the Speaker's table was the consideration of the amendments of the Senate to House bill No. 719, to punish certain crimes in relation to the public securities and currency, and for other purposes.

The amendments were read, being in relation to the terms of imprisonment and the amount of fines.

Mr. MAYNARD. I would suggest whether it would not be better to have these amendments so read that the House may understand the effect and purport of them.

The SPEAKER. They relate to the number of years of imprisonment for counterfeiting, reducing it from fifteen years to ten.

Mr. MAYNARD. I do not refer to any particular one, but all of them.

The SPEAKER. They all relate to the same subject.

Mr. WILSON, of Iowa. I do not deem it necessary to give any more extended explanation of the amendments of the Senate than that which the Chair has already given. They are mainly a reduction of the terms for which the party may be imprisoned, and the amount of fine that may be imposed.

Mr. MAYNARD. May they not be so read with the context that we may see what the words are?

Mr. WILSON, of Iowa. I will ask that the Clerk read the first amendment of the Senate, in connection with the context of the bill.

Mr. WRIGHT. Mr. Speaker, I was declared out of order only a few moments ago for asking what we were voting upon. There is now a bill before the House providing for

the infliction of punishment for certain crimes, and am I out of order for asking in what way the Senate have seen fit to amend it?

The SPEAKER: The gentleman is not out of order in asking that, and he was not called to order for that, but for stating that the House was voting without knowing what it was voting upon.

Mr. WRIGHT. That is exactly the case, sir. [Laughter.]

The Clerk read the first amendment of the Senate with the context.

Mr. WILSON, of Iowa. I move that all the amendments of the Senate be concurred in, unless some gentleman desires a separate vote upon any amendment. I will state that all these amendments are designed to conform the penalties provided by this bill to those now provided by existing law or the crime of counterfeiting.

The amendments of the Senate were concurred in.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### WINONA AND ST. PETERS RAILROAD.

Bill of the Senate No. 494, for the relief of the Winona and St. Peters Railroad Company, was next taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

#### RAILROAD FROM SAN FRANCISCO TO HUMBOLDT.

The SPEAKER stated that the next business in order upon the Speaker's table was the consideration of the bill of the Senate No. 133, granting lands to aid in the construction of a railroad and telegraph line from the waters of the bay of San Francisco to Humboldt bay, in the State of California, which bill was postponed on the last night of the last session, and again postponed on the 18th of December.

Mr. McRUER. I ask for the consideration of that bill at the present time.

Mr. HALE. I think it is a bill that ought to be referred to some committee.

Mr. McRUER. Let me say that, although it is a Senate bill and is now upon the Speaker's table, it has, nevertheless, been considered by the Committee on Public Lands, and I am authorized by that committee to present an amendment in the nature of a substitute for the bill.

It will be recollected by the House that this bill was postponed on the evening before the last day of the last session of Congress. It has been before the Committee on Public Lands for at least six months, and has been carefully considered by them. They have prepared an amendment which is to be submitted as a substitute for the original bill.

I would not, sir, press the bill upon the House for action now, were it not that this is probably the last opportunity that we shall have during the present session to consider it.

Mr. HALE. Will the gentleman from California permit me to suggest that it is hardly possible that this bill can be passed to-night without some further consideration than the House can now give it? I suggest to him therefore that if he is unwilling to have the bill referred to a committee he allow it to retain its place upon the Speaker's table for the present.

Mr. McRUER. I have no objection to that course.

The SPEAKER. If there be no objection the bill will remain upon the table. The Chair hears no objection.

#### TENURE OF CIVIL OFFICE.

The next bill taken from the Speaker's table was bill of the Senate No. 453, regulating the tenure of certain civil offices; which was read a first and second time.

Mr. HALE. I desire to put this bill upon its passage as early as reasonably may be. There are several gentlemen, some upon this side of the House and some upon the other, who desire to be heard upon it. It is a subject to the dis-

cussion of which the House has already devoted some days upon a similar bill reported by the gentleman from Pennsylvania, [Mr. WILLIAMS.] That discussion involved all the questions which are involved in this bill; and I therefore give notice that if it be consistent with the views of the House I should like to bring the House to a vote upon this bill at four o'clock to-morrow afternoon, thus affording an opportunity to some gentlemen to be heard upon it.

I understand, however, that the chairman of the Committee on Appropriations desires to go into Committee of the Whole on the state of the Union on an appropriation bill, and I have no objection to that course being pursued if this bill will come up to-morrow morning.

The SPEAKER. It will be the unfinished business to-morrow morning.

#### FORTIFICATION BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into Committee of the Whole on the state of the Union, [Mr. POMEROY in the chair,] and proceeded to the consideration of the special order, being bill of the House No. 919, making appropriations for fortifications and other works of defense for the fiscal year ending June 30, 1868.

By unanimous consent the first reading of the bill was dispensed with, and the Clerk proceeded to read it by clauses for amendment.

Mr. BLAINE. I move to amend the bill by inserting at the end of line eighteen the following:

For commencement of two additional forts for the defense of Portland harbor, Maine, including the purchase of sites, \$150,000.

I desire to state very briefly, if I can get the attention of the committee, that I am instructed to offer this amendment by the Committee on Military Affairs, and that they propose it at the instance of the Secretary of War, who forwarded to that committee a communication from the chief of Engineers, General Humphreys. This item was left out by the Committee on Appropriations, but he gives substantial reasons why the appropriation should be made at this time. I do not desire to debate the matter at any length, and unless some gentleman desires further information I will with this brief statement leave the question to the committee.

Mr. SPALDING. I think we have thrown away money enough on fortifications already; and unless those items come to us in the regular estimates I think we better vote them all down.

The question was taken; and upon a division, there were—ayes twenty.

Before the noes were counted,

Mr. BLAINE said: I desire, if there is no objection, to make a statement to the House.

Mr. SPALDING. I object.

Mr. BLAINE. I did not know there would be any objection to this item, or I would have made a further statement when I had the floor.

Mr. SPALDING. I object to any debate after a division upon the question.

Mr. BLAINE. I withdraw my amendment.

The amendment was accordingly withdrawn.

Mr. BLAINE. I now move to amend by inserting the following:

For the commencement of two additional forts for the defense of Portland harbor, Maine, including the purchase of sites, \$155,000.

That is \$5,000 more than my other amendment proposed to appropriate, and is therefore a different proposition. Upon this amendment I am entitled to the floor, and I will make a statement to the House of the facts of this case as concisely as I can.

The chief of Engineers recommends an appropriation of \$150,000 for the purchase of sites and the commencement of two forts in the harbor of Portland, Maine. He says, in a communication to the War Department, under

date of January 24, 1867, which I now hold in my hand—

"The largely increased range of modern artillery has had the effect of diminishing the security hitherto afforded by such of our sea-coast works as are situated so near to the objects they are designed to cover that iron-clads may approach near enough to shell those objects without being themselves seriously endangered by the works. It therefore becomes necessary in such cases to establish an exterior line of works which shall hold an enemy's ships at a greater distance, while the present works will serve the indispensable purpose of a second line with which to meet the enemy with a powerful fire in case he should force the new outer barrier, or pass it with a portion of his fleet, while the rest are engaged with the works. This is the condition of things at Portland, where the present line of works, consisting of Forts Preble, Scamell and Gorges, are so near the city and shipping in the harbor, that both the latter may be shelled simultaneously with an attack upon the works."

Mr. Chairman, in the opinion of the Engineer corps, and especially of those who are entrusted with our sea-coast defenses, the city and harbor of Portland are of superlative importance, deserving and demanding the utmost protection that the most thorough fortifications can afford. The city and harbor do not deserve this merely because of the thirty thousand enterprising inhabitants in the one nor the valuable shipping in the other; but because of the immense importance of the position as affecting the defenses of the whole country in the event of a foreign war. Should we ever be so unfortunate as to have a war with England, her first point of attack would be Portland, and with her powerful navy against the fortifications we now have there it would be presumptuous folly to declare that she might not capture it. And I ask gentlemen on this floor if they can measure the magnitude of that loss to us and gain to our enemy. It would at once give to England not only the finest naval station on the North American coast, but would give her the command of the entire line of the Grand Trunk railway. And England in possession of Portland, Quebec, and Montreal, could hold the Grand Trunk railroad against any force we could bring against her, and holding it she would have, both winter and summer, the most expeditious and complete channel of supply to her troops along our northern frontier from Island Pond to Detroit.

Indeed the loss of Portland and the Grand Trunk road would be as heavy a blow to us in a war with England as we inflicted on the rebels when we captured New Orleans and regained control of the Mississippi river. And I assure my friend from Ohio [Mr. SPALDING] that in resisting this small appropriation of \$150,000 at this time he may be putting in peril that which, if once lost, \$150,000,000 would fail to regain. I am not seeking to give the impression that there is now the slightest prospect of war and I trust the day is very remote when we shall have to encounter such a calamity. But we know the old injunction as to our duty "in time of peace," and we know, moreover, that a thorough preparation for war is the surest way to escape it. Impregnable fortifications are least frequently assaulted! These are the views which have governed the engineer department in urging the erection of additional forts at Portland, and with this brief presentation of the leading facts of the case I am willing to submit the question to the judgment of the House.

Mr. SPALDING. I object to this appropriation, for the reason that it is for the commencement of a new work. It is not to carry on a fort already commenced there, but it is to commence a new fort there in Portland harbor: an appropriation of \$150,000 to commence new forts. The gentleman from Maine [Mr. BLAINE] says that it is necessary to have these outer forts constructed for the purpose of strengthening the forts already built there. He may with equal propriety ask for an appropriation to build still another line of forts outside of those now proposed, in order to strengthen them when they shall have been built. Beside, there are no estimates from the War Department for this expenditure; none at all.

Mr. BLAINE. This item comes to us in a



communication from the War Department, signed "Edwin M. Stanton," who, I believe, is still Secretary of War. I hold in my hand his letter transmitting the communication from General Humphreys, chief of Engineers, from which I read an extract at the beginning of my remarks. Mr. Stanton, in his own letter, says:

"These new works recommended by the chief of Engineers are regarded as very important, and have the approval of the War Department."

I ask the gentleman from Ohio if this is not a very distinct and very emphatic recommendation from the proper official quarter?

Mr. SPALDING. I ask that the Committee on Appropriations, which is formed for the purpose, shall have the poor privilege of investigating these matters. The Secretary of the Treasury sent to us his estimates, including those from the War Department, which did not embrace any for this purpose.

Mr. BLAINE. I have already stated that this is a regular estimate made by the War Department. It was sent, as such communications usually are, to the Military Committee, of which I am a member; and it is by express instruction from that committee that I have submitted the pending proposition. The gentleman from Ohio will observe that it comes here through the regular, proper, recognized, and authenticated channel.

Mr. SPALDING. The proposition to make this particular appropriation at this particular period of time is a very extraordinary one. I think we are dealing with the money of the people in a very loose way when we undertake to vote away, at the instance of some one member of this House, \$150,000 for a new fortification.

Mr. BLAINE. The gentleman says this is asked at the instance "of one member of this House." Why, sir, I have this moment detailed the circumstances under which this proposition is now here. It came, I repeat, from the Engineer Bureau, specially indorsed and recommended by the Secretary of War, approved by the Military Committee of this House, and now moved by me in pursuance of instructions from that committee. I hope I need not have to repeat these facts again.

Mr. SPALDING. I say further that, during the last year, we have voted \$500,000 probably for this very town of Portland—

Mr. BLAINE. Oh, no.

Mr. SPALDING. And gentlemen should not complain if we require a little time for deliberation before we vote \$150,000 more.

Mr. LYNCH. I move to amend the amendment by making the amount \$100,000.

Mr. Chairman, I wish to say in reply to the gentleman from Ohio [Mr. SPALDING] that there have been estimates for these works from the War Department; and the gentleman will find them upon page 86 of the book of Departmental Estimates. The estimates sent in by the Department for these very works amount to \$150,000. The appropriation for this purpose is not included in the bill reported by the committee; but it is among the estimates from which the bill was made up.

Mr. KASSON. The gentleman will permit me to say that his statement is correct. A proposed appropriation for this work was included in the estimates; but it is a rule of the Committee on Appropriations, where an entirely new work is proposed, to wait until the appropriate committee of the House has reported in favor of the construction of the work, before acting on such estimates. I understand that the Committee on Military Affairs have considered this subject and are in favor of the construction of these works. I ask the gentleman from Maine [Mr. BLAINE] to state whether this proposition comes formally from that committee.

Mr. BLAINE. It does come formally from that committee. I offer this amendment by instruction of the committee, as I have already stated more than once; otherwise the motion would have come from my colleague [Mr. LYNCH] who represents the district in which Portland is situated.

Mr. LYNCH. Mr. Chairman, I had no knowledge that any such amendment would be offered. If my colleague had not presented it as a member of the Military Committee I should not have offered it, for the reason that I do not consider military works as matters of merely local importance. In my view the fortifications around the harbor of Portland are not for the benefit merely of that city. When, therefore, propositions of this kind come up here I do not feel especially called on to advocate them as local matters. If they are not matters of national importance appropriations for them should not be made by the national Government.

With regard to the necessity for these new works let me make a single statement. In October, 1861, the Secretary of State, in a communication to the Governor of Maine, asked the coöperation of the State and the loan of its credit toward fortifying the harbors of the State. On account of that communication the Governor of Maine appointed a commission, and that commission conferred with the United States authorities on the subject. A military commission was sent to examine the coast of Maine. It examined, among other points, the old fortifications around Portland, and made plans and estimates for new fortifications. These very works were estimated for at that time, and are upon the plans of the engineer department submitted in 1861. The present proposition is simply to carry out the plans of the engineer department submitted at that time. I desire the Clerk to read an extract from the reply of the Governor of Maine to the communication of the Secretary of State, for it sets forth very clearly the facts of the case.

The Clerk read as follows:

From the State line at Kittery to West Quoddy Head, in a coast line of three hundred miles, there are over one hundred good harbors at which ships are built and manned, with an actual shore-line of more than three thousand miles, following the line of tide-water into navigable bays, inlets, and deep river estuaries. Not one harbor is properly defended, and in only three have attempts at defense been made.

The highest military authorities would undoubtedly concur in the opinion that Portland should be made the great naval depot of the United States on the Atlantic ocean. Its geographical position commands Canada on the north, and the lower Provinces on the east, if properly fortified, as lines of railway, completed or in process of construction, radiate from it to Quebec and Montreal, and to St. John and Halifax. The harbor is one of the finest on the Atlantic ocean or in the world, and can easily be so fortified as to be as impregnable as Gibraltar, and far stronger than Quebec, Sebastopol, or Cherbourg. Halifax harbor, the great British naval depot on the American continent, now occupied by the combined fleets of England and France, closes the outlet of the great gulf lying between Cape Cod and Cape Sable, and unless Portland is defended the whole peninsula east of Lake Champlain is easily subjected to foreign control.

If Great Britain held the harbor of Portland and the line of railway to Montreal and Quebec she would drive American commerce from the ocean and the great lakes. The strategic importance of Portland is shown by reference to any general map of the whole country, and its capabilities for defense are exhibited by the charts of the United States coast survey of 1859.

Portland harbor is an arm of the sea, formed by five outlying islands that shut out the swell of the ocean. The main or great ship channel is only one hundred and seventy rods in width, carrying from eight to ten fathoms at low water, inside Bangs Island. This island is the natural fortress that defends the approach to the harbor; its outside shoreline, extending over one mile in a nearly straight line, rises about eighty feet above the level of the sea. The distance from this outer shore-wall of the island is less than three miles from the densely populated portion of the peninsula on which the city is built. Behind this natural fortress ships-of-war may lie in deep water and shell the city, entirely protected from the guns of Fort Preble, Fort Scammel, or Fort Gorges. In point of fact, the present forts are of very little, if any, value in defending the city from guns of long range used in modern warfare.

Bangs Island contains two hundred and twenty acres. By fortifying this island all possible approach to Portland by water with large ships is cut off. In that event no holding ground or place of anchorage can be found where gunboats can reach the city without coming within range of the guns of its fort or those of Fort Gorges.

By making Bangs Island a fortress, Fort Gorges may be advantageously changed into a water-battery, with only one tier of guns, and the expense of the proposed casemate-battery saved, and thereby Portland would become impregnable by water.

The town itself is situated on a high peninsula,

once an island two and a half miles in length and averaging three fourths of a mile in width, around which still sweep the tide-waters of Casco bay, approaching within a few rods from opposite sides. A ditch of a few rods length will change this peninsula into an island, and secure a flow of the tide completely round the city. The land rises more or less abruptly on all sides from the water, reaching an elevation of one hundred and seventy-six feet at the western end, and one hundred and sixty-one feet at the eastern end of the peninsula, so that a redoubt at each end of the city overlooking its moat or ditch, and commanding the approaches by land or across Back bay, will prevent all approach to the city. No land rises so high as that of the peninsula of Portland within ten miles. One tenth of the expense of fortifying Sebastopol or Cherbourg would make Portland one of the strongest fortresses of the world.

As a harbor of refuge that of Portland is unrivaled, and the approach of a storm is foreshadowed by a movement of vessels in that direction. Between five and six hundred sail have been known to enter Portland harbor for shelter in a single night, and six hundred sail can be often counted on a clear morning standing out to sea after an easterly storm.

The first intimation of trouble with any leading foreign Power would be the entrance of a hostile fleet into Portland harbor.

The embarkation of the Prince of Wales on the 20th of October, 1860, illustrated the facility with which five men-of-war, some of them ships of the largest size, may enter or depart from this secure anchorage. The whole British navy can lie as easily in Portland harbor as in a dock at Woolwich.

An enemy in possession of Portland would find it to be the terminus of the longest line of railroad in the world. The Grand Trunk railway of Canada embraces a line of one thousand one hundred and thirty-one miles, of which one thousand and ninety-six are in actual operation. It extends from the Atlantic ocean at Portland to Lake Huron, a distance of seven hundred and ninety-six miles, with a branch to Detroit of fifty-nine miles, a branch to Quebec of ninety-six miles, and to the River du Loup of one hundred and eighteen miles; making, with all its branches, one thousand and ninety-six miles. This line has the capacity to move ten thousand troops between Portland and Quebec or Toronto and Detroit in a single day.

[Here the hammer fell.]

Mr. LYNCH. I withdraw the amendment.

Mr. SCHENCK. Mr. Chairman, I should be sorry if this assumed the character of a local question, and it is well enough to inform the House how this comes before it.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. SCHENCK. I renew the amendment just withdrawn in order to explain how this comes before the House. Among estimates for works deemed to be essentially necessary by the War Department was included this, with two or three others not put in this bill by the Committee on Appropriations. Seeing this, a communication was sent to the Committee on Military Affairs from the Secretary of War, inclosing a full report from the Engineer Bureau, together with these same matters for the consideration of the committee, and asking the committee if it approved them to incorporate them in this bill by way of amendment. The committee came to the conclusion to recommend this appropriation for Portland, and every one of them, except one, and that the largest item.

This amendment has been moved by the gentleman from Maine [Mr. BLAINE] in pursuance of the consideration of the Committee on Military Affairs, and it is only asking the House to put in what was estimated and asked for by the War Department, and left out by the Committee on Appropriations, as already stated.

It is not a local affair. It lies in the north-east, in Maine; but Ohio, as every other part of the country, is interested in keeping up the defenses at every inlet or outlet within our limits. Every part is interested in keeping up these forts.

Although lying up in New England the Committee on Military Affairs do not consider it a local affair, and have therefore instructed the gentleman from Maine to move this amendment, which will be followed by others.

My colleague asks why at this time, when the country is in a condition of embarrassment on account of the public expenses, these heavy works should be undertaken? My answer is twofold: first, in time of peace we should prepare for war; and second, these changes are rendered of imperative necessity by the changes in modern artillery.

Mr. SPALDING. Is it not questionable whether fortifications, since iron-clad ships have been built, are of any use?

Mr. SCHENCK. We have only to refer to the instance of Fort Sumter. Although the iron-clads battered down the walls and reduced it to a heap of ruins, yet our ships could not get by it. I think they are useful, and may be made more so with the changes rendered necessary by modern offensive warfare on the part of iron-clads. It may be eventually our forts will be fully iron-clad, but I believe no one has arrived at the conviction, at least of those who are competent to judge, that forts can be done away with altogether. I withdraw my amendment.

Mr. KASSON moved to reduce the appropriation to \$150,000.

The amendment was agreed to.

The committee divided on the amendment, as amended; and there were—ayes 51, noes 28; no quorum voting.

Mr. STEVENS moved the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 919, making appropriations for fortifications and other works of defense for the fiscal year ending the 30th of June, 1868, and had come to no resolution thereon.

#### LEAVE OF ABSENCE.

On motion of Mr. COOK, leave of absence was granted to Mr. DEFREES for the remainder of the week.

#### NATIONAL BURGLARY INSURANCE COMPANY.

Mr. INGERSOLL, by unanimous consent, introduced a bill to incorporate the National Burglary Insurance Company of the District of Columbia; which was read a first and second time, ordered to be printed, and referred to the Committee for the District of Columbia.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EVENING SESSION.

Mr. HOOPER, of Massachusetts. I move that after to-day the House take a recess from half past four o'clock p. m. till half past seven p. m.

The SPEAKER. That will require unanimous consent; a majority can order a recess for to-day.

Several MEMBERS objected.

#### GOVERNMENT OF VIRGINIA.

Mr. MAYNARD. Mr. Speaker, I understand that all questions relating to the general subject of reconstruction must be referred to the joint Committee on Reconstruction.

The SPEAKER. They must.

Mr. MAYNARD. I have a memorial from citizens of Virginia, praying that the present State government be set aside, and that a civil government be organized upon the basis of equality before the law, which I would like to have printed and referred to the joint Committee on Reconstruction.

No objection being made, it was so ordered.

#### LEAVE OF ABSENCE.

Mr. LAWRENCE, of Pennsylvania, asked and obtained leave of absence for his colleague, Mr. BARKER, for one week.

Mr. HOTCHKISS asked and obtained indefinite leave of absence for his colleague, Mr. HUBBARD, who had been called home by the death of his father.

#### TAXATION OF PUBLIC LANDS.

Mr. HOTCHKISS, by unanimous consent, introduced a bill to exempt certain public lands from taxation; which was read a first and second time, and referred to the Committee on Agriculture.

#### PACIFIC MAIL SERVICE.

Mr. McRUER, by unanimous consent, introduced a bill to authorize the establishment of ocean mail steamship service between the United States and the Sandwich Islands; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of Mr. STEVENS, (at four o'clock and thirty minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CULLOM: The petition of Ellen Curry, widow of James Curry, a private soldier in company F, thirty-ninth regiment Illinois volunteers, now deceased, asking for a pension from the United States.

By Mr. DAVIS: The petition of Messrs. B. A. Wood, H. H. Porter, J. B. Munn, and 24 others, citizens of Onondaga county, New York, praying that Congress will not legislate for reduction of the currency or for an immediate return to specie payments; also, praying that all national banks may not be compelled to redeem their circulating notes in New York.

By Mr. DODGE: The petition of Jackson S. Shultz and others, asking that the leather trade may be placed on the same footing as other staple manufactures.

By Mr. EGGLESTON: The petition of James W. Albert, and 25 others, citizens of Ohio, praying that wines manufactured from the grape may be exempted from internal taxation.

By Mr. ELIOT: The petition of H. R. Snow and J. Young, and others, citizens of Barnstable county, Massachusetts, praying for amendment of act of July 28, 1866, and for relief as manufacturers of salt.

Also, the petition of Benjamin F. Berry, and others, citizens of Barnstable county, Massachusetts, praying for relief as manufacturers of salt.

By Mr. FARNSWORTH: The petition of J. E. Hurlbut, and others, citizens of Chicago, against any further curtailment of national currency.

By Mr. HALE: The petition of V. N. B. Milliotta, of Champlain, New York, late first lieutenant United States volunteers, praying allowance of the three months' extra pay on muster out.

By Mr. HARDING, of Illinois: The petition of Martin Monroe, of Illinois, that bounty paid substitute be refunded.

By Mr. MERCUR: The petition of 89 citizens of Monroeton, Bradford county, Pennsylvania, asking that a pension may be granted to Seth H. Steel.

By Mr. MYERS: The petition of the white beer brewers of Philadelphia, stating that the removal of this species of malt liquors from the brewery for the purpose of bottling causes it to spoil, and asking a modification of the revenue laws in regard to it.

By Mr. RANDALL, of Pennsylvania: The petition of William M. Meredith, Eli K. Price, and others, members of the Philadelphia bar, praying for an increase in the salary of the United States district judge for the eastern district of Pennsylvania.

By Mr. SCHENCK: The petition of citizens of Lebanon, Ohio, praying that there may be no further curtailment of the currency.

Also, the petition of business men and property holders of Washington, for the removal of the railroad nuisance and obstruction of streets and avenues around the Capitol.

Also, the petition of Charles E. Behle, late major twelfth United States colored artillery, praying compensation for military services.

By Mr. VAN HORN, of New York: The petition of 785 citizens of Niagara and Oswego counties, New York, embracing among them merchants, bankers, forwarders, vessel owners, and masters of vessels, asking an appropriation for the improvement of the harbor at Olcott, Niagara county, New York.

#### IN SENATE.

THURSDAY, January 31, 1867.

Prayer by Rev. S. H. ANGBER, D. D., of Rockport, Massachusetts.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. LANE. I desire to present the petition of Mrs. Margaret A. Russell, praying for compensation for certain lots of sugar taken by our Army at Vicksburg, in July, 1863. I know nothing in reference to this case except the facts stated in the petition. I move its reference to the Committee on Claims.

It was so referred.

Mr. COWAN presented a petition of members of the bar of the city and county of Philadelphia, praying for an increase of the salary

of the judge of the United States district court for the eastern district of Pennsylvania; which was referred to the Committee on the Judiciary.

Mr. MORGAN. I present a memorial of surgeons' stewards, paymasters' stewards, and others, who have served in the United States Navy during the rebellion, in which they state that by the laws and regulations existing during the rebellion, and in force at the present time, their services were not credited to the States to which they severally belonged in the quota of men furnished for the suppression of the rebellion; second, that they did not receive the State or Government bounty, not being enlisted; third, they were appointed under the rules of the Navy Department and selected for their several grades by special qualifications for the position occupied, and their term of service was not for a specified time, depending on the exigencies of the service; that the remuneration was at rates long established and before the advance of prices of all the necessities of life and the depreciation of the currency, and is altogether inadequate to the support of themselves and families; that the enlisted men received both State and Government bounty and further received an increase of pay in 1864, while these memorialists equally shared with them the dangers and privations of the naval service and have received neither bounty nor increase of pay. Under these circumstances they ask the consideration of Congress. I ask the reference of this memorial to the Committee on Naval Affairs.

It was so referred.

Mr. SAULSBURY presented the petition of Joaquin De Palma, praying for compensation for property taken from his family by United States troops under the command of General Sherman at Winnsboro, South Carolina, on the 21st of February, 1865; which was referred to the Committee on Foreign Relations.

Mr. SHERMAN presented four petitions of citizens of Ohio, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which were ordered to lie on the table.

Mr. SUMNER presented three petitions of citizens of Philadelphia, praying for such an amendment of the Constitution of the United States as will prohibit legislation in any State making a distinction among the citizens thereof on account of color, race, or birth; which were referred to the joint Committee on Reconstruction.

He also presented the petition of Little, Brown & Co., of Boston, praying for an investigation into the contract made under an act of Congress with the Secretary of State in 1845, for the manufacture of stereotype plates for the volumes of the Statutes-at-Large, and for the supply of copies of the same, which contract, it is alleged, is being affected by the proposed codification of the laws; which was referred to the Committee on Printing.

#### PAPERS WITHDRAWN.

On motion of Mr. HARRIS, it was

Ordered, That Frances Ann McCauley have leave to withdraw from the files of the Senate her petition and accompanying papers, praying for compensation for judicial services performed by her late husband, Daniel S. McCauley, as consul general at Tripoli, in the Barbary States, and Alexandria, in Egypt.

#### REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 527) to amend the postal laws, and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 510) declaring a bridge to be built over the Missouri river at the town of St. Charles, in the State of Missouri, by the North Missouri Railroad Company, a legal structure, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 421) to authorize the construction of a submerged tubular bridge across the Mississippi river at the city of St. Louis, reported it without amendment.

Mr. WILLEY, from the Committee on Patents and the Patent Office, to whom was referred the petition of Elisha P. Moulton, praying that his claim as an original inventor of iron-clad gunboats may be recognized and rewarded, submitted an adverse report, and moved that the subject be indefinitely postponed; which was agreed to.

He also, from the same committee, to whom was referred the petition of Charles Grafton Page, praying that a patent issue to him for his invention of a magneto-electric apparatus for administering electricity as a remedy for diseases and for purposes of scientific illustration, submitted an adverse report, and moved that the subject be indefinitely postponed; which was agreed to.

He also, from the same committee, to whom was referred a petition of citizens of Pennsylvania, representing that they labor under great disadvantages from the frequent violations of trade-marks, and praying for relief by extending the law of copyright to trade-marks, asked to be discharged from its further consideration, and that it be referred to the Committee on Manufactures; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 392) for the relief of the heirs of George Faber, reported adversely thereon, and submitted a report; which was ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the petition of John Carter, praying to be allowed a pension, submitted a report accompanied by a bill (S. No. 554) granting a pension to John Carter. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. GRIMES, from the Committee on Patents and the Patent Office, to whom was referred the bill (H. R. No. 819) for the relief of Richard A. Vervalen and others, submitted an adverse report, and moved the indefinite postponement of the bill; which was agreed to.

Mr. CRAGIN, from the Committee on Naval Affairs, to whom was referred the joint resolution (H. R. No. 24) for the relief of Lucretia M. Perry, widow of the late Nathaniel H. Perry, United States Navy, reported adversely thereon.

Mr. HENDRICKS, from the Committee on the Judiciary, to whom was referred the bill (S. No. 58) to extend the jurisdiction of the Court of Claims, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

#### BILLS INTRODUCED.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 555) granting lands to aid in the construction of the Tebo and Neosho railroad and the extension; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. PATTERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 556) for the relief of Caroline McGee, of Greene county, Tennessee, widow of Lemuel McGee, deceased; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FOWLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 557) for the relief of James Fulton, paymaster United States Navy; which was read twice by its title, and referred to the Committee on Claims.

#### BILL RECOMMITTED.

On motion of Mr. WILLEY, the bill (S. 389) for the relief of Stephen R. Parkhurst, was recommitted to the Committee on Patents and the Patent Office.

#### SOLDIERS' ORPHANS' HOME.

Mr. TRUMBULL. I move to reconsider the vote by which the Senate last evening passed the bill (H. R. No. 848) to amend an act entitled "An act to incorporate the National Soldiers' and Sailors' Orphans' Home," approved

July 25, 1866. I merely desire to have the motion to reconsider entered at the present time.

The PRESIDENT *pro tempore*. The motion will be entered.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the bill (S. No. 479) to punish illegal voting in the District of Columbia, and for other purposes.

The message further announced that the House had passed a bill (H. R. No. 912) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1868, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill of the Senate (S. No. 525) supplementary to an act to prevent smuggling, and for other purposes, approved July 18, 1866, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had receded from its second amendment to the bill of the Senate (S. No. 208) exempting the property of debtors in the District of Columbia from levy, attachment, or sale on execution.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 605) to amend an act to establish the judicial system of the United States, approved September 29, 1789, and to the bill (H. R. No. 719) to punish certain crimes in relation to the public securities and currency, and for other purposes.

#### CONDITION OF INDIAN TRIBES.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be, and he is hereby, respectfully requested to report to the Senate the condition of the Indians now located in the vicinity of Lake Traverse and Fort Wadsworth, Dakota Territory, at the time of the outbreak in Minnesota in 1862; the part they took in connection with that outbreak; the cause of their being permitted to remain so near the Minnesota frontier when the other surrendered Sioux were sent to the Crow Creek reservation in 1863; whether they have been uniformly friendly in their relations with the whites since the outbreak or otherwise; whether they have any reservation allotted them; and whether they have been the recipients from the Interior Department since the outbreak of any annuities, clothing, provisions, or agricultural implements; and whether their removal from their present location to a point more removed from the Minnesota frontier is contemplated by the Interior Department.

#### FOREIGN MINISTERS AND PRESIDENT'S POLICY.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President of the United States be requested to communicate to the Senate, if in his opinion not incompatible with the public interest, any correspondence between the Department of State and any of the foreign ministers of the United States with reference to the policy of the President toward the States lately in rebellion, and especially any inquiries by the Department of State with regard to the conversation or opinions of such foreign ministers.

#### DEPUTY MARSHALS, ETC., IN THE DISTRICT.

Mr. MORRILL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Interior be directed to communicate to the Senate the number and names of the deputy marshals, bailiffs, and criers in the District of Columbia who have received compensation for the year 1866, the rates of compensation and amount paid each.

#### CLAIMS OF LOYAL EAST TENNESSEANS.

Mr. PATTERSON. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the Committee on Claims be directed to inquire into the justice and expediency of compensating the loyal people of East Tennessee for property taken from them for the use of the Army of the United States, the claims for which property were investigated by a commission appointed by General Burnside, consisting of Messrs. Morrow, Dickinson, and Williams, and also the claims investigated by a commission appointed by General Schofield, consisting of Messrs. Dickens, Pearson, and Williams; and report by bill or otherwise.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution?

Mr. HOWE. I did not hear it, and I should like to have it read again.

The Secretary read the resolution.

Mr. HOWE. I do not think there can be any objection to the reference of that subject to the committee.

There being no objection, the resolution was considered and adopted.

#### IMPORTATION OF GOODS WITHOUT INSPECTION.

Mr. EDMUNDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of repealing the provisions of law allowing goods imported from foreign countries to be brought into the interior of the country under seal and without inspection at the usual ports of entry, and to report by bill or otherwise.

#### TREATY WITH HAWAIIAN ISLANDS.

Mr. CONNESS. If it be in order, I now move to take up for consideration the resolution I submitted yesterday, calling upon the Secretary of the Treasury for information.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

*Resolved*, That the Secretary of the Treasury be requested to report to the Senate whether, in his opinion, American interests would not be subserved by a treaty of commercial reciprocity with the Hawaiian Islands.

Mr. GRIMES. I have no doubt, sir, that the Secretary of the Treasury can furnish the Senate with very valuable information upon this as he could upon almost any other financial or commercial subject; but I am opposed to the adoption of the resolution and cannot vote for it, or at any rate, I am not disposed to allow it to be adopted without entering my protest against it; and for this reason: it carries with it the implication that commercial treaties are within the province of the President of the United States, in conjunction with the Senate, and that we have the power to tie up the trade and commerce of the country without the coöperation of the House of Representatives. We have attempted to do this once, Mr. President, in our history. We established a reciprocity treaty with the British Provinces in North America. We got rid of that treaty fortunately, shortly after the civil war began; but everybody can comprehend fully what would have been the condition of this country if there had not been a clause in that treaty by which it could be brought to a conclusion within ten years from the time it began. Why, sir, I apprehend that the whole trade and commerce of the country would have been entirely deranged at the present time if the treaty in relation to trade with the British Provinces had not contained within itself the power to abrogate it at the expiration of ten years. It is for this reason, and for this reason alone, that I oppose this resolution—not but what I want to have the most close and intimate relations with the Sandwich Islands. With the purpose which the Senator from California has in view ultimately in regard to those islands, I entirely sympathize; but I do not recognize the power of the Senate of the United States and the President to control the legislation of the country through a commercial treaty in relation to our trade regulations with other countries; and as I do not apprehend that we have any such power, I do not want to convey the implication by the adoption of a resolution that we can do any such thing.

Mr. CONNESS. I have listened to a little the strangest argument that has been heard in the Senate, since I have been here at least. A resolution is offered calling upon one of the Departments for information upon a subject of vital interest to a large portion of the American people, and the Senator who has just spoken rises in his place and says, "I object to the passage of the resolution; I object to all commercial treaties for reciprocity; I deny the power of the President and the Senate to tie the hands of the House of Representatives." Now, sir, I humbly submit that the honorable Senator has fired off his great gun too soon, and that he had better wait until there is



a treaty presented to him for consideration, and then I shall be very much interested in hearing his arguments. I represent a constituency that are deeply interested and intimately connected in commercial and other intercourse with the Hawaiian Islands. This resolution points to obtaining from the most legitimate and well-informed source of this Government information touching the commercial relations of the two countries. Who can object to obtaining that information? I apprehend nobody, save the honorable Senator.

The resolution was adopted.

#### MINISTER AT VIENNA.

Mr. SUMNER. I now ask the Senate to be good enough to take up the resolution which was objected to yesterday making a call on the President for a letter.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves to take up the following resolution; which will be read for information.

The Secretary read it, as follows:

*Resolved*, That the President of the United States be instructed to communicate to the Senate, if in his opinion not incompatible with the public interest, a copy of the letter on which the Secretary of State founded his recent inquiries addressed to Mr. Motley, minister of the United States at Vienna, with regard to his reported conversations and opinions, and to furnish the name of the writer of such letter.

Mr. DAVIS. I hope that resolution will not be taken up. I think it is an attempt on the part of the Senator from Massachusetts to magnify into some importance one of the merest trifles that ever happened. I trust that no such trifle will be thrown into the Senate to disturb its deliberations and to consume its time.

Mr. SUMNER. I content myself with simply saying that I hope the resolution will be taken up. I think that when a stab is given at an eminent citizen abroad we ought to know who has dealt the blow. I wish to know the authority for this recent letter of inquiry addressed by the Secretary of State to a distinguished gentleman in our public service. I believe that the country wishes to know who this spy or eavesdropper is, and on what authority the Secretary of State has undertaken to write such a letter as he has written. I feel a personal interest in it and an interest as a Senator, for I think the letter of the Secretary does great dishonor to our country.

Mr. DAVIS. I presume that the distinguished minister of the United States to Austria does not care a straw in relation to this letter which is thus sought to be brought to light. His fame is national and world-wide, and is too solidly founded to be disturbed by any such matter. Motley—the historian who has produced to the world such a picture of the rise of the Dutch republic—it is a name too grand, founded upon too solid worth and ability, and the man who could have conceived and executed such a great historical work is too grand in his intellect, in his soul, to be disturbed by such a trifle, such stuff as that which the honorable Senator from Massachusetts is seeking to make a little political capital of! I trust, sir, that this anonymous letter, like so many of the anonymous letters which that honorable Senator has produced so often before the Senate, will be left to pass into oblivion and to go to the back-houses. I hope the Senate will not consume its valuable time nor permit itself to be interested one moment by the matter of this letter. I trust the motion of the honorable Senator will not prevail.

The PRESIDENT *pro tempore*. The question is on the motion to proceed to the consideration of the resolution.

The resolution being put; there were, on a division—ayes 20, noes 5; no quorum voting.

Mr. SUMNER called for the yeas and nays; and they were ordered.

Mr. DOOLITTLE. I understood the honorable Senator from Massachusetts yesterday to state that he had himself received a letter of precisely the import—

Mr. SUMNER. Similar import.

Mr. DOOLITTLE. Of similar import to

the letter which is referred to in the correspondence which has been furnished to the Senate. I should like to inquire from the honorable Senator from Massachusetts who that letter was from.

Mr. SUMNER. I stated that it was from a person so utterly obscure that it was practically an anonymous letter, and I considered it as such. It was from a person utterly unknown; and yet on that letter the Secretary of State has undertaken to indite the accusations which we have read against an eminent gentleman in the public service.

Mr. DOOLITTLE. The honorable Senator fails to answer the precise question I put: who was the author of the letter to the honorable Senator?

Mr. SUMNER. I have already replied that the name was so utterly obscure that it has passed out of my memory.

Mr. DOOLITTLE. Although the honorable Senator from Massachusetts is familiar with the names of a great many men, it is not to be presumed that he knows all the citizens of the United States or men abroad who could furnish information of this description; and I ask the honorable Senator if he is to presume that every man whose name he does not know is of necessity an obscure man, whose statements are to be disregarded. It seems to me it is unnecessary to inquire into this matter. Suppose it should appear that this information was communicated by some person whose name was not known to the Senator from Massachusetts, or to any of us, what difference would it make? The correspondence already before the Senate states the fact that a letter of that description was received, and inquiry was made of Mr. Motley whether the statements contained in it were true or not. Perhaps the Secretary of State does not choose to treat a letter of an American citizen abroad, though he did not happen to know his name, as coming from a person so absolutely obscure that he would destroy the letter and forget the name.

Mr. HENDRICKS. Mr. President, it is well enough to understand exactly what it is that we are proposing to do. The State Department has been called upon to give the Senate information in regard to a correspondence between the Secretary of State and our minister at Vienna. That correspondence has been given. I suppose the Senator from Massachusetts is satisfied that the minister has vindicated his position sufficiently. The letter is of sufficient length for that purpose in reply to so short a note as was addressed to him by the Secretary of State. The question that is made by the Senator from Massachusetts is, whether the man who communicated the information to the President, upon which the Secretary of State thought it his duty to address the minister at Vienna, was a distinguished man or an obscure man. That is the inquiry that he asks the Senate to-day to make. Who can question that the Secretary of State ought to have addressed this note to the minister at Vienna if the information was in fact communicated to the President as stated? Let me call the attention of the Senate to the statement that is made by the Secretary of State in his note to Mr. Motley. Here it is:

"Sir: A citizen of the United States has addressed a letter to the President from Paris, in which he represents that he had traveled extensively in Europe during the last year, in the course of which he had had occasion to see something of our ministers and consuls in various countries; that most of those whom he met were bitterly hostile to the President and his Administration, and expressed that hostility in so open a manner as to astonish Americans, and to leave a very bad impression on Europeans. He adds that you do not pretend to conceal 'your disgust,' as he says you style it, at the President's whole conduct, that you despise American democracy, and loudly proclaim that an English gentleman is the model of human perfection: that the President has deserted his pledges and principles in common with Mr. Seward, who, you say, is hopelessly degraded."

Now, Mr. President, if any minister abroad, if any representative of the Government of the United States at any country, used language such as this, was it not the duty of the Secretary of State to make inquiry about it? If he

used language depreciating the Chief Magistrate of this nation in the presence of foreign Powers; that the President had conducted himself so as to produce a "disgust" on the part of his minister abroad; that this minister despised "American democracy," a term not used in regard to political differences, but a comprehensive term, referring rather to the character of our institutions, and that that minister loudly proclaimed that "an English gentleman is the model of human perfection;" that the President had "deserted his pledges and principles in common with Mr. Seward, who is hopelessly degraded"—ought not information coming to the State Department or to the President of such language used by a foreign minister to be inquired into on the part of the State Department? No man will question it. Has any minister—I do not care how eminent he is—a right to go abroad and proclaim that our institutions are a failure; that the principles that underlie those institutions are despised by him; that the President is an object of disgust to him; and that the Secretary of State is hopelessly degraded? Has any minister a right to use such language to European hearers? I deny it, sir. Whatever may be our misfortunes, it is not the business of the representatives of our Government abroad to proclaim those misfortunes or anything that goes to the dishonor of the Government. Then, sir, this ought to be inquired of by the Secretary of State; and the distinguished Senator from Massachusetts cannot, in his place, say that it is the right of a minister abroad to use such language in regard to the high officers of the Government whom he represents abroad, and whose opinions he must reflect there in regard to our foreign intercourse, especially in regard to the American democracy.

Then, sir, it comes down simply to the question whether the person who wrote this letter is a distinguished person or a very obscure person. The Senator says he is so obscure that he cannot now recollect his name. I suppose, then, it comes to this: that information communicated to the Government is not to be acted upon unless it comes through some highly respectable source, as the Senator from Massachusetts would esteem it. I say that such information as this coming from abroad required the attention of the Government, and no man is sufficiently eminent that he can shield himself from a responsibility in regard to an accusation of this sort.

I suppose the Senator from Massachusetts wishes to know whether the man who wrote this letter is eminent in the world of letters; whether he is a distinguished man; in other words, whether the President of the United States has opened his ear to an American citizen of obscure position. If he be not an eminent man the President must not hear when he speaks in behalf of the honor of the nation; but if he be an eminent man it is all right. "Eminent" by birth? Is that what is meant? Or "eminent" because of position attained? That is the inquiry we are now to make. The Senator wants to know who wrote the letter, whether he is an eminent man or whether he is an obscure man. Did the President, who ought to represent all the people of this country—not the eminent men alone, but the obscure—allow his ear to be opened to information communicated by some citizen of obscure position? If he did he is to be very much censured here, I suppose. I do not understand that the truth can come to men in high position only from men of eminent position. It is the duty of the President to allow his ears to be open to information from every source.

If the Senator wishes to establish the fact that this person was not entitled to credit, and therefore to censure the Secretary of State because he placed any reliance upon the information, that is another inquiry; but his statement is, that he is rather an obscure man, because he does not know him; he does not recollect his name; and he wants the Senate to inquire who it is that should dare to write to the President in regard to a foreign minister,

of such obscure position as that the distinguished Senator from Massachusetts does not know him. I expect there are three hundred thousand citizens in Indiana whom the Senator does not know; and if one of those citizens whom the Senator does not know should write to the President in regard to a matter that touches the honor of the country, and the President should allow himself to be influenced by that information, the Senator would say, "Why, here is an eminent man that is attacked by an obscure man, and the President has allowed his ears to be open to this information coming from an obscure citizen of the State of Indiana?" Is that an argument that we are to hear here in the Senate? Sir, in this land the President is to hear all, and not the eminent alone, but the obscure. The rich, the learned, and the eminent can take care of themselves: it is the obscure and the men who have no power in and of themselves, and because of their political association, that the President ought to hear and defend in all their rights.

But now, in the American Senate the position is assumed that the Secretary of State has listened to information from an obscure source, and the Senate is asked to inquire into the degree of the obscurity of this man. Shall he not inquire when he is informed that a representative abroad has said that the President is an object of "disgust?" Shall he not inquire when a representative abroad has said in European ears that the Secretary of State, representing the dignity and honor of this nation in her foreign relations, has "hopelessly degraded" himself? Shall he not inquire when he is informed that an American minister has denounced "American democracy?" He must inquire; he dare not refuse to inquire, however eminent that minister may be; the more eminent the greater the fault.

Then, as I said, it comes down simply to the question whether the Senate shall inquire whether the person who communicated from Paris this information was a person of obscure birth or obscure position in life. If he is not eminent, the Secretary of State is to be censured. If he be eminent and known to the distinguished Senator from Massachusetts, then it is all right on the part of the Secretary.

Mr. SUMNER. Will the Senator allow me to interrupt him there, just to bring the question down to the point? I raise no question whether he is an eminent person or not. The Senator, I think, will do me the justice to believe that I had no such idea as that. I simply wish to know the writer of the letter, and the actual terms of the letter that we may judge of its value and of its character; that we may know whether or not he is a spy, possibly a paid spy, an eavesdropper, possibly a paid eavesdropper; and whether or not he is in any respect entitled to credence. That is what I wish to know; and I think that all who are interested in the good name of this Republic, under whatever party flag they may go, whether under that which the Senator from Indiana honors by his support, or whether under that where I find myself—all equally must desire to have satisfaction on this point. We must desire to know on what authority the Secretary of State has proceeded in this matter; and in making the inquiry, it is of supreme indifference to me whether the person is eminent or not. I do not ask that question. It does not enter into my mind. I only wish to know whether he is entitled to credit, and to that end I wish to see his letter.

Mr. HENDRICKS. Then, Mr. President, I think with the present explanation of the Senator, his language yesterday and this morning was very unfortunate. In his criticism upon the Secretary of State, in writing to Mr. Motley upon information from an obscure person, I think that his language was unfortunate. If the Secretary of State got this information, to whom ought he to communicate it? He made no public matter of it; he did not publish it to the country; but he says to Mr. Motley: "Sir, a man has written to the President that you have used this language; did you use it

or not?" He gives him an opportunity to explain it, and it never comes before the world until the Senator from Massachusetts brings it out. There was no effort on the part of the Secretary of State to prejudice Mr. Motley or anybody else before the American people; but a letter was addressed to Mr. Motley for explanation in regard to information that has been communicated to the President, information that the President could not shut his ears to, whether it came from an eminent or obscure person. Yesterday the Senator felt himself authorized to say:

"I have the honor to be a friend of Mr. Motley, and therefore it is that I have introduced the resolution. I am also a Senator of the United States, and I deem it important to the public interest that we should know on what authority the Secretary of State has undertaken to address one of our foreign ministers as he has. I received a letter identical in language, so far as I can judge, with that which seems to be set forth by the Secretary of State in his letter, and it was addressed to me from Europe, as chairman of the Senate Committee on Foreign Relations; but it was from a person so entirely obscure that I regarded the letter as nothing but anonymous, and I throw it into the fire. The Secretary of State has made it the basis of inquiries addressed to Mr. Motley, which I will not here characterize."

"Which I will not here characterize." What is there, sir, to characterize? The Secretary of State says to Mr. Motley: "Certain information has come to the President; what explanation have you to make of it? Did you denounce the American democracy? Did you say that the President was an object of disgust? Did you say that the Secretary of State was hopelessly degraded?" Whom should he have addressed except Mr. Motley? He addressed him, gave him this information, and allowed him to make an explanation. Is not Mr. Motley's explanation sufficient? Is it not satisfactory? Does the Senator on this information expect to make a more satisfactory explanation for Mr. Motley than he has made himself? Or does he want to find some obscure man in Paris, a citizen of this country, and attack him? What is the purpose of all this? What does it mean? What does the Senator want it for? This was not made public by the Secretary of State; it is made public by the Senator from Massachusetts. It has not been used by the Secretary of State to the prejudice of Mr. Motley; but Mr. Motley has been allowed an opportunity to explain, and the correspondence laid among the files of the Department until called for by the Senator. Now, what is wrong about this? Should not Mr. Motley be allowed to make his explanation when such charges are presented? If any man makes a charge against me I shall be obliged to the friend who will allow me an opportunity to explain, and shall not say that it is a thing "not to be characterized," to be denounced. I shall not say that, and Mr. Motley cannot say it. If he is asked for an explanation, and he makes it, he must stand there, and, as his friend, the Senator from Massachusetts, cannot say that the Secretary of State did wrong in allowing Mr. Motley an opportunity to explain in regard to so grave a charge. This is all I have to say.

Mr. SUMNER. Let us have a vote.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the motion to take up the resolution, on which the yeas and nays have been ordered?

Mr. FESSENDEN rose.

Mr. SUMNER. Just let the yeas and nays be taken.

Mr. DOOLITTLE. The morning hour has expired, and I call for the regular order.

The PRESIDENT *pro tempore*. The morning hour has expired, and it becomes the duty of the Chair to call up the unfinished business of yesterday.

#### TARIFF BILL.

The Senate resumed the consideration of the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes.

The PRESIDENT *pro tempore*. The Chair will state that the last vote disclosed the want of a quorum. Senators have since come in, and the Chair decides by counting that there

is now a quorum present, so that business may proceed. The pending amendment offered by the Senator from New Jersey [Mr. FRELINGHUYSEN] will be read.

The Secretary read the amendment, which was on page 30, section seven, to strike out lines one hundred and twenty-seven, one hundred and twenty-eight, one hundred and twenty-nine, one hundred and thirty, one hundred and thirty-one, and one hundred and thirty-two, and to insert in lieu thereof the following:

On chains, trace chains, halter chains, and fence chains, made of wire or rods not less than three eighths of an inch in diameter, two and a half cents per pound; less than three eighths of an inch in diameter and not less than No. 9 wire gauge, six cents per pound; less than No. 9 wire gauge, eight cents per pound.

Mr. FESSENDEN. I should like to have the Senator make an explanation about that.

Mr. FRELINGHUYSEN. In reference to this amendment, I desire to say that a number of persons in New Jersey and elsewhere engaged in the manufacture of chains became satisfied that the tariff did not afford them sufficient protection, and the commissioner in looking at the price of the material out of which these chains were made became satisfied that there should be an alteration in the bill, and this amendment was, as I understand, prepared by him. It was handed to me by him, and I think it is in his handwriting. I trust the amendment will be adopted.

Mr. FESSENDEN. I have sent for the commissioner to inquire as to the fact. He will be here in a moment. If he is the author of it and it meets his approbation I do not know that I shall make any particular objection to the amendment. I ask the Senator to withdraw it for a moment, and he can offer it again when the commissioner is in. I believe his colleague has an amendment which he desires to offer, and which can be considered in the mean time.

Mr. FRELINGHUYSEN. Very well.

Mr. CATTELL. My colleague has withdrawn his amendment for the present, and I ask leave to offer an amendment on page 32 of the bill.

The PRESIDENT *pro tempore*. The Chair will inquire of the other Senator from New Jersey if his amendment is withdrawn?

Mr. FRELINGHUYSEN. For the present.

Mr. CATTELL. I shall not occupy the attention of the Senate more than a moment. The amendment which I wish to offer is on page 32, section seven, line one hundred and seventy-two, to insert the words "one and" after the word "pipe;" so that the clause will read:

On cast iron, steam, gas, or water-pipe, one and three fourths of one cent per pound.

These words were stricken out in committee the other day under a misapprehension. The amendment I propose returns the duty upon this article precisely to what it is under the existing tariff, to precisely what the special commissioner of revenue recommended, to precisely what the Finance Committee reported, and a lower rate than that agreed to by the House.

Mr. FESSENDEN. As the amendment to strike out these words has been adopted, I suppose the object can be reached by a motion to reconsider.

Mr. CATTELL. The motion to strike out was adopted in Committee of the Whole I am told, and therefore it can be amended in the Senate without a reconsideration.

Mr. FESSENDEN. Very well.

The amendment to the amendment was agreed to.

Mr. CRESWELL. The other day I made a motion to amend the bill on page 63, section nine, line five hundred and forty-six, by striking out "four" and inserting "five." On that motion I failed. I have another now to submit, and that is after the word "four" in that line to insert the words "and one half;" so that it will read:

On chromate and bi-chromate of potassa, four and one half cents per pound.

I hope the Senate will not deem me persistent in urging an increase on this article unreasonably. I am satisfied now, as I was when I made the original motion, that five cents per pound is as small a duty as should be placed upon this article with a view to a proper protection on the home manufacture.

Mr. FESSENDEN. If nobody else objects to this increase I will not.

Mr. CRESWELL. Then I hope the amendment will be adopted, so as to make that duty four and a half cents. It seems to be acceptable to the committee.

The amendment to the amendment was agreed to.

Mr. FRELINGHUYSEN. I now renew the amendment which I withdrew a few moments since.

Mr. FESSENDEN. I shall make no objection to it.

The amendment to the amendment was agreed to.

Mr. WILSON. I move to amend, by striking out on page 16, line eleven, of section four, all of that clause after the word "specified," and to insert:

Valued at one dollar or less per pound, fifty cents per pound specific, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over one dollar, and less than \$1 50 per pound, fifty cents per pound, and, in addition thereto, forty per cent. *ad valorem*; valued at over \$1 50 per pound, fifty cents per pound, and, in addition thereto, forty-five per cent. *ad valorem*.

The clause which I move to amend relates to the duty on "broadcloths, cloakings, cassimeres, ladies' cloths, doeskins, tricots, and all other fulled or felted goods or fabrics, woolen shawls, flannels, and all manufactures of wool of every description, made wholly or in part of wool, not herein otherwise specified." This clause covers more than two thirds of the woolen interests of the country. When the arrangement was made with the wool-growers, with whom this special matter originated, and it was agreed that ten cents a pound and ten per cent. *ad valorem* should be levied on imported wool, the committee said in their report, which is quoted by the commissioner:

Nothing less than a specific duty of fifty-three cents per pound on such manufactures will be sufficient to place the manufacturer in the same position as if he had his raw material free of duty, a protection which he must demand as an imperative necessity for the preservation of his industry.

The House of Representatives cut this down from fifty-three cents specific to fifty, and the bill of the Senate committee reduces that from fifty to forty-five, and the reason given for that reduction, as I understand, is that the dye-stuffs are placed in the free list. I will simply say that the dye-stuffs are a very small part of the cost, a mere trifle, and putting them on the free list does not compensate or begin to compensate for this reduction of five cents. I understand also that the class of goods named in this paragraph are mostly made out of imported wools that cost on an average about fourteen cents per pound. Almost all this wool costs from thirteen to sixteen cents, averaging about fourteen cents per pound, and the duty upon that is about eighty per cent., being ten cents a pound and ten per cent. *ad valorem*. Suppose the wool average fifteen cents, and it take four pounds of wool to make a pound of cloth. Forty-five cents a pound duty is put upon the manufactured article to offset the increase of duty on the wool, and then there is beside thirty-five per cent. *ad valorem*, ten per cent. of that will go to pay the internal revenue, leaving just twenty-five per cent.; and that in view of all the cheating through the custom-houses will leave a very small percentage for protection.

I have made in my amendment a classification, according to which I propose to grade the duties. It is that on all these goods the specific duty shall be fifty cents, as the House of Representatives agreed, instead of forty-five cents, and, in addition, on those worth less than a dollar a pound, thirty-five per cent. *ad valorem*, just the same *ad valorem* fixed in the bill for this class which furnishes a large amount of the importations of goods with which

the mass of the people are clothed; forty per cent. *ad valorem* on those worth between a dollar and a dollar and a half a pound; and forty-five per cent. *ad valorem* on those above a dollar and a half a pound, these being the finer classes of broadcloths and cassimeres. The labor entering into the cheaper class of goods is about twenty per cent.; on the more costly goods, the finer classes, the labor is about forty-five per cent. How do you protect labor when you put the same duty on goods of the cost of which labor constitutes twenty per cent. that you put on goods of the cost of which labor constitutes forty-five per cent.? This classification is based on sound principles, and I believe the adoption of this amendment will save two thirds of the woolen manufacturers of the country. I believe further that if the bill passes as it now stands, while the manufacturers of worsteds and carpets will be benefited, the class of manufacturers specified in this paragraph, those who manufacture doeskins, cassimeres, broadcloths, women's dress-goods, will lose hundreds of thousands of dollars, and thousands of men will be discharged from employment in thirty days. On these articles this bill as it stands is from seven to ten per cent. worse for the manufacturers than the present tariff law. About one third of the woolen manufacturers of the country, engaged in manufacturing the articles specified in the paragraph following this one which I move to amend, will be benefited at the expense of the manufacturers of the articles mentioned here, which make up two thirds of the woolen interests of this country.

I hope the Senate will adopt this amendment. We have put the duty on wool at what has been asked; and so in regard to wheat, barley, and I may say everything. We do not have any raw materials now-a-days. On this bill I have not heard of a raw material; but when we get up the internal revenue bill I think we shall find that pretty much every thing is a raw material. This amendment is based on sound principles; it makes a proper discrimination. It protects the skilled labor of the country that goes into the manufacture of the finer classes of goods that are worn by those who can afford to pay this increased duty, and it leaves the cheaper articles where they now are.

Mr. YATES. I had intended this morning to offer an amendment by way of showing my position on this bill generally, and it was in relation to the duty on wool. As I now have the opportunity upon the amendment which has been offered by the Senator from Massachusetts to present my views, I am not so particular about the amendment which I intended to propose. I now discover from the amendment which the Senator has moved some clue to the remarks which he made yesterday. If this amendment was offered by him with a view of perfecting the bill and then supporting it, I could entertain a more favorable impression in regard to it; but I imagine that even if we should adopt the amendment of the Senator from Massachusetts he would be unwilling to support this bill. It seems to me that he has a sort of prejudice against what we call wool. He said yesterday that this was not a Massachusetts bill. Sir, I say it is not a Massachusetts bill. Were it a Massachusetts bill I certainly should not support it. I support it because it is a United States bill, including Massachusetts as well as Illinois, and every other State in the Union. He said it was not a Massachusetts bill because it not only protected textile fabrics, such as are made by the looms and factories of Massachusetts, but also embraced coal and iron and steel and wool. Sir, we have had tariffs for Massachusetts long enough; in my humble estimation it is time that we had a tariff for Illinois, a tariff for the United States, as well as for Massachusetts. We now find the two honorable Senators from Massachusetts, (whom I have always regarded as high protective tariff men, from whom I may say I have learned the lessons that have led me to adopt the views I entertain

upon the subject of protection,) denouncing this bill because it is not a Massachusetts bill. One of the honorable Senators is for cheap coal; the other honorable Senator is for cheap wool. The one honorable Senator does not want protection upon coal, because the people of Massachusetts would then have to pay a duty upon coal, and it would diminish the profits of the manufacturer to that extent. The other honorable Senator does not want any duty on coal, on iron, on steel, or on wool, because that will diminish the profits of the manufacturer to that extent. Sir, if so, I should like to know what becomes of the protective theory? If we have a duty upon wool, and we thereby increase to a large extent the amount of our flocks and herds in the West, thus adding to the general wealth and prosperity, I should like to know what becomes of the old tariff doctrine which we have taught heretofore? Does that duty increase the price of the article to the consumer? Does not the fact that we can have more sheep and more cattle, that our farmers can go more extensively into grazing and can extend the supply, enable them in time to sell cheaper? Is not that as sound as the old tariff doctrine, that we will protect our manufacturing establishments in order to enable the article to be finally spread through the country cheaper to the consumer?

Mr. President, I ask why we shall not protect our coal if we protect our manufacturing establishments; and I ask why we shall not protect our wool, the sheep upon our western forests raised by the farmer there. I have occupied all positions, I believe, in my past life upon this tariff question. I think in my younger days I was for a prohibitory tariff; then I was for a tariff for protection upon the principle of developing the resources of the country and encouraging the industrial interests of the country as against foreign competition, upon the principle of providing home market, upon the principle of giving employment to millions of hands in America instead of in Europe. I had even the dream of Mr. Clay, of Mr. Webster, and of Mr. Collamer, and those men who believed that by a protective tariff we might make this the mightiest nation of the earth, dependent upon no nation for its supplies in peace or in war. I am loath to give up that principle yet. I cannot see now why we may not, with a country so rich in ores, so abundant in its capacities of every kind, dig our own iron out of the earth, and give employment to our own hands and work up that iron, run our own mills, develop our resources. And yet I must confess that while I still maintain the theory of protection, so difficult and so sinuous is legislation upon the subject as even to make me fear the attempt to apply it. Although the theory is right, the application is so difficult; it is so difficult to act so as to produce fairness and impartiality between different sections and interests, as almost to shake my faith in the theory itself. And, sir, when I can see Massachusetts, where the protective system was rocked in its cradle of infancy, object now to protection to wool, or, because protection is given to wool, seek to increase unduly the protection given to manufacturers, I confess that my faith fails me to some extent.

I will say to the honorable Senator from Massachusetts that the best argument which has been introduced in favor of this bill is what he considers its weakest point, and that is that it protects not only the fabrics that are manufactured in the factories and by the looms of New England, but because it embraces coal, iron, steel, and wool; it embraces every interest of the country; it is as wide and comprehensive in its scope as the country itself.

The honorable Senator from Indiana [Mr. HENDRICKS] said the other day, "When this measure comes before the people it will fail;" and if we refer to the history of our tariffs we must remember that not one as yet has ever met with the approbation and sanction of the American people. Even the tariff of 1828, which cost the highest efforts and energies of



Henry Clay, had to go down and be modified by a lower scale of duties in 1833. But, sir, I tell the Senator from Massachusetts now that wool is the strength of this tariff. We have a West now. We have there, for instance, over forty millions of sheep grazing upon those broad prairies and in those beautiful valleys; and they represent two million voters—men who make Presidents and who can make tariffs. Population is crowding now around our lakes and into our broad valleys, upon our beautiful prairies. We have there, as you have in Pennsylvania and in other States, inexhaustible mines of wealth, beds of iron and lead and zinc and copper, and beyond, still further west, silver and gold. We have in the State of Illinois, according to a geological survey and according to experiments actually made, coal enough to make the hearthfires of this country blaze for a thousand centuries; and then we have a rich, fertile, and productive soil of from ten inches to eight feet in depth. Then, sir, as the Pacific railroad stretches out to the far West, emigration is nestling upon its track, villages and cities are springing up, the power and the wealth of the continent are going there, and the time will come when the distinguished Senator from Massachusetts, [Mr. SUMNER,] I trust, may from the summit of the Rocky mountains look over upon the land of gold and look back East upon the land which he has passed, with our herdsmen and flocks upon a thousand hills, and then, if he stands by the protective principle to-day, he may say: "How beautiful are thy tents, oh Israel!"

Why, sir, should we not have cheap wool raised in our own country? There is the habitation of the sheep; there are the rich grasses and the sweet grasses, there between the northern boundary of Minnesota and Texas and west of Missouri; there are the hot latitudes, the short winters, the long summers; there sheep are healthy; and while in the United States there is but one sheep to four acres of ground, (in Vermont, for instance, or one to four in Ohio, I believe,) we have not one to forty acres in those northwestern States. The number of sheep can be as many to the acre there as anywhere else; and that will be the result of the adoption of a proper system.

We hear cries of ruin. The honorable Senator [Mr. WILSON] says these looms will stop and these spindles will stop unless this five cents is added to the duty on woolen goods. Sir, I tremble not for any such consequences. I do not expect that there will be a solitary decrease or diminution in the wants, the enjoyments, or the luxuries of New England. I presume Nahant will have its wonted joys and refreshments whether this five cents is added according to this proposition or not. But, sir, there is an interest which is to be affected unless we protect it, and that is the wool interest. That is comparatively new. I do not mean to say that the business of the shepherd is new; but the wool interest as a separate interest has grown up during the last two years in the State of Illinois, and I presume in the State of Iowa within the last four or five years, so that we have five sheep where we had one two years ago. It has become an immense interest; it has been stimulated by the demands of the war. Why, sir, look at one fact, to see how the war has stimulated this interest. In 1859 there were but two hundred and thirty thousand pounds of wool raised in the United States. In the year 1865 there were eighty-seven million pounds; showing how the demands of the war stimulated this interest. I hope I shall be excused for saying here, however, not that this interest is going to be ruined, unless there be a little increase added to the duty upon wool, but that whether this bill passes or not at least half of our wool-growers must be totally ruined, from the fact that during the war, under the stimulus of the demands which were then made, they increased largely their farms and their flocks; and now, the war having ceased and the demand for wool having ceased to a great extent, these farms and flocks become of comparatively small value.

Mr. President, we are in this condition now. Whatever may be our views upon the subject of the tariff, whether we are for a tariff for protection or for a tariff for revenue with incidental protection, we must have a tariff of some kind. We not only have to raise by internal taxation what is necessary to support the Government in its ordinary expenses, but we have to provide for the payment of the interest on our national debt; and when we attempt by a tariff to raise a revenue for that purpose let it not be a Massachusetts tariff, or an Illinois tariff, but a tariff which shall embrace every interest in this country from the Atlantic to the Pacific and from Maine to the Gulf. The honorable Senator from Indiana [Mr. HENDRICKS] predicted that we should go under with this tariff, and other gentlemen who are opposed to it predict that we shall go under; but, sir, in the Northwest the men who will go under upon this tariff will go under because they have not supported it; it is the only tariff which ever yet has been adopted by the American Congress which has given sufficient consideration to the agricultural interest. That is the truth about it—the only one, indeed, which has given any consideration whatever to the agricultural interest.

Now, sir, is it not unfair for Massachusetts, which has grown wealthy and prosperous beneath a tariff policy for the last fifty years, whose merchants have been made princes and whose villages have been made cities, and where prosperity abounds in every direction, owing to your tariff policy, to object to protection being now given to interests in the West which demand it? Why should not these interests also have consideration before the American Congress? I say to the honorable Senator from Indiana that we will meet him upon the question whether this tariff is popular or unpopular. That Senator has not prophesied rightly in times past for the last twenty years; and we shall see whether he is a better prophet now than he has been heretofore.

Mr. President, the amendment which I shall offer, and which I shall take time to explain now, as it bears upon this question, is this: I will move to strike out all of the third section after the words "hereinafter provided" in line six, page 12, and in lieu of the various duties there proposed to insert "shall be twelve cents per pound, and, in addition thereto, ten per cent. *ad valorem*," as the duty, on all sorts of wool. I shall make this proposition in the first place to simplify the bill. Here are six long pages telling what wool is, the different kinds of wool, first-class wool, second-class wool, and third-class wool, fixing the duty upon these various classes of wool according to price, and then providing that each custom-house officer shall have a sample of these different kinds of wool. When wool is represented as worth twelve cents he has a sample of that kind, and so of all the other kinds, and he is to decide upon these samples whether the wool is to be taxed three cents or ten cents or twelve cents. As specific duty is about twelve cents a pound on the average, perhaps a little over, I propose that we say that upon all unmanufactured wool the duty shall be twelve cents per pound and ten per cent. *ad valorem*.

I am not going to insist upon this amendment if the committee have found insurmountable difficulties in fixing one common rate and have therefore resorted to these five or six pages to classify these wools, but I should like such an amendment adopted for this reason: immense frauds have been practiced upon the wool-producer in the custom-house department. Where there are different kinds of wool and the duties upon that wool are different, there is a chance for the grossest frauds, and the grossest frauds have been committed. We know by actual experience and by statistical tables that for the six months ending 1st of December, 1865, of the wools which were imported into the United States, amounting to many million pounds, nearly all were brought in under the low duties of three and six cents, and but

fifty pounds were brought in during those six months of the higher-class wools (according to the custom-house returns) such as compete with our common Spanish Merino wool. We find this to be the fact, and I submit it to you now, Mr. President, that if we want fairness we should say that the duty shall be so much on every kind of unmanufactured wool. Then there can be no excuse; the custom-house officer cannot say, "I was deceived as to whether this was first-class wool or second-class wool or the third-class wool." The importers have means and ways of making first-class wool appear second-class and the second-class appear third class by handling them in dirt and disguising them. Even if a man is honest in the custom-house he may be deceived. How many Senators on this floor could tell the difference between what we call combing wool and carding wool? Not six of them could tell the difference. So with custom-house officers, supposing them to be honest; but they are not always honest as we know; they are too often appointed for political considerations, and they are not, I fear, always honest. That the importer may know, that the wool-grower may know, that the country may know that these frauds are not going on, why shall we not in a simple clause, six lines in length, declare that upon all kinds of unmanufactured wool the duty shall be twelve cents per pound and ten per cent. *ad valorem*?

The answer to that perhaps will be that there is a certain class of wool, very cheap wool, of which our shoddy is made, worth about sixteen cents a pound, upon which the duty is only three cents, and that we cannot raise it in this country. I will admit, for the sake of the argument, that we could not raise one pound of that wool in this country, and yet the whole amount of that inferior article which comes to this country will not begin to compensate for the frauds in the Treasury Department growing out of the impossibility of distinguishing between these different classes of wool. But, sir, we are informed by our agriculturists that this wool can be raised in America, can be raised in our milder latitudes down in the region of Texas if it had the protection which is awarded to other interests in this country.

If eastern gentlemen are interested in cheap coal, if they are interested in cheap wool and cheap iron, surely we are interested in cheap clothing; and now that by convention between yourselves and the wool-growers you have agreed that they shall have in the average ten cents per pound and — cents *ad valorem*, you come in and propose to increase the duty on cloths. "I do not propose to touch the wool interest, not at all," says the honorable Senator from Massachusetts. No man, perhaps, is more friendly to the West than he; I am sure that there is no man who stands higher in the West than he does; but he says, "If we give you that protection we must have a little more protection upon the manufactured article. In other words, if you take twelve cents per pound upon your wool, we must take five cents of that out of you in the consumption of the manufactured article."

Mr. WILSON. Will the Senator allow me to ask him a question? I want to ask the honorable Senator if he thinks it right, if he thinks it just, to increase the duty on wool, to make it ten or twelve cents a pound and ten per cent. *ad valorem*, and then cut the duty down on the article into which it is manufactured from forty to thirty-five per cent., which this bill does?

Mr. YATES. I have answered that question already. I have said that this bill was the result of a joint understanding between the wool manufacturers and wool-growers, and that both, as we understand, were perfectly satisfied with it; and that is a sufficient answer. The whole trouble is this: the Senators do not deny that they are in favor of American protection; oh, no; but this is not a Massachusetts bill; coal and steel and iron are in this bill, and they prefer the present tariff. But as a representative of the West, representing that great interest,

agriculture, which as is so often said is the foundation of every other interest, commercial and manufacturing, that interest which has its hundreds of population where you have your twenties or your thirties, I feel it my duty to resist now any further amendment of this bill. I shall not complain of honorable Senators here representing the eastern States who have brought in amendment after amendment to this bill after the report of the chairman of the committee. I was willing to sit here and take the tariff bill as reported, protecting every portion and every interest of the country.

It was easy enough for me to rise in my seat and ask for additional duty upon corn, and upon wheat, and upon horses, and upon swine, and upon beans and potatoes, and upon prairie chickens, if you choose, sir; [laughter;] it was easy enough for me to do that; but this committee, in which I have so much confidence, prepared this bill with reference to every interest, and I was fully and entirely satisfied with it. We shall be forever indebted to the distinguished chairman of the committee and to the able committee itself for providing a bill which is not obnoxious to the exception which has heretofore prevailed against other bills. It is fair to every section of the country, and as such I receive it. The amendment which I propose to offer I do not mean to insist upon. I offer it as a counter-proposition to that which is now introduced by the Senator from Massachusetts; and I hope that from this time out Senators will stop introducing amendments. I say it respectfully. They have a right to offer them, and they are to be the judges of their own action; but if they will continue to introduce amendments for increased duties upon the fabrics of the factories, I will take up the long list, beginning with the highest rate in the farmer's productions, and propose amendment after amendment, and we will pile up this bill until we kill it so dead that there will be no resurrection for it.

Mr. WILSON. The Senator from Illinois reminds us that there is a West. He need not have reminded us of that; we discovered it some time ago. The Senator would have us understand that they make Presidents and make tariffs. Well, sir, I want the Senator simply to acknowledge that this tariff is of western origin: that this tariff had its birth there.

Mr. GRIMES. Where?

Mr. WILSON. In the brains and pockets of the wool-growers of the West. They have discovered that there is a West, and they have made the woolen manufactures of the country believe that there was a place of power, and that they had better take what they offered or they would fare worse.

Mr. GRIMES. Permit me to inquire whether the Senator is making this statement from himself or is only attempting to repeat the argument of the Senator from Illinois? Does he charge that this tariff came from the West and that the West is responsible for it?

Mr. WILSON. No doubt about it. I never supposed anybody doubted it. That was the point and the simple point that I wished to make when I said it was not a Massachusetts tariff.

Mr. GRIMES. I desire right here when the charge is made to emphatically, in the name of the West, of which I am in part a representative, to deny the statement. It did not emanate from the West.

Mr. WILSON. I quite as emphatically affirm it.

Mr. GRIMES. The West does not want it, and the West will be restive under it.

Mr. WILSON. I wish to say to the Senator from Iowa that the idea of this tariff originated with the wool-growers, was got up by them, pressed by them; that the woolen manufacturers were, I will not say scared into this movement, but I do know that many of them feared that unless they assented to the arrangement something worse would come. What I wanted to say the other day, and say here now, is this: I want gentlemen who live in this mighty West, whose power we all acknowledge, and to whom I suppose we must all bow, to acknowledge

their own bantlings, and not put them upon Massachusetts. We choose simply to stand for our own legitimate children. I said it was not a Massachusetts tariff. I did not say that because I wanted a Massachusetts tariff, for I do not want a tariff for Massachusetts, but for the whole country, as I suppose the Senator from Illinois does; but when it is charged upon us that this is a New England measure, I reply that it is not, and I go further: this tariff on two thirds of the manufactures of this country reduces the duties. Here is a reduction from forty to thirty-five per cent., that is five per cent.; you may add five more for the inevitable loss. It is from eight to ten per cent. against us as compared with the existing tariff. So, too, the average duties on cotton goods are reduced. On two thirds of the woolen manufactures of New England and on the aggregate of the cotton manufactures, in spite of all this increase that is made here, there is a positive reduction from the existing law. I think that is a sufficient answer; but I only wished to say that it did not come from us.

I was brought up with this idea about a tariff for a country: that the raw materials which enter into the mechanic arts and into manufactures should be admitted into the country free or at low rates of duty; that in the assessment upon the country of the revenues necessary to carry on the Government there should be discrimination in favor of skilled labor, and that such a policy tended to increase the mechanic arts, increase manufactures, to draw men from agricultural pursuits into these, to diversify labor and lead to the consumption of the products of agriculture, and ultimately to bring down the price of the manufactured article and the product of the various mechanic arts and to develop the power and strength of the country. But, sir, we are departing from that.

Senators speak as though the manufacturers of the country were making great fortunes. That is not the fact now. During the war, it is true, great fortunes were made; but why? We put two million and a half of men into the field, taking them from the productive industries of the country for that purpose. We spent from two to three thousand million dollars in purchasing the products of agriculture and the mechanic arts and manufactures and importations into the country to support the Army. The Government became a great customer. Now we have taken these men from the field: we have destroyed this customer. These men are returning to the various productive industries of the country; consequently the products of agriculture, manufacture, and commerce will be reduced in quantity and reduced in price. In other words, we must go from a state of war to a state of peace. I do not see how under such circumstances the productive industries of the country can be otherwise than somewhat depressed, legislate as you may here. During the last few months a large number of woolen mills have been closed; millions of dollars have been lost in manufactures; and there is to-day stagnation in manufacturing and in the productions of the various mechanical arts throughout the country. This results from so many men returning to work, from the fact that the Government is no longer in the market as a purchaser, and also from the vast volume of our paper money.

In this condition of affairs you propose to readjust the tariff. I have no idea that any adjustment made now will last or ought to last. We shall have a vast increase of the products of the country, and there will be a reduction in prices, and I hope that we are to have a reduction in the vast volume of our paper money and come back to a solid basis.

But, sir, I acknowledge that I ought not to take up the time in speaking on these general points, and I ask pardon of the committee for having done so; but I think this amendment which I have proposed ought to be adopted. While you have increased the duty on woolens, so that they are from seventy to eighty per cent., you have only given thirty-five per cent. nominally on the manufactured article, and

when you take out of that the amount necessary to pay the internal revenue taxes, and besides that the percentage necessary to account for undervaluations and the cheatings through the custom-houses, you will find on this class of goods a protection of not more than ten or twelve per cent.; and some of the best men in the country say that it will not be over five or seven per cent.

I hope that on this question I shall have the vote of the Senator from Illinois. I know that he is a fair-minded man, disposed to do justice to the East and the West. He has got an enormous duty put upon wool, and here is a reduction upon woolen goods. By the present tariff the duty is twenty-four cents per pound and forty per cent. *ad valorem*; it is upon this class of goods by the House bill fifty cents per pound and thirty-five per cent., a reduction of five in the percentage and an increase of twenty-six cents per pound in the specific duty, to make up for the increase on wool.

Mr. YATES. Allow me to say to the Senator that I am not opposed to any fair protection upon the manufactured article. All I say is that this wool interest is a new interest, while the manufacturing establishments of New England are stable and firm. I submit to the honorable Senator the question whether in any large body or to any extent the manufacturers have asked for an increase of duty? Before he answers that I will say, on the other hand, that from every portion of the northwestern States, from Ohio, Indiana, Iowa, and elsewhere, have come petitions stating that their interests will be totally ruined unless protection is afforded; and we know from the nature of the case, from the fact that during the war they so largely increased their possessions, their farms, and the number of sheep upon those farms, there must be loss to them inevitably. The manufacturers, however, are stable and firm. They have had the benefits of protection for the last fifty years; they have wealth, they have associated capital; they have got together in bodies, and they control the great interests of this country, its railroads, its commerce, its manufactures. Does the honorable Senator say they are to be shaken because these duties are not increased? On the other hand this interest is new and has never had the benefit of a tariff.

Mr. WILSON. The Senator asks me if they are to be shaken. I answer unhesitatingly, yes; many of these mills will close immediately on the passage of an act that puts them at this disadvantage. The Senator told us that this was an arrangement between the manufacturers and the wool-growers. Instead of the arrangement being forty-five cents per pound it was fifty-three. The House reduced it to fifty cents, and the Senate committee has reduced it from fifty to forty-five.

Mr. YATES. When I spoke of it being an arrangement I did not mean that there was any formal, concerted understanding. I meant that by the production to the committee of the various views of men engaged in the growing of wool, flax, hemp, and other agricultural productions, and upon letters and other representations from those engaged in manufactures, they adopted and adjusted this tariff upon a reasonable basis, protecting all the interests of the country, North and South, East and West.

Mr. CHANDLER. Mr. President, we are dealing, I suppose, with facts in the adjustment of this tariff. The fact is that twenty-five years ago, under the tariff of 1842, a large percentage of our finer woolens was manufactured in the United States. I was then largely interested in a business which required me to purchase those woolens, and more than half of those goods were manufactured in the United States. To-day they are not manufactured here at all. Our manufacturers have been driven from the production of the finer classes of woolen goods. Broadcloths are hardly manufactured in this country at all, and so with some of the finer cassimeres. It is so in all the finer grades, where the proportion of labor is so much greater as compared with the material which is used in their production.

I think that the proposition of the Senator from Massachusetts is a reasonable one. I believe it to be for the interest of this Government to have our own people manufacture everything that can be manufactured in this country, and we can manufacture nearly everything. We produce or ought to produce all the grades of wool. There is a quality of wool raised in South America which is of a lower grade than that we now produce or than perhaps it is for our interest to produce. I should be in favor of the proposition of the Senator from Illinois if it were practicable; but it is not. It is true, as he says, that great frauds have been and are now being perpetrated in the grading of wools. Fine wools are covered with burrs and films, and are introduced at a low rate of duty and then cleansed. Frauds are perpetrated in that way.

I hope that the proposition of the Senator from Massachusetts will be adopted, and that we shall return to the manufacture of the finer classes of woolen goods. I believe that this slight increase of duty may bring about that result. I shall certainly support the proposition of the Senator from Massachusetts, and I hope it will be adopted.

Mr. FESSENDEN. It may be well enough for me perhaps to make a statement with regard to this matter, so that it may be better understood than it is standing alone by itself.

We have adopted in our rates and in our classification the description and rates which were adopted by the House in the bill that came to us. We made some difference, however, in the duty upon cloths manufactured from wool. The House itself did not adopt in full the arrangement as it was agreed upon by the representatives of the wool-growing interest and the manufacturing interest. They adjusted the duties and the rates very carefully; first fixing the duties on wools and giving the various descriptions, and then settling how much it would be necessary to advance the tariff on woolen goods in order to conform thereto and give the necessary protection to the manufacturer. In doing so they found that fifty-three cents per pound was demanded upon these cloths. The necessity for that rate was made out by showing how much wool would be used in a yard, what the duties on it were, and what were the other incidental expenses connected with the manufacture. They made it out that that amount of money would be necessary in order to remunerate the additional expenses they were at; and then they asked thirty-five per cent. *ad valorem* by way of protection, accounting for ten per cent. of that by what they paid for internal taxation and by taking the foreign valuation into account, leaving them a protection simply of twenty-five per cent. *ad valorem* against the foreign manufacturer after being repaid that which they were obliged to pay out to make up for what gentlemen talk about so much, the different rates of labor here and abroad, and other considerations involved in protection to American manufactures.

The House of Representatives, nevertheless, cut them down three cents from the rate they asked, and when our committee came to act we cut them down five cents more on the pound; and we did that supposing that would be about the amount that should be taken off to compensate for the duties taken off dye-stuffs. I am satisfied that we made a mistake in that respect; that the duties we took off dye-stuffs would not amount to so much, perhaps only to about two and one half or three per cent. If, therefore, we made the allowance for the diminished duties on dye-stuffs, which were included in the calculation of their expenses, they would still be entitled on their own calculation to fifty cents per pound. They complained that the House cut them down too much in giving them but fifty cents and leaving the duties on dye-stuffs, and that they lost three cents protection in that way. Now, offsetting that against the dye-stuffs, there would still be according to their calculation—in which we could see no error—fifty cents a pound, which they originally demanded. The propo-

sition of the Senator from Massachusetts, therefore, is simply to go back to their original proposition on the lower grades; that is, fifty cents per pound and thirty-five per cent. *ad valorem*. This is no more than they asked in the first place as the proper compensation for the increased duties upon wool and the other expenses that they were obliged to pay.

This amendment, however, goes a little further and increases the *ad valorem* on the next higher grade of cloths five per cent. and on a still higher grade five per cent. more, making the percentages respectively thirty-five, forty, and forty-five per cent., according to the increased price of the cloth. I inquired why this was, because ordinarily we do not increase the percentage as the prices raise, but rather the reverse. The answer made was on account of the greatly increased price of the fine wools which they are obliged to use in the manufacture. I suppose the Senator from Rhode Island understands that a great deal better than I do and can explain it if necessary.

This is the simple state of the fact; and I must confess that I was very much impressed by the statement made by the gentleman, at whose request I suppose the honorable Senator from Massachusetts has moved this amendment. He is a man of very great experience and very great intelligence as connected with all this business. He appeared before our committee and said that he did not go into the convention of wool-growers and manufacturers, or that he went in and left it, because he entirely disagreed with them in the conclusions to which he saw they were coming. He thought that the system adopted there was one which, instead of being beneficial, would if carried out be injurious to the manufacturing interest of woolens. He stated, as one reason for this increase, that thirty-five per cent. would be a very small protection, the percentage being relied on for that purpose. He said twenty-five per cent. would be enough if they got it clear; but owing to the frauds in valuations, which seem unavoidable, it would not amount to fifteen per cent. in reality, and that would not protect them, especially in the finer grades of woolen cloths.

His argument made a very strong impression upon me with reference to the whole matter; and the singular circumstance that, although a woolen manufacturer, he appeared not contesting what was done, but giving his views and advising in reference to it, satisfied me that we could not be misled by him in our views in favor of adopting this tariff, which had been arranged by the House of Representatives in conformity with the wishes of these two classes who had held the convention.

I am, therefore, very much disposed to give credit to what he says now, for it is only in conformity with what he said then; and the statement made by the Senator from Massachusetts is that if this goes into operation he will be obliged to close his factory, and he does not want to do so on account of the great number of men who are dependent upon him; and hence the necessity for the slight additional percentage on the finer cloths now proposed to be added. This view rather impresses itself upon my mind, and having stated the views of the committee I do not propose to make any further contest about it.

I will state, moreover, that the views of this gentleman are entirely corroborated by the views of an exceedingly intelligent wool manufacturer in my own State, who wrote to my colleague, not in quite so strong terms, but stating that under this tariff as arranged he would be obliged to close his mill; and I believe that his mill and that of the other gentleman referred to are the only mills in the country that have kept on up to the present time. My belief is, as they say, that if the thing stands as it is they cannot manufacture fine woolen cloths at all in this country.

I suppose I may as well state my own opinions on this subject. My own belief is that it would have been better and the policy would have been wiser if the wool-growers could have

been satisfied with a lower rate of duty on wool, relying for their great benefit on the support of the manufacturers, the home demand. It is already true that they furnish seventy per cent. of all the wool that is used in the manufacture of woolens in this country according to their own statement, and they do not dispute the fact that we must have more or less of foreign wools to make up the whole supply needed. It struck me that that was a pretty good proportion. I confess that I have hesitated very much to believe that it was the true system to lay very large duties upon the wool itself, instead of relying upon the building up of manufactures as the great protection of the wool-growing interest of the country. That was my opinion then, and I remain of the same opinion, although the committee came to the conclusion that it was best to take the duties on wool as they were fixed by the House of Representatives, and we reported accordingly.

I had another view in regard to it. I did not see and do not see now the necessity of laying such high duties on the second-class wools, even if we lay them upon the first-class precisely as they are demanded by the wool-growers. I do not see the object of placing the same duties upon the second-class wools which are hardly beginning to be produced in this country. I believe the total production in this country of wools of the second class, which go into the manufacture of worsteds falls short of three hundred thousand pounds. It is an interest that is just beginning. My belief was that in the present condition of things in this country this is no time to struggle to bring up new productions and new manufactures. Expensive as living is, and with so many burdens upon the people, we should content ourselves with giving adequate protection to those interests that already exist. If we were to let in these second-class wools at a low rate, which would not interfere with any production of wools now in existence here, the result would be that we should avoid the increased duty upon manufactures from the second-class wools, which are manufactures of worsted, and which grew up under the operation of the reciprocity treaty, those wools being then imported from Canada free to the extent of about six million pounds a year, I think.

Then, in regard to the third class of wools. Nobody demanded a higher duty on those, because they are of a very coarse character and come in competition with none that we raise or want to raise here. And here let me say to the honorable Senator from Illinois [Mr. YATES] that if we should adopt his level we must necessarily raise the duties enormously upon carpets and carpeting upon which we have raised but very slightly in consequence of the fact that these wools cost so much more now and are so much more difficult to be obtained than they were.

I do not propose to argue the question. The committee adopted a certain series of views on the subject which I have endeavored to carry out in supporting this bill before the Senate, and I shall adhere to them in the votes I give although they may not square exactly with my own belief of what is the true policy of the country. I am satisfied of another thing, and that is a strong argument for adhering to the rates agreed upon, that no tariff can be passed unless the demands of the wool-growers are acceded to. Such is public opinion, natural or manufactured, so strong has it become that on that point it is perfectly irresistible. I would not attempt to set up my feeble opinions in opposition to it, especially upon a matter which I cannot claim to have any particular reason for understanding better than other people.

I shall make no opposition to this amendment. The statements of these gentlemen, connected with my own previous impressions in regard to it, are such as to lead me to the conclusion that the woolen manufacturers will be in extreme danger unless we do somewhat increase the rate.

Mr. SHERMAN. I hope no change will be made in the tariff on wools and woolens, because the tariff proposed is the result of a long,



complicated, and troublesome negotiation between hostile interests, who finally came to a compromise on the subject.

Mr. FESSENDEN. The Senator will recollect that we varied from that, and the House varied from it. While we adopted one part of the compromise we did not adopt the other.

Mr. SHERMAN. The representation upon which my friend from Massachusetts acts comes to us from a gentleman who professes to be interested in it. I agree that he is an intelligent man; but he was heard patiently; he had the benefit of a full hearing. He refused to enter this conference, refused to take part in it, because he made a character of broadcloth that he said must have wool from South America, and it was useless for him to take part in it. But at the same time all the leading interests of Massachusetts and all the manufacturing States were ably represented. It was a meeting called by the manufacturers themselves. Any departure from the settlement then made creates complication and trouble.

In regard to the changes made by the committee I will simply say that we took the bill in this respect as it finally passed the House, taking their descriptions and classifications. It is true the Committee on Finance reduced the duty five cents on woolen goods, but that is fully compensated by other reductions made in this bill. The duty on nearly all the drugs, chemicals, and dye-stuffs used in the manufacture of woolen goods is thrown off. The manufacturers themselves compute the duty on the drugs under the old tariff at two and a half cents a pound on woolen goods. Then if fifty cents, as agreed upon by the House, was the proper rate, this would reduce it to forty-seven and a half cents. In addition to that, the Senate have reduced the duty on flocks, which Mr. Slater, the gentleman referred to, tells me is a very important and necessary constituent element in the manufacture of broadcloth, from twelve cents to three cents. Mr. Slater himself tells me that a considerable quantity of this article, called flocks, clippings of wool, is introduced into the manufacture of broadcloth. I have no doubt that the reduction made in the Senate on drugs and chemicals and on flocks will very nearly compensate the five cents a pound taken off the specific duty; at least very near it. The result is that we allowed forty-five cents a pound to compensate the duty on wool, instead of fifty cents, and relieved them from the duty on drugs and gave them some advantage in the flocks.

The only reason I have for voting against this amendment is that I think this subject has been so fully considered by the persons interested, and they have finally agreed upon it in such a shape that any disturbance of the arrangement would only involve us in complications which we cannot settle, not being experts. I would not vote for the proposition of the Senator from Illinois; I would not vote to increase the duty on wool, because all the people I represent, both manufacturers and wool-growers, seem to be entirely satisfied with this arrangement. We manufacture some woolen goods in Ohio, and I heard no complaint of the duties in this bill. I hope they will not be disturbed. To raise this duty to fifty cents a pound, as proposed by the Senator from Massachusetts, on the coarser goods, would be to ignore the fact that we have thrown off for the benefit of the woolen manufacturers a very large amount of revenue now levied upon drugs, chemicals, and dye-stuffs. That reduction is equal to two and a half cents a pound according to their own estimate; and if the estimate of the commissioner is reliable, that we consumed one hundred and seventeen million pounds in this country at two and a half cents a pound, it would amount to a very large sum thrown off for their benefit. I think they ought to be satisfied with that.

Mr. WILSON. I propose to modify my amendment slightly, at the suggestion of some Senators to put in this form:

Valued at one dollar and less per pound, forty-five cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*.

That leaves that just as it is in the bill now; and then to add:

Valued at over one dollar and less than \$1.50 per pound, fifty cents per pound, and, in addition thereto, forty per cent. *ad valorem*; valued at over \$1.50 per pound, fifty cents per pound, and, in addition thereto, forty-five per cent. *ad valorem*.

I think the Senate ought to consent to this; and now I wish simply to say a word to the Senator from Ohio. The gentleman to whom reference has been made is not the only gentleman of large experience who does not believe this bill to be just. Some of the very ablest men in Massachusetts and in New England earnestly believe that this bill, so far as it concerns two thirds of the woolen manufactures of the country, is not so good as the present tariff. The carpet manufacturers and the worsted manufacturers are abundantly satisfied, and I do not propose to touch them.

Mr. GRIMES. This is rather a refreshing proposition, and I have no doubt it will be adopted, as this is a western measure we are told by the Senator from Massachusetts, promotive entirely of western interests secured by western influence; but I presume this proposition, at least, will be adopted by eastern votes. I do not rise to oppose it particularly, but simply to reply to that part of the Senator's remarks in which he said that the duties upon these woolen goods would only amount to some ten or fifteen per cent. I happen to hold in my hand a table made out by a gentleman who I understand is perfectly familiar and has been for many years with the receipts of foreign goods at the New York custom-house, and he vouches for its accuracy. The special commissioner of revenue has proved the accuracy of some of the results by computations made. This table shows the amount under the bill as it now stands. It will be observed by the Senate that the proposition of the Senator from Massachusetts does not decrease any of these classifications, but it leaves the poor cloth to pay precisely the duty fixed by the bill, and declares that the more valuable cloths shall pay a higher rate. It appears by this table that the lowest duty imposed by the bill at present is fifty per cent., and it ranges from that up to one hundred and twenty per cent. In order that it may be known precisely what we are doing, as every Senator has had one of these tables submitted to him, I will send one to the reporter to be printed, so that those who choose to see what we do and to pass on our actions here, may have the opportunity of reading the table.

The table referred to is as follows:

An enumeration of a few leading articles of importation, showing the increased percentage of duties under the proposed tariff bill.

ARTICLES.	Width, inches.	Weight per yard, pounds.	Gold cost, per yard.	Present duty, per cent.	Proposed duty, per cent.
Italian cloths.....	27	-	16	50	72
Ladies' dress goods.....	28	-	29	51	57
Ladies' dress goods.....	28	-	20	45	67
Ladies' dress goods.....	22	-	11	52	69
Woolen coatings.....	54	1 1/2	1.08	73	97
Woolen coatings.....	54	1 1/2	1.44	65	82
Woolen doekings.....	54	1 1/2	1.32	63	80
Woolen overcoatings.....	54	1 1/2	2.40	56	65
Woolen overcoatings.....	54	2	1.08	85	1.20
Woolen overcoatings.....	54	1 1/2	1.24	68	88
Woolen overcoatings.....	54	2 1/2	1.26	80	1.10
Woolen overcoatings.....	54	1 1/2	1.43	72	96
Woolen coatings.....	54	1 1/2	2.60	57	67
Woolen broadcloth.....	54	1 1/2	1.80	62	78
Woolen broadcloth.....	54	1 1/2	1.23	58	70
Woolen union broadcloth.....	54	1	80	67	86
Woolen union broadcloth.....	54	1	1.03	63	79
Bunting.....	13	-	9.6	50	1.35
Union damasks.....	50	1	54	50	90
Worsted reps.....	50	1	88	50	90
Worsted damasks.....	51	-	68	50	78
Worsted plush.....	24	-	1.26	50	64
Worsted plush.....	24	-	64	50	90
Union damasks.....	48	-	41	50	88
Figured reps.....	48	-	87 1/2	50	66

Mr. FESSENDEN. I do not know what these duties are; I have not computed them, and should not be able to compute them; but these tables are entirely deceptive. While there may be a certain percentage of duty, it is not that percentage of protection. What the Senator from Massachusetts said was that this duty was only so much protection. I stated that the fifty-three cents which the manufacturers demanded as duty upon woollens was merely repayment of what they had to pay out in duties and other expenses upon the materials. That, therefore, is thrown out of the computation of the protection. Then of the thirty-five per cent. *ad valorem* ten per cent. is to be taken off for what they pay in internal revenue and on account of the difference in the valuation abroad. That leaves the protection twenty-five per cent. In addition to this the Senate committee reduced the specific duty to forty-five cents a pound. I think that the explanations made by the Senator from Ohio show that that is not so great a reduction as the Senator from Massachusetts seemed to suppose. Still I fancy the manufacturers at this rate would get less than twenty-five per cent. protection: how much less I am unable to say, for I have made no calculation.

Mr. GRIMES. I ought to have stated that the Senate has changed the duty on bunting, which is included in the table I sent to the reporter. It has been reduced to some extent; I do not know to what extent, though not a great deal I understand. It was reduced some on the motion of the Senator from Ohio, [Mr. SHERMAN.]

Mr. SPRAGUE. I do not propose to take up the time of the Senate, but I have examined the proposition suggested by the Senator from Massachusetts, and I must say that the views he has expressed to the Senate are correct in every particular. Of course the duty on the high-priced article does not interfere with or bear heavily on the poorer classes of our people; but it is absolutely necessary that the higher-priced article should be put in a different classification from the coarser article.

The gentleman who has represented this case to me is the son of the original pioneer of cotton manufacturing in the United States, who established it here before anybody else, and he brings to bear upon this subject more practical knowledge, more experience, more devotion to his business perhaps than any man in that business in the United States. There is no doubt but that the business of the production of the finer broadcloths in the United States would go out of existence under the operation of the present bill as it stands. The throwing off the duties upon dye-stuffs which has been referred to is a matter of no consideration whatever; they enter into the cost but very slightly; some logwood and some sumac, and some other things of that kind. Then it must be remembered there are additional taxes on starch and other articles which enter very largely into the production of these goods, which more than compensate for the duties thrown off on the chemicals. I trust the amendment suggested by the Senator from Massachusetts will prevail.

Mr. MORRILL. I have listened with a great deal of patience, I trust, during the nine days this bill has been under consideration, with very slight disposition to participate in any way in the discussion; but I think I understand the proposition to which an amendment is now moved, and it seems to me so manifestly unjust to an interest which is, in some sense, peculiar to my own State that I can hardly forbear the expression of the conviction that it would be very unjust if the Senate were not to adopt the amendment proposed by the Senator from Massachusetts. I understand it to be agreed by the members of the Committee on Finance that the bill as it stands does not give that fair and equal protection to this particular interest, the higher grades of manufactured cloths, that it does to other kindred manufactures. That is a conceded fact. Why not? Nobody suggests, I

believe, that this branch of manufactures ought not to be encouraged; nobody suggests that it does not stand upon a footing quite as meritorious, perhaps, as others of a kindred character. Now, what is the reason this should be discriminated against, should not have that proportion of protection that others have?

The honorable Senator from Ohio has suggested the only difficulty in the way of it, and that is that it was arranged by the wool-growers and the manufacturers generally that a certain rate of duty should be laid on the other fabrics; and it would disturb that arrangement. The first answer to that which occurs to me is the fact which has been disclosed here, that it is not pretended that that arrangement is carried out in this bill. The House did not agree to that arrangement, departed from it, and of course we are not bound. But I do not suppose the honorable Senator from Ohio intends to press that here as an argument to oppose the sense of the Senate in its purpose to do justice to this interest; but, I repeat, (and I submit it to challenge the attention of the Senate,) that it is conceded by the Committee on Finance that this particular interest has not that fair proportion of protection which is accorded to other interests. I understand that the proportion of protection is not equal to the proportion which is applied to the other protected manufactures.

Mr. FESSENDEN. I said nothing about that, whether it was equal or not. I said that supposing it to be an arrangement made by two parties, while it was carried out with regard to one, it was not quite carried out with regard to the other.

Mr. MORRILL. I thought the inference was quite irresistible that I should be borne out in the statement I have made on that consideration. I will read from a statement which I suppose is based on the tables here; it professes to be from the tables, and on them the writer comes to this conclusion:

"It will be seen from these tables that the cheaper qualities of cloth are to have a much higher proportion of duty laid upon them than the higher-priced cloths."

That I understand the committee to agree to.

Mr. FESSENDEN. There is no distinction made in their arrangement between one and another.

Mr. MORRILL. The writer goes on:

"Thus woollen coatings, the cost of which is \$1 08 a yard, are to be raised twenty-four per cent., while costly fabrics, the gold price of which is \$2 40, are raised only eleven per cent."

The testimony is, I believe—I have not heard it controverted here—that this class of manufacturers cannot carry on their business with this discrimination. There is, I believe, but one manufacturer in my own State who makes these high grades of woollen cloths. That is pretty extensive, and is perhaps equal to any in the country. I have a communication from the agent of that establishment. I ought to say that he has not been here and I have not seen here any man from my State representing any interest while this tariff bill has been under consideration or before. This gentleman writes me that so far as his mill is concerned he cannot run it under this tariff bill as it stands. Putting these two facts together, I submit whether the Senate will not see that the justice, fitness, and propriety of the thing is to adopt the amendment of the Senator from Massachusetts, and put the high grades of manufactured woollens on an equal footing with the lower.

Mr. SHERMAN. I wish simply to call attention to one point. The amendment of the Senator from Massachusetts is entirely deceptive, I think, though he does not intend it to be so. The amendment proposes to levy on cloths valued at one dollar or less per pound forty-five cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*, and the Senator says this is precisely what the committee reported. So it is; but I ask him how much cloth of any kind is there manufactured that is worth only one dollar a pound? There

is not any. I have here the tables prepared by the manufacturers showing that all the cloths they make are worth more than a dollar a pound. Our knowledge of the cost of wool and the number of pounds of it necessary to make a pound of cloth would tell us that. The table before me of the foreign cost as furnished by the manufacturers shows that one yard of the average weight and quality of cassimeres, a coarse product weighing nine and thirty-three hundredths ounces, costs ninety-three and seventy hundredths cents abroad. As a matter of course, if nine and thirty-three hundredths ounces of that cassimere cost ninety-three and seventy hundredths cents a pound of sixteen ounces would cost about a dollar and a half.

Mr. FESSENDEN. How is it on woollen shawls and flannels?

Mr. SHERMAN. I do not know; but I have no doubt that nine tenths of all the goods included in this clause would be worth more than a dollar a pound. The tables furnished by the manufacturers show it, not only as to cassimeres and broadcloths and doeskins, but pretty much all the articles named in this clause. I do not see blankets in the table, but my experience is that they are worth more than a dollar a pound. Then all the goods will fall in the latter two clauses of the amendment, where the duty is increased five cents a pound and from five to ten per cent. *ad valorem*. It is a very marked and radical change. If the first clause included the great body of the goods and the latter clauses applied only to a comparatively small amount, like the finer broadcloths, there might be some reason in the argument of the Senator from Massachusetts.

Mr. FESSENDEN. I am very much inclined to suspect that the honorable Senator from Ohio has taken a table which is merely applicable to broadcloths and cassimeres—

Mr. SHERMAN. The Senator can examine it for himself.

Mr. FESSENDEN. There are certainly some articles named in this clause that would come under a dollar a pound, flannels for instance. The object of the amendment is to put the higher duty on the finer articles.

Mr. SHERMAN. The table applies to broadcloths, cloaks, cassimeres, ludios' cloths, doeskins, and tricots. At any rate it covers all the items here down to "doeskins," and I doubt if there is a single article in the clause which is not worth more than a dollar a pound.

Mr. FESSENDEN. There are a considerable number of other articles in the clause besides those in the table.

Mr. SHERMAN. Yes; there are others that may come under the first clause of the amendment, but not many.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on the amendment of the Senator from Massachusetts.

Mr. WILSON called for the yeas and nays, and they were ordered.

Mr. GRIMES. I was requested by the Senator from Missouri, [Mr. Brown,] who is confined to his bed by sickness, to say that if present he would vote against this, as against all impositions of higher duties and against the bill.

The question being taken by yeas and nays, resulted—yeas 19, nays 15; as follows:

YEAS—Messrs. Chandler, Cragin, Edmunds, Fessenden, Fogg, Foster, Fowler, Frelinghuysen, Harris, Howard, Howe, Morgan, Morrill, Poland, Sprague, Steward, Sumner, Wade, and Wilson—19.

NAYS—Messrs. Buckalew, Cattell, Conness, Davis, Grimes, Henderson, Hendricks, Lane, Patterson, Ramsey, Sherman, Trumbull, Van Winkle, Willey, and Yates—15.

ABSENT—Messrs. Anthony, Brown, Cowan, Creswell, Dixon, Doolittle, Guthrie, Johnson, Kirkwood, McDougall, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Saulsbury, and Williams—18.

So the amendment to the amendment was agreed to.

Mr. FESSENDEN. I wish to move an amendment, not because the provision is not satisfactory to me as it stands, but as the Senate will see if they listen to my explanation be-

cause I have some doubt whether I was entitled to move the amendment which I now propose to strike out as an amendment of the committee. I supposed myself to be so authorized, but on consulting the committee one of the members, with whom I have spoken tells me that I was authorized to move it, and another that he did not understand that it was to be moved on the part of the committee. There being that misunderstanding, and a member of the committee, the Senator from Ohio, being opposed to the proposition which was adopted, I have thought it better to move to strike it out, in order that the matter may be presented to the Senate.

Section twenty-two has reference to a drawback upon iron, copper, cordage, &c., "which shall be wrought into the construction of sailing vessels of the United States." That is the way it originally stood. While going through with the committee's amendments, I moved to insert the words "or steam" after "sailing." We talked the matter over in committee, and the Senator from New York understood me as having the assent of the committee to offer that amendment; but my friend from Ohio did not; and therefore, as I choose to have no question upon that point, I move now to strike out the words "or steam."

Mr. CONNESS. Why not strike out the word "sailing"?

Mr. FESSENDEN. Because that was the way it was originally drawn as authorized by the committee. I moved in the Senate to insert the words "or steam" and no objection was made, it being understood to be an amendment of the committee; now there being some question about that fact, in order to set myself right I move to strike out the words "or steam." They were not in the section as it was originally drawn and agreed to by the committee, which was not intended to cover steam vessels but only sailing vessels. The reasons applicable to the two classes are not precisely the same; they are stronger perhaps in the one case than the other.

The general movement grows out of the fact of the depressed condition of our navigation, the building of vessels of all kinds, owing to the heavy burdens imposed in a very great measure by the condition of our trade, and owing more particularly perhaps to the burdens imposed by the internal revenue laws, with which under this bill we cannot meddle, but those taxes are very onerous.

Our sailing vessels come directly in competition with the vessels of New Brunswick, and so much in competition that it is impossible for men to build sailing vessels along our Atlantic coast which enter at all upon the foreign trade with that competition. I presume the expense is just about double, and consequently all our ship-yards are pretty much deserted, and not only our ship-yards for the construction of sailing vessels, but of steam vessels also.

This is a very great injury to us in many particulars, and more especially in the fact that if this condition of things continues the skilled workmen who have given to our ships and ship-building such a high reputation will be scattered and engaged in other pursuits, and we shall lose more than we do now. In the hope and belief that something might be done by this drawback, especially upon sailing vessels, the committee were unanimous in the conclusion that it ought to be given. I consulted the Treasury Department, and found that there would be no difficulty in its execution. Inasmuch as the words "or steam" were inserted under a misapprehension on my own part I move to strike them out in order that the section may be restored to what it was before.

Mr. CONNESS. There may be reasons for striking out these words, but I confess I am not acquainted with any good reasons for doing it; if they do exist, and if the amendment be carried, I shall vote against the whole proposition allowing a drawback on the materials used in the construction of ships. At this day,

when by the progress of knowledge applied to the arts, the art of ship-building in particular, the sailing marine of the world is being replaced by steam, it hardly becomes us to make a direct discrimination against steam, which the world in its great struggle presents as one of the greatest triumphs of its skill. The steam marine of our country is to a greater extent now driven from foreign commerce than our sailing marine, and by reason especially of the cheapness with which steamships may be built on the Clyde, in Great Britain. It is an ascertained fact that steamships may be constructed there for from fifty to one hundred per cent. less than they can in America.

Mr. FESSENDEN. They do not become national ships of ours.

Mr. CONNESS. I am aware of that. This being the fact, it explains the greatest cause why we are not found controlling the commerce of the Atlantic ocean. English bottoms, cheaply made, well constructed, too, may engage in a profitable trade with our people, while American ships may not, because in their construction they cost nearly twice as much as the English.

Mr. FESSENDEN. I want the Senator to understand me—

Mr. CONNESS. I do understand the Senator perfectly; but I do not understand why, even as a matter of courtesy, or from what he may deem due to the understanding of any of the members of the committee of which he is the distinguished chairman, he should make a motion of this kind, even though he may vote against it himself.

Mr. FESSENDEN. I stated why I made the motion, and I want the Senator to understand me. I did not know but that it might be thought that from my position as chairman of the committee I had taken advantage of the committee and moved an amendment they did not agree to or authorize me to move. I therefore chose to move to strike out those words which had been inserted, so as to bring the matter before the Senate and let the Senate decide it.

Mr. CONNESS. All I have to say to that is, that it is scarcely possible any Senator could attribute such a motive to the honorable chairman of the Finance Committee. But, sir, I do not wish to pursue this subject if there is no disposition to press the amendment.

Mr. SHERMAN. I think it due to myself to say that the amendment made to this section was not agreed to by the Committee on Finance. That is admitted on all hands. The Senator from Maine proposed it himself, and I did object to the Senator proposing an amendment as coming from the committee to which the committee did not assent. The Senator from Maine undoubtedly had a right to propose that amendment himself or any other amendment. The only question was, whether it came from the committee. It was adopted by the Senate on the supposition that it was moved on the part of the committee. The Senator from Maine is in favor of it, and he is at perfect liberty to offer it at any time as his individual amendment.

Mr. CONNESS. So far as I am concerned, I will let the discussion of the amendment pass by unless it shall be shown by a vote that the Senate is disposed to adopt it.

Mr. SHERMAN. The section ought to stand as reported by the committee, and then as a matter of course the Senator from California, or the Senator from Maine, or any other Senator, can move to amend it.

Mr. GRIMES. What is the real question? The PRESIDING OFFICER. The question is on the motion of the Senator from Maine to strike out the words "or steam" in the twenty-second section.

Mr. CONNESS. The purpose and effect of the amendment is to strike out the words "or steam," so that if the amendment be adopted the drawback provided for in that section will not be allowed upon any materials that enter into the construction of steamships.

Mr. SHERMAN. If the Senator wishes to go into the merits of the proposition I think I can show him that those words ought to be stricken out, but I take it we ought first to restore the bill to the form the committee desired it to be in, and then any Senator can move to insert the words "or steam." If, however, it is desired now to discuss the merits of the question, I am prepared to do so.

Mr. CONNESS. I prefer that it should be done at this time, because it will govern my vote on other provisions.

Mr. SHERMAN. This section twenty-two proposes to give a drawback on all materials that enter into the construction of all the steam and sailing vessels of the United States, internal and external. The absurdity of such a proposition when applied to steam vessels I will try to demonstrate. Steam vessels are made at Cleveland, Detroit, and other lake ports. They are steam-registered vessels of the United States. If this section stands as it is, every steamboat engaged in lake commerce, which is far greater than our ocean commerce, will be made of iron imported from Liverpool; every single particle of lumber that enters into a steam vessel made at Detroit or Cleveland will be Canadian lumber; every piece of rigging that enters into a steam vessel made at these points will be made of Russian hemp, although iron is rolled at Cleveland and Detroit, although lumber is got out in Michigan, although the copper that bottoms the vessel may be got in the Lake Superior region, and although every element that enters into the construction of a steamboat is an article of American manufacture.

The result of this proposition would be that no steamboat builder would buy any portion of his materials of American manufacture. A proposition so utterly destructive to the revenue as well as to American industry could not be made. We should lose revenue because all these articles will be of foreign manufacture, for if made of American manufactures there would be no drawback. If American lumber was used for the keel and American iron was used for the engine and American hemp was used for the rope, as a matter of course there would be no drawback paid to the builder of the vessel; but if foreign fabrics are used the drawback would be paid. The result would be that every component part of every steamboat in the United States would be made of foreign products.

When this section twenty-two was confined to the sailing vessels of the United States, what is called the registered tonnage of the United States, applied simply to protect a local interest that is said to be under a state of depression, I assented to it. It is said there are no vessels building in Maine. I never make my vote depend upon the place or State or locality where an interest is to be protected. When it was said that this interest was entirely destroyed by the operation of our laws, that these sailing vessels had been brought into competition with sailing vessels made in Canada, and it was impossible under existing laws for our American ship-builders in Maine to build ships to sail in competition with those built in Canada, I could see the force of that argument, and I might be willing to make an exception for their benefit in order to enable them to build American ships in Maine instead of in Canada. But when you apply that principle to steamboats made in the interior of the country it is a very different matter, and it would be an exceedingly dangerous thing. The loss of revenue would amount to millions upon millions. Large numbers of propellers are now being built in the West. The whole carrying trade from Chicago to the eastern market of all the produce of the western country is now carried on in vessels that would be exempt from duty under the operation of this section.

That is the reason I oppose it. The words "or steam" were inserted on the motion of the Senator from Maine because he did not draw the distinction. The committee, as I

understand, had not acted upon that, but had confined their action simply to sailing vessels, and it was intended to give a relief, wrong in principle, but justifiable probably by the peculiar circumstances under which we are surrounded, to sailing vessels all along the coast.

Mr. CONNESS. There is very great force in the presentation of the question made by the honorable Senator from Ohio, but it appears to me that it only illustrates the effect of allowing any drawback at all on the construction of any ships. But it will seem very strange to the country indeed, and cannot help striking any mind as strange, that a discrimination at this time should be made as against steam when a change is being made so generally from vessels propelled by sails to vessels propelled by steam.

Mr. SHERMAN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 21, nays 13; as follows:

YEAS—Messrs. Chandler, Cowan, Davis, Edmunds, Frelinghuysen, Grimes, Hendricks, Howard, Howe, Johnson, Lane, Nesmith, Patterson, Sherman, Sprague, Trumbull, Van Winkle, Wade, Wiley, Williams, and Yates—21.

NAYS—Messrs. Buckalew, Conness, Cragin, Fessenden, Fogg, Harris, Morgan, Morrill, Poland, Ramsey, Stewart, Sumner, and Wilson—13.

ABSENT—Messrs. Anthony, Brown, Cattell, Creswell, Dixon, Doolittle, Foster, Fowler, Guthrie, Henderson, Kirkwood, McDougall, Norton, Nye, Pomeroy, Riddle, Ross, and Sainsbury—18.

So the amendment to the amendment was agreed to.

Mr. SUMNER. I wish to move one or two amendments; at least to have the judgment of the Senate upon them. I move on page 4, section one, line seventy, to strike out "six" and insert "seven." The clause now reads:

On ground cocoa or cocoa, on prepared cocoa and chocolate, six cents per pound.

I propose to make it seven cents; and on that I have a very simple statement to make. By the tariff of July 14, 1862, and March 3, 1863, chocolate was seven cents a pound. By the tariff of June 30, 1864, and March 3, 1865, it was also seven cents a pound. It is now proposed by this bill to reduce it to six cents a pound. There is no reason assigned for that reduction; and on looking at the report of the commissioner I find nothing to sustain this change. Therefore, in the absence of any reason in favor of the change I object to it. But I am informed by those who are interested in the subject, who have the most knowledge of it of anybody that I know, that this change will be prejudicial to the American chocolate, and that it will in all probability also fail in any effect on the revenue. You will gain nothing in the way of revenue from it and you will interfere with an existing American interest. Now, in the absence of any reason for this change, I submit that you should hesitate to make it. In making the change, putting the duty down, you depart from the prevailing principle of the bill, and as I submit without any adequate reason. I hope, therefore, that my motion will prevail.

Mr. FESSENDEN. All the articles in that list pretty much are matters that do not come into competition with anything we do in this country until we get down to this very article. The original production is not touched; it is in the list of spices. Now, with regard to the article itself, it comes in at a duty of three cents per pound before it is prepared, and if an addition of three cents more is not enough to prepare a pound of chocolate, cocoa as it is called, I should think it is a mere question of how much you will charge the people who consume it. As to the protection, it is ample. There is no trouble about that at all. The committee thought and the commissioner thought, on an examination of the subject, that six cents a pound was ample for that purpose, and is all the tax that ought to be imposed on those who choose to drink so refreshing and at the same time so cheap and useful an article. This is a mere matter of opinion, a matter in which I take no sort of interest, but at the same time I think six cents is ample protection.



Mr. SUMNER. I should like to ask the Senator if there is any reason for the change, which did not exist during those years when it was seven cents?

Mr. FESSENDEN. In the first place we put a very high duty on all the original articles from which these things are made. The duty on those is high; it is not increased; we leave it under the old tariff just as it was. We have not reduced that, because it is a tax very easily collected and is necessary to the revenue; but when the commissioner came to this article he thought, on examination, that six cents, adding three more for the preparation of the chocolate, was ample in the way of revenue and would afford all the revenue we ought to get from the article, and that as the present duty is perhaps more than people would like to pay, although they yield to it very readily, on this very cheap and useful article, as I said before, comparatively speaking, it was well enough to strike off a cent and leave it at six cents. There is no doubt about the protection.

Mr. SUMNER. Do I understand that there was any evidence on the subject?

Mr. FESSENDEN. The commissioner took evidence from gentlemen in New York on the subject.

Mr. SUMNER. I had the impression that on this subject there was no evidence.

Mr. FESSENDEN. The matter was not examined before the committee, because nobody appeared before us in regard to it. We took the commissioner's statement.

Mr. SUMNER. I had the impression that even before the commissioner there was no evidence on this subject. That is my understanding.

Mr. FESSENDEN. The commissioner says he had.

Mr. SUMNER. His statement is ample; but I do not understand that there was any complaint from any quarter showing that this duty was too high. On the contrary, I am instructed by those who are most familiar with it that the proposed change will be injurious. I make that known to the Senate, and it will be for them to adopt such a conclusion as they see fit. Authority which I recognize as valuable teaches me that. Then I see myself on the face of the bill that here is a departure from the prevailing principle of the bill, so far as it has any principle.

Mr. FESSENDEN. In this list generally there is no question of protection involved.

Mr. WILLIAMS. It is simply a question of revenue.

Mr. SUMNER. The Senator says it is simply a question of revenue. I submit that by this change we shall not increase the revenue.

Mr. FESSENDEN. We thought we would make it a cheaper drink without injuring anybody.

Mr. SUMNER. It will not make it a cheaper drink.

Mr. FESSENDEN. In 1861 under that tariff it was fixed at three cents and six cents a pound. During the war we passed another tariff by which it was up to seven cents, and we thought, on the whole, we might as well go back to the old rate.

Mr. SUMNER. Very well. I have made my statement to the Senate. It will be for them to act. I hope the change will not be made.

The amendment to the amendment was rejected.

Mr. SUMNER. I now ask the attention of the Senate to another part of the bill, the provision relative to oil paintings, on page 76. It is as follows:

On oil paintings valued, exclusive of frames, at \$100 and less, thirty dollars each painting; valued at over \$100, thirty dollars each painting, and, in addition thereto, ten per cent. *ad valorem*.

It will be remembered that some time ago petitions were presented to the Senate from the artists of the country asking for an additional tax on oil paintings of \$100. The com-

mittee had those before them, and I understand, after careful consideration, adopted this proposition instead of that which the artists asked. I go with the committee in their conclusion as against the artists. I think that they were wise as far as they went. I think that the desire of the artists went too far; a \$100 tax on a picture would have been unreasonable; but now, when I have said that, I am obliged to add that it does not seem to me that the committee have met the case in the best form, and I am going to move a slight change in their proposition. The change which I should propose would be to this effect: that on all oil paintings valued at \$200 and less there should be a duty of twenty dollars each painting. I make a change there both in the valuation of the picture and in the duty. I raise the valuation from \$100 to \$200, and reduce the duty to twenty dollars. Then in the next part of the proposition I reduce the duty to twenty dollars.

I think that the operation of this amendment of mine would be much more favorable to art and to correct taste in the country than that of the committee. Indeed, I am assured by those who are most interested in the subject, who are perfectly familiar with it, that the effect of this amendment of the committee will be to exclude certain European pictures which all persons of taste would be glad to have; that is, it would bear too hard upon them; it imposes too high a duty. To carry out my idea, therefore, I shall move to strike out in line one hundred and forty-eight, section ten, page 76, the word "one" and insert "two," in line one hundred and forty-nine to strike out "thirty" and insert "twenty;" in line one hundred and fifty, to strike out "one" and insert "two," and also to strike out "thirty" and insert "twenty;" so that the clause will read:

On oil paintings valued, exclusive of frames, at \$200 and less, \$20 each painting; valued at over two hundred dollars, \$20 each painting, and, in addition thereto, ten per cent. *ad valorem*.

Mr. FESSENDEN. All this is a matter of opinion. I will simply state the views that were entertained by the committee on the subject, and the grounds on which they came to that conclusion. We had before us a gentleman from Philadelphia, a gentleman known to one member of the committee, I believe, of established reputation as a painter, and who represented the association both in New York and in Philadelphia. We had a memorial before us—I think that was from Boston—

Mr. SUMNER. I presented that myself.

Mr. FESSENDEN. Asking for a duty of \$100 on each painting. This gentleman came before us as the delegate selected by the artists to represent their wishes, and he stated to us that he thought the proposition to put \$100 on each painting was unreasonable; that he thought perhaps it ought to be forty dollars on each painting costing \$100 or less, and then increasing at the rate of ten per cent. according to the value. He said that with regard to himself and a large number of other artists in the country the matter made no difference; they sold their pictures at remunerative prices as fast as they could execute them; but he said it was important for the encouragement of young artists in the country, who did not have much encouragement, and who were obliged to fight their way through a great many difficulties, actuated by their love of art, through perhaps years of poverty before they could arrive at that sort of eminence which was at all remunerative. For their protection, he thought, and the artists thought generally, it was necessary to exclude as far as possible these cheap pictures which are painted in Europe, or at any rate to limit their importation; that by putting on this duty we should get some revenue in the first place, and in the next place we should effect that very desirable purpose which would also have the additional effect of preventing the bad results that followed from having so many ill-executed and ordinary paintings, showing no very great proficiency in art, throughout the country; and

therefore that the artists, especially the older ones, were desirous, for the benefit of the considerable number of persons who are struggling to make themselves proficient, of having a duty of this description put upon these productions.

After much deliberation, instead of fixing the bounty at forty dollars, which this gentleman thought was about right, we concluded to fix the duty at thirty dollars on all under \$100 in value and then to increase at the rate of ten per cent. *ad valorem*, as the price rose. That is manifestly proper, because these things command a price according to their finish, and these high-priced pictures are purchased ordinarily by persons who can very well afford to pay for them, and to pay the duty on them, too, at the same time.

I have stated the opinion which that delegate from the artists presented to us. We thought it was right, and we were unanimous in the conclusion to which we came, which is embodied in this bill. I suppose the honorable Senator does not pretend to judge of this without information; he undoubtedly has information from some other person; but I am inclined to think that this gentleman who represented the whole body of the artists is quite as likely to be right as the informant of my honorable friend from Massachusetts. My own opinion is—of course I have no feeling or wish about it—that we had better adhere to the conclusion to which the committee came on the subject.

Mr. JOHNSON. How much is it proposed to reduce it?

Mr. FESSENDEN. It now stands at thirty dollars on all not costing over \$100. The Senator moves to amend by making the valuation \$200 and reducing the duty to twenty dollars, which makes a very material change.

Mr. CATTELL. The chairman of the committee has covered the whole ground on this subject with one single exception I think—if I am in error he will correct me—and that is, that one of the very largest importers of pictures in New York addressed a letter to us assenting to this duty of thirty dollars as being just about the right thing.

Mr. FESSENDEN. I remember that now. It escaped my attention at the moment.

Mr. CATTELL. So that the artists themselves and those who import the pictures are agreed upon this. The duty as proposed by the committee is a very large reduction on what was asked by the representative of the artists; but I think it is just about right.

Mr. SUMNER. I agree entirely in the general remarks of the Senator from Maine. I coincide perfectly in what he sets forth as the object of this proposition. I want to do something to keep bad pictures out of the country, if possible, and also to encourage our artists at home. There we go along together. The simple question is, by what form of proposition shall we practically accomplish that in the best way? Now, if we followed the artists implicitly we should not have the support of the Senator from Maine, for the artists appear here by petition, in which a very large number have united, nearly all the artists of Boston, I think, asking for a duty of \$100 on these pictures; but the committee have not accepted that proposition. They put it at thirty dollars, and as I understand they do it on the authority of an artist from Philadelphia, and now the Senator from New Jersey says also on the authority of a dealer in pictures in New York. Well, I cannot say that I speak on the authority of any artist in Philadelphia or any dealer in pictures in New York; but I do speak on an authority which to me is better than both combined; and then I add that I do bring to it such judgment as I have on the question. I claim very little, however, for my own judgment, though it is a topic which has occupied some of my attention for some time; but I have in my hand a letter from a person so circumstanced as to be absolutely unselfish, and also so circumstanced at this moment as to find it his special duty to study this question. I would rather not mention his name, because I

do not wish to bring it into contest. Suffice it to say that his authority with me is complete. I requested his opinion on this proposition, and I will read to you his reply:

"SIR: In obedience to your wish I make the following suggestions in relation to the increased tariff on paintings:

1. That there should be a specific duty on paintings of twenty dollars on each picture valued at \$200 or less.

2. That an *ad valorem* duty of ten per cent. should be added on every painting valued at over \$200.

The motion that I have made, it will be observed, is in harmony with this suggestion. He then proceeds:

"By this the artists are fully protected against the importation of trash.

"It will increase the revenue largely.

"It will prevent undervaluation at the custom-house.

"Thirty per cent. will keep out all of that excellent class of pictures by Frère, Lambinet, Plassan, Comte Calix, Dowergen, &c."

Mr. FESSENDEN. What does he say will keep those out?

Mr. SUMNER. Thirty per cent. That is what is proposed.

Mr. FESSENDEN. The duty on the bill is thirty dollars on all valued at \$100 and less; and the works of those artists whom he mentions, if they are eminent in their profession, will not come within that class. They will come much higher. He has made a mistake.

Mr. SUMNER. I think he has made no mistake, because his comment is on the text of the bill with that before him. He proceeds:

"It will admit only, and but a few of those, of Couture, Tissot, Meissonnier, Achenbach, and the like. It will check the growth of the taste for the fine arts. It will nearly destroy the revenue from this source. It will be a most unpopular measure, for the proposition to increase the tariff on works of art has already met with the nearly unanimous condemnation of the press.

"Feeling a deep and entirely unselfish interest in their matter, for one, I trust that you will use your influence, against any measure which, like that proposed, is certain to injure it."

I have introduced this letter because it is a clear statement and from a gentleman in whom I place entire confidence.

Mr. WILLIAMS. I should like to ask the Senator, if he has no objection, in what business this person is so engaged, as he is said to have extraordinary opportunities to form a proper judgment on this question?

Mr. SUMNER. He has for some time been engaged in writing on art as an art critic, a student of art therefore, he, as he says himself, having no selfish interest in the value of pictures, but having a peculiar interest in the growth of taste in our country and in the patronage of good pictures. I have had another letter from still another person situated in the same way; that is, a writer on art, one who has written much, and whose writings for several years I have always read with very great interest whenever he touched artistic questions, and he has written to me in the same vein.

The question being put, there were—ayes two—

Several SENATORS. Give it up.

The PRESIDING OFFICER. Is a further count demanded?

Mr. SUMNER. Let us have the other side.

Mr. FESSENDEN. That will render a call of the yeas and nays necessary. Let us have the yeas and nays in order to get a quorum.

Mr. SUMNER. Very well; I give it up.

The amendment to the amendment was rejected.

Mr. SUMNER. I am going to make one more effort to remove a tax on knowledge. I move to insert in the free list, on page 99, section eighteen, after line thirty, the following:

Books in foreign languages.

Now, that is a new proposition. I have not presented it before, though in the remarks that I have made I have alluded to it. The Senate therefore have not voted upon it. If they will give me their attention for one minute I will enable them to understand how I regard it.

By the proposed tariff all books in foreign languages are to pay twenty per cent. *ad va-*

*lorem*. Of course by "books in foreign languages" is meant, as I understand it, not only books in the living languages, but in the dead languages, Latin and Greek, twenty per cent. *ad valorem*. And why that tax? Not for protection, for no such books are printed in our country. The Senator from New York by me [Mr. MORGAN] whispers to me that it is for revenue. How much revenue will you get out of it? The importations are not very large. The revenue, therefore, would not be much.

But what is the effect of the tax? So far as it has any effect it is to burden this importation of books, to make all who use books in foreign languages pay this tax of twenty per cent. The persons that use most of those books are not able to pay that tax. They are clergymen, scholars, and the students of the country. Beyond that, they are the large, I might almost say, multitudinous population of foreigners now distributed throughout our country. Here are the Germans everywhere, and they still cling, more or less, to their fatherland. They wish to keep up their acquaintance with its literature. Germans everywhere are essentially students, and I might almost say essentially scholars.

I have now on my table two catalogues I have received this very morning. One is entitled "A Philological Catalogue" of works recently published and on sale at a German house. The catalogue is of forty pages of works merely relating to philology. Here are works in the Caucasian language, the Hindoo languages, Chinese, Japanese, Hebrew, Chaldee, Samaritan, &c. Now, why should persons who are engaged in studies which require these works be compelled to pay this tax? When I mention this subject you will see at once that nobody enters into it except the scholars and students of the country, men who cannot afford to pay this additional tax. Here is another catalogue which is entitled, "An Educational Catalogue." That is fifty pages of works relating to education; the larger part of them in the German language; works interesting to every person who can read German and who is engaged in educational pursuits.

I have never heard but one argument in favor of this tax, and that I shall state. It is said that if you take off this tax it will cheapen modern French novels. Suppose it does; modern French novels constitute but a very small part of foreign literature; they are a small part even of the literature of France. Read any catalogue of recent French publications, and you will find that they perhaps are not more than a tenth, or a twentieth of that literature; and if you examine the catalogues of all the modern nations you will find that their proportion is still less. I submit, therefore, that the argument that you are going to make French novels cheaper is of little value when I plead for cheap books that are essential to the scholarship and the studies of our country.

Mr. WILLIAMS. I should like to ask the honorable Senator if he is quite sure that no Latin and Greek books, as he supposes, are published in the United States?

Mr. SUMNER. There are a great many.

Mr. WILLIAMS. Would not books published in those languages in foreign countries compete with the publishing houses of the United States if there was no tariff?

Mr. SUMNER. I think not. I think that the Latin and Greek books that are published in the United States are entirely for school-books.

Mr. FESSENDEN. They could send them abroad and have them printed there and import them.

Mr. SUMNER. The Senator says they could send them abroad, print them there, and then import them; but the Senator forgets that these Latin and Greek books are prepared by our own scholars, the professors in our own colleges. Some of the professors in his own State of Maine have done much at that. There are several of the editions of the Greek writers

that have been edited at the colleges in Maine; and they would be published here on the spot where the professors reside, where they could examine the proof-sheets. I do not think that there would be any competition that would trouble them, while, on the other hand, all of those people would be delighted to receive their books free of duty. I submit that it is hard on the professor or the schoolmaster, who has his insignificant salary, and who you may say is troubled with the ambition of scholarship, to compel him to pay your high duties.

Mr. FESSENDEN. I hope the amendment will not be adopted.

The amendment to the amendment was rejected.

Mr. SHERMAN. I desire to have a vote again on the amendment I offered last evening. I have modified it somewhat at the suggestion of several Senators. It is on page 26, section seven, at the end of line seventeen, to insert:

And any person or corporation may import and use railroad iron at any time within two years upon paying the duties imposed by law, any provision in any act of Congress to the contrary notwithstanding.

This applies solely to the Southern Pacific railroad, and perhaps one or two other railroads authorized by the United States. The number of miles to be built next year, according to the estimates submitted to us, is from five to six hundred miles on the different branches of this road; some say seven hundred, there being three branches of the road now being constructed, and the one on the Pacific slope, making four branches. The probable number of miles will be about five hundred. I estimate at the rate of about one hundred tons of iron to the mile, sixty pounds to the yard, and that will make the requirements of these roads fifty thousand tons. If this should be imported it will yield us a revenue of over seven hundred and fifty thousand dollars.

As I stated last night, the mills of this country cannot supply all that is desired. Large quantities are now imported and laid down within fifty miles of the rolling-mills. The present price of railroad iron, delivered on ship-board abroad, is between five and six pounds per ton, or less than thirty dollars. The present price of American iron is eighty-five dollars per ton. The restriction on the Union Pacific railroad compels them to take all their iron from the interior of Pennsylvania and the Atlantic slope, and thence around by Cape Horn to California. So with the branch roads; they are required to carry their iron by railroad transportation from the place of manufacture across the continent, now four hundred miles west of Omaha, while the English railroad iron can be brought up in steam vessels and be landed at Omaha. The difference in cost to the railroad company will be considerable, while the revenue derived from this iron, if imported, will be about three quarters of a million dollars. The rolling-mills will not be materially injured, because they are all kept in full blast, and if a dozen more were constructed they would have enough to do to supply the railroads of the United States with iron.

I think these are the only facts that bear upon it. I always thought the restriction a severe one, but just now it is oppressive. If suspended for two years by that time we may have rolling-mills enough in this country to supply the demand for railroad iron. So far as my State is concerned, we are not at all interested in the matter; the roads are far beyond our reach; but I feel that it is just and right to this road, in which the United States have so large an interest, that this restriction should be removed.

The amendment to the amendment was agreed to.

Mr. SPRAGUE. I desire to offer an amendment, on page 89, section fifteen, at the end of line nine, to insert:

Provided, That all animals imported from Europe for breeding purposes only shall be admitted free.

Does the Senator from Maine assent to this amendment?

Mr. FESSENDEN. I will ask the Senator what he proposes to do with race horses? They will come in under that head. If you say "for breeding purposes only," how are you going to distinguish?

Mr. SPRAGUE. I do not desire to take up the time of the Senate on this proposition. I believe every Senator will appreciate the importance of it. If we can raise the value of the stock of this country by importing animals from abroad that have received the attention for ages of the ablest and best practical experience of the time and of the world, the advantage to this country will be incalculable. I cannot conceive of anything that would be more to the advantage, to the wealth, and to the prosperity of this country, of its agricultural, its manufacturing, its commercial, and other interests than the adoption, as a general principle, of the introduction free of superior breeds of animals. By so doing you will enhance the value of your live stock incalculably. The importation of superior stock has done wonders in certain sections of this country; and if we can extend it throughout the country the wealth that will be created will be astonishing. I would apply it to any kind of stock. I think that the emulation created by the introduction of the race horse would far more than compensate for the amount lost to the revenue by his introduction free of duty.

The question being put on the amendment, there were—ayes 5, noes 6; no quorum voting.

Mr. TRUMBULL. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. I should like to inquire of the Senator from Ohio, [Mr. SHERMAN]—I suppose he is familiar with the subject—what amount of revenue during the past year has been realized from the importation of live stock. I should like to know how far this proposition will affect the revenue of the country. I suppose not very seriously. The object of the amendment, as I understand it, is to encourage the importation of blooded stock. Certainly that is of very great importance, and if the Government can contribute anything toward that I think it would be very well to do so. I cannot see how Senators who vote annually very large appropriations for the Agricultural Department can question this proposition.

Mr. SHERMAN. The duty on the blooded stock imported during the last year amounted to \$24,000.

Mr. HENDRICKS. Then it is a very trifling question to the revenue; very trifling, indeed. As I was going on to say, I cannot see why a Senator who votes appropriations for the support of the Agricultural Department, and who voted in former years for the appropriation of land to agricultural colleges in the States, should oppose this proposition. It is a proposition in favor of the agricultural interest, to encourage the cultivation and the raising of fine stock in this country. There is no reason why we should not have stock in this country equal to that found in any country. I think the amendment ought to be adopted. It seems to me it ought not to be questioned.

Mr. SPRAGUE. I can only say in reference to this subject that the expense of importing blooded stock is so great that it requires the combination, as a general thing, of companies before they can bring any superior stock from Europe here. The insurance companies refuse to insure animals of that character, or indeed any animals from that considerable distance, and the importers are obliged to take the whole risk. In the locations in this country where companies have been formed and where this superior blooded stock has been introduced it has increased the value of the stock many hundred per cent., and my desire is that it should not be confined to localities, but that it should extend throughout the whole country. There is a great loss in this importation. Not more than a year or two ago the

value of thirty-two horses imported in this way of from \$100,000 to \$150,000 was lost. Of course all this discourages the importation, discourages the enterprise; and we are obliged to depend upon our natural stock which does not improve upon itself. It needs the introduction of stock that has been brought up by experience, by the application of money and of attention in those countries that have devoted so much time to it.

I should not think it would require the attention of the Senate a moment to accede to this proposition. Stock is free everywhere else. They invite its introduction by all sorts of inducements in every other country, and consider it a matter of vast importance that the stock of one country that has become superior in that country should go into another, and in that way improve the stock of the country into which it is introduced.

Mr. SUMNER. I shall vote for this proposition, because I believe that the introduction of good stock will add to the public resources. I vote for it on precisely the ground on which I have made my various propositions for cheap books. The Senator from Rhode Island voted against the introduction of cheap books.

Mr. SPRAGUE. No, sir.

Mr. SUMNER. I beg the Senator's pardon; he voted against introducing cheap books into the country, through which I hoped to elevate the education of the land.

Mr. FESSENDEN. What is the connection between the two?

Mr. SPRAGUE. I beg the Senator's pardon; I voted for it.

Mr. SUMNER. I stated the connection. The argument in favor of the proposition of the Senator from Rhode Island is, that the introduction of this stock will add to the public resources and the public wealth and will raise the standard of the cattle and of horses. The introduction of good books will raise the standard of something higher than cattle or horses, of men. The Senator from Rhode Island, however, voted against that. I listened to his argument in favor of his own proposition. I simply apply it to mine. He did not say one word in favor of introducing his stock free of duty that is not completely applicable to the introduction of books free of duty. I shall vote with him, however.

The question being taken by yeas and nays, resulted—yeas 20, nays 11; as follows:

YEAS—Messrs. Buckalew, Cragin, Davis, Doolittle, Fogg, Fowler, Grimes, Harris, Henderson, Hendricks, Johnson, Norton, Patterson, Sherman, Sprague, Stewart, Sumner, Trumbull, Wade, and Yates—20.

NAYS—Messrs. Conness, Edmunds, Fessenden, Frelinghuysen, Howe, Morgan, Poland, Van Winkle, Willey, Williams, and Wilson—11.

ABSENT—Messrs. Anthony, Brown, Cattell, Chandler, Cowan, Creswell, Dixon, Foster, Guthrie, Howard, Kirkwood, Lane, McDougall, Morrill, Nesmith, Nye, Pomeroy, Ramsey, Riddle, Ross, and Saulsbury—21.

So the amendment to the amendment was agreed to.

Mr. SPRAGUE. On page 35, section seven, line two hundred and forty-one, I move to strike out "six" and to insert "eight;" so that the clause will read:

On files, file blanks, rasps, and floats of every description, not exceeding ten inches in length, twelve cents per pound, and, in addition thereto, thirty per cent. *ad valorem*; over ten inches in length, eight cents per pound, and, in addition thereto, thirty per cent. *ad valorem*.

I desire to say that I have conferred with the chairman of the committee, and also the Commissioner of the Revenue, and they make no objection to this amendment.

Mr. FESSENDEN. I make no objection to it.

The amendment to the amendment was agreed to.

Mr. SPRAGUE. On page 31, section seven, line one hundred and fifty-three, I move to strike out "five" and to insert "seven;" so as to read:

On horseshoe nails, all kinds, seven cents per pound. This has also received the assent of the commissioner.

Mr. WILLIAMS. I do not know that every-

body in the Senate is bound if the commissioner has agreed with the Senator to raise the price of these articles. We are proceeding here, step by step, and raising the tariff upon all these articles—

Mr. SPRAGUE. I will observe that the tariff is the same as the old bill on this article.

Mr. WILLIAMS. What "old bill?"

Mr. SPRAGUE. The present law.

Mr. FESSENDEN. How many are imported?

Mr. SPRAGUE. You may import a great many under the increased duties on iron and rails, and I have no doubt there will be.

Mr. WILLIAMS. I think these numerous amendments that are made may work great injury to persons concerned. To add two cents, making the duty on horseshoe nails seven cents instead of five, is adding a very considerable tax, as it strikes me, to the article, and will make it much more expensive to the consumer. However, I do not speak particularly about this amendment, but about these numerous amendments. If you put all these little amendments together they entirely change the nature and effect of this bill, and the tariff that is imposed upon these various articles amount to very much more than those who have examined the subject suppose to be necessary; but there seems to be a determination to keep adding, piling one tax upon another here, without any particular reason that I can see. Some Senator rises and makes a motion to add two cents or three cents or any sum to the tax already fixed, and it seems to go through without much objection. So far as I am concerned I object to it.

Mr. FESSENDEN. I do not care much whether this amendment be adopted or not; but I agree entirely with the honorable Senator from Oregon as to these continued amendments. No horseshoe nails have been imported into this country, and none can be. We shall manufacture them all for ourselves, whether the duty is five or seven cents. There is no importation, no competition—

Mr. CONNESS. They are just as safe from competition as screws.

Mr. FESSENDEN. Exactly; just as safe as any article in the whole tariff. It is merely making the tariff look higher for no possible object in the world. There are none imported, and none will be imported.

Now, I wish to make an appeal to the friends of this bill, if it has any friends in the Senate—I do not know whether it has or not. If they desire to have the tariff passed at this session of Congress they have got to stop this eternal offering of amendments. This is the tenth day that this bill has been under consideration, and the committee took up a little more than one day with their amendments. I do not complain of it, but I ask Senators to consider what has got to be done. We have now got through the month of January and we must adjourn on the 4th of March. This bill must go to the House, must be examined by the Committee of Ways and Means, because they have got to compare it with their contemplated bill affecting the internal revenue. That must be a work of time. They cannot do it in less than a week or ten days, perhaps more. Then it has got to be acted upon in the House, and then come back to the Senate with amendments, and we have got to discuss them, besides all the other business we have got to do. Now, if we keep drizzling along in this way it is impossible that the bill shall become a law at the present session, and I wish the friends of the bill to understand it.

If these amendments were at all material, if the bill could not be corrected in the House, if there is any mistake about it, I would not make these suggestions; but if anything is omitted which gentlemen want, or anything needs correction, it can be done by the House committee. It is important that this bill should get through the Senate, if it is going to get through at all, and that speedily. I know how it works. Every outsider who wants an amendment comes to his Senator or some other Sen-



ator and wants him to move this or that, or writes a letter to somebody to make a motion on this or that, and then he does it "on the statement of a most respectable gentleman who understands the subject." Sir, the thing has run into the ground; it has got to be an absolute absurdity; and the country, if they are not laughing at us, ought to be for the course we are pursuing about it. I leave the further consideration of it to those who are opposed to the bill, and I must say for the gentlemen on the other side who belong to the other party they have given us no trouble at all. What we have had has all been within our own ranks, and we have got to take it, be it more or less.

I repeat, sir, it is of no use at all for us to go on in this way. I believe my friend from Vermont [Mr. POLAND] is the only man in the Senate who has not made a motion to amend or made a speech on this subject.

Mr. FOGG. Oh, no; you must except me. Mr. TRUMBULL. There are many others.

Mr. FESSENDEN. I should like to have them pointed out. There may be one or two more. I do not complain of them, but I wish to say to gentlemen we have got to finish this bill some time or other, and I wish to say particularly to the friends of the bill that the only way we can do it is for them to exercise a little forbearance, and tell their friends who call upon them to have amendments made to go to the House, that the bill cannot be kept here any longer. Unless they will do that we cannot pass the bill and make it a law at the present session.

Mr. SPRAGUE. I do not wish to occupy time on this subject; but I do not mean to receive a reprimand—

Mr. FESSENDEN. I did not mean it for the Senator at all, or anybody in particular. He has been as forbearing as anybody.

Mr. SPRAGUE. I have a duty to discharge, and I intend to discharge it to the best of my ability. I have been waiting here for the last three or four days to get the floor or to retain it on these propositions. Now I know of what I speak. I know all about the making of these horseshoe nails, and I know that the machinery that has been applied to their manufacture has reduced the price of horseshoe nails from fifty cents to twenty cents. It requires a cost of fifty cents to make a pound of horseshoe nails by hand. By the machinery now in operation the consumers of this country are getting their horseshoe nails at twenty cents. The duties are the same as under the present tariff. You have advanced the iron that they import, and which it is necessary for them to import, as it cannot be made in this country, nearly a cent a pound. The waste to get this article into nails is only equivalent, in my judgment, to the amount that you have raised on the iron. So if you want cheap nails you have got to enable these people to carry on their establishments, and to carry them on with imported iron. If you drive them out and let your nails be made by the cheap labor abroad you will be just where you were before and pay forty or fifty cents for your nails. This amendment is to enable you to get and keep cheap nails; and I trust that those who are engaged in agricultural pursuits will see it that way.

Mr. McDUGALL obtained the floor.

Mr. HENDERSON. If the Senator will permit me I wish to move that the Senate take a recess until half past six o'clock.

Several SENATORS. Say seven. Mr. HENDERSON. No; half past six; that is just two hours.

Mr. TRUMBULL. Say seven. We cannot get back here by half past six.

Mr. McDUGALL. All I want to say I shall say in five minutes.

Mr. SHERMAN. Let us take a recess now and you will have the floor in the evening.

Mr. McDUGALL. I am not going to detain the Senate. I only want to make a remark.

Mr. HENDERSON. Cannot you make your remarks afterward?

Mr. McDUGALL. I prefer doing it now. I shall be through in five minutes.

I approve of the management of this measure by the chairman of the Committee on Finance. It did happen that some years ago the Secretary of War recommended the introduction of camels into this country, and I being then a member of the Committee on Military Affairs of the House was assigned to report the bill. I did report the bill; and the first thing that was said to me was by a gentleman who designed to do it in jest, "Refer it to Barnum;" and the thing was lost for the moment. Now, probably the Senator who last addressed the Senate does not know what kind of nails are required to enable a camel to get over the Rocky mountains or the Sierra Nevada. He knows what kind of nails are used in the factories of Rhode Island.

Mr. HENDERSON. I move that the Senate take a recess until half past six o'clock.

Several SENATORS. Say seven.

Mr. TRUMBULL. I move to amend the proposition by saying seven o'clock.

Mr. HENDERSON. I accept the amendment.

Mr. EDMUNDS. I hope the Senate will not take any recess. The Senator from Maine has spoken the words of truth and soberness when he has told us that we have got to stick to this bill if we expect to pass it. We have found by experience that if we go away and undertake to come back here in the evening we are very soon without a quorum. I should hope gentlemen might be able to fast a little while for the sake of getting on with this bill.

Mr. FESSENDEN. I will not undertake to express an opinion or a wish in regard to this matter; but I hope, however, the Senate will either sit straight along now or take a recess, with the understanding that the vote is to be taken to-night upon the bill. ["Agreed, agreed."]

Mr. McDUGALL. Let me ask the chairman of the Committee on Finance if the gentlemen of the majority will stay here to maintain a quorum.

Mr. FESSENDEN. That remains to be seen.

Mr. McDUGALL. I will stay here.

Mr. FESSENDEN. If we are to take a recess I wish gentlemen to understand that if we come back at seven o'clock we are to stay until we take a vote upon the bill.

Mr. HENDRICKS. If the Senate will meet at half past seven o'clock we will accept the proposition.

Mr. FESSENDEN. A recess until seven o'clock gives two hours and a half, and I should think that is long enough for gentlemen to get their dinners.

Mr. HENDRICKS. Some of us cannot get back at seven.

Mr. HENDERSON. I have not offered one amendment to this bill. The Senator from Maine is aware that I shall put no clogs and I never do put any in the way of measures. I am opposed to the passage of the bill, and I desire to offer five or six, or perhaps eight or ten amendments, but I shall not occupy any of the time of the Senate in discussing them.

Mr. FESSENDEN. There will be ample time for that after meeting at seven o'clock.

Mr. HENDERSON. But suppose I cannot get the floor. Friends of the bill have been offering amendments all the time and I have not been able to get the floor yet to offer a single amendment. I shall submit my amendments without discussion, and I will consent to take the vote on the bill to-night if that does not deprive me of the privilege of offering my amendments.

Mr. FESSENDEN. I do not think there is any danger of that. The Senator will probably not be interfered with.

Mr. HENDRICKS. I want to suggest again that we meet again at half past seven o'clock.

Mr. HENDERSON. Seven o'clock is late enough. I insist on the motion that the Senate now take a recess until seven o'clock.

The motion was agreed to.

# EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

## HOUSE BILLS REFERRED.

The bill (H. R. No. 912) making appropriations for the support of the Military Academy for the year ending June 30, 1868, was read twice by its title, and referred to the Committee on Finance.

The amendments of the House of Representatives to the bill (S. No. 525) supplementary to an act to prevent smuggling, and for other purposes, approved July 18, 1866, were referred to the Committee on Commerce.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication of the Secretary of War, transmitting, in response to a resolution of the Senate of January 26, a copy of Major General J. H. Wilson's report on the capture of Jefferson Davis; which was ordered to lie on the table and be printed.

## SIOUX RESERVATION SETTLERS.

Mr. RAMSEY. I move to take up for consideration House joint resolution No. 126, which I am sure will occasion no debate.

The motion was agreed to; and the joint resolution (H. R. No. 126) for the relief of certain settlers on the Sioux reservation, in the State of Minnesota, was considered as in Committee of the Whole.

It proposes to authorize those persons who settled and made improvements upon lands now included in the Sioux reservation in Minnesota, and filed notice of their claims in the proper local land office, before the boundaries of the reservation were definitely surveyed and located, to enter the lands thus settled upon, as in other cases of preemption, upon the payment of \$1 25 per acre, under such rules and regulations as may be provided by the Secretary of the Interior.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

## ORGANIZATION OF THE HOUSE.

Mr. TRUMBULL. I ask the Senate to dispose of House bill No. 874, regulating the duties of the Clerk of the House of Representatives, which was up last evening and was put over at the suggestion of the Senator from Pennsylvania. I have had a consultation with him, and I believe he does not design taking any exception to it now. It will take but a few moments I think. I move to take it up.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 874) to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House, and for other purposes, the question being on the passage of the bill.

Mr. BUCKALEW. I shall not call for the yeas and nays on the passage of this bill, although I am opposed to its enactment. I suppose, however, there would be no advantage in causing its postponement, as I suppose the majority will pass it whenever a quorum shall be present. I think it is questionable whether a law of this sort ought to be enacted to bind the action of a future Congress. I suppose that a new House of Representatives when it is assembled together can act according to its own pleasure. It cannot be bound by any opinion, even if put into the form of a statute, of a prior Congress. I think, therefore, if this subject were debated upon principle it might well be held open to strong objections upon this ground.

Now, sir, the power of the Clerk of the House of Representatives to call the roll of the members-elect I understand to rest upon usage and upon the acquiescence of the House itself. I do not understand that by a statute of the present Congress you can control a future Congress with reference to the manner in which they shall act in their organization or in the discharge of any other duty which par-

ticularly pertains to it as a House. It seems to me at least doubtful. Resting upon acquiescence, the practice of having the Clerk call over the roll of members-elect is a convenient one. But upon former occasions the authority or power of the Clerk against objection has been denied. I remember that it was strongly denied upon one occasion by John Quincy Adams, and that upon another occasion, where the action of the Clerk was excepted to or his authority denied, one of the members-elect was put in the chair for the purpose of organizing the House.

Besides, this bill provides that the Clerk shall put upon the roll the name of no member of the House from any State which was not represented in the prior Congress. Suppose you have a new State admitted into the Union under a public law; the mode of electing members for that State is prescribed by law; members are elected and are present in the House. Under a bill of this kind the votes of those members from a new State would be excluded because the State was not represented in the prior Congress. Perhaps the organization of the House may depend upon the votes of those very members.

Again, it may be supposed that in a particular Congress some State may be unrepresented. There may be some question of contest and no member admitted, and the State thus be unrepresented in the prior Congress.

It seems to me that this bill from the House is a crude measure, one of doubtful propriety, one which ought not to be passed; but, as I said before, as this is one of a series of measures directed to the exclusion of representation from the southern States, as it belongs to a class of legislation which seems to be a favorite one with the House of Representatives, I presume that the majority would enact it if a quorum were present, even upon full debate. For that reason I shall content myself with hinting the reasons or grounds upon which I objected to this bill when it was up last evening, and upon which I shall give a silent vote against it now.

Mr. DAVIS. I call for the yeas and nays on any reading of this bill.

The PRESIDENT *pro tempore*. The bill has had three readings and the question is on its passage. On this question the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. HOWE. I ask that this bill may be laid aside informally for a short time until I can get the action of the Senate on a bill or two which I should like to have disposed of.

Mr. TRUMBULL. I have no objection. I am willing to defer a vote until the Senate shall be fuller, unless the Senator from Kentucky desires to press a vote at this moment.

Mr. DAVIS. No, sir, I adopt the suggestion of the Senator from Illinois.

Mr. TRUMBULL. Let the bill be laid aside for the present by unanimous consent.

The PRESIDENT *pro tempore*. The Chair hears no objection to that course, and the bill is laid aside.

#### DESTRUCTION OF UNITED STATES NOTES.

Mr. HOWE. I move to take up Senate bill No. 302.

The motion was agreed to; and the bill (S. No. 302) for the relief of the American Mutual Insurance Company of New York was considered as in Committee of the Whole. It provides for issuing to the American Mutual Insurance Company of New York eight United States notes of \$1,000 each, not bearing interest, lost or destroyed by the foundering of the steamer Quincy at sea on the 13th of December, 1863; but the company is to execute a bond in the penal sum of \$16,000, to be approved by the Solicitor of the Treasury, indemnifying the United States against any loss on account of the issue of the notes.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### WASHINGTON STREETS AND AVENUES.

Mr. WADE. I move to take up Senate bill No. 272, which provides for ornamenting the streets of the city of Washington. It was prepared by the Committee on the District of Columbia last year, but the season slipped by and it was too late. Unless the bill is passed very soon it will be of no use whatever at this season.

The motion was agreed to; and the bill (S. No. 272) authorizing the corporation of Washington to reduce the width and improve the avenues and streets of that city was considered as in Committee of the Whole.

The bill recites that in consequence of the great width of many of the streets and avenues in the city of Washington the cost of paving thereof falls oppressively upon the property fronting thereon; and for the purpose of reducing such expenses and improving the streets and avenues it is provided that full power and authority be conferred upon the corporation of Washington to prescribe and regulate the width and method of improvement of the carriage-ways and footways, and of all that portion of the surface not included in carriage-ways or footways, of all streets or avenues in the city of Washington which exceed in width one hundred feet.

An amendment was proposed by the Committee on the District of Columbia, to strike out all after the enacting clause and insert the following:

That power and authority be, and hereby are, conferred upon the corporation of Washington, subject to such limitations and restrictions as Congress may from time to time prescribe, to regulate the width and method of improvement of the carriage-ways and footways, and of all that portion of the surface not included in carriage-ways or footways, of all streets or avenues in the city of Washington which exceed in width one hundred feet, saving and excepting Pennsylvania avenue and that portion of Louisiana avenue between Fourth and Fifth streets west, and such streets and other avenues as are now occupied or by law authorized to be occupied by railroads, according to the following plan, namely: the paved or carriage-way shall be in the center of the street or avenue and forty feet wide between the curbs. The pavements on each side thereof shall be fifteen feet wide. The steps shall not extend more than seven feet beyond the building lines, and the residue of the street or avenue between the points already designated shall be reserved for trees and shrubbery; one row of trees to be planted in the pavements, two feet within the line of the curbs, and another row parallel to the first on the residues aforesaid.

Sec. 2. And be it further enacted, That all acts or parts of acts inconsistent herewith are hereby repealed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read a third time, and passed.

#### THE TARIFF BILL.

Mr. FESSENDEN. I now call for consideration on the tariff bill.

The PRESIDENT *pro tempore*. The unfinished business which was pending at the time of the recess is now before the Senate, being the bill (H. R. No. 718) to provide for increased revenue from imports, and for other purposes. The pending question is on the amendment of the Senator from Rhode Island, [Mr. SPRAGUE,] to strike out "five" and insert "seven," in line one hundred and fifty-three of section seven, on page 31; so as to read: "on horseshoe nails, all kinds, seven cents per pound."

Mr. McDougall. Mr. President, I shall not detain the Senate by any discussion of this subject; but there are some questions that might be considered. I spoke this morning of the nails that were used for a camel. I might say something of the nails that are used in the Alleghenies in Pennsylvania, and of the nails that are used in California. I might say that the camels of which I spoke required more nails than any other animal that travels ever introduced into this country, and the camels require larger nails. The trouble with them is that they have immense humps; they can ascend the mountains, but when they descend, on account of the want of gravity of their hinder parts they are very apt to fall on their

heads, and therefore they are not good travelers, although camels are very fine animals. Then there is the California horse; he does not want any nails at all. But I do not understand exactly why there should be a special tax upon nails for horses for the benefit of any particular section of the country. I think this is too near begging, and I believe that no one in the United States of North America should beg.

Mr. SPRAGUE. The amendment is proposed in consequence of the increased duties upon iron. Before the introduction of machinery for the manufacture of horseshoe nails they were made from nail rods by hand, and, as I before stated, it cost to make nails by hand fifty cents a pound. By the introduction of machinery not quite as good nails, but nearly so, can be produced at twenty cents a pound. The parties who have introduced that improvement in this manufacture feel they are in danger of coming in contact with labor at nine or ten cents a day in Russia, Norway, and elsewhere, from which the iron comes to be introduced into these nails. American iron is as yet unsuitable for this purpose. They feel that their business may be injured, and if their business be injured and they driven out in consequence of the introduction of nails from abroad we shall have to go back again to the old prices. Although the Senator from Maine thinks there will be no nails introduced from abroad, he cannot tell what may be introduced in consequence of the increased duties upon iron, and they are afraid that their business will be interrupted. If so the consequence will be that you will go back again to the payment of the old price, which was fifty cents a pound instead of twenty. If the agricultural districts desire to have this arrangement carried into effect, be it so. That is the fact of the case.

The amendment to the amendment was rejected.

Mr. SPRAGUE. The next proposition I desire to submit is one that has been placed in my hands by my colleague, [Mr. ANTHONY,] who is confined to his house. It is not a subject of very great magnitude in the number of men employed, but it is just as much entitled to consideration as if it employed a thousand men and \$1,000,000 of capital. It is in relation to cyclets. I move in line forty-six of section ten, on page 72, to strike out "fifty" and insert "sixty-five;" so as to read:

On cyclets of every description sixty-five per cent. *ad valorem*.

Mr. FESSENDEN. I hope that will not be agreed to. The duty is now thirty-five per cent., and we have raised it to fifty.

Mr. SPRAGUE. In many instances an increase of duty beyond what has been suggested by the Senator from Maine has been asked and has been granted by the Senate. This is not a mammoth interest that comes here and requests an increase that it may go on, but it is an infant interest out of the brain of an ingenious and practical head. A machine has been introduced and is now in operation, which, if permitted to go on, will bring these little things that enter so widely into the consumption of the people to one half the price they have heretofore had them. Give this incipient interest a place to stand on now when all interests are so much in danger, and you will find that in a little while it will not need the protection thus accorded; the provision will soon be a dead letter, for the reason that under this protection our people will be able to go on and produce these articles cheaper than they can be produced abroad where labor and capital are at reduced rates. It is as important that this interest should be cared for as that the largest interest should be; and I trust that the Senate will accord this advance as they have accorded a similar advance in other instances where the question has been discussed.

Mr. WILLIAMS. I will simply say that the gentleman who is engaged in this business was before the committee and exhibited his cyclets

and explained his business to the committee; and after hearing that gentleman and not hearing anything in opposition from any other source, the committee came to the conclusion on his own representations that fifty per cent. was an adequate tariff to impose. I should think that fifty per cent. *ad valorem* ought to be a sufficient protection to a business of this kind. That was the judgment of the committee after hearing this gentleman, who stated his case fully, and I believe his is the only manufacturing establishment of the kind that has been established in the United States.

Mr. McDOUGALL. I fear, Mr. President, that there may be this evil in the present condition of things: persons who are elected to fill high office and handle the affairs of great States and nations take care of themselves.

Mr. SPRAGUE. The gentleman to whom the Senator from Oregon refers writes thus:

"I fear the committee did not fully understand our situation as competitors of foreign manufacturers of eyelets.

The foreign eyelet as now imported under the thirty-five per cent. *ad valorem* duty costs the importers an average of about fourteen cents.

The fifteen per cent. additional, making the *ad valorem* duty on eyelets fifty per cent., will make them cost two and one tenth per cent. additional, making the cost to the importer under the proposed law sixteen and one tenth cents per thousand.

The average cost of the eyelets manufactured by the American Eyelet Company, paying thirty-five per cent. more for stock than its foreign competitors is about eighteen and one half cents per thousand, requiring an additional duty of more than fifteen per cent. to place us on an even footing with our foreign competitors.

"I feel warranted in taking the ground that we, as new beginners in a new business in this country, ought to receive encouragement from the Government by at least being placed on an equal footing with the foreign manufacturer. It would seem that as new beginners, experimenting with new machinery never before used, tested, and perfected, we ought to be protected to a degree that would give us a small margin in our favor, in order that we may not be forced by a combined foreign competition to leave the field for the benefit of European laborers and capitalists.

"I trust that you know enough of the prominent men in our company to be able to satisfy the members of the committee that it is the purpose of this company to manufacture eyelets as a legitimate business, which we cannot do without further protection than what is proposed by the committee under the present state of the market, and with our present facilities."

This is the gentleman who appeared before the committee, and I trust the Senate will accord to him what is asked.

Mr. FESSENDEN. I will only say that we took the gentleman's own statements, took his own figures, and made our calculations upon them. I cannot remember the details now, but I know that we came to the conclusion that fifty per cent. would be enough, and we raised the duty from thirty-five per cent. to fifty per cent.

Mr. SPRAGUE. He says here in a postscript, which I did not notice before:

"I refer particularly in the above to small eyelets. The fifty per cent. may be sufficient for the large sizes of Government eyelets; but the small sizes used in shoes, corsets, hoop-skirts, &c., need further protection, which I have no doubt the committee will see when their attention is called to it."

There can be no doubt as to this being the fact.

The amendment to the amendment was rejected.

Mr. SPRAGUE. I move to amend by inserting after line two hundred and ninety-three of section seven, on page 37:

Additional specific duty on machinery, namely: On coarse roving machines or slubber spindles, thirty-nine inches long, and upward, \$1 50 per spindle.

On fine roving machines or fly-frames for spindles, less than thirty-nine inches long, \$1 25 per spindle.

On spinning or throstle-frames, with or without spindles, sixty cents per spindle.

On mules or jacks for spinning yarn, with or without spindles, thirty-five cents per spindle.

On spindles when imported without the machines, to wit: on coarse roving machines or slubber spindles, thirty-nine inches long, and upward, fifty cents per spindle; on fine roving machine or fly-frame spindles, less than thirty-nine inches long, forty cents per spindle; on twister, spinning, or throstle-frame spindles, twelve cents each; on mule and jack spindles, eight cents each; on spooler spindles, ten cents each; on slubber or fly-frame flyers, thirty-five cents each.

It will be remembered that the Senate has

increased the duty on machinery in this bill from forty-five to fifty-five per cent. It may be that this amendment which I now move is against the interest of the cotton manufacturers of my own section; it certainly is so apparently, and of course contrary to my own interest. But it is shown in the report of the commissioner that all the machinery required in this country is now being built abroad, except in cases where we have become familiar with certain styles of machines that foreigners have not yet been able to build. Of all other machinery foreigners to-day have the monopoly. I have in my hand a letter which indicates how this foreign machinery is introduced. It is not introduced as completed machinery, but as machinery in parts and portions as unmanufactured, though it is in fact manufactured ready to be put up. I have in my hand a letter from one of the pioneer manufacturers of machinery in this country; I do not believe he has his superior in the world; and by the indulgence of the Senate I will read to them some of his ideas:

"The existing tariff discriminates largely in favor of foreign machine-makers—"

Mr. McDOUGALL. Mr. President—

The PRESIDING OFFICER. (Mr. DOOLITTLE in the chair.) The Senator from Rhode Island is entitled to the floor: does he yield to the Senator from California?

Mr. SPRAGUE. No, sir.

Mr. McDOUGALL. I rise to a point of order.

The PRESIDING OFFICER. The Senator from California will state his point of order.

Mr. McDOUGALL. It is that it is not the privilege of a Senator to read manuscript here unless he quotes it as authority.

The PRESIDING OFFICER. The Chair is of opinion that the Senator from Rhode Island is in order.

Mr. SPRAGUE. I will read the letter:

"The existing tariff discriminates largely in favor of foreign machine-makers, so much so that the majority of the machinery now being ordered is to come from abroad. Our prices here are very low compared with the exorbitant cost of material and the high rate of wages, yet if it were not for the small orders that do not pay to go to Europe for and the superior quality of the American machinery we should have nothing to do. Everything would come from abroad. The present rates of duty, which are mostly specific, amount to fifty-eight per cent. on pig iron, sixty-seven per cent. on refined bar iron, sixty-seven per cent. on spring steel, and thirty-three and one half per cent. on machinery steel. Beside we have to pay five per cent. on the selling price of the finished machine internal tax, and the effect of this tax on wages, &c., will amount to five per cent. more, while the duties of foreign machinery are only thirty-five per cent. The duties on the materials of which any English machine is constructed would come to more money than on the finished machine.

"We therefore have not only the cheap foreign capital and pauper labor to contend with, but unequal duties and our internal taxation. There is a provision in our present tariff, it is true, that machinery which is composed partly of steel shall pay a duty of forty-five per cent., but importers evade this clause by boxing the steel parts, such as spindles, &c., in separate boxes and entering them as a manufacture of steel, while the great bulk of the machines come in as manufactures of iron. Therefore, I think that the duties on machinery should be the same whether made of steel or iron, or steel and iron, or brass and wood. With the present rates of duty on materials, taking our internal taxation into account, the duties on machinery ought to be at least sixty-five per cent. How much you intend to raise the rates on iron, steel, &c., I do not know, but the rates on machinery ought to be in proportion. The raising of the duties on iron, steel, &c., I suppose is for the benefit of those who are connected with the iron and steel interests. This is all well enough, but of what benefit will it be to them if the manufactures of iron are not protected also? Who will buy their iron if all the manufactures that are made of iron come from England? The machine manufacturers of this country ask no favor of John Bull, nor any exclusive privileges from our own Government; all we ask is to be placed on an equal footing so far as duties and taxes are concerned, and to do this I am of the opinion that with your new rates of duty the rate on machinery will have to be raised to one hundred per cent."

It is, Mr. President, a startling fact that the machinery of this country is now being produced abroad; and it is also a startling fact that almost every commodity known to American consumption is also at the present time being produced abroad. I think that during the nine days this bill has been before the

Senate Senators have lost sight of, or have shut their eyes to, the exact condition of the country, or the condition in which it was when they left their homes to come here. There has been no revival of business at home since then. Everything is stagnant. The industry, the labor of the country is now unemployed, or about to be thrown out of employment. The reason is very plain, and the results are manifest.

But, sir, it is suggested that the Senate has become tired of the agitation of this question, and of the interest which members have shown concerning this bill. Sir, it would seem to me very strange if Senators did not take an interest and feel anxious in relation to matters connected with the interests of the people. When the whole country is anxious and trembling under the weight of taxation and the heavy burdens imposed upon the people for the last five years, it is to me passing strange that members of this body, representatives of the people, are unwilling to take cognizance of their interests. I am glad that there are in Washington men from the northern States who have come down here to attend to their interests; and but for those men during the past five years where would your country be to-day? If those men had not been willing, had not been able, and had not stood ready to give their support to this Government, what would you have done?

Sir, I know something about the beginning of this war. I know the fear and trembling that existed all over the country. I know who were the men that came up and responded to the call of the Government, and aided you in obtaining and maintaining the stand that enabled you to carry the war to a successful conclusion. Those men are here to-day, and they demand, for the sake of their country, for the sake of their wives and children, for the sake of the communities around them, that the Senate should take an interest in what concerns them; and that which concerns them concerns all the patriotic people who have done so much to vindicate the rights and to establish the principles of free government. For myself, I am unwilling that any interest with which such people are connected should be prostrated or should not receive proper attention. Here is one that now is in the hands of the enemy—the enemy of this people and of this Government; in the hands of a people and a Government who would have turned every one of you over to the tender mercies of the rebels if they had the power. They did make the effort, but were unsuccessful. Will you now put this advantage into the hands of a Power that thus acted, and that in your weakness evinced a desire to prostrate you, and are now really as willing and desirous to prostrate you as they were then? For my part I am unwilling that that condition of things shall be.

I heard with a good deal of regret the remarks of the honorable chairman of the Finance Committee in reference to this bill just before we left here this afternoon. He spoke to the friends of the measure, and told them that they should not heap amendments upon it; that they should not be representing their constituents and the constituents of others, for, as I take it, members here are not only representing the interests of their own State, but the interests of almost every other State. Such has been my position. There are but few of the interests that I have taken charge of here which are located in my own State—not more than one or two. But while there is an enemy in the Opposition, and one who has been prominent in getting up this bill, it does not come with a very good grace from that Senator to remind members who are favorable to this measure in this way. When I suggest that, I mean that the commissioner, who is now more powerful upon this floor than any one else, who occupies a seat here, and receives more attention than any member, desires that this bill should be defeated.

Will it be defeated? If the Senate are willing to follow that lead blindly, as they seem to



have shown a disposition to do, they will undoubtedly defeat the bill; but I trust there is more independence, more manhood, more determination, more will on the part of the members of the Senate than to follow any man's lead. At any rate I hope they will not follow any man's lead unless that man has shown that he is entitled to respect and to consideration for the services he has performed, and certainly not the lead of a man who has obtained an uncertain reputation from a book in which we are informed that the experiences of the past are no criteria for the administration of the future. According to that authority you are not, Senators, to look at the management of States and nations that have heretofore existed in judging how you are to act to-day; but you are to act upon new theories and introduce new elements. If that be the course you are to pursue, my judgment is that you will have a very difficult problem to solve.

That the American people will respond to all the additional burdens that may be placed upon them by inconsiderate and thoughtless legislation I do not believe. I do not believe it is possible for them to go on much longer with this pressure. I think they have been burdened almost as much as they can bear, and the slightest additional weight will have a tendency to, and will in fact, crush out the enterprise, the energy, and the prosperity of your people for the next twenty years. You should act with great care and consideration, and not become tired in investigating their interests.

The proposition before the Senate is, as I have said, rather against my personal interest; but I believe the machine-shop is as necessary to all the industrial interests of the country as those interests themselves, and if you sacrifice them you sacrifice all your interests. Here are men that are skilled in the making of machinery, that are educated in the working of iron and steel and copper; they have grown into that education from long years of experience and study. Whether you will permit them to be turned out of employment and give this business altogether into the hands of foreigners is for you to determine. I do not believe that is the sentiment of this body; I do not believe that is the sentiment of the American people; at any rate, I trust not. I am sure it would not be if they could understand the results of such a policy. The results of it are disaster. I know that if all our interests, great and small, are not carefully and tenderly adjusted the consequences will be disastrous to the country, and you will wake up to that sad reality when it is too late.

I hope, sir, that this amendment will prevail. It simply gives protection in the point urged by the gentleman whose letter I have read, so as to prevent the introduction in boxes of portions of the machinery as unmanufactured when it is in reality all ready to be set up. It adds a duty of nearly ten per cent. It specifies spindles and the various articles of cotton machinery separate from the main machine, and gives an additional duty of ten per cent. which is as little as this interest can possibly do with.

Mr. McDOUGALL. Mr. President, I am very ignorant about many things, and can be informed undoubtedly by the Senator from Rhode Island. Perhaps he can interpret to me what "spindles" mean.

Mr. SPRAGUE. I refer the gentleman to the dictionary.

Mr. McDOUGALL. Which one?

Mr. SPRAGUE. Webster or Worcester: take your choice.

Mr. McDOUGALL. Ah! Then you adjourn the question to the dictionaries!

Mr. SPRAGUE called for the yeas and nays; and they were ordered; and being taken, resulted—yea 1, nays 28; as follows:

YEA—Mr. Sprague—1.

NAYS—Messrs. Buckalew, Cattell, Conness, Craig, Davis, Doolittle, Edmunds, Fessenden, Fogg, Foster, Fowler, Frelinghuysen, Grimes, Henderson, Howard, Johnson, Kirkwood, Lane, McDougall, Patterson, Poland, Ramsey, Stewart, Van Winkle, Willey, Williams, Wilson, and Yates—28.

ABSENT—Messrs. Anthony, Brown, Chandler, Cowan, Creswell, Dixon, Guthrie, Harris, Hendricks,

Howe, Morgan, Morrill, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Saulsbury, Sherman, Sumner, Trumbull, and Wade—28.

So the amendment to the amendment was rejected.

Mr. FRELINGHUYSEN. I regret, Mr. President, to occupy any of the time of the Senate, and I have occupied as little as possible of it during this investigation, but I desire now very briefly to submit two or three amendments without discussing them. On page 83, line seventeen of section twelve, I move to strike out "ten" and insert "fifteen" so as to make the clause read:

On skivers and roans, pickled or salted, fifteen per cent. *ad valorem*.

On these skivers here spoken of as salted one half the work is done before they are brought here. In these sheepskins the whole country is interested. Immense quantities of them, I am informed, are now imported.

Mr. FESSENDEN. All I can say is that the committee examined this question very carefully and came to the conclusion that they had fixed the duties about right. If the Senate choose to change them on the statements of interested parties, be it so.

Mr. FRELINGHUYSEN. I suppose they were fixed on representations.

The amendment to the amendment was rejected.

Mr. FRELINGHUYSEN. On the same page, in line twenty-eight of section twelve, I move to strike out "forty" and insert "fifty;" so as to read:

On morocco, enameled, glazed, japanned, varnished, and patent leather, fifty per cent. *ad valorem*.

Mr. FESSENDEN. I hope not.

The amendment to the amendment was rejected.

Mr. FRELINGHUYSEN. On page 73, line eighty-five of section ten, I move after "fur" to insert "and silk;" so as to read, "on fur and silk hats," &c., "fifty per cent. *ad valorem*."

The amendment to the amendment was rejected.

Mr. STEWART. On page 28, line seventy of section seven, I move to strike out the words "not including tagger's iron," and also to strike out lines seventy-two and seventy-three, which read:

On tagger's iron, not exceeding fourteen inches in width by twenty inches in length, thirty per cent. *ad valorem*.

The object of this amendment is to place tagger's iron with the other sheet iron. It is claimed with a good deal of plausibility, and I am convinced that there is something in it, that the bill as it now stands is liable to abuse. It is said that the thickness of tagger's iron not being determined in the bill, the result will be that iron fourteen inches by twenty may be sent here of sufficient size for stove-pipes, and may come into competition with the other species of sheet-iron, tagger's iron being taxed only thirty per cent. *ad valorem*, much lower than the others. It seems to me the bill as it now stands is liable to abuse.

I am informed that there is very little tagger's iron used in the country, not enough to make it an exception to ordinary iron; there is only a small quantity of it used for umbrellas; and placing in the bill this exception in favor of tagger's iron will render it liable to great abuse.

The whole tariff upon sheet iron, medium quality, appears to be lower in comparison than that placed on sheet lead and sheet copper. It appears to be low in comparison even with wire. After having given this subject some investigation I am satisfied that this amendment ought to prevail. Parties are very desirous that the duty on sheet iron should be increased, but I do not propose to offer that amendment. I think striking out "tagger's iron" here and leaving it in the same situation as the other iron is very reasonable, and ought to be done.

Mr. FESSENDEN. I will make a very

short explanation about this matter. We put it precisely at what it was before. Tagger's iron is not made in this country at all. It is imported in boxes, and is principally used for making buttons and things of that sort. A considerable quantity is imported for that purpose. The question was before the committee, and we examined it very carefully on the statement of a gentleman that there might be some danger of fraud, but on inquiry we found that "tagger's iron" was well understood, and that by specifying the size there would be no danger of its being imported under another name. We decided, therefore, to adhere to the rate the House fixed on it.

The amendment to the amendment was rejected.

Mr. FOWLER. On page 1, line ten of section one, I move to strike out "five" and insert "three;" so as to read:

On coffee of all kinds, three cents per pound.

This is an amendment that concerns nine tenths of the people of the United States, those classes who are expected to pay all the taxes. Our taxes, not only those under the internal revenue system, but the impost duties, must be finally collected off the labor of the country. The present tax on coffee is five cents a pound, which is about fifty per cent. I think it is very high; but if that rate were necessary for the payment of the interest on the debt of the country I should not object to it. I have supported all the duties that have been levied on different articles, although our people are consumers, because I believe it is necessary to enable us to pay the interest on the debt of the Government; but I do not think it wise or prudent that the Government should collect more revenue than is necessary for the purpose of discharging its obligations. Last year we collected about one hundred and seventy-nine million dollars from customs duties, much more than was necessary for the purpose I have stated. The Secretary of the Treasury estimates that for the next fiscal year we shall require over one hundred and thirty-three million dollars to pay the interest on our debt, and for foreign intercourse about thirteen hundred thousand dollars, making about one hundred and thirty-five million dollars in gold. I suppose this tariff will yield as much revenue as the existing one, and the Secretary of the Treasury estimates that the existing one for the present fiscal year will raise \$145,000,000; thus making at least \$10,000,000 more than is necessary for the gold wants of the Government. This proposed diminution of the tax on coffee will leave the rate per cent. about thirty per cent., and will diminish the revenue about two million dollars; not more than that. I think this reduction can very easily be made without interfering with the wants of the Government; and it will relieve a very large portion of the community who are expected to pay all the taxes, those men who supply the revenues of the Government by their own labor.

Mr. McDOUGALL. Coffee can be made out of rye or wheat. I have used it many a time. I do not think that there is going to be any great privation to the people of any part of this country by reason of the duty on coffee. I have lived in a community that could not afford to pay high prices for coffee, and they roasted wheat and roasted rye and made those substitutes answer the purpose. This tax does not amount to the magnitude of those nails we heard spoken of recently.

Mr. FOWLER. I should like to have the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. HENDERSON. I move to amend the amendment by inserting "two and a half" instead of "three."

The PRESIDING OFFICER. That is not in order. The proposition of the Senator from Tennessee being an amendment to an amendment, is not amendable.

Mr. HENDERSON. I am inclined to think that the amendment ought to be adopted, or

the duty reduced to two and a half cents a pound. I really cannot tell what amount of revenue will be derived under this bill, nor can any one; but I am inclined to think that under it the revenue will be largely increased beyond the amount received last year. Five cents a pound upon coffee was fifty per cent. on the value of the coffee imported in 1864-65, and between forty-five and fifty per cent. on that imported in 1863-64. It is an article that, although once regarded as a luxury, has now become an absolute necessity to the laboring man, who perhaps uses a larger quantity of it than the wealthy man, who is not compelled to labor for a livelihood. I am satisfied that, so far as the revenue is concerned, this reduction can be safely made; and I am satisfied further that something ought to be done to relieve the people.

Since the bill was reported by the committee the duties have been increased by the Senate; almost every amendment made by the Senate has been to increase duties; I do not know of one solitary decrease. Even the duties on woollens, which were supposed to be very high and against which objections were made on every hand, were increased, and if I am not much mistaken very largely increased, by the amendment adopted this morning on the motion of the Senator from Massachusetts, [Mr. Wilson.] The duties on iron and other materials were surely high enough before; but every time the duties in this bill have been touched by the Senate it has been to increase them. It really seems to me that a decrease can be made in the duty on coffee; and as on revenue considerations it is admissible, a decrease ought to be made.

It will be seen in regard to the article of tea, if you take the importations of 1863, 1864, and 1865, that the present tariff of twenty-five cents per pound is a tariff of one hundred per cent. Here they is a tariff of one hundred per cent. upon an article that is not a luxury but almost a necessity, an article which everybody uses. If it can be reduced, why not reduce it? There will not probably be any more of it brought into the country in consequence of the reduction; it will require no greater exportation of gold to pay for it. People will use it in the same quantity as before. Now, we of the West are compelled to pay a percentage, not only upon the original cost, but upon the tariff duty, and also a percentage to the importer, to the jobber, and to the retailer. And hence it is that an article of Java coffee, which costs in the foreign market between ten and a half and twelve cents per pound; as is shown by the importers' invoices, costs us from thirty-eight to forty-five cents per pound. It will be a very great relief to reduce these duties, and in my judgment the amendment which is offered ought to be adopted.

Mr. FESSENDEN. I will simply state in regard to this question that I suppose every Senator understands the arguments *pro* and *con*. with reference to the duties on tea and coffee. The duties are more easily and surely collected on these articles than any others; and I do not know that there has been any complaint on account of them. The importation has been largely increasing for the last two years. Now, the importation of coffee is about one hundred and sixty million pounds, and the estimated duties accruing for this year will be about eight million dollars. This amendment will strike off about four million dollars. It is quite uncertain how this tariff is going to operate, and it is hardly worth while for us to give up these duties that are certain, and may surely be relied on for revenue. I hope the amendment will not be adopted.

Mr. CONNESS. I wish to say that I shall vote for this amendment because I believe the revenues can afford the reduction, and I am inclined to think that the consumption would increase so that the reduction in the revenue would not be very great.

The question being taken by yeas and nays, resulted—yeas 17, nays 17; as follows:

YEAS—Messrs. Buckalaw, Chandler, Conness, Cra-

gin, Davis, Doolittle, Fowler, Grimes, Henderson, Howe, Johnson, Kirkwood, Lane, Patterson, Ramsey, Stewart, and Yates—17.

NAYS—Messrs. Cattell, Cowan, Edmunds, Fessenden, Fogg, Foster, Frelinghuysen, Howard, Morgan, Morrill, Poland, Sprague, Van Winkle, Wade, Wiley, Williams, and Wilson—17.

ABSENT—Messrs. Anthony, Brown, Creswell, Dixon, Guthrie, Harris, Hendricks, McDougall, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Saulsbury, Sherman, Sumner, and Trumbull—18.

So the amendment to the amendment was rejected.

Mr. HENDERSON. On page 1, line nine of section one, I move to strike out "twenty-five" and insert "fifteen;" so as to read:

On teas of all kinds, fifteen cents per pound.

I have just stated in regard to teas, that the duty is one hundred per cent., as shown by the importations of several years past. It is an exorbitant duty, largely too much in my judgment, and it can be reduced very well. The importations show that the article costs in the foreign market, upon an average, twenty-five cents per pound. We by sad experience in the West find that it generally costs us from a dollar and a half to two dollars and a half per pound. Senators will see that I am correct in my statement of the foreign value by looking at the tables of importation for the last three or four years. In 1863 and 1864 there were imported into this country 87,229,176 pounds of tea at a valuation of \$10,549,880, the duty on which was over nine million dollars. In 1864 and 1865 the importation was 18,595,314 pounds at a valuation of \$4,702,856, and the duty was the same, being just about the original cost of the article in the foreign market. The importation was largely reduced in 1864 and 1865. I have not the tables before me for the subsequent year.

Thus it appears that if we were to take off the duty entirely the loss to the revenue would be perhaps \$4,500,000. By taking off ten cents a pound, of course the reduction will be in the proportion of twenty-five to fifteen, so that we shall lose by my amendment \$1,500,000 of revenue—not exceeding that under any circumstances.

Now, Mr. President, I desire to call the attention of Senators for a moment to the very extraordinary duties of this bill, not that I am going to occupy their time, because I will not do so, but I wish to state some facts that Senators can see by merely examining the bill. I wish to call the attention of the Senate to the extraordinary provisions of this bill which proposes to tax the people of this country one hundred per cent. upon tea, and only from thirty-five to seventy per cent. upon the article of silk. Table salt, which the farmer is compelled to have, which is an absolute necessity, is taxed from one hundred and sixty to two hundred and fifty per cent. under this bill, while the article of silk is taxed from thirty-five to seventy per cent.

The Senator from Maine informs us that it is an easy and simple matter to get revenue from tea and coffee and salt. The Senator from New Jersey stated the other day that we imported last year into the single port of New York \$25,000,000 in value of silks. Is it not just as easy to get a large revenue from silk as from tea or coffee or salt? I cannot for my life see the difference in this point of view. The importations of silk into the country are very regular, and so are the importations of foreign carpets. Inasmuch as we are acting in the direction of having high taxes upon woollens, I ask would it not be as well to put an additional tariff of fifty per cent. upon fine carpets, making the duty one hundred per cent. instead of fifty per cent., which is all the bill now imposes upon the finest foreign-made carpets? Would it not be just as well to increase on that article as to insist on keeping the tariff at one hundred per cent. upon an article that is used at this day by almost everybody?

Mr. President, I sincerely hope that this proposition will be adopted. I am perfectly willing to increase the duty upon silks if gentlemen will say so. I will do it at the risk of increasing the profits of the silk manufacturers. Re-

duce the duty upon the raw material of silk, if you please, and increase it upon the manufactured article. That will be an encouragement to the manufacturers; and if they can profit by it I shall not grumble. But it is a notorious fact that the poorer people of this country, many of those who use salt, tea, and coffee, do not perhaps use twenty dollars' worth of silk during the year. It is the wealthy people, those who are able to pay for it, who use silk. The poorer people do not use this expensive fabric. It is a notorious fact, and it cannot be denied, that the duty upon the very lowest quality of woollen goods in this bill is the highest percentage. Even the ordinary article of carpeting is taxed from seventy to one hundred per cent., while the finest article of carpeting is taxed but fifty per cent. That is true, and is easily demonstrable if any Senator will take the amounts of importation and compare them with the valuation of the articles abroad. Very little will be lost to the revenue, and it will be some relief if this proposition be adopted, as I hope it will be.

Mr. FOWLER. I would like to move an amendment to the amendment if it is in order.

The PRESIDING OFFICER. It is the opinion of the Chair that an amendment to the amendment is not now in order, this being an amendment to the original amendment.

Mr. FOWLER. I shall vote for the amendment proposed by the Senator from Missouri. I believe it is just and equal to the district of country I represent; at any rate, not only the southern but the entire western country. They have little or no interest in the duties that have been incorporated into this bill, and pay them as they would pay a direct tax imposed on them for the support of the Government. Here is a reduction proposed to be made on a certain article that comes in competition with no interest of ours, that injures no branch of industry, that are prime necessities of life; and it is proposed simply to reduce the duty on tea from one hundred per cent. to sixty per cent. This will diminish the revenue about one million eight hundred thousand dollars according to the Treasury report of 1865. We have a margin, according to the Secretary's calculations, as I said before, of about ten million dollars to go on this year, and certainly we can afford to diminish that by \$1,800,000.

I take this subject wholly upon its own merits, and do not propose to contrast it with any other duties that have been assessed, because many of my votes for increasing duties were given cheerfully; but when the article of tea is proposed to be taxed as high as sixty per cent. I think that is sufficient. I regret very much that the amendment I moved before was lost. I hope still to get it up in some other form, and have coffee reduced to somewhere within the bounds of reason.

Mr. MORGAN. I shall be as ready as any other Senator to reduce the duty on both the articles mentioned—tea and coffee; and if it were safe to do so I would be ready to vote for it at the present time; but all the arguments that have been presented in favor of the reduction were considered by the Committee on Finance, because the bill as it came from the House of Representatives came with a reduction, and that point was of course considered. I do not, however, think it is safe at the present time. There is to be a very large falling off in the revenue—very large indeed; much greater than is calculated upon; and I think it is much safer to adhere to the bill as reported by the Committee on Finance. I hope the amendment will not prevail.

Mr. JOHNSON. Will the honorable chairman of the Committee on Finance inform me what is the duty under the existing law, and whether it is the same as you propose to make it now?

Mr. FESSENDEN. The same as in the bill. We have made no change.

Mr. GRIMES called for the yeas and nays, and they were ordered.

Mr. HENDERSON. The chairman of the Finance Committee says the committee pro-

pose the present rate. That is so; but that rate was adopted in the midst of war, at a time when we were necessarily compelled to get money from any source whatever.

Mr. FESSENDEN. We are in the same condition now.

Mr. HENDERSON. Why, sir, the tariff yielded \$179,000,000 last year, and has yielded enough to justify an expectation of \$200,000,000 this year so far as the year has elapsed; and there is \$90,000,000 in the Treasury now in gold.

Mr. WILLIAMS. I will state one reason that influenced my mind in assenting to the present duty upon tea. Every body admits that a very large amount of revenue must be raised in the United States to meet the demands of the Government. It appears to me that the most direct and economical way of raising that revenue is to impose it upon tea and coffee and articles of that description. Teas are not necessities of life, although they are very commonly used; and an impost tax upon tea will be paid more readily and with less complaint than almost any other tax. The course that should be pursued, as it seems to me, in reference to taxation, is to raise as much as possible by a revenue upon imports and, if practicable, to reduce the amount of internal taxes. Now, if this tariff is left in the condition that it was reported by the committee, when it becomes necessary to consider the tax upon the internal resources of the country that can be so arranged as to accommodate itself to this tariff, and it will be much more satisfactory to the people, in my judgment, to remove the internal tax as far as possible, and continue the present tax upon tea and coffee, because they can pay this tax without feeling the burden as much as they do when they are required to pay the direct taxes that are imposed upon the business of the country. I think it is better, therefore, to retain this duty, and if it is necessary to relieve the people, relieve them by removing internal revenue taxes.

Mr. FOWLER. One remark in reply to that. I cannot see the difference between paying taxes going to market and paying taxes coming from it. I do not see any advantage in taking the internal revenue off and putting the same burdens on to the custom-house. One has to be paid in gold and the other in currency. The customs duty is paid in gold and the Treasury has the opportunity of selling surplus gold and paying somebody for selling gold and getting currency. We have an enormous amount of gold on hand—more than is necessary, and the Secretary of the Treasury is authorized to sell gold and regulate our currency. I prefer reducing the amount of revenue to that which is necessary and no more. I think we shall get much more than is requisite for our purpose. There is no probability there will be such an immense falling off as from \$200,000,000 to \$145,000,000, the amount estimated by the Secretary of the Treasury as necessary.

Mr. DAVIS. Mr. President, one proposition is certainly undeniable, and that is that there might and ought to be a large reduction of taxation either of duties on foreign imports or of internal taxes. If a proposition to reduce internal taxes would operate as extensively and as impartially upon the people of the United States as a proposition to reduce taxes upon foreign imports it would be as broad as it was long, and it would be as advantageous to reduce upon the one class of taxation as upon the other. But the proposition now is, as it was in the preceding amendment, to reduce taxes upon the importation of articles that are introduced from foreign countries and are not produced by ourselves at all. Is it proper? If we are to begin the system of the reduction of taxes we ought to begin to operate as extensively, as equally, and as impartially upon all the people as possible. In relation to the proposition, then, of the Senator from Tennessee, to reduce the tax upon coffee, what reduction of tax could operate so extensively and so impartially on the people

of the United States as that? What other reduction of taxation upon any subject could operate with anything like approximate generality, equality, and impartiality as the reduction of the duty upon teas? These are articles of prime necessity and of universal use, that are not luxuries, that are not even comforts, but that are the necessities of life and essential to the comfort of the great mass of the American people. When there is a proposition to reduce taxes upon such articles what can be a better subject of equal, even, and impartial reduction of taxation to all the people? The idea that it is more simple and more easy to collect upon tea and coffee than it is upon the silks or any articles of internal taxation is preposterous. It is just as easy to collect taxes upon any subject of internal taxation as it is upon tea and coffee?

Mr. WILLIAMS. Is it as easy to collect the tax upon whisky?

Mr. DAVIS. Certainly it is, if you reduce that tax to anything like a reasonable amount. Reduce the tax from two dollars to one dollar a gallon upon whisky and you will collect more revenue, and you will not have one tithe of the perjuries, one tithe of the frauds that are now practiced every day. Here are certain essential, stable, necessary articles entering into the consumption of the entire people of the United States. They are not produced in our country at all. Their production and importation do not come into competition with domestic labor. They are not produced in any degree in our own country; and yet they are articles of such general, absolute use, so necessary to human subsistence and human comfort, and so generally and almost universally used by our people, that a reduction upon no subjects of taxation can operate so impartially, so justly, and so equally as upon these. Then why should the Senate hesitate a moment to reduce the tax upon tea from twenty-five to fifteen cents and on coffee from five cents to two and a half or three cents? Why should there be any hesitation to adopt the amendment of the Senator from Missouri? I do hope the amendment will be adopted.

Mr. McDUGALL. In the country where I reside we are growing tea now, and we are producing coffee, and it is supposed to be as fine a tea and as fine a coffee land as there is in the world, Java not excepted. Now, we do not ask protection for it. We do not ask protection for the tea and coffee grown in California and Arizona and Sonora, the countries we intend to occupy.

The question being taken by yeas and nays resulted—yeas 15, nays 24; as follows:

YEAS—Messrs. Buckalew, Chandler, Conness, Davis, Doolittle, Fowler, Grimes, Henderson, Hendricks, Kirkwood, Lane, Patterson, Ramsey, Trumbull, and Yates—15.

NAYS—Messrs. Cattell, Cowan, Cragin, Edmunds, Fessenden, Fogg, Foster, Frelinghuysen, Harris, Howard, Howe, Johnson, McDougall, Morgan, Morrill, Poland, Sherman, Sprague, Stewart, Van Winkle, Wade, Willey, Williams, and Wilson—24.

ABSENT—Messrs. Anthony, Brown, Creswell, Dixon, Guthrie, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Saulsbury, and Sumner—13.

So the amendment to the amendment was rejected.

Mr. HENDERSON. I move to amend the bill on page 2 by striking out of line eighteen of the first section the word "three" and inserting "two;" so as to read:

On all sugar not above No. 12, Dutch standard in color, two cents per pound.

In looking at the table of importations for 1865, I find that of this description of sugar we received 519,475,697 pounds, at a gross value of \$21,895,042, so that the article cost in the foreign market four and one tenth cents per pound, and the duty upon it is three cents, which is a tax of seventy-three and one sixth per cent.—a much larger duty than is imposed upon any article of silk manufacture that comes into the ports of this country, and half as much as there is on salt.

I find that of the article of sugar from No. 12 to No. 15 Dutch standard, there came into this country seventy-five million pounds at a

gross value of \$3,000,000, costing four and one seventh cents per pound. The duty is three and a half cents, which is eighty-four per cent. *ad valorem* upon this article. Of sugar No. 15 to 20 Dutch standard, there came into this country 12,741,808 pounds, at a valuation of \$659,582, or five and one sixth cents per pound, and the duty is four cents, which is seventy-seven and one tenth per cent. upon the article. Of sugar about No. 20 Dutch standard, there came into this country 918,315 pounds at an aggregate valuation of \$59,996—making six and a half cents a pound, foreign value. Upon that we impose a duty of five cents per pound, or seventy-seven per cent.

Now, I appeal to Senators to know whether this policy is to be carried out, whether it is designed to increase the duty upon manufactured articles, almost to a prohibitory extent, and then force us to pay on necessary articles all that may be required to pay the interest of the public debt; and after this bill shall have been passed then reduce the internal taxation upon manufactured goods? Is that the purpose? Why not openly proclaim it now, and let us put on duty enough at once, and let it all stand in the name of tariff; let it stand and be known as a bounty to that interest? If the purpose is to make the absolute necessities of life pay the interest upon the public debt, and to impose prohibitory duties upon articles which may be manufactured in this country, and then to reduce five per cent. internal revenue upon manufactured articles, I believe the people will sooner or later ascertain what this tariff bill means.

I have desired to move some amendments, and I hope that some will be adopted, but from the purpose manifested by the Senate now I have no idea that it will be done. Although I dislike as much as anybody to differ with a majority of those gentlemen with whom I act politically here, I shall be pardoned for suggesting to them that the majority of the western people are not in favor of any such duties. That is the general policy of this bill. I do not know what the committee of conference may do, but I apprehend from the purpose manifested and from the indications of the purpose which are apparent, that inasmuch as there must be a reduction of taxation, it will be made entirely in the internal revenue after the passage of this tariff bill. Mr. President, it ought to be known by the people of this country, and it will be known, that the articles of absolute necessity are the articles having the highest *ad valorem* duty in the bill.

Mr. FESSENDEN. I hope this proposition will not be entertained. When you come to sugars the argument used as to tea and coffee does not apply. The fact is that the duty on sugar is one of the leading stays of the revenue. We get about twenty-eight millions of revenue, I think, from sugars.

Mr. HENDERSON. Not quite that.

Mr. FESSENDEN. Very nearly. Then there are various considerations connected with the subject. In the first place, a duty is laid upon the cheap sugars to protect and encourage the raising and manufacture of sugar in the sugar-producing regions of this country, in the South, where at one time it was a very considerable interest and I hope will be again. It has been my wish—and other gentlemen have agreed with me that it would be no more than right—to take off the internal tax on sugar for the sake of encouraging its production and manufacture at the South; and a duty on low-priced foreign sugars is necessary for the same purpose.

It is necessary for another purpose. There is a very large amount of capital invested in the manufacture of cheap sugars out of molasses; and if you change this duty you will have to make changes in many other particulars, and there is great danger of destroying that interest.

Then, with regard to the duties on the higher grades: they are already so low that we have been applied to very strongly on the part of the New York refiners to raise the duties on those sugars for the reason that they say there



is a new process by which these sugars, without being refined, come so near it that they are in danger of being broken up. We did not change the sugar duties. The House Committee of Ways and Means examined the subject with great care, and the House adhered to the duties as they stand. We examined the matter with care, and rejected all applications to raise the duties on sugars and agreed to let them stand as they are. I hope the Senate will not change them, for I assure them they cannot interfere with the duties on sugar without seriously endangering the revenue of the country.

Mr. DAVIS. If I recollect aright, for a series of years the duties upon coffees and teas were nothing or merely nominal; and why was it so? The considerations were two: first, because these articles were not produced in our country, and to tax them was not necessary to protect American industry; and secondly, they were articles of general, universal consumption, and they were consumed in as large or a larger degree by the laborers, the poor, as by the rich. It was for the purpose, then, of letting in free and reducing to the lowest possible price what was necessary to pay for these articles of general use, of universal necessity, that did not come into conflict with any American industry or product, that that system was established. If that system was wise and statesmanlike and necessary in former years, it is more so now. The great mass of the people, the consumers, the laborers, who are the real bone and sinew of the country, and upon whom rest its progress and its prosperity and wealth, are the population who were intended to be and were relieved by that system of legislation. They are entitled to and require more relief in that direction now than formerly, because their industry is not rewarded now with the same certainty nor with an equal amount of profit that it was formerly. They are taxed now in such a variety of forms and to such an amount that they have no profits upon their labor in most cases.

I conceive that this term tariff has the significance intimated by the Senator from Missouri; it is not intended to protect the laborer, the consumer; it is intended to protect capital and manufacturing companies and aggregated wealth, and to multiply the already enormous accumulations of wealth in the hands of the few. I think with the honorable Senator from Missouri that the people of the country will wake up before long to this system of legislation.

If it was possible to establish infallibly the principle that every man of the community should pay taxes according to his ability, it would be the just rule. The principles upon which this bill was framed seem to be in hostility to that general and equitable principle; the great mass of taxation is made to fall upon the laboring classes of the people, those who have the least surplus and the least means to meet the burden; and those who have the most and who are reveling in wealth and who are aggregating from day to day princely fortunes, are comparatively exempt from the burden, and it is left to fall with all its grinding force upon the laborers, the great consuming classes of the country. I hope that this amendment will prevail.

Mr. HENDERSON. I have in my hands the report of the Commissioner of Internal Revenue, and the Senator from Maine will see from that report that if he relies upon the manufacture of sugar from the sugar-cane in this country to supply its wants he relies upon a broken stick.

Mr. FESSENDEN. I did not say we did in this country, except what we propose to raise down South. I know there is very little raised now, but we hope to improve.

Mr. HENDERSON. The Senator is as well aware of the fact as I am that no sugar can be produced in the State of Louisiana next year, and that is really our only sugar-producing State. It is as impossible to do it as it was last year. It cannot be done. The levees

have not been built. There was a proposition here at the last session, I believe, to levee the Mississippi so as to protect the sugar lands of that country; but it was not done, and the State of Louisiana has not been able to negotiate her bonds. From the vast amount of snow that has fallen on the upper waters of the Missouri and Mississippi we know that the lower Mississippi will next spring and summer be probably higher than has been known for years. The snows now are from eighteen inches to five and six feet upon the headwaters of both these streams, and the most certain fact is that the entire country will be flooded. As to growing any sugar-cane in Louisiana next summer, it is wholly out of the question; nobody calculates upon any such thing who knows anything about that country.

Mr. FOWLER. I should like to ask the Senator from Missouri one question connected with that argument. Supposing that Louisiana shall produce sugar, do you propose to tax the other States from seventy to eighty-five per cent. to pay the planters of Louisiana for the small amount of sugar they raise there?

Mr. HENDERSON. I was not so arguing. I was answering the Senator from Maine, who, I understood, contended that it was necessary to protect the home manufacturer of this article.

Mr. FESSENDEN. Protect and encourage.

Mr. HENDERSON. Now, Mr. President, let us look at the internal revenue figures. On sugar not above No. 12, Dutch standard, produced from the sugar-cane, the amount of revenue paid into the Treasury last year from the State of Louisiana was \$205,629 28; from the State of Georgia, \$85 88; from the State of Massachusetts, \$315; from the State of New Jersey, \$260; from the State of New York, \$500; and from the State of Texas, \$754. The whole bulk of it comes from Louisiana, and the aggregate was \$207,000. On sugar above No. 12 and below No. 18, Dutch standard, the State of Louisiana gave us \$215,000, and the other States in about the same proportion as before, little or nothing. Upon sugar above No. 18, Dutch standard, the State of Louisiana paid only \$14,904.

Thus it will be seen that the position of the Senator from Maine, to take off the internal revenue taxes in order to encourage the production of the article here, does us no good; it does not furnish us any sugar. We got less last year than the year before.

Mr. FESSENDEN. Double from Louisiana this year over last year—sixty thousand hogsheds. Nothing in the country has increased so fast comparatively as the production of sugar.

Mr. HENDERSON. The year before last we could not get any from Louisiana because it was utterly impossible to get it through the lines. If anybody brought sugar out of Louisiana in 1864 he had to run the blockade with it. My proposition is to reduce the tax upon the coarse article of sugar, and I suggest to the Senator from Maine if it is not an encouragement to the manufacturers. Does he desire to encourage the refining of sugar? The sugar-refiners in New York paid into the Treasury last year \$1,198,122 21 internal taxation, more than all the internal revenue raised from the manufacture of sugar in the same time by three. What was it that they refined? It was the coarse sugars from other countries; not our native sugars. Then let us encourage their manufacture. There are now a large number of people in this country engaged in refining sugar. A large quantity of it is refined in St. Louis, in my State. I am not, however, looking to the protection of the manufacturers in my State. They have not clamored around my ears; they have not written me letters upon the subject. I believe they are satisfied. The sugar-refiners there do not ask me to urge the reduction of this tax, nor do any class of manufacturers in my State. The iron manufacturers of that State have said nothing to me about having anything done for their benefit. They do not desire an increase. They are perfectly willing to let the tariff alone as it is; at least

they think it is high enough. The Senate will find that in the State of Massachusetts this article of refining sugar gave us over \$300,000 last year. The State of Pennsylvania gave us \$337,000 on sugar refining.

Mr. WILLIAMS. I should like to ask the Senator what the tariff on sugar was then?

Mr. HENDERSON. The same as now. I do not think it has been altered. I think it is the same as it was under the previous law. But in answer to that I will simply say to the Senator from Oregon that I consented to these high duties myself in the midst of a war that absolutely seemed at the time to require that each and every individual should divide his property with the Government. The Senator knows that fact. I would have voted at that time to go in upon the farmers of my State and taken part and parcel of their property to put down this rebellion. But now that the rebellion is over is it necessary to continue these high rates of duty upon an indispensable article—one of necessity among the people everywhere? It is a coarse article of sugar that is worth a little over four cents a pound. To lessen the duty encourages the sugar-refiners, and not only that, it gives cheap sugar to the people. I insist that for the benefit of the people of the western States this reduction should be made, and it can be made without injuring the revenue. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 12, nays 26; as follows:

YEAS—Messrs. Buckalew, Davis, Fowler, Grimes, Henderson, Hendricks, Kirkwood, Lane, Patterson, Ramsey, Trumbull, and Yates—12.

NAYS—Messrs. Cattell, Chandler, Connors, Cowan, Crazin, Doolittle, Edmunds, Fessenden, Fogg, Foster, Frelinghuysen, Harris, Howard, Howe, Johnson, Morgan, Morrill, Poland, Sherman, Sprague, Stewart, Van Winkle, Wade, Willey, Williams, and Wilson—26.

ABSENT—Messrs. Anthony, Brown, Creswell, Dixon, Guthrie, McDougall, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Saulsbury, and Sumner—14.

So the amendment to the amendment was rejected.

Mr. FOSTER. I ask the indulgence of the Senate for a moment while I offer one amendment. On page 36, section seven, at the end of line two hundred and sixty-one, I propose to add the following:

And in addition thereto, on knives and pocket cutlery valued at two dollars per dozen and over, fifty cents per dozen.

So that the clause will read:

On pocket-knives and pocket cutlery of all kinds, fifty-five per cent. *ad valorem*; and, in addition thereto, on knives and pocket cutlery valued at two dollars per dozen and over, fifty cents per dozen.

The House bill imposed the following duty on these articles:

On pocket-knives and pocket cutlery of all kinds, valued at not over five dollars per dozen, seventy-five cents per dozen, and, in addition thereto, fifty per cent. *ad valorem*; valued at over five dollars per dozen, two dollars per dozen, and, in addition thereto, fifty per cent. *ad valorem*.

This amendment proposes fifty cents per dozen as a specific duty on all knives costing two dollars per dozen and over. The House bill proposed seventy-five cents per dozen on all knives not costing over five dollars per dozen, and two dollars per dozen on all knives costing over five dollars per dozen. It is true that by the House bill they imposed but fifty per cent. *ad valorem*, and the amendment reported by the Committee on Finance proposes fifty-five; but the five per cent. *ad valorem* additional would be of course no comparison in amount with the seventy-five cents specific duty on all knives not costing over five dollars per dozen, and two dollars on all knives costing over five dollars; so that the duty which I propose on this amendment is really very much less than the House bill.

Now, Mr. President, upon all the commodities which are used by the manufacturers of these knives, so far as there has been alteration made, and there has been considerable, the duties have been increased very considerably by the Senate bill over the House bill, while the duties on these articles are diminished. I submit that that is not equal and exact justice.

It violates the principle on which the bill should rest—an increase of duty in proportion to the increase of labor.

Mr. SHERMAN. I should like to have the Senator from Connecticut tell me a single case in which the Senate have proposed higher rates of duty than the House bill.

Mr. FOSTER. On grindstones; on emery.

Mr. SHERMAN. The Senator is mistaken in that. The House bill proposed five dollars a ton on grindstones, and I believe my colleague finally got the Senate to consent to three dollars.

Mr. FESSENDEN. No; he failed in that. We put it at five dollars on the finished article and ten per cent. on the unfinished.

Mr. FOSTER. The Senate raised the amount reported by the Committee on Finance?

Mr. FESSENDEN. No.

Mr. SHERMAN. I cannot recall a single article on which the Senate bill raises the duty above the House rates.

Mr. FOSTER. I was wrong in saying the Senate raised the amount over the House bill. What I meant to say was that the Senate had increased in some cases the amount of duties reported by our Finance Committee on the commodities which are used by the manufacturers of these articles. Now, in order that justice may be done to these manufactures we should certainly increase the amount of duty imposed on these articles imported, if we have increased the amount of duties recommended by the Finance Committee on those articles entering into their manufacture; and I cannot but believe that the honorable chairman himself is satisfied that this is no more than a reasonable increase of duty.

Mr. President, I challenge comparison on this subject with any other article which is now manufactured in the country showing a decrease in price for the last two years. In 1864 the five different grades of knives that are manufactured in this country were sold in New York at these prices: \$2 75 per dozen for one description, and now that same class of American knives is sold in New York for \$2 50 per dozen. Another class which two years ago were sold at \$3 30 per dozen, are now sold at \$3 per dozen. Another class that were sold two years ago at \$6 32½ per dozen, are now sold at \$5 75 per dozen. Another class that were sold two years ago for \$10 55 per dozen, are now sold for \$9 50 per dozen; and another class that were sold at \$22 per dozen are now sold for \$20 per dozen. There is no article of American manufacture, in my opinion, that can show such a decrease in price in the last two years when commodities of all sorts, as a general thing, have been rising.

The English knives of these same grades two years ago were sold in New York at prices higher than the American knives by \$1 per dozen in one case, \$1 70 in another, \$1 84½ in another, \$2 05 in another, and \$1 75 in another. Two years ago the English knives cost those several sums more than the American knives. Now, however, unfortunately for the American manufacturer this is all reversed, and English knives of the first grade are sold in New York to-day for forty cents per dozen less than the American, the next twenty cents, the next \$1 20, the next \$2 50, and the next \$6 70.

I submit to Senators, under these circumstances, that an increase of duty such as I have proposed is the least that will enable the American manufacturer to keep in the market. I put it to Senators that here is as good an exemplification of the effect of the American system on an American industry as we can ever expect to see; that is, by the imposition of a duty we have brought down the price of the article very considerably. The English, however, have reduced theirs in two years below ours, manifestly intending to get the market; and if they do get it the price will go back again to the old standard speedily, because there will be no competition. With this additional specific duty of fifty cents per dozen on knives costing over two dollars per dozen the advan-

tage will still be in favor of the English manufacturer; but the importation will not be decreased below the amount which is now imported, and the revenue therefore will not suffer. The domestic manufacture, however, if this trifling addition is allowed to be put upon the bill, will, I think, be saved, and the price to the consumer will be less at the end of a year than though we reduced this duty. I have a right to say that, Mr. President, because two years ago, when the English price was above ours, by protecting our home article we brought down the English below ours; so that I do not speak hypothetically; I speak with demonstration in my hand. I hope, therefore, that this trifling addition will be allowed.

The PRESIDING OFFICER put the question on the amendment, and declared that the yeas appeared to have it.

Mr. SPRAGUE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 8, nays 25; as follows:

YEAS—Messrs. Cowan, Edmunds, Foster, Harris, Howe, Morrill, Sprague, and Wilson—8.

NAYS—Messrs. Bucklew, Cattell, Chandler, Conness, Cragin, Davis, Doolittle, Fessenden, Fogg, Fowler, Frothinghuysen, Hendricks, Johnson, Kirkwood, Lane, Morgan, Patterson, Ramsey, Sherman, Stewart, Trumbull, Wade, Wiley, Williams, and Yates—25.

ABSENT—Messrs. Anthony, Brown, Creswell, Dixon, Grimes, Guthrie, Henderson, Howard, McDougall, Nesmith, Norton, Nye, Poland, Pomeroy, Riddle, Ross, Saulsbury, Sumner, and Van Winkle—19.

So the amendment to the amendment was rejected.

Mr. HENDERSON. On page 86, section thirteen, line sixty-three, I move to strike out "twenty-four cents per hundred pounds" and to insert "eighty per cent. *ad valorem*;" so that the clause will read:

On salt in bulk, and on all rock salt or mineral salt, eighty per cent. *ad valorem*.

Mr. President, that is ten per cent. higher than the duty upon any article of silk goods imported; it is as high as the tariff upon woolen goods generally; and it really seems to me that the tax upon salt ought to be as cheap as upon the more luxuries of life. I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. HENDRICKS. I wish to ask of the Senator from Missouri, as he has examined this question, what reduction his amendment will be upon the bill itself in the tax upon salt?

Mr. HENDERSON. I can state to the Senator that in 1865 we imported two hundred and seventy million pounds of salt, costing us thirteen cents per hundred pounds. This bill proposes to tax that article costing thirteen cents, twenty-four cents. I propose to put it at eighty per cent., which will be ten and four tenths cents on each one hundred pounds.

Mr. HENDRICKS. I do not intend to discuss this at any length; but it seems to me that the friends of the bill ought to agree to a proposition so reasonable as this.

Mr. SHERMAN. This is the old tax. There is no change.

Mr. HENDRICKS. It is suggested to me that the report of the committee is the old tax. I am not able to see that that is an important consideration. If the old tax is what it ought not to be now, as we are in the work of revising the tariff, we ought to make it what it ought to be.

Mr. HENDERSON. Taxes, like revolutions, never go back.

Mr. HENDRICKS. Yes, Mr. President, that is one of the troubles. When you put a tax on an article, it is almost impossible ever to reduce it again; and here is the argument now applied to salt that everybody needs that we need in very large quantities in the western countries to preserve our meats. Because the tax in the midst of the war, when all the comforts and necessities of life were taxed to the people, had to be very high, the argument now is that we ought not to reduce it.

Mr. HENDERSON. The tax under the old law was eighteen cents, not twenty-four cents. This is an increase.

Mr. FESSENDEN. This is what was fixed by the House and sent to us.

Mr. HENDERSON. But this is not the present law. To suppose so is a mistake.

Mr. HENDRICKS. Then I understand the facts to be, that the existing law taxes it eighteen cents, and the proposition of the bill now is to tax it twenty-four cents.

Mr. HENDERSON. That is it.

Mr. FOSTER. If the Senator from Indiana will allow me, if the importation continued the same the next year as last the addition of six cents per one hundred pounds would tax the country \$355,637 35 on salt alone.

Mr. HENDRICKS. Yes, sir. Now, the answer of the chairman of the committee is that this is the tax proposed by the House. Why, sir, the committee has repudiated the House bill and has adopted another bill. Why do we insist upon having the House bill upon this article, so absolutely necessary? We cannot reduce it, it seems, although the tax was put upon salt during the war; but instead of reducing it we propose to increase it one fourth, from eighteen up to twenty-four cents. I cannot think it is necessary to argue this question with the gentlemen that have an interest in this bill. They certainly ought to give some popular features to this bill, if it is possible to do so. Sir, this is a monstrous bill. When a thing so reasonable and right as this is asked it ought not to be resisted, by the friends of the bill. Here is a necessary of life that cannot be dispensed with, and the tax is unreasonable. If the statement of the Senator from Connecticut is to be relied upon (and I cannot question it, for he has examined the subject) the tax is most unreasonable. It is a tax that ought not to be put hardly upon a luxury. It would be a heavy tax upon whisky; a heavy tax upon brandies or wine.

Some ridicule was made of this the other day, that it did not amount to very much. It does amount to very much to us in the West. When we put up the hogs in the West we need the salt to preserve the meat. It is a tax upon the man who puts the meat up. The Senator from Missouri, who has examined this subject and who proposes this amendment, tells me that the tax proposed by the committee is one hundred and eighty-four per cent.

Mr. FOSTER. More than that.

Mr. HENDRICKS. Well, that is enough.

Mr. FOSTER. On a single cargo imported into New York last year it was one hundred and sixty-two per cent., when the tax stood at eighteen cents on the hundred pounds. This bill proposes to make it twenty-four cents.

Mr. HENDERSON. I take the whole importations of last year.

Mr. HENDRICKS. The Senator from Missouri says, taking the entire importation of the year, twenty-four cents would be one hundred and eighty-four per cent. One hundred and eighty-four per cent. Senators know that that is a tax which will be paid, because salt must be had. If you tax salt five hundred per cent. everybody must still buy salt, because it is absolutely necessary to the comfort of the family; it is absolutely necessary to preserve the meat that is butchered all over the country; and the committee know very well that they will collect revenue in that way. Just so on sugar. They say it is important to the revenue. Of course it is; people must have sugar, and if you tax it three cents a pound of course the people must pay it, because they must have sugar. You tax coffee five or six cents a pound. It will not make much difference in the amount used, for people must have coffee. Then if you put the tax very high on manufactured articles, such as woollens and cottons, and exclude importations altogether, you destroy revenue by your prohibitory tariff, and give the monopoly of the market of the country to the home manufacturer at high prices, and rely upon the absolute necessities of life for the revenue. This salt duty is an illustration. I appeal to gentlemen to do what is now reasonable. Why, it is less than reasonable. The duty proposed by the Senator from Missouri is altogether too

much. I do not think salt ought to be taxed at all. Wherever it can be had it ought to be obtained at the very cheapest possible rate.

Mr. FESSENDEN. I hope this duty will not be changed. The Senate has already passed upon the question once, and the House too. I hope the Senate will adhere to it.

The question being taken by yeas and nays, resulted—yeas 14, nays 20; as follows:

YEAS—Messrs. Buckalew, Davis, Doolittle, Foster, Grimes, Henderson, Hendricks, Kirkwood, Lane, Patterson, Sprague, Trumbull, Wilson, and Yates—14.

NAYS—Messrs. Cattell, Chandler, Connors, Cragin, Edmunds, Fessenden, Fogg, Frelinghuysen, Harris, Howard, Johnson, Morgan, Morrill, Poland, Sherman, Stewart, Van Winkle, Wade, Willey, and Williams—20.

ABSENT—Messrs. Anthony, Brown, Cowan, Creswell, Dixon, Fowler, Guthrie, Howe, McDougall, Nesmith, Norton, Nye, Pomroy, Ramsey, Riddle, Ross, Saulsbury, and Sumner—18.

So the amendment to the amendment was rejected.

Mr. HENDERSON. I desire to offer another amendment on page 65. I had some others reducing taxes, but I am satisfied nothing reducing taxes will be carried. I now propose to increase taxes. I wish now to propose an amendment on page 65, section nine, line six hundred and nine. The clause as reported by the committee reads:

On linseed or flaxseed, sixteen cents per bushel of fifty-two pounds weight.

That was changed to twenty cents, I believe. I now propose to strike out "twenty," and to insert "thirty;" so that it will read:

On linseed or flaxseed, thirty cents per bushel of fifty-two pounds weight.

Now, Mr. President, I will remark that the quotations of this article show that its average gold price in the foreign market is \$1 30 per bushel, and if the duty be put at thirty cents it will only be twenty-three per cent. *ad valorem*. This is an article of western growth. It is an article that my constituents have been petitioning me upon, and I believe the only article. I have offered several petitions since the pendency of this bill on this subject, and I have put the figure exactly as they put it in their petitions. It is only twenty-three per cent. *ad valorem*. I know of nothing that is grown or produced upon the Atlantic sea-board or anywhere east of the Alleghany mountains that is put so low as this article. I propose a duty of thirty cents. I think that a fair average rate of duty with the other articles in the bill would justify me in placing it at fifty cents per bushel; but I propose simply thirty cents per bushel, and I hope the Senate will adopt it.

Mr. FESSENDEN. We had this matter all thoroughly discussed, and it was settled finally by a sort of compromise in the Senate at twenty cents, and I hope the Senate will adhere to it.

The amendment to the amendment was rejected.

Mr. HENDERSON. On page 82, section twelve, line seven, I propose to strike out the word "ten" and insert "twenty;" so as to read:

On hides, raw or uncured, whether dry, salted, or pickled, twenty per cent. *ad valorem*.

The amendment to the amendment was rejected.

Mr. HENDERSON. I see now that the Senate will neither diminish nor increase. There are a great many articles of western growth, produce, and manufacture, in regard to which I might offer amendments, but I am perfectly satisfied that no article now will be increased in the rate of taxation. Every proposition that is made is laughed to scorn. I now propose to strike out the twenty-second section of this bill.

Mr. JOHNSON. What is that section? Let it be read.

The Secretary read it, as follows:

Sec. 22. And be it further enacted, That on and after the 1st day of April, 1867, there shall be allowed and paid a drawback equal in amount to the import duty paid on all lumber, hemp, Manila, copper, and upon all iron not advanced in manufacture beyond rods, bars, and bolts, which shall be wrought up into the construction of rigging or equipment of sailing vessels of the United States, or used in repairing vessels

of foreign build, documented in conformity with the provisions of the act of 23d December, 1852, less five per cent. on the amount of such drawback, which shall be retained for the use of the United States under such regulations as the Secretary of the Treasury may prescribe.

Mr. HENDERSON. It will be observed that this section as it stands is an absolute discrimination in favor of a certain section of the country, and I desire to know whether the Senate in passing a tariff bill is disposed to discriminate in favor of vessels built in any particular section of this country. I wish to call the attention of the Senate and the attention of the country to the fact, and if gentlemen then wish to put their names on the record on the subject, they can do so.

Now, what is this proposition? I know that in Maine and in Connecticut it will be said that the commercial interests are flagging and that they are not now building the vessels that they built from 1856 up to 1860. I am aware of that, and I am perfectly willing to do anything in my power, that is not a piece of absolute and down-right injustice to any other section of the country, to advance that interest; and my opinion is that if my policy were adopted in reference to tariff measures, the tonnage of those States would increase as it did from 1856 to 1860. But a contrary policy is to be adopted. The commercial interests of the country are, in my judgment, to be prostrated. The entire amount of revenue that is to be collected to meet this vast public debt that is now hanging heavily upon the shoulders of the people of the United States is to be paid by a certain class or a certain interest in this country. Now, when it begins to pinch upon a particular section that section flinches. When it is ascertained that a ship cannot be built in New York, in Maine, in Connecticut, or in Rhode Island, under this bill, gentlemen in order to escape the inevitable effect of the bill say they will return to the ship-builder the amount of money that shall have been paid upon the articles entering into the construction of his vessels in the shape of a tariff duty.

If a vessel is built at the city of St. Louis or at the city of Pittsburgh or at the city of Wheeling or at the city of Cincinnati, I ask if there is any drawback to be paid to the owner of the vessel. Here is a proposition, not to encourage eastern manufacture, not to encourage western manufacturers, but an absolute inducement held out to the ship-owner and ship-builder to put the foreign manufacture into the vessel in order that he may obtain the drawback. This is a contradiction of the entire principle of this measure. As I understand it, it has been, from the beginning up to the last amendment that has been offered and voted down, to protect the manufacturing interests of the country. Sir, if the iron manufacturer, the hemp manufacturer, the rope-maker, the copper manufacturer are to be protected, let that protection stand in one case as well as in another. Are vessels to be built of foreign copper, of foreign hemp? Is foreign canvas to be used in their construction? Are the nails that enter into their construction to be of foreign manufacture, contrary to every principle that has entered into the framing of this measure? Why, sir, it returns to every man building a vessel of any size from ten to twenty thousand dollars as a bonus for using articles of foreign production in the construction.

Now, I desire to ask whether a vessel built in the West is to be excluded from the operation of this measure? Is the man who builds at Louisville or at St. Louis to have a drawback returned to him? No, sir; but the builder of every sailing vessel is to have it returned. Now, I ask what is the difference between sailing vessels and steamers. There are two great rivers on which are borne the productions of the West. One is the St. Lawrence, a continuation of the lakes, Lake Superior, Lake Michigan, Lake Ontario, and Lake Erie, and sailing vessels are built upon them. Are those sailing vessels to be exempted from the operations of this measure? I mean that portion of it which imposes duties. Are the duties to be

returned to the manufacturer of a vessel that sails upon the St. Lawrence and not given back to those who build vessels on the Mississippi and Missouri rivers? Where is the justice of a measure of that character?

Mr. President, there are many things in this bill that might be considered; but the hour has long since passed when they can be considered. The mere fiat of one or two consigns every proposition to the grave. I care not how just, how equitable, or how righteous a proposition may be, it is disposed of by a mere word of contempt, a mere expression of the fact that it is already settled and compromised and fixed among gentlemen who compromise the great interests of the West, and have compromised them, in my judgment.

The Senator from Massachusetts [Mr. Wilson] this afternoon offered an amendment on the subject of woollens, increasing the rates of duty largely. Yesterday he and his colleague voted consistently to bury this bill as it ought to be buried. I want to know, since that has been adopted with the consent of the chairman of this important committee, whether he will vote against it now? Yesterday the able and distinguished Senator from Maine lectured the Senator on my left [Mr. SHERMAN] for changing the bill as it came from the committee, and much was I surprised when the Senator from Massachusetts who had voted against this bill again and again rise in his place and offered an amendment on the subject of woollens and thereby doing away with all his opposition, and that of his colleague, to the measure, to see the Senator from Maine, after having lectured his colleague on the committee, fall in and vote willingly for the proposition, and say that it was a good measure. Why, sir, anything is voted upon this bill when the committee say that it is right; anything is voted down when the committee say that it is wrong.

But, sir, I have said enough. I am sorry that some propositions I have offered are not to be accepted and will not be accepted; but if gentlemen desire to do so, they can go on and pass the measure as it stands and take the consequences before the country. I of course shall do all that I possibly can to reconcile the feelings of the people of my section to it, and shall endeavor to adapt the interests of the country as far as I possibly can to the measure. But to make me believe, as a representative of that section in which I live, that this measure is right, or that it will operate for the best interests of any section, is impossible. I believe that it is a combination simply of interests, and that the committee themselves, in many cases, have been imposed upon. I accord to them diligence; I accord to them patriotism; I accord to them all that I claim for myself; I accord to them nothing more. If the report of a committee is to be accepted, except where the committee itself deviates from it, you may abolish the Senate and dispense with all the rest of us. But, sir, if our views are worthy of consideration they ought to be treated at least with some respect.

What I have said I may possibly have said with some little excitement, but I trust it will be excused when I say that, in my judgment, every possible interest of my peculiar section is disregarded. No proposition that I have been able to make, either increasing rates in the West or decreasing them, has been adopted. On the article of raw hides, in which we are interested largely, I proposed an increase from five per cent. *ad valorem* to fifteen per cent., but I could not get it, although all the interests of the section near us here have been raised from eighty to one hundred per cent.

Mr. President, I shall content myself with the opposition I have made to this bill. I have various other amendments but I shall not offer more than one or two; perhaps not even that many, for I see that it is an utter impossibility to influence this body. They sit and calmly vote against any amendment that is laughed at, or that it is intimated by a member of the committee ought not to be adopted. We are told "the thing has all been examined, it has all



been looked into;" and quietly, silently, and calmly all propositions that come from a certain direction are voted down. It avails nothing that an interest in my section suffers; but if the woolen interest of Massachusetts suffers, modifications are made, and all the opposition that was threatened from that quarter, I apprehend, has passed away to be revived no more. If the bill is to frustrate the great ship-building interest of Maine, how is that to be avoided? It is to be avoided by returning every dollar that is paid to the foreign manufacturer for the articles entering into the construction of the vessel. That is to be returned as a bonus to the man who makes the vessel. Yet, if I were to propose, with regard to vessels built at St. Louis or Galena or Louisville or other points along the western waters, that the same bounty should be returned to the builder, how would the proposition be received in this body?

Mr. President, let the fate of the few amendments I have offered answer the query. You know what would become of it. Am I to be told again "this thing has been considered in committee; we know how it stands; and the Senator from Missouri is ignorant of what he talks about?" Perhaps it is so; but I only crave the privilege of casting my vote in favor of striking out that section from this bill.

Mr. JOHNSON. Mr. President, the question immediately before the Senate is the proposition of the honorable member from Missouri to strike out the section which allows a drawback in certain cases. If I understand the section the drawback is allowed in the case of all sailing vessels, no matter where they may be built. Originally it extended, I believe, to steam as well as sailing vessels; but as it stands now all sailing vessels, no matter where constructed, are entitled to the benefit of the drawback.

Before I say a word on the propriety of adopting that amendment, my friend from Missouri will permit me to say for myself that in the votes which I have given upon the several amendments which he has proposed to this bill, I have been governed exclusively by my own judgment, enlightened and instructed as that has been by the teaching of others. I certainly have had no purpose of enmity toward the West. I have no purpose in the vote which I am about to give on this amendment to benefit the East to the injury of the West. The honorable member is under the impression that the several amendments which have been rejected have been rejected without due consideration. In that, as far as I am concerned, he is totally mistaken. I know not by what right the honorable member assumes to himself peculiar knowledge upon the subjects to which his amendments referred. The tariff in all its modifications has been the subject of consideration for years, and we have had this particular bill under deliberation now for some nine or ten days, and we have been instructed not only by the members from the East, for we have listened to their opinions on that subject, but we have been instructed by and we have listened to the honorable member from Missouri. Nobody doubts that in everything that he has said he has been governed by an honest opinion that the interest, not of the West merely, but of the country requires the adoption of his amendments. Let him accord to those who happen to differ from him the same honesty of purpose; certainly, as far as I am concerned, situated in one of the middle States, I have been influenced exclusively by a desire to promote the interest of the entire country.

Now, a word as to the amendment. The honorable member seems to suppose that the interest which is to be protected by the bill as it stands, and which he proposes to change, is an interest peculiar to the East, to Maine—

Mr. HENDERSON. I did not say so. I spoke of the lakes also.

Mr. JOHNSON. The honorable member mentioned Maine half a dozen times, and he spoke of it as affecting the East generally—the sea-board. Now, is that true? Does the hon-

orable member suppose that the people of Missouri are not interested in having an efficient commercial marine to carry on the foreign and domestic trade of the United States? Does he suppose that they have no interest in multiplying the men who are to carry the flag of our country upon every sea, and who can only be multiplied by increasing the commercial marine of the country? Is he oblivious to the fact that the reputation of the country has been increased so as to make us all proud of that marine, by means of the encouragement which we have heretofore extended to the commercial marine of the country? The late war, to say nothing of those which preceded it, has demonstrated that the arm of the country in case of danger is strengthened, and greatly strengthened, through the instrumentality of a commercial marine. And, therefore, in voting to encourage ship-building, as far as my judgment instructs me, I vote to foster, and to increase by fostering, that commercial marine.

My friend supposes that there is in that fact or in this particular measure which is to bring about that result an injury to the interest of the West—an indication of an enmity to the West. I am sure he will not attribute to me any such purpose. It happens, to repeat it again, to live in a State which stands between the extremes, and if I might be permitted to quote from a message sent to the Legislature of our own State by the Governor who was first elected by the people, I would say to the honorable member that that location is a peculiarly happy one in enabling us to decide upon the sectional differences which are to be found existing in either extreme. His language was, "That we are not given to the rude bores of northern fanaticism or the hot sinroom of southern impetuosity." We stand upon comparatively neutral ground, neutral as between the sections, not neutral, I trust in Heaven, in any contest which may involve the existence of the Government. Whenever that question shall arise, whether it may arise in a contest with foreign nations or among ourselves, the honorable member from Missouri will find that Maryland will be with Missouri in that contest, and will never agree to any measure, whether of internal or of external taxation, which may inflict an injury upon the West.

Mr. HENDERSON. With the permission of the Senator I should like to ask him a question before he concludes his remarks—

Mr. JOHNSON. I have concluded.

Mr. HENDERSON. What justice is there in allowing a drawback upon a sloop that is built at the city of Baltimore to run between Norfolk and Baltimore, and not giving a drawback to a vessel built at St. Louis?

Mr. JOHNSON. That is not the question, Mr. President.

Mr. HENDERSON. That is the question.

Mr. JOHNSON. It by no means follows that because a drawback is not given to vessels that are built on the Mississippi and on the Ohio it ought not to be given to any other vessels. If you cannot get it for the West, give it to the East.

Mr. HENDERSON. I ask the Senator if he is in favor of giving it to the West.

Mr. JOHNSON. I would be.

Mr. HENDERSON. Will you vote for a proposition to that effect?

Mr. JOHNSON. Well, let it come before us.

Mr. FESSENDEN. I will say just one word; I do not wish to make an argument on this question, for I suppose it is very well understood.

The Senator from Missouri seems to lecture me. I do not know but that I ought to be lectured, because I have occasion to lecture so many other people. [Laughter.] I am willing to take my chance in that direction. I believe that on the proposition of the Senator from Massachusetts [Mr. Wilson] I did for the first time vote for an increase of the rates fixed by the committee. I did so because I thought they were not right, and I explained why they were not right, and because I thought it very

hard that for ten days I should be compelled to sit here and vote for all the propositions which had been settled by the committee, in some cases against my vote, while other members of the committee exercised the right to vary from the report as they saw fit, though as a general rule they have stood by it; I thought it very hard if after the work I did upon it I might not be indulged in one thing.

In regard to what I said to my friend from Ohio [Mr. Sherman] last night, I will now admit that I spoke to him rather in a pet at the time, because I was a little annoyed; but I concede his right to do what he did. When a man has been obliged to sit here ten days on a stretch attending to a bill like this, as I have been, without a single moment's cessation, and obliged to meet all comers, it is not very wonderful that I should feel sometimes worried and annoyed. I should like to have others try it and see how they like it. But enough of that. I do not feel disposed to say any more on that subject. I have simply given an excuse for myself.

In regard to this particular thing, I put in steamers as well as sailing vessels: I had an amendment made to that effect. I thought I was authorized by the committee to offer it; but my friend from Ohio thought I was not, at any rate so far as he was concerned; and to settle the question I moved to strike out the words "or steam" from the section, stating at the time that I should vote myself to retain those words, my object in making the motion being merely to bring the question before the Senate. My friend from Ohio, who is from the West, explained the reasons why he thought it would not do to apply the section to steamers, and so satisfactorily to gentlemen that a large majority of the Senate voted to strike out those words against my vote and my opinion. I think that is a sufficient answer in relation to that point.

With regard to the thing itself, I can only say that after a great deal of deliberation, for several days at times, thinking it all over and looking upon it in every light, the committee were unanimous in agreeing that it ought to be done, because they thought, as the honorable Senator from Maryland has expressed it, that a commercial marine was of some consequence to the country; that it was of some consequence to the country to preserve the sea-going men; that it was of consequence to the country to preserve the art of ship-building to some extent, which has given us so much renown. The committee thought this was a great national interest, as much so as a factory or anything else, it being commerce, or rather navigation, a branch of commerce; and this seemed to be the only way in which navigation in its now declining condition could be protected.

We are particularly interested in my section of the country, because we live right alongside the British Provinces, where they build vessels at half of the rate we can; and so far as my State is concerned it is about the only thing in this bill in which it has any very considerable interest, and there are many other sections of the country that have also a large interest in it. I have stated the reason why it was put in, after careful deliberation, as I said before, by the unanimous consent of the committee, and I hope it will be retained by the Senate.

Mr. HENDERSON. I wish to call the attention of the Senator to one fact; that in this bill every stick of ship-timber that goes into the vessel is free, being put on the free list.

Mr. FESSENDEN. Then there will be nothing to be returned for the timber.

Mr. HENDERSON. You get the timber free, and then you get a drawback upon all the other materials in the ship: upon the iron, the hemp, the cordage, the canvas, and every thing of that character.

Mr. FESSENDEN. We get it upon nothing that has gone into a state of manufacture. We get it on raw materials.

Mr. HENDERSON. You get all the timber free; but if we build a fence in the West we

pay an increased price, because of the increased duty, if there is any thing in duties.

Mr. FESSENDEN. I suppose every Senator understands the matter; and if the reasons for putting in the section are not sufficient they will vote down the section; otherwise they will retain it.

Mr. DAVIS. There is a large amount of steamboat tonnage built at Cincinnati, Louisville, and New Orleans. There is a large amount of foreign tonnage in the form of sailing ships built at Portland and other ports in the East and Northeast. Now, sir, I repeat the question of the Senator from Missouri: as there are many articles of foreign import upon which duties are paid that enter into the construction of both classes of vessels, how is it that this bill authorizes a drawback upon all the foreign articles that enter into the manufacture of sailing ships, and withholds it only from all the articles of foreign manufacture that enter into the construction of steamboats? The Senator from Maryland asks whether, even though it be unjust that there should be this discrimination, the fact of this drawback not being allowed upon the construction of western steamboats is a sufficient reason why it should not be allowed upon the construction of eastern sailing vessels. I say, sir, it is sufficient; I say that the system ought to be one of reciprocity; that there is no justice, there is no wisdom, there is no statesmanship in a system that makes such a discrimination, and when that discrimination is established it is a sufficient reason to me to vote against the whole system.

Why, sir, is any Senator here ready to vote for high protective duties in the form of taxes positively imposed or drawbacks allowed to a distant section of the United States when his section is wholly denied such privileges? Is that the mode in which he is to represent his people and the interests of his constituency in the legislation of the Senate? No, sir. I respond to no appeal that asks me to vote for any such class of legislation as that. I say that this system of protecting industry ought to be equal, reciprocal, just; and whenever the Senator from Maryland concedes or establishes that it becomes sectional, I am ready then and there to vote against the sectional system. Sir, I admit that I have not the broadness, the loftiness of statesmanship to vote to sustain any such system as that. When legislation becomes class and sectional and becomes limited to a few great and absorbing interests, and ceases to be general and just and universal in its features and spirit, then I declare my hostility to that legislation, and I manifest it by my word and by my votes. I agree with the Senator from Missouri that the measure under consideration is framed wholly upon this partial and sectional system, and therefore ought to be voted down. It ought not to be imposed upon the people of the United States; if it is, they ought to reject it; they ought to send men here who will reform it, and I have no doubt they will.

Mr. HENDERSON. The Senator misunderstood me when he says I represent the bill as having been originally framed on this idea. The bill was a much better bill when it came from the committee. It has been made infinitely worse by a combination of interests on this floor since.

Mr. DAVIS. I am speaking of the bill as it has come from the committee and as it has been modified by amendments accepted by the Senate.

Mr. HENDRICKS. Mr. President, I shall vote for the amendment proposed by the Senator from Missouri, but not exactly for the reason given by him or by the Senator from Kentucky. I shall vote to strike out this section because I think the system of drawbacks is in itself vicious and ought not to be adopted. For the purposes of revenue, as indicated by the advocates of this bill, it is thought proper to impose a tax upon iron, copper, cordage, &c., that are imported into the country. They are introduced; they come through our ports;

they come into the hands of the merchants; they have paid their tax; and they stand with the price upon them in the markets of the country which the original cost, transportation, and taxes have fixed upon them. They are purchased by men who then propose to use them for the purpose of building ships. After the money has gone into the Treasury, because a man will use these articles in the building of ships he is allowed to go to the national Treasury and take the money out. It is simply, when reduced to a clear statement, an authority to a man who will build a ship to go to the Treasury and draw from the Treasury a certain amount of money. I say that system is vicious.

In the West the plowshare, the sunlight, and the rain bring to us our wealth; and when the farmer has paid two dollars more upon his plow because the material is taxed, can he go to the Treasury and demand that two dollars back? Is agriculture not as great an interest as commerce that it shall not be equally protected? The man who builds a ship can go to your Treasury and demand a certain sum of money because he has built a ship; but the man who makes and uses a plow has no such benefit from the legislation. I oppose the system, whether it be extended to sailing and steam vessels, or whether it be confined exclusively to sailing vessels. The thing is vicious; it is not equal; it is not just; it is simply paying out of the national Treasury men who will put their investment in a certain line and structure.

Mr. President, I am surprised to see the excitement of the Senator from Missouri upon this occasion. He becomes excited that the interests of one section are promoted at the expense of his section and mine. Ordinarily it is enough to arouse some degree of feeling; but does the Senator from Missouri not know that there are ten States of this Union that are not represented in this body—ten agricultural States, ten States that would stand by his State and my State if they were allowed to vote upon a question of this sort? I say until this Union is completely restored, until the agricultural labor of this country is fully represented, we may expect legislation like this; and until we have a full representation of all the interests of this country I do not look to equal legislation. I shall vote against this section, because I think it is a vicious system. I shall vote against the bill, because it is not equal and just in the burdens which it imposes upon the different systems of labor and the different pursuits of the people of the country.

Mr. FOWLER. I wish simply to state a few reasons why I cannot support this amendment. In the first place, I am in favor of the section as it stands, provided our interests are protected also. I do not see any good reason why the interest of the ship-builders should be protected at the East and those of the West should not be. I am in favor of extending this protection alike to both, and I should like it amended so as to give that protection. I cannot support exactly the measure of the Senator from Missouri, because I am in favor of extending protection to this class of interests; neither could I support a bill that would discriminate so improperly against other interests.

Mr. FESSENDEN. I will say to the Senator there is nothing sectional about it. So far as steamers are concerned, we build steamers at the East as well as at the West. We build steamers all along the Atlantic line, large steamers and small. I was for including them all in the section; but the Senate decided, and not by eastern votes particularly, but on motion of the honorable Senator from Ohio, that it was not advisable to extend it to river-going steamers.

Mr. FOWLER. I do not wish to be understood as charging anything sectional.

Mr. FESSENDEN. The section covers all sailing vessels built anywhere in the United States.

Mr. WILLIAMS. I do not know whether I belong to the East or the West in this tre-

mendous controversy that is pending here between the two sections of the country; but there is one consideration which has not been suggested that influences my judgment in favoring this section of the bill as it now stands. Objection is made because it is not applicable to steamboats built upon the Mississippi river, and it is claimed that it is a provision put into this bill for the exclusive benefit of Maine or some particular section of the country or New England.

Mr. HENDERSON. I desire to know if the Senator intends to put this language in my mouth, that I said it was for the benefit of Maine or any particular State?

Mr. FESSENDEN. The Senator is aware that he did allude to Maine two or three times in the course of his remarks as particularly interested.

Mr. HENDERSON. I did. There are just as many vessels though built in the city of New York as in Maine, I apprehend, of late years. I alluded to Connecticut also, and to Maryland. I suppose there are a great many vessels built at Baltimore. I did allude to the western lakes, and stated that it was a discrimination against the Mississippi in favor of the St. Lawrence river.

Mr. WILLIAMS. I do not undertake to put any language in the mouth of the honorable Senator; but I say that it was a legitimate inference from his remarks that this provision was put into this bill for the benefit of Maine; and that is the way the honorable Senator from Maryland [Mr. JOHNSON] understood it, and I presume it was so understood by most of the Senators. He may not have, in the excitement under which he seems to have labored, exactly measured the force of his language; but that was what I understood him to imply, if he did not expressly say it.

But, sir, I was about to remark that we can build ships upon the Pacific coast as well as they can in Maine, and that, so far as I can see, this provision is just as much for the advantage of California and Oregon as it is for Maine and Massachusetts, or any other part of the United States.

But the particular reason that influenced my mind in favoring this provision was this: there can be no foreign competition in the construction of steamboats; but I believe, unless there is some provision in this bill to promote the construction of sailing vessels in the United States, the entire business will be transferred to Europe, and there will not be a sailing vessel built in the United States. There is a necessity, it seems to me, on that account for protecting the business of ship-building in the United States; but there is no necessity for such protection so far as steamboats on the rivers are concerned, because none of those boats are built in Europe or can be constructed in Europe.

Mr. GRIMES. Will the Senator be kind enough to inform me what is the necessity for protecting the schooners and sloops on the lake coast?

Mr. WILLIAMS. I will answer. It is impossible in any provision of law to particularize every vessel and every ship. The mass of the shipping protected by this provision is such as sails upon the ocean, as does the coasting trade; and it would be impossible, in making a provision of this kind, to specify that it should apply to ships sailing in one locality and not apply to ships sailing in another locality; but the provision is general, and its benefits are attained by vessels chiefly engaged in the coasting trade or in commerce with foreign countries. Such vessels are those the construction of which this provision is intended to benefit, though it may incidentally assist in the construction of vessels upon the lakes, and I am sure that no western man can complain of that. I suppose that if the construction of sailing vessels upon the lakes is made cheap it will cheapen transportation for the West, because they transport by way of the lakes their produce to the eastern market, and the cheaper the vessels are constructed upon the lakes the less will the cost of transportation be.

Mr. HENDERSON. I desire to ask the Senator if transportation to the East will not be much cheaper if we take off the entire duty on railroad iron and let us import it from England?

Mr. WILLIAMS. I presume so; I make no question about that; but it is necessary that some tariff should be imposed upon foreign iron to protect those who are engaged in the manufacture of iron in the United States, and that is the main reason, I presume, why a tariff is imposed upon the importation of foreign iron. But that is not a parallel case to the one now before the Senate. There is a certain business in the United States, the ship-building business, and the object of this bill is to protect as far as possible all kinds of business. It is necessary that this business should be protected, and this is the way in which the business can be protected; and it seems to me that it can be protected in no other way. The reason that this provision may very properly apply to sailing vessels and not to steamboats upon the rivers is, as I have stated, that there is a foreign competition as to the one, and there is none as to the other. That is one reason that influenced my mind; it may not be a sufficient reason to operate upon the minds of other Senators.

The idea that this is simply brought forward here by those who are interested in building up the interests of the East, for the purpose of oppressing the interests of the West, I regard as a very great mistake. I do not consider myself more identified with the interests of New England than I am with the interests of Iowa or Missouri; nor are the members of the committee. One of the members of the committee lives in the West; another lives in the South; another lives on the Pacific coast; and a majority of the members of that committee are men who are not interested in any way in New England any more than they are in any other State or portion of this country. I do not wish to express any opinion whatever; I do not presume to express any opinion as to the mode in which these matters shall be discussed; but I am very sorry to see so much apparent and, as I conceive, unnecessary hostility manifested here between what is called the East and the West. So far as I am individually concerned, I am just as much identified with one as the other, and the interests of the East and the interests of the West are equal in their importance to me, and I believe to my section of the country.

Mr. CATTELL. I concur in every word that has been said by the Senator from Oregon, and wish to say that this was the unanimous opinion of the committee. That is not very important, nor are their opinions in the view of the Senator from Missouri of very much weight; nevertheless, I desire to relieve the Senator from Maine from the apparent imputation that it may have proceeded from him. The committee were entirely unanimous on this subject. It was shown to the committee that a ship could be built in Nova Scotia at very nearly fifty per cent. less than it could be built in Maine. There was no possible way of protecting it that could be seen in accordance with our laws and treaty regulations, save by a drawback, and it was unanimously agreed that it was one of those interests worthy to be protected in the best form we could, and I believe the committee were entirely unanimous in the opinion that this drawback ought to be given.

Mr. HENDERSON. I desire to say once for all that if Senators understood me as imputing anything wrong to the Senator from Maine, they are very much mistaken. I have altogether a different opinion of that Senator. I apprehend that the Senator from Maine desired to protect the interests of his own State, as I desire to protect the interests of mine. I do not blame him for that. If I were to blame him for it I should blame materially the Senator who has just taken his seat. I apprehend that that Senator has on several

occasions offered amendments proposing increased duties looking directly to the protection of the manufactures of his own State. I do not blame him for that, because it really seems to me that there has been a desire from the beginning among Senators to offer amendments looking to the protection of the interests of their own States. I do not think the Senator from Maine has been so eager about it as various other Senators. I only complained—and if I manifested any excitement about it it grew out of that fact—that when I offered amendments looking to the protection of the interests of my State, as I conceived, they were not regarded at all, but were cast aside coolly, and sometimes I thought rather contemptuously. The Senator from New Jersey, who has just taken his seat, I apprehend has had interests in his State protected over and above the duties proposed by the Committee on Finance in this bill as they reported it to the Senate.

If I do not mistake there is an interest protected in this bill to the extent of four dollars per ton upon the stone of New Jersey, and if I am not incorrectly informed upon the subject, really as good stone to build houses can be brought into the city of Portland for three dollars a ton, making a duty of more than one hundred per cent. I was surprised at the coolness with which the Senator from Maine accepted that proposition, or rather suffered it to pass.

There are other interests protected here that I might allude to; but the Senator will not understand that I blame him for looking to the interests of his own people. He was sent here for that purpose;—not to look after their interests alone. It is true, he is a Senator of the United States; but it is not to be expected that Senators will wholly disregard the interests of their own constituents. I have no complaint to make of it. I do not complain even of the Senator from Maryland, who looks to the protection of the shipping interest upon the waters of Maryland.

But, sir, the Senator from Oregon says that the shipping interest will die unless this protection is given. Why, sir, what was the effect of the lowest duties ever known in this country, those under the tariff of 1846, upon tonnage? In 1846 we had 188,208 tons of tonnage; in 1847, 243,732; in 1848, 318,000; in 1849, 256,000; in 1850, 272,000; in 1851, 298,000; in 1852, 357,000; in 1853, 425,000; in 1854, 535,000, and in 1856, 583,000 tons—a gradual, constant increase in the amount of tonnage built in this country, and yet we are told it cannot be built here now. If it could be built under the tariff of 1846, why can it not be built under the present rates without giving a drawback of every dollar that goes into it in iron, cordage, canvas, &c.? I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRIMES. I desire to state, as the yeas and nays are about to be taken, that on this question the Senator from Missouri [Mr. Brown] has paired off with the Senator from Maryland, [Mr. Creswell.] The Senator from Missouri wished me to say that if here he would vote in favor of the proposition, and the Senator from Maryland would vote against it.

The question being taken by yeas and nays, resulted—yeas 11, nays 26; as follows:

YEAS—Messrs. Buckalew, Davis, Doolittle, Grimes, Henderson, Hendricks, Lane, Patterson, Sherman, Trumbull, and Yates—11.

NAYS—Messrs. Cattell, Chandler, Conness, Cragin, Edmunds, Fessenden, Fogg, Foster, Frelinghuysen, Harris, Howard, Howe, Johnson, Kirkwood, McDougall, Morgan, Morrill, Poland, Ramsey, Sprague, Stewart, Van Winkle, Wade, Willey, Williams, and Wilson—26.

ABSENT—Messrs. Anthony, Brown, Cowan, Creswell, Dixon, Fowler, Guthrie, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Saulsbury, and Sumner—15.

So the motion to strike out did not prevail.

Mr. GRIMES. I have two or three amendments that I propose to offer. I do not expect, however, that the inexorable majority who are going to pass this bill will adopt them,

but I want to give them an opportunity to do so. On page 91 I move to insert the words "and one half" after the word "cent" in the sixty-seventh line of the fifteenth section; so as to read:

On beef not cured, and on beef dried, one cent and one half per pound.

The amendment to the amendment was rejected.

Mr. GRIMES. In the same line I move to strike out "two" and insert "three;" so as to read:

On beef cured in barrels, three dollars per barrel of two hundred pounds.

Mr. FESSENDEN. There is none imported now. The amount, according to the tables, imported last year was thirty dollars' worth.

Mr. GRIMES. I am not so sure about that.

Mr. FESSENDEN. I know it.

Mr. GRIMES. At any rate I do not know how that may be under this tariff. When they drive cattle down from Canada it may be for their interest to pack them there in consequence of the large imposition of duty on salt and saltpeter. If there are none imported, as the Senator says, it can do no harm. I think it is well enough to raise the rate a dollar a barrel.

Mr. SHERMAN. If there was any object in the world in levying a duty on meats of any kind I should be willing to vote for the amendment; but the whole amount brought into this country in 1865 of beef and pork was \$921; of bacon and ham \$3,150; of meats preserved in cans and sausages, \$11,538. That shows that under the old tariff, when admitted duty free, there was no importation of meats into the country. This amendment, therefore, is simply useless.

The amendment to the amendment was rejected.

Mr. GRIMES. It is pretty evident, I think, that the Senate are not disposed to interfere with the subject of meats. I will now try them on the subject of knowledge, in the absence of the Senator from Massachusetts. [Laughter.] I should not presume to poach on the manor of the Senator from Massachusetts when he was present. On page 88, line twenty-seven of section fourteen, I propose to reduce the duty on printing paper from twenty to fifteen per cent. *ad valorem*. On this question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. I will simply state that the present duty is twenty per cent., and has been so a number of years. It produces a large revenue.

The question being taken by yeas and nays, resulted—yeas 12, nays 25; as follows:

YEAS—Messrs. Davis, Doolittle, Fogg, Grimes, Henderson, Hendricks, Lane, McDougall, Patterson, Ramsey, Trumbull, and Yates—12.

NAYS—Messrs. Buckalew, Cattell, Chandler, Conness, Cragin, Edmunds, Fessenden, Foster, Fowler, Frelinghuysen, Harris, Howard, Howe, Johnson, Morgan, Morrill, Poland, Sherman, Sprague, Stewart, Van Winkle, Wade, Willey, Williams, and Wilson—25.

ABSENT—Messrs. Anthony, Brown, Cowan, Creswell, Dixon, Guthrie, Kirkwood, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Saulsbury, and Sumner—15.

So the amendment to the amendment was rejected.

Mr. GRIMES. On page 93 I move to strike out all on that page after line five of section sixteen down to the nineteenth line of that section, on page 94, on the subject of lumber. I am in favor of having free lumber, to develop the country, and I want a vote by yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 23; as follows:

YEAS—Messrs. Davis, Grimes, Henderson, Kirkwood, McDougall, Patterson, Trumbull, and Yates—8.

NAYS—Messrs. Buckalew, Cattell, Conness, Cragin, Edmunds, Fessenden, Foster, Fowler, Frelinghuysen, Harris, Howard, Howe, Johnson, Morgan, Morrill, Poland, Sherman, Sprague, Stewart, Wade, Willey, Williams, and Wilson—23.

ABSENT—Messrs. Anthony, Brown, Chandler, Cowan, Creswell, Dixon, Doolittle, Fogg, Guthrie,



Hendricks, Lane, Nesmith, Norton, Nye, Pomeroy, Ramsey, Riddle, Ross, Saulsbury, Sumner, and Van Winkle—21.

So the amendment to the amendment was rejected.

Mr. GRIMES. It is very evident, I think, that the Senate is looking very closely after revenue this evening; and I therefore propose to strike from the free list on page 105, line one hundred and sixty-eight of section eighteen, the words "ship timber." I ask for the yeas and nays on that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 5, nays 30; as follows:

YEAS—Messrs. Grimes, Henderson, Hendricks, Howe, and Lane—5.

NAYS—Messrs. Buckalew, Cattell, Conness, Cragin, Davis, Edmunds, Fessenden, Fogg, Foster, Fowler, Harris, Howard, Johnson, Kirkwood, McDougall, Morgan, Morrill, Patterson, Poland, Ramsey, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—30.

ABSENT—Messrs. Anthony, Brown, Chandler, Cowan, Creswell, Dixon, Doolittle, Frelinghuysen, Guthrie, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Saulsbury, and Sumner—17.

So the amendment to the amendment was rejected.

Mr. HENDRICKS. Mr. President, it seems to me the votes indicate a purpose on the part of the Senate not to change this bill further, and I suggest to gentlemen it is just as well we should come to a vote on the bill. I cannot see any advantage in contesting it further.

Mr. HENDERSON. I have no amendment to offer except in reference to the day when this bill shall take effect, and that is in the third line of the first section, on page 1. I believe the blank that was originally left in that line has been filled up with the 1st day of April. If that be adhered to it is very plain what the operation will be. The Senate has made up its mind to pass the bill; it will go to the House of Representatives and be passed there, and become a law, and become a law soon. Then between that time and the 1st of April the large importers will bring immense quantities of goods into the country, and in that way the object of the bill, to some extent at least, will be defeated. I presume that during the interval between now and the 1st of April large importations will be made. There is a plenty of time to telegraph to Europe and have large stocks imported between now and the 1st of April; and the effect will be to neutralize, to a very considerable extent, one design of the bill. If it be protective let the benefit of the protection go to the manufacturers. If the object be merely to increase the revenue, perhaps it will increase the revenue in this way as much as in any other. Perhaps we shall get a much larger revenue in this way, for the simple reason that the importations will be at the present rates of duty, which are less than the proposed rates. I move to strike out the words "on and after the 1st day of April, 1867," and to insert some reasonable time, say the 15th or 20th day after the passage of the act.

Mr. WILSON and others. Make it take effect from the passage of the act.

Mr. HENDERSON. Perhaps fifteen or twenty days will be too long a time, for within that time stocks of goods could be ordered by telegraph and imported. I would propose that it shall take effect on the tenth day after the passage of the act.

Mr. FESSENDEN. That is rather a loose form of expression; you might just as well say from and after the passage of the act.

Mr. HENDERSON. I have no objection to that, and I move to amend by striking out "on and after the 1st day of April, 1867," and insert "from and after the passage of this act."

Mr. CATTELL. I concur in the amendment of the Senator from Missouri, and am very glad to do so.

Mr. HENDERSON. Thank you, sir.

Mr. EDMUNDS. I am very glad, Mr. President, that my friend from Missouri has proposed one amendment which shows a sincere friendship to the interest of the bill, to the in-

terest of the country, for with the telegraph as it is now anybody who has capital can flood the country with goods of every description by the 1st of April. I hope every friend of the bill will agree with the Senator from Missouri in going for this amendment.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I suggest now, that amendment having been agreed to by the Senate, that the same change should be made in the proviso on the fifth page, by striking out the words "after the 1st day of April, 1867," and inserting "after the passage of this act."

The PRESIDENT *pro tempore*. That change will be made as a matter of course, to make the bill consistent with itself.

Mr. FESSENDEN. Then in the twenty-sixth section, the section repealing prior inconsistent acts, the same change should be made.

Mr. JOHNSON. Let me suggest that the words "are hereby repealed" will answer the purpose, and are preferable to the words "shall from and after the passage of this act be repealed."

Mr. FESSENDEN. Yes, those words will do as well.

The PRESIDENT *pro tempore*. That change of phraseology will be made if there be no objection.

Mr. STEWART. In voting for the amendment of the Senator from Massachusetts [Mr. WILSON] in regard to the duty on woolen cloths, I believed that the class valued at less than one dollar a pound would include all the coarser articles used by the poor people generally, and that the effect of the amendment would be to increase the duty upon the finer cloths; but from the best information I can get the dollar limit in the amendment should be raised to a dollar and a half.

Mr. FESSENDEN. I think it is right as it stands.

Mr. SHERMAN. I have made inquiry since this question was up before, and I do not believe that a single pound of clothing such as is used by the common laborers, excepting the coarser satinetts, which are mixed with cotton, will fall in the category under a dollar a pound.

Mr. FESSENDEN. The provision can be corrected in the House if it is wrong.

Mr. SHERMAN. I think the amendment is a violation of the agreement between the wool-growers and manufacturers, and will be a disturbing element.

Mr. WILSON. I think the Senator ought to know that that has been violated in several places.

Mr. SHERMAN. I do not think so.

Mr. STEWART. I move a reconsideration of the vote adopting that amendment, so that we may have an opportunity to correct it.

Mr. SHERMAN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 17; as follows:

YEAS—Messrs. Buckalew, Davis, Doolittle, Fogg, Grimes, Henderson, Hendricks, Howard, Howe, Kirkwood, Lane, McDougall, Patterson, Ramsey, Sherman, Stewart, Trumbull, Van Winkle, Willey, and Yates—20.

NAYS—Messrs. Cattell, Chandler, Conness, Cragin, Edmunds, Fessenden, Foster, Frelinghuysen, Harris, Johnson, Morgan, Morrill, Poland, Sprague, Wade, Williams, and Wilson—17.

ABSENT—Messrs. Anthony, Brown, Cowan, Creswell, Dixon, Fowler, Guthrie, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Saulsbury, and Sumner—15.

So the motion to reconsider was agreed to.

Mr. WILSON. I know nothing more unjust than I think this whole proposition. We have had to-night very earnest speeches made about the benefits of the East in this bill. I want simply—

Mr. SHERMAN. In order to shorten this matter—

Mr. WILSON. I have got the floor.

Mr. SHERMAN. I want to submit a proposition.

Mr. WILSON. I wish to make one proposition. I move to amend the bill by striking out "forty-five" and inserting "fifty" in the eleventh line of the fourth section.

The PRESIDENT *pro tempore*. The amendment having been reconsidered, the question before the Senate is what will be stated at the desk. The question now is upon the amendment as moved. It will be read.

Mr. WILSON. I wish to put this question to the Senator from Ohio. Would you not be willing to put all under \$1 50 in the first class, and then from \$1 50 and two dollars in the second class, and all over two dollars to be a third class?

Mr. SHERMAN. The Senate committee reduced the specific duty from fifty to forty-five cents, on the ground that we had thrown off the duties on drugs and chemicals, &c. Now, I am willing to vote for the proposition of the Senate to bring it back to fifty cents, in which they agreed, and not make any difference of classification.

Mr. WILSON. I think you will get more revenue from the proposition in the way I have got it, and it will come heavier on the finer articles.

Mr. STEWART. I think there ought to be a discrimination, and I like that better.

Mr. WILSON. I will modify my amendment so as to provide that the duty on all cloths under one dollar and a half shall stand as it does in the bill; those between one dollar and a half and two dollars shall have a duty of fifty cents a pound, and forty per cent. *ad valorem*, and all above two dollars a pound fifty cents and forty-five per cent.

Mr. GRIMES. What about that agreement?

Mr. WILSON. I do not care about the agreement. We are sent here to legislate, and not the woolen manufacturers or wool-growers.

Mr. SHERMAN. I admit that we are not bound by the agreement; but there is this to be said: the wool manufacturers, in a convention of their own calling, agreed that all they wanted was fifty cents a pound and thirty-five per cent. *ad valorem*. They agreed upon that basis when they were taxed on all the chemicals used by them, when they were taxed a larger rate on the wool, when it was proposed to tax a certain portion of the wool a larger amount than we have put on it. I am willing to give them all they claim; and yet by our previous action we have given them a benefit of at least five per cent. on their whole production. Let me say further, that any deviation from the agreement will give grave ground for complaint. It has already been started, and grave objection will be made, not against us particularly, but among these men who are rivals in interest and rivals in trade, whose interests have been antagonistic. One class will say they made a fair bargain with the other, but they did not live up to it. We ought to have no controversy of that kind upon a matter of this sort. I am perfectly willing to take their own arrangement in the very words they made it, give them the benefit of it, and abide by it. I think they ought to be satisfied with that.

Mr. McDOUGALL. I do not exactly understand—perhaps it is owing to my ignorance—what is meant by the agreement of the various interests which is here spoken of. Is it a combination of persons to affect legislation?

Mr. WILSON. I desire to modify my amendment, if I have the power to do so, in the manner I have suggested.

The PRESIDENT *pro tempore*. It may be done by unanimous consent.

Mr. WILSON. Instead of the classifications proposed originally I wish to make them \$1 50, two dollars, and above two dollars.

Mr. SHERMAN. On the complaint of one man, who has been bothering us and hectoring us for nearly a month for his own particular interest, we are to violate an arrangement made by a convention representing both the wool-growers and wool manufacturers.

Mr. WILSON. The Senator will pardon me for saying that some of the largest manufacturers in the country, the largest men engaged in manufacturing, are in favor of something such as I propose being done; and further, they believe that this bill as it stands is de-

structive to two thirds of the woolen manufacturing interests of the country, and that they have got to suffer for it, because here is an absolute reduction from the law as it stands; certainly it is. The old law is worth more to us by seven per cent. than this bill.

The PRESIDENT *pro tempore*. The amendment as now proposed will be read.

The Secretary read the amendment, which was in section four, line eleven, to strike out all after the word "specified" to the end of the clause, and insert:

Valued at \$1 50 or less per pound, forty-five cents per pound, and, in addition thereto, thirty-five per cent. *ad valorem*; valued at over \$1 50 and less than two dollars per pound, fifty cents per pound, and, in addition thereto, forty per cent. *ad valorem*; valued at two dollars and over per pound, fifty cents per pound, and, in addition thereto, forty-five per cent. *ad valorem*.

Mr. HOWARD. I desire to ascertain whether I understood the Senator from Ohio correctly in reference to the duties upon cloths. I understood him to say that the bill which is now before us, that is to say, the report of the Committee on Finance, contains in this respect substantially the result of an honorable agreement and understanding between the wool-growers on the one side and the woolen manufacturers on the other. Do I understand him correctly?

Mr. SHERMAN. Yes; but the Committee on Finance did reduce the specific rate from fifty to forty-five cents, on the ground after we had put chemicals and dye-stuffs on the free list, equivalent, according to their own declaration, to two and a half cents a pound, and also reduced the rate of duty on flocks, a portion of the wool used in the finer broadcloth, giving an advantage perhaps sufficient to make up the difference; but I said rather than have the matter opened again I would be willing to see the duty restored to fifty cents specific, instead of having these discriminating duties that in one case would raise the duty ten per cent. *ad valorem* and five cents per pound, and in the other case five per cent. *ad valorem* and five cents a pound. A duty of ten per cent. *ad valorem* on some cloths might amount to fifty cents or a dollar a yard on fine French broadcloths.

Mr. HOWARD. So in effect the committee carried out the agreement made between these parties as accurately and equitably as they were able to do.

Mr. SHERMAN. That is the fact.

Mr. HOWARD. I hope, then, there will be no alteration made in the report of the committee, and that the amendment of the Senator from Massachusetts will not be accepted. Let us try the experiment according to the agreement made between these two rival interests and stand by the agreement which they have made ourselves. I feel bound by that arrangement.

Mr. McDUGALL. I do not understand how agreements can be made in committee, and how agreements can be made in conventions between wool-growers' interests and manufacturers' interests, that come here to control the legislation of the Senate. I protest against anything of the kind. I say such agreements tend to public mischief. How am I to be governed by the report of a committee except as I am advised by it? A committee is a mere body of inquiry to ascertain facts and advise the Senate. Wool-growers and wool-manufacturers may go before them and endeavor to promote their own interests; but what right have they to commit the Senate to any such thing, or to make or indorse any compact of the kind? I object to it as being against the philosophy of true legislation here.

The question being put, there were, on a division—ayes 17, noes 18.

Mr. WILSON. I call for the yeas and nays. The yeas and nays were ordered.

Mr. HENDRICKS. I should be much obliged if the Senator from Ohio would explain the difference between the committee's report and the amendment proposed by the Senator from Massachusetts; I do not understand it very clearly.

Mr. SHERMAN. The committee proposed upon woolen cloths, shawls, &c., a duty of forty-five cents per pound and thirty-five per cent. *ad valorem*. The Senator from Massachusetts proposes a duty of forty-five cents per pound and thirty-five per cent. *ad valorem* on all worth \$1 50 per pound and less; and fifty cents per pound and forty per cent. *ad valorem* on all between \$1 50 and two dollars; and fifty cents a pound and forty-five per cent. *ad valorem* on all above two dollars a pound. That is it I believe.

Mr. GRIMES. I am in a difficulty to determine what I ought to do in this matter. I do not want to be put in the condition of voting for an increase of the duty on wooleens, and yet I would like to do something for the assistance of the man who I understand would be benefited by the adoption of this amendment proposed by the Senator from Massachusetts. I understand that there was one large woolen manufacturer in New England who had honesty, manliness, and high sense of principle sufficient to cause him to abstain entirely from all coöperation or participation in this combination of the woolen manufacturers for the purpose of coercing Congress into the passage of this bill, and I suppose it to be true from what I have heard that this man has been in consequence read out of the circle. They have put him, in a degree, under the ban, because of his manliness and independence; and there is not that protection given to him, he producing the best qualities of broadcloths, that is given to other woolen manufacturers. This is information I got long before to-night. I understand from those on whom I rely that that is just about the condition of things: that one gentleman in Massachusetts, whose father was the man who originally introduced the manufacture of cotton cloths in this country and carried them up to the highest production in point of quality that there has ever been thrown upon our market from the American looms, in conjunction with one other person, a citizen of the State of Maine, are the only parties who will be specially advanced by the amendment of the Senator from Massachusetts. So far as they are concerned I would like to reach them; that is to say, I do not want to do anything that would interfere with or militate against their interest, because I want to reward them for the public spirit and candor and manliness that were exhibited in remaining out of this combination that has attempted to control the action of Congress in legislation upon great public questions.

Mr. SHERMAN. A word in regard to this matter. Mr. Slater is the gentleman referred to. I have nothing to say in regard to him except this: he wanted to get wool and everything else that he bought admitted duty free; he wanted to buy everything he had to buy as low as possible in the cheapest market in the world. That he frankly admitted was his policy. Then he wanted as high a duty on the article he manufactured as he could possibly get out of Congress. If this is an evidence of the highest patriotism I am mistaken. The people of Iowa and Ohio, so far as I have heard them ask for anything, simply ask that the same protection which is given to other productions of American laborers shall be extended to the article of wool. I do not know a citizen of the State of Ohio who does not ask this and demand it, not as a matter of favor, but a matter of right; and, as I said before, the very moment you show the agriculturists of this country that under similar circumstances you are not willing to give to the production of their industry the same reasonable protection by your tariff laws that you do to all other industry, that moment they will use their power to break down the whole system, and in that I would defend them, because wool is the result of labor, and if they are not entitled to a reasonable protection against the labor of Canada and the labor of South America in the production of wool the whole system is vicious and ought to be abolished, and the sooner the better. Simply because Mr. Slater would not go into a convention which recommended a

duty to protect the growth of wool in this country, he is therefore said to be a patriotic and high-minded admirable citizen, and is highly extolled. The simple fact is, that he wanted to get his wool duty free and everything that he has to buy free.

Mr. GRIMES. What evidence has the Senator for that?

Mr. SHERMAN. Mr. Slater frankly admits that he is in favor of free wool.

Mr. GRIMES. Did he so inform the committee?

Mr. SHERMAN. I so understood; he was in favor of the principle of free wool.

Mr. FESSENDEN. I confess I do not remember it.

Mr. SHERMAN. He is opposed to the increase of duty on wool.

Mr. FESSENDEN. What I understood him to say was that he believed the best thing for the wool-growers, as well as for the wool manufacturers, was that manufactures should be protected and built up, for as they were established in this country wool-growing would necessarily prosper. That was his idea. He said that was the best thing for the wool-growers in his judgment, and the only way in which what was desired could be effectually accomplished. With regard to this arrangement he said that in his judgment the tariff as it stood was better.

Mr. SHERMAN. And he went on to extol in the highest terms the tariff of 1857, which admitted wool free of all duty. He thought that the most admirable system that could be devised, because it enabled him to buy his article without any tariff duty.

Mr. GRIMES. And wool was higher under it than it has been at other times except during the war.

Mr. SHERMAN. While Senators here are complaining about the duty on wool, it may be said that there is no other article of production in the United States of America the price of which this day in currency is no higher than the price before the war in gold. That is the case in regard to wool, and it is simply because it is without reasonable protection, having a duty of only four, and a half cents a pound. If there is not a disposition on the part of the manufacturer to give to the wool-grower the same principle of protection that is applied to his own labor, I would not vote for a tariff bill. The wool-grower must be without any benefit of the principle of protection until the manufacture is so well established, according to Mr. Slater's idea, as to be able to consume all the wool of this country mixed with what he can buy cheaper abroad. While that point is being reached all our flocks and herds would be gone, turned into tallow, and as a matter of course during the process all our sheep would be used up.

Mr. WILSON. I object to turning this whole debate upon Mr. Slater. Mr. Slater is an eminent manufacturer. He has probably a large interest in the manufacturing business, but he is not alone; two thirds of all the woolen interests of this country are involved in this clause of the bill. I have received letters from three others recently, very large manufacturers, eminent men, and I will say to you what they believe; and they are not alone in it. They believe that the passage of this bill will not be for the benefit of the manufacturing interest of the country. They prefer the laws as they now exist. But if this change is made then they ought not to be reduced as they are. The distinction is this—and I want the Senator from Indiana to understand just what it means—all goods valued at less than \$1 50, which comprise nearly all the cloths that make up the dresses of the great mass of the people, especially of the laboring men of the country, will be left just as they are in the bill, forty-five cents a pound and thirty-five per cent. *ad valorem*; all above \$1 50 and less than two dollars, which embrace the finer articles, I propose to increase; and those above two dollars, which will take the more fine and costly broadcloths, will pay more, and they

ought to pay in proportion. I believe it is sound and right in principle, and ought to be adopted. And I will say that in many of those cheaper articles the proportion of labor is only about twenty per cent., while in the more costly articles it is from forty-five to fifty per cent. I speak of labor and machinery included.

Mr. HOWE. I want to say a single word, because I believe I have got to vote differently from the way my friends from my section of the country are generally going to vote. I am not going to vote with any reference to the interests of Mr. Slater at all, nor with any special reference to the interests of manufacturers. I am going to vote, as I have tried to vote all through this struggle, for the interests of the agricultural class. The only way we can protect the wool-growers, it seems to me, is by fixing duties so high as that they can raise wool here cheaper than wool can be imported. When that point is reached the wool-grower, it seems to me, is satisfied. I suppose they have fixed that rate of duty in this bill, because I understand the bill fixes it at the rate agreed upon by the wool-growers themselves. Now, it seems to me the wool-grower has, then, the same interest in maintaining the manufacture of wool on this continent that he has in maintaining the growth of it, because who ever imports a yard of cloth competes with the wool-grower just as much as the man who imports four pounds of wool, for I understand there are four pounds of wool in a yard of cloth. If it be true, then, that the increase of duty asked for by the Senator from Massachusetts is essential to maintain the manufacture of wool here, it is for the interest of the wool-grower that the manufacturer should have that protection, for we certainly cannot hope to raise wool to export, and unless we can have manufactures to work it up, I take it, our farmers will abandon the business of growing wool. I may be mistaken in this sort of reasoning, but it does seem to me that this duty is just as essential to the wool-grower as the duty on wool itself.

The question being taken by yeas and nays, resulted—yeas 19, nays 15; as follows:

YEAS—Messrs. Cattell, Conness, Cragin, Edmunds, Fessenden, Foster, Fowler, Frelinghuysen, Harris, Howe, Morgan, Morrill, Poland, Sprague, Stewart, Van Winkle, Wade, Williams, and Wilson—19.

NAYS—Messrs. Buckalew, Davis, Fogg, Grimes, Hendricks, Howard, Johnson, Kirkwood, Lane, Patterson, Ramsey, Sherman, Trumbull, Willey, and Yates—15.

ABSENT—Messrs. Anthony, Brown, Chandler, Cowan, Cresswell, Dixon, Doolittle, Guthrie, Henderson, McDougall, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Saulsbury, and Sumner—18.

So the amendment to the amendment was agreed to.

Mr. SPRAGUE. I ask for a vote now on horseshoe nails. I desire to amend the motion I made before in this respect. I asked for seven cents instead of five. The present duty is five cents by the existing tariff. The increase of duty on iron is three fourths. I now ask for six cents. I move on page 31, line one hundred and fifty-three, to strike out "five" and insert "six;" so as to read:

On horseshoe nails, all kinds, six cents per pound. The amendment to the amendment was rejected.

Mr. SPRAGUE. I think there is one amendment I proposed this evening that ought to prevail. It is on page 8, section one, in reference to cotton goods. The committee have reduced the duties upon cotton goods twenty per cent.; that is, where it was five they have placed it four. The commissioner informs me this morning that the authority by which the reduction was made has informed him by letter that, in consequence of the increased duty upon every thing that enters into the manufacture of cotton cloth, the present duty should be reinstated. I trust the committee will agree to that.

Mr. FESSENDEN. I am not satisfied. I saw the letter. It was one that I did not attach any consequence to.

Mr. SPRAGUE. The committee have reduced the duties on cotton goods twenty per cent. I have statements to show to the Senate,

but I will not take up their time, that the protection upon the goods that are represented by this class is one and three eighths cents only, and I can prove it to the satisfaction of anybody. There is no agreement between the cotton manufacturers and cotton producers. [Laughter.] The iron and the starch and the castings and the steel have all been increased, and all those items enter into the production of a piece of cotton cloth. I will mention the article of potato starch. The duty fixed by the committee is four and a half cents; the old duty was two and a half cents. It is so in everything, except cotton, that enters into the production of cotton cloth; and notwithstanding that, the duties have been decreased. Mr. Commissioner Wells says that the authority upon which this reduction was made has informed him that the present duty ought to be replaced. There is no mistake about it: it is a self-evident proposition.

Mr. McDUGALL. It is so long since I learned my first mathematics that I have almost forgotten what is positive, and I am not a great master of figures. What the gentleman says may be very true; he understands the computation of numbers and must have been a great student of all forms of mechanics from his youth upward. He knows how every thing can be produced that can be produced by art and science. Very well; I do not accept his judgment as compelling mine, for, thinking severely, I happen to think that my mathematics is even superior to his own. This may be called a boast, and it may be a boast, but still it is the simple truth.

Now, sir, as I am on the floor, I wish to say a few words before we reach the final vote. I shall vote for this measure when it is matured by the chairman of the Finance Committee, for whom I have great respect, as he knows, although the principles involved in it are not such as to meet with my full concurrence.

I shall have to go back many years to explain the reason why I shall thus vote. There was an occasion when a man whom I remember as one of the most distinguished men of our Republic, having argued many times against a certain course of policy, yet voted for it because it was demanded by the interests of the Republic. I speak of Silas Wright. I shall support this bill, although I object, not to the measure as it stands, but to its underlying considerations. The trouble is not the tariff; the trouble is our financial condition, and the way it has been organized.

We have to raise large amounts of money. We have to impose upon the people taxation sufficient to raise revenue enough to support the Government. It is caused much by the way our finances have been organized, and in this remark I have no reference to the Finance Committee, but to the policy organized at the opening of the war—to the organization of the national banks, to the system that undertook to make that a dollar which is not a dollar. The consequence is, that when a laborer asks for his daily wages, instead of two dollars a day, which was formerly sufficient, he asks five dollars, and he cannot get it because of the confusion of the currency.

We have to-day in this country about five times as much currency as is justified by a proper and sound business, and therefore we have to pay high taxes. The taxes must be paid; the Government must be supported; but the error is in the basis of our system. We have at the center of the Government a power gravitating throughout the whole Republic. I suppose that our five hundred banks, with a license from this capital to transact business, are all inviting the honest trader to borrow \$50, \$500, \$5,000, it being profitable to the institution with which he deals.

That requires a condition of affairs that disables us from having steady exchange abroad and transacting with advantage our business with foreign nations. That is the reason why we must have this tariff to which I submit only as a political necessity. It is wrong, in my judgment, not as presently presented, but wrong

because wise policy did not lie at the foundation of the organization of the system. I think that in its organization the great interests of the Republic were not highly regarded, and that great ambitions had much to do with it, as great ambitions had when Cæsar went consul into Spain. What for him? To redeem his own personal fortunes, and then come back pro-consul to be received through the gates of Rome triumphant. I do not say that this is the truth; but I do fear that it is the truth, and that fear sometimes makes me tremble for a Republic instituted by the wise men of our age which they designed to last through many centuries, but which now, not yet having passed a century, is threatened with utter dissolution. The underlying evil I think is in the financial policy of the Government; but our necessities must be met.

I do not undertake to speak as a very thoroughly-informed man; but as well as I have been able to think, and now presently, as well as I am able to speak, I say this evil must be corrected in our financial system generally throughout the Republic to enable us to maintain our institutions with half our present expenses, and then we shall not be compelled to demoralize ten thousand men regularly. The ten thousand men of whom I speak are the agents, accessories, and employes of the institutions that grow out of the banking system started here. I am somewhat responsible for what I call this iniquity, and I have long desired the time when I might state, and make public record of the fact, that I think I did a great wrong when I went for the bill which first established this currency. I thought it a public necessity at that moment, and I voted for the first bill that made paper money a legal tender. It was then said by the chairman of the Committee on Finance and by the Secretary of the Treasury that \$100,000,000 would be sufficient. I submitted to that as a then present necessity. It has now grown into Gorgoneared Briareus hands, and Argus eyes, stretching around this our Republic and injurious to its health. When General Jackson feared a combination of \$30,000,000 of capital, he had, by his brave constitution and his great will, the power to check an institution that threatened to demoralize our system at that time; but there was comparatively little danger then to what there is now, when \$700,000,000 are afloat and being used in the same manner and for the same purpose.

I say these things, not as arguments against the bill, for I have already indicated that I shall vote for it, but I say them to give full expression to what I believe to be the truth, and what I should like to express as the truth. I desire not only those who are now present here, but others to hear what I think to be the truth.

Mr. SPRAGUE. The question before the Senate is to place the duties on cotton goods the same as they are at present, not to increase them. The proposition of the committee is to decrease them. My proposition is to permit them to remain as at present.

The PRESIDENT *pro tempore*. There has been no amendment submitted.

Mr. SPRAGUE. I made a motion.

The PRESIDENT *pro tempore*. Will the Senator from Rhode Island state his motion?

Mr. SPRAGUE. My motion is, on page 8, line fourteen of section two, to strike out "four" and insert "five;" in line fifteen to strike out "four and one half" and insert "five and one half;" in line sixteen to strike out "four and one half" and insert "five and one half." Those are the figures in the present tariff bill.

The amendment to the amendment was rejected.

Mr. SPRAGUE. I offer the following amendment to come in at the end of the bill?

It shall be lawful to import into the United States any goods not prohibited, and to warehouse such as are subject to duties of customs in duly approved warehouses without payment of duties on their first entry; but the duties on goods imported from Great Britain or from Europe shall be paid on importation.



The object of that is to offset a similar law now on the statute-books of Great Britain, and I will read it. It will be all I shall say upon the subject. The law is as follows:

"It shall be lawful to import into the United Kingdom any goods not prohibited, and to warehouse such as are subject to duties of customs in duly approved warehouses without payment of duty on their first entry; but the duties on the following goods shall be paid on importation: on corn, grain, meal, flour, wood goods."

Every article which this country can furnish is subject to this restriction.

Mr. FESSENDEN. That is changing the warehouse system as at present established. I hope it will not be voted at this time of night.

The amendment to the amendment was rejected.

Mr. DAVIS. I rise merely to ask the Senate to decide upon an amendment which I offered a day or two since in relation to hemp. I ask the Clerk to read it.

The PRESIDENT *pro tempore*. The Chair is not aware of any pending amendment.

Mr. DAVIS. I presented it some days ago for the consideration of the Senate, but neglected to ask for the yeas and nays. I offered it in Committee of the Whole but not in the Senate. On page 22, line ten of section six, I move to strike out "twenty-five" and to insert "fifty."

Mr. FESSENDEN. The Senator tried that in the Senate. It was after we took the bill out of committee. I told him he could offer it after we got into the Senate. He agreed to it. When we got into the Senate it was tried and rejected.

Mr. HENDERSON. No; he withdrew it. There was no vote.

Mr. FESSENDEN. Then I was mistaken.

Mr. DAVIS. I grouped several amendments together. I move now to strike out "twenty-five" in line ten and to insert "fifty."

The PRESIDENT *pro tempore*. The Journal shows that the amendment was moved after the bill was reported to the Senate and a vote taken upon it, declaring it not to be agreed to.

Mr. FESSENDEN. That was my recollection. If it was rejected it cannot be moved again.

Mr. DAVIS. If that is the state of the case I have nothing more to say.

Mr. HENDERSON. I am satisfied the record is wrong.

Mr. FESSENDEN. It is right. It is exactly according to my recollection.

Mr. HENDERSON. I do not make this statement for the purpose of affecting the vote, because the amendment would be voted down if presented; but the Senator from Kentucky, instead of pressing a vote upon his amendment, withdrew it, and made a motion to recommit the bill. That is the state of the case.

Mr. FESSENDEN. No; we took a vote on it, but he did not call for a division.

Mr. HENDERSON. I stated merely what my recollection is. The Senator from Kentucky made no such proposition as this is in the first place. He moved to amend in various lines, not upon this point alone, but upon various others, and hence this amendment is now in order.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole as it has been amended.

Mr. GRIMES. Upon one question that was submitted to the Senate the other day upon which there was a vote, I am pretty well satisfied on more mature reflection that I cast an injudicious vote, and I should like to correct it. I refer to the vote adopting the amendment of the Senator from Michigan in regard to scrap iron. I move to reconsider that vote.

Mr. CHANDLER. I hope that will not be done.

Several SENATORS. We will vote it down.

Mr. CHANDLER. If the Senate will vote it down I shall not inflict a speech upon them.

The motion to reconsider was rejected.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made

as in Committee of the Whole as it has been amended.

The amendment, as amended, was concurred in.

Mr. HENDERSON. On page 21, line twenty of section five, I move to strike out "sixty" and insert "seventy."

The PRESIDENT *pro tempore*. The motion is not in order. The amendment made as in Committee of the Whole has been amended, and as amended has been concurred in. It is not now susceptible of amendment.

Mr. HENDERSON. Is not the bill susceptible of amendment?

The PRESIDENT *pro tempore*. The amendment, as amended, is not. New sections can be added; but the text of the amendment, as amended, having been agreed to in the Senate, is not now amendable.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read a third time.

Mr. HENDRICKS. On the passage of the bill I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. GRIMES, (when Mr. BROWN's name was called.) I have received a message from the Senator from Missouri, telling me that he is confined to his room by sickness, and desiring me to announce when his name was called that if he were here he would vote against the passage of the bill.

Mr. BUCKALEW, (when his name was called.) I have paired off upon this question with the Senator from Maryland who is absent, [Mr. CRESWELL.]

The result was announced—yeas 27, nays 10; as follows:

YEAS—Messrs. Cattell, Chandler, Conness, Cragin, Edmunds, Fessenden, Fogg, Foster, Frelinghuysen, Harris, Howard, Howe, Johnson, McDougall, Morgan, Morrill, Poland, Ramsey, Sherman, Sprague, Stewart, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—27.

NAYS—Messrs. Davis, Doolittle, Fowler, Grimes, Henderson, Hendricks, Kirkwood, Lane, Patterson, and Trumbull—10.

ABSENT—Messrs. Anthony, Brown, Buckalew, Cowan, Creswell, Dixon, Guthrie, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Saulsbury, and Sumner—15.

So the bill was passed.

Mr. WILSON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate (at twenty-eight minutes past twelve o'clock,) adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, February 1, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### SMITHSONIAN INSTITUTION.

Mr. PATTERSON, by unanimous consent, introduced a bill authorizing the Secretary of the Treasury to receive into the Treasury the residuary legacy of James Smithson, to authorize the Regents of the Smithsonian Institution to apply the income of the said legacy, and for other purposes; which was read a first and second time.

The bill authorizes and directs the Secretary of the Treasury to receive into the Treasury, on the same terms as the original bequest, the residuary legacy of James Smithson, now in United States bonds in the hands of said Secretary, namely, \$26,210 63, together with such other sums as the Regents may from time to time see fit to deposit, not exceeding, with the original bequest, the sum of \$1,000,000. It further provides that the income which has accrued, or which may hereafter accrue, from said residuary legacy shall be applied by the Board of Regents in the same manner as the interest on the original bequest, in accordance with the provisions of the act of August 10, 1846, establishing said Institution.

The bill was ordered to be engrossed and

read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PATTERSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN A. WEBSTER.

Mr. ELIOT, by unanimous consent, from the Committee on Commerce, reported a joint resolution to permit John A. Webster, jr., of the steamer Mahoning, to receive from the Government of Great Britain a gold chronometer; which was read a first and second time.

The joint resolution provides that John A. Webster, jr., of the revenue-cutter service, captain of the steamer Mahoning, shall be permitted to receive from the Government of Great Britain a gold chronometer which that Government is desirous to award to him in token of its appreciation of valuable services rendered by Captain Webster to several British vessels in distress on our coast.

Mr. ELIOT. I have a letter from the Secretary of the Treasury on this subject, as follows:

TREASURY DEPARTMENT, January 29, 1867.

SIR: Her Britannic Majesty's minister at Washington, Sir Frederick W. A. Bruce, having communicated to the Department of State the fact that the Government of Great Britain desires to award to Captain John A. Webster, jr., of the revenue steamer Mahoning, a chronometer for valuable services rendered by him to several British vessels in distress on the coast; that Department has communicated to this Department the request of Sir Frederick that an application be made by Congress for permission to enable Captain Webster to accept such testimonial, in conformity with the intentions of the British Government.

I have, therefore, the honor to submit the subject to the consideration of the Committee on Commerce for such action on the part of Congress as will give Captain Webster, a highly meritorious officer, authority to receive the testimonial referred to.

I am, very respectfully,

HUGH McCULLOCH,

Secretary of the Treasury.

Hon. T. D. ELIOT, Acting Chairman of the Committee on Commerce, House of Representatives.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LEFTWICH moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### PENTWATER AND PIERRE MARQUETTE.

Mr. FERRY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to transmit to this House the reports and estimates prepared under the surveys of the past year for the improvement of the harbors of Pentwater and Pierre Marquette, on Lake Michigan.

### SALES OF CONFISCATED COPPER STILLS.

Mr. DARLING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the internal revenue laws as to require the destruction of all copper stills which may be confiscated to the United States, and the sale of the same as old copper only.

### ENROLLED BILL AND RESOLUTION SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 819) for the relief of Richard A. Vervalen and others; and

Joint resolution (H. R. No. 126) for the relief of certain settlers on the Sioux reservation, in the State of Minnesota.

### PRESIDENTIAL PROCLAMATIONS.

Mr. WILSON, of Iowa. When House bill No. 859, to declare valid and conclusive certain proclamations of the President and acts done in pursuance thereof, &c., was recommended to the Committee on the Judiciary, some

days ago, leave was granted to that committee to report it back at any time on giving one day's notice. I desire to state now, in order that it may go before the House as a notice, that I will upon Monday, after the morning hour, report that bill back from the Committee on the Judiciary.

The SPEAKER. The Chair will state that there are now before the House two bills which committees have been authorized to report at any time, and they will have to be disposed of before any other business can come before the House.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 218) exempting the property of debtors in the District of Columbia from levy, attachment, or sale on execution; and

An act (S. No. 479) to punish illegal voting in the District of Columbia, and for other purposes.

#### ORDER OF BUSINESS.

Mr. HALE. I call for the regular order of business.

The SPEAKER. When the House adjourned on yesterday the tenure-of-office bill was under consideration; but to-day being private bill day, the consideration of that bill is suspended, unless the House shall otherwise order.

Mr. HALE. Will the tenure-of-office bill come up for consideration after the expiration of the morning hour?

The SPEAKER. It will, subject of course to the order of the House.

Mr. HALE. I must insist upon my call for the regular order.

#### HEIRS OF THOMAS W. HARVEY.

The SPEAKER. The morning hour has now commenced, and the House resumes the consideration of the bill pending at the expiration of the morning hour on last private bill day, being House bill No. 1060, extending certain letters-patent for the benefit of the heirs of Thomas W. Harvey.

The bill and accompanying report were again read.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. BROMWELL. The reasons which induced the committee to recommend the extension of these patents are briefly set forth in the report which has just been read. I may say, in addition to the facts therein set forth, that this matter has been, and must necessarily have been, known to all parties who take any interest in the extension of these patents about a year. During all that time the facts set forth in that report, so far as Thomas W. Harvey was concerned, his time spent, his labors, and his ingenuity are uncontradicted by any one.

So far as I know, the only objection which is urged by any one to the extension of these patents is that such extension will conflict with the interests of somebody else; that some one else would do a little better if those patents are not extended. I will state what I understand, from all the information derived by the committee, is the present condition of these patents. The patents embraced in this bill are by no means the only patents under which this class of screws is produced. There are but two patents embraced in this bill, while the patents invented by Harvey alone were perhaps not less than a dozen. Besides those patents there are a great many other patented machines which are now in use. Beside the machines now sought to be protected by this bill, Mr. Harvey invented machines of which the public has already had the benefit during a great many years. By means of the machines invented by Mr. Harvey the cost of making these screws has been reduced, so far as the labor upon them is concerned, according to the sworn testimony before the committee, not less than eighteen dollars per thousand gross. Accord-

ing to the testimony, there are consumed in the United States not less than twelve hundred gross of these screws per day.

Now, so far as the public is concerned, it has already received immense advantages from the inventions of Mr. Harvey. And, more than this, it is proper to remark that but for the perseverance and patience and expenditure of money which Mr. Harvey put forth the probability is that the public never would have had any of this machinery, but these screws would to-day be made by the old-fashioned machinery.

Now, I desire to draw a distinction between this case and that class of cases in which a man, by some lucky thought, has invented a machine which is valuable. In the case before the House it is evident, from an examination of the machinery, that it never could have been produced in any other way than by continual repetition of experiment and the expenditure of large sums of money.

All of this machinery is what among manufacturers is called automatic; it performs its evolutions almost with a life-like action. The metal is drawn into wire, which is cut off into pieces, which are seized by fingers and carried to the several parts of the machinery, and there the various operations necessary to complete the screw are performed. Now, whatever monopoly there is in the business of manufacturing screws arises from the fact that no man or set of men can enter upon that manufacture without a very large capital, because somewhere about four hundred machines are necessary before a man is in position to manufacture articles to fill the commonest order.

These machines being complicated and costly, and the tools and implements with which they are made being also complicated and costly, it follows that whoever expends the vast sum of money necessary to put up and stock a factory may for that reason have a monopoly to a certain extent.

But the case here is not that of those holding a monopoly asking an extension. This is the case of the widow and heirs of the man by whose ingenuity and the expenditure of whose fortune the public now enjoy the advantage of having this machinery in operation in the country. It is in evidence that Mr. Harvey had a large estate, all of which he spent during a long series of years in the many experiments necessary to perfect this machinery. He received from the use of these patents nothing which was not itself spent in carrying out his experiments. He died. His widow and heirs have received nothing, and under present circumstances they can receive nothing. These two patents which he procured are of value; and if this extension be granted in the name of the widow and heirs, and no one else, some of those engaged in the manufacture of screws may perhaps pay this widow and these orphans something for the use of these machines. Although there are many other machines doing the same work, yet it is most likely that there is a certain value about these machines the profit of which might inure to the family of the inventor.

Now, what answer to this is it to say that the public have such an interest in these machines being thrown open that they cannot afford the simple act of justice proposed in this bill? The public never originated these inventions; the public never would have enjoyed them had no man been found with the ingenuity and patience and liberality to make the unnumbered experiments which resulted in the perfection of this automatic machinery. The public are called on to pay nothing. It is not proposed to take any money from the national Treasury; but inasmuch as a great boon has been conferred upon the public by the ingenuity and perseverance of Thomas W. Harvey, it is now simply proposed that, in accordance with the liberal spirit of American law and the usages of the Government from the beginning, the public shall, as they ought to, grant to the widow and heirs of this inventor the opportunity of obtaining some rea-

sonable compensation for his invention, as they have heretofore had none.

Mr. Speaker, I now yield to the gentleman from New York [Mr. HALE] for five minutes.

Mr. HALE. Mr. Speaker, my opposition to this bill certainly arises from no other motive than my desire to see the principles which have heretofore uniformly regulated the legislation of this country upon the question of patents adhered to, and not departed from in a manner which I think would be entirely dangerous as a precedent. If I am correctly informed about the facts of this case, the report which has been made here from the Committee on Patents is not so remarkable for what it contains as for what it omits to state. If my information is correct, although it is true that this patentee, Mr. Harvey, died without securing from these patents a competency for his family; although it is true that his widow and heirs have perhaps received no substantial benefit from these patents; yet another thing is equally true, which should be a bar to the proposed extension, and that is, that the assignees of the patents of Thomas W. Harvey, men who claimed and held under him, who succeeded by his own act to his rights, have obtained immense fortunes from the patents which have already been granted.

The principal one of these patents was originally granted in 1846 for the term of fourteen years. It has been extended for seven years, the full limit allowed by our patent laws. As I am informed, Mr. Harvey having parted with his interest to other parties, these parties have carried on the business of making screws under it and have built up the most enormous, the most gigantic monopoly that this country has ever witnessed in a manufacturing article. These parties have not only had under these patents the potentiality, as Dr. Johnson said, of wealth beyond the dreams of avarice, but this potentiality has ripened into absolute fact, and fortunes have been accumulated and are accumulating to-day under these patents.

If that be so, I put it to the honorable gentlemen of the House on what principle are we to interfere between the heirs of the patentee and the grantees of the patentee? By what principle are we to say, because this man has perhaps made an unfortunate and foolish bargain in the sale of his patents and thus enabled his assignees and successors to realize wealth which he probably under other circumstances might have realized, how are we to say they are to be disregarded and the family now made good from loss, not from any defect in our laws, not from any want of liberality on our part, but from his own actions whether mistaken or compelled by circumstances? It seems to me, then, the principle which has always assumed to govern the legislation of this country is, wherever either the patentee, his heirs, his grantee, or any parties desiring title under him, have been sufficiently compensated that should be the end of the exclusive right. We are not to investigate whether parties who have obtained the fruits of the patent are the most deserving of them; but when the time expires the patented article should be thrown open to the public.

The gentleman says this involves no expense, that it takes no money out of the Treasury. Every exclusion of the public, every exclusive right to a manufacturer is a detriment to the country, and is only recognized on the ground that the inventor should have to some extent, some reasonable extent, which the law has fixed primarily at fourteen years, with a possible extension of half that time, in which to reap the fruits of his own invention. If by his act other parties have reaped those fruits it is no reason, it seems to me, why we should interfere and say, A having made a colossal fortune out of this thing at the expense of the public, we will turn in B in order to give him an opportunity to reap a second fortune. I believe the principle is an unsound one; and I believe the facts are as I have stated them. I call on the Committee on Patents if I do not give the history of this case as it actually exists. [Here the hammer fell.]

Mr. BROMWELL. I yield now fifteen minutes to the gentleman from Massachusetts.

Mr. WASHBURN, of Massachusetts. Speaker, I agree with the statement made by the gentleman who reported this bill that it is the duty of the public to protect individuals who invent new or improved machines and present them to the public; and I am not one of those who would endeavor to deprive any man of his just claims to the fruits of his valuable invention. I admit also with the committee that these inventions of Mr. Harvey are indeed most valuable improvements. But the simple point to which I wish to call the attention of the House is that so far as the Government is concerned in this case we have fulfilled our entire obligation to the inventor. He received the benefit of his improvement by a patent being granted for fourteen years, and at the expiration of that time it was extended for seven years longer. The Government, therefore, so far as it is concerned, has discharged all of its obligations to the inventor of these improvements. No further obligation rests upon the Government.

The gentleman makes the point that, the inventor having parted with this patent without receiving a fair equivalent as he claims, the Government is placed under an obligation to extend the patent for an additional period. Suppose, for the sake of argument, that the reason assigned is a good one, and the patent is extended for seven years more, and the parties part with it for a nominal sum, would not the argument be the same and as strong at the end of that seven years? Is the Government under obligation to guaranty that an inventor will manage his own business shrewdly in the disposal of his patent?

If this inventor has not received an equivalent it is not the fault of the Government, for the public have paid millions and millions for this invention. It has been one of the greatest monopolies which existed in the country. It has been confined to a few manufacturers who controlled it, and they made enormous profits, and the people were compelled to submit to the monopoly.

I ask members of this House if, under these circumstances, they are going to vote to extend this monopoly? They will bear in mind that in this report it is said that all of these companies that have been building up immense fortunes at the expense of the public are to have the benefit of this extension, if it is granted, gratis.

The gentleman who spoke in favor of this extension says that the machines are very expensive, and that it costs a large amount of money to maintain a manufacture of this kind. Sir, that is the very best reason why it should not be extended. If the machines were cheap, if every individual with a small amount of money could enter into competition in the manufacture, even if the patent were extended, they could be afforded at a fair price. But if the patent is not extended these companies that are still in operation will have the monopoly of this manufacture at least for five years to come; because it is admitted on all hands that so extensive is the machinery required that it will take at least five years of free competition for new companies to be able to compete with the companies now in operation. And it will be understood by members of the House that there are two or three companies in this country to-day that are manufacturing these screws.

The gentleman from Iowa inquired how this interested the agricultural portion of the country. Sir, there is not an individual, no matter what his calling may be, who is not interested in the question of the extension of this patent. The farmer, the mechanic, all ranks and classes of men, have to use these articles almost as freely as the most common implement in use. There is not a person in the whole community that is not interested in the question of the extension of this patent beyond the period of twenty-one years. As I said before, the Government having done its duty in giving

the patentee the monopoly for the full limit of the time allowed by law, I hope this House is not going to say that the public shall still pay a royalty for seven years longer. Let the manufacture be thrown open. We cannot rid ourselves of the present monopoly for five years to come even if the patent is not extended.

[Here the hammer fell.]

Mr. BROMWELL. I now yield to the gentleman from Iowa five minutes.

Mr. ALLISON. After what my friend from Massachusetts [Mr. WASHBURN] has said, it is perhaps unnecessary for me to add anything. But there are one or two facts in connection with this patent that I think the House ought to understand. This patent either has a value or it has not. If it has a value it is to be of benefit either to the parties who receive this extension or to the public. Now, I am told that there are seven or eight new companies in process of organization for the manufacture of this class of screws, which enter into the consumption of the entire country, and as the gentleman from Illinois himself says, it requires a large amount of capital to organize these corporations to manufacture these screws, the heirs of Harvey can only be benefited by selling this patent to some one of these companies. Now, I want to ask the chairman of the committee who introduced this bill, whether he proposes, if this invention has a value, to transfer that value to one of these seven or eight companies; or whether the community is not entitled to the benefit of it by having all these companies compete in the manufacture?

Now, I do know that the American Screw Company, that has had the benefit of this patent for the last two years, absolutely bought off an English screw company from bringing their products to this market. It paid them a royalty of some thirty or forty thousand dollars annually, if they would not throw their articles into competition in the American market. Now are we to have that same thing perpetuated in this country so as to increase the price of these articles to the consumers all over the country? For myself I shall never consent to it. If this patent has a value let it be given to the community; if it has no value it cannot inure to the benefit of anybody.

If some gentleman does not move to lay this bill on the table, I shall do so at the proper time.

Mr. BROMWELL. I will now yield to the gentleman from Pennsylvania [Mr. STEVENS] for two minutes.

Mr. STEVENS. Two minutes is all I ask. I remember that for the last five or six years, and perhaps longer, while I was a member of the Committee of Ways and Means, this screw question was before us on the question of imposing additional duties. A very adroit and able man, a Senator from the State of Rhode Island, generally gave it his particular attention. During that investigation my recollection is that it was shown, and was hardly denied, that this company have semi-annually declared large dividends. And it was shown most conclusively that not another screw of this character was made in America, and that whenever other companies got up machines approaching to this, this company bought out those machines, and the English companies who had the right to use it were bought off by a sum of money in gross every year.

I look upon this as one of the most profitable companies that ever existed, and I should think it a strange thing if we should extend this patent for the benefit of the assignees of the original patentees. I thought it proper to state this because I recollect the circumstances of the case.

Mr. BROMWELL. I will now yield for two minutes to the gentleman from Vermont, [Mr. MORRILL.]

Mr. MORRILL. Mr. Speaker, I am opposed to the extension of patents at any time beyond twenty-one years, and fourteen years I think is long enough. If the parties cannot in that time make money the company ought to close its affairs and attend to some other business.

In regard to this case, if there is a single patent that ought to be extinguished at the end of twenty-one years, it is this patent for the manufacture of screws, because it is conceded, and is a matter of public notoriety, that the stock of this company is two or three hundred per cent. above par and has been for years. This matter has already been considered in relation to the internal taxes and the tariff. I am opposed to all such measures.

Mr. WASHBURN, of Massachusetts. I ask one minute from the gentleman from Illinois.

Mr. BROMWELL. I will yield to the gentleman.

Mr. WASHBURN, of Massachusetts. I want to say that only the poor widow and orphans are put forward in this case. I will send to the Clerk's desk to be read what will show that they assigned all their interest in the patent to other parties. It is the report of the referees appointed to settle this matter with certain companies.

The Clerk read as follows:

"In the matter of the claims against the American Screw Company of Providence, Rhode Island, made by the owners of Harvey's patents of May 30, 1848, for threading wood screws, and of August 18, 1848, for a machine for dressing the heads of screw blanks, both of which patents have been extended for the period of seven years: said patents and extensions have been extended to the American Screw Company, and the referees are to determine the sum which the claimants are entitled to receive from the American Screw Company for the rights so assigned from the formation of the company to the expiration of the extended term and for any further renewals thereof."

Mr. WASHBURN, of Massachusetts. The House will understand that in case of this renewal it will go to the company and not to these parties.

Mr. HILL. I desire to know whether, as this bill was framed for the purpose of extending this patent solely for the benefit of the heirs of the original patentee, it will obviate this clause which seems to be in this contract, which comes before the House in the paper presented by the gentleman from Massachusetts, [Mr. WASHBURN,] that any extension shall be for the benefit of the assignees? That is a matter I want light upon.

Mr. BROMWELL. I will state what I understand to be the facts in this case as set forth by the parties in the memorial which the gentleman from Massachusetts [Mr. WASHBURN] had read at the desk. It concerns the original extension by the Commissioner of Patents.

No application for an extension of a patent comes before the House except after it has been extended for twenty-one years. Other extensions are granted by the Commissioner of Patents, and when his power of extension is exhausted the applications for extension come to Congress.

Now, sir, as much as the Committee on Patents may dislike to press private matters on the time and attention of the House when public business is pressing, yet when such matters in due course come before the committee it becomes as much their duty to thoroughly investigate the claims of the parties and deal justly with them as it would be in the case of a judge. The committee examined most thoroughly the case set forth in the memorial of the parties. The very fact to which the gentleman from Massachusetts [Mr. WASHBURN] has referred, that under a former transfer the widow and heirs can receive nothing, is a reason why Congress, in accordance with time-honored precedents in like cases, should make a further extension to them.

As to the assignees, the bill which I have the honor to present says expressly that the extension shall be for the benefit of the widow and heirs alone.

Who are these monopolists in New York and Massachusetts of whom the gentleman from Pennsylvania speaks? They are precisely those who, having capital in a business requiring a great outlay of money, have built for themselves vast factories, but they are using perhaps a hundred different machines. Of all those machines a great many are the invention of Thomas W. Harvey, of which the public has reaped the



profit from the day they were invented. He could not use his patents during his lifetime for want of means, and they have inured to the benefit of the country.

Let me say to gentlemen that it is a great benefit to the public that these manufactures should exist, and they have lowered the price of these articles permanently to the consumers throughout the country.

This widow and these heirs are not the American Screw Company, and are not the Continental Screw Company. They have nothing in common with those companies. The profits derived from the last extension went to neither the widow nor the heirs. It went to the men who advanced the money to Thomas W. Harvey, by means of which he made the very machinery which the manufacturers now use. The profits of that extension went to reimburse the men who advanced money after Mr. Harvey had spent \$100,000 in an attempt to invent and perfect this class of machinery. They are satisfied; but the widow and heirs got nothing. Thomas W. Harvey died without sixpence profit. His widow and heirs are here to-day; not only denied by the monopolists of these manufacturing companies any share in the profits arising from Harvey's labors, but in this House they are denied recognition by a portion of the House for a mere imaginary reason, it seems to me, which would send them penniless away, without even a recognition at the hands of their countrymen that the American inventor is in any way to be taken care of.

Mr. HALE. Mr. Speaker, I hold in my hand what is represented to be the solemn award of the arbitrators between these heirs and the assignees, which contains these words:

"Said patents and extension have been assigned to the American Screw Company; and the referees are to determine the sum which the claimants are entitled to receive for the rights so assigned, and that they are the property of the American Screw Company from the time of the formation of the company to the expiration of the extended term, and for any further renewals thereof."

Now, the question I wish to put is this: if it be true that by a contract between Mr. Harvey and the American Screw Company the right in his patents has been vested absolutely in the company, including the right to all further renewals to him or to his heirs, and if that contract has been confirmed by a solemn award between the parties, can any action of this House take away the rights arising out of that award, and will this bill prevent the benefits to be derived under it from inuring to the assignees of these parties?

Mr. HILL. I desire to know whether, in the opinion of the gentleman from New York, [Mr. HALE,] this paper can prohibit Congress from passing such laws as it may deem necessary for the benefit of the heirs without the assignees getting the benefit of it?

Mr. HALE. If the gentleman will allow me, I will say that it is a very Yankee way of answering my question for another question to be asked me by the gentleman from Indiana, [Mr. HILL.] I do not pretend that any contract between the parties can prevent Congress from adopting any legislation they may see fit; but I do say that if there has been a vested right passed to the American Screw Company, by a contract confirmed by an award of arbitrators, no action of Congress can interfere with that right.

Mr. BROMWELL. In answer to the question I will state that some, at least, of these heirs are minors, and the gentleman will not contend that any contract or arbitration like this will bind them. The Committee on Patents took all this into consideration, and they were satisfied that there was an equity in the claim of this widow and these heirs, and they are all that we have to deal with. The Commissioner of Patents has the same question before him every time he extends a patent which has run fourteen years; and the evidence in this case showed that Mr. Harvey, owing to certain circumstances which pressed him down, stood precisely where he did after the expiration of the seven years' extension.

It has been the usage of the Government to do this thing, and if it had not been, where would have been the use of a Committee on Patents at all? If these gentlemen are right there should never be any extension of patents by the House.

Again, gentlemen suggest that this patent will inure by virtue of law, notwithstanding what this House may do, to the benefit of the American Screw Company. I do not so understand it, and the committee did not so understand it. Moreover, the bill does not extend the patent. It merely authorizes the Commissioner of Patents, a man who is selected and placed there for the express purpose of determining these matters according to the principles of justice and sound public policy, in case after due notice and on full examination he shall find it proper, to authorize the extension of the patent.

I now move the previous question.

Mr. MYERS. Will the gentleman from Illinois [Mr. BROMWELL] withdraw his call for the previous question and yield to me for five minutes?

Mr. BROMWELL. Very well; I will do so.

Mr. MYERS. I cannot hope by any words of mine to add to the force of the arguments of my colleague on the Committee on Patents [Mr. BROMWELL] if the House has listened to them, and I believe the majority of the members here have done so.

But I rise for the purpose of endeavoring to answer the several gentlemen who have urged objections to the passage of this bill. And first, I will say to my legal friend from New York [Mr. HALE] that the language of the agreement to which he refers in relation to a renewal will not cover a congressional extension or new grant by Congress. At least so I read the decisions of the Supreme Court of the United States on this subject in *Gibson vs. Cook*, *Pitts vs. Hall*, and *Bloomer vs. McQuervan*. Even if it would have done so the bill before us disposes of that question and reextends the patent for the benefit of General Harvey's heirs only. Secondly, I will say in answer to my distinguished colleague, [Mr. STEVENS,] that the applications to which he and the chairman of the Committee of Ways and Means [Mr. MORRILL] have referred, for a reduction of the tax upon wood screws, related to other articles and not to those made by these identical machines.

I would again call the attention of the House to the fact that Thomas W. Harvey produced a series of machines for the purpose of manufacturing wood screws; that the right to use a majority of those machines has gone to the public, which now enjoys the undisputed benefit of them; that he expended \$100,000 of his own money, and borrowed \$70,000 more in order to perfect this series of inventions; that what has been referred to by several gentlemen here, in the paper which was sent to the Clerk's desk to be read, vaguely hinted at in order to produce opposition on the part of this House, was simply an agreement between the party to whom the heirs, in consequence of that loan to their father, gave the Patent Office extension and the American Screw Company. That agreement had nothing whatever to do with General Harvey or his heirs; those heirs merely furnished evidence in regard to the value of said inventions. If the gentlemen had read the whole case they would have ascertained that fact.

I say to this House that General Harvey expended \$170,000 to perfect these machines; and his heirs honorably carried out the promise made by their father, by assigning the extension of the patent for the purpose of refunding the money borrowed by him. And now because these monopolists write here and try to defeat the congressional grant to these deserving heirs, distinguished gentlemen rise upon this floor and argue that somebody else has made money out of these inventions, and therefore the inventor and his heirs must go unrewarded. I do not suppose of course that such is the object of the opponents of this bill, but the direct

consequence of their opposition if successful will be to favor these very monopolists against whom they seem so zealous.

This House has several times granted extensions of patents, though that is a thing which the Committee on Patents have seldom asked. Extensions are granted by Congress upon the express idea and assertion, and upon no other ground, that an inventor or his heirs have not been properly compensated and desire further protection sufficient to enable them to reap the fruits of their genius. That is the case here.

One word more; there are two hundred different sizes of these wood screws manufactured. In order to make them, each one requires a machine for heading, one for shaving, one for nicking, and two for threading, as the latter process takes twice as long as the others. Therefore it requires an immense amount of machinery to carry on this manufacture; and an immense capital, as shown, was requisite to perfect and carry it on. Now, because the American Screw Company obtained the control of the business from the party to whom these heirs honorably assigned the extension of these patents, because they have reaped the benefit of it, it is proposed that, with their immense capital, they shall retain the monopoly they now have, and prevent the heirs of this inventor from receiving from Congress the same consideration that has been awarded to meritorious inventors in like cases.

[Here the hammer fell.]

Mr. HALE. I desire simply to repeat the question I propounded when I was on the floor a few minutes ago. Is it not conceded that the grantees of this man Harvey have made enormous fortunes out of these very patents, two of which are now before us?

Mr. BROMWELL. Mr. Speaker, how much time have I left?

The SPEAKER. The gentleman has six and a half minutes yet remaining.

Mr. BROMWELL. I will answer the gentleman from New York, [Mr. HALE.] I suppose the assignees of these patents have made money out of them, and would like to make more. And I understand there is not a great monopoly in this country that does not resist the application of these poor heirs and this widow for this congressional extension; for they hold the tenure of their monopoly, not by the patents, but by the immense amount of capital necessary to wield a factory to carry on the business. A factory in which four hundred of these machines could play would fill an area equal to that occupied by one wing of this Capitol. This is the answer to the objections urged against the extension now proposed. It is the heirs who are to be benefited; and the question is, shall they go away with neither thanks nor money nor recognition at the hands of this Congress? Mr. Speaker, I now call the previous question.

Mr. ALLISON. I move that the bill be laid on the table.

Mr. WASHBURN, of Massachusetts, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 71, nays 75, not voting 44; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Baldwin, Baxter, Beaman, Bergen, Bidwell, Boutwell, Boyer, Campbell, Reader W. Clarke, Cobb, Conkling, Cooper, Cullom, Delano, Deming, Donnelly, Eckley, Eliot, Farnsworth, Ferry, Finck, Garfield, Glossbrenner, Goodyear, Grinnell, Hale, Aaron Harding, Henderson, Hise, Holmes, Hooper, Edwin N. Hubbard, Humphrey, Hunter, Ingersoll, Julian, Kasson, Koontz, William Lawrence, Le Blond, Marshall, McIndoe, Moorhead, Morrill, Nicholson, Paine, Perham, Platts, Price, William H. Randall, Raymond, Bitter, Sawyer, Schenck, Shellabarger, Sloan, Spaulding, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, Trowbridge, Upson, Warner, William B. Washburn, Wentworth, Williams, and James F. Wilson.

NAYS—Messrs. Anderson, Delos R. Ashley, Baker, Banks, Barker, Blow, Brownell, Broomall, Buckland, Bundy, Cook, Darling, Davis, Dawson, Demson, Dixon, Dodge, Eggleston, Eldridge, Farquhar, Griswold, Abner C. Harding, Hart, Hawkins, Hayes, Higby, Hill, Hogan, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Jenckes, Kelley, Kelso, Ketcham, Kuykendall, Laffin, George V. Lawrence, Loan, Longyear, Marston, Marvin, Maynard, Mc-

Clurg, McCullough, McKee, McRuer, Mercier, Moulton, Myers, Niblack, Noell, O'Neill, Orth, Phelps, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Rogers, Shanklin, Sitgreaves, Stillwell, Stokes, Strouse, Taber, Thornton, Trimble, Robert T. Van Horn, Henry D. Washburn, Welker, Whaley, Stephen F. Wilson, Windom, and Woodbridge—75.

NOT VOTING—Messrs. Arnell, James M. Ashley, Benjamin, Bingham, Blaine, Brandegee, Chanler, Sidney Clarke, Culver, Dawes, Defrees, Driggs, Dumont, Harris, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Hulburd, Jones, Kerr, Latham, Leftwich, Lynch, Miller, Morris, Newell, Patterson, Radford, Samuel J. Randall, Rollins, Ross, Rousseau, Seefield Starr, Stevens, Thayer, John L. Thomas, Van Aernam, Ward Van Horn, Andrew H. Ward, Hamilton Burt, Elihu B. Washburne, Winfield, and Wright—44.

So the bill was not laid on the table.

The SPEAKER. The morning hour has expired and the bill goes over until the next private bill day.

CAPTAIN DANIEL C. TREWHITT.

Mr. STOKES. I ask unanimous consent to introduce a joint resolution for the relief of Captain Daniel C. Trewitt. It is the same which I desired to introduce a few days ago, when the gentleman from Iowa [Mr. ALLISON] suggested that the case was covered by general law, and therefore I did not press the measure at that time. I find that the general law does not cover the case.

There being no objection, the joint resolution was read a first and second time. It proposes to direct the Paymaster General to pay to Captain Daniel C. Trewitt, of Tennessee, full pay for four months' service in the United States Army as captain and adjutant general on the staff of Brigadier General James G. Spear, Tennessee volunteers.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STOKES moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

STRAW WRAPPING-PAPER.

Mr. KETCHAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the propriety of removing the internal revenue tax from straw wrapping-paper and of placing the same on the free list, and that they be permitted to report by bill or otherwise.

LEAVE OF ABSENCE.

On motion of Mr. TAYLOR, of New York, leave of absence was granted to Mr. CHANLER for one week.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President, by Mr. WILLIAM G. MOORE, one of his Secretaries.

SCHOONER ALPHA.

Mr. HUMPHREY, by unanimous consent, introduced a bill to grant an American register to the schooner Alpha; which was read a first and second time, and referred to the Committee on Commerce.

MILTON VELZY.

Mr. HUMPHREY also, by unanimous consent, introduced a bill for the relief of Milton Velzy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ARSENAL AT ST. LOUIS.

Mr. HOGAN, by unanimous consent, introduced a bill to enlarge the United States arsenal at St. Louis, Missouri; which was read a first and second time, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed bills, in which the concurrence of the House was requested, of the following titles:

An act (S. No. 302) for the relief of the Mercantile Mutual Insurance Company of New York;

An act (S. No. 537) to amend an act entitled "An act to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Amboy, by Hillsdale and Lansing, to some point on or near Traverse bay, in the State of Michigan, and for the completion of said road," approved July 3, 1866; and

An act (S. No. 272) to authorize the corporation of Washington to reduce the width and improve the avenues and streets of that city.

The message further informed the House that the Senate had postponed indefinitely a bill (H. R. No. 819) for the relief of Richard A. Vervalen and others.

The message further informed the House that the Senate had passed without amendment a joint resolution (H. R. No. 126) for the relief of certain settlers on the Sioux reservation in the State of Kansas.

The message further informed the House that the Senate had passed a bill (H. R. No. 874) to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House, and for other purposes, with an amendment in which the concurrence of the House was requested.

ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

An act (H. R. No. 605) to amend an act to establish the judicial courts of the United States, approved September 24, 1789;

An act (H. R. No. 719) to punish certain crimes in relation to the public securities and currency, and for other purposes; and

An act (H. R. No. 388) to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia.

IOWA CLAIMS.

The SPEAKER, by unanimous consent, laid before the House a message from the President, transmitting information in response to resolution of the House respecting the execution of an act providing for the appointment of a commission to examine and report on certain claims of the State of Iowa, approved July 25, 1866; which was laid on the table, and ordered to be printed.

MEXICO.

The SPEAKER, by unanimous consent, also laid before the House a message from the President, transmitting, in answer to resolutions of the House requesting information of the present condition of affairs in Mexico and desiring copies of correspondence on the subject of the evacuation of Mexico by French troops not before officially published, a report from the Secretary of State; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

APPOINTMENTS TO OFFICE.

The SPEAKER, by unanimous consent, also laid before the House a message from the President, transmitting reports from the heads of the several Executive Departments containing information asked for by resolution of the House in respect to appointments to office, &c.; which, on motion of Mr. MYERS, was referred to the select Committee on the Civil Service, and ordered to be printed.

TENURE OF CIVIL OFFICES.

The SPEAKER announced as the first business in order after the morning hour the bill (S. No. 453) entitled "An act regulating the tenure of certain civil offices;" on which Mr. HALE was entitled to the floor.

Mr. HALE. Mr. Speaker, I do not propose to speak now on this bill; but I have a proposition to submit to the House.

This is a very important bill both as regards questions of principle and policy. Its subject has already been discussed in this House at

very considerable length upon the bill introduced by the gentleman from Pennsylvania, [Mr. WILLIAMS.] In view of this fact I do not deem it necessary that the same time be afforded for discussion on the bill as if it were entirely a new measure. Several gentlemen are desirous to speak upon it; and the proposition I have to make is that by universal consent debate be limited to thirty minutes instead of an hour for each speaker. I am anxious to bring the measure to a vote, if possible, to-day.

The SPEAKER. If there is no objection, it will be understood that no member shall be entitled to speak more than thirty minutes on this bill.

There was no objection.

Mr. HALE. I now yield to the gentleman from Ohio, [Mr. FINCK.]

Mr. FINCK. Mr. Speaker, this bill proposes to take from the executive branch of the Government a power which has been uninterruptedly exercised by that department from the commencement of the administration of General Washington, and expressly recognized and sanctioned by both the legislative and judicial departments of the Government since 1789, and ought not to receive the sanction of this House unless clearly warranted by the Constitution, and imperatively demanded by the true interests of the country.

It is a question which should be considered and discussed free from all party bias, because it is a measure which proposes to reverse a long, well-established, and uninterrupted practice of the Government, and to substitute in its place a new system, which is not only to affect the administration of the executive branch of this Government by the present Chief Magistrate, but also the administrations of future Presidents.

It is not my purpose, Mr. Speaker, to detain the House by an examination of the mere details of this bill, or enter upon a lengthy or elaborate discussion of the questions involved in it, but will content myself by stating briefly some of the reasons why I oppose the passage of this measure.

The material inquiry is, has the President, under the Constitution, the power to remove from office in such cases where the tenure is not fixed by the Constitution without the concurrence of the Senate, although the Senate was required to concur in the appointment?

The provisions of the Constitution relating to appointments provide that—

"The President shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments."

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session."

Now, it is claimed by the advocates of the bill under consideration, that the words "all vacancies that may happen" mean only such vacancies as may happen by accident or casualty, without any agency of the President in bringing them about. Such, sir, has never been the construction of these words by any department of the Government.

In the act of September 2, 1789, establishing the Treasury Department, it was provided:

"That whenever the Secretary shall be removed from office by the President of the United States, or in any other case of vacancy in the office, the assistant shall act," &c.

Thus early was a legislative construction given to the power of the President to make removals without the concurrence of the Senate.

It will be observed that the act of 1789 does not by express terms confer upon the President the power to remove the Secretary of the Treasury, but recognizes the existence of such power in the President, and provides who shall act in case the President shall remove the Secre-

tary from office. Chancellor Kent, referring to this act, says:

"This amounted to a legislative construction of the Constitution, and it has ever since been acquiesced in and acted upon as of decisive authority in the case. It applies equally to every other officer of Government appointed by the President and Senate whose term of duration is not specially declared. It is supported by the weighty reason that the subordinate officers in the executive department ought to hold at the pleasure of the head of that department, because he is invested generally with the executive authority, and every participation in that authority by the Senate was an exception to a general principle and ought to be taken strictly. The President is the great responsible officer for the faithful execution of the law; and the power of removal was incidental to that duty, and might often be requisite to fulfill it."

Mr. Wirt, when Attorney General in 1823, in giving an opinion on the question of appointments and removals, commenting on the word "happen," used the following language:

"But the expression used by the Constitution is 'happen'; all vacancies that may happen during the recess of the Senate. The most natural sense of this term is to 'chance'—to fall out—to take place by accident. But the expression seems not perfectly clear. It may mean happen to take place; that is 'to originate'; under which sense the President would have the right to fill it by his temporary commission. Which of these two senses is to be preferred? The first seems to me most accordant with the letter of the Constitution; the second most accordant with its reason and spirit."

And he concludes:

"The construction which I prefer is perfectly innocent. It cannot possibly produce mischief without imputing to the President a degree of turpitude entirely inconsistent with the character which his office implies, as well as with the high responsibility and short tenure annexed to that office, while at the same time it insures to the public the accomplishment of the object to which the Constitution so sedulously looks—that the offices connected with their peace and safety be regularly filled."

I believe similar opinions were entertained by such men as Pinckney and Taney and Legare and Barrien and Cushing.

But this power of removal without the concurrence of the Senate has also been recognized by the Supreme Court of the United States.

I refer to the learned opinion delivered in the case of *ex parte* Duncan N. Hennen by Justice Thompson, one of the ablest of the many distinguished jurists who have adorned the bench of the Supreme Court, in which he says in 13 Peters, 259:

"This power of removal from office was a subject much disputed and upon which a great diversity of opinion was entertained in the early history of this Government. This related, however, to the power of the President to remove officers appointed with the concurrence of the Senate; and the great question was whether the removal was to be by the President alone or with the concurrence of the Senate, both constituting the appointing power. No one denied the power of the President and Senate jointly to remove where the tenure of the office was not fixed by the Constitution, which was a full recognition of the principle that the power of removal was incident to the power of appointment. But it was very early adopted as the practical construction of the Constitution that the power was vested in the President alone. And such would appear to have been the legislative construction of the Constitution, for in the organization of the three great departments of State, War, and Treasury in the year 1789 provision is made for the appointment of a subordinate officer by the head of the Departments who should have the charge and custody of the records, books, and papers appertaining to the office when the head of the Department should be removed from the office of [by] the President of the United States. (1 Story, 5, 31, 47.) When the Navy Department was established, in the year 1793, (1 Story, 498,) provision was made for the charge and custody of the books, records, and documents of the Department in case of vacancy in the office of Secretary by removal or otherwise. It is not here said by removal by the President, as is done with respect to the heads of the other Departments, and yet there can be no doubt that he holds his office by the same tenure as the other Secretaries, and is removable by the President. The change of phraseology arose probably from its having become the settled and well-understood construction of the Constitution that the power of removal was vested in the President alone in such cases, although the appointment of the officer was by the President and Senate."

But gentlemen say that there is no express power conferred upon the President to make removals. I answer, neither is there any express power conferred by the Constitution for removals by the concurrent action of the President and the Senate; but no one denies that the power of removal does exist where the tenure of the office is not fixed by the Constitution. Whence is the power derived? I answer,

not simply as an incident to the appointing power, but that it belongs to and is an incident of the executive power, which is vested in the President, who is charged with the execution of the laws, and in the performance of which duty he is obliged to appoint agents as the instruments through which he may be enabled to discharge properly the grave responsibilities imposed upon him by his office; and being responsible for the faithful discharge of the duties incumbent upon the executive branch of the Government, he must, as an incident of the powers of the Executive, have the right of removal in the cases already mentioned.

But it is said that abuses have grown up under the exercise of this power by the Executive. It is quite probable. Indeed, it would be very strange if such were not the fact; but is it more likely that these abuses would be less frequent and less serious to the public interests if the responsibility was divided and the Senate should be authorized to act upon such removals, and its assent be necessary before they could be made?

It is our imperative duty, wherever we can do so by the exercise of legitimate power, to prevent abuses and provide remedies against them, but with the greatest vigilance they cannot be entirely prevented. They grow out of the imperfections which have always existed and will always exist, even in the most perfect forms of civil governments; and while I would be unwilling to sanction the exercise of any powers in the Executive which does not belong to him, I am at the same time unwilling to sanction any attempt to invade the just rights of that department of the Government or take from that officer the exercise of a power which has been recognized as belonging to him from the foundation of the Government.

Mr. Madison, in a letter written to Edward Coles in 1834, referring to the claim made that the Senate had a right to act upon the removals made by the President, says:

"You are at a loss for the innovating doctrines to which I alluded. Permit me to specify the following: 'The claim on constitutional grounds to a share in the removals as well as in the appointment of officers is in direct opposition to the uniform practice of the Government from its commencement. It is clear that the innovation would not only vary essentially the existing balance of power, but expose the Executive occasionally to a total inaction, and at all times to delays fatal to the due execution of the laws. Another innovation brought forward in the Senate claims for the Legislature a discretionary regulation of the tenure of offices. This also would vary the relation of the departments to each other, and leave a wide field for legislative abuses. The power of removal, like that of appointment, ought to be fixed by the Constitution, and both, like the right of suffrage and appointment of Representatives, to be not dependent on the legislative will. In republican Governments the organization of the executive department will always be found the most difficult and delicate, particularly in regard to the appointment, and most of all to the removal of officers. It may well deserve consideration how far the present modification of those powers can be constitutionally improved.'"

Certainly the present distinguished Attorney General may feel himself fortified and fully sustained by these high authorities; although the learned gentleman from Pennsylvania, [Mr. WILLIAMS,] in alluding to his opinion on this subject, has been pleased to say of him that it would—

"Be asking perhaps too much to expect that an officer who holds his life at the pleasure of the President should be found standing in the way of the prerogative in times like these."

It is unnecessary for me to enter upon any defense of the Attorney General. He stands deservedly in the front rank of the profession which he has adorned, not only by his eminent abilities as a lawyer, but by his character as an upright and patriotic citizen.

But why should I detain the House longer by a reference to the opinions of these eminent men? Are not the statesmen of to-day who control the legislation of this nation wiser than the fathers? It is true that Chancellor Kent has deliberately said that the power of the President to remove in the class of cases already named—

"May now be considered as firmly and definitely

settled, and there is good sense and practical utility in the construction."

And that Mr. Madison, in speaking of the claim made on behalf of the Senate in cases of removal, as already quoted, has declared—

"The claim on constitutional ground to a share in the removal as well as appointment of officers is in direct opposition to the uniform practice of the Government from its commencement."

Or what difference does it make that Justice Thompson has solemnly announced, in the opinion in 13 Peters, that it had—

"Become the settled and well understood construction of the Constitution that the power of removal was vested in the President alone in such cases, although the appointment of the officers was by the President and Senate?"

Has not the gentleman from Pennsylvania, in his speech in support of this bill, referring to what had been said in support of the construction heretofore placed upon the power of removal by the President, told us that it was—

"Something in the way of argument that not even the deservedly great reputation of Mr. Madison himself can commend to the disciplined logician of the present day?"

Mr. Speaker, the disciplined logicians of whom the gentleman speaks must be those men who have advanced too far (and I say it without the least intentional disrespect to any gentleman of this House) to be hampered in their construction of the Constitution by the opinions of such men as Washington, and Jefferson, and Adams, and Madison, and Pinckney, and Wirt, and Jackson, and Taney, or by the uniform construction of every department of the Government on this question since the adoption of the Constitution.

Sir, I trust I have a due appreciation of the statesmanship of the gentlemen whose opinions control the legislation of this Congress; but I prefer to follow the fathers, and leave this power of removal just where the framers of the Constitution and every Congress which has assembled since 1789 have left it. And I hope that gentlemen who in the recent campaign have had so much to say in disparagement of what they styled the "bread-and-butter brigade" will so act on this question as not to excite any well-grounded suspicion in the public mind that they are now really themselves ambitious to have control of that much-abused class of men.

Sir, this is an attempt to deprive the present Executive of the exercise of a power which has been exercised by all of his predecessors. And why is this to be done? Is it because the President has exercised this power to a greater extent than his predecessors during the last thirty years? No one who is at all acquainted with our history will make such a charge.

Why, what is the extent of this great power of executive patronage which disturbs gentlemen so much? One would think, from the clamor and abuse which we have heard uttered against President Johnson on this floor, that his removals were to be counted by the thousand; but there could be no greater mistake.

In the discussion of this question in the Senate it was developed that the whole number of presidential appointments in the civil service of the United States was only two thousand four hundred and thirty-four, distributed as follows: in the Department of State, three hundred and forty; in the Treasury Department, nine hundred and seventy-three; in the Interior Department, two hundred and ten; in the Post Office Department, seven hundred and nine; and in the office of the Attorney General, two hundred and two. And how many removals do you suppose the President has made up to the middle of January? Why, sir, four hundred and forty-six, as follows: in the State Department, ten; Treasury Department, one hundred and ninety-nine; Department of the Interior, twenty-one; in the Post Office Department, one hundred and ninety-seven; and in the office of the Attorney General, nineteen. Can it be possible that because of these four hundred and forty-six removals we are called upon to pass this measure? No, sir; this is but one of a series of attacks which have been made and



are likely to be continued against the President, because he has dared to go straight-forward in the faithful discharge of the grave responsibilities of his high office; because he does not believe with the gentlemen who control this Congress that ten of the States of this Union have been reduced to mere territories; because he insists that they are States in the Union, equal in their rights and dignity with the other States, and constitutionally entitled to be represented in this House and in the Senate, and to participate in the election of President and Vice President. Yes, he stands by the Union of the States under the Constitution, and for this he is assailed; for this his Administration is to be singled out, and the office which he administers is to be stripped of the exercise of a power which every department of the Government since its organization has said belonged to it.

Legislation like this, Mr. Speaker, when it comes to be examined by that calm and deliberate public opinion which will sooner or later consider all these questions, will not, I trust, be sanctioned by the American people.

Mr. WILLIAMS. I move to amend by striking out these words:

Excepting the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General.

So that the first section will then read:

That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided.

Mr. Speaker, having already spoken so much at large on the general principles involved in this projected measure of reform, I do not now propose to rehearse what I have said, but will endeavor to confine myself in what I have to offer to the amendment I have just submitted.

That amendment seems to me to be essential to the symmetry of the bill, essential to its completeness, essential to its efficacy, essential to it as a remedial measure, which shall be coextensive with the evil which it proposes to correct, and essential, I think, to the satisfaction of the general demands of the American public. The principle of this bill, which comes to us from the Senate, like that I had the honor to report to this House, involves a negation, as I may say, of the doctrine of the right of removal at the mere will of the Executive, which has so generally prevailed in the practice of this nation. It recognizes it as an evil; it proposes to rectify that evil; but it stops short in the exception which covers the heads of the several Departments of the Government, as indicated in the Constitution. In this I think the bill is defective. With the elimination of this exception, I think it will be of great practical value. Without it, we shall be only pruning off a little of the redundant foliage, instead of applying the ax to the root of the tree.

Why is it that these, the highest officers in the Government, are excepted, while the bill aims only at lower and inferior ones? The reason is, as I understand it, that the heads of Departments are the constitutional, perhaps I should not say constitutional, but at all events the confidential advisers of the Executive, and that unity in council is essential to a proper administration of the powers of that Department; in other words, that so far as regards the executive branch of the public service there should be only one universal will pervading the whole vast domain of this Republic; that there is to be no reference to the will of the people, no responsibility in that direction whatever, but that all things are to be referred to the supreme pleasure of the Executive, who is to be in that respect all in all.

I take leave just here to say, what I suppose no one in this House will question, that there is no advisory council known to our Constitution except the Senate of the United States. True it is that the heads of Departments have been generally recognized and characterized

as "the Cabinet," and equally true it is that from the foundation of the Government the Chief Executive Magistrate has applied to them for such advice as he might desire; but it does not follow that he may not with equal propriety seek it elsewhere. He may consult them, however, and I am free to admit that their opinions are entitled to great weight so long as they are in the condition of independent officers; but when the idea of advice is combined with that of a compulsory unity, a unity constrained by the power of the Executive over the tenure of the officer, I do not know how these positions are to be reconciled with each other. To exercise the office of a counselor it is of the first necessity that the party who holds it should enjoy the most perfect freedom. If he subsists upon the breath of the Executive Magistrate and holds his place by his mere arbitrary will, is it likely that his opinions will be governed by any reference to the interests of the country?

Why, sir, if these high functionaries are to depend solely upon that will, then they are in no different position, so far as regards the nation, from, and are of no more value to its executive head than are the minions and sycophants who live on the breath of a despot and poison his ear by their mendacious flattery. What man of sense, for example, would undertake to say that with a Cabinet council composed of creatures standing in habitual awe of the Executive and under the constant terror of the bow-string, from the grand vizier down to the very lowest in the grade of service, that any honest or manly advice was likely to be obtained or even possible?

Is this so much desiderated unity consistent then with the idea that the men conforming to it shall occupy the position of advisers when they are held under bonds like this? To treat them as such, if not very like a joke, is the very climax of absurdity.

And now, Mr. Speaker, what is there in the relations of the Executive of the United States to these officers under the Constitution which should entitle him to control them? Does the Constitution intend it? Unquestionably not, but the very contrary. Have the heads of Departments no duties to perform except such as are assigned to them by the Executive himself? The Congress of the United States is expressly authorized by the terms of the Constitution to lodge with them the power of appointing to all inferior offices. We do invest them with other powers, and we impose upon them other duties in almost every day and hour of our legislative experiences. Are these men not officers of the Government, but the mere agents and servants of the Executive? Is there no responsibility to us? Is there none to the law? There may be, there now is; but under present circumstances, and with this power of removal reserved to the Executive, and unfortunately recognized as belonging to him alone and exercisable without appeal ever since the year 1789, of what value to the nation is that constitutional provision which gives to us the power of lodging these appointments in the hands of his subordinates? None whatever. Its exercise by us has become in effect a mere farce, a cheat, and a delusion—an empty and idle assertion of authority.

Allow me to appeal to the practice, and to ask what is the experience of this nation on this subject? For if we are not to learn wisdom in that school we shall be a great many years in the process of growing wise. On this point it is only necessary to call the attention of this House to the case of the removal of the deposits in 1833. Mr. Duane, it will be recollected, was then Secretary of the Treasury. The charter of the Bank of the United States provided, if my recollection serves me, that the deposits of the public moneys should be made in that institution, and should remain with it unless the Secretary of the Treasury at any time, upon information satisfactory to himself, should judge them to be insecure. General Jackson, who was then Chief Magistrate, (with, as we know, a will of his own, and an

iron one, too,) insisted upon their removal. Mr. Duane, the Secretary of the Treasury, believing them to be safe, refused to obey the order, to his honor be it said. He did not look to the pregnant fact that he was holding his office by the precarious tenure of executive will. He was man enough—and I am sorry, for the country's sake, that there are so few resembling him—to overlook and despise that consideration, and peremptorily refused to do the work he was commanded. And what was the result? The answer of the President, as it has been generally reported—and I have no doubt, from the internal evidence, that it is true—was, that if Mr. Duane would not do his will and defer to his authority in the premises he would find another man who would. And he did find that compliant man in the person of Roger B. Taney, then Attorney General, who was transferred to the Treasury for that object, and faithfully and submissively performed the work that he was put upon.

Here, then, was the case of a power lodged with and a duty imposed by an act of Congress on the Secretary of the Treasury, and that power and the performance of the duty overridden and overruled by the arbitrary fiat of the Chief Magistrate, and his purpose accomplished and his will enforced by turning out the officer for no other reason than because he proved to be conscientious and felt that he owed duties to the law which were superior to those he owed to the Magistrate from whom he derived and under whom he held his commission as the head of one of the Departments of the Government.

But this is not all. The Constitution of the United States, as I have already remarked, authorizes Congress to vest the appointing power either in the Chief Magistrate alone or in the heads of Departments or in the courts, so far as regards the appointing of inferior officers, who comprise, I suppose—and this is in accordance with the opinion of Judge Story—at least ninety-nine out of every hundred of the valuable and paying offices of this nation.

Well, sir, we have exercised that power in sundry instances. It was not intended, as the terms of this provision show, that the Executive should appoint in all cases, although all these are to be regarded as executive officers. It did intend that this power should be parceled out and divided. It was its obvious spirit and purpose that Congress should lodge it with high functionaries, who it was reasonably supposed would be sufficiently independent for its safe, judicious exercise. We have exercised that power in some instances. We have vested the Postmaster General with the faculty of appointing to all post offices where the salary is less than one thousand dollars per annum. We have vested the Secretary of the Interior with the power of appointing pension agents and perhaps other officers; and yet it is a transparent fact, well known to every man conversant with the business of these offices, that appointments are made every day by the President himself, in cases where the power is lodged with the head of the Department, without consulting and even without the knowledge of the head of the Department himself!

And here, in the way of illustration, I am reminded of a very recent case in the person of a pension agent who received a notice of removal without any previous complaint that he was aware of against him; and upon application to the Secretary of the Interior, to whom the appointment belonged under the law, was informed by that functionary that he knew nothing about the case, and was not even aware of the fact of his supersedure. The result is, therefore, as practically shown no doubt in hundreds of instances, that under present circumstances, with the heads of Departments depending for their official life on the arbitrary pleasure of the Executive, this important provision of the Constitution is practically blotted out and our power over the subject substantially abdicated.

I know that my very worthy friend who sits before me, [Mr. HALE,] with his strong conservative leanings in favor of old abuses, will dissent

from me on this question. The bill from the Senate now before us is, I believe, the same reported here by himself from the joint Committee on Retrenchment, which is now depending as an amendment, or rather substitute for the bill reported by me from the Judiciary Committee of this House. There may be some slight differences, but they are, I think, substantially the same.

And now, with a view of showing to the House that I have the full indorsement on the part of that committee, through one of its accredited organs on this floor, of the very opinions and views I have been expressing, I will take the liberty of referring to the very able speech made by the gentleman from Rhode Island [Mr. JENCKES] a few days ago in the consideration of the bill in relation to appointment to the civil service, in which I take it that he expresses the opinions of the committee. I shall be pardoned of course for reading a paragraph from that speech which is so much to the purpose as the following:

"TENDENCY TOWARD CENTRALIZATION.

"Another evil, and one which may become of greater magnitude and threaten greater danger to the Republic than any other, is that already suggested, of the direct interference of the Chief Executive in the appointment of officers which by law is vested in the heads of Departments, claiming to exercise over these chiefs the power of removal without the assent of the Senate, as well as exercising the power of appointment with the Senate's advice and consent. His will controls the heads of Departments, in whose discretion the Congress has by law under the Constitution vested the selection of these inferior officers. Thus the whole public civil service, in the language of the resolution appointing this committee, is 'being used as an instrument of political or party patronage,' and with the leader of the political party in power, or of one that seeks to be in power, in the executive Mansion, one of the greatest evils which can endanger the existence of a republic springs into existence in the very heart of ours—that of the centralization of all appointing as well as executive power in one person. The framers of the Constitution wisely guarded against this centralizing tendency by the clause already quoted, but under the present system that guard is a nullity."

This is well and conclusively put, and fully authorizes me, I think, to say that if my worthy friend from New York dissents from my argument here he dissents equally from the logic of the paragraph from his colleague's speech to which I have referred. I think I have understood from him, however, that he indorses the whole of that speech.

If, then, I have not misapprehended him, I shall have a right to expect him to join hands and stand shoulder to shoulder with me in this endeavor to make the heads of the Executive Departments independent of the Executive will. I expect him, therefore, to unite with me in lifting these men from their abject and slavish posture at the footstool of imperial power. I want him to unite with me in so ordering our affairs that there shall at no time hereafter be a recurrence of such scandalous exhibitions as the country has been compelled to witness at Philadelphia, where a political convention was manipulated and engineered by high functionaries of this Government in forming a part of the very Cabinet of the President. I want him to vote with me so as to make it impossible hereafter that the world shall witness another royal progress like the last, graced by the attendance of Cabinet ministers, and illustrated, too, by sometimes maudlin public utterances from them.

And now, Mr. Speaker, I have only to say, in addition to what I have already remarked, that there are other objections to this bill, which I will endeavor to correct if I am allowed the privilege by such amendments as have suggested themselves to me.

I trust the gentleman from New York will allow me this opportunity. I take his silence for consent, and with that understanding I will not detain the House any longer.

Mr. HALE. I hope the gentleman will infer nothing from my silence. It is important that this bill should be brought to a vote this afternoon.

Mr. WILLIAMS. I give notice then to the gentleman from New York that if my amendment to the first section prevails, a correspond-

ing amendment will be needed and offered by me for the second one.

The third section also I shall ask to change, because it reenacts a constitutional provision in very terms, while it omits to provide that it shall be the duty of the President to nominate at the next session when he has filled a vacancy during the recess. I shall ask leave also to renew the insertion of the second section of the bill, now pending in the House, providing that in no case where a party has been once rejected by the Senate, shall he be renominated or replaced or allowed to perform any of the functions of the office for which he has been refused.

And with these remarks, as promised, I submit my pending proposition to the House.

Mr. WOODBRIDGE. Mr. Speaker, I would not rise for the purpose of discussing this bill, and should occupy no time of the House in such discussion were it not highly probable that owing to circumstances beyond my control, unless the vote is taken this afternoon I shall not be able to be in my seat when the yeas and nays are called.

Mr. Speaker, I am decidedly in favor of the bill as it came from the Senate; and I am as decidedly opposed to the amendment proposed by the gentleman from Pennsylvania, [Mr. WILLIAMS.] I oppose the amendment not so much upon constitutional grounds, despite the authority of Madison, as upon the grounds of expediency and policy; on the ground of expediency, because I believe that if the amendment is inserted the measure will be lost. As has been said on the floor of this House over and over again, the three departments of the Government are independent of each other—the legislative, the executive, and the judicial. The legislative department is independent of the executive, except so far as the veto may control their action. The executive department is independent of the legislative department, except so far as the action of the Senate upon appointments is concerned. Now, these exceptions, which like all exceptions must be construed strictly, were placed in the Constitution by our fathers for wise and wholesome purposes; and I believe they should in no instance be departed from. In the one instance they prevent hasty, improvident, and unconstitutional legislation. In the other they prevent the appointment of weak or dishonest men to office. In all other respects the coordinate branches of Government are independent of each other.

Now, sir, in regard to the power of removal, the Constitution is silent upon the question. It does not say that it shall be given to the President or to the President and the Senate. It merely says that all appointments shall be made by the President by and with the approval of the Senate. I admit, with my friend from Pennsylvania, [Mr. WILLIAMS,] that as a general proposition the power of removal is incident to the power of appointment. But I deny that it necessarily follows that the power of removal is restricted to the appointing power. I have no doubt that Congress has the supreme power to control the entire subject of removal.

When the proposition was first before the House in the bill presented by my friend [Mr. WILLIAMS] the other day, at first it met with my approval. I then deemed it to be necessary for the safety of the Government, and even for the preservation of the principles of liberty, that the heads of the Executive Departments should only be removed by and with the approval and consent of the Senate. I looked upon it without any reference to the present condition of the country, without any reference to any party. I have tried to look upon it in no partisan spirit, but so far as I could as a statesman, and after giving it very mature reflection, (and I have devoted to the subject the best power of my mind,) I now believe that it is safer for the Government, and more in accordance with our theory of an independent executive, to allow the President alone to remove the heads of the Depart-

ments, instead of calling upon the Senate for its consent.

Sir, the President of the United States is the executive head of the nation. The acts of the Executive and of the heads of the Departments are the acts of the President, and his only; for those acts he alone is responsible to the country. The heads of Departments are the confidential agents of the President, or, if gentlemen prefer the nomenclature of John Randolph, they are his chief clerks. The theory of the Constitution is that the President, being the executive head of the nation, controls and manages personally all the affairs of his department. But that has become practically impossible. The President cannot with his own hands perform all the duties incident to his department. He cannot with his own eyes overlook all the details of our foreign and domestic relations, and it became necessary to systematize and subdivide, and hence the various Departments were established. And for more efficiency each was provided with a head called a Secretary. To whom, sir, are those heads of Departments responsible? To Congress or the people primarily? No, sir; to the President, and the President alone. They exercise the duties of their Departments under the direction, will, and control of the President, and their acts are the acts of the President. They are, as was well said in the debate of 1798, the "extra eyes and the extra arms of the President," and they are responsible to him alone. They have by custom come to be called his "constitutional advisers;" but there is nothing in the Constitution that makes them such; there is nothing in the law that makes them such. But usually, being men of great ability, and in intimate communication and confidential relations with the President, they, by reason of their knowledge of the duties of their respective Departments, become, so to speak, his advisers. But he is not obliged to call upon them: he may consult with whom he pleases.

Now, Mr. Speaker, it has been said, and said with a great deal of feeling, that in consequence of permitting the President to select and dismiss at his pleasure the members of his Cabinet, as they are called, or the heads of the Departments, the Secretaries become merely the tools of the President, exercising no manly judgment upon the affairs of the nation. With a bad or weak man it may possibly be so; but it is by no means probable; and I believe that an able and wicked Secretary would have greater power to gratify an unhallowed ambition and to injure the country by making the consent of the Senate necessary for his removal. If such consent be required, it will, in my judgment, be dangerous to the country, because it will weaken and divide the Administration; it will divide the power charged with the execution of the laws. Look, for instance, at the recent rebellion. Suppose that during the late conflict the Secretary of War had entertained the idea that secession might be proper, and instead of managing his affairs of his Department in such an able manner as to gain for himself the affection of our whole loyal people and the plaudits of the civilized world, had preserved a masterly inactivity, doing nothing treasonable, but being simply inefficient, nothing but disaster and ruin would have resulted to the country. Sir, in a case like that, where the "confidential adviser" or agent of the President is found not to be executing his will under the law ought not the President to have the power to displace him? Does not the safety of the country demand that the President should possess such power?

Gentlemen here seem to proceed upon the ground that everybody is bad; that human nature is necessarily corrupt; and that when a man gets into official position he will degrade himself by the commission of mean and dishonest acts. Sir, I believe that human nature partakes in some measure of the essence of divinity; that man into whom God breathed the breath of life has still about him something of the impress of God. I believe that, whether

in high or low position, there is something of honesty left in the world. I know that men often are bad; but I cannot admit that because a man is in power he is necessarily corrupt.

My position in relation to the present Administration is well known. It is well known that the views of the Executive do not agree with my views; and I utter these sentiments merely as the honest and earnest conviction of my judgment, looking to the good of the country. I look upon the question in a broader than a partisan light. I regard it as a question not merely for the present day, but for the great future, when this country shall be covered by a hundred million people. Backed as we now are by a triumphant majority of the people, right as we are in the great body of measures that we are taking to carry out the expressed will of the people, I warn gentlemen not to be too hasty. Let us not legislate in a spirit of partisanship. Let us not legislate for to-day alone, when we are flushed with victory and more or less disturbed by passion; but in the exercise of a pure, clear judgment, befitting statesmen, a judgment that rises above the passions of the hour and the wants of the moment, let us legislate for the great future.

I believe, sir, that as a matter of policy this amendment should not prevail. Its constitutionality I admit; but its expediency and propriety I deny.

Mr. DONNELLY. I move to amend the bill by adding to the third section the following:

*Provided, however, That no vacancy shall be held to have happened during the recess of the Senate if the incumbent of the office was in the exercise of the duties of the office upon the day on which Congress convened; but in such case the person holding such office shall continue to retain and exercise the same until his successor is confirmed by the Senate or until he is removed in accordance with the provisions of this act.*

Mr. Speaker, I will ask the attention of the House for a few moments while I explain the purpose of this amendment. It is intended to cover a peculiar class of cases, some of which have arisen in my State and district.

It is, sir, a well-known fact that it was the intention of the framers of the Constitution that the appointing power should not be exercised by the President alone, but by the President and the Senate acting conjointly. So jealous were they of the exercise of this great power by any one man, and so deep was the impression upon their minds made by the fierce struggle through which they had passed against the despotic power of the Government of England, that they even provided in that Constitution the appointment of many of these officers might, should the interests of the country require it, be entirely removed from the President. In every case occurring while the Senate was in session it was enjoined the appointment should be made jointly by the President and the Senate. But it was seen that there would necessarily occur cases of vacancy during the recess of the Senate, when of course the judgment of that body could not be brought to bear upon the case and it was necessary to provide for such an emergency and vest the power of temporarily filling the place in the hands of the President. And the Constitution accordingly provided that where vacancies happen during the recess of the Senate the President may issue his commission, which shall expire at the end of the next session of the Senate. It seems to me nothing could be clearer than the meaning of that portion of the Constitution. The word "happen" is derived from a Teutonic root, which involves the idea of "surprise." Webster defines it as meaning, "to occur accidentally; to fall out; to come without previous expectation." It was clearly the intention of the framers of the Constitution to provide in this section simply for those vacancies which might "happen" by the death, resignation, or misconduct in office. Mr. Hamilton spoke of it as referring to "cases of casual vacancies."

Now, under the practice that has grown up under our Government, it has been assumed by the President that he could actually "create" the vacancy, which by the terms of the Con-

stitution was expected to "happen;" that is to say, that that which was to be a casual act beyond the control of the appointing power could be created by the appointing power. Such a construction, it seems to me, cannot possibly be supported by the language of the Constitution. But great as are the evils which have grown out of this forced construction of the Constitution, this amendment is intended to strike at a still greater perversion of the meaning of the Constitution, a still greater extension of the illegal and unjust practice which has recently arisen.

In my own district the United States assessor, one of the best and most capable officers in the entire revenue service of the United States, was, upon the 6th day of December last, after the convening of the present session of Congress, in the undisputed exercise of the duties of his office, so recognized by the Department, performing all his duties. Subsequent to that date, no misconduct having been alleged against the incumbent, a party appeared with a commission dated on the 16th of November last, and claimed the possession of the office. The assessor holding office by a perfect title—by the appointment of the late President Lincoln—confirmed long since by the Senate, refused to yield up his office until the appointment of his successor was acted upon by the Senate, then in actual session; and he has to this day so refused to yield, and is still in the exercise of the duties of his office. Now, I seek by this amendment to prevent just such cases. I do not seek to attack the right of the President to make removals during the actual recess of the Senate, although, as I said, I do not think such action, however justified by custom, is consistent with the language and intent of the Constitution.

But I desire to prevent this system of removing men from office during the actual session of the Senate upon commissions which may, for aught the incumbent or the Senate knows, be antedated, and may be really made and issued from the Department at Washington while the Senate is in session. If my amendment is adopted and becomes part of the bill it will require that in such cases the party so taking the appointment shall abide the action of the Senate, and that the party who is in possession of the office at the time the Senate convenes shall continue to hold it until his successor is confirmed by the Senate. I do not think there can be any reasonable objection to such a provision. If it is not adopted there is no limit to this power of the President. It is in his power, while we are now deliberating and attempting to set up guards against his power of removal, to issue commissions by the wholesale and date them back to November or July or March, if he chooses, and so remove the remnant of good and faithful men who are yet left in office, and who look to this Congress for protection.

Neither can there be any reason for the course which the Administration seek to pursue: there can be no motive for it. The Senate being actually in session, it is the prerogative of the Senate to judge between the two men—the incumbent and his proposed successor—and I can see no reason why the party holding a commission, received by him after the commencement of the session of Congress, should not abide the action of the Senate. Any other construction will simply tend to do away with the power of the Senate to act upon those cases. I hope, Mr. Speaker, I have given sufficient explanation of the purpose of my amendment and that it will prevail. I feel, at least, that I should be false to many excellent men in my own district and throughout the whole country if I did not make this effort to stay the hand of persecution and usurpation.

Mr. HISE. Mr. Speaker, the few remarks that I intend to submit I have no idea will contain anything particularly interesting to the members of the House. They will be somewhat didactic and elementary.

I believe it is a cardinal principle in polit-

ical philosophy, as enunciated by Montesquieu and afterward approved and adopted by Madison, that the distribution of the powers of a Government intended to be free into separate and independent departments is necessary in order that free government should be maintained and perpetuated; and that the contrary doctrine of the amalgamation or concentration of all the governmental powers in the hands of one single magistrate or a single department of the Government, whether the officers of that department held their powers for life or a shorter time, and whether it be hereditary or elective, is the very essence of despotism, and any Government based upon such doctrine will, in the absence of the restraints or checks existing by reason of a division of its powers between different and independent departments, as shown by the light of experience and history, end in corrupt, arbitrary, irresponsible, and oppressive misrule, notwithstanding there be a written constitution strictly defining and limiting its powers.

I believe that the framers of the Constitution of the United States, as well as the framers of all our State constitutions, founded the framework of our governments upon the fundamental principle to which I have referred. It was held to be indispensably necessary, in order that government should be free, that there should be this division of its powers among at least three different departments. There is a broad line of distinction between the powers of these branches of the Government, the executive, the legislative, and the judicial. To state it simply, the legislative department makes the laws, the judicial department construes them and determines all contests between individual litigants, and pass upon and apply, as required in cases within their defined and established jurisdiction, all the laws both statutory and fundamental; while the executive department was provided for a distinct and different purpose, as its name imports, and that was to execute the laws as passed by the Legislature and sustained by the judiciary.

The State governments were organized to operate upon the rights of person and property, and to secure civil order and well-regulated liberty among the people. The Federal Government was constituted for a very different purpose. It was designed for the management of what are called national purposes and objects, such as our relations with foreign nations and the preservation of peace between the States. It was, therefore, necessary that all those divisions of power which existed in the State constitutions should be preserved in the Federal Constitution, so as to prevent encroachment by this Government upon the reserved rights of the States.

The framers of the Constitution provided further in the legislative department for a difference in the qualifications of members of the Senate and House of Representatives, with the hope and expectation that there would be more experience, moderation, and wisdom in the body first named than there would perhaps be in the House of Representatives, which, on account of the youth and inexperience of its members and its numerical force, would be more apt to be controlled by partisan passion. But, as is now the case, both branches of Congress might be in the hands of one political party, both interested in practicing partisan abuses, and so power was lodged in the hands of the Executive to operate upon, and to some extent control, the legislative department by means of the veto.

The necessity of maintaining these checks and balances provided by the Constitution in this distribution of powers is shown by the fact of the various acts committed by the legislative department of the Government during the last four, five, or six years. Educated in the school of politics that I have been, it does seem to me that the tendency of those acts has been to set up a government here regardless of the Constitution of the United States.

I refer not only to the exercise of legislative



power, which they do not possess, but to the fact that they are legislating so as to cripple and emasculate, if not to destroy, the authority and jurisdiction of the judicial as well as the executive branch of the Government. The bill that is now before the House is intended to destroy the independence of the executive department of the Government. An act has also been introduced into this body in relation to the Supreme Court of the United States, now composed of nine members, and which court has full and plenary authority to decide upon all questions of the constitutionality of any of the laws of Congress; which act is intended virtually to deprive that branch of the Government of its beneficent power and influence in preserving the people of the United States and the State governments from legislative usurpation.

And the jurisdiction of the State courts has been invaded by requiring causes that have been instituted in those courts to be taken away without authority and lodged in the Federal courts, in order to get in illegal defenses that would not be admissible in the State courts. We have seen acts of confiscation, by which the property of the citizen, without any trial or conviction, or adjudication of a court with competent jurisdiction, is attempted to be wrested from him, contrary to the Constitution of the United States. Hence, I hold that the examples furnished and presented by the acts of the present Congress, both done and contemplated, as well as the acts of preceding Congresses show the importance and the necessity of maintaining these checks and balances in our system of Government, both State and Federal.

Now, sir, the executive branch of the Government must necessarily hold all the executive power pertaining to it. You cannot constitutionally strip it of any power that must necessarily be classified as executive, as contradistinguished from judicial or legislative power; and it is only for candid and intelligent men, free from party bias and passion, to look for a moment at any act to be able to decide whether the power involved is legislative, executive, or judicial.

Now, what is the object of constitutional government at all? The object is to prescribe limits, boundaries, and restraints upon the various departments of the Government in which the powers of government are lodged; to say to each Department, "Thus far shalt thou go, and no farther." In regard to the Federal Government, it was considered that there were rights of men and rights and powers of the States that should not be infringed or encroached upon by any majority of the legislative branch of the Government, however great that majority might be. No matter if some reprehensible measure might be carried by the entire body of Congress, yet, if they respect their oaths, they will not be guilty of it, merely because they have the power of numbers, because if they should be guilty of it they would not only violate their oaths, but depart from the principles of sound statesmanship and overthrow and subvert the Constitution of this Government, which, if carried out as now established, will tend to produce all the grand results which my friend from New York [Mr. RAYMOND] could only hope to obtain by claiming that there is an unwritten constitution higher and above the written one.

Now, I insist upon it, that in order to secure the independence of the executive branch of the Government, that it may have the power and efficiency, according to the design of the Constitution, to interpose an effectual check against usurpations upon the part of the legislative branch of the Government, the Executive must have the exclusively executive power of making appointments, with the Senate's concurrence, and of removing all executive officers at his unfettered and unrestricted pleasure. I hold that any intervention upon the part of Congress to fix the tenure of executive officers is an unwarrantable exercise of power, unauthorized by the Constitution. Now, the Con-

stitution is very plain in its terms; we want no more law upon the subject; the fundamental law settles the question; and because it is an executive power the power of appointment and removal is necessarily given to the President of the United States; for the power of removing an executive officer is necessarily an executive power.

The Constitution says the President shall nominate and, by and with the advice and consent of the Senate, appoint. The word "President" is the nominative to both the verbs, the one that precedes and the one that follows the words "by and with the advice and consent of the Senate." It is the President who nominates; if he does not nominate the Senate cannot act at all. If the President, there being a vacancy, does make a nomination, and the advice and consent of the Senate is asked, then whether the consent be given or refused, if an appointment is made at all it must be made by the President alone, and he is not prohibited from appointing his own nominee notwithstanding the disapproval of the Senate.

The same clause of the Constitution provides that the Congress may by law place the appointment of inferior officers in the heads of Departments and in courts of law. Now, what does any candid, intelligent man understand to be the meaning of that clause of the Constitution in regard to inferior officers? He understands it, and can understand it reasonably, in no other way than as meaning that the authority of Congress to place the appointment of inferior officers in the heads of the Department had reference of course exclusively to those inferior officers who were employed in conducting the business of that Department alone. Does that constitutional provision authorize Congress to vest in the hands of the Secretary of the Treasury the power to appoint postmasters, and *vice versa*, to vest in the Postmaster General the appointment of subordinate officers of the Treasury Department? Surely not.

So, too, in regard to the courts. When Congress is authorized to confer on the courts of law the appointing power it simply means that Congress may by legislative act authorize the different tribunals to appoint the various subordinate officers necessary to aid in the administration of justice. Who can with any show of reason maintain that Congress has the right by law to vest in the hands of the judges the appointment of a Treasury officer—to confer, as is proposed, on the Chief Justice of the Supreme Court the power to appoint the Commissioner of Internal Revenue? By such an act we should bestow on the judicial department of the Government executive power which under the Constitution can be exercised by the executive department only. If you thus strip the executive branch of its legitimate functions, you should at the same time relieve it of the corresponding responsibility.

No intelligent, candid man, unbiased by party zeal or party passions, can believe otherwise than that the Constitution intended that the appointing power to be lodged in the courts should be confined to the subordinate officers of those courts, such as sheriffs, marshals, messengers, clerks, &c., officers necessary to aid in the administration of justice and in the exercise of the powers or functions pertaining to the judicial department.

Mr. WILLIAMS. Will the gentleman from Kentucky allow me to ask him a question?

Mr. HISE. It will interrupt me very much indeed.

Mr. WILLIAMS. It is but a single question, which the gentleman can answer in a word. I wish the gentleman to say whether a marshal is not an executive officer, and whether, under the law which has existed almost from the foundation of this Government, the power to appoint deputy-marshals has not been lodged with the courts.

Mr. HISE. I look upon the office of marshal as similar to the office of sheriff. The

marshal is the officer whose duty it is to execute the processes, mesne and final, of the courts, to carry their sentences into execution and to enforce and collect their judgments.

Mr. WILLIAMS. Then he is an executive officer.

Mr. HISE. Not necessarily executive. He is the ministerial officer of a court; and I would not deny the authority of Congress to vest the appointment of marshals in the courts of which they are officers; not at all; because I look upon the marshal as a part of the auxiliary force of the judicial department, necessary in order to carry out its judgments and decrees. It is true that the Congress of the United States, by various acts, providing for taking the census, &c., has charged these marshals with executive functions, but improperly in my opinion. I hold that the marshal is a *quasi* judicial officer—an officer connected with the administration of judicial functions.

Now, what is to be the doctrine? That the President of the United States shall be held responsible for all maladministration in the executive branch of the Government, for all failure to execute the laws. He is the only officer known to the Constitution in whom is lodged the executive power of the Government. To none others is that power confided except as his auxiliaries, adjuncts, aiders, and assistants. The executive head of the Administration is responsible for his subordinates. He is responsible for the heads of the various Departments. He is responsible for the management of the business of those Departments. Being thus responsible, the President necessarily must have the power to remove these subordinates at pleasure. The Senate cannot appoint; the Senate cannot remove. To say that the President shall not remove a high officer is to say that he shall not be removed at all. Thus we have the anomalous condition of things, that an officer of the executive department resists and refuses to execute the commands of his constitutional superior charged with carrying out the laws of Congress; and there is no power of the superior to enforce the obedience of the inferior, or in case of obdurate disobedience to put in his place a faithful and obedient officer! Thus the subordinate is higher than the principal: the inferior sets at defiance his official superior.

By your bill the President is not allowed to remove from office, and by the Constitution the Senate cannot remove, except upon impeachment. Neither, then, alone can remove. We have an Executive elected for four years, and the subordinates appointed by him, unless there is an agreement to remove him or them between the President and Senate, will hold their offices during life, unless by law the term of office should be limited. The Senate alone cannot remove, and you deny that the President alone can do it. Then it depends on the agreement between the President and the Senate whether a corrupt and incompetent official should be removed. Will they agree? They will never agree when the Senate is composed of a large majority of the political enemies of the Executive.

The President cannot remove and the Senate cannot remove, and they cannot agree; what is to be the result of this state of things? Subordinate officers will have paramount authority; they may stand out in defiance of the President, their superior officer. Not only is the Constitution against this condition of things, but it ought to be against it. The President is the man who is to select. He is supposed to be of high and illustrious character, who has been raised to exalted position by the judgment of the people. He is put into the presidential office, charged with all its powers and responsibilities, including the power to remove corrupt and incompetent officers and the power to appoint those who are honest and competent. If you take it from him and give it to the Senate, what is the result? If you give it to him and the Senate conjointly, what is the result? The result will be a dead-lock. If not

that result then the executive department will be domineered over and controlled in regard to appointments by the Senate, and the Senate will become the dispenser of all the Government patronage pertaining to the executive branch of the Government and which does and of right ought to be within the power and control of the executive head. I would not wrest this power from the President and place it in the Senate, because it would tend to destroy all subordination and unity of design and action so necessary to the independence and efficiency of the executive branch of the Government, and tend to the absorption and consolidation of all the powers of Government by Congress, and thus diminish, if not destroy, the conservative elements in our political system, intended to protect from encroachment the right of the States and the liberty of the citizen.

Under this bill the President will only have the right of suspension. He can suspend the officer for a short time—while his case is to be presented to the Senate for trial; and as there are many thousands of officers employed in all the various branches of the civil service of the Government, and consequently cases of corruption and incompetency constantly being exhibited requiring removals and reappointments, then without the power of removal in the hands of the President, the public interest would be continually jeopardized; or otherwise, if the President's authority be limited to temporary suspension, until the Senate should try each case upon its own merits upon charges and proof of incompetency or official corruption. In such case that august body, the Senate of the United States, would resolve itself into a petty partisan court, and all its time be taken up in trying hundreds, perhaps thousands, of petty cases of imputed delinquency of executive officers, and the President of the United States, the chief executive head of a great Government, would degenerate into a public prosecutor of thousands of petty officers for petty offenses. Results such as these and others still more—

(Here the hammer fell.)

Mr. STEVENS. I ask leave to move the following amendment:

And in no case shall any person who has been nominated by the President for any office below that of ambassador and rejected by the Senate, or on whose nomination that body has failed or declined to act in the way of consent or refusal, be appointed for any office of the United States for the space of one year after such rejection. When nominations have been made and which have been or shall be rejected, all acts done in making such nominations, or which may be done by the nominee, so far as the removal and appointment of subordinates is concerned, shall be considered null and void.

Mr. HALE. I object.

Mr. STEVENS. I give notice, then, I shall offer the amendment when it is in order, and I hope the previous question will not be seconded until I have that opportunity.

Mr. HALE. I withdraw my objection.

The SPEAKER. The amendment then will be regarded as pending.

Mr. STEVENS. Mr. Speaker, the bill now under consideration is either useful and ought to be passed for the benefit of those who have been persecuted for the past year, or it is pernicious. If it cannot be made a useful bill by way of punishment and reproof and by way of reparation to those who for their loyalty have been persecuted, then perhaps the bill had better stand as it is.

There is no probability now that the same occurrences will be repeated. If we had passed this law two years ago, so as to have prevented what has already taken place, there would have been some sense in it in a party as well as in a political point of view. We did not do it; we suffered the President to go on against the ordinary custom of the country and make removals for the purpose of creating a party; I say against the custom of the country, for although I recognize the right and the propriety of an incoming Executive to change his agents so as to make all of them conform to his views in carrying out the principles upon which he was elected, yet I do not recognize the right, after having been elected upon certain issues or

principles, to take these offices and pervert them. I do not recognize his right to build up a party by corrupting those who are now in power for the purpose of destroying the very party and the very principles that elected him. I say it is dishonest and corrupt, and in my judgment quite sufficient cause for impeachment.

Now, sir, this bill as it stands at present only prevents the future repetition of things of this kind; it does not restore matters to what they were, nor punish his coconspirators in this work. If you do not do this, what do you do? You confirm these very men in the office in which he has placed them. You make them profit—them or some others—by his acts. You punish those who were loyal to the country, and you prevent any man from ever again hoping that he will be protected by the party in power from this kind of usurpation.

Now, my amendment provides that whenever the Senate shall fail to confirm the nomination, the person nominated shall hold no office under the President for the space of one year. It is so guarded that it can affect nobody except those who have been appointed since we were here before. Is not that right in two points of view? Is it not right as a punishment for those who have deserted their principles, their friends, and their party; and is it not right because it presumes that the Senate had examined them and found them unfit for office? I submit that it takes at least a year to wash clean a polluted politician, and hence that limit is small enough.

Now, what objection is there to it? Some gentlemen say, "Why, can you appoint to office?" No; I am not saying we do appoint to office; but I claim that we may declare that these men have never been out of office. If you cannot declare that, your whole bill is a shameful violation of the Constitution. This bill is founded only upon the ground that the true meaning of the Constitution from the outset was that the President, of himself, had no power to create a vacancy such as the present incumbent has been doing. If he has done it, he has done it in violation of the Constitution. If the Constitution allowed him to do it, I ask the learned gentleman from New York upon what authority he is acting here? He is not, I hope, changing the Constitution by this simple act of his.

Mr. HALE. I will endeavor to answer the question very fully, and I trust to the satisfaction of the gentleman, when I take the floor. I will then show upon what ground I put it.

Mr. STEVENS. I have no doubt the gentleman will put it on the most plausible ground, as he always does, and with eminent ability. I cannot see how this act is possibly constitutional unless we have a right to declare that the President in making these appointments was acting outside of the Constitution. If we say to the President, "You have no right to make these removals without the consent of the Senate," why do we say it? Because the Constitution says it. So we construe it. Suppose the construction has been erroneous for the last seventy years, that does not change the Constitution. There has been no legislative construction of it in this respect. We are now for the first time putting a legislative construction upon it. We therefore have a clear right to say that everything done between the time of the removal of these men and the present, or the time of their reinstatement, was void, being done in violation of the Constitution, and that these men shall be considered as still in office precisely as they were before, instead of being sacrificed for their fidelity and their places being filled by the most filthy reptiles that ever crawled into office.

I trust that the amendment will prevail. I shall also vote for the amendment of my colleague, [Mr. WILLIAMS.] If they prevail then I can vote for the bill on constitutional grounds; if they fail I should deem myself violating my oath to support the Constitution if I voted for the bill, and shall therefore certainly vote against it.

But I have not risen to occupy much time, only to state as distinctly as I could my views of the question, and I now yield the remainder of my time to the gentleman from Illinois; [Mr. BAKER.]

Mr. BAKER. Mr. Speaker, I desire to submit a very few remarks in support of the amendment proposed by the gentleman from Pennsylvania, [Mr. WILLIAMS,] which consists in striking out of the text of the bill these words: "excepting the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General," the effect of which will be that the Senate must concur in the removal, as in the appointment of these Cabinet officers. I favor this proposition for the following reasons:

1. Now is the only opportunity likely ever to arise when it will be practicable to make this reformation. If there be a good in it, now is probably the solitary occasion on which we shall ever be able to attain that good. On the contrary, if the reform in this particular does not work well it will obviously be an easy matter to go back to the old method. From this state of the case I derive a strong argument in favor of the proposed amendment.

2. This amendment simply proposes to apply to heads of Departments the general principle that both branches of the appointing power shall concur in the removal of an officer—a sound principle to the whole extent, if sound at all.

3. I should rather expect much good from this change. The relation of the Cabinet to the President, as the matter now stands, is substantially the same as the relation subsisting between the British sovereign and her council. Both are officers holding by tenures at the will of their superior. It is very plain, on general principles of human nature, that such a relation is inimical to the giving of that perfectly free and independent advice which looks only to the public good, and is calculated on the other hand to promote a facile compliance with the will of the superior. Thus the very end of advisory counsel—truth elicited by truth asserted without fear or favor—is continually in danger of being defeated. This I do not say is the necessary result but it is the permanent tendency of the system. English history in too many instances shows that the counselors of the Crown, especially when worn by a strong-willed and perverse monarch, have only confirmed the sovereign in his evil courses, and sought to buttress up his abuses of power by gross perversions of constitution and law.

The like, or something similar, I apprehend, may occur, if indeed it has not in some measure already occurred, in the administration of our own Government, if we continue to copy in this important respect the example of Great Britain. The President should be surrounded by a body of measurably independent counselors in order that we may have the best guarantee that their counsel may be upright, disinterested, and valuable to the highest attainable degree. In my opinion the reform will work admirably. I think it is one of the most needed and most important changes this Congress can make; and I do earnestly hope the amendment may be adopted.

The suggestion that if deprived of absolute control over the removal of his Cabinet, the President will call to his aid what has been termed an irresponsible "Kitchen Cabinet," strikes me with little force. Under the proposed change the President, by and with the advice and consent of the Senate, as now, would call around him his most able personal and political friends. Surely, just, manly, and proper fidelity to him would not be impaired but rather fortified by the circumstance that they did not hold their places subject to his absolute power to dismiss them at any moment. The best and highest forms of friendship and fidelity are not the results of absolute authority in the one party and absolute dependence in the other.

It is not fit, in my judgment, that an Amer-

ican officer of high grade should occupy a position of such absolute dependence on the will of another. The idea is European, not American. It is appropriate to monarchical systems, where the highest officers of the court are but creatures of the Crown. It appears to me utterly inappropriate in a free Republic, and I hope we shall make an end of it.

Mr. HALE. I now move the previous question on the bill and the pending amendments; but before pressing that motion I will yield for a moment to the gentleman from Pennsylvania [Mr. WILLIAMS] to offer the amendment of which he has given notice.

Mr. WILLIAMS. I offer the amendment, which is to come in after line five of section three.

The SPEAKER. By unanimous consent the amendment can be entertained at this time, to be voted on in its order. The Chair hears no objection.

Mr. GARFIELD. If the first amendment of the gentleman from Pennsylvania prevails, a similar amendment will be needed in the second section. I offer that amendment if there be no objection.

No objection was made, and the amendment was entertained.

The previous question was seconded and the main question ordered.

Mr. HALE. Mr. Speaker, I shall endeavor to be very brief in what I have to say upon this bill; but before I proceed I desire to ask leave of absence after to-day in consequence of illness in my family.

No objection was made, and the leave of absence was granted.

Mr. HALE. Two conflicting theories on the subject of the power of removal from office have been propounded in this House, one of them by the gentleman from Ohio, who first spoke this morning, [Mr. FINCK,] founded on the grave and venerable authority of Madison, that the power of removal by force of the Constitution rests in the President alone as the chief executive officer of the Government, and that no power exists in Congress to change or transfer that power; the other is the theory claimed by the gentleman from Pennsylvania [Mr. WILLIAMS] and by the other gentleman from Pennsylvania who recently addressed the House, [Mr. STEVENS,] that by force of the Constitution the power of removal rests only in the President jointly with the Senate in the same manner in which the power of appointment is given.

This bill is based upon neither of those propositions, but in contradiction of both. Neither theory, I undertake to say, can be maintained logically from the Constitution itself. Neither theory, notwithstanding the eminent authorities that have been cited on both sides, can be sustained by judicial construction. Neither theory can be maintained by legislative construction. But the true theory, sustained by the best and ablest writers on the Constitution, sustained by judicial authority, sustained by the consistent and unvarying course of legislative action, puts the power of removal from office on the ground on which this bill puts it; which is, that where the Constitution is silent, where it does not in express terms provide for the manner in which officers may be removed, it does not, as a matter of logical conclusion, devolve either upon the President alone or upon the President jointly with the Senate, but that it is a case to be supplied by legislation. The power to create offices vested in the legislative department assumes and implies necessarily a power also to fix the characteristics of the office, its nature, its duties, its duration, and its tenure. This is no new proposition. It was avowed in the earlier writings of Mr. Madison, although he afterward, in the constitutional debates, abandoned that ground and occupied the one which has been maintained to-day by the gentleman from Ohio [Mr. FINCK] and the gentleman from Kentucky, [Mr. HISE.]

In Nos. 38 and 48 of the *Federalist*, Mr. Madison certainly uses language which can have no other construction than this view of

the power of the Legislature to fix the tenure of office. A difference of opinion arose early upon this very question. Hamilton, in the 77th number of the *Federalist*, took the ground now occupied by the two gentlemen from Pennsylvania, that the power of removal must rest in the same hands as the power of appointment—that is with the President and the Senate. The question came up for debate in the First Congress upon a bill establishing the office of Secretary of Foreign Affairs in 1789. I undertake to say that those who maintain that that Congress fixed and established the principle that the Constitution vested the power of removal in the President alone labor under a misapprehension. The debate took a wide range and was engaged in by many of the strongest and ablest men of that day. The question was simply whether the officer to be created, the Secretary of Foreign Affairs, should be removable by the Senate alone or by the President alone, or by the conjoint action of the President and the Senate.

Mr. Madison, in the early stages of the discussion, based the argument rather on the ground of convenience and propriety than upon that of constitutional right. But before the close of the debate he announced the broad ground that by force of the Constitution the power must vest necessarily in the President alone; that he as the supreme executive head of the nation must have the power of removal from office.

But Mr. Madison was not the only advocate of the provision in that bill providing that the Secretary should be removable at the will of the President. Other gentlemen advocated it on the ground that it was matter of propriety; that the Secretary of Foreign Affairs was in fact the chief clerk, the confidential adviser of the President, and therefore there was eminent fitness that he at least should be removable at the will of the President alone. Among the gentlemen who voted for retaining this clause in the bill, a large majority of those who spoke upon the question put it upon the ground of expediency only, and not upon that of constitutional rights. Among the names of those who voted in the affirmative upon the question of retaining the power of removal in the President was at least one gentleman, who in the debate stood expressly committed to the idea that the Constitution did not of itself confine the power to the President. He announced and maintained that doctrine in some very pertinent and forcible remarks. I refer to Mr. Livermore, of New Hampshire.

That debate, therefore, and that first vote of Congress did not determine anything upon this question. It did not make a legislative construction upon the subject of the power of the President to remove; although several different writers since that time, and some of them writers of distinction, have fallen into the mistake, while even the courts have fallen into a different mistake concerning that debate. That debate alone unless followed by some action certainly could not be held to give a controlling legislative construction to this section of the Constitution.

In different laws, which I will not now enumerate, creating heads of different Departments and subordinate officers, passed from time to time from that period down to this, and I may say, I believe, in every decade at least of our existence as a nation, this matter has been passed upon by Congress. And how? Not by giving a legislative construction as to what the Constitution implies may be done in regard to removals from office, but by granting the express power to the President to remove; a thing which would be wholly needless if the power was already in the Constitution itself. Legislative construction in order to be binding must be in the nature of prescription; it must be uniform and consistent, always recognizing the same doctrine of the Constitution.

Now, so far is this from being the case, that in addition to the instances to which I have referred, wherein the statutes the express power was given to the President to remove without

the concurrence of the Senate, at least one case has met the approval of Congress, and without question upon that point; it was made the subject of a very rigid and searching debate; and the power of removal was expressly confined to the President, with the approval and consent of the Senate. In the act of February, 1863, creating the Bureau of the Currency, it was expressly provided that the Comptroller of the Currency should be removable only by the President, by and with the advice and consent of the Senate.

Instead, then, of finding a uniform course of precedent of legislative construction in favor of this constitutional power, the whole course of legislative precedent is against it, and precisely in favor of the doctrine upon which this bill is based, that the Constitution being silent it is a proper subject of legislative action to determine the tenure of these offices which the legislative power creates.

This has been recognized, too, by the courts. I refer to the case which was read this morning by the gentleman from Ohio, [Mr. FINCK,] and I call his attention and the attention of the House to the manner in which the Supreme Court decided this question. The case cited by him is the case of *ex parte Hennen*, 13 and 14 Peters. This very opinion contains one erroneous expression as to the nature of the debate of 1789; but that is immaterial to the case. It certainly gives the true doctrine, as the court understood it, in regard to the construction of the Constitution in this respect.

Mr. Justice Thompson, in delivering the opinion of the court, says:

"In the absence of all constitutional provision or statutory regulation"

Mark the words; they are such as never could have been employed except upon the idea that "statutory regulation" was admissible under the Constitution—

"In the absence of all constitutional provision or statutory regulation, it would seem to be a sound and necessary rule to consider the power of removal as incident to the power of appointment. This power of removal from office was a subject much disputed, and upon which a great diversity of opinion was entertained in the early history of the Government. This related, however, to the power of the President to remove officers appointed with the concurrence of the Senate; and the great question was, whether the removal was to be by the President alone or with the concurrence of the Senate, both constituting the appointing power. No one denied."

In this Justice Thompson was in error, for Mr. Madison denied it; but so far as regards the decision of Congress it was undoubtedly true that Congress did not deny it—

"No one denied the power of the President and Senate jointly to remove where the tenure of the office was not fixed by the Constitution; which was a full recognition of the principle that the power of removal was incident to the power of appointment."

There is the solemn declaration of the Supreme Court upon this point. It is explicit and full, covering the whole doctrine for which I now contend. I cannot occupy further time in the discussion of this question of power. The argument of the gentleman from Pennsylvania [Mr. WILLIAMS] on this subject, presented some weeks ago, seemed to me entirely conclusive on this point, although I differ with him in the extent to which he now seems disposed to carry the construction of the constitutional power. If any weight can be attached to the declarations of the judiciary and to the action of Congress from 1789 down to 1863, if we are not prepared to stultify and nullify the action of Congress upon these topics in the different directions I have pointed out, then I think there can be no question that we are right to-day in saying that this is a power of legislation which the Constitution has left with us, and that all we have to do is to consider the expediency of its exercise and the best mode of exerting it to secure the desired ends.

Now, sir, speaking for myself alone, I wish to say in all frankness and candor that I advocate this bill as a proper measure of permanent legislation for the country. I believe it to be desirable, not because the President of the United States is to-day found in a position hostile to the large majority of this House; not for the reason that the President to-day seems



to be attached to a political party to which I certainly do not belong. I always have repudiated, and always will repudiate, the idea of changing the permanent legislation of the country for the purpose of remedying a purely temporary evil. I believe that by pursuing that practice, toward which the arguments of many gentlemen on this side of the House seem to point so often, I may say so constantly, we shall be led into fatal mistakes. The bill which is before us to-day proposes what I believe to be a proper, just, reasonable course of action, applicable as well to the hereafter as to to-day. And the present relation of parties—the fact that a President elected by one party finds himself abandoning that party and acting in opposition to his former political friends—may perhaps furnish an illustration of the propriety of such legislation, although it would not of itself be for me a conclusive argument in its favor. I refer, therefore, to the circumstances of to-day only by way of illustration; and I submit that, taking these circumstances in view, and conceding if gentlemen wish the entire good faith of everybody, the provisions of this bill are such only as are desirable and appropriate, and cannot be considered as derogating from the proper degree of executive power.

This bill does not, as gentlemen on the other side would seem to argue, prevent the displacement of an incompetent and dishonest officer. Whenever an officer is found in default, incompetent, unworthy, ample provision is made for his suspension until the question of his removal may be submitted to the Senate, and for his removal, after proper examination, by the same power which concurred in his appointment. There is no difficulty in this case. All the power of suspension, all the power of getting rid of unworthy officers which exists to-day in the Government, either in the President alone or in the President and in the Senate, is preserved by this bill. The only change in that respect is this: instead of the removal being positive by the President, the officer is debarred from the exercise of his duties and the receipt of his pay until the two constitutional bodies agree whether he ought to be removed or not.

Nor does it interfere with the tenure of office; in other words, it does not extend the constitutional term of any office. It contains a provision expressly on that point.

Mr. HISE rose.

Mr. HALE. I must be excused, as my time is so short, from yielding any further.

Mr. Speaker, I was remarking this bill does not extend the tenure of office. It leaves the law as it is now as to the expiration by legal limitation. Most of these officers are appointed for a definite term of years and their office will expire as before.

Now, a single word as to the different amendments which have been proposed to this bill. An amendment has been moved by the gentleman from Pennsylvania [Mr. WILLIAMS] in regard to the exception of its application to Cabinet officers. Another amendment has been moved to the third section, the nature of which I will not now stop to specify. Another amendment is proposed by the gentleman from Minnesota, [Mr. DONNELLY;] and the fourth by the gentleman from Pennsylvania, [Mr. STEVENS,] chairman of the Committee on Appropriations. As to all these amendments I wish to say preliminarily one thing: at least two, and I think three, have been submitted to the House in another form and passed upon. By decided and emphatic votes the House has rejected the amendments now proposed. One of them has been submitted in the Senate. I do not know whether the others have arrived at that importance. One was moved in the Senate and discussed at length, and rejected by a vote of two to one.

I ask gentlemen in the House who are anxious to make this bill as they term it more stringent, more sweeping, to consider on thing. We have arrived at the last month of the session, and little time remains for us to act. Just as certain as we adopt the amendments

proposed the result will be we will fail to enact this into a law. We have to anticipate, if this is adopted, a veto. If the amendments are adopted the bill will go back to the Senate, where debate is unlimited, to compel it to pass upon questions it has already decided. It has passed at least upon one of them by a decided vote. Will gentlemen then tell me what probability there is time will remain for action after the veto? What reason have they to suppose there will be time enough to pass it over the veto in that body?

I know gentlemen here act on the principle that if they cannot have all they ask they will take nothing. I submit that is not wise or prudent action. The true doctrine should be if they cannot get all they want to take the best they can get. I am willing to act on that principle; and to-day I am not so strenuous for this bill. If in the judgment of the Senate and the House it should include the Cabinet I will vote for it in that form. The gentleman from Pennsylvania [Mr. WILLIAMS] has made a plausible argument for putting them upon the same footing as all other officers. If his constitutional construction is correct the House is inconsistent in excepting them. If he is right the Constitution gives the power of removal to the President and Senate. I believe the better opinion, the larger share of sentiment among intelligent and patriotic statesmen, is that it is wiser to leave the Cabinet in that position where they have been placed by constitutional power, not by constitutional enactment, but by Congress; the legal construction beginning with the First Congress in 1789, and continuing to this day, that those officers were the confidential advisers of the President. That being so, I think it is wise for us to leave them as they are. So far as argument in this House is concerned, it is *res adjudicata*.

So far as the Senate is concerned it has spoken most emphatically upon it, and there is no possible hope of passing such a bill through that body over an executive veto.

As to the amendment proposed by the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] I will not go over the ground again. The same provision was offered by him to a former bill, and was condemned by this House by a vote of more than six to one; and I have failed to hear any argument from him to-day which in my judgment will satisfy the House that it committed a great error in that decision.

One word as to the amendment of the gentleman from Minnesota, [Mr. DONNELLY,] I have no time to examine or consider that point perhaps with the care it deserves, but it seems to me that his amendment is wholly unnecessary, for the reason that it must, after all, turn upon a pure question of constitutional construction, namely, When does the appointment of an officer take effect? I think it will not be found under the other provisions of this bill to be a necessary provision. If it is necessary, and if it means to change the rule as to when an appointee's term begins or his appointment takes effect, then it is not a subject of legislation, but of constitutional provision, and was directly adjudged in the case of *Marbury vs. Madison*, that the appointment took effect on the final passage of all the papers and the signing of the commission. That being so, I do not see how the gentleman's proposition, to make the question whether a vacancy exists determinable upon the question whether the incumbent is actually in possession of the office or not, can be admissible.

Mr. DONNELLY. I desire to ask the gentleman a single question: whether it will not be well for Congress by such a declaration as this to prevent the practice which has grown up from being continued? I have been informed by one of the members from Kentucky, that in his district he knows a case where the party was confirmed on the 16th of the present month, on a commission dated back to the middle of November.

Mr. HALE. Let me say to the gentleman that in my judgment if such a case exists it is

a gross and papable infraction of the Constitution, and I do not see that this bill can remedy it in the least. The thing itself is utterly void, for no power certainly exists in the President to make an appointment to office merely by dating back the time of the appointment. It is simply an attempted fraud on the Constitution, and one which certainly cannot exist when the fact is brought to light.

A MEMBER. Is it not ground for impeachment?

Mr. HALE. Yes, possible ground for impeachment. I am very happy if any of my friends have found a tangible ground which may seem to justify such a measure.

Mr. Speaker, I appeal to the House once more: if we desire in good faith to pass a bill which shall stand the test of the courts, which shall be within the limits of the Constitution, and do it during this session, I am persuaded that our only way is to pass this bill as it comes from the Senate. Just as surely as it is sent back there for the discussion of amendments, especially those which that body has already rejected—

Mr. WILLIAMS. I rise to a question of order: whether it is in order for the gentleman to refer to the probable action of the Senate and say this should be passed, and we should defer to their will.

The SPEAKER. He could not refer specifically to the past action of the Senate; that would not be within the rule. Each House must act independently.

Mr. HALE. I understand the rule, and I am very confident I have not transgressed it.

The SPEAKER. The Chair is not aware that the gentleman has transgressed it; he was in conversation at the time, and did not quite hear what the gentleman said.

Mr. HALE. I was stating the probable result of a difference of opinion between the two Houses and the executive branch.

The SPEAKER. That is within the legitimate province of debate.

Mr. HALE. I have no words of menace or anything that any fair construction can possibly determine in that direction. I have appealed to the House to take a practical course, one that will probably tend toward attaining the end which we all on this side of the House claim and seem to desire. I trust this bill may be passed and without amendment.

I will only add that this is precisely the bill reported by the joint Committee on Reconstruction, with the addition of certain penal sections made in the Senate, to which no objection has been made there or here, which were suggested in this House on the pendency of the bill introduced by the gentleman from Pennsylvania, and finally withdrawn or passed over with the idea that they might perhaps be made the subject of an independent bill. They are now attached to this bill, and I hope the whole will be adopted.

The SPEAKER. Debate upon this bill and the pending amendments is exhausted, and the House will proceed to act upon them under the operation of the previous question.

The question being upon Mr. WILLIAMS' first amendment, it was read as follows:

On lines three, four, and five, of section one, strike out the following:

Excepting the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, and the Postmaster General, and Attorney General.

Mr. WILLIAMS. Upon that amendment I demand the yeas and nays; and I call for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. WILLIAMS and HALE were appointed.

The House divided; and the tellers reported twenty-six in the affirmative.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 76, nays 78, not voting 86; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Baxter, Beaman, Bidwell, Bingham, Blaine, Boutwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Delano, Deming, Donnelly, Dumont, Eckley, Eliot, Garfield, Grinnell, Abner C.

Harding, Hart, Hayes, Henderson, Higby, Hill, Hotchkiss, John H. Hubbard, Julian, Kelley, Kelso, Koontz, William Lawrence, Loan, Lynch, McClurg, McKee, McKuer, Mercer, Morrill, Moulton, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Spalding, Stevens, Stokes, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Henry D. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—76.

**YAYS**—Messrs. Alley, Ancona, Delos R. Ashley, Baldwin, Banks, Bergen, Boyer, Bundy, Campbell, Cooper, Darling, Davis, Dawes, Dawson, Denison, Driggs, Eldridge, Farquhar, Ferry, Finck, Glossbrenner, Goodyear, Griswold, Hale, Aaron Harding, Harris, Hawkins, Hise, Hogan, Holmes, Hooper, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Ingersoll, Kasson, Ketcham, Kuykendall, Laffin, George V. Lawrence, Le Blond, Leftwich, Longyear, Marshall, Marston, Marvin, Maynard, Moorhead, Niblack, Noell, Phelps, Pomeroy, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Ross, Schenck, Shanklin, Sitgreaves, Stilwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, Thornton, Trimble, Burt Van Horn, Andrew H. Ward, Warner, William B. Washburn, Whaley, Winfield, and Woodbridge—78.

**NOT VOTING**—Messrs. Arnell, Barker, Benjamin, Blow, Brandegee, Chanler, Culver, Defrees, Dixon, Dodge, Eggleston, Farnsworth, Asahel W. Hubbard, Demas Hubbard, Hulburd, Jenckes, Jones, Kerr, Latham, McCullough, McIndoe, Miller, Morris, Myers, Newell, Nicholson, Radford, William H. Randall, Rogers, Rousseau, Starr, Thayer, John L. Thomas, Hamilton Ward, Elihu B. Washburne, and Wright—36.

So the amendment was disagreed to.

During the roll-call,

**Mr. NIBLACK** stated that **Mr. KERR** was detained from the House by indisposition.

**Mr. O'NEILL** stated that **Mr. THAYER** was still absent from the House in consequence of indisposition in his family.

The result of the vote was announced as above recorded.

**Mr. HALE**. I move to reconsider the vote by which the amendment was disagreed to; and to lay the motion to reconsider on the table.

**Mr. HILL**. I demand the yeas and nays upon that motion.

**Mr. HALE**. I withdraw the motion.

**Mr. GARFIELD**. Since that amendment has failed I withdraw the similar amendment which I offered to the second section.

The next amendment was **Mr. WILLIAMS'** amendment, to insert in the third section, line six, after the word "thereafter," the following:

That whenever a vacancy in any office happening during a recess of the Senate may have been filled up by the President in accordance with the provisions of the Constitution, by granting a commission to expire at the end of their next session, it shall be the duty of the President to make a nomination for said office before the end of the next ensuing session of that body.

**Mr. INGERSOLL**. That is already provided for in the bill.

The question was taken; and there were—aye twenty-six; noes not counted.

So the amendment was disagreed to.

The question recurred upon the amendment offered by **Mr. DONNELLY**, to add to section three the following proviso:

*Provided, however,* That no vacancy shall be held to have happened during the recess of the Senate if the incumbent of the office was in the exercise of the duties of the office upon the day on which Congress convened, but, in such case, the person holding such office shall continue to retain and exercise the same until his successor is confirmed by the Senate, or until he is suspended in accordance with the provisions of this act.

The question was taken; and there were—aye 44, noes 79.

So the amendment was disagreed to.

The question recurred on the last amendment, offered by **Mr. STEVENS**, to insert the following at the end of section eight:

And in no case shall any person who has been nominated by the President for any office below that of ambassador and been rejected by the Senate, or on whose nomination that body has failed or declined to act in the way of consent or refusal, be appointed for any office of the United States for the space of one year after such rejection. When nominations have been made below the grade of foreign minister, and which have been, or shall be rejected, all acts done in making such nomination or which may be done by the nominee so far as the removal and appointment of subordinates is concerned, shall be considered null and void.

**Mr. GRINNELL**. I call for a division of that amendment.

The **SPEAKER**. The Chair does not see how the gentleman can demand a division of

the amendment. The gentleman who offered it has a right to a vote upon it in the form in which he offered it. The gentleman would have a right to ask for a division of a resolution, but to ask for a division of this amendment would be in the nature of moving an amendment to the amendment, which is not in order under the operation of the previous question.

**Mr. GRINNELL**. I ask the consent of the mover of the amendment to have it divided.

The **SPEAKER**. That cannot be done now, as the House is acting under the operation of the previous question.

The question recurred upon the amendment of **Mr. STEVENS**.

**Mr. STEVENS**. Upon that question I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 118, not voting 35; as follows:

**YEAS**—Messrs. Allison, Anderson, James M. Ashley, Baxter, Beaman, Broomall, Sidney Clarke, Cobb, Conkling, Cook, Donnelly, Driggs, Farquhar, Grinnell, Abner C. Harding, Henderson, Julian, Kelley, Kelso, Loan, McClurg, McKee, Moorhead, Myers, O'Neill, Pike, Price, Sawyer, Sloan, Stevens, Trowbridge, Van Aernam, Robert T. Van Horn, Henry D. Washburn, Welker, James F. Wilson, and Stephen F. Wilson—37.

**NAYS**—Messrs. Alley, Ames, Ancona, Delos R. Ashley, Baker, Baldwin, Bergen, Bidwell, Bingham, Blaine, Boutwell, Boyer, Broomall, Buckland, Bundy, Campbell, Reader W. Clarke, Cooper, Culom, Darling, Davis, Dawes, Dawson, Delano, Deming, Denison, Dumont, Eckley, Eggleston, Eldridge, Elliot, Ferry, Finck, Garfield, Glossbrenner, Goodyear, Griswold, Hale, Aaron Harding, Harris, Hart, Hawkins, Hayes, Higby, Hill, Hise, Hogan, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Ingersoll, Jenckes, Kasson, Ketcham, Koontz, Kuykendall, Laffin, George V. Lawrence, William Lawrence, Le Blond, Leftwich, Longyear, Lynch, Marshall, Marston, Marvin, Maynard, McKuer, Mercer, Morrill, Moulton, Niblack, Noell, Orth, Paine, Patterson, Perham, Phelps, Plants, Pomeroy, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Rollins, Ross, Schenck, Scofield, Shanklin, Shellabarger, Sitgreaves, Spalding, Stilwell, Stokes, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, Thornton, Trimble, Upson, Burt Van Horn, Andrew H. Ward, Warner, William B. Washburn, Wentworth, Whaley, Williams, Windom, Winfield, and Woodbridge—118.

**NOT VOTING**—Messrs. Arnell, Banks, Barker, Benjamin, Blow, Brandegee, Chanler, Culver, Defrees, Dixon, Dodge, Farnsworth, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Hulburd, Jones, Kerr, Latham, McCullough, McIndoe, Miller, Morris, Newell, Nicholson, Radford, Rogers, Rousseau, Starr, Thayer, John L. Thomas, Hamilton Ward, Elihu B. Washburne, and Wright—35.

So the amendment was not agreed to.

The question was upon ordering the bill to be read a third time.

**Mr. FARQUHAR**. I rise to a privileged motion.

The **SPEAKER**. The House is now acting under the previous question upon this bill.

**Mr. FARQUHAR**. Is it not in order to move to reconsider a vote taken upon an amendment offered to this bill?

The **SPEAKER**. That would be in order.

**Mr. FARQUHAR**. Then I move to reconsider the vote by which the House rejected the amendment proposed to this bill by the gentleman from Pennsylvania, [Mr. WILLIAMS.]

The amendment of **Mr. WILLIAMS** was to strike out of the first section of the bill the following words:

Excepting the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General.

The effect of the amendment, if adopted, would be to take from the President the power to remove any head of a Department without the consent of the Senate.

The question was upon reconsidering the vote by which the amendment had been rejected.

**Mr. HALE**. I move to lay the motion to reconsider on the table.

**Mr. GARFIELD**. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

**Mr. LE BLOND**. I move that the House now adjourn.

The motion to adjourn was not agreed to.

The question was then taken upon laying the motion to reconsider upon the table, and it was decided in the negative—yeas 69, nays 74, not voting 47; as follows:

**YEAS**—Messrs. Alley, Ancona, Delos R. Ashley, Baldwin, Banks, Bergen, Bidwell, Campbell, Cooper, Davis, Dawes, Dawson, Deming, Denison, Driggs, Eldridge, Ferry, Finck, Glossbrenner, Goodyear, Griswold, Hale, Aaron Harding, Hawkins, Hise, Holmes, Hooper, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hunter, Ingersoll, Jenckes, Kasson, Kuykendall, George V. Lawrence, Le Blond, Leftwich, Longyear, Marshall, Marston, Marvin, Maynard, Niblack, Noell, Phelps, Plants, Pomeroy, Samuel J. Randall, Raymond, Alexander H. Rice, Ritter, Schenck, Shanklin, Sitgreaves, Stilwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, Thornton, Trimble, Andrew H. Ward, Warner, William B. Washburn, Whaley, Winfield, and Woodbridge—69.

**NAYS**—Messrs. Allison, Anderson, Baker, Beaman, Bingham, Blaine, Boutwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Delano, Donnelly, Dumont, Eckley, Eggleston, Elliot, Farnsworth, Farquhar, Garfield, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Hotchkiss, John H. Hubbard, Julian, Kelley, Kelso, Koontz, William Lawrence, Loan, Lynch, McClurg, McKee, McKuer, Mercer, Moorhead, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Price, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Spalding, Stevens, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, Welker, Wentworth, Williams, and James F. Wilson—74.

**NOT VOTING**—Messrs. Ames, Arnell, James M. Ashley, Barker, Baxter, Benjamin, Blow, Boyer, Brandegee, Bundy, Chanler, Culver, Darling, Defrees, Dixon, Dodge, Harris, Hogan, Asahel W. Hubbard, Demas Hubbard, Hulburd, Humphrey, Jones, Kerr, Ketcham, Laffin, Latham, McCullough, McIndoe, Miller, Morris, Newell, Nicholson, Radford, William H. Randall, John H. Rice, Rogers, Ross, Rousseau, Starr, Thayer, John L. Thomas, Hamilton Ward, Elihu B. Washburne, Stephen F. Wilson, Windom, and Wright—47.

So the motion to reconsider was not laid on the table.

The question recurred upon the motion to reconsider the vote by which the amendment of **Mr. WILLIAMS** was rejected.

**Mr. WILSON**, of Iowa. Upon that question I call for the previous question.

The **SPEAKER**. The House is now acting under the operation of the previous question, which does not exhaust itself until the third reading of the bill.

**Mr. STEVENS**. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and fifty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By **Mr. BALDWIN**: A petition of the fire insurance companies of the city of Worcester, for relief from the tax imposed by the seventy-seventh section of the internal revenue law.

By **Mr. BANKS**: The memorial of Mrs. William J. Albert, Mrs. H. Winter Davis, Mrs. Alexander Turnbull, and Mrs. Commodore Purviance, a committee of the Maryland Disabled Soldiers' Home, indorsed by General Grant and General E. M. Gregory, for an appropriation in aid of the institution under their charge.

By **Mr. DODGE**: The remonstrance of importers and dealers in sugar, against the change in the duty on sugar.

By **Mr. ECKLEY**: The petition of 45 citizens of Mount Pleasant, Ohio, against the contraction of the national currency, and against compelling the banks to redeem their circulation in the city of New York.

By **Mr. FERRY**: The petition of Charles Bates, J. A. Whitaker, and 36 others, citizens of Mason county, Michigan, praying for relief for settlers upon lands reserved for the Flint and Pere Marquette railroad, which line of route has been materially changed by recent legislation.

By **Mr. GARFIELD**: The petition of 88 citizens of Mahoning county, Ohio, praying for increased protection of American flax.

By **Mr. MOORHEAD**: A remonstrance from James McAuley, Esq., and 12 others, presidents of national banks of Pittsburgh, Pennsylvania, against any alteration in the provisions of the act to provide a national currency.

By **Mr. PRICE**: The petition of 69 citizens of Jackson county, Iowa, asking that no law be passed requiring any curtailment of the currency, or any fixed time for a resumption of specie payments, or any forced redemption by national banks of their circulation in the city of New York.

By **Mr. RANDALL**, of Kentucky: The petition of Levisa Daniel, widow of Joseph Daniel, late sergeant company C, first regiment East Tennessee volunteers, for commencement of her pension on the date of her husband's death.

Also, the petition of Mrs. Julia A. Barton, widow of William Barton, private in company I, seventh

regiment Kentucky volunteer infantry, for a pension.

By Mr. PIKE: A memorial of wool-growers of Maine, and resolves of convention of same, in regard to tariff.

By Mr. SAWYER: The petition of George S. Wheeler, and others, of Waukegan, in the State of Illinois, praying for an appropriation of \$40,000 for the improvement of the mouth of the Menomonee river, in the State of Wisconsin.

By Mr. SCHENCK: The memorial of Charles B. Wildes, captain and assistant quartermaster, praying for indemnity for private moneys used in the discharge of duties while in charge of negro affairs in the department of Virginia.

By Mr. VAN HORN, of New York: Petition of soldiers of the war of 1812, and others, asking aid to such soldiers from Congress.

By Mr. WILSON, of Iowa: The petition of William Johnson, and others, of Pleasant Plain, Iowa, for the impeachment of the President.

Also, the memorial of Joseph Grotzman, and others, of Keokuk, Iowa, relative to the tax on cigars.

#### NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. WENTWORTH: A bill providing means to extend the Illinois and Michigan canal to the Mississippi river at Rock Island, Illinois.

#### IN SENATE.

FRIDAY, February 1, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.  
On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented four petitions of officers of the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

He also presented a petition of officers of the sixth United States cavalry, praying that private W. A. F. Ahrberg may be commissioned as an officer in the United States Army; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Sewall H. Fessenden, William Carleton, and others, owners of the schooner William Carleton, praying for compensation for the loss of that schooner and cargo, sunk by the steam-ram Stonewall, November 23, 1865; which was referred to the Committee on Claims.

He also presented the petition of Hattie E. Card, praying for an amendment to the pension act of 1866, so that her children, and others similarly circumstanced, may receive the same benefits as the children of deceased private and non-commissioned officers; which was referred to the Committee on Pensions.

Mr. PATTERSON presented a certificate of John K. Miller, colonel thirteenth Tennessee cavalry, in reference to the claim of Mary A. Smith, of Johnson county, Tennessee, widow of Alexander D. Smith, deceased; which was referred to the Committee on Pensions.

Mr. JOHNSON presented the memorial of Thomas Maxwell, praying to be indemnified for property taken from him by United States troops in Rectortown, Virginia, in 1862; which was referred to the Committee on Claims.

Mr. SUMNER presented a petition of citizens of Norfolk, Virginia, praying for the abrogation of the anti-republican form of government now existing in the State of Virginia, and the substitution of a republican form of government in its stead; which was referred to the joint Committee on Reconstruction.

Mr. SHERMAN presented a petition of citizens of Ohio, praying for the passage of the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes; which was ordered to lie on the table.

Mr. DOOLITTLE presented a memorial of the Legislature of Wisconsin in favor of the passage of the bill which provides for placing upon the pension-rolls all the surviving soldiers of the war of 1812; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Wisconsin, praying that postage on pamphlets, papers, documents, and books forwarded to

historical societies and public libraries of the United States may be made payable on delivery; which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of citizens of Virginia, remonstrating against the passage of any act authorizing the curtailment of the national currency or a return within a limited time to specie payments, and against compelling national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

#### REPORTS OF COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred the memorial of James Monroe Manning, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia; which was agreed to.

#### AMBOY AND TRAVERSE BAY RAILROAD.

Mr. HENDRICKS. The Committee on Public Lands, to whom was referred the bill (S. No. 547) to amend an act entitled "An act to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Amboy, by Hillsdale and Lansing, to some point on or near Traverse Bay, in the State of Michigan, and for the completion of said road," approved July 3, 1866, have directed me to report it back to the Senate with a recommendation that it pass; and as, while it is a trifling matter, it is of very great importance to the enterprise in Michigan that it should be adopted at this session, I ask that it be put upon its passage.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend the first section of the act of July 3, 1866, by striking out the word "February," where it occurs in that section, and inserting the word "July."

Mr. HENDRICKS. I will explain in one word what this bill is. At the last session Congress extended the time for the completion of this road seven years, according to the uniform practice in such cases; but there was a condition that the road between two points for a distance of about twenty miles should be graded by the 1st day of February; that is to-day. If it was not graded to that extent the branch was to be forfeited to the United States. I thought at the time that that condition could not be complied with and opposed it; and it is now found impossible for the company having charge of this work to comply with that condition of the law of the last session. This bill proposes to extend the time for the completion of the grading between those points up to the 1st day of July next.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

#### BILLS INTRODUCED.

Mr. PATTERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 558) for the relief of Mary A. Smith, of Johnson county, Tennessee, widow of Alexander D. Smith, deceased; which was read twice by its title, and referred to the Committee on Pensions.

Mr. POLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 559) in relation to guardians of minors in the District of Columbia, their appointment, powers, and duties; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 560) to create the office of surrogate of the District of Columbia, provide for the appointment of a surrogate, and define his powers and duties; which was read twice by its title, and referred to the Committee on the Judiciary.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 561)

to provide for the appointment of a marshal for the District of Columbia, and to change the mode of appointing that officer; which was read twice by its title, and referred to the Committee on the Judiciary.

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, announced that on the 29th of January he had approved and signed a joint resolution (S. R. No. 112) for the relief of Mrs. Abby Green, and a joint resolution (S. R. No. 156) to provide for the removal of the wreck of the steamship Scotland.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the amendments of the Senate to the bill of the House No. 388, to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia.

The message also announced that the House had passed the bill (S. No. 204) to provide for an annual inspection into Indian affairs, and for other purposes, with an amendment, in which the concurrence of the Senate was requested.

The message further announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 904) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1868, and for other purposes;

A bill (H. R. No. 1090) authorizing the Secretary of the Treasury to receive into the Treasury the residuary legacy of James Smithson, to authorize the Regents of the Smithsonian Institution to apply the income of the said legacy, and for other purposes;

A joint resolution (H. R. No. 252) to permit Captain John A. Webster, jr., of the steamer Mahoning, to receive from the Government of Great Britain a gold chronometer; and

A joint resolution (H. R. No. 253) for the relief of Captain Daniel C. Trewitt, of the United States Army, of Hamilton county, Tennessee.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 218) exempting the property of debtors in the District of Columbia from levy, attachment, or sale on execution;

A bill (S. No. 479) to punish illegal voting in the District of Columbia, and for other purposes;

A bill (H. R. No. 388) to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia;

A bill (H. R. No. 605) to amend an act to establish the judicial courts of the United States, approved September 24, 1789;

A bill (H. R. No. 719) to punish certain crimes in relation to the public securities and currency, and for other purposes; and

A bill (H. R. No. 660) for the relief of Captain James Starkey.

#### RESIDUARY LEGACY OF JAMES SMITHSON.

Mr. FESSENDEN. There is a little bill on the table which has come in from the House that I should like very much to take up and have passed if no Senator has any objection to it, because it is rather necessary that it should be passed at once, if at all. It relates to the funds of the Smithsonian Institution, and the Regents of that institution are now in session in this city and would like probably to take some action under the bill. It is very short, and if there be no objection I should like to have it taken up and acted upon. I have examined it, and do not see any objection to it.



By unanimous consent, the bill (S. No. 1090) authorizing the Secretary of the Treasury to receive into the Treasury the residuary legacy of James Smithson, to authorize the Regents of the Smithsonian Institution to apply the income of the said legacy, and for other purposes, was read twice by its title, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to receive into the Treasury, on the same terms as the original bequest, the residuary legacy of James Smithson, now in United States bonds in the hands of the Secretary, namely, \$26,210 63, together with such other sums as the regents may, from time to time, see fit to deposit, not exceeding, with the original bequest, the sum of \$1,000,000. The interest which has accrued, or which may hereafter accrue, from the residuary legacy is to be applied by the Board of Regents of the Smithsonian Institution in the same manner as the interest on the original bequest, in accordance with the provisions of the act of August 10, 1846, establishing the Institution.

Mr. SHERMAN. I should like to inquire where that fund has been heretofore. Has it been in the Treasury?

Mr. FESSENDEN. No, sir; it has been in the hands of the Secretary. Under the bequest of Smithson there was a sum that was to come to the Institution upon the death of a certain person, and that person died just about the time I happened to be in the Treasury, and therefore I know the facts. This bill simply provides that this money shall be paid into the Treasury and disposed of precisely in accordance with the original act with regard to the disposal of Smithson's bequest.

Mr. SHERMAN. I have no objection to it at all.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 904) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1868, and for other purposes, was read twice by its title, and referred to the Committee on Finance.

The joint resolution (H. R. No. 252) to permit Captain John A. Webster, jr., of the steamer Mahoning, to receive from the Government of Great Britain a gold chronometer, was read twice by its title, and referred to the Committee on Commerce.

The joint resolution (H. R. No. 253) for the relief of Captain Daniel C. Trewhitt, of the United States Army, of Hamilton county, Tennessee, was read twice by its title, and referred to the Committee on Claims.

#### ORGANIZATION OF THE HOUSE.

Mr. TRUMBULL. I move to take up House bill No. 874. The Senator from Kentucky [Mr. DAVIS] called for the yeas and nays on the passage of the bill last evening, and as there was not a quorum present at the moment it was laid over. I ask that it be now taken up with a view of disposing of it.

The PRESIDENT, *pro tempore*. The Senator from Illinois moves to take up the bill (H. R. No. 874) to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House, and for other purposes.

Mr. DAVIS. I am opposed to the passage of that bill. I do not think it is competent for Congress to pass it at all. The first section reads—

The PRESIDENT, *pro tempore*. The Chair will suggest that the bill is not yet before the Senate. The question is, Will the Senate proceed to the consideration of the bill?

The motion was agreed to.

The PRESIDENT, *pro tempore*. The question is, Shall the bill pass? and upon that question the yeas and nays have been ordered.

Mr. DAVIS. I was going to state an objection or two that I have to the passage of this bill. The first section reads:

That before the first meeting of the next Congress,

and of every subsequent Congress, the Clerk of the next preceding House of Representatives shall make a roll of the Representatives-elect, and place thereon the names of all persons claiming seats as Representatives-elect from States which were represented in the next preceding Congress, and of such persons only, and whose credentials show that they were regularly elected in accordance with the laws of their States respectively, or the laws of the United States.

My first objection to this bill is, that it proceeds by an act of Congress to designate an officer of the House of Representatives. My second objection is, that it authorizes that officer to pass upon the returns of members of the House, a duty and a power which by the Constitution, is devolved upon the House alone, and which cannot be assumed by an act of Congress delegating the exercise of that power to any specified officer. The Constitution, in providing for the House of Representatives, declares:

"The House of Representatives shall choose their Speaker and other officers."

The House of Representatives and the Senate each have the exclusive constitutional power to choose their own officers. What does this bill provide for? What does it intend to do? Simply to designate and name a most important officer of the House of Representatives. What is that officer to do? He is to be the organ of the House in its organization. He is to exercise the important office of organizing the House of Representatives. Is an officer who is to perform that duty an officer of the House? Is any man, by whatever name or title of office he may be designated, who is to perform that duty an officer of the House of Representatives? Certainly he is, and one of the most important of the officers of the House. The Clerk by this bill is to make out the roll of the members-elect. He is to perform that duty himself. He includes upon this roll the members of the House, every person that he chooses, and he may exclude.

We had an instance of the manner in which that power will be executed under this law at the organization of the present House of Representatives. The Clerk there proceeded to make out a list of members, excluding the members from eleven States. Was not that the performance of an office in the organization of the House, and an office of the highest moment and importance? Was not the Clerk who performed that duty an officer *de facto* at least of the House at that time? And is it not sought by this bill to make the same officer, if he be present, an officer *de jure*, and by operation of this act of the House on the organization of each subsequent House of Congress? Is it competent for Congress to pass a bill for that purpose? Is not such a bill in direct conflict with the provision which I read, that "the House shall choose their Speaker and other officers?" Is it not the exclusive constitutional right of each House for itself to appoint its organ and to prescribe the mode in which the roll of the House shall be made out and the other regulations by which the organization of the House is to take place? That is the constitutional function of each House. Each House has the power to act for itself in this matter, and the other House has no right and no power whatever to take part in it, even in the form of passing a law of Congress to regulate the matter.

Suppose this bill was to become a law; when the next House of Representatives get together might it not and ought it not to disregard the law? It would read this law and find it making a provision for the organization of the House and the manner and mode in which the roll of its members should be made out. The members of the House would turn to the Constitution and read that this was an office which each House was to perform for itself. The next House, or any other House of Representatives, might disregard this law, and in utter negation of it might proceed to organize the particular House according to its own discretion and order.

Another provision of the Constitution says:

"Each House shall be the judge of the election, returns, and qualifications of its own members."

The bill under consideration interferes with that clause of the Constitution also, because it withdraws, in the organization of the House, the question of the returns of its members from the House itself, the constitutional body to take cognizance of that question, and vests it in the Clerk of the previous Congress. What power or competency has Congress to pass a law authorizing the Clerk of a defunct House of Representatives to pass upon the returns of the members of a succeeding House upon its organization? That is what is proposed to be done by this bill; and it is exactly what Congress cannot pass a law to effect. This matter is not a subject of legislation; it is not a subject of congressional action. The election of the officers of both branches of Congress, and the judgment upon the question of the returns, elections, and qualifications of their members, belong by the Constitution exclusively to the two Houses respectively. It cannot be made the subject of congressional legislation; no laws of Congress regulating these matters can be properly passed, and if they were passed they would be in derogation of those provisions of the Constitution, and they would have no obligation whatever upon either House. The two Houses might disregard them and proceed to the organization of their respective bodies as though this law never had passed, even if it does receive the forms of legislation.

Sir, I am not opposed to this bill simply because it is introduced by the Republican majority of the Senate; I am not opposed to it because it would operate to the prejudice of the Democratic party or any other party. I am opposed to it because it is in conflict with the Constitution and the rights and powers of the two Houses of Congress in the organization of their respective bodies. It attempts to grasp and to bring within the vortex of congressional legislation matters that belong exclusively by the Constitution to the two Houses themselves. Sir, a law of this kind ought not to be passed for the benefit of party interests. The tables may be turned, and will be turned, if not in favor of the Democratic party, to the prejudice of the Republican party, and in favor of some other party. The Republican party is not the party of permanence. Sooner or later it must go into the minority, and must become itself subject to the rule of another dominant political party.

In this view of the subject, without regard to the rights of the two Houses of Congress generally and to the proper restraint of all parties, those that are now in the ascendancy and those that may hereafter be in the ascendancy, I want this bill voted down, and I want the Senate to adhere faithfully and rigorously to the constitutional rule, that the two Houses of Congress alone shall elect their own officers; that no officers shall be provided by an act of Congress for either House, because each House has the exclusive right to elect its own officers, and especially that an officer of a past House of Representatives designated by an act of Congress shall not be clothed with the all-important power of passing upon the rights of members of the House of Representatives. It is a vast power, and it is just such a power as is proposed to be vested by this bill in the defunct Clerk of a preceding Congress. It cannot be said that he is not to judge of the returns of the members; he is made so in explicit language. The provision is that—

The Clerk of the next preceding House of Representatives shall make a roll of the Representatives-elect and place thereon the names of all persons claiming seats as Representatives-elect from States which were represented in the next preceding Congress, and of such persons only, and whose credentials show that they were regularly elected in accordance with the laws of their States respectively or the laws of the United States.

No man's name is to go upon this roll of the members of the House unless his credentials shall show that he was regularly elected in accordance with the laws of his State or the laws of the United States. Is not the decision of that question a judicial or a quasi-judicial decision? Does it not involve the very material and the existence of the House of Representatives?

Does it not clothe a defunct officer of a former House with the power of passing upon the returns of the members of the new House? It certainly does. We have seen this power once in the course of execution, and we have seen how magisterially a defunct Clerk of the preceding House did exercise it; and all this in defiance of the power of each House to judge of the elections, returns, and qualifications of its own members, to organize the body itself and to elect its own officers. Again:

"Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two thirds expel a member."

Here is an important rule of proceeding, one of the most important rules of proceeding in the organization of the House, which is sought by this bill to be wrested from the House and to be reposed, not in the House, but in a dead officer of a former House. I ask the honorable chairman of the Committee on the Judiciary if the Democratic party or any party hostile to the Republican party was now in power, and had possession of such a bill as this is, and were urging it upon the acceptance of the Senate with a view to partisan and party advantage, would he or any member of his party give their support to such a measure? I suppose he would not. I do not think that I would. I do not believe that to subserve the interests of any party in existence or that ever had existence or that ever may be in existence while I was a member of the Senate could I be brought to vote for such a bill as this. No, sir; the vice of the times, the rage of the demon of faction, is now to disregard Constitution and law and to warp both to party purposes. It is a system of legislation that is not only vicious but it is revolutionary; it is subversive of the Constitution, of the frame of our Government, and it is time that the party in power should turn their backs upon such a course of legislation as that.

A bill of this importance ought not to be voted for, according to my judgment, by any gentleman when in a majority where he would not be willing to give the same vote if in a minority. No gentleman is so credulous as to believe that the majority in the Senate would vote for this measure if the condition and the power of their party and of the Democratic party was reversed. But whatever party may offer such a measure, whatever it may be denominated, Democratic, Republican, Whig, it is a principle entirely new in the practice of the Government, in plain and direct conflict with the Constitution, and impinging the powers and the rights of both Houses in the selection of their officers, in judging upon the returns, elections, and qualifications of their members, and in declaring the rules and regulations by which they will proceed in their action. And what more important point of action is there than the organization of the House? I invoke gentlemen to awake from the delusion and from the frenzy of passion and of partisanship, and to allow to each House in the organization of that House at the beginning of each Congress, in the election of its officers, in judging of the returns of its members, all the powers which the Constitution so explicitly and exclusively guaranties to them. I trust, sir, this measure will not pass.

Mr. TRUMBULL. I am really sorry that this little bill from the House of Representatives, by no means novel legislation, should have excited the denunciations of the Senator from Kentucky; but he should have gone into a passion over it and supposed that it was some party measure, and that it would not be voted for at all if the Republican party was not in a majority. He seems to suppose that it is a measure brought into the Senate by the Republican majority of the Senate. Why, sir, it is a bill from the House of Representatives, voted for by all parties, having nothing of a party character in it, and would as readily receive the assent of Congress at one time as another—a bill that met the unanimous assent of the Committee on the Judiciary of the Sen-

ate after the amendment was adopted which struck out the penalty. And what is this bill that has excited such a storm of indignation? Why, sir, it is a bill prescribing the duty of the Clerk of the House of Representatives. Because the Clerk of the House of Representatives is elected by the House does anybody suppose that it is not competent for Congress by law to prescribe the duties of the Clerk? Does the Senator from Kentucky deny the authority of Congress by law to prescribe the duties of the Secretary of this body, of the Sergeant-at-Arms, of any officer of this body? Is this novel legislation? If the Senator from Kentucky had looked into the statute-book he would have found that the first section of the bill under consideration is but a transcript of the law as it already exists, which declares—

"That before the first meeting of the next Congress and of every subsequent Congress the Clerk of the next preceding House of Representatives shall make a roll of the Representatives-elect and place thereon the names of all persons, and of such persons only, whose credentials show that they were regularly elected in accordance with the laws of their States respectively or the laws of the United States."

That is the law of the land to-day, passed years ago.

Mr. DAVIS. Will the Senator give me the date of that law?

Mr. TRUMBULL. Yes, sir; I will give the Senator the date of the law. It is the 3d of March, 1863. It was passed nearly four years ago, and the origin of this law was the inconvenience that was found in the House of Representatives in its organization by having no means prescribed for calling it together. This is a preliminary proceeding. The House has to get together in some way. Some persons must be treated as members in the first preliminary proceeding. A mob from the street cannot come in and control. Hence it has been the custom, either under direct provision of law or without that provision, for the Clerk of the former House to call the names of the members. Some difficulties had arisen, as we all know, in this preliminary organization, and all parties thought it better to provide that a list should be made up in some form. It settles nothing except to enable the House to get together and proceed to take the preliminary steps for its organization.

The Senator from Kentucky is astounded at that and thinks there is some "cat under the meal" that is going to destroy the Constitution of his country; he has taken alarm and is opposed to this because the Republican majority of the Senate has brought it in. Sir, it is not brought in by the Senate at all, neither by a Republican majority nor by any other majority, or a minority; it is a bill which came here from the other House.

And now how does this bill differ from the present law? The first section is precisely the same, as the Senate will see, word for word; in prescribing the duties of the Clerk, except that it contains a clause providing that the Clerk shall only put upon his list members from States which were represented in the preceding Congress.

Has the Senator from Kentucky any objection to that? Does he want the great question as to what States are entitled to be represented to be settled by the Clerk? Is he not willing that Congress should determine that question? His opinions may be one way and mine another; but would he devolve that upon the Clerk? Would he not leave that to be settled by the Houses themselves? Does he want to produce anarchy and confusion in the organization of the House? What is he after? This is a transcript of the present law with that single exception.

The second section of the bill provides that in case the Clerk is unable to perform his duty, by reason of sickness, death, absence, or for any other cause, some other person shall have authority to call the roll. Will not the Senator from Kentucky have it done by anybody? Is he not willing that the law should prescribe somebody to call the roll, or does he want confusion and anarchy and misrule? The House

of Representatives have said, if the Clerk is unable to attend to it, the Sergeant-at-Arms shall attend to it; and in case of his inability, the Doorkeeper; and has the Senator from Kentucky any objections to that? Perhaps some other officer might have been provided; but the House thought proper, in their judgment, to devolve it upon these two. Somebody has to do it to prevent confusion. Is it not better to determine in advance who shall do it? This is all that there is in the bill, and I hope that the Senate will pass it.

Mr. McDUGALL. I desire to ask the Senator from Illinois if any occasion has arisen in the history of this Republic that demands such legislation?

Mr. TRUMBULL. Certainly it has, and the legislation took place four years ago.

Mr. McDUGALL. I do not know the occasion, and I should like to be informed what occasion necessitated such legislation.

Mr. TRUMBULL. There has been confusion frequently in the organization of the House. It is not my business to post the Senator from California, who is much better informed than I am in the history of the country. I have no doubt that a gentleman of so many years and of such venerable appearance will recollect the difficulty that arose years ago in the House of Representatives when Mr. Adams, of Massachusetts, by a sort of common consent, was called to the chair when there was a dispute as to who had a right to preside at all. I know that from his age and knowledge of public affairs at that time and many years before, the Senator from California remembers those things better than I do.

Mr. McDUGALL. I am informed.

Mr. DAVIS. Mr. President, the Senator from Illinois does not answer any of the objections which I have made to this bill, as I understand his answer. On the contrary, he concedes the main objection which I have made, and that is that the bill devolves the organization of the House from the House itself, where the Constitution places it, to an officer who is now proposed to be appointed by this act for the House.

The honorable Senator says truly that in 1863 a similar measure was passed. We all know that; but the principle was just as objectionable then as it is now, and the manner in which that law has operated, by clothing the clerk of a former House with the power to exclude Representatives from eleven States, is the strongest objection that could be made to the law.

The honorable Senator asks me if I want disorder and confusion to reign in the organization of the House. Certainly not. From 1789 up to 1863 was there any such disorder and confusion? How were the Houses then organized? It is true that the Clerk of the former House informally, and without any authority, by sufferance, was permitted to make out a roll of the members-elect; he was indulged by the sufferance of each House, by its will, by its permission, to read over that roll and call out the names of the members of the House. When I was first a member of the House of Representatives, in 1839, that process was being in operation. Mr. Garland, who had been Clerk of the previous House, refused to call the names of the members elected from the State of New Jersey.

We saw, then, how this power, exerted by the Clerk under sufferance and usage, which is now proposed to be sanctioned by positive enactment, operated. Its operation was that it prevented the House from being organized for six weeks; and at length, to solve the difficulty, the House dethroned that Clerk, removed him from the position at the table which he was occupying, and from reading the roll of members of the House, and took upon itself the exercise of that office according to its own direction and order, and instead of the former Clerk being allowed to preside over the House in its organization he was precluded from that position and John Quincy Adams was placed in the

chair. There was no confusion, no disorder, no disorganization then introduced except by the act of the Clerk himself, and he was acting in strict conformity to the line of conduct which he is empowered to adopt by this bill.

When the Convention that framed the Constitution met, when the First Congress elected under it assembled, when any deliberative assembly or convention is organized, what is the process? The mass of the members are regularly elected, they have the returns of their own election, and their election is not controverted. If there be any members claiming seats in the particular body whose right to seats is contested, those whose rights are not contested undertake the inquiry and determine who are authorized to sit in the body as members. That is the principle and the rule adopted by the Constitution in relation both to the Senate and the House of Representatives. When the first House of Representatives got together under the Constitution, if any of its members, or men claiming to be members of it, had had their seats controverted, those whose seats were not contested would have got together and would have decided the question whether those whose seats were contested were entitled to membership or not.

The honorable Senator from Illinois has not pretended to answer any objection that I have made; at least he has not answered any that I have taken to this bill, as I understand. "The House of Representatives shall choose their Speaker and other officers," says the Constitution. Is not the Clerk of a former House of Representatives, on the organization of a succeeding one, who is empowered by this act to perform the office which he is required to perform under it, an officer of the House that is to be then organized? I ask the honorable Senator from Illinois to answer me that question. On the 4th of March, the House of Representatives of a new Congress is to be organized. How is it to be organized? The Clerk of the present House is required to make out a list of the members who are elected according to the laws of Congress and of their respective States, by his own judgment and discretion. He may exclude whom he pleases, he may admit whom he pleases.

Mr. TRUMBULL. Not at all. The law says he shall put on the name of every man that is regularly returned. That is the present law.

Mr. DAVIS. I understand the law. This bill is that he shall put on the roll the names of members "whose credentials show that they were regularly elected in accordance with the laws of their States respectively, or the laws of the United States." Suppose it becomes a question upon the credentials of any one of the Representatives, whether he has been elected in accordance with the laws of his State or the laws of the United States? Is not the decision of that question a *quasi* judicial one? Is it not a legal question? Who is to decide that question? Who but this Clerk? And in deciding the question, does not the Clerk act as an officer, and the most potential officer of the new House of Representatives?

Mr. TRUMBULL. Will the Senator from Kentucky allow me to ask him a question?

Mr. DAVIS. Certainly.

Mr. TRUMBULL. How would he have it decided? There is no House; there is nobody to vote upon it. Is a crowd to come in from the street? The Senator says he was present in 1839; let me ask him does he want that scene reenacted?

Mr. DAVIS. No, sir, and for that reason I do not want a law passed authorizing a Clerk to do what a Clerk then did by usage and sufferance.

Mr. TRUMBULL. Who can do it?

Mr. DAVIS. The honorable Senator asks me how the different Houses shall be organized. I answer, just as they were organized from 1789 up to three years ago. He asks me if I would be willing to allow a crowd to come in from the street and to usurp or interfere

with the organization of the House. Certainly not, and there is no danger of such a disorder as that. Nothing of the kind ever has occurred; and it never will occur. It is the simplest matter in the world to organize a new House of Representatives. They are to be organized as they had been from the beginning of the Government up to 1863. The persons elected convene in the capital; and at the opening of the session they go into the Representatives' Hall. They bring their returns in their pockets, made out according to the forms and requisitions of law. It is known before hand, and well and distinctly known, who have been elected and who have not been elected, whose seats are contested and whose seats are not to be contested. The great mass of the members being elected according to law, and there being no objection whatever to their right to take their seats, they get together and they organize by appointing a temporary chairman. The Clerk heretofore has acted somewhat in that capacity, but they may appoint anybody they please.

But here is the question which I propound to the Senator from Illinois: is the Clerk of the former House of Representatives, who is required by this bill to act a part in the organization of the new House of Representatives, an officer of that new House? He is an officer, and he is a most potential officer of the body; more so than the Clerk or the Sergeant-at-Arms, or any other officer of that body that they may subsequently elect. He exercises the function of deciding what is and what is not the proper constituent *materiel* of the House; he admits whom he pleases, and excludes whom he pleases. He is made by the law specially and particularly the judge of the returns of the members of the House; and he is made that judge according to the laws of Congress and of the States. This is plainly a judicial function; a *quasi* judicial power, a power of the utmost importance in the organization of the House. Congress is now proceeding by law to name for the next House of Representatives this important officer, who is to perform this great function.

Mr. McDUGALL. I ask the Senator whether that is not a mere matter of administration and not judicial at all?

Mr. DAVIS. No, sir. I ask the honorable Senator from California if to judge of the returns of a Representative according to the laws of the State and of the United States is not a *quasi* judicial act?

Mr. McDUGALL. There are a few acts that are called *quasi* judicial, and those acts are never judicial finally, but only admitted to be *quasi* judicial because there is no other term that exactly defines them. No judgment vests in the Clerk; he is merely to take the returns and make a record, and when the record is made it is presented to the body.

Mr. DAVIS. Mr. President, suppose the act be not judicial or *quasi* judicial, suppose it be simply ministerial, is it not the act of a ministerial officer of the House? That does not obviate the objection; it only changes the form of it. Congress has no more power to pass a law establishing a ministerial officer for the House of Representatives than it has to pass a law establishing a judicial officer or a *quasi* judicial officer for that House.

The exception I take is that you undertake by act of Congress to appoint an officer for the House in the important matter of the organization of that House when the Constitution declares that all officers of the House, whether for that or any other function or purpose, shall be chosen by the House itself.

Another objection which I take is—

Mr. POLAND. Mr. President—

The PRESIDENT *pro tempore*. Does the Senator from Kentucky give way to the Senator from Vermont?

Mr. POLAND. I do not desire to say anything in reference to this matter, but I wish to interpose at this time a call for the regular order of the day. If it is deemed advisable to

go on and complete the bill now under consideration I shall not object to that, for my experience has been that it is generally better to finish a job while you are about it; but the bankrupt bill is the special order of the day. I am willing that it should be laid aside informally to allow the bill under discussion to be completed. I shall not object to that.

Mr. TRUMBULL. All I wish is to go on with the bill under consideration. I think there will be no objection to that course.

Mr. DAVIS. I did not have the pleasure of hearing a single word that was uttered by the honorable Senator from Vermont. I will proceed with my remarks.

I read another provision of the Constitution, that each House may determine the rules of its proceedings. One House cannot determine the rules of proceeding for a subsequent House; no more can Congress do it by the passage of a law. This is a right, individual, exclusive, belonging to each successive House, to be exercised for itself and by itself, without any control either of former Houses or of laws passed by Congress.

Here, sir, is an act reported to regulate in part the manner of the organization of the House, to regulate in part the proceedings of the House of Representatives upon its organization. I think it is not competent for Congress to pass such a law, because the whole matter of determining the rules of proceeding by each House on its organization for the direction and management of its business devolves upon that House, and Congress has no right to pass laws encroaching upon the power of the House over such a subject.

But, sir, the other is the great and momentous objection which I make to this bill, that it appoints the Clerk of the former House as the officer of each succeeding House upon its organization to pass upon the returns of the members of the House. This is a power, in my judgment, which Congress cannot legitimately and constitutionally exercise. I believe that if this bill be passed it will have no binding effect whatever upon any House; they would have the right utterly to disregard it and to go on and elect their own officers, either to make out a roll of members or to do any other function in the organization and the proceedings of the House, and themselves to determine what persons claiming seats were properly elected or had the proper returns and what had not, and also to determine for themselves whether the returns of all the members or any of the members were according to the laws of Congress and of the States whence the members came.

All this would devolve upon each House when it met, and the Senator from Illinois by his measure—although it originates in the House, and although it has the evil sanction of a precedent passed in the year 1863—cannot, in my opinion, properly withdraw the performance and exercise of this power of both Houses from the two Houses individually and assume it by the passage of a law by Congress.

The Secretary proceeded to call the roll on the passage of the bill.

Mr. JOHNSON, (when his name was called.) I concurred in the report of the chairman of the committee in favor of this bill; first, because I had no doubt of the right of Congress to pass it; and second, because I thought it was a subject that should be provided for by legislation. I vote "yea."

The result was announced—yeas 31, nays 6; as follows:

YEAS—Messrs. Cattell, Chandler, Conness, Cragin, Edmunds, Fessenden, Fogg, Foster, Fowler, Grimes, Harris, Henderson, Howe, Johnson, Kirkwood, Lane, Morgan, Morrill, Norton, Poland, Ramsey, Ross, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Williams, Wilson, and Yates—31.

NAYS—Messrs. Buckalew, Davis, Hendricks, Nesmith, Patterson, and Saulsbury—6.

ABSENT—Messrs. Anthony, Brown, Cowan, Cresswell, Dixon, Doollittle, Frelinghuysen, Guthrie, Howard, McDougall, Nye, Pomerooy, Riddle, Wade, and Wiley—15.

So the bill was passed.



## ORDER OF BUSINESS.

Mr. WILSON. I move to take up Senate bill No. 543, to abolish and forever prohibit the system of peonage in the Territory of New Mexico and other parts of the United States. I think that it will take but a moment to pass the bill.

Mr. POLAND. If it be true that that bill is going to take but a moment or a few moments, as the Senator from Massachusetts supposes, I have no objection to its being taken up and the bankrupt bill being laid aside informally for that purpose.

The PRESIDENT *pro tempore*. The bankrupt bill is not now before the Senate.

Mr. POLAND. Some ten days ago the bankrupt bill was before the Senate.

The PRESIDENT *pro tempore*. It was before the Senate and was made a special order, and it is now on the Calendar as a special order. The time for which it was assigned has passed, so that it does not now come up, of course, and any other motion is in order. That bill will only come up when there is no other business before the Senate, and then it will have priority on the Calendar.

Mr. POLAND. My recollection in relation to the condition of it is different from that stated by the Chair. The bankrupt bill was taken up for consideration on a Saturday, and the consideration of the bill was continued until the adjournment on that Saturday. On the succeeding Monday morning it was laid aside informally for the purpose of taking up the tariff bill, and was not made a special order at all, according to my recollection.

Mr. FESSENDEN. I really hope the bankrupt bill will be taken up. I recollect the circumstances under which it was laid aside which, I feel bound to state, were as the Senator from Vermont has detailed them, though I do not know whether by the rules of the Senate it now retains its place or not; that is a question for the President to decide. I only say that I think, in fairness to the Senator from Vermont, it ought now to resume its place and be taken up. As we have finished the matter which displaced it and which has been before the Senate for so long a time, I hope the Senate will consent to take up the bankrupt bill and act upon it. I think that is due to the Senator from Vermont from the circumstances under which he was obliged to consent to its postponement.

The PRESIDENT *pro tempore*. The motion before the Senate is the motion of the Senator from Massachusetts.

Mr. WILSON. I concur with the Senator from Maine in regard to the bankrupt bill, and I do not wish to be in the way of it; but the bill which I have moved to take up is a very brief bill, that can be passed in a few minutes. If, however, it should lead to debate and the consumption of time I shall be willing to give way.

Mr. CHANDLER. I have a small bill, a House bill, that I do not think will occupy much time, which I desire to call up this morning. I gave notice some time ago that I would antagonize it against any other measure except an appropriation bill. The bill to which I allude is a bill to provide for the building of a ship-canal around the Falls of Niagara, a measure in which every man East and West has an interest. I hope the Senate will consent to take it up and pass it. It was discussed at great length during last session, and I presume that every Senator who desires to speak upon it has given his views. If the Senate will consent to take it up and let me have a vote on it I will submit it without discussion. I think every member has made up his mind precisely how he will vote on that bill, and I therefore ask the Senate to take it up this morning and put it on its passage; and if it be in order to make such a motion now I move that it be taken up. ["No; no."]

Mr. WILSON. As the Senator from Vermont seems to be pressing his bill, and nobody else wants to give way, I am very willing to do so.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts withdraw his motion?

Mr. WILSON. Yes, sir.

Mr. POLAND. I move that the Senate proceed to the consideration of House bill No. 598.

Mr. CHANDLER. I dislike exceedingly to antagonize the measure of which I have spoken with any other. I am in favor of the Senator's bankrupt bill, and shall vote for it, but really we all know that it will lead to a long discussion. I hope the ship-canal bill will not. Of course it is in the power of the Senate to settle the order of its business; but I give notice that if the bankrupt bill is not taken up I shall ask the Senate to take up House bill No. 344. Indeed, if it is in order, I will now submit the motion that the Senate lay aside the present and all prior orders and proceed to the consideration of House bill No. 344.

The PRESIDENT *pro tempore*. There is another motion pending, the motion of the Senator from Vermont.

Mr. CONNESS. I hope the Senate will vote to take up the bankrupt bill. I have been watching for several days for an opportunity to get a quarter of an hour, but have not been able to obtain it. I rise now only to object to this system of trying to establish a lien, by common consent of the House, for other business after this bill shall have been disposed of. I have been inclined to take up the bill referred to by the Senator from Michigan, but if he undertakes in this manner to saddle it upon the Senate I shall vote against his motion when the time comes.

Mr. LANE. I think I am rather disinterested about this controversy; I am opposed to both bills, but I believe there is less danger in the ship-canal than the bankrupt bill, and I shall vote to take up the former in preference to the latter, though I am opposed to both.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont.

The motion was agreed to.

## THE BANKRUPT BILL.

The Senate, as in Committee of the Whole, accordingly resumed the consideration of the bill (H. R. No. 698) to establish a uniform system of bankruptcy throughout the United States, the pending question being on the amendment proposed by the Committee on the Judiciary, to strike out the following words in section fourteen, from line twenty-seven to line thirty-three:

And such other property not included in the foregoing exceptions as is exempted from levy and sale upon execution by the laws of the State in which the bankrupt has his domicile at the time of the commencement of the proceedings in bankruptcy, to an amount not exceeding that allowed by such State exemption laws in force in the year 1864.

So as to make the proviso read:

*Provided, however,* That there shall be excepted from the operation of the provisions of this section the necessary household and kitchen furniture, and such other articles and necessities of such bankrupt as the said assignee shall designate and set apart, having reference to the amount to the family, condition, and circumstances of the bankrupt, but altogether not to exceed in value, in any case, the sum of \$500; and also the wearing apparel of such bankrupt, and that of his wife and children, and the uniform, arms, and equipments of any person who is or has been a soldier in the militia or in the service of the United States; and such other property as now is, or hereafter shall be, exempted from attachment or seizure or levy on execution by the laws of the United States.

Mr. DOOLITTLE. I hope those words will not be stricken out. It is well known that these exemption laws exist in the several States and contracts have always been made in reference to them; in fact the laws of the States affording these exemptions are part and parcel of the very contract when the credit is extended. The understanding is when the credit is given that the creditor has a right to reach into the property that is exempt. It is part and parcel of the contract when it is made, and therefore I hope that this clause will not be stricken out.

On this subject of the bankrupt law, without going into a formal speech on the question, I

have to say that I am very decidedly in favor of the passage of a general bankrupt law. The circumstances in which the country is now placed, owing to the terrible convulsion through which we have passed, are such, and the change of the currency from year to year has been so great, so violent, that the word "dollar," in which all contracts are made and in which they must be enforced, has been continually changing in its meaning; it has been an unknown quantity which in mathematics would be represented by  $x$  or  $y$ . It has not been anything certain, and therefore it is utterly unjust to endeavor to enforce literally contracts which have been made in these times of convulsion. This is true of all the northern States. It is true also of the States of the South. Hundreds and thousands of contracts even have been made at the South by which men were required to pay a given number of dollars; these contracts were made perhaps when Confederate currency was the only money of the South. This bankrupt law coming after all these convulsions will, in my judgment, do very much toward bringing peace to the country.

We know that in that system of government which was established, we may say, under Divine inspiration, it was a settled maxim that every seven years was to be a year of jubilee, when debts were to be settled and canceled, men were to be released from their bondage, and every seventh jubilee the whole real estate of the Jewish State came under the operation of this general jubilee, by which the descendants were once more permitted to reënter into the possessions and enjoy the lands of their ancestors.

Mr. President, I have no desire to occupy the time of the Senate. What I desire is that we come to a vote. I think it would be unwise for us to undertake, under our general bankrupt law, to wipe out of existence all the exemption laws which have been established by the various States, laws which were in existence, well known to parties, in view of which the contracts were made which are to be settled and disposed of by the operation of the law itself.

Mr. TRUMBULL. Mr. President, it might be very unwise, as the Senator from Wisconsin says, for us to undertake to wipe out the various exemption laws of the different States; but the Senator from Wisconsin must be aware that the Constitution of the United States declares in so many words that Congress shall have power to "establish uniform laws on the subject of bankruptcy throughout the United States." Now, I wish to submit to the Senator from Wisconsin, if this bill read in this wise: "There shall be exempted from the operations of this act in the State of Illinois a homestead worth \$1,000 to each bankrupt; in the State of Wisconsin a homestead worth \$200; in the State of Connecticut fifty dollars' worth of personal property," and so on, incorporating expressly the terms of the exemption laws of the various States, scarcely any two of which are alike, does he believe that we have authority to pass such a law as that under the Constitution which gives us power to pass a bankrupt law which shall be uniform throughout the United States? Would that be a uniform law which declared that \$1,000 worth of property should be exempted from the operations of the law in Illinois and only \$100 worth in Wisconsin? Have we any authority to pass such a law? By the committee on the Judiciary, who considered this question, it was thought otherwise. They considered that there was no such authority. That was the trouble. This is the report of the committee, and the question is on agreeing to the amendment moved by the Committee on the Judiciary. That committee were of opinion—and I wish to submit the point to the lawyers of this body—that Congress clearly had no authority to pass such a law exempting one species of property from the operations of the bankrupt act in one State and another and different species of property and a different amount in another and a different State; and

hence the committee reported this amendment to strike out this clause, and the question now before the Senate is on agreeing to this amendment recommended by the Committee on the Judiciary. It may be desirable not to interfere with the existing exemption laws of the various States, and on that question I shall not enter into a discussion with the Senator from Wisconsin. He tells us that contracts have been made in reference to those laws; but is that an answer to this insurmountable difficulty, in the opinion of the Judiciary Committee, to the enactment of the law in this form?

Mr. DOOLITTLE. If my friend will allow me on that point to state to him briefly my answer to him, I will do so.

Mr. TRUMBULL. Very well.

Mr. DOOLITTLE. My opinion is that wherever the law of a State has allowed a person to set apart a given amount of property, personal or real, which is set apart for the benefit of the family as a homestead, there are other parties besides the man himself who have an interest in that property. It belongs to the family, to the wife, to the children of the family, and the law gives it as a special property set apart for the benefit, not of this particular man, but for the independence and the support of the family, to prevent the family from becoming so impoverished as to come upon the town. For this reason the laws of the several States controlling that subject authorize this property to be set apart in trust for the family, and they further authorize it to be held by the family independent of the debts which may be incurred by the head of the family. That property being thus set apart becomes a sacred trust fund not liable to be reached by the creditors, and each State judges for itself to what extent this trust fund shall be set apart, and that independent of the judgment of creditors. And when the law of Congress simply says that the property which is thus set apart in the several States for the benefit of the family as a homestead shall not be reached by the operation of this bankrupt law, I maintain that this bankrupt law is uniform.

The same rule prevails in one State as in another. It is the same rule in Illinois that it is in Wisconsin. The rule is that under this bankrupt law the creditor shall only reach such property as is liable to be reached by a creditor; in short, that the creditor shall not reach the trust fund which the State has allowed to be set aside, not for the man, because the moment he ceases to be the head of a family or to live in his homestead he ceases to have any right in this property, and then it becomes liable to be reached by creditors; but so long as the family exists it is set apart as a trust fund for that family. The law of the State regards the debt which a man owes to his wife and his children, the obligation into which he enters when he contracts the marriage relation and establishes a family, as the most sacred of all debts, the debt of all others which the State is willing to defend in order to secure the independence and the existence of the family itself. This homestead, therefore, is a sacred trust fund, wholly independent of creditors; and, if we pass a law which allows creditors to reach all the rest of a debtor's property and not reach this trust fund set apart for his family, I do not think it is a violation of the Constitution in not being uniform. It is true the laws of the States may vary, and the amount of the trust fund is not precisely in one State as it is in another, but the rule by which you reach the debtor's property is precisely the same rule in every State, and the rule by which you are limited in reaching it is the same in every State.

Mr. TRUMBULL. It is not an uncommon thing for attorneys in arguing cases to get up some other point than the one before the court. The Senator from Wisconsin has been arguing about a trust fund belonging to the family. That is not the question. This bill in its legal effect is precisely the same as though it had incorporated into it the exemption law of every State in this Union. Does the Senator deny

that? The language is, after proceeding to exempt certain property:

And such other property not included in the foregoing exceptions as is exempted from levy and sale upon execution by the laws of the State in which the bankrupt has his domicile at the time of the commencement of the proceedings in bankruptcy.

This law is to operate, not simply for the present, but for the future. Now let me put a case to the Senator from Wisconsin. Suppose the Legislature of the State of Wisconsin, now in session, should pass a law that all the property of a debtor, the whole of it, should be exempt from execution whether he had a family or not; suppose the State of Wisconsin should pass such a law in March next, and we pass this bankrupt bill to-day, and you should endeavor to enforce it in Wisconsin, what would be the result? This act declares that whatever property is exempt from levy and sale upon execution by the laws of the State of Wisconsin, in which the bankrupt has his domicile at the time of the commencement of the proceedings in bankruptcy, shall be exempted under this law. This bill makes that State law a part of it. It is not merely the laws of the various States now exempting property from execution and sale, but whatever law exists in any State hereafter at the time the proceeding in bankruptcy is instituted is made a part of this bankrupt act.

Mr. POLAND. I beg to correct the Senator from Illinois. I understand him to say that this is made subject to such exemption laws as may be passed hereafter by the States.

Mr. TRUMBULL. Yes, sir; I do say so.

Mr. POLAND. If the Senator will only take the trouble to read this portion of the section he will see his mistake without being corrected. The language is:

And such other property not included in the foregoing exceptions as is exempted from levy and sale upon execution by the laws of the State in which the bankrupt has his domicile at the time of the commencement of the proceedings in bankruptcy, to an amount not exceeding that allowed by such State exemption laws in force in the year 1864.

Mr. TRUMBULL. The Senator from Vermont is correct; it is limited by a subsequent clause of the section to such property as was exempted by the State laws in force in the year 1864. I did not read the whole sentence through. I find I was in error in supposing that it adopted as a part of this law the State laws that may be enacted hereafter; but I do not think that alters the principle. The section, it will be noticed, adopts as part of this bankrupt act the exemption laws of the States in force in the year 1864; or rather, as I see on looking at it, allows property not exceeding the amount exempted by the State laws in force at that time to be retained by the bankrupt. I am still right, then; it does adopt, not only the State laws in force in 1864, but those laws which shall hereafter be in force in any State when the proceeding in bankruptcy is commenced, provided the exemption allowed by those future laws shall not be greater than that allowed by the laws in force in 1864. Is that so? Let us read it and see if it is not. This is merely a limitation upon the amount of property that may be exempted; but the laws of the States may vary, as they do, from time to time. Take the case of a proceeding in bankruptcy commenced against a bankrupt in the State of Vermont in the year 1867. I do not know what the exemption law of Vermont is.

Mr. POLAND. A homestead valued at \$500.

Mr. TRUMBULL. Then if a proceeding is commenced in 1867, the present year, under this bill, if it passes, a homestead worth \$500 would be exempted from its operation in the State of Vermont, because such was the law of that State in 1864; but if in 1868 the Legislature of Vermont should think proper to exempt only a homestead worth \$300, then I say to the Senator from Vermont under this bill a bankrupt in that State who should be proceeded against in 1868 would have exempted only a homestead worth \$300. This is merely a limit-

ation upon the extent of the exemption; and this bill proposes to adopt whatever exemption laws may be passed hereafter in any of the States and which shall be in force when the proceeding in bankruptcy is commenced, provided the exemption laws hereafter passed in any State shall not exempt a larger amount of property than was exempted by the law in force in the State in the year 1864. There is no escape from that.

The principle is in the bill just as I stated it; but the Senator from Wisconsin, who after having made his argument has left the Chamber, places it upon the ground that we have a right to incorporate into this bill the various exemption laws of the different States, because those exemption laws are in favor of women and children. Now, I undertake to say to that Senator that the exemption laws are not in favor exclusively of women and children. There is no "trust fund" involved in this matter. There is an exemption in my State in favor of every debtor, whether he has a wife and children or not; and I presume that is the case in every other State of the Union; but those laws are as diverse and different as the States themselves.

Does the Senator from Wisconsin mean to say that the Congress of the United States, under an authority to pass a uniform law in regard to bankruptcy, has a right to pass a law that shall give to the Senator from Vermont \$100 worth of property if he should become bankrupt—that is a very bad illustration I know—and allow me \$500 in case I should become bankrupt, which is a good illustration and a very probable one, perhaps. [Laughter.] It might be convenient for me to retain \$500 and for him to have but \$100; but would that be a uniform system of bankruptcy? Is it possible for us without a manifest violation of the Constitution to pass a bill making such a provision, and a bill which I undertake to say adopts the future legislation of the various States in regard to exemptions, provided those future laws do not exceed the amount that was allowed to be exempted by the laws of such State in existence in 1864?

It was the opinion of the Judiciary Committee that this could not be done, and hence they reported this amendment striking out these words. It seems to me that the committee in their opinion of the power of Congress were correct, and that if we pass a law establishing a uniform system of bankruptcy we must pass one that exempts the same property or the same amount of property to an individual in one State as in another, and we must pass a law that is not liable to be varied by the legislation of the States hereafter. I do not believe it is competent for us to incorporate into this act the various exemption laws of the different States and then declare it to be a uniform system of bankruptcy.

Mr. WADE. Mr. President, my own inclinations have been to go in favor of a bankrupt law, my opinion being that it is impolitic for the country to keep business men who have been unfortunate involved so that they cannot at any time enter into business again. But, however this may be, my convictions are not strong upon that subject; and the Ohio Legislature at the last session, I believe unanimously, or very nearly so, instructed the Senators from the State to go against a bankrupt law.

Mr. SHERMAN. It was two years ago.

Mr. WADE. I thought it was at their last session. At any rate, their last action on the subject was to instruct us against such a bill, by a vote unanimous, or nearly so. Perhaps my colleague knows how that was.

Mr. SHERMAN. I do not.

Mr. WADE. Although I have never held so rigidly as some to the right of a State Legislature to instruct the Senators from the State, yet I think great deference is due to the opinions of the Legislature whose representatives in a measure we are, or at any rate representatives of the people behind them, whose opinions they know as well as we do. I think we ought under such circumstances to defer to

their judgment, and I shall therefore feel compelled to vote against the bill.

Mr. HENDRICKS. I believe the question is upon the amendment proposed by the Committee on the Judiciary to section fourteen, on page 17. I desired very much to take the view of that amendment expressed by the Senator from Wisconsin; but I was not and am not able now to do so. I think the view taken by the Senator from Illinois is the one which we are compelled to take, that to make the law uniform the amount of property which shall be left to the discharged bankrupt must be the same in all the States. If we should allow him to retain \$1,000 in one State and \$5,000 in another certainly that would not be a uniform system. And if we adopt as part of this act the laws of the various States it will be making the system as diverse as the laws of the States themselves.

But I wish to suggest to the Senator from Wisconsin that I think the evils which he apprehends do not arise. The object of this bill is to discharge a man altogether from his indebtedness that he may start out in life afresh. When he gets that discharge from all obligations under this bill he goes out of court with the property which this bill allows him to retain. The object and effect of the State laws exempting property from final process are not the same. A State law exempting property from execution is not a discharge from the indebtedness; it simply provides that when an execution may be issued against a party the officer in the execution of that writ shall leave to the party a specified amount of property. It is not an insolvent's discharge; it is the property which he holds, notwithstanding his liability to execution. The property which he holds under this bill he holds as a discharged debtor from his debts entirely. The laws of the States will remain, notwithstanding the passage of this bill, to have precisely the same effect that they do now. Until a man is discharged the laws of the State will protect him in the property exempted under them; but when he comes to be discharged the amount that he shall hold must be the same in all the States. The passage of this bill, in my view of the subject, will not impair the efficiency of the State laws exempting property from execution; and I do not anticipate the evils which the Senator from Wisconsin fears.

Mr. DOOLITTLE. I suppose the Senator from Indiana does not doubt that under the laws of the States property may be settled upon the wife or the children of the debtor discharged of his debts, so as not to be subject to be taken for his debts.

Mr. HENDRICKS. Property owned by the wife and the children under circumstances that justify it, of course, is exempted from execution for the debts of the husband and father.

Mr. DOOLITTLE. Or property which the husband may have given to the wife, and settled upon the wife before the debt was contracted.

Mr. HENDRICKS. Yes, sir, if conveyed before the debt was contracted and the property was suitable to their condition, and the transaction was under circumstances that did not raise the question of fraud.

Mr. DOOLITTLE. If a man has \$50,000 worth of property and he is free from debt, can he not settle the whole \$50,000 upon his wife under the laws of the States and have it retained by her, so as to be free and discharged from future debts or liabilities incurred by him?

Mr. HENDRICKS. That would depend much on the intent of the party. If he intended to contract debts in the future and be the apparent owner of property which he had transferred to his wife, such an arrangement in my judgment would not stand.

Mr. DOOLITTLE. Of course a fraudulent intent may avoid all contracts and may set them all aside; but if in good faith a man settles property on his wife and children when he is not in debt they may hold that property

free from his subsequent debts, and if he afterwards went into bankruptcy you could not reach that property thus settled upon the wife and children by virtue of the laws of the States. There are some States perhaps that go so far as to forbid the settling of property upon the wife and children in this way, but most of them certainly allow it.

Now, the States allow the husband to hold exempt from execution a homestead, not for himself, but for the family, as being essential to the existence and the independence of the family, in order to carry out the obligation which he contracts by virtue of his being the head of a family, an obligation higher than, superior to, and more sacred than, any other he can contract. The laws of the several States allow him to invest in a homestead, which is to be held as long as it is occupied as a homestead, independent and discharged of his debts. Some States allow to a given amount, some allow more, some allow less; but when this person goes into bankruptcy the rule of the court of bankruptcy should be to reach just that property which is liable under the laws of the State to be reached, and not reach that property which constitutes this trust fund, this fund which is not to be reached by creditors, this fund which is necessary to the family and its independence.

Mr. President, I regard the State laws defending the homestead of the family, allowing it to be retained, as important; and my judgment is that it would be impossible to pass a bankrupt law through this House and the House of Representatives which would require the debtor to surrender the homestead which under the laws of the States has been sacredly set apart for his family.

Mr. HENDRICKS. Allow me to interrupt the Senator for a moment. If the property in fact belongs to the wife and the children, of course neither by Federal nor State laws can it be reached for the debts of the husband and father. So that question does not arise. If the homestead be protected as against creditors in the State of Wisconsin this bill, if it passes and becomes a law, will not place the debtor in any worse condition than he was before.

Mr. DOOLITTLE. Why not?

Mr. HENDRICKS. Because he does not have to strip himself of his homestead unless he applies to be a discharged bankrupt. If he remains under the law of the State, allows the creditors to seek their remedy against him under that law, he is protected by the law of the State that exempts a certain amount of property from execution.

Mr. DOOLITTLE. But the creditors can proceed under this law to put the debtor in bankruptcy.

Mr. HENDRICKS. If he has been guilty of fraud.

Mr. DOOLITTLE. If it is necessary to carry out this doctrine that the law must be uniform, then the creditor proceeding under this bill in bankruptcy has a right to deprive the debtor of his homestead in any State if in any of the States the State law does not give the debtor a homestead; otherwise it is not uniform according to this argument.

Mr. HENDRICKS. The Senator is discussing one part of this bill and I was referring to another. I was speaking of the voluntary portion of the bill.

Mr. DOOLITTLE. The uniformity of a bankrupt law is all the point at issue, because I understood the honorable Senator from Illinois to admit that he would not be disposed to disturb the homestead exemption laws of the several States provided he could constitutionally support a bankrupt law without that clause which is now in this bill and which is moved to be stricken out.

Mr. TRUMBULL. What I said, I think, was that I had no disposition to interfere with the exemption laws of the States, but that I did not think Congress had any authority when passing a uniform system of bankruptcy to adopt them; and if the Senator from Wisconsin

had remained in his seat and listened to me he would have seen that I answered his argument about the family. The family has nothing to do with it. This bill does not propose to take property that belongs to the family. It proposes to take the property that belongs to the bankrupt himself; and the bankrupt may have no family. Property is exempted in favor of the debtor in my State whether he has a family or not.

Mr. DOOLITTLE. A homestead?

Mr. TRUMBULL. Yes, a homestead. Suppose a woman is a bankrupt. A woman may be a bankrupt.

Mr. DOOLITTLE. But she may be the head of a family.

Mr. TRUMBULL. Yes, and she may be a bankrupt without having a family.

Mr. DOOLITTLE. The homestead is exempted if occupied by a family.

Mr. TRUMBULL. A woman in my State is entitled to occupy a homestead from her debtors, whether she has children or not, and though her husband be dead.

Mr. DOOLITTLE. Mr. President—

Mr. HOWARD. In the midst of this colloquy, I want to ask my friend from Illinois one question.

Mr. DOOLITTLE. Wait until I get through.

The point of the Senator from Illinois is that under the Constitution this law must be uniform in its operation. Now, a creditor in the State of New York proceeds in bankruptcy against a debtor, takes his property, disposes of his property under this bill. What is the rule of disposition? In the State of New York by the State laws a homestead to the amount of \$1,000 is exempted. In the State of Connecticut perhaps there is no homestead exempted, but only a certain amount of personal property. If you proceed in bankruptcy in Connecticut you do not leave any homestead to the debtor. Therefore, there is no uniformity in this proceeding, according to the argument of the Senator from Indiana and the Senator from Illinois. The Senator from Indiana claims that it need only be uniform as to the amount of property which is held by the debtor when the debtor himself proceeds in bankruptcy and asks for his discharge. I put the case of the creditor proceeding against the debtor, and that argument of the Senator from Indiana answers the other. The truth is, the law passed by Congress is uniform if it adopts a uniform rule, and that rule is to reach the property which under the law of the State is liable for the payment of debts, and not to undertake to reach any other.

Mr. HOWARD. Mr. President, among the uncertainties which seem to hang about the phrase in the Constitution, "uniform laws on the subject of bankruptcy," there are at least a few certainties; and the first is that before the Constitution was adopted each one of the States, in virtue of its sovereign power, and each one of them claimed that power, had authority to establish bankrupt laws. Each State had power to establish any system of bankrupt laws that it might see fit; and it is a historical fact, which I presume the Senator from Illinois will not deny, that systems of bankrupt laws did exist anterior to the Constitution, and that there was a dissimilarity between every two of those systems existing in the States. In short, there was a want of uniformity in the bankrupt laws existing within the United States of America before the adoption of the Constitution; and beside that, each State exercised its authority in regard to the collection of debts so as to exempt from final process certain portions of the debtor's property, real or personal, or both.

Both these powers have been exercised since the adoption of the Constitution, for every State has from time to time had its separate system of bankruptcy and its separate system of laws for the collection of debts. Each State, as I have remarked, may exempt from final process whatever property it sees fit, and having the ordinary legislative power that pertains to a government, and being itself a government, it is not to be presumed that it will exercise this



power wantonly or injuriously to its own citizens or to persons who are not its citizens. The whole system of bankruptcy and the system for the collection of debts have been under the complete control of the various State Legislatures and are so now.

Now, I wish to put a question to my learned friend from Illinois, the chairman of the Committee on the Judiciary, in order to ascertain whether he and I view this clause in the same light. The committee propose to strike out of the bill the clause exempting from the operation of the surrender of the bankrupt's effects the particular property specified in the bill:

And such other property not included in the foregoing exceptions as is exempted from levy and sale upon execution by the laws of the State in which the bankrupt has his domicile at the time of the commencement of the proceedings in bankruptcy to an amount not exceeding that allowed by such State exemption laws in force in the year 1861.

This clause recognizes the existence and continuing force of the exemption laws of the various States as it stands. Now, if we strike out this clause, I ask the Senator whether or not all the property thus exempted by State laws will be included among the assets of the bankrupt and subject to sale according to the provisions of this bill, and pass from his possession and enjoyment into the hands of his creditors? I give it that construction. The expunging from the bill of this clause is intended by the committee, and is understood by the committee, as a complete nullification of all the exemption laws established by the States. Such will be undoubtedly the effect of striking out the clause.

Now, sir, I entertain the opinion that it is not competent for Congress to interfere with the exemption laws of the States. I hold that that is one of the rights and powers pertaining to the States under the Constitution to make such exemptions, and that it belongs to the category of State powers in the same sense in which the power to collect debts, to make contracts, conveyances of land, wills, and all other commercial instruments, and instruments relating to the title of the property owned by the citizens of the State. Congress has no power over this vast field of subjects; and I hold that when the Constitution speaks of "establishing uniform laws upon the subject of bankruptcy," it is to be understood in the sense that the laws which Congress pass shall have a uniform operation and effect throughout the States, making no exception of one State or part of a State from the operation of the act; that the general act shall operate with uniformity throughout all the States, in order to take away and remove the difficulty which existed before the formation of the Constitution, consisting in a want of uniformity of the bankrupt laws of the various States. The clause is to be interpreted rather in a territorial than a commercial sense; it is intended to extend the same general system throughout the United States, and to take away from the States the power of establishing each for itself a separate system of bankruptcy, which may be different from every other system known in the States.

That is the light in which I read the Constitution. Now, sir, I can never consent that all the property exempted from final process in my State—and the exemption in my State is fixed and established by a clause of the constitution of the State itself—shall be swept into the vortex of the bankrupt's assets and sold at public auction. I do not believe Congress have power thus to interfere with the internal policy of a State. I do not believe any such thing was intended by the framers of the Constitution; but it was intended to leave to the States, under what we call a uniform system of bankruptcy, the full and complete control of all matters connected with their internal policy and domestic legislation.

But, sir, I will not occupy the time of the Senate further upon this subject. I have no doubt about the constitutionality of this clause which is now sought to be stricken out, and I am free to say that rather than see such an

attempt to sweep away a whole system of exemption laws existing in my own State succeed I shall vote against the bill. I do not think the people of my State or the people of any other State will quietly endure the monstrous injustice which would flow from such an enactment.

Mr. CONNESS. I will not, in the presence of distinguished legal gentlemen in the Senate, undertake to enter into a discussion of the constitutional principle involved in this question, which has already been discussed by Senators; but I represent in part a State which has a great interest in the pending provision. We have in California an exemption law, as it is termed, that provides for an exemption of \$5,000, or a homestead of that value to the debtor, if a man of family, and I should dislike very much to see Congress pass any act interfering with the right of the people of that State to make such a provision for the homesteads of families the heads of which have been unfortunate in business.

Without undertaking to express an opinion on the subject, I incline to the belief that the honorable chairman of the Judiciary Committee of this body is not correct in the point he has raised as to the non-uniformity of the bill without this amendment. I think the question of uniformity does not go to the matter of the amount exempted; but, on the contrary, the State exemption is rather in the nature of a police regulation in this, that what is exempt in one State may not in any manner constitute a sufficiency in another State. For instance, the homestead exemption law of the State of Vermont, as has been stated, sets apart in such a case \$500 worth of property, while in California the amount is \$5,000 in value. The California law was passed during the early history of that State, when \$5,000 worth of property would go no further in providing a homestead for a family than \$500 would in the State of Vermont; and, although things have equalized in that State to a greater extent now than at the date of the passage of that act, yet the people of that State have become used to the amount of this exemption, and there is no disposition that I know of at the present time in that State to interfere with it or to lessen the amount. It is rather viewed as a wise enactment, because the law making the exemption \$5,000 is a notice to all mankind, to every person who deals with a citizen of California, that that amount is exempt by law, and nobody is cheated by it, nobody is injured, while an amount sufficient for a homestead for the protection of the family is retained to the unfortunate debtor.

Now, sir, who so wise, who so competent, to determine how much shall constitute a sufficient exemption as the local Legislature of each State? Shall we assume that Congress can provide here a uniform amount, no matter what that amount may be, and determine that it will be sufficient in the State of Vermont and equally so in the State of California? Certainly no person will contend that that could be done, or that Congress could act wisely in such a matter. So that the proposition goes to the question whether or not there shall be an extension in favor of the family.

It appears clear to my mind, as I before observed, that the exemption is more in the nature of a police regulation, a local right that can be more wisely and more directly exercised by the Legislature of each State than it possibly can be by Congress. I therefore incline to the belief that the question of the uniformity of the law is not involved in the provision that shall be made for the debtor's family. I am very free to say that as the bill came from the House, without the amendment proposed, I shall vote for it; but if the amendment be adopted I cannot consent to vote for it, nor to repeal the provision which the people of California have, as I think wisely, made and which they feel disposed to preserve.

The point made by the honorable Senator from Indiana, that the bankrupt may proceed in bankruptcy under the State bankrupt laws,

and thereby not avail himself of the provisions of this law, but avail himself of any provision made by the State laws in the way of exemption to the family, loses its force entirely when it is known that this is a compulsory bankrupt law. It is both voluntary and compulsory. Under this bill, as I understand it, if it shall become a law, the creditors may compel the debtor into bankruptcy, and as a matter of course the question arises at once as to the power of the congressional or the State law, so that when proceedings in bankruptcy were taken by virtue of State laws the debtor would be entitled to one class of treatment in the disposition of his affairs, while if proceedings were taken under this act, if it shall become a law, he would be entitled to altogether another disposition. I am not now advised whether this bill goes to the extent of repealing all State laws on the subject of bankruptcy. I presume not; but that if it passes it will become the universal law of bankruptcy, or the one most availed of, I think there need be scarcely a doubt.

For the reasons presented I shall vote against the amendment reported by the committee, and if it shall obtain, I shall feel compelled to vote against the passage of the bill.

Mr. JOHNSON. Mr. President, there can be no doubt as to the authority of Congress to pass a bankrupt law, the power to do so being in so many words conferred upon Congress; and I do not understand as far as the debate has gone, that the bill itself is objected to upon any ground of expediency. In the present condition of the country, growing out of the troubles in which we have been involved, it has seemed to me from the first not only important but actually humane to provide a system of bankruptcy. I do not know what are the debts now due by those who are unable to pay in that part of the country where for the most part debtors are to be found: the debts no doubt are so heavy and the debtors are to be found in almost every portion of the country, that it will be impossible for them to exercise their industry or have any motive to exercise their industry or engage in any enterprise if everything they may earn can be seized at once and they be forced to poverty again. The only doubt, therefore, as far as the debate has gone, as to the propriety of passing this bill is because of the provision of the fourteenth section which the Judiciary Committee have reported should be stricken out.

As the Senate, I believe, are already advised, the members of the committee were not all of them of that opinion. I was one of the minority, and I will state now very briefly the ground upon which I supposed the section to be constitutional.

The word "laws" as found in the clause is evidently meant as synonymous with the word "rule," as found in the same clause in relation to naturalization. Congress is authorized "to establish a uniform rule of naturalization and uniform laws on the subject of bankruptcy." If the "rule" in the first case is to operate everywhere in the same way, that is to say if the rule is the same, the uniformity contemplated by the Constitution in relation to naturalization is accomplished; and for the same reason if the bankrupt law which Congress may pass operates alike as a law everywhere throughout the United States, the uniformity contemplated by the provision is accomplished.

The objection stated by my friend, the chairman of the committee, [Mr. TRUMBULL,] and the honorable member from Indiana, [Mr. HENDRICKS,] that the particular provision shows that the law itself will not be uniform in the sense of the constitutional clause, is not that it is not the same law in each State of the Union if it shall pass, but because what may be recovered under it in one State will not be what may be recovered under it in another State. In the same section—and I do not understand the Judiciary Committee or the chairman as finding any fault with that provision; certainly they have not recommended any change in

that particular—in the same section which excepts from the operation of the bankrupt act property which is reserved by the laws of the States there are other exceptions which are to remain. There are two classes: the first class embraces property which the circumstances of the bankrupt may, in the judgment of the commissioner or of the district court, justify being retained by him. The decisions in relation to bankrupts under that clause by the commissioner may lead to different results. One amount may be allowed to one bankrupt because of his circumstances and the condition in which he is placed, and another amount may be allowed to another bankrupt because his condition and his circumstances are not the same; so that the bill in that clause of it goes upon the assumption that there may be a different result in the case of different applicants for the bankrupt law, or different parties against whom the bankrupt law may be put in operation by compulsion. But that is not all. It excepts from the operation of the bankruptcy all property belonging to the bankrupt which he holds under any act of Congress, or rather which by any act of Congress is excepted from execution. Then my friend here holds property—and it is immaterial what the property may be, for an act of Congress may exempt any property they think proper—he owns property which is exempted from execution under an act of Congress; he lives alongside of me; that property of his cannot be taken. I own property not greater in point of value which the exception does not embrace; my property can be taken.

Property is excepted by act of Congress from seizure for debt in the State of Michigan, and there happens to be no such property within the limits of the State of Maryland. All the property that the Maryland debtors held can be taken, but the property which the Michigan debtors held, if it be property covered by the exception, cannot be taken; so that the law in that particular operates one way practically in Michigan and another way practically in Maryland. That is to say, the Michigan debtor continues, notwithstanding his bankruptcy, the owner of his property; the Maryland debtor is not the owner because it is not excepted by the act of Congress.

Before the decision in the case of *Sturgis vs. Crowninshield*, reported in 4 Wheaton, it was a very general opinion that the States had the authority to pass bankrupt laws, or at least insolvent laws that might result in the same way. It was not until that decision that it was decided that the right of the States to pass laws of that kind was disputed. In the subsequent case of *Ogden vs. Saunders*, reported in 12 Wheaton, another question arose. The case of *Sturgis vs. Crowninshield* was decided on the ground that an insolvent law of a State freeing the debtor from all his debts was invalid because of the inhibition in the Constitution of the United States against a State passing laws impairing the obligation of contracts. The court held in that case that the States might pass laws which would affect the remedy, and as under the laws as they existed in the States or in the United States one of the remedies left to the creditor to enforce the collection of his debt as against the debtor was imprisonment; they could pass a law relieving a debtor from imprisonment, but they could not pass a law relieving him from the obligation to pay the debts or discharging from liability because of that obligation any property that he might thereafter acquire.

In the second case the question was presented whether a State law which discharged a debtor from all obligation for his debts was valid as between himself and a citizen creditor upon a debt contracted subsequent to the passage of the State law; and the Supreme Court held by a majority that such a law would be valid; and they further decided in deciding that case that there was nothing to prohibit a State from passing a bankrupt law or an insolvent law in the mere existence of the power conferred upon Congress on the subject until Congress should

exercise the power, and then that the State law would be valid unless it was found actually to conflict with the provisions of the bankrupt law of the United States.

Now, Mr. President, I will not state as strongly as I should otherwise have done that, in my judgment, the objection is wholly unfounded, constitutionally, because the honorable chairman and those who concurred with him upon the committee think that it is a very clear and well-founded objection; but for the soul of me, irrespective of that authority, I cannot imagine what charge of want of uniformity there is in a law which operates as a law alike in every State in the Union. The law in Maryland is, that whatever is exempted by her own laws from execution is to be exempt. The law in Maine is, that whatever is exempted, if she has an exemption law in that State, is to be exempted from the operation of this law. It operates alike. It does not exempt property to the like amount; but it operates as a law equally in the one State as in the other.

Now, suppose that in point of fact—and that is a way, I think, to test it—there were exemption laws in every State, and the amount of the exemption was precisely the same in each State, and this law proposed to give the benefit of that exemption to all the bankrupts, would it not be uniform? It would be uniform, then, because it would operate alike everywhere in one respect; it would save from execution property of a like amount in each State. But the idea is that if there happens to be a difference in the amount of property which the States have respectively exempted from taxation that of itself shows, if we retain this clause, that the law will not operate uniformly. Now, Mr. President, the whole effect, as I think, of the bill is this: the creditors now of these bankrupts are prohibited from making their debts out of a certain description of property; that is all. They have no relief, therefore, anywhere, for these exemption laws have been recognized as constitutional, and being constitutional the only way in which they can be avoided, if they can be avoided at all, is to strike at them by means of a bankrupt law, and that we cannot do unless we desire to appropriate to the payment of debts property which is not liable to the payment of debts under the existing State laws, unless we place in the hands of the creditor property belonging to his debtor to which now he has no recourse, being protected by the State laws. The whole effect, therefore, of this provision is, that we give to the creditor all that the creditor can obtain; and as I said, and for the same reason, the operation of the law is everywhere the same.

Mr. GRIMES. I do not propose to enter into the discussion of this question, but it is a very important one, and I suppose one upon the decision of which the votes of a good many Senators on the bill itself will depend. I should like to know of the Senator from Vermont whether or not, if this bill shall be enacted into a law, as he desires that it shall be, it will be possible for any of the States to change their exemption laws. For example, suppose that in the State of Iowa there is an exemption of \$1,000 and in the State of Illinois of \$5,000; we have a community of interests; our population are embarked in about the same character of business; and there is about a uniform amount of wealth probably distributed among the population. If the interests of Iowa, in the opinion of our General Assembly, required that our exemption law should be made to correspond with that of the State of Illinois, would it be possible for us to increase the exemption from \$1,000 to \$5,000, so as to correspond with that of Illinois?

Then I should like to have him answer me whether or not, if this bill shall pass, it will be possible for the State of Nebraska, for example, that will come into the Union a week after the approval of this law without any exemption law, to establish a homestead exemption law, and exclude from the operation of the Federal bankrupt law such descriptions of property as, in the opinion of the General Assembly of that

State, the welfare of the State may require, but which is not provided for in the bankrupt law? And I should like to know whether or not it will be possible for any of the States that have not now upon their statute-books provisions for homestead exemptions, and do not place them there before the enactment of this bankrupt bill into a law, to do so afterward?

Mr. POLAND. Mr. President, I hardly know by what right the Senator from Iowa requires my opinion upon the questions he puts, more than that of any other Senator. It is true that by the peculiar condition in which this bill was placed in the Committee on the Judiciary who have had it in charge it fell to me to report the bill as the organ of a majority of that committee to the Senate. The subject is one that I have never very deeply studied. The bill itself is one that originated in the House of Representatives and passed there, and is the work in the main, as I understand, of a Representative from Rhode Island, a gentleman who has given very great attention to the subject, [Mr. JENCKES.]

So far as regards the question that the Senator puts, as to whether, if this bill shall become a law with this provision in it as it came from the House, it will be in the power of the State Legislatures to make future exemptions different from what are provided for in this bill, I am of the opinion—if it will do the Senator any good or any harm—that they will not have the power; that this bill will cover the whole ground, and that it will not be in the power of the Legislatures of the several States afterward to make additional and greater provisions, so that a bankrupt could retain property against his creditors under a proceeding under this law by virtue of those future exemptions.

In relation to the admission of new States and what may be done hereafter, those are matters that I have not considered at all, and the gentleman's opinion is just as good on that subject as mine. I am not aware that it would elucidate the question that is before the Senate if I were prepared to give the Senator my own opinion on the subject.

While I am up, Mr. President, let me say a word in reference to the pending question. When the bill was before the Senate some two weeks ago I gave my own view, in a few words, in relation to it, and as to whether this provision in the bill rendered it unconstitutional so that it was not a uniform system of bankruptcy within the meaning of that term in the Constitution of the United States. The objection is, that because these State exemption laws are different in their terms, the laws of one State exempting more in favor of the debtor and his family than the laws of another State, therefore the system is not uniform. It seems to me that the bill is not open to this objection, even with this provision in the bill as it passed the House. I am aware, as has been stated by several Senators, that the provisions of the laws of the several States are different in this respect. Some of them exempt a larger number and value of articles of personal property than others. There is a very considerable difference in the amount of real estate that a debtor or his family may retain against his creditors. The New England rule is \$500; in New York it is \$1,000; in the western States it is still larger; in the Pacific States it is larger still, going as high in the State of California, as the Senator from California has told us, as \$5,000.

It seems to me, Mr. President, that there is very great force in the suggestion that was made by the Senator from California in relation to this very subject: that while the Legislatures of the several States intended to provide for a poor debtor that he should retain such an amount of personal property and such a home for his family as was necessary to keep them alive, furnish them a reasonable and comfortable home, the amount and value of property that is required for that purpose is very different in different localities, in different portions of our large, extended country, and the Legis-

latures of the several States in providing how much should answer that requirement had only made this equal; and when Congress say that a person who goes into bankruptcy, or who is forced into bankruptcy under the provisions of this bill, shall be entitled to this amount of real and personal property for the support of himself and family, they have referred to a rule which is made equal by the Legislatures of the several States, varying according to the different circumstances of each.

But however that may be, whether the idea is a sound one or not, it seems to me clear that the rule which this bill establishes is a uniform one. Now, it is not questioned but what the Legislatures of the several States have a right to pass these exemption laws. The general current of decisions in the State courts has been that they have a right to exempt property, either real or personal, from debts that already exist. There have been individual decisions in some of the State courts that an exemption law was not valid so far as it regarded a debt that then existed; but the great majority in the current of decisions in the State courts has been that these exemptions, larger exemptions of personal or real property, were valid even as against existing debts. I am aware that there is not an entire uniformity of decisions upon that subject; but the general power of the States to pass exemption laws has never been questioned, and it is perfectly well settled and established throughout the country.

Now, what does this bill propose to do? What does the section of the bill which is now in question propose? Merely this: that we pass a bankrupt law, we establish a system of bankruptcy, by which every dollar of property in every State that is subject to the man's debts may be taken and appropriated. It administers upon the property of every bankrupt throughout the entire country, and takes all his property that is by the existing law subject to the payment of his debts. In that respect it is certainly a uniform system; and it seems to me that that is all that can be required of Congress in order to make the system uniform. Whether it is in our power, whether we may entirely uproot these homestead exemption laws in the different States, is not now in question; but, in my judgment, we may preserve them and still retain such uniformity as to make our bankrupt law valid under the existing provision of the Constitution of the United States. It is certainly very desirable to do so. No laws that have been passed by the States have met with more favor in every community than these laws in favor of poor debtors, exempting property both real and personal, and especially exempting realty, that is, what has been termed the homestead laws of the different States. There are no laws in all the States to which the people are more attached, none that have been more beneficial in their operation.

As I had occasion to say the other day, if those laws must be uprooted, if they must be cast aside in order to make room for a bankrupt law, of course it is idle to ask either this body or the other House of Congress to pass a bankrupt law. In the condition of things in this country and under the State legislation it has become impossible to have a general bankrupt law unless we can have one with such a provision in it as this bill contains. It is perfectly certain that without this provision a bankrupt bill cannot be passed, and if it cannot be passed with such a provision as this in it without being subject to the objection that is made by the chairman of the committee and by other gentlemen, then we must go without it.

Considerable stress seemed to be laid by the Senator from Illinois upon the fact that this portion of this section had been struck out by the Judiciary Committee of the Senate. It perhaps may withdraw some of the force of that statement when it is known that it was by a bare majority of that committee that this was struck out.

Mr. McDUGALL. Mr. President, the question now before the Senate is a pure ques-

tion of law as to the power of legislation in the Government; a question whether this is a general law, or whether it is one of those things that are exceptional. I always dislike to disagree with the chairman of the Committee on the Judiciary, for whom I have great respect; but I understand that as a general law, passed for the benefit of all citizens, it comes within the general purview of the powers of Congress. I make a single expression for the purpose of communicating my idea as to that single point.

Then more, I desire to say, and I am only about repeating what I have said some years since, there is no civilized Government in Europe that has not such a law. The provision in relation to the power to pass such a law was placed in the Constitution of the United States by persons who understood that it was necessary to carry on commerce and the relations of merchants in that way. It was attempted in 1813, and by ignorant legislation it had to be repealed. It was again repeated in 1841, and then by carelessness and inconsiderate action it had to be repealed shortly afterward. Those two facts having been a part of our political history, most politicians were afraid to vote for a bankrupt bill, not understanding, I think, that to give the creditor his right and the debtor his right and to settle controversies was an obligation to impose upon the people and that the Government should impose. In the war of 1812 the country was bankrupted, and some of the ablest and best men were placed within prison bounds, and they had great difficulty to get means enough to support their families. Some of the most able men were prevented from engaging in large enterprises to develop the resources of the country. It has thus continued from that time until this time, although it was worse then than it is now.

This law has been called for by all legislation of high, intelligent States. It was provided for in the Constitution of 1787. It has been promised by every party in the country. It is pledged by the Republican party, pledged by the Democratic party, as a thing due to the people, and I have long sought to see the thing done, having been in office and taken some interest in these things for more than a decade. I trust that the conduct of this matter may be left to the gentleman who reports the measure from the committee, and I think we can all trust his judgment.

Mr. RAMSEY. Mr. President, I have ever been in favor of a bankrupt law. I simply rise to state that if this amendment be adopted, and this provision securing the exemptions provided for by the States be stricken out, I certainly cannot vote for the bill. We have in our State a very moderate exemption, consisting, I think, of eighty acres of land in the country or a town lot in a city or town, and upon these little sanctuaries families have enshrined themselves. Driven out by the exactions and persecutions of heartless creditors in the East, they have sought an asylum in the West, and by these liberal laws of our States have been protected. The purpose of the committee now is to destroy this protection. For myself, I shall vote against the amendment, and if it shall be adopted I shall vote against the whole bill on its passage.

Mr. STEWART. I shall vote against striking out this exemption and against this amendment of the committee, although in committee I am not certain which way I did vote. I wish to state the reason why I am inclined to vote against the report of the committee. I regard it as a matter of great importance to have a bankrupt law passed. I believe that it will relieve a great many persons who are in a hopeless condition without it; I believe the country needs it; I believe that at the present time it would relieve a great many enterprising men who would thereby be enabled to add to the wealth of the country. It is desirable that they should be liberated, if it can be done. On the other hand, these homestead exemption laws have so far entered into the system of the country, particularly in the West and on the Pacific, and have operated so beneficially, that

it will be a great calamity to disturb them. I am satisfied that if it is necessary to disturb them the bill will not become a law. Inasmuch as there is a very serious question whether the Judiciary Committee are not mistaken, whether this law cannot be passed, whether it will not be enforced by the courts—a grave question which must ultimately be determined by the courts—I am in favor of retaining the clause and allowing the courts to pass upon it. If declared unconstitutional, there would be no great harm done; if declared constitutional, the bankrupt law will be in harmony with our homestead exemption laws and will be satisfactory to everybody. I consider it so important to have a bankrupt law and so important to retain our homestead exemption laws, and the question being acknowledged by all to be a question of considerable doubt, I think we had better retain the clause so as to bring the question before the courts and have it determined. I wish to retain the clause in order that the courts may determine whether, consistent with our established system of homestead laws in the States which are working beneficially, we can have a bankrupt bill at all. It is the only way to bring it before the courts and have it determined, and I am in favor of doing it.

Mr. GRIMES. The Senator says he is going to vote for this proposition so that the courts may decide upon the question; and if they decide that it is unconstitutional no great harm will be done. Why, sir, if they decide it to be unconstitutional the effect will be, as I understand, to sweep away the State exemptions in favor of debtors, to take that property which the State has exempted and turn it into the fund of the assignee designated to administer upon the bankrupt's estate. It seems to me that this is a graver question than my friend from Nevada seems to think it is. If we pass the law without any provision in regard to homesteads, or without saying that there shall be an exemption of such an amount, fixing whatever amount that may be; if, in other words, we pass the law as the Senator from Vermont desires us to pass it, and the courts decide it to be unconstitutional, then all our homestead exemption laws are swept out from under us.

Mr. STEWART. I do not think that that will be the effect. It seems to me that if it is declared unconstitutional because it is not a uniform system that goes to the whole law, and consequently there will be no harm done. They say the law is not a uniform system of bankruptcy.

Mr. GRIMES. It seems to me that the proper way to set this forever at rest and to enable us to understand ourselves what we are going to do, and for our constituents to know what we have done; is to incorporate into the bill some provision declaring that such exemptions shall exist in all the States.

Mr. TRUMBULL. That is the bill, but this is an addition.

Mr. GRIMES. That will cover the amount of the homesteads in the States.

Mr. TRUMBULL. The difficulty about that was that in the Pacific States the exemption is \$5,000. They are not willing to reduce that, as a general rule, and it is so various we found it impossible.

Mr. McDUGALL. General laws are not particular laws, and in legislating for a Government we have to legislate with reference to the interests of localities. Now, speaking about the law of California, a \$5,000 homestead there would not be more than \$500 in some countries that I know; that is, as regards enough for the protection of the family.

Mr. GRIMES. Let no gentleman flatter himself that the Supreme Court, if they decide that this clause is unconstitutional, are going to decide that the whole law is unconstitutional.

Mr. JOHNSON. Why not?

Mr. GRIMES. I am satisfied they will not. They will decide that the law is uniform in all respects, but is not uniform in this respect, inasmuch as we, in this particular, had no authority to pass it.

Mr. McDUGALL. That will have to be



the result of a conclusion, and it cannot be determined by exceptional questions.

Mr. DAVIS. My own opinion upon this point is, that Congress has no competence or power to pass any bankrupt bill that is not uniform, and that a clause adopting the various systems of exemptions of property from execution in satisfaction of debts by the different States would establish a system not uniform, and that it would consequently have the effect of vitiating and rendering void the whole law. I have no doubt that Congress may exempt what property it pleases in a bankrupt law in favor of the bankrupt, but the system of exemptions ought to be uniform throughout all the States according to my understanding of the requisition of the Constitution. There cannot be a system of exemptions amounting to \$500 in one State and \$5,000 in another State in a constitutional bankrupt law. If gentlemen want a bankrupt law, and at the same time a reservation of exemptions from execution and satisfaction of debt by State laws, they must in the bankrupt law make a uniform provision to cover such exemptions, and I think that unless they adopt that course the law will not be uniform and constitutional.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) Is the Senate ready for the question?

Mr. TRUMBULL. If the yeas and nays have not been called I ask for them on this question?

The yeas and nays were ordered.

Mr. HOWARD. I wish the question may be again stated, so that it may be clearly understood. In my opinion it is a subject of great importance.

The PRESIDING OFFICER. The amendment will be read.

The Secretary read the amendment, which was on page 17, section fourteen, after the word "States," in line one hundred and twenty-seven, to strike out the following clause:

And such other property not included in the foregoing exceptions as is exempted from levy and sale upon execution by the laws of the State in which the bankrupt has his domicile at the time of commencement of the proceedings in bankruptcy, to an amount not exceeding that allowed by such State exemption laws in force in the year 1864.

Mr. HOWARD. If this clause shall be stricken out, then it will follow that all the exemption laws of the several States and every clause of every State constitution which secures an exemption from seizure of the property of a debtor on final process, will, if the construction given it by the Judiciary Committee be sound, be *ipso facto* repealed. In my State we have settled and fixed the right of the owner of property to an exemption from final process by incorporating it in the constitution itself of the State. The people of that State have inserted in their fundamental law a provision that—

"The personal property of every resident of this State, to consist of such property only as shall be designated by law, shall be exempted to the amount of not less than \$500 from sale on execution or other final process of any court, issued for the collection of any debt contracted after the adoption of this constitution."

The exemption of personal property cannot be less in value than \$500 under the constitution of the State. Again, the constitution declares:

"Every homestead of not exceeding forty acres of land, and the dwelling-house thereon, and the appurtenances, to be selected by the owner thereof, and not included in any town, plat, city, or village; or instead thereof, at the option of the owner, any lot in any city, village, or recorded town plat, or such parts of lots as shall be equal thereto, and the dwelling-house thereon, and its appurtenances, owned and occupied by any resident of the State, not exceeding in value \$1,500, shall be exempt from forced sale on execution, or any other final process from a court, for any debt contracted after the adoption of this constitution. Such exemption shall not extend to any mortgage thereon lawfully obtained, but such mortgage or other alienation of such land by the owner thereof, if a married man, shall not be valid without the signature of the wife to the same."

So that as to the homestead in my State it cannot be mortgaged or in any way alienated

by the husband who is the owner of the land during the life of his wife without her consent; and the same constitution provides that this homestead shall not be sold for the payment of the debts of the deceased until after all his children shall have become of age. We have laid this principle of a reasonable, fair exemption from sale upon execution deep in the foundations of society.

Now, sir, I cannot consent to disturb that arrangement. I presume that similar provisions are in force in other States. I hold it to be the right of each State, in the exercise of its constitutional authority, to regulate all these matters of domestic, internal police, and that Congress have no power whatever to interfere or disturb them. I would not attempt it. I cannot therefore vote to strike out this clause of the bill, because it would stand as an evidence that I had yielded my opinion upon the effect of the constitution and upon the rights of the several States. I do not wish to invite a multitude of law suits to test the question in every case where a bankrupt is proceeding to obtain the benefit of the act; and such will be one of the direct consequences of striking out this clause. You will invite innumerable law suits, controversies between creditors and the wives and children of bankrupts; and my prediction is, that if this clause shall be stricken out, the law will in the course of five years, if it shall last so long, be as odious to the community generally as any act ever passed by Congress.

Mr. President, I remember quite well how great a clamor was raised for the passage of the bankrupt act in 1841. Congress, yielding to what they supposed to be the honest desires of the people, enacted a bankrupt law. My friend from Indiana [Mr. LANE] will recollect it very well. We were both present in the other House and voted for it; and within about one year from the time we enacted that law the same Congress repealed it. It is possible this bill may be an improvement upon the act of 1841; but my own experience under that act was such, in the course of my professional practice, as to create in my mind a very strong distrust of the value of any general bankrupt law that could be passed by Congress. I do not say that I shall vote against the present bill should the Senate not strike out this clause and should they retain another clause which I propose to strike out when we reach it. We ought to move carefully. There is no commercial interest in this country that is not to be affected by it if it shall become a law. There is not a family in the land, nor an individual, who will not in some degree feel it, and in uncounted cases feel it most sensibly and deeply.

I hope, sir, this clause will be retained. Let us endeavor to preserve to the citizens of the various States some little vestige of the privileges and immunities which their own State Legislatures and people have seen fit to grant them, and do not let us throw the whole property of the debtor class throughout the United States into the immense vortex of bankruptcy, to be administered upon, and, in most cases, as it will turn out, utterly wasted and destroyed in the course of the proceeding.

Mr. HENDERSON. Is it in order to amend the lines proposed to be stricken out before the vote is taken on striking out?

The PRESIDING OFFICER. The Chair thinks it is.

Mr. HENDERSON. I propose to amend, then, by striking out in the thirty-second and thirty-third lines the words "in the year 1864" and inserting "at the time when such proceeding shall have been commenced."

Mr. POLAND. I hope the Senator will withdraw his amendment for the present. I should myself be in favor of the amendment that he proposes; but the question now stands upon the principle: whether we shall adopt the State exemptions. He can amend it afterward if it is retained. This amendment is to strike out merely.

Mr. HENDERSON. My only object was

this: if it is to be adopted at all, it should be adopted so as to have—

Mr. POLAND. The Senator's amendment will be in order afterward, if the clause be not stricken out.

Mr. HENDERSON. I do not wish to interfere.

Mr. POLAND. I hope the vote will be taken on the amendment to strike out the clause.

The PRESIDING OFFICER. Does the Senator from Missouri withdraw his motion to amend?

Mr. HENDERSON. Yes, sir.

Mr. WILSON. Mr. President, the farmers, mechanics, and laboring men of the country have very little interest, I take it, in the passage of this bill. It is intended for the aid of men engaged in business in some form who have been unfortunate. If it was to operate in the future, I would not care how large the amount of property was that was to be exempted. If it was intended by exempting a large amount of property to discourage men from getting in debt, I think it would be a great blessing to the country; for I look upon credits, as a general rule, in this country as one of the greatest evils that afflict it, and especially for the young men of the country, who are apt to run in debt for their daily living. I should be perfectly willing that any one who gave that kind of credit should rest solely and entirely upon the good faith and the character of the person he trusted, and have no advantages of law of any kind to aid him in it. But, sir, I wish to inquire whether it would be in order to move to strike out all after the words "United States," in the twenty-fourth line, down to the word "provided," in the thirty-third line, which is the clause proposed to be stricken out by the committee, and to insert an amendment covering the part proposed to be stricken out and a portion of the other?

The PRESIDING OFFICER. The Chair thinks it would.

Mr. WILSON. I make the motion then to strike out those words and to insert:

And a homestead or other property not exceeding in value \$2,000.

That will include furniture and wearing apparel.

Mr. TRUMBULL. That is all exempted now by this section.

Mr. WILSON. I know, but in addition this amendment will give a homestead or other property not exceeding in value \$2,000. I think that will be little enough and will make it uniform throughout the country; and if we have got any persons in the country who are entitled to hold property to the amount of several thousands of dollars under State laws it seems to me they should surrender that right to a certain extent to enable us to get a uniform law.

Mr. McDougall. What might make a home in one place might not make it in another.

Mr. SHERMAN. I am in favor of making a homestead exemption in this law. I see the difficulty in the way of striking out the clause and not saying anything about the homestead or providing that it shall be regulated by State laws. At the same time the amendment of the Senator from Massachusetts is not sufficiently definite. We have a homestead exemption law in Ohio and there are many cases arising under it that have come to my knowledge. Take this case: suppose the homestead on which a man resides is worth \$2,500; would you deprive him entirely of the homestead, or would you sell it and pay him the \$2,000, or allow him to keep it and require him to pay interest on the excess? There are many cases of that kind that ought to be provided for if the Senate adopt this principle. Now, there are cases where the State laws make a distinction between lands. If the homestead is in the country, or agricultural land, you must limit the number of acres of land; you cannot limit its value very well. So that, if this principle is adopted, the bill itself ought to be recommitted to the Judiciary Com-

mittee with a view to make the various exceptions and qualifications to carry out this idea. If adopted in this form it would create embarrassment.

Mr. CONNESS. This is an unhappy attempt at a compromise, as I view it, and I hope it will not be adopted. I believe that is all the speech I have to make upon it.

Mr. FESSENDEN. I do not propose to make any remarks further than to say that on the question of the perfect right of Congress to pass a bankrupt bill containing a similar provision to this I have no doubt at all. The idea of some gentlemen is that the law to be uniform must be equal in its operations. I do not hold to that idea at all. If we make a rule which operates upon the States equally, that is to say, which is equal in its terms so far as the States are concerned, it would not be unconstitutional, simply because owing to the particular provisions of the several States the operation would not be precisely similar. I think, therefore, there is no objection to passing a bankrupt law establishing a principle of exemption which should apply, not only to what may be at present exempted by the States, but what may hereafter be so exempted, if Congress saw fit so to prescribe. The provision of the Constitution unquestionably was intended to apply to the several States to prevent any distinction being made between them. I think, however, any provision we agree to on this subject should be pretty carefully worded. I do not approve of specifying any exemption particularly, whether it is to be a homestead or anything else. If the laws of a particular State allow a homestead and the laws of another State do not, so be it. It is not worth while to pass a law that shall define what may not exist in any particular State, and compel the State to conform its laws to it.

That this exemption substantially—I am not particular as to its terms—ought to be made I have no doubt, and without it I should not vote for the bill, for the simple reason that there is probably not a State in the Union, or hardly any one, that has not exemption laws. The people of the several States have become accustomed to these exemption laws; they hold property of one description or another, real or personal, under them; and to attempt to pass a law of Congress which shall disturb all people in the possession of that property would be so odious in its effect that the law, in my own judgment, would be repealed in a very short space of time. The result would be to create a confusion and a sensibility in the people of the States that would be an effectual bar to its perfect and wise and just operation.

I hope, therefore, that the clause will not be stricken out, although it is susceptible of amendment and should be made more definite, and then it should pass. As I have always been in favor of a general bankrupt law, and think one ought to exist and that it is very much to our discredit that we have not had one in operation for a great many years, I shall vote probably for the bill; but if the effect of the bill is to unsettle all the laws of the States and property held under the laws of the several States for a series of years, to which the people have become accustomed, I certainly could not consent to anything of that sort.

Mr. WILLIAMS. I do not propose to participate in the discussions upon this bill, as I intend to vote against it in any event; but I will simply say, so far as this amendment is concerned, that I concur with the chairman of the Judiciary Committee in his opinion that this part of the bill is unconstitutional. Suppose this bill provided in express terms that in the State of Iowa a homestead worth \$5,000 should be exempt from execution, and that in the State of Illinois a homestead worth \$500 should be exempt from execution, will anybody say that that would be a uniform law? That is what this bill does, because it adopts the legislative enactments of the different States, and some of those enactments provide that \$5,000 worth of real estate shall be exempt from execution and others provide that \$500 worth of real estate

shall be exempt from execution, and there is no way that the law can be made uniform if these different and conflicting acts of the several States are adopted and made a part of the law. Now, to undertake to say that a law is uniform which in fact is not uniform in its operation it seems to me is sticking in the bark.

Mr. STEWART. Will the Senator allow me to ask him a question?

Mr. WILLIAMS. Certainly.

Mr. STEWART. Suppose it is stated that there should be \$5,000 worth of real estate, as an illustration, set apart in each State of the Union for a homestead for the family; would that be uniform in its operation? That would be constitutional, would it not? If it fixed the same amount of real estate to be set apart in each State of the Union for the homestead, say \$5,000 or \$500, that would be uniform.

Mr. FESSENDEN. Could not the Senator illustrate it by supposing that the law provided for ten acres of land, which might be much more valuable in one State than another?

Mr. STEWART. Yes; suppose it said ten acres of land. That would be a uniform amount—uniform in quantity—but it certainly would not be uniform in its practical operation. Suppose you said \$5,000 worth of real estate: that would be uniform in the amount of valuation, but in its practical operation it would not be uniform, because \$5,000 in some States would be a very handsome estate and in other States would not buy a country place. One thousand dollars in some States would furnish a good home; in others it would not amount to anything. For instance, in the State of California it would not buy a home at all, whereas in Vermont it would. So that to have the law absolutely uniform in its practical operation is impossible. That was not intended, in my opinion, by the Constitution of the United States. Any kind of an exemption in the law must have a different practical operation in one State from another. This bill adopts the exemptions of the States, and it is presumed that the States have practically protected their citizens according to the circumstances about them; that they have thrown protection around the homestead and around exemptions for the purpose of protecting families about equally; and perhaps it is more uniform in its practical operation for us to follow what the States have fixed, owing to their different circumstances, than it would be to make it arbitrary throughout the United States. Vermont fixes \$500 as the exemption; California, \$5,000. That in its practical operation is more uniform, if you are going to talk of its practical operation, than it would be to fix an arbitrary amount for each State. So that after all I do not think the object sought to be arrived at by having uniform laws is contravened by this exemption.

Mr. WILLIAMS. Mr. President, that is a pretty long question which the gentleman has propounded to me, [laughter,] and I am much obliged to him for answering his own question. I suppose that in the legislation of Congress a dollar is regarded as a dollar everywhere throughout the United States. When a law of Congress provides that an exemption everywhere shall extend to \$5,000, the law assumes that a dollar of gold or of the currency of the United States is a dollar in California and a dollar in Vermont.

Mr. STEWART. I do not like to interrupt the Senator, but I wish to ask him one more question. Does not Congress every day in its legislation recognize that a dollar in one place is worth more than a dollar in another? Does it not regulate the salaries of officers at different prices for different places? In your revenue law you provide that the officers in one locality shall receive a certain compensation, and in another locality another. The same is true of military officers. You recognize that in one place a dollar is worth more than it is in another, because you give more. You recognize the fact that it costs a man more dollars to live in one locality than in another; and in making your uniform laws you adapt your legislation to the situation of the country, and

consequently make allowances of different amounts for the same service in different localities. Practically, therefore, Congress does not treat a dollar as absolutely worth as much in one place as in another, and business men do not.

Mr. WILLIAMS. Mr. President, I do not know that there is any constitutional provision as to the power of Congress to regulate salaries in the United States, and therefore Congress can exercise its discretion upon that subject, and the salary is accommodated to the circumstances of the person whose salary is fixed. Some men have larger responsibilities than others; some men are placed in offices where their expenses are larger than the expenses of other men; and so the law regulating salaries is governed by such considerations. That has nothing to do with the question before the Senate; but I undertake to say that Congress has never provided by law that a Treasury note of the United States shall be worth less in one part of the country than in another. Would it not be extraordinary legislation on the part of Congress, after, pursuant to law, a currency has been furnished to the country, for Congress to undertake to declare that this currency was worth less in California than it was in the State of Vermont?

Mr. STEWART. They do not exactly declare that; but they declare it in its practical operation, in making the law uniform, that it requires more of that currency to do the same thing in California than in Vermont; and so with this law. We say that in its practical operations, in order to make the law uniform, it is necessary in the new States that there should be larger exemptions than in the old States, and consequently we adopt the exemptions which the States themselves have provided as the best way to arrive at that uniform result.

Mr. WILLIAMS. I do not expect to occupy the whole of our remaining time during this session; and I have no doubt the Senator will have an opportunity to make a speech after I conclude, if he is desirous to do so. I do not understand the honorable Senator to say now, and I presume no Senator will say, that if this law did provide expressly that \$5,000 worth of property should be exempt from execution in one State and that only \$500 worth of property should be exempt in another the law would be uniform. If that would be uniform legislation, then it would be perfectly uniform to say that in one State all property should be exempt, and in another State a certain portion of the property should be exempt. This law undertakes to adopt the legislation of the different States. Will any man say that the legislation of the different States of this Union as to exemptions from execution is uniform? What does "uniform" mean? Does it not mean that the laws are alike, that they operate alike? It is true, no law can be made to operate exactly in one place as it operates in another in every respect, because the circumstances of one locality are different from the circumstances of another locality; but Congress is to make the law as uniform as it can by its legislation; and Congress is not to assume that, because circumstances require it, the law may be made one thing in one State and another thing in another State. The very object of this provision of the Constitution was to require uniformity in legislation.

This bill, if it passes with this provision in it, will extend privileges to citizens of certain States which it denies to citizens of other States. That is the very reason why the Constitution was so made as to require uniform legislation on this subject. What does it mean if it does not mean that when Congress enacts a bankrupt law it shall operate in one State just as it operates in any other State; that Congress shall not undertake to say that Massachusetts, for instance, whether in its legislation or in its circumstances, under the law shall enjoy exemptions and benefits which the people of the State of Iowa do not enjoy? Under this bill,

as I understand, the operation of the law in one State may be wholly defeated. If the Legislature of a State sees proper by its legislation to extend its exemption laws it may protect the property of the debtor so as to directly defeat the operation of this law.

Mr. POLAND. It is confined to the State exemptions in 1864.

Mr. WILLIAMS. Why is it confined to the State exemptions in 1864? Is it assumed that in 1864 the laws were any more equitable or just? Is this to be a rigid and unchanging rule that is forever to stand? And this very part of the provision requiring the laws of 1864 to remain unchanged answers the arguments which the Senator from Nevada urges, that the State must be allowed to accommodate its legislation to its particular circumstances, and so if prices go up the exemption laws must be changed to accommodate themselves to the prices of the country; and if they go down the exemption laws must be again changed. This bill undertakes to designate a certain time in the history of this country, (and it might as well go back ten or twenty-five years as to go back two,) and declares that the exemption laws of the States in 1864, though they may have been repealed since that time by the States, shall be incorporated into and constitute a part of this bankrupt bill.

My opinion on the subject, without giving it a very thorough examination, is that this provision is unconstitutional. I do not believe in this system of allowing men to go in debt and then exempting them from its payment by any arrangement that operates upon contracts now in existence, I care not whether it be State or congressional legislation. Every man ought to be compelled to pay his debts as a general rule. But if a bankrupt law is to be enacted, in my judgment it should be prospective in its operations; and I would not object to voting for a bankrupt law to operate *in futuro* if its terms and provisions were such, as I considered constitutional and reasonable.

Mr. STEWART. Mr. President—

Mr. TRUMBULL. I should like to inquire of the Senator from Nevada what effect this would have on his State, whether they had any exemption laws in 1864?

Mr. STEWART. As a Territory we had territorial exemption laws, and the State constitution continued those laws in force.

Mr. TRUMBULL. Then this bill would leave you in the condition of being without any homestead exemption, because the property exempted is that allowed "by such State exemption laws in force in the year 1864."

Mr. STEWART. We were admitted as a State in the fall of 1864 under a constitution that continued in force the territorial laws previously passed, so that this would operate in my State.

Mr. TRUMBULL. The language is, "allowed by such State exemption laws in force in the year 1864." I was not aware that the State of Nevada was admitted and had State exemption laws in force in 1864.

Mr. STEWART. We had territorial exemption laws, and we were admitted as a State in the fall of 1864 with a constitution that adopted and continued in force the laws passed by the territorial Legislature, thus, of course, continuing in force the territorial exemption laws, so that the State of Nevada comes under this provision.

Now, sir, what is the uniformity which the Constitution requires on this subject? If it means that the bankrupt law passed by Congress shall be uniform in its practical operation; if it means that it shall have the same practical effect in one State as another, I think this bill is probably as near a uniform system as would be the adoption of an arbitrary amount of exemption applied all over the United States. Indeed this bill comes nearer to practical uniformity in the operation of the law than would such a provision, because it is to be taken for granted that the States have regulated their exemptions so that they shall reserve to the debtor about the same amount of the comforts and

conveniences of life and afford about the same facility everywhere for reserving a provision for the family. Each State has, it must be presumed, made provision on this subject according to its own peculiar circumstances. For example, in some of the new and distant States and Territories an exemption to the amount of \$500 or \$1,000 would be of very little use. Where flour is worth a dollar a pound, and other things are in proportion, an exemption of \$500 to the head of a family would do very little good; but that exemption in Vermont, where everything is cheap, would in its practical operation be a very large exemption.

I admit that this question is not entirely free from doubt; but inasmuch as it is impossible ever to get a bankrupt law, if it is to disturb all these rights that have grown up in the various States under what may be called their police regulations, I propose to vote for the bill with this provision in it. In order to keep their poor from being a public charge, the States have said that the law should not take from their families a certain amount which should be reserved for the support of those families. The States, in the exercise of that very wholesome power, have passed exemption laws which have been very useful and beneficial and have been popular everywhere. I say that if we undertake to interfere with this entire system, which is ingrafted on the laws of almost every State of the Union, we shall never be able to have any bankrupt law. The question being one of some doubt, as I said in the outset, it is proper that we should pass the bill as it is, and then the courts will decide what is meant by "uniform laws on the subject of bankruptcy." I believe they will hold this bill to be constitutional; and if so we can have a bankrupt law; if not we can have none. It seems to me that in this age every civilized commercial country should have a bankrupt system. It is a disgrace to us that we have no means of liberating men of enterprise who happen to have been unfortunate. Especially is such a law necessary after periods of revolution and civil war. If we can liberate such men from the burden of debts heretofore contracted we add to the prosperity of the community. It is highly important, as I believe, to have a bankrupt law, and inasmuch as we cannot get one without adhering to this clause in the House bill I am in favor of it and hope it will remain. I see no such cogent reasons of constitutional law as deter me from trying the experiment and seeing if we can adopt this wholesome legislation.

Mr. HENDERSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

## IN SENATE.

SATURDAY, February 2, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.  
The Journal of yesterday was read and approved.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating reports from the heads of the several Executive Departments of the Government, in compliance with a resolution of the Senate of January 12 inquiring "whether any person appointed to an office required by law to be filled by and with the advice and consent of the Senate, and who was commissioned during the recess of the Senate previous to the assembling of the present Congress to fill a vacancy, has been continued in such office and permitted to discharge its functions, either by the granting of a new commission or otherwise, since the end of the session of the Senate on the 28th day of July last, without the submission of the name of such person to the Senate for its confirmation, and particularly whether the surveyor or naval officer of the port of Philadelphia has thus been

continued in office without the consent of the Senate, and if any such officer has performed the duties of that office whether he has received any salary or compensation therefor;" which was ordered to lie on the table, and be printed.

The PRESIDENT *pro tempore* also laid before the Senate a report from the Secretary of War, communicating, in compliance with a resolution of the Senate of January 30, the official reports, papers, and other data in relation to the causes and extent of the late massacre of United States troops at or near Fort Phil. Kearney by the Indians; which was referred to the Committee on Military Affairs and the Militia.

## PETITIONS AND MEMORIALS.

Mr. SUMNER. I present the petition of George W. Hadden, who calls himself an unconditional Union man, of Norfolk, Virginia. He sets forth certain losses from the rebels of a bark and also of a steamer and his house, and says he can get no justice there, for the civil law in the South is nothing but rebel tyranny, and he asks for compensation for his losses. I move the reference of his petition to the Committee on Claims.

It was so referred.

Mr. SUMNER. I also offer the petition of colored soldiers, residents of Beaufort, South Carolina, praying for an extension of the time for the payment to the United States of the balance due for property bought at the sale held by the United States direct tax commissioner. As that subject was once before the Committee on Military Affairs and the Militia I ask the reference of this petition to that committee.

It was so referred.

Mr. HOWARD presented the memorial of Charles N. Weiss, praying to be allowed a pension on account of the loss of his left arm at the battle of Gettysburg; which was referred to the Committee on Pensions.

Mr. WILSON presented a petition of officers of the United States Army, praying for the passage of a law allowing officers of the Army to wear the full uniform on all occasions of the highest grade held by them by brevet or otherwise in the volunteer service during the late war; which was referred to the Committee on Military Affairs and the Militia.

He also presented three petitions of officers of the United States Army, praying for an increase of pay; which were referred to the Committee on Military Affairs and the Militia.

Mr. POMEROY presented a memorial of citizens of Kansas, remonstrating against the passage of any law authorizing the curtailment of the national currency, or a return within a limited time to specie payments; and against compelling national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

Mr. POMEROY. I also present a memorial from Mrs. Benjamin F. Wade, and several other ladies, who are officers and managers of the National Association for the Relief of Destitute Colored Women and Children in this District, reciting the manner in which they came in possession of some property in the District of Columbia, and also reciting the manner in which they were dispossessed, and praying for such action as may secure them from loss in a law suit instituted against them by Richard S. Coxe, and protection in carrying out the objects of the association. I ask that this memorial may be referred to the Committee on the District of Columbia, and I should like to have it printed.

The PRESIDENT *pro tempore*. The reference will be ordered, and the motion to print will go to the Committee on Printing.

Mr. POMEROY. The members of the Committee on Printing are all absent at present. There is not a member of the committee in the Senate, and I should like to have the motion to print acted upon unless it is unavoidable that it should be referred.



The PRESIDENT *pro tempore*. The rule requires it.

Mr. MORGAN presented a petition of the Adams Express Company, praying for the issue to that company of Treasury notes in place of the notes lost by it by the sinking of the steamer Bio Rio, March 22, 1863; which was referred to the Committee on Claims.

Mr. MORGAN. I also present the petition of all the sugar refineries in New York, in which they represent that there is invested in the United States some thirty-five million dollars of capital in the sugar refining business, and that it employs about nine thousand men. They state that the existing laws make a discrimination against their manufacture, equivalent to three fourths of a cent a pound. They also state that there is a discrimination in favor of Louisiana sugar which works greatly to the refiners' disadvantage. They therefore ask that the tariff bill now under consideration may be so amended as to relieve the refiners from this discrimination, and submit a detailed list of rates of duties to which, in their opinion, they are entitled. I ask that this petition may be referred to the Committee on Finance.

It was so referred.

Mr. YATES presented a memorial of citizens of Illinois, remonstrating against the enactment of any law that will curtail the present circulation of legal-tender notes; which was referred to the Committee on Finance.

Mr. YATES. I also present the petition of John Mathers, of Illinois, praying, first, for the repeal of the act of Congress authorizing a reduction of the currency; second, the repeal of the act creating national banks; third, the redemption of bonds bearing interest with legal-tender notes, and the prohibition of the Secretary of the Treasury from issuing additional bonds; fourth, to prohibit the Secretary from converting bonds bearing interest in currency to bonds bearing interest in gold; fifth, to make greenbacks a legal-tender in paying interest upon, and redemption of, all bonds; sixth, to cause the Secretary of the Treasury to distribute gold used in the redemption of currency or bonds equitably; seventh, to give the people a safe, uniform, and permanent national currency. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. MORRILL presented the petition of E. B. Litchfield, president of the St. Paul and Pacific Railroad Company, praying for a grant of the same number of acres of land per mile to that company as was granted to the Northern Pacific Railroad Company, and the same sum in money or bonds as was granted to the Union Pacific Railroad Company for that portion of the line of said road lying east of the Rocky mountains; which was referred to the Committee on the Pacific Railroad.

Mr. TRUMBULL presented a petition of R. J. Oglesby, Governor of Illinois, and others, praying for the restoration of S. Livingstone Breese, lieutenant commander in the United States Navy, to the active list; which was referred to the Committee on Naval Affairs.

#### REPORTS OF COMMITTEES.

Mr. STEWART, from the Committee on Public Lands, to whom was referred the bill (S. No. 532) for the relief of the inhabitants of cities and towns on the public lands, reported it with amendments.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the petition of N. Callan, Samuel E. Douglass, and William Laird, praying for compensation for services rendered in the selection of jurors in the District of Columbia, asked to be discharged from its further consideration, and that it be referred to the Committee on the District of Columbia; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 222) prohibiting payments by any officer of the Government to any person not known to have been opposed to the rebellion and in favor of

its suppression, reported it with an amendment.

Mr. TRUMBULL. I am also directed by the Committee on the Judiciary, to whom was referred the bill (S. No. 452) to prevent the illegal appointment of officers of the United States, to report it back with a recommendation that it be indefinitely postponed, the Senate having acted on the subject of the removal of officers in the bill which has already passed the Senate.

The report was agreed to.

Mr. HENDRICKS, from the Committee on the Judiciary, to whom was referred the bill (S. R. No. 604) to define and punish certain crimes therein named, reported it with an amendment.

#### BILL INTRODUCED.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 562) to amend an act entitled "An act for the removal of causes in certain cases from the State courts," approved July 27, 1866; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

#### NAVIGATION OF WILLAMETTE RIVER.

Mr. NESMITH submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation of \$40,000 for the purpose of removing obstructions to navigation in the Willamette river, in Oregon, and to report by bill or otherwise.

#### INTER-OCEANIC SHIP-CANAL.

Mr. CONNESS. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the Secretary of State be requested to report to the Senate what steps have been taken by him to obtain from the Republic of Colombia the right for the United States to make necessary surveys for an inter-oceanic ship-canal through the territory of that republic.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CONNESS. I wish briefly to say, in this connection, that it will be remembered that Congress, at its last session, made an appropriation of \$40,000 for a survey of the Isthmus of Darien, for the purpose of a ship-canal; and my information is that the State Department has not prosecuted its part of the business with the diligence that the importance of the question demands, and the object of this resolution is to ascertain officially from the head of that Department what has been done before any further steps shall be taken. I hope the resolution will be agreed to.

The resolution was adopted.

#### IRON-CLAD STEAMER ONONDAGA.

Mr. MORRILL. I offer the following resolution for reference:

*Resolved*, That the Secretary of the Navy be, and is hereby, authorized to transfer the iron-clad steamer Onondaga to the builder, George W. Quintard, upon his refunding to the Government the amount received by him for its construction.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDENT *pro tempore*. The Chair will suggest that the resolution in this form would not be the foundation of action. It would require a joint resolution in order to authorize the Secretary to make the transfer.

Mr. MORRILL. Well, sir, it is simply intended as a matter of reference for inquiry, and perhaps it answers the same purpose in its present form.

The PRESIDENT *pro tempore*. The resolution will be referred to the Committee on Naval Affairs if there be no objection.

#### JUDICIAL DISTRICTS IN IDAHO.

Mr. WADE. I move that the Senate proceed to the consideration of Senate bill No. 490.

Mr. SUMNER. I ask the Senate to take up for consideration the resolution which I offered the other day with reference to Mr. Motley, and which was objected to.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

Mr. SUMNER. I hope the Senator from Ohio will yield to me for a moment to let that resolution be taken up. It belongs strictly to the morning hour, and there are reasons why that information should be had at once.

Mr. WADE. I insist on my motion. I want to have this bill disposed of.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 490) to amend an act entitled "An act to provide a temporary government for the Territory of Idaho," approved March 3, 1863. It provides that the judges of the supreme court of the Territory, or a majority of them, shall, when assembled at the seat of government of the Territory, define the judicial districts of the Territory, and assign the judges who may be appointed for the Territory to the several districts; and shall also fix and appoint the times and places for holding court in the several counties or sub-divisions in each of the judicial districts, and alter the times and places of holding the courts as to them shall seem proper and convenient.

Mr. WADE. I move to amend the bill by inserting the following as additional sections, to come in after the first section:

Sec. 2. *And be it further enacted*, That the next session of the Legislative Assembly of the Territory of Idaho shall be held commencing on the first Monday in December in 1868, and thereafter the Legislative Assembly of said Territory shall be held biennially, and the next election for members of the Legislative Assembly of said Territory shall be held on the second Monday in August, 1868, and thereafter said election shall be held biennially.

Sec. 3. *And be it further enacted*, That the members of the House of Representatives of said Legislative Assembly shall be elected for the term of two years, and the members of the council of said Legislative Assembly shall be elected for the term of four years: *Provided*, That at the first election hereafter one half of the members of said council shall be elected for the term of two years, and the remaining half for the term of four years; and the districts wherein the members of the council are to be elected for the term of four years at the next election shall be determined by proclamation of the Governor of said Territory: *Provided*, That in all counties and election districts which shall be entitled to elect two members of the council one of said members shall be elected for two years, and the other for four years.

Mr. NESMITH. From the imperfect hearing that I had of the reading of the bill, it struck me as an innovation upon the usual practice in the Territories. I believe it has heretofore been the rule in all the Territories that the times for holding the district courts should be fixed by the Legislature, and that the districts should be fixed by the Legislature.

Mr. WADE. This bill has nothing to do with that. There is another bill that will come up by and by that will regulate that.

Mr. HENDRICKS. What is this bill?

Mr. WADE. It is a bill in relation to the judicial districts in Idaho.

Mr. NESMITH. Does your amendment strike out the original bill?

Mr. WADE. No, sir.

Mr. NESMITH. I should like to hear the bill read again.

The Secretary read the bill.

Mr. NESMITH. I suggest that that seems to be an innovation on what has heretofore been the established rule in the Territories. The power to fix the times of holding the courts, it seems to me, properly belongs to the Legislature, and should be exercised by the Legislature where it is now lodged. If there is any reason for this change, I am not aware of it, and I should like to hear it stated.

Mr. WADE. I understand that there is a reason for it. There is great difficulty in fixing these districts in Idaho. There seems to be some controversy between the Legislature and the judges there. As I am informed, and believe from the statements I have received, the Legislature is disposed to fix the districts in such a way that they will be scarcely available at all. In these great Territories it is very easy for the Legislature to make the districts in such a form that it is almost impracticable to hold courts there, and becomes exceedingly inconvenient for the judges. Although this legislation may be new in the Territories it is

not new in some of the States. Nobody knows better than the judges how to arrange the districts so as to be convenient for themselves and beneficial to the people. I think they would be more apt to know about that than the Legislature. Then, when they among themselves agree as to the districts or circuits, each one is to take his own. Our State has pursued that course to the satisfaction of everybody, and of the judges, too. I think the power is quite as well lodged in the judges as it would be in the Legislative Assembly, and as the judges seem to desire that it be so fixed I can see no objection to it.

Mr. NESMITH. The rule on this subject heretofore has been to allow the territorial Legislature to regulate this matter, and in our State, which was for a long time a Territory, we had some experience about it, and we thought the power was more safely lodged in the hands of the Legislature from time to time to determine where the courts should be holden than it would be if it were left in the hands of the judges. In either case I suppose it may be properly exercised and well exercised. I do not undertake to say what the facts about this case are; but when we remember that these judges are Federal officers, sent out there from the States for the purpose of discharging official duties, it seems to me the Legislature of the Territory are the best qualified to determine their districts and when and where it will best suit the convenience of the people to have the courts held. These judges are entirely independent of the Legislature, and if this bill passes they may fix the terms of the courts in such a manner as to relieve them entirely from the discharge of their duties, or almost so. They may fix the terms of the courts so far apart as to result in very great inconvenience to the suitors, and be a practical denial of justice. All the reasons are in favor of their making such an allotment if the thing is left in the hands of the judges. If it is left in the hands of the Legislature, where it always has been, it seems to me the Representatives of the people will fix the times and places and circuits so as to accommodate the people better than they would be fixed if the power was left in the hands of the judges. There would be every reason to induce the judges, if the power were left to them, to make such an organization of the districts and to fix such times for the holding of the courts as would be most convenient to themselves and enable them to perform as little duty as possible. I know it has been the uniform custom in all the Territories for the Legislature to establish the terms and districts, and I do not see any reason why this change should be made.

There is another consideration. Most of the judges to these Territories are appointed from States on this side of the mountains, from the old States, and they are not conversant with the topography or geography of the country or the wants of the people; and it seems to me if we make this change we shall place the exercise of this power in the hands of men who are not as well qualified to exercise it properly as those who now have it. I do not know of any particular reason in this case for a deviation from the general and well-established rule under which all the Territories have acted so far. If there be any reason I should like to hear it.

Mr. WILLIAMS. I think my colleague is quite mistaken in supposing that this proposed legislation is any innovation. Several years ago, before the organization of Idaho Territory, there was a law passed by Congress providing that in all the Territories the judges should fix the times and places for holding the district courts in the Territories; and while I was upon the bench in the Territory of Oregon, for a considerable portion of the time, the times and places for holding the courts in that Territory were fixed by the judges when they assembled to hold the supreme court of the Territory. The reason that that law does not apply to Idaho Territory is because the Territory has been organized since the enactment of that

law, and the organic law specially provides that the Legislative Assembly of the Territory shall have that power; and if I am not mistaken, at the last session of Congress a similar law was passed in reference to Washington Territory. I know that a law was passed making the sessions of the Legislative Assembly in Washington Territory biennial, and the power to fix the times and places for holding the district courts in the Territory was conferred upon the judges.

Mr. NESMITH. I know a law was passed requiring biennial sessions, but I did not think the power to which my colleague refers was embraced in that law.

Mr. WILLIAMS. I will say that representations are made to me and to the Committee on Territories by citizens of Idaho that the Legislative Assembly of the Territory, on account of their political hostility to the judges, are making laws and organizing the districts so as to subject the judges to the greatest possible inconvenience and the greatest possible expense, with a view, as is represented to me by reliable men, of compelling the judges to vacate their offices; and this sort of legislation is not peculiar to Idaho Territory; but this bill relates simply to that Territory.

The bench in that Territory is made up of citizens of the Territory, with one exception; and the chief justice, who was formerly a member of Congress, has been there for a long time. They understand the wants and necessities of the Territory as well as anybody in the Territory. They can arrange these courts so as to be able to attend them, so as to suit the convenience of themselves and of suitors better than the Legislative Assembly of the Territory. I have heard no objection made to this legislation. I do not understand that the Delegate from the Territory, notwithstanding he differs in politics from the judges of the Territory, objects to this kind of legislation. At any rate, no such objection has been made known to me, and I believe it is the wish of the citizens of the Territory, so far as I am advised, that this bill should pass.

Mr. HENDRICKS. I should like to hear the amendment read.

The Secretary read the amendment.

Mr. HENDRICKS. This is rather singular legislation to take one Territory and provide as this bill proposes. I should like to know a little more about it, especially in view of the statement of the Senator from Oregon, that it is owing to a political controversy between the Legislature and the judges. It is very certain that the Legislature could have no interest to do a wrong in the districting of the judicial circuits. It is attributing a very singular spirit to a legislative body, that merely for the purpose of making an inconvenience to the judges they would make an improper districting of the Territory for judicial purposes. Now, I cannot believe that. I have no doubt that the Senator from Oregon has very full information satisfactory to himself, but I think probably that comes from the judges, indirectly, in some way or other. The judges have an interest, of course, in making their circuits easy. The people who are represented in the Legislature have an interest in having the courts held. It is certain that there is a great complaint in the Territories against the Federal officers, because they are absent so much from the Territories, and that is an evil that ought to be corrected; but I think in passing a bill like this we are not going in the direction of correction. To let the judges fix the districts to suit themselves, instead of allowing it to be done by the Legislature, is certainly not to the interest of the people as much as it is to the convenience of the judges, and therefore I will not vote for it.

Mr. WADE. These additional sections are offered because we have been besought by the people of almost every Territory, for some years past, to provide for biennial instead of annual elections. They do not believe it to be necessary to assemble their Legislature every year. A good many of the

public men of this Territory have been here, and they all say it will be a saving of expense and more convenient to them to have biennial sessions; and we thought, on the whole, we would try it, at their request. It will be an improvement, and as the people seem to want it, so far as the committee were informed on the subject, we thought it would be well to try it, and I think myself it would be an improvement. I do not believe there is any necessity, generally, for their meeting every year. They are scattered over this large Territory, and it is very inconvenient and quite expensive for the Legislative Assembly to meet. I am inclined to think they will get along just as well with biennial sessions, and therefore I was willing they should try it. This amendment is adapted to secure that end, and that is all there is about that.

As regards the bill itself, the Senator from Oregon [Mr. WILLIAMS] has stated the facts that appeared to the committee to require this change: that there was a controversy between the judges and the Legislative Assembly, and it seemed to us best to grant this power to the judges. I have no apprehension that the judges, any more than the Legislative Assembly, would so arrange the districts as not to be for the best advantage of all concerned. They certainly know as much about it, and I have no doubt would do it as honestly and fairly. I hope the bill will pass.

Mr. HENDRICKS. Before the Senator takes his seat, I will suggest to him that some days since he introduced a resolution, which was slightly modified, and he accepted the modification, calling upon the Department for information as to the time the territorial officers have spent in the Territories. Now, I propose that he let this bill lie over until we get that information. I should like to know how far the judges themselves are interested in this question, and that report of the Department will perhaps give us a little information. It may appear that these are among the judges who have not been in the Territories very much; and I suggest to the Senator to let the bill lie over until we get that report.

Mr. WADE. I will inform the Senator that that resolution does not go any further than the Governors of Territories, if I recollect aright.

Mr. HENDRICKS. Oh, yes, it does.

Mr. WADE. I think not.

Mr. HENDRICKS. The Senator made an inquiry as to a particular officer, and I proposed as an amendment to include all Federal officers of all the Territories. We shall get that information in a few days, and then we can see a little more about it. I think this is singular legislation, and therefore I would rather it should be postponed until we get that information.

Mr. WADE. I would not be adverse to that were it not that the session is drawing to a close and this is a Senate bill, and unless we get it through very soon there will not be any opportunity for it to pass, and I think, for the convenience of the people in this Territory, the bill ought to pass.

Mr. NESMITH. I do not object to the proposition contained in the amendment as to the biennial legislative sessions. I think that is proper. What I do object to, and what I think is improper, is the provision that these judges shall determine the amount of labor that they shall perform for their salaries, and fix the districts in which they shall perform that service, in contradistinction to the Legislature. I believe the Legislature are better qualified to do that.

Now, sir, there has been some hasty legislation on this subject. Only this week a bill passed here for the purpose of correcting the evil of the absence of Federal officers in the Territories from their posts. I must say, with all deference to the Senate, who passed that bill, that I believe they have infinitely increased the evils which were intended to be remedied. Heretofore officers could only be absent by permission of the President. If they were ab-

sent without that permission they forfeited their salaries during the time they were absent. The bill that we passed the other day is of the same character, I think, with the bill now pending. It provides that an officer may be absent from the Territory thirty days without any leave of absence, but he must not be absent more than thirty days at one time. Now, sir, there are three Territories very nearly contiguous to the State in which I reside, and many of the officers of those Territories are appointed from that State. Under the provisions of the bill which you passed the other day it would only require the Federal officers in the adjoining Territories to remain in their Territories twelve days in a year; that is, they could be absent thirty days, and then by returning one day be absent thirty more. Under the operation of that law I am satisfied that the people of the Territories will be deprived of the services of the Federal officers to a greater extent than heretofore. The evil will be very much increased by the passage of that bill. I think this bill is of the same character. It is calculated to relieve the Federal judges from discharging any duties in this Territory except such as they may determine in their own pleasure that they will discharge for the compensation which they receive from the Government. If it be satisfactory to the Senate, I should prefer that the bill would go over until it can be more thoroughly investigated.

Mr. WILLIAMS. I do not suppose it is necessary or proper at the present time to discuss a bill that has passed the Senate. I entirely disagree with the views expressed by my colleague. Everybody knows that the great mischief is that the office-holders in the Territories come to Washington and spend their time in Washington, and they do that with the leave of the President, which can always be obtained by an influential friend or a telegraphic dispatch. The object was to keep them in the Territories to which they were assigned in the faithful performance of their duties, and that will be the effect of the bill to which my colleague refers.

Now, as to this bill, so far as these judges are concerned, I know that they have been in the Territory and have been engaged faithfully in the performance of their duty. It is a mystery to the Senator from Indiana how a Legislative Assembly can incommode judges by legislation. Suppose a man who has a family lives in a certain city, has his home and his property there, and the Legislative Assembly provide that he shall hold court in a district two hundred miles distant from his place of residence. Suppose again that they make the districts two and three hundred miles long for the very purpose of compelling the judges to perform a great amount of traveling at very great expense, when the districts might be arranged in a compact form so as to accommodate the judges and to accommodate the suitors in the Territory. These judges have duties to perform under the organic act of the Territory. This bill simply provides that they shall determine as to the times and places where those courts shall be held, and there is no reason to suppose that these judges will fail to perform their whole duty, because if they do so they are guilty of a delinquency which will be ground for their removal. I am satisfied from representations made to me that this legislation is necessary and just. I do not desire to go into particulars. I do not desire to say anything here offensive to anybody more than is absolutely necessary; but I think I understand the system of proceedings in that Territory, and I believe that this legislation is just to good judges and necessary for their protection, to enable them to perform their duties and to meet the wants of the people of the Territory. If districts are made so that it is exceedingly difficult or impossible for the judges to go to the different counties, then the responsibility of not attending the courts is thrown upon them, and they are made responsible to the people for not performing their duties in accordance with impracticable and unjust legislation.

As to this being an innovation it is: altogether a mistake. I know it from experience while I was judge in Oregon Territory, as I have before stated. This law was in force there, and I never heard that anybody complained that the courts were not attended by the judges, and their duties performed satisfactorily to the people; and so in all the other Territories. The law applied at one time to every Territory in the United States, and it would have applied to these Territories, but they have been organized since that law took effect.

There is no occasion for delay about this matter. This is a bill that is offered in good faith, and I hope it will pass. It is intended to promote the interests of the people of Idaho Territory, not to promote the interests of any party.

Mr. HENDRICKS. I move that the bill be postponed until to-morrow and that the amendment be printed. I do not want to delay it or to interfere with it, but I should like to know something more about it.

Mr. WADE. I hope not. We may as well pass it now as ever.

The motion to postpone was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Ohio.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

#### SAN FRANCISCO AND PORTLAND MAIL SERVICE.

Mr. CONNESS. I move that the Senate proceed to the consideration of Senate joint resolution No. 157.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is House bill No. 798, the bankrupt bill. Does the Senator move to postpone that?

Mr. CONNESS. I hope the honorable Senator who has that bill in charge will allow it to lie over informally. The consideration of this resolution, as will be seen in a moment, is of considerable importance, and it will occupy, I think, but a short time. If it should excite any considerable debate, of course I shall consent to its going over.

Mr. POLAND. With that understanding I shall not object to the motion.

The PRESIDENT *pro tempore*. The Senator from California asks that the order of the day be laid aside informally by unanimous consent, and that the Senate proceed to the consideration of the joint resolution mentioned by him. It requires the unanimous consent of the Senate.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 157) in relation to ocean mail service between San Francisco, in California, and Portland, in Oregon. It authorizes the Postmaster General to employ ocean mail service between San Francisco, in California, and Portland, in Oregon, not less than three times per month, in continuation of the service from New York, via Panama, to San Francisco; but the cost of the service is not to exceed \$25,000 per annum.

The Committee on Post Offices and Post Roads reported the joint resolution with an amendment to add the following:

And it is hereby made the duty of the Postmaster General, after the passage of this act, to advertise for bids for the performance of the service herein provided for, for at least thirty days in at least one newspaper published in San Francisco and one paper published at Portland, Oregon, and to contract therefor with the lowest responsible bidder.

Mr. CONNESS. Before the Senate vote upon the amendment, I ask the Secretary to read the report of the Committee on Post Offices and Post Roads accompanying the joint resolution. It is very brief and will state the case without any consumption of time.

The Secretary read the report, as follows:

The Committee on Post Offices and Post Roads have had under consideration Senate joint resolution No. 157, providing for ocean mail facilities between San Francisco and Portland, in Oregon, and report:

That the only means of mail communication between California and Oregon at the present time is by overland from Sacramento to Portland, which requires in the winter season about twelve days to make the trip. It is over one of the worst mountain roads in the world. During the past year \$5,000,000 of gold were received at San Francisco from Portland and the north, besides the large commerce in other articles of merchandise, and yet it takes twelve days to have communication between the citizens, parties to this great business.

There are three steamship lines now running between San Francisco and Portland, and they make the trip in three days. This resolution proposes for a small sum to establish an ocean service to meet this great want to commerce, and to establish it in continuation of the ocean mail service between New York and San Francisco.

The committee recommend the passage of the joint resolution.

Mr. CONNESS. Now, Mr. President, I will simply say in addition that the amount proposed as the maximum to be paid for this service has been offered by the Department under former appropriations for similar service; but there was at that time but one steamship line engaged, and they would not perform the service for \$25,000. There are at the present time three steamship lines, and the Government will undoubtedly get the service performed for that or a less sum.

Mr. SHERMAN. What is the amount in the bill?

Mr. CONNESS. The maximum amount is \$25,000.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

#### MINISTER AT VIENNA.

Mr. SUMNER. I hope there will now be no objection to taking up and acting upon the resolution I introduced the other day. I do not wish to say anything about it, but I should like to have a vote upon it.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate, another subject being before the Senate.

Mr. TRUMBULL. What is the resolution?

The PRESIDENT *pro tempore*. It will be read for information.

The Secretary read it, as follows:

*Resolved*, That the President of the United States be requested to communicate to the Senate, if in his opinion not incompatible with the public interests, a copy of the letter on which the Secretary of State founded his recent inquiries addressed to Mr. Motley, minister of the United States at Vienna, with regard to his reported conversation and opinions, and to furnish the name of the writer of said letter.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDENT *pro tempore*. Upon this resolution the Senator from Maryland is entitled to the floor, having been cut short by the expiration of the morning hour when it was last up.

Mr. JOHNSON. I had forgotten it, and am obliged to the Chair for reminding me of it. I did not rise for the purpose of objecting to the passage of the resolution, although I could wish for myself that the original resolution had not been passed, because then we should not have seen the letter which I read with very great regret, and which I think the country read with equal regret. If the President had refused to answer that resolution on the ground that it was injurious to the public interest, I think he would have been sustained by the public judgment hereafter. As to the particular letter which is called for, the resolution perhaps will establish a precedent that may be of mischievous application in the future. If the Senate shall claim the right to ask of the President the grounds upon which he appoints or upon which he removes officers, it would involve him in the duty of bringing before the Senate correspondence which was sent to him as confidential or sent to the Sec-



retary of State as confidential. But under the particular circumstances of this case, as we have the correspondence between the Secretary of State and Mr. Motley, I do not object to the passage of this resolution.

If I had been told by anybody that Mr. Motley was so regardless of his duty as to be making the declarations he is stated to have made upon some unknown authority, I should have said at once that it was a base calumny. I do not mean the charge that he differed with the President of the United States in his opinion as to the policy which ought to be adopted in effecting the restoration of the southern States, but as to the effect that he had spoken in such disrespectful terms of the President or of the Secretary of State, and, above all, that he should have expressed an opinion so hostile to a democratic form of government and in favor of a monarchical one. No one who has read his History of the Dutch Republic—and no one I think has failed to read it who commenced to read it—would hesitate for a moment in coming to the conclusion that if there be a man in the country who is more absolutely convinced than any other of the policy and necessity to human liberty of such institutions as we live under it would be Mr. Motley.

Mr. SUMNER. I promised not to debate the resolution. I simply ask for a vote.

The resolution was adopted.

#### PERSONAL EXPLANATIONS—THE TARIFF.

Mr. BUCKALEW. Mr. President, I find myself called to account and denounced in a leading newspaper of Philadelphia for having "dodged" the vote upon an important public measure; and in this denunciation my colleague is coupled or united with me. I allude to the final vote on the passage of the tariff bill. That bill was put to a vote yesterday morning at half past twelve o'clock. It was the second protracted night session which had been held upon the bill, both of which sessions I sat out at some personal inconvenience. I stated at the taking of the final vote that I withheld my vote because I had paired off with a member of the Senate who was called away from the Chamber to attend the deathbed of a distinguished former citizen of Pennsylvania. I could not resist that appeal, and therefore agreed to withhold my vote upon the passage of the bill.

As to my colleague, I believe he was not present; but it was manifest, it was known to every member of the Senate that the polling of any particular vote on that measure would have no influence upon the result; it was not important.

As for myself, sir, passing by all the personal denunciation with which I am visited in the paper referred to, I desire to say that I have never "dodged" a vote on a public question in a legislative body, either in Congress or in the Legislature of my own State. When I find it necessary to avoid any responsibility imposed upon me by my position as a member of this body I shall give the public a due announcement of the fact. They need not seek to learn it through the columns of a sensation newspaper press.

Mr. DIXON. I desire to state with regard to the vote upon the tariff bill, in which my name does not appear, that if I had been present I should have voted for the bill. I was in favor of the bill; but the Senator from Delaware [Mr. SAULSBURY] was kind enough to pair off with me in consequence of my being unable to be here through indisposition.

#### THE BANKRUPT BILL.

The PRESIDENT *pro tempore*. The bill (H. R. No. 598) to establish a uniform system of bankruptcy throughout the United States is now before the Senate as in Committee of the Whole, the pending question being on the amendment proposed by the Senator from Massachusetts [Mr. WILSON] to the amendment reported by the Committee on the Judiciary, which will be read.

The Secretary read the amendment to the amendment, which was to strike out on page

27, section fourteen, after the word "States," in line twenty-seven, the following:

And such other property not included in the foregoing exceptions as is exempted from levy and sale upon execution by the laws of the State in which the bankrupt has his domicile at the time of the commencement of the proceedings in bankruptcy, to an amount not exceeding that allowed by such State exemption laws in force in the year 1864.

And to insert in lieu thereof:

And a homestead or other property not exceeding in value \$2,000.

Mr. STEWART. Mr. President, since the discussion last night I have given this matter a limited examination, and I am thoroughly satisfied from the history of the clause in the Constitution on this subject, as disclosed by the debates, that it was intended to secure a uniform distribution of the assets of the bankrupt; that that is all that was intended by a uniform system of bankruptcy. The evil complained of, and which was intended to be remedied by the constitutional provision, was an unfair distribution of the assets of the bankrupt; that one State would provide that the assets should go first in order, giving priority to the residents of that State and excluding non-residents from fair participation. The difficulty consisted in the distribution of the assets of the bankrupt, and that, it seems to me, is what they intended to have uniform laws upon, and not in regard to what the assets of the bankrupt were.

I think that the assets of the bankrupt must depend upon the laws of the State under which he holds his assets. If, in order to have a uniform law on the subject of bankruptcy, it is necessary to exercise a power which will in effect make the laws for the collection of debts uniform, then the right of a State to pass laws for the collection of debts is substantially taken away under this clause; but nobody had ever anticipated that a State might not make exemptions; might not make its various regulations for the collection of debts; and those regulations, take them as a body, interfere with the assets to be distributed on all occasions. For instance, one State gives a judgment-creditor a lien upon the property, and that becomes a vested right in one State; in another State not. That is one of the laws for the collection of debts. Now, you say it is not uniform because the State law steps in and gives a lien to some individual in the State; gives him a preference; and consequently it does not operate uniformly.

There are a thousand instances of want of uniformity that will exist and which Congress must remedy if you mean by uniform laws to reach the property of every debtor to the same extent and distribute it; but if you simply mean that whatever assets he has subject to execution under the law of the State where he lives shall be equally distributed between the creditors residing in that State and those residing out of it for the convenience of commerce, leaving the State to make its own laws for the collection of debt, then the two systems are in harmony. If you carry this idea of uniformity clear out it goes too far; and by the same course of reasoning it would deny the States the power to pass any laws for the collection of debt which may not be permitted under the power of Congress to pass bankrupt laws to make a uniform system. Consequently I am clear that the law as it now stands is within the power of Congress, and it is certain we cannot practically have a bankrupt law unless we exercise this power in subordination to the power exercised by the States for the collection of debt. We must allow the State exemption laws, which have grown up during the last seventy-five years and become established, to remain. Rights exist under them. The people understand and appreciate and are attached to them. We had better not exercise the power of Congress in this matter if we are to interfere with all these domestic arrangements of the States. I do not believe that was anticipated. I believe the meaning of the Constitution was that there should be a fair and equal distribution to persons living anywhere

within the United States of the bankrupt's assets, whatever was liable to execution under the local law. In that view both systems are consistent, and can be harmonized and operate together. The theory of absolute uniformity requires you in effect to abrogate the power of the States to pass laws regulating executions, which could not have been contemplated.

Mr. HARRIS. Mr. President, I am earnestly in favor of a bankrupt law. I am in favor of this bill. I have examined it with considerable attention, and I regard it as the most complete and perfect system of bankruptcy I have ever seen. I would be glad to vote for this provision if I could consistently with my own convictions do so, because I am persuaded that if this provision can be retained in the law the bill is more likely to pass; but I am convinced that this provision is in violation of the Constitution.

Congress is authorized by the Constitution to pass a bankrupt law; but it is restricted in its authority to do so: it must be a uniform law. What is meant by that? It is a law that shall operate equally, impartially, uniformly throughout the United States. This provision cannot operate in that way. There are incorporated into this law all the State laws in relation to the exemption of property from sale or execution for thirty-six States with all their diversities. Those laws are made a part of this bankrupt system. More than that, sir: it operates unequally and partially in the States themselves. Take my own State. In the State of New York a man may have exempted from sale on execution a homestead of the value of \$1,000. Here are two bankrupts applying at the same time for a discharge; one of them has secured his homestead worth \$1,000; the other has a homestead worth \$1,000, but he has not taken the necessary steps to exempt it from sale or execution. One of them saves his homestead; the other is obliged to surrender it. Suppose these men owe debts only to the amount of \$1,000 each; one of them is discharged from his debts and saves property enough to pay all his debts, while the other is obliged to give up property enough to pay his debts. There is no uniformity in the operation of it at all. The very first object of a system of bankruptcy is to secure the appropriation of the property of the debtor to the payment of his debts, and it is in reference to this that the term "uniform" is used in the Constitution; it is in reference to nothing else. It is uniformity in the appropriation of a man's property; and now here is secured by this provision as it stands in the bill the greatest possible diversity, diversity according to the legislation of thirty-six different States, and then diversity in the operations of the laws of those States themselves. I cannot suppose that this provision will ever stand the test of judicial examination.

Mr. FOSTER, (Mr. EDMUNDS in the chair.) Mr. President, with the Senator from New York I am honestly and earnestly in favor of a bankrupt law, and I agree with him that this, with a few alterations, is one of the best of all bankrupt laws that I have ever read; and I agree with him further, in regard to this provision, that I cannot vote for it. I believe it is as clear and palpable a violation of the Constitution as is possible, and I would ask Senators this question to test it: Suppose the bill had, for each of the thirty-six States of the Union, assigned to those who might apply for the benefit of the law a different amount of property to be exempt from its operation. Beginning with the State of Maine, suppose it were to say that all persons applying under the voluntary clause for the benefit of this act, or all who under the involuntary clause should be made bankrupts, might have property to the amount of \$200 to be appropriated for the support of the bankrupt; that in New Hampshire they might have \$300; in Vermont, \$400; in Massachusetts, a homestead of the value of \$1,000; in Connecticut, a homestead of the value of \$500; and so on, through all the thirty-six different States, giving to bankrupts in some

States a small amount, to some in other States none at all, to some in others an unlimited amount—would such a law be constitutional? Suppose these precise differences were in the text of the bill, and we were asked, under the Constitution of the United States which authorizes us to pass uniform laws on the subject of bankruptcy, to vote for it, could we do it? Is there any Senator on this floor who would say we could do it?

The idea of the Senator from Nevada is that this term "a uniform law" means merely a uniform distribution of the assets of the bankrupt. What are the assets of the bankrupt? They are different in the different States according to the laws of the different States, and that, as I understand the honorable Senator from Nevada, satisfies the provision in the Constitution that the law is to be uniform. You are to make uniform distribution of the assets of the bankrupt, and in some States he would have no assets at all, while in another State a man situated just as he was might have \$100,000 of assets. Is that law uniform? In some of the States, I repeat, the law now is that a man may hold property to an unlimited amount and still under the State law have the benefit of a discharge from his debts. The situation of that man prior to his taking the benefit of this act would be that of a bankrupt; that is to say, he would owe more debts than he had property to pay, he might own a homestead exempt from all liability, unlimited in value, it might be worth \$100,000; he might owe \$100,000, so that he would in fact be a bankrupt; but applying under this bill for its benefits he would get discharged from his debts and this law would make him then actually worth \$100,000, whereas before the act he was not worth one cent. Is that law uniform? Is it just? Is it honest?

If we cannot in the act itself make discriminations as to the amount of property in one State and in another which a man may hold, because of the constitutional requirement of a uniform law, it seems to me perfectly clear that we cannot authorize the States to make these discriminations and differences. We cannot allow that to be done indirectly which we cannot ourselves do directly. The principle is plain and positive.

Senators seem quite unwilling that Congress should interfere very much with State laws in regard to debtor and creditor, and are very jealous of any intermeddling with State exemption laws. At certain times it is very popular on this floor to talk about, I will not say the omnipotence of Congress, but the absolute power of Congress and perfect weakness of the States. States rights, under certain circumstances, are sneered at exceedingly in certain quarters, and the man who talks about States rights is in danger, I have thought at times, of being regarded as in sympathy with traitors. But now if the Congress of the United States undertake to say that a man who is in debt shall pay his debts or rather that his property, except a certain amount, shall be applied to pay them, if they claim to judge how much shall be left to him they are exceeding their legitimate powers and trampling on State sovereignties. I claim to be a tolerably good States rights man and a tolerably good friend to a national, consolidated government. Both these governments are recognized in our system, and each is entitled to control in its appropriate sphere. I see no difficulty in allowing the law of Congress to be uniform throughout the States on this subject of bankruptcy, and to set aside State laws which may interfere in any way with such uniformity. I see in this no exertion of power on the part of Congress which is not plainly given to them by the Constitution. The insolvent laws of all the States have always been considered abrogated, or at all events their operation suspended during the existence of a national bankrupt law.

Mr. STEWART. Will the Senator allow me to ask a question?

Mr. FOSTER. Certainly.

Mr. STEWART. Suppose the State of Connecticut passes a law allowing a judgment to become a lien on all the real property of the debtor, and a judgment is obtained against the man before he commits an act of bankruptcy. It becomes a lien on real property. Let us suppose, then, that in Massachusetts there is no law allowing a lien on his real property, would Congress have the power under its authority to pass uniform laws on the subject of bankruptcy, to remove that lien in Connecticut so as to place the debtor there in the same situation as the debtor in Massachusetts? Or would the State have the right to take away this property from the operation of your law, and give it to a third person through the instrumentality of a judgment lien? I submit the question, would Congress have power to prevent the property from being encumbered by judgment liens prior to the act of bankruptcy?

Mr. FOSTER. I have no doubt that Congress would have power to pass an act which should relieve the property from a lien of that sort under a State law. I am not aware that there has been a doubt expressed by any judicial tribunal upon that subject. Under former bankruptcy laws the question arose, not as to the power of Congress to do it, but as to whether by the act they had done it. That question has been considered and different decisions have been made upon it by different tribunals under the bankrupt law of 1841.

Mr. STEWART. Allow me to ask a question. Suppose Congress did not make any provision on the subject, but left the States to provide for a lien, would not that be as strong an argument against the uniformity of the law as it would be if the reservation was made in favor of the party himself? Is there any practical difference in principle between making the reservation of the property of the debtor in favor of a third person to the exclusion of the mass of the creditors, and making it in favor of the family of the debtor? If the reservation in the former case does not destroy the uniformity of the law, surely it does not in the latter.

Mr. FOSTER. Mr. President, I have no difficulty in answering the question of the honorable Senator. If Congress passes an act which relieves property from liens created under State laws—

Mr. STEWART. That of course is prior to final judgment.

Mr. FOSTER. If the bankrupt law of the United States did not annul those liens, to my mind it would not be clear that it was not a uniform law on the subject of bankruptcy, because of course those liens, in order to take effect, must be pursued to final judgment; the creditor must get his judgment against the debtor, and show the amount of his debt, and apply the property under the law to the payment of that debt. In that case the property of the debtor goes to pay his honest debts. That is the effect of the law under those circumstances. The effect of this law, if it be carried out, is, that in some States all a man's property shall be taken to pay his debts, and in other States none of his property shall be taken to pay them; though in the case where none is taken he is a man having large property, and in other States where the bankrupt has but little property all goes. There is a wide difference, to my mind, between the manner in which property may be applied to the payment of debts and exempting the whole property of a bankrupt, no matter how large, from paying any debt whatever.

And, Mr. President, I am unable myself to conjure up quite so much sympathy as some gentlemen seem to feel as to the amount of property held by a man who is unable to pay his debts. I have been so unfortunate as to be in debt myself, and so unfortunate as to have people in debt to me; and I have known more cases where people owed debts who never paid, who were better off and had more property than some of their creditors, than I have of cases where debtors made themselves, or were made poor and destitute for the bene-

fit of creditors. Within the circle of my observation there are poor creditors, made poor by their inability to collect their honest debts of men who may perhaps be owners of homesteads highly valuable in some States—eighty acres or more, without limitation as to value. Where would be the evil to the community if one of these debtors, if you please poor debtors, with his valuable homestead, should be compelled to part with it for the benefit of his poorer creditor, who unfortunately was without a homestead? The creditor, under such circumstances, and there are many such, is quite as deserving of our sympathy and the benefit of our legislation as the debtor.

This, however, is quite aside from the principle that is here involved. The question here is whether we have power under the Constitution to pass a law of this sort. The Committee on the Judiciary have had this matter under consideration, and they report to us that we cannot pass the bill with this clause in it without violating the Constitution of the country. In expressing the opinion that this clause must be stricken out or that this law will be unconstitutional, I am following the lead of the Committee on the Judiciary, who it may be presumed have examined this question with care, and whose opinion thus expressed is entitled to great respect.

Mr. POLAND. Mr. President, I had not intended to say anything more in reference to this question than I said yesterday and some two weeks ago, when this subject was up before. Notwithstanding the ingenious manner in which this subject has been presented by my friends, the Senator from New York and the Senator from Connecticut, I am still quite unconvinced that it is necessary to strike out this portion of the bill as it passed the House in order to make this a uniform bankrupt law. I confess that were it not for the very confident manner in which these gentlemen and other members of the Senate, whose opinions are entitled to very great respect, especially upon legal subjects, have declared their opinion that this adoption of the homestead exemption laws of the different States renders this law open to the objection that it is not uniform, I should have felt that the objection was entirely frivolous.

I think, if it were in our power, if it were possible for us to adopt the systems of the different States in relation to the exemptions in favor of poor debtors, every member of the Senate would say that as a matter of discretion, as a matter of judgment, as a matter of prudence, as a matter of safe and proper legislation it was better to leave that subject to be regulated by the State Legislatures, who know the circumstances, the wants, the condition of all their inhabitants, rich and poor, better than we can. All would agree that it had better be left to them to say what mercy should be shown to the poor debtor, how the balance should be struck between the creditor and the debtor in their respective localities, than we can determine here in this Senate Chamber.

This is not the objection; it is that under the Constitution we have not the power; that if we leave any exemptions at all in favor of the debtors who either voluntarily go into this system for the purpose of becoming relieved of their debts or are driven into it by their creditors, if anything is to be left to them that does not go into their assets for division among their creditors, if anything is to be doled out to them or retained to them out of their property, it must be by some uniform rule that must be written down in the law itself.

Mr. President, it seems to me that this is not necessary in order to make this a uniform system of bankruptcy. All the States have exemption laws, and they are different in their terms. Some exempt a greater amount of real estate than others; a greater amount of personal property is exempted in some States than in others; but all the States have laws on the subject. They have regulated it according to their own judgment. They say that a debtor

may, for his own subsistence and for his family, retain a certain amount of property that shall not be liable to be taken by any legal process for payment of his debts. No question is raised here, none ever has been raised, but that those State laws are entirely constitutional. It has been decided over and over again that the States may make additional exemptions of property as against debts that were already in existence in the time. So no question arises but what the State laws, providing that certain property may be retained by debtors against their creditors, are valid and constitutional and binding.

Now, what does this bill propose to do, as the House passed it? We propose simply to get up a law and adapt legal machinery to it, by which all the property of every bankrupt throughout the United States that is liable for the payment of his debts may be taken and administered and distributed equally among the creditors. This is all this amounts to. If there were no exemptions by State laws and we were to make an exemption; if by existing laws all the property of every debtor throughout the country was liable for the payment of his debts and we were to undertake to establish a system of administration throughout the entire country, I should agree I think that we must make an exemption that should be uniform in all the States; but that is not what we attempt to do. By this bill we lay hold of, we seize all the property of every bankrupt that is liable for the payment of his debts by law, against which the creditors have any right to proceed by any process in the State courts, or in the United States courts; and we say that all that property shall be taken and be distributed in a particular way equally among all the creditors.

Is not that uniform? In order to comply with this requirement of the Constitution, to have the system of bankruptcy uniform, is it necessary that it must operate in every State precisely alike? Are there not a great variety of contracts that are binding and legal and valid and hold a man's property in one State that would be entirely invalid and inoperative to hold his property in another State?

But it may be said that this proves nothing, because a contract valid by the laws of the State where made must be valid everywhere. But under the bankrupt law of 1841 the question arose in relation to statute liens. I mentioned the other day the controversy that arose in New England, beginning between Judge Story and Judge Parker, who was then chief justice of New Hampshire, in relation to our New England attachment liens; I believe they are not known, out of New England, in any part of the United States as an ordinary process. With us in New England when a man brings an action for the collection of a debt, if he can find property of the debtor, he sends out the sheriff and seizes it upon the writ in advance of any judgment, without filing any affidavit that the party is going to abscond or has property concealed. It is a matter of right with him. The bankrupt law of 1841 provided that liens upon property should be saved from the operation of the bankrupt law. The question arose whether these statute liens in New England came within the meaning of the bankrupt law, and it was eventually settled that they did; they were sustained.

It was utterly impossible that any such lien could exist in any State out of New England under any State law; there were no such liens on property elsewhere. If the bankrupt law of 1841 protected those liens upon property in New England, it established a rule for New England that was different from that established in any other State, and saved a kind of claims upon property which in any other State could not exist; and these were not like contracts that were entered into in one State which would be good everywhere, because these could have no force or effect out of the State, could not be enforced in any other place. And yet the Supreme Court of the United States held that the recognition of the State liens by that bankrupt law did not render it liable to the

objection of want of uniformity in the constitutional sense.

I do not desire to enter into any extended discussion. Enough has been said by other Senators in relation to this question, so that it is understood in all its bearings; and it seems to me that it is entirely clear that the adoption of these different homestead exemptions of the different States does not prevent the law from being uniform in a legal sense. I might say that when the bankrupt law of 1841 was under discussion in Congress an amendment was adopted in the House by a very considerable majority embodying the very provision that is contained in this bill, and that amendment was moved by a member of Congress who is now one of the judges of the Supreme Court of the United States. Eventually that amendment was struck out by a small majority, but it was at one time adopted, and adopted upon the motion of a gentleman who is now one of the judges of the Supreme Court of the United States.

Mr. DOOLITTLE. On this question of uniformity as to exemptions I wish to suggest that practically, if there is any want of uniformity here, the same want of uniformity exists now under the laws of the United States, because the Federal judges and Federal courts in every one of the States, in the collection of debts, recognize and enforce the existing exemption laws of the several States, so that in California the Federal courts allow an exemption of \$5,000 worth of property as not liable to the payment of debts, while in the State of New York the Federal courts recognize \$1,000 as the value of the homestead there not liable; and in all the States they recognize the various exemptions precisely as they exist under State laws. You might with just as much propriety say that those laws which our Federal judiciary are now enforcing in every State are unconstitutional, because they are not uniform in their operation, as to say that this bankrupt bill, when it shall have been enacted into a law, will not be uniform.

Mr. GRIMES. There is no requirement of uniformity in the case to which the Senator refers.

Mr. DOOLITTLE. Every law of the United States must be uniform in every State. You cannot pass a law for one State that is not to apply to another.

Mr. GRIMES. Why not?

Mr. DOOLITTLE. Because the laws which are to be passed must be uniform of necessity, and I say that so far as the uniformity of the laws of the United States is concerned to-day in the enforcement of the payment of debts the several exemptions of the States are recognized by the courts.

Mr. GRIMES. But not recognized under any uniform bankrupt law of the United States.

Mr. DOOLITTLE. That is no answer to the point which I make. I say that the uniformity of the rule is this: to take in every State all the property that is liable to the payment of debts and distribute it. You take what is liable in California, you take what is liable in Iowa, you take what is liable in Pennsylvania, and distribute it by a uniform rule.

Mr. STEWART. It seems to me that the decision of the Supreme Court of the United States in the case of Peck and others vs. Jenness and others, reported in 7 Howard, has an important bearing upon the principle here involved, and I am unable to distinguish between the cases. The learned Senator from Connecticut admits that if Congress passed a bankrupt law, whereby in one State the bankrupt's property could be taken under judgment liens and in another State not, it would have the same want of uniformity that this has.

Mr. FOSTER. I beg to correct the honorable Senator. I made no such admission. I did not admit that a law of Congress recognizing the existence of legal liens on property in the different States would have the same want of uniformity that the present clause in this bill has.

Mr. STEWART. Well, I will read the syllabus

of the case in 7 Howard, to show that an analogous question has been before the Supreme Court of the United States, and has been decided:

"The proviso of the second section of the bankrupt act, passed on the 19th of August, 1841, preserves all liens which may be valid by the laws of the States respectively."

The States under this power to make liens might perhaps make liens in favor of the family as well as in favor of the creditors, which is the ordinary way.

"In some of the States, attachments are issued on mesne process by which the property seized is to await the result of the suit. This constitutes a lien which is saved by the proviso in the bankrupt act."

Some States allowed liens in favor of the bankrupt's judgment creditors; other States did not allow such liens: was that not a want of uniformity? And yet the bankrupt law of 1841 was held to be constitutional. Surely there was as great a want of uniformity under the lien laws as there can be under the exemption laws of the States. The principle is the same, so far as I can comprehend it.

"Therefore, where an attachment was issued, and the defendants afterward applied for the benefit of the bankrupt act, a plea of bankruptcy was not sufficient to prevent a judgment from being rendered condemning the property under attachment."

"The fourth section of the statute, if it stood alone, would make a plea of bankruptcy a good plea in bar in discharge of all debts; but if the whole statute be construed together this is not the result."

"A rejoinder, setting forth that the district court of the United States had decided that the attachment was not a valid lien upon the property, was not a good rejoinder."

"The district court could not oust the State court of its jurisdiction which had already attached."

The bankrupt law of 1841 in States where they had not this attachment law—and I believe it existed only in New England—reached all the property of the debtor. In New England when a debtor became in failing circumstances a creditor would issue an attachment and require a lien, and in the distribution of the assets would get his whole debt if the assets were sufficient to meet it; but that practice was not allowed out of New England. Yet the Supreme Court did not hold that the law was unconstitutional for that reason. That was a greater and more unfair inequality than will be created by allowing the States to provide within their respective limits for a small pittance to be reserved, either in the shape of a homestead or an exemption of property from execution, for the benefit of the family.

Mr. FOSTER. I am quite unable to see the analogy which the honorable Senator from Nevada undertakes to trace between a lien created by a creditor attaching property prior to final judgment and an exemption law of a State giving a man a homestead of unlimited value free from all claims of creditors. In the case of an attachment, the lien may become perfect by pursuing the claim to final judgment, taking out execution, and levying it upon the property. The amount of the lien is then ascertained, and it can be discharged by applying the property to the payment of the debt if the property be sufficient. But the case the honorable Senator puts is that of an exemption of a creditor's property as against all debts. Where is the analogy? Is there any lien in that case which is to be perfected by showing the amount which may rest on the property? None whatever—the amount can neither be ascertained nor discharged.

The Senator talks about creating a lien for the benefit of the family. Suppose it were provided that property of the debtor, a homestead of unlimited amount, should be exempt from sale, attachment, or execution at the suit of creditors, for the benefit of the family; what then? Would that aid the matter? Could the family show the amount of their lien on the property? Is there any mode of ascertaining what the value of that lien is and discharging it, and then having the residue of the property applied to the payment of honest debts? Not at all. Nor is it necessary that what the Senator calls a lien should be for anybody's benefit but that of the debtor himself. He may



have no family, no wife, no children, and still if a State passes a law that every individual may hold a house and land of unlimited value exempt from attachment or execution in favor of his creditors, the lien must be equally effective where there are no wife and children, as where there are both. But it is no lien at all. What we mean by lien is a legal claim on property held for the satisfaction of a debt, which can be ascertained, and when ascertained, may be paid, and the property so held as security for the debt is then relieved. There is nothing of that sort in this case. There is no analogy whatever—not the remotest. This is no lien in any sense in which the law recognizes the term "lien." It is an abuse of terms to call it so.

Mr. STEWART. It appears to me that the reason why the Senator from Connecticut fails to perceive the analogy, is that he fails to see the exact objection to this bill. The objection, as I understand it, is want of uniformity; and it is said that it must be uniform in distributing all the property of the debtor, that if it distributes all the property of the debtor in one State it must in another. We, on the contrary, say that what is meant by uniformity is the distribution of what property the debtor has which is liable to execution at the time of the act of bankruptcy. Our opponents say that it means the distribution of all his property. What difference does it make, so far as regards the principle of uniformity, whether the property is taken under the State law and given to his family, or taken under the State law and given to his creditors? It is not in either event distributed under this bankrupt law. You say that if it is not distributed under the bankrupt law the law is not a uniform law. We show you instances where property was not distributed under the bankrupt law, but taken by attaching creditors who happened to get in first in some States where they have that process; and of course that proceeding was not allowed in other States, and the Supreme Court recognized the right of the attaching creditors in a few States that had this summary process to acquire a lien and take the bankrupt's property, and thus to prevent its distribution among the creditors generally. A State enables its citizens to do that by its laws, and the Supreme Court held the congressional act which permitted this to be done to be a constitutional bankrupt law. This bill provides that whatever is subject to execution under the State laws shall be distributed among the creditors. If in order to make a uniform bankrupt law you must distribute all the property that the debtor has, you must abrogate the State laws that allow liens to be acquired. Then we say that the former law was unconstitutional; because all the property was not distributed in some States, while it was in others—it operated differently in one State from another.

The objection to this bill is that it operates differently in one State from what it does in another, because the amount of homestead exemption in one State is larger than in another. The former bill operated differently in the different States; because Vermont had an attachment law which enabled her citizens when they saw a debtor in failing circumstances to acquire liens upon his property, and other States had no such law, and consequently when the bankrupt's property came to be distributed in Vermont the State laws regulated the distribution to a certain extent. Now we say we will allow these State laws to operate in favor of the homestead exemption for the family of the bankrupt. It is quite as equitable and as fair to allow it for that purpose as to allow it in favor of the first grabbing creditor, if I may be permitted to use the expression. Is it a greater exercise of power to let a State law come in and take some of the property for the support of the family of the bankrupt than it is to let the State law come in and take a portion of it for the benefit of the attaching creditor? The equity is as high in the one case as in the other, and there is as much uniformity in the one case as in the other.

The objection to this bill is the want of uniformity. The act of 1841 had a greater want of uniformity in reserving the liens of attaching creditors and allowing them an advantage. I think the law of 1841 gave an undue advantage to attaching creditors by preserving their liens. I think that was bad policy. I do not think it was equitable and fair. When a man goes into bankruptcy his property should be distributed among all the creditors. But that is not the point; the policy of the law permitted an exercise of power on the part of the States to prevent an equal distribution of the assets, if you mean by assets all that the bankrupt may possibly have. If you mean by a uniform bankrupt law one which shall operate alike on all the property subject to execution in the various States, that the same acts of fraud shall constitute a cause for forcing a man into bankruptcy in one State as in another, that the practice shall be the same in all the courts, and that when the assets are distributed the citizens of one State shall share in them like the citizens of any other State, here you have such a bill, and you run in conflict with no State laws. But if you say that there shall be no State law which takes or appropriates for any purpose any portion of the debtor's property that does not exist in all the States, then you run in conflict with the legislation of the States, with the reserved rights of the States, and with their entire judicial system.

If you give the Constitution a rational construction, if you say it did not mean to take away from the States the power to exempt from execution a portion of a debtor's property in order that it might be used for the support of his family, that it did not intend to take from them the power of keeping the poor debtor and his family from the poor-house, that it did not intend to prevent the States from enacting attachment laws giving the preference to the most active; but did intend that when a man went into bankruptcy his assets should be fairly distributed among the creditors, citizens of all the States alike, did intend that the practice should be the same in all the courts of the United States, did intend that the same acts of bankruptcy should be sufficient to force a man into bankruptcy—if that is what is meant, you have here a law of uniform operation upon the people of the United States. It takes hold of and distributes all property that is not exempt from execution, all that is subject to be taken by creditors. But if, to be uniform, your law must disturb and overturn the settled systems of the States, no bankrupt law can be passed; and if this provision cannot be retained I am opposed to ever passing a bankrupt law, for I believe homestead exemption laws and laws exempting from execution the necessities of life to a sufficient amount to support a family for a limited time are essential to the peace of society and to prevent suffering and distress. The States have exercised their power in this respect in a wise, economical, and judicious manner. If these most essential regulations of the States are to be set aside and overturned by a bankrupt law, I say let us have no bankrupt law. But I do not believe the Constitution requires any such thing. I do not believe any such stretch of power was intended to be conferred upon Congress. I have no doubt that if this bill be passed in the shape it now is, it will be easily harmonized by the courts with the systems of the different States, and the real spirit and intent of the Constitution in requiring the law to be uniform will have been carried out.

Mr. FOSTER. It may be owing to my dullness, Mr. President, but I do not see the exact similarity which the gentleman says there is between recognizing a lien created by the law of a State and an entire exemption of the property of a debtor from being taken by his creditors for the payment of his debts.

Mr. STEWART. I beg pardon; there is no case of that kind existing; there is no State where there is an entire exemption.

Mr. FOSTER. While the gentleman is insisting upon the rights of the States, he will

not forget that it is perfectly competent for a State to make a law declaring that there shall be no legal process at all in the courts of that State to compel payment of a debt hereafter to be contracted. The States beyond a doubt may make laws which shall entirely prevent the suing of parties for debt, and leave every man to make a contract on his own risk, trusting to the honor of his debtor to pay him or not. Now, suppose any State has such a law at the present time, and we judicially, senatorially, have no means of knowing but that some States now exempt all the property of debtors from legal process for the payment of debts. In effect it is done where it is provided that household furniture and the homestead comprising a certain number of acres of land shall be exempt from all liability. This is the law in some States, and where that law exists the Senator claims that it is a perfectly valid law which we must not disturb. If that is all the property that the man has got, and it may be worth \$100,000, by the law of the State all that man's property is exempt from legal process to compel payment of a debt. The gentleman insists that that is the law. I insist that the State has a right to make the law that there shall be no legal process to compel the payment of a debt. If that were the case we should have this singular spectacle, according to the gentleman's doctrine: that a bankrupt law would be uniform when in some States debts could be collected by law and in others they could not be collected by law; because the gentleman says the question is simply, what are the assets of a bankrupt within this State. If by law he has no assets that can be applied for the payment of his debts, under the law there is nothing to distribute in that State.

I was saying, Mr. President, that the Senator from Nevada was making the claim, in effect, that a man might be worth an independent fortune in one State and his property be protected from all legal process for the payment of debts, and another man worth but a pittance in another State would be compelled to part with a portion of that pittance to pay his debts under the same law, and that a uniform law. I confess I am unable to see any uniformity in such a law. I do see a want of uniformity between a law which in one State leaves a man independently rich and exonerates him from all debt, and takes all but a given amount in another State for the payment of his debts. There is no uniformity in that that I can see.

The gentleman can see no want of similarity between the law of lien in some States created by an attachment which he calls a grab law and this present proposed law. The difference, Mr. President, may be shortly stated thus: that what he calls the grab law is a mode by law of appropriating a man's property for the payment of his debts; the other is an appropriation of his own property to himself for his own benefit, putting his creditors at defiance. The one is all for the debtor's benefit; he holds it for himself, no matter how much, and his creditors may whistle for their claim; the other compels him to give up his property, except such an amount as the law holds to be necessary for his subsistence, for the benefit of his creditors. There is a difference, to me, in these two cases. Why, sir, this very bill, on page 17, beginning at the twenty-seventh line, has this clause:

And such other property not included in the foregoing exceptions as is exempted from levy and sale upon execution by the laws of the State in which the bankrupt has his domicile at the time of the commencement of the proceedings in bankruptcy, to an amount not exceeding that allowed by such State exemption laws in force in the year 1864.

Several States have altered their laws since 1864 on this subject, and of course the law in those States would not be uniform in its application; so that within the same State there would be a lack of uniformity under this bill, as well as all over the United States. There would be no uniformity in any two States out of the thirty-six, and in many instances there would be a lack of uniformity within the same State; and yet the gentleman says the bill is uniform, because it distributes the assets of the

bankrupt alike, when in the one case he has assets to an immense amount which cannot be touched, and in the other all can be touched down to a very small amount. The very gist of the whole matter is, what are the assets? The whole case turns on that, what are the assets? There may be millions in one case and no assets over \$200 in the other, and that is uniformity!

Mr. STEWART. The Senator from Connecticut has failed to show by his argument that the creditors of a bankrupt in the State of New York, where there is no attachment law, fare the same as the first attaching creditor does in the State of Vermont, where they have an attachment law. I take those States for illustrations. I undertook to show that if uniformity meant to disregard everything and go directly to the property of the debtor and equally distribute it we never could have uniformity, and there was not uniformity under the other law; and I instanced the case of liens. Suppose A owes \$10,000 in Vermont. He has creditors in the city of New York to the amount of \$5,000. He has a creditor in Vermont to whom he owes \$10,000. Suppose that he has \$6,000 or \$8,000 worth of property. He becomes in failing circumstances, and this Vermont creditor attaches and takes it all. He goes into bankruptcy. Was that property equally distributed; or did the creditor in Vermont, who, by virtue of his lien law, went in and took the whole property and prevented any distribution with the other creditors, have an advantage?

Mr. FOSTER. If the Senator will allow me, suppose he paid that, an honest debt, the day before he commenced operations in bankruptcy, would that be an equal distribution among all his creditors? Suppose he paid a debt, an honest debt, and he honestly paid it?

Mr. STEWART. That would be a different proposition.

Mr. FOSTER. Why?

Mr. STEWART. We are discussing now the power of a State to interfere to enable a party to get those assets. If the State has power to interfere and let a creditor in Vermont take the entire assets by preferring a prior lien, that State has the same power to protect the family in the homestead. It is as high, but no higher exercise of constitutional power. I say it is begging the question to say that any of these laws exempt all the property of the debtor. There has been no law cited that is to that effect. The laws on this subject are entirely similar. It is true, owing to the particular situation of the country, it costing more to live and property being higher in one State than another, one State may exempt a little more than another; but there is no great hardship in it, no practical difficulty; and there is not one half the inequality that there was under the old law, that allowed one creditor to come in and take the whole under a prior attachment; but the Supreme Court and Congress in 1841 recognized that power in the State.

Now, I submit if a State can prefer creditors in this form by allowing them to acquire prior liens and thus prevent an equal distribution of the property, can they not, to a limited extent, as they have already done in some of the States, protect the family from starvation? To say that there are unlimited reservations in any State is saying what the record will not warrant. I know of no such law; none has been produced. Beside, we are adopting in this bill the State exemption laws of 1864, and it is to be presumed that they have been examined, and it has been ascertained that there is no great inequality or unfairness in those laws. It has not been shown. The presumption is that each of those laws is suited to the particular condition of the State by which it was enacted, and that the practical working of this bill will be uniform, as near as may be, by recognizing the State laws. It will be more uniform in its operation by the adoption of those laws than it would be by making an arbitrary amount to operate all over the United States. But I do object to the assumption of the right, under this power, to

distribute the assets of the debtor, to legislate with regard to the collection of debts in all the States, and to abrogate their laws.

Mr. DAVIS. Mr. President, the Senator from Nevada, in his first remarks this morning, stated one of the true principles of a bankrupt law, and that is, that there must be an equality in the distribution of the property or assets of the bankrupt.

Mr. STEWART. The distribution of those assets which are subject to execution by the State laws.

Mr. DAVIS. That is not the meaning of the Constitution. The meaning and the plain words of the Constitution are, that every property right, every dollar of assets that the bankrupt owns must be distributed, and must be distributed equally, because the requisition of the Constitution is expressly that the bankrupt law shall be uniform; that is, the system of bankruptcy established by the act of Congress shall be equal. The honorable Senator from Nevada conceded the whole argument this morning when he said that the equality contemplated was the equal distribution of the assets of the bankrupt. I concede that that is the principal element of equality which is contemplated by the Constitution.

Now, sir, what is that principle? If I can get the attention of the honorable Senator from Nevada I think I will make a discrimination which will prove the fallacy of his position. His position is that because the bankrupt act of 1841 recognized the validity of certain liens, and the Supreme Court in its decision sustained the validity of that provision of the bankrupt law of 1841 which recognized the validity of those liens, therefore the provision which is moved to be stricken out of this bill does not establish an inequality in the distribution of the assets of the bankrupt. Why, sir, a man has an estate in every subject of property that he owns. If the law creates a lien upon that general property, this lien is a particular property, not belonging to the bankrupt or the owner of the property generally, but belonging to other persons, who are entitled to the lien. Can anything be plainer than that? A man wishes to become a bankrupt under this law if it passes; he owns in the State of Wisconsin, if you please, a landed property of a thousand acres of land. He has not paid, though, half of the purchase money to his vendor for this land, and that vendor has a lien by the laws of Wisconsin upon that land for the payment of the residue of the purchase money. The act of 1841 simply recognized the validity of such liens, and the Supreme Court decided that the clause recognizing the validity of such laws was not unconstitutional.

Mr. DOOLITTLE. Will the honorable Senator from Kentucky allow me to ask him a question on that point, speaking of the laws of Wisconsin?

Mr. DAVIS. It was a mere example used by me by way of illustration.

Mr. DOOLITTLE. I propose to put a question bearing on the precise point as applicable to Wisconsin. By the law of Wisconsin the homestead, which is exempted from payment of debts of the debtor, cannot be mortgaged or sold unless the wife join in the mortgage or in the sale. Now, the question I put is this: by your bankrupt law passed by Congress can you take away from the wife her right in that property?

Mr. DAVIS. If the Senator will permit me to proceed I will soon come at the principle that I am contending for. The principle that I contend for is that every property right which is denominated in the laws of bankruptcy by the term "assets" that a bankrupt owns—

Mr. STEWART. At what time?

Mr. DAVIS. When he becomes a bankrupt.

Mr. STEWART. When he commits an act of bankruptcy?

Mr. DAVIS. Just let me proceed in my own way, if you please. The distinction is that all of a man's property who seeks to become a bankrupt is thereby made subject to

distribution among his creditors according to the rule established by the bankrupt law; and the bankrupt law, to be constitutional, that establishes that rule of distribution in our country must be uniform; that is, it must make a uniform distribution of the property of the bankrupt.

I conclude, then, that every property right which a bankrupt has is a part of his assets, and to make a bankrupt law constitutional under our Constitution the law must distribute equally all of his assets or all of his property rights in every State in the Union.

The honorable Senator from Nevada argues persistently and with much ability to prove that liens created by the owner of property, and imposed upon his property by him or by the law, are not subject to be distributed among his creditors. That I fully concede. Why? Because there is a special property in those liens that does not belong to the debtor, but belongs to other individuals, and therefore cannot be distributed as part of the property of the bankrupt. Can anything be plainer than that? Here is the clause in this law which is objected to, and which gentlemen contend if it is continued in the law will vitiate it, because it will be establishing an unequal bankrupt law, and in that position I concur:

And such other property not included in the foregoing exceptions as is exempted from levy and sale upon execution by the laws of the State in which the bankrupt has his domicile at the time of the commencement of the proceedings in bankruptcy, to an amount not exceeding that allowed by such State exemption laws in force in the year 1864.

Now, Mr. President, let us take an example of the exemption laws of two of the States. In New Hampshire, I believe, the exemption of property that is not subject to execution by the laws of that State amounts to \$500 in the aggregate; in California to \$5,000. Suppose this clause was written out fully, and it was said that wherever a bankrupt is declared in the State of New Hampshire all of his property, except the worth of \$500, shall be distributed among his creditors; but in the State of California, when a debtor becomes bankrupt, there shall be \$5,000 of his property reserved and excepted from distribution among his creditors. That is the principle that gentlemen are contending for, as I understand it.

Between these States of California and New Hampshire there is every variety of amount of exemption of property from execution by the laws of the States. If these various exemptions in every State are incorporated, as they are in effect by this provision that I have just read in this bankrupt bill before the Senate, it simply amounts to this: that the law, instead of being uniform in relation to the distribution of the property or assets of a bankrupt, shall be and is hereby enacted to be as various, as multiform, as unequal as the laws of the different States in relation to the exemption of property from execution.

Suppose that this clause had proceeded *in extenso* to incorporate the exemptions of property from execution in every solitary State in the Union, and had declared that these exemptions of property from execution should be held and taken as a part of this bankrupt law: I ask the honorable Senator from Nevada would such a law as that be a law making equal distribution of the assets of a bankrupt among his creditors? No, sir; it would be as various as the laws of the thirty-six States; it would be as unequal, as these different States in their respective modes would have established a different amount of property exempt from execution and from the payment of creditors.

Then, sir, it seems to me to be perfectly plain that a bankrupt law (and that is the one which we are now considering) which exempts in California \$5,000 worth of property to the benefit of the bankrupt, or of his family if you choose, and a bankrupt law which exempts in the State of New Hampshire but \$500 worth, is unequal, and comes within the denunciation of the Constitution, which declares that the system of bankruptcy established by Congress shall be uniform throughout the United States.

My honorable friend from Nevada conceded everything this morning in his argument, according to my judgment, when he admitted so strongly, in such few and plain words, that the equality required by the Constitution in bankrupt laws was equality of distribution of the estate among the bankrupt's creditors. A law which by general terms or by express provision would make a different rule of distribution of assets by reserving a different amount of estate of the bankrupt to be exempt from distribution among his creditors in all the States would be as flagrantly unequal and in violation of the Constitution as it would be possible to make anything.

Gentlemen may say that the amount is not large, but you concede a principle here that comprehends everything. As was stated by the honorable Senator who is the President of the Senate *pro tempore*, [Mr. FOSTER,] any State may repeal all laws by which debts are to be coerced within its boundaries. The subject of exemption of property from execution belongs to each State within its jurisdiction; they may make it of any amount they please; and this concedes a principle that would enable any State to exempt from distribution as a part of the assets of a bankrupt any amount of property in character and in value that the authorities of that State should choose to provide in their laws.

Now, sir, after the objection which I have stated, and which has been so much better stated before by other gentlemen who have participated in this debate, I think it is a perfectly plain proposition that the Constitution requires equality of distribution of the assets of the bankrupt; that all his property is a part of his assets, that so far as there are liens upon his property valid in law he is deprived of so much of his property and it does not belong to him, but it belongs to the parties who hold these liens. But so far as there are no liens held by third persons upon fair and valid considerations all his estate, the whole of his property, and the whole of his assets are subject to equal distribution among his creditors, whether he lives in California or in New Hampshire, and whether he seeks to be declared a bankrupt in the one or the other State, and that any law which provides for an unequal distribution of those assets belonging to the bankrupt comes within the inhibition of the Constitution.

Mr. DOOLITTLE. Mr. President—

Mr. STEWART. With the consent of the Senator from Wisconsin I should like to make a single remark in reply to the Senator from Kentucky. The Senator from Kentucky did not quite understand my meaning, or I did not make myself sufficiently plain. I wish to state again that by the term "uniform" there must have been contemplated an equal distribution of the assets of the bankrupt; that is to say, such assets as he might not have exempt from execution at the time of the decree. If it meant other than that, if it meant an equal distribution of all the assets of the bankrupt at the time he committed the act of bankruptcy, which the discussion has assumed, then the law of 1841 was most clearly unconstitutional, because it allowed particular creditors to obtain advantages over others after the commission of an act of bankruptcy. This clause was put into the Constitution in view of the law of involuntary bankruptcy as it existed in England. Voluntary bankruptcy had not then been resorted to except, perhaps, in some of the States, but that was not a general system; and it was called insolvency and not bankruptcy originally in the States.

The provision of the Constitution had reference particularly to involuntary bankruptcy where the party was forced into bankruptcy by his creditors, and the word "uniform" was used in that view. If it means that there shall be an equal distribution after the act of bankruptcy is committed, then the law of 1841 was unconstitutional, because it provided that after the act of bankruptcy, and before proceedings in bankruptcy were commenced, after the party

became insolvent; after he had committed a fraud, the State might allow a favored creditor to come in and acquire a lien on his property, and thus prevent an equal distribution of it among the creditors; and it was held in the case which I have cited that all that was required was to distribute fairly among the creditors, reside where they might, what property was left subject to execution. That could be distributed among the creditors; and that was distributed. Thus the decision under that law practically said that after an act of bankruptcy was committed a creditor might secure an unequal distribution of the property under the authority of the State. If a State could do that, surely a State may reserve a lien for the benefit of the family.

Mr. DOOLITTLE. I had intended to submit some remarks in reply to the Senator from Kentucky, [Mr. DAVIS,] but the ground has been covered by other Senators, and therefore I shall forbear making any further remarks, for the purpose of allowing a vote to be taken on this question if the Senate are prepared to vote, without my detaining them further.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts [Mr. WILSON] to the amendment of the committee.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs upon the amendment of the committee, upon which the yeas and nays have been ordered.

Mr. FESSENDEN. I understand that the committee reported in favor of striking out the clause which preserves the State exemptions, and now the question is whether we will concur with the committee in striking out the clause.

The PRESIDENT *pro tempore*. The question is on striking out the clause recommended by the Committee on the Judiciary, to be stricken out in the fourteenth section, on page 17.

The question being taken by yeas and nays, resulted—yeas 14, nays 25; as follows:

YEAS—Messrs. Cragin, Davis, Dixon, Fogg, Foster, Harris, Henderson, Lane, Saulsbury, Sprague, Sumner, Trumbull, Williams, and Wilson—14.

NAYS—Messrs. Brown, Buckalew, Cattell, Connors, Cowan, Doolittle, Edmunds, Fessenden, Grimes, Howard, Howe, Johnson, Kirkwood, Morgan, Morrill, Norton, Patterson, Poland, Pomeroy, Ramsey, Ross, Stewart, Van Winkle, Wade, and Willey—25.

ABSENT—Messrs. Anthony, Chandler, Creswell, Fowler, Frelinghuysen, Guthrie, Hendricks, McDougall, Nesmith, Nye, Riddle, Sherman, and Yates—13.

So the amendment was rejected.

Mr. HOWARD. Now that we are upon this passage, I desire to move an amendment which is verbal rather than substantial.

The PRESIDENT *pro tempore*. The Chair will suggest that there are other amendments reported by the committee not yet acted upon. The general practice is to go through with the amendments reported by the committee; but the Chair will entertain the amendment of the Senator from Michigan if he presses it.

Mr. POLAND. I shall not object to that course if the Senator from Michigan desires to move his amendment now.

Mr. HOWARD. I move to insert between the word "execution" and the word "by" the words "or other processes or order of any court;" so as to read:

Such other property not included in the foregoing exception as is exempted from levy on execution or other processes or order of any court.

The amendment was agreed to.

The Secretary read the next amendment reported by the Committee on the Judiciary, which was in section twenty-six, to strike out in lines forty-four, forty-five, and forty-six the words "on the application of any creditor or of the wife of the bankrupt, and on such reasonable notice shown as the court may direct, and for;" and in line forty-six after "shown" to insert "the wife of;" and in line forty-seven to strike out "bring his wife" and insert "attend;" so as to make the clause read:

For good cause shown, the wife of any bankrupt

may be required to attend before the court, to the end that she may be examined as a witness.

The amendment was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution of the Senate with amendments, in which the concurrence of the Senate was requested.

A bill (S. No. 453) regulating the tenure of certain civil offices; and

A joint resolution (S. R. No. 96) providing for the payment of certain Kentucky militia forces.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President *pro tempore*.

A bill (H. R. No. 1090) authorizing the Secretary of the Treasury to receive into the Treasury the residuary legacy of James Smithson, to authorize the Regents of the Smithsonian Institution to apply the income of the said legacy, and for other purposes; and

A joint resolution (H. R. No. 126) for the relief of certain settlers on the Sioux reservation in the State of Minnesota.

#### TENURE OF OFFICE.

The PRESIDENT *pro tempore*. The Chair will take this occasion to lay before the Senate the amendments of the House of Representatives just received to the bill (S. No. 453) regulating the tenure of certain civil offices.

The Secretary read the first amendment, which was in section one, to strike out in lines three, four, and five the words "excepting the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General."

Mr. EDMUNDS. I move that the Senate disagree to these amendments, and request of the House of Representatives a conference on the disagreeing votes.

Mr. TRUMBULL. I hope we shall agree to the House amendment. I see no occasion for a committee of conference. I think there is no reason in the world why the members of the Cabinet should not be included in the provisions of this bill. I think that we may as well meet that question here now as in a committee of conference. I was not present when this bill was passed by the Senate; but it seems to me that all the reasons why we should regulate the appointment and removal of officers apply to the members of the Cabinet as well as all others. I see no propriety in the exception. I trust we shall take the vote in the Senate upon the proposition, and see if we cannot agree with the House; and if it be in order, I make the motion that the Senate concur in the amendment of the House of Representatives.

The PRESIDENT *pro tempore*. That motion supercedes the motion that the Senate disagree and request a conference. The question, therefore, is on the motion of the Senator from Illinois, that the Senate agree to the amendment made to this bill by the House of Representatives.

Mr. EDMUNDS. I believe that it is usual in this body and in most other deliberative bodies, where, after a full and fair debate, a large majority have decided upon the propriety of a particular act of legislation, and the other House disagrees to that and proposes to amend it, to insist upon the view of this body and to ask for a conference upon the question. Now, sir, upon this very question, after full and fair debate, after all the reasons of both sides had been, I think, pretty much exhausted, after my friend from Wisconsin [Mr. Howe] had stated with great ability and with still greater eloquence, if it were possible, the reasons why the heads of Departments ought not to be excepted from the provisions of this bill, and when the considerations that presented themselves upon



the other side had been advanced, the Senate upon the yeas and nays, by a very large majority, decided to retain this exception. Under such circumstances I think it would be extraordinary, to say the least, for us, without any new reasons, because there can be none, (for, as I said, the debate so far as reasons go was exhausted upon the subject,) to suddenly retrace our steps without even conferring with the Representatives of the House as to the reasons which induced and controlled them in proposing to us this amendment. Therefore I hope we shall stand upon the ground which we have adopted and have a conference, and not concur in this amendment.

Mr. HOWE. For one, I hope we shall agree in the amendment of the House. I differ entirely with the Senator from Vermont in the statement he has made, that this question was fully argued when it was before the Senate. I hardly think any member of the Senate took any particular interest in getting the amendment made except myself. I was not prepared to argue it at any length, did not attempt to argue it at any length. I know other Senators, who were not then present, think the amendment ought to be made, and are prepared to give much more conclusive reasons for the faith that is in them than I did give at the time. But, above all, I have a profound conviction, I have a very strong feeling, that we ought not to pass this bill without making the amendment. I cannot for my life conceive, I could not on the occasion of that debate here, the reason which I should feel like presenting to the people of the United States for taking from the President the power to remove postmasters and collectors of customs and officers of that description, and leaving in his hands the power to remove the heads of Departments at his pleasure.

That the legislative department of the Government has not as complete control over the question of removing the heads of the Executive Departments as these other officers I do not think was disputed the other day or will be disputed now. It is a question of expediency, then, if our power is the same, whether we shall exercise this authority in reference to these officers; it is a question of expediency and not of power. Upon a question of expediency I do not think the Senate will insist upon its opinion against the deliberate opinion of the House of Representatives. We have every reason to believe that the conclusion of the House of Representatives was arrived at as deliberately as the opinion of the Senate. If the Senate will not recede from the position taken the other day upon a very casual debate, is there any reason for supposing that the House of Representatives will recede from the position which they have taken upon a debate much more full than that had in the Senate? I think not.

Beside that, I have no doubt my opinions are influenced a great deal by my feelings. My feeling is, as I said before, very strong that the Senate ought to recede, and that the House ought not to recede; and it is constitutional with me when I think a thing ought to be done to believe that it will be done. I hope the Senate will recede and agree with the House of Representatives.

Mr. TRUMBULL. I understand this bill to be based upon some principle, and I should like to know of the Senator from Vermont [Mr. EDMUNDS] what that principle is, except it be this: that when a person is put in an office for a fixed period he is to be permitted to hold that office during the period, unless there is cause for his removal.

Is that the principle of the bill? If it is not that, what is it? Why are we passing this bill except to correct what is supposed to be an evil by the turning of men out of office through caprice, or to accomplish political ends, or from improper considerations of some kind? If that is the principle of the bill, are you going to violate it and say that because an officer is a member of the Cabinet he may be removed without any cause whatever? What principle

is there in that? Will there be any difficulty in the President getting the consent of the Senate at any time to remove a Cabinet officer if there is any reason why he should be removed? Will any person fit to occupy the position of a Cabinet minister be likely to hold the place when his relations are unfriendly and hostile to the President? I apprehend not; and if he were disposed to hold it is there a Senator here that would hesitate a moment to confirm the nomination of the President for a member of his Cabinet to succeed such an officer when we understood that the relations between them were unpleasant, unless some public considerations were involved. Would there be any difficulty in the practical application of this bill? And do we not give up all the principle there is in it if we make this exception? We go to the country and say we have passed a bill upon principle, that public policy requires that the officers of the Government should be independent and not to hold their office simply at the will, the whim, and the caprice of the appointing power; and yet in that very bill we recognize the principle that a portion of them shall hold their offices at the will and the whim and the caprice of the appointing power.

I see no reason for excepting Cabinet officers, and I think there will be no difficulty in the practicable operation of the bill. If these officers are of the character such men ought to be, it is hardly to be presumed they would continue to hold office against the wishes of the President, with whom they were required to have personal intercourse. I apprehend such a case would hardly ever arise; but if there was a case where the public interests, the safety of the country, or its peace depended upon retaining in office a faithful public officer who was a Cabinet minister when it was sought to use him for the purpose of the overthrow or the destruction of the Government, I say the Senate ought to stand here and not allow him to be removed. If there is any principle in the bill, that is the principle. If that principle is omitted, I do not know why we are passing the bill.

Mr. HENDRICKS. I should hope never to see the time in this country when any man would hold a Cabinet office when he knew that it was disagreeable to the President. But I do not intend to discuss the question now. It was not expected, I presume, by many Senators that this bill would come up this afternoon; a great many seats are vacant; and I move to postpone the further consideration of the bill until Monday and proceed with the bankrupt bill. I know several Senators supposed the bankrupt bill was going on in its details and that that would be the only business before the Senate this afternoon, and they are not here, and a vote ought not to be taken at this time. This is a question upon which all Senators feel some interest.

Mr. SUMNER. I do not see precisely the reason for a postponement. The Senate is now unusually full, particularly when we consider that it is Saturday afternoon. I doubt whether on Monday we shall have more here than we have now. Then, the principle in question is so very simple that it will not require time or debate. I suppose every Senator is ready to vote upon it now. Why, then, postpone it? Should we come to a vote, my conclusion is very easy; I shall vote for the amendment. It seems to me that it is required by the general principle of the bill. Without that amendment, the bill is imperfect. However, on this motion to postpone, I will not go into the merits of the question.

Mr. EDMUNDS. I am indifferent, personally, whether this matter be postponed until Monday or not, because, so far as I am concerned, the reasons which have influenced my action have already been stated, and I have no fresh ones to give. The argument on the other side has been gone into to the largest extent. The Senator from Wisconsin [Mr. HOWE] entertained and instructed us the other day by at least two elaborate and skillful speeches on the subject. The Senator from Michigan, [Mr. HOWARD,] I am quite sure, maintained the

same side of the argument with his accustomed ability; and we were not lacking even in the assistance of the wisdom of the Senator from Massachusetts [Mr. SUMNER] upon this point. But, in spite of all that, the Senate, in a pretty full Senate, much fuller than now, by a very large majority, the number I do not recall—by a majority of 27 to 15 I am told by my friend from Maryland [Mr. JOHNSON]—refused to strike out these words. This identical subject was under debate for two successive days. I do not mean all the time; but in one form or another it was under consideration as to the propriety of striking out this clause in connection with inserting some others.

I do not think that anything will be gained by the gentlemen, who are determined that this clause shall be stricken out, supposing they had a majority at this moment, by forcing it to a vote and concurring with the House, because I think it altogether probable that the striking out of these exceptions will be the utter and entire defeat of the whole measure. Gentlemen who are desirous of taking the responsibility of having no regulation of this matter, for the simple reason that they cannot regulate it to the extent they think it advisable, may have it in their power to defeat action altogether, and of course must be willing to take the responsibilities which flow from that.

The principle that is involved in this measure is not precisely that which my honorable friend from Illinois [Mr. TRUMBULL] stated just now. He was not present the other day when this debate took place. The principle upon which this bill proceeds, its cardinal and all-embracing principle, is that the duration of an office, the tenure by which an officer shall hold it, is the subject of legal regulation. That is the whole of the essential principle of the bill. It being established that it is the subject of legal regulation by the law-making power of the country, then the question is, how far is it expedient to apply that principle to particular offices, and in what way is it expedient to apply that principle to particular offices? The bill then proceeds upon the idea that as to the chief executive advisers of the Chief Magistrate it is expedient that the law should confer upon the President, as it does now confer upon him, the power to dispense with the assistance of a particular individual in the recess if he chooses to do it. It proceeds in respect to other officers whose duties are merely mechanical and executive and are not confidential and advisory on the principle that as to them it is unfit that the public should lose the benefit of their services until the ultimate tribunal, the President and the Senate together, shall think proper. That is the principle of the bill.

Mr. HOWARD. I wish to ask a question of my honorable friend from Vermont. He says that the law at present authorizes the President to dismiss from office certain officers during the recess. Does the honorable Senator refer to any statute of the United States conferring this authority from the President, or merely to the practice and usage of the Government as they have heretofore existed? I am not aware of any statute on that particular subject, but I may be ignorant.

Mr. EDMUNDS. I did not refer to the practice, because I am not such a latitudinarian as to believe that a practice in the face of a Constitution as clear as I think ours is on this point would make the law; but I refer to the statutes of the United States, the acts of Congress, every one of which in creating these Departments, or nearly every one, provides an authority in the President to remove the chief executive officer of the Department at his will and in this way—

Mr. HOWARD. During the recess?

Mr. EDMUNDS. And in this way, not by expressly declaring that the officer shall hold his office at the pleasure of the President, but by providing that when the President shall remove the officer another officer shall exercise the functions of the office and have charge of

the archives of the Department. That, in my judgment, confers an authority upon the President to remove, not by express grant, but by clear and unanswerable implication. I ask my honorable friend from Michigan, as we are fond of putting questions, whether such a statute in such language would not by implication confer the power?

Mr. HOWARD. I should hardly give it that effect myself in construing the statute; but I should treat it rather in this way: I should treat it rather as a recognition of the practice and usage of the Government on that particular subject. I should not treat it as a legislative affirmation of the principle.

Mr. EDMUNDS. The misfortune about that is that it is arguing exactly as my friend from Indiana [Mr. HENDRICKS] and my friend from Pennsylvania [Mr. BUCKALEW] did, because they contend that those early acts of Congress were a recognition of what the constitutional law was; but the difficulty about its being the recognition of a practice is, that when the act of 1789 was passed establishing a Department of Foreign Affairs and some of the other Departments, the Government having just gone into operation, there was no practice to recognize. They were initiating a policy or a construction as the case may be; and the dispute, therefore, has always been since, whether under the force of those laws which were then enacted a prescription, so to speak, was running in favor of a particular construction of the Constitution because it was recognized, or whether no prescription ran at all, because upon the other side it might be treated as a power conferred. That has been the question, and that is illustrated more largely I think than in any other way, if you attend to the course of debates in the First Congress of the United States when that act was passed.

A majority of the persons who spoke in the House of Representatives upon the subject contended that the President under the Constitution had no such authority of removal. Some of that majority contended that it was a subject of legal regulation. Others of that majority contended that it was a power which, under the Constitution, resided incommunicably in the President in conjunction with the Senate. On the other hand, a minority of the speakers contended that the President possessed it alone. When a vote came to be taken a majority voted in favor of retaining the clause expressed in these words: "to be removable at the pleasure of the President." Some of them evidently voted in favor of that upon the ground that it being a subject of legal regulation, it was expedient to confer the power upon the President. Others may have voted upon the ground that the President had the power alone. A day or two afterward it was claimed by the friends of the presidential construction that this language expressly conferred a power, and therefore did not amount to any declaration of what the Constitution ought to be or was. They reconsidered that vote, and substituted for it this language, that when this officer shall be removed by the President of the United States then a certain other personage should exercise its functions *ad interim*. Even upon that vote some of the most distinguished of the members of that Congress who contended that it was a subject of legal regulation voted for those words, and voted for them upon the ground that there was still by that language a power conferred, and a power which they thought it expedient to confer.

Therefore, it results, Mr. President, that this early language of the statutes, this early passage of this act and the debate upon it demonstrate nothing in the way of an acknowledgment of constitutional and exclusive presidential power; and we are compelled now in resorting to that language to take it as it stands and to give it that construction which a lawyer or a judge or a statesman ought to give to it under the circumstances. I contend that we ought to give to it the construction of conferring upon the President a power which by legal regulation might be conferred if the law-making

power should think expedient to bestow it; and that has been followed; that is the history of legislation ever since. We have even gone so far only four or five years ago, in 1863, I think, in creating the national Currency Bureau, as to provide that the chief officer of that department should not be removed by the President without the advice and consent of the Senate, and no man made any special objection to it. There was then nothing political in it at all.

Therefore, Mr. President, to conclude, (for I am digressing from what is now the true point under consideration,) while the principle of this bill does proceed upon the idea that all this is a subject of legal regulation, the application of that principle proceeds upon the not unusual idea that there are certain classes of offices that ought to be held upon one tenure, and certain other classes of offices that ought to be held upon another tenure; and the reasons why these specific offices we are now speaking of ought to be held at the will of the President during the recess, and the reason why they ought not to be, were largely and fully and exhaustively gone into the other day, as it appears to me, when my friend from Wisconsin made a most able and exhaustive argument on the subject, when my friend from Michigan backed him with the power of his logic and his influence, and my friend from Massachusetts also. What, then, are we to gain by displacing the deliberate judgment of the Senate and undertaking now to accede to what appears to me to be the passionate will of the House of Representatives? We ought to consider, it appears to me, that in undertaking to do, we ought not to allow ourselves in the heat of the moment to over-do, and make that which is good in itself bad by carrying it too far.

The motion to postpone was not agreed to; there being, on a division—ayes 9, noes 25.

#### DEATH OF HON. PHILIP JOHNSON.

Mr. McPHERSON, Clerk of the House of Representatives, appeared below the bar and delivered the following message:

Mr. President, I am directed by the House of Representatives to communicate to the Senate information of the death of Hon. PHILIP JOHNSON, late a Representative from the State of Pennsylvania, and the proceedings of the House thereon.

The PRESIDENT *pro tempore*. The resolutions of the House of Representatives will be read.

The Secretary read the resolutions adopted by the House of Representatives.

Mr. BUCKALEW. Mr. President, I have certain resolutions to present to the Senate for adoption consequent upon the information just received from the House of Representatives. Before submitting those resolutions, however, I must say a few words which I think appropriate to the occasion.

PHILIP JOHNSON, a Representative in the other House from the eleventh congressional district of Pennsylvania, is no more. The House of which he was a member has adopted appropriate resolutions to do honor to his memory and to express, so far as any expression by them can go, their sincere condolence with his wife and friends over the great bereavement which they have suffered. I embrace the opportunity to express some words suited to the occasion, and they will be words, not of warm or extravagant eulogy, but of sincere regard and of genuine respect for the character and memory of the deceased.

Mr. JOHNSON was born in Warren county, in the State of New Jersey, on the 17th of January, 1818. When quite young he removed with his father to Northampton county, Pennsylvania, where he has ever since resided. He was a student of and received his education at La Fayette college, located at Easton, in that county. Subsequently, like many, perhaps a majority of the members doing service in the Senate and House, he was a teacher of youth, and served for two years in

that capacity. Afterward he was a student at law, and was, I think in 1848, admitted to practice in the several courts of Northampton county. In 1853 he was elected to the House of Representatives of the Legislature of my State, and was reelected in the year following, having thus two years of service in that body. In 1860, just before the commencement of our unexampled difficulties and sufferings in this country, he was elected from his congressional district to the national House of Representatives. He was again elected in 1862, and still again elected in 1864, though more than two elections to that branch of Congress is unusual in the practice of my State. I think that habit which the people of that State and many other States have fallen into is an exceedingly objectionable one. However, this is not the occasion to discuss it. Mr. JOHNSON was returned for a third time, the people of his district thus deviating in his favor from the ordinary political rule among the people of Pennsylvania in the election of members to the other House.

Almost at the end of his third term he has been struck down. He will no longer move among us to give his counsel or to utter those words of encouragement which are as necessary in public as in private life to the honest and faithful discharge of duty.

Mr. JOHNSON was my friend, and he exhibited that friendship on more occasions than one. It is therefore a duty in which regret and pleasure are mingled to stand forward and cast upon his bier an offering of some few, poor words.

The closing of a life career, especially of one which has been passed under public observation, is well calculated to arrest the attention and to subdue the passions of the human breast. We know that we are all destined, sooner or later, to pass through the dark valley and experience new conditions of existence in a future state; and naturally we feel concern and interest in the character and fate of the traveler who precedes us. Human sympathy is roused in contemplating his departure from among us to that bourn from whence none have returned to reveal to us the dread secrets of the future.

Such occasions as this alloy passion, because they render the contests of the time insignificant in our eyes. They are made to appear to us as the accidents of an imperfect life, utterly unworthy of comparison with those transcendent possibilities which lie hidden beyond the portals of death. What we can affect in this life we will be apt to think must appear of little moment in the eye of the Deity, under whose power are the gates of life and of death; who openeth and no man shutteth, and shutteth and no man openeth; in whose presence we are as the dust of the balance, and our proudest works as naught.

Come, ye proud and lofty ones of the earth, whose eyes are lifted up and before whom men make abject obeisance. Behold the end of life, to which you are destined in common with the humblest and weakest of men! Will you not perceive in the august presence of death that wealth is nothing and fame but empty sound, and that your ordinary cares and labors are but vanity and vexation of spirit.

But thanks be unto God, whose power and presence fill alike the earth and the heavens, that He hath established a moral government for the world, and that whatsoever is excellent and true and noble and just is pleasing in His sight and accordant to His will! and that even finite man, in his low estate, may in some measure glorify His government and His laws.

Our departed associate had earnestness of conviction and sincerity of soul. He did not ever bow basely to Mammon; he did not scorn or scoff the humble; he was not abject before the face of power; he was not subservient to the passions of others; nor did he shrink and cower before difficulties and opposition. While he was gentle and generous to the appeals of friendship, he was courageous and brave in the presence of danger.

But that feature of his character as a public man for which I bespeak particular commend-

ation and praise was his fidelity. He was no changeling. During the last hours of his existence he had faith in and stood by that creed which had fired his zeal in boyhood by the banks of the Delaware. He did not make shipwreck of his faith; he did not abandon his honest convictions when solicited by temptation or assailed by disaster. He was firm and intrepid in defending what he esteemed to be the right, and in denouncing and opposing what he believed to be wrong; and his blows upon political opponents, whether of defense or of aggression, were both manly and effective. His warfare was honorable, while his sagacity adapted him to leadership and secured him within the limited field of his action frequent and signal triumphs.

He made no pretensions to high ability. He claimed no front rank among the men of his age. But the place which he chose to fill he filled completely and with honor, and his chief ambition to be considered a true man by his fellows was completely realized.

I have reason to believe that our deceased associate, in spite of the depressing influence of disease and of what he regarded as unfortunate and unpropitious occurrences in the political world about him, was not dispirited and unhopeful of the future of his country. He looked beyond the clouds to that light which, though it may be obscured, cannot be extinguished, and which will surely return after a time to adorn and beautify the earth. He knew that war gives way in time to peace and to the works of peace; that charity and good will, though they depart from a nation, will return to its councils and to the hearts of its people; that the wounds of conflict may be healed; lives sacrificed may be replaced; industries suspended may resume their activity; and that vice and passion and crime, sown broadcast from the wings of war, may be checked in growth and subdued by generous statesmanship and by Christian labor. He left us with his faith in the destiny of our country unsubdued and unbroken; and shall we not share in that hope and contribute somewhat to its fulfillment? Are there no duties upon the living to execute the designs and complete the works of the departed? At least let us be hopeful also, and confident in the future of our country. If evils afflict us, if difficulties beset us, if dangers threaten, if wickedness prevail, let us "bate no jot of heart or hope," but emulate that spirit, that indomitable courage, with which Milton, old and blind and poor, within hearing of a ribald court and surrounded by a degenerate people, sang the advent of truth, justice, and brotherhood among men.

Mr. President, I offer the following resolutions:

*Resolved*, That the Senate has received with deep sensibility the announcement of the death of Hon. PHILIP JOHNSON, late a member of the House of Representatives from the State of Pennsylvania.

*Resolved*, That the members of the Senate, as a mark of respect for the memory of the deceased, will go into mourning by wearing crape on the left arm for the residue of the session.

*Resolved*, That the members of the Senate will attend the funeral of Hon. PHILIP JOHNSON to-morrow, at the hour designated by the House of Representatives.

*Resolved*, That, as a further mark of respect for the memory of the deceased, the Senate do now adjourn.

The resolutions were adopted *nemine contradicente*; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, February 2, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### COMMON SCHOOLS IN THE DISTRICT.

Mr. STEVENS, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

*Resolved*, That two thousand copies of the various

bills to establish a system of common schools in the District of Columbia be printed for the use of the members.

### REVENUE COLLECTIONS IN MARYLAND.

Mr. F. THOMAS, by unanimous consent, submitted the following resolution:

*Resolved*, That the Secretary of the Treasury be requested to communicate to this House a tabular statement showing the amount of revenue paid into the United States Treasury from Baltimore city and each one of the several counties of the State of Maryland during the years 1864 and 1865, from all sources except from duties on imports.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

### LEAVE OF ABSENCE.

Mr. BROOMALL asked and obtained leave of absence for Mr. STARR for one week.

Mr. KASSON asked and obtained indefinite leave of absence for Mr. MERCUR.

Mr. STOKES. I move that the leave of absence of my colleague, Mr. ARNELL, who is engaged in taking testimony in the case of his contested election, be indefinitely extended.

The motion was agreed to.

### LAND-GRANT RAILROAD IN MICHIGAN.

Mr. LONGYEAR. I ask unanimous consent that Senate bill No. 547, be taken from the Speaker's table and put on its passage now. It is a purely local matter. The bill is entitled "An act to amend an act entitled 'An act to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Amboy, by Hillsdale and Lansing, to some point on or near Traverse Bay, in the State of Michigan, and for the completion of said road,'" approved July 3, 1866.

Mr. COBB. I object.

Mr. LONGYEAR. I hope the gentleman will withdraw his objection till he hears a brief explanation of the bill.

Mr. COBB. Very well.

Mr. ROSS. I object.

Subsequently Mr. Ross said: Understanding that this bill provides for no additional grant of land I withdraw my objection.

Mr. CONKLING. I ask that the bill be read, reserving the right to object.

The bill, which was read, provides that the first section of the act named in the bill be extended by striking out "February" and inserting "July."

Mr. GARFIELD. I object to the consideration of this bill without its reference to a committee.

Mr. DRIGGS. The bill has received the unanimous approval of the Committee on Public Lands. It simply proposes an extension of time for three months.

Mr. STEVENS. I object to its consideration now.

### COMMITTEE ON THE JUDICIARY.

Mr. WILSON, of Iowa. I move that the Committee on the Judiciary have leave for the remainder of the session to sit during the sessions of the House.

The motion was agreed to.

### AGRICULTURAL REPORT FOR 1865.

Mr. GRINNELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Superintendent of Public Printing be, and is hereby, directed to intersperse the illustrations in the Agricultural Report for 1865, in the edition furnished to members of Congress in the same manner as in the edition furnished to the Commissioner of Agriculture.

Mr. GRINNELL moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed House bill No. 718,

to provide increased revenue from imports, and for other purposes, with sundry amendments, in which he was directed to ask the concurrence of the House.

It further announced that that body had passed, without amendment, House bill No. 1090, authorizing the Secretary of the Treasury to receive into the Treasury the residuary legacy of James Smithson, to authorize the Regency of the Smithsonian Institution to apply the income of said legacy, and for other purposes.

### HOLDING EVENING SESSIONS.

Mr. HOOPER, of Massachusetts. I move that on and after Monday next the House take a recess at half past four o'clock p. m. until half past seven, except on Saturdays.

The SPEAKER. It requires unanimous consent to agree to this motion at the present time.

Mr. WENTWORTH. If these evening sessions are to be devoted to speech-making I will not object.

Mr. HOOPER, of Massachusetts. I propose that they shall be devoted to business.

Mr. WENTWORTH. I object if any votes are to be taken.

Mr. HOOPER, of Massachusetts. I give notice that on Monday I shall move a suspension of the rules for the purpose of making this motion.

### INDIAN DIFFICULTIES.

Mr. SCHENCK. As chairman of the Committee on Military Affairs I have received two communications in relation to some very serious difficulties arising from the fact that the agents and traders are furnishing arms to the Indians, which General Sherman has been obliged to stop in a summary way. I ask that these communications may be referred to the Committee on Military Affairs and ordered to be printed.

The SPEAKER. If there is no objection, it will be so ordered.

There was no objection.

### REPORT ON CIVIL SERVICE.

Mr. JENCKES, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

*Resolved*, That two thousand extra copies of the report of the joint select Committee on the Civil Service of the United States be printed for the use of the House.

Mr. ALLISON demanded the regular order of business.

### TENURE OF CIVIL OFFICES.

The SPEAKER announced as the first business in order after the morning hour the bill (S. No. 453) entitled "An act regulating the tenure of certain civil offices," the pending question being upon the motion to reconsider the vote by which the amendment of Mr. WILLIAMS was rejected.

The amendment was read, as follows:

On lines three, four, and five of section one strike out the following:

Excepting the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, and the Postmaster General, and Attorney General.

Mr. HALE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 75, nays 66, not voting 49; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Baker, Baxter, Beaman, Bidwell, Blaine, Boutwell, Brownell, Broomall, Buckland, Rader, W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Delano, Dixon, Donnelly, Eckley, Eggleston, Eliot, Farquhar, Garfield, Grinnell, Abner C. Harding, Hayes, Higby, Hill, Hooper, Hotchkiss, John H. Hubbard, Hulburd, Julian, Kelley, Kootz, Lafin, William Lawrence, Loan, Lynch, McKee, McRuer, Miller, Moorhead, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Perham, Pike, Price, William H. Randall, Collins, Sawyer, Stebbins, Stevens, Sloan, Spalding, Stevens, Stokes, Trowbridge, Unson, Van Aernam, Burt Van Horn, Henry D. Washburn, Welker, Wentworth, Williams, James F. Wilson, and Stephen F. Wilson—75.

NAYS—Messrs. Ancona, Delos R. Ashley, Bergen, Bingham, Boyer, Campbell, Cooper, Davis, Dawes, Dawson, Deffrees, Deming, Dodge, Driggs, Eldridge, Farnsworth, Ferry, Finck, Glossbrenner, Goodyear,



Griswold, Hale, Aaron Harding, Hawkins, Hise, Hogan, Holmes, Chester D. Hubbard, Edwin N. Hubbard, James R. Hubbell, Humphrey, Hunter, Ingersoll, Jenckes, Kasson, Kuykendall, George V. Lawrence, Le Blond, Leftwich, Longyear, Marvin, Maynard, McCullough, Niblack, Nicholson, Noel, Phelps, Plants, Pomeroy, Samuel J. Randall, Raymond, Rogers, Ross, Schenck, Shanklin, Stilwell, Strouse, Nathaniel G. Taylor, Francis Thomas, Thornton, Trimble, Andrew H. Ward, Warner, William B. Washburn, Whaley, and Winfield—60.

**NOT VOTING**—Messrs. Arnell, James M. Ashley, Baldwin, Banks, Barker, Benjamin, Blow, Brandegee, Bundy, Chanler, Culver, Darling, Denison, Dumont, Harris, Hart, Henderson, Asahel W. Hubbard, Demas Hubbard, Jones, Kelso, Kerr, Ketcham, Latham, Marshall, Marston, McClurg, McIndoe, Mercur, Morris, Newell, Patterson, Radford, Alexander H. Rice, John H. Rice, Ritter, Rousseau, Sitgreaves, Starr, Taber, Nelson Taylor, Thayer, John L. Thomas, Robert T. Van Horn, Hamilton Ward, Elihu B. Washburne, Windom, Woodbridge, and Wright—49.

So the motion to reconsider was agreed to.

The question then recurred on the amendment.

Mr. ANCONA demanded the yeas and nays. The yeas and nays were ordered.

Mr. LE BLOND. I ask unanimous consent to submit an amendment to the amendment.

Mr. WILSON, of Iowa. I object.

The question was taken; and it was decided in the affirmative—yeas 82, nays 63, not voting 55; as follows:

**YEAS**—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baxter, Beaman, Bidwell, Bingham, Blaine, Blow, Boutwell, Broomall, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Ferry, Garfield, Grinnell, Abner C. Harding, Hayes, Henderson, Higby, Hill, Hooper, Hotchkiss, John H. Hubbard, Hulburd, Julian, Kelley, Koontz, Ladin, William Lawrence, Loan, Lynch, McKee, McKuer, Miller, Moorhead, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Perham, Pike, Price, William H. Randall, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Spaulding, Stevens, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Henry D. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—82.

**NAYS**—Messrs. Ancona, Delos R. Ashley, Bergen, Boyer, Campbell, Cooper, Davis, Dawes, Dawson, DeFrees, Deming, Eldridge, Farnsworth, Farquhar, Finck, Glossbrenner, Goodyear, Griswold, Hale, Aaron Harding, Harris, Hawkins, Hise, Hogan, Holmes, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Ingersoll, Jenckes, Kasson, Kuykendall, George V. Lawrence, Le Blond, Leftwich, Longyear, Marvin, Maynard, McCullough, Niblack, Nicholson, Noel, Phelps, Plants, Pomeroy, Samuel J. Randall, Raymond, Rogers, Ross, Schenck, Shanklin, Stilwell, Strouse, Nathaniel G. Taylor, Thornton, Trimble, Andrew H. Ward, Warner, William B. Washburn, Whaley, and Winfield—63.

**NOT VOTING**—Messrs. Arnell, Baldwin, Banks, Barker, Benjamin, Brandegee, Bundy, Chanler, Culver, Darling, Delano, Denison, Dodge, Hart, Asahel W. Hubbard, Demas Hubbard, Jones, Kelso, Kerr, Ketcham, Latham, Marshall, Marston, McClurg, McIndoe, Mercur, Morris, Newell, Patterson, Radford, Alexander H. Rice, Ritter, Rousseau, Sitgreaves, Starr, Taber, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Robert T. Van Horn, Hamilton Ward, Elihu B. Washburne, Woodbridge, and Wright—45.

So the amendment was agreed to.

During the vote,

Mr. VAN HORN, of New York, stated his colleague [Mr. WARD] was detained from the House by illness, and that if present he would vote in the affirmative.

The vote was then announced as above recorded.

The SPEAKER. By unanimous consent, the gentleman from Ohio [Mr. GARFIELD] was authorized to offer an amendment to the second section, which was to be voted upon in case the House agreed to the amendment just adopted. It could not have been offered as an amendment to the amendment because the power of amendment was exhausted under the rule.

Mr. GARFIELD. I only waived it because this was not carried. I now renew it.

The Clerk reported the amendment of Mr. GARFIELD as follows:

In lines three and four of section two strike out the following:  
And excepting those specially excepted in section one of this act.

The amendment was agreed to.

Mr. LE BLOND. I now ask unanimous consent to offer an amendment, which I think ought to go in order to carry out the object

of the bill. I think it will meet with no objection.

Mr. BENJAMIN objected.

Mr. LE BLOND. Let it be reported.

Mr. BENJAMIN. I object.

The bill, as amended, was ordered to be read a third time, and was accordingly read the third time.

Mr. BOUTWELL. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. LE BLOND. I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken, it was decided in the affirmative—yeas 111, nays 88, not voting 41; as follows:

**YEAS**—Messrs. Alley, Allison, Ames, Anderson, Baker, Baxter, Beaman, Bidwell, Blaine, Blow, Boutwell, Broomall, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Davis, Dawes, DeFrees, Deming, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hale, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Koontz, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, Maynard, McKee, McKuer, Miller, Moorhead, Morrill, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spaulding, Stokes, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Windom—111.

**NAYS**—Messrs. Ancona, Bergen, Boyer, Campbell, Cooper, Dawson, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Harris, Hise, Hogan, Edwin N. Hubbell, Humphrey, Hunter, Le Blond, Leftwich, McCullough, Niblack, Nicholson, Noel, Phelps, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Stilwell, Strouse, Nathaniel G. Taylor, Thornton, Trimble, Andrew H. Ward, Whaley, and Winfield—88.

**NOT VOTING**—Messrs. Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Barker, Benjamin, Bingham, Brandegee, Chanler, Culver, Darling, Delano, Denison, Asahel W. Hubbard, Demas Hubbard, Jones, Kelso, Kerr, Ketcham, Latham, Marshall, Marston, McClurg, McIndoe, Mercur, Morris, Newell, Radford, Sitgreaves, Starr, Stevens, Taber, Nelson Taylor, Thayer, John L. Thomas, Robert T. Van Horn, Hamilton Ward, Elihu B. Washburne, Woodbridge, and Wright—41.

So the bill was passed.

During the roll-call,

Mr. HUMPHREY stated that his colleague, Mr. TAYLOR, was paired with Mr. WARD.

Mr. NIBLACK stated that his colleague, Mr. KERR, was still detained from the House by indisposition.

The result having been announced as above recorded,

Mr. HALE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TARIFF BILL.

Mr. MORRILL. I ask unanimous consent to take from the Speaker's table the tariff bill and have it printed.

The motion was agreed to.

Mr. MORRILL, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing, under the law:

*Resolved*, That two thousand copies of the tariff bill be printed for the use of the House.

#### HEIRS OF THOMAS W. HARVEY.

The SPEAKER. The morning hour has now commenced and the House resumes the consideration of the bill pending at the expiration of the morning hour yesterday, being House bill No. 1060, extending certain letters-patent for benefit of heirs of Thomas W. Harvey, the pending question being on seconding the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time.

Mr. HALE. I demand the yeas and nays on the passage.

Mr. WILSON, of Iowa. I move to lay the bill on the table.

Mr. ALLISON. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 74, nays 62, not voting 54; as follows:

**YEAS**—Messrs. Alley, Allison, Ames, Beaman, Bidwell, Bingham, Boutwell, Boyer, Broomall, Campbell, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cooper, Dawson, DeFrees, Delano, Deming, Dumont, Eckley, Eliot, Farnsworth, Finck, Garfield, Glossbrenner, Goodyear, Grinnell, Hale, Aaron Harding, Hawkins, Henderson, Holmes, Hooper, Edwin N. Hubbell, Humphrey, Hunter, Ingersoll, Julian, Kasson, Koontz, William Lawrence, Leftwich, Maynard, McKee, Moorhead, Morrill, Nicholson, Paine, Perham, Phelps, Pike, Plants, Price, Samuel J. Randall, William H. Randall, Ritter, Ross, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spaulding, Stevens, Stokes, Francis Thomas, Van Aernam, Warner, William B. Washburn, Wentworth, Williams, and James F. Wilson—74.

**NAYS**—Messrs. Ancona, Anderson, Baker, Baldwin, Bergen, Broomall, Buckland, Bundy, Davis, Dixon, Dodge, Donnelly, Driggs, Eldridge, Ferry, Griswold, Abner C. Harding, Hart, Hayes, Higby, Hill, Hogan, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Jenckes, Kelley, Kuykendall, Ladin, Le Blond, Loan, Longyear, Marvin, McClurg, McCullough, Miller, Moulton, Myers, Niblack, Noel, O'Neill, Orth, Pomeroy, Alexander H. Rice, Rogers, Rousseau, Shanklin, Stilwell, Strouse, Nathaniel G. Taylor, Thornton, Trimble, Trowbridge, Upson, Burt Van Horn, Andrew H. Ward, Henry D. Washburn, Welker, Stephen F. Wilson, and Wright—62.

**NOT VOTING**—Messrs. Arnell, Delos R. Ashley, James M. Ashley, Banks, Barker, Baxter, Benjamin, Blaine, Blow, Brandegee, Chanler, Cullom, Culver, Darling, Dawes, Denison, Eggleston, Farquhar, Harris, Hise, Asahel W. Hubbard, Demas Hubbard, Jones, Kelso, Kerr, Ketcham, Latham, George V. Lawrence, Lynch, Marshall, Marston, McIndoe, McKuer, Mercur, Morris, Newell, Patterson, Radford, Raymond, John H. Rice, Rollins, Sitgreaves, Starr, Taber, Nelson Taylor, Thayer, John L. Thomas, Robert T. Van Horn, Hamilton Ward, Elihu B. Washburne, Whaley, Windom, Winfield, and Woodbridge—54.

So the bill was laid on the table.

During the roll-call,

Mr. RITTER stated that his colleague, Mr. HISE, was absent from the House on account of indisposition.

The result of the vote was announced as above recorded.

Mr. WILSON, of Iowa. I move to reconsider the vote by which the bill was laid on the table, and to lay the motion to reconsider on the table.

Mr. MYERS. I demand the yeas and nays on that motion.

Mr. WILSON, of Iowa. Then I withdraw the motion.

The SPEAKER proceeded with the call of committees.

Before any reports were made,

Mr. WASHBURN, of Massachusetts, said: I rise to a privileged motion. I move to reconsider the vote by which the bill in relation to the Harvey patents was laid on the table, and to lay the motion to reconsider on the table.

The latter motion was agreed to.

The SPEAKER resumed the call of committees for reports of a private nature.

Mr. ROLLINS. Is a bill regulating the pay of the employés of the House a private bill?

The SPEAKER. It is not. A bill regulating the pay of one employé would be a private bill, but one regulating the pay of all the employés would not be.

#### MRS. EMMA A. PORCH.

Mr. DELANO, from the Committee of Claims, reported a bill for the relief of Mrs. Emma A. Porch; which was read a first and second time.

The bill directs the Secretary of the Treasury to pay to Mrs. Emma A. Porch — dollars for services rendered by her to the United States as a spy and agent of the United States in the State of Missouri.

Mr. DELANO. I move to fill the blank with "\$500," and I ask that the bill be put upon its passage.

Mr. ROSS. The bill makes an appropriation, and I move that it be referred to the Com-

mittee of the Whole House on the Private Calendar.

The motion was agreed to.

W. W. POTTER.

Mr. DELANO, by unanimous consent, also, from the Committee of Claims, reported a joint resolution to authorize the Secretary of the Treasury to pay a certain draft of W. W. Potter, late acting military agent of the State of New York.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DELANO moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PAYMENT OF KENTUCKY MILITIA.

Mr. DELANO, from the Committee of Claims, also reported back, with an amendment, Senate joint resolution No. 94, providing for the payment of certain Kentucky militia forces.

The joint resolution was read. It directs the Secretary of War to cause to be investigated the claims of the forces called out under the command of James S. Fish in May, 1862, and to pay the said forces at the same rates for actual service rendered while passing from their homes as was allowed by law at the time to other volunteer forces; the officers to be paid as of the grade to which the number of men, under the mustering regulations of the Army in force at that time, would have entitled officers.

The amendment of the committee was to add the following:

And no allowance shall be made for any troops which did not perform actual military service in full connection and cooperation with the authorities of the United States and subject to their order; and before recognizing the services of the claimants under this act the Secretary of War shall be satisfied that to insure the safety of Brigadier General Morgan's command there was a reasonable necessity that he should call out the said troops.

Mr. McKEE. I move to amend the amendment by striking out the last clause, as follows:

And before recognizing the services of the claimants under this act the Secretary of War shall be satisfied that to insure the safety of Brigadier General Morgan's command there was a reasonable necessity that he should call out the said troops.

I make this motion for this reason: those troops were ordered out by the general then commanding at Cumberland Gap. If they are entitled to pay at all, they are entitled to it upon their services in pursuance of this order. Now, if this amendment reported from the committee shall be adopted without modification it will make it a matter of discretion with the Secretary of War to judge at this time of the necessity of that order of the general in command of the post at Cumberland Gap at that time. Now it is very probable that there was no pressing necessity for that order; but even if that be true, these troops which were ordered into the service had no discretion; it was not in their power to decide upon the necessity of the order. They were obliged to obey the order without question; they did obey that order; and if they are entitled to pay at all they are entitled to it for the services they rendered, whether the order was necessary or not.

Mr. DELANO. I have only a word to say. The joint resolution requires that the Secretary of War shall find that there was a reasonable necessity for the order calling out these troops. This subject received the full consideration of the Committee of Claims, and the amendment I have reported received the approbation of all the members but two, I believe. I now call the previous question.

The previous question was seconded and the main question ordered.

The question was upon the amendment of Mr. McKEE to the amendment reported from the Committee of Claims; and being taken, upon a division, there were—ayes 18, noes 40; no quorum voting.

Mr. McKEE. I will not insist upon a further vote, though I think the amendment I have offered should be adopted.

Mr. LE BLOND. I will call for tellers on the amendment of the gentleman from Kentucky, [Mr. McKEE.] These troops performed this service under orders, and they should be paid whether the order was proper or not.

Tellers were ordered; and Messrs. DELANO and LE BLOND were appointed.

The House again divided; and the tellers reported that there were—ayes 62, noes 40.

So the amendment to the amendment was agreed to.

The amendment, as amended, was then agreed to.

The joint resolution, as amended, was then read the third time, and passed.

Mr. DELANO moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. THORNTON, from the Committee of Claims, reported adversely upon the following, which were laid on the table, namely:

The petition of Mrs. Susan Buchanan, praying that she be reimbursed for losses sustained in consequence of acts of the Federal Army;

The petition of Madison Newton, asking allowance of extraordinary medical expense and personal attention because of wounds of his son received in the service;

Memorial of Mrs. Rachel Holt, for damages;

Petition of Captain A. N. Wells, for claim against the United States; and

Petition of Mrs. Susan B. Ager, for damages.

GEORGE M. AND NAHUM FAY.

Mr. THORNTON, from the Committee of Claims, reported back, with an amendment, a bill entitled "An act for the relief of George M. Fay and Nahum Fay."

The bill, which was read, proposes to direct the Secretary of the Treasury to pay to Messrs. Fay, of Eureka, Humboldt county, California, \$7,000 in full for the use of premises occupied by captured Indians from 1862 to 1865, for taking care of sick and infirm Indians, and for depredations sustained from the Indians.

The amendment of the committee was to strike out \$7,000 and insert \$3,000.

Mr. BIDWELL. I desire to make an inquiry of the committee with reference to this bill, which is one introduced by myself. These parties actually claimed damages to the amount of about \$13,000. A thousand Indians were at one time stationed upon their premises, remaining there from 1862 to 1865. I would like to know why the committee have cut down the amount to \$3,000.

Mr. THORNTON. There was no satisfactory proof that damages to the amount of more than \$3,000 had been sustained by the claimants. The committee based this amount entirely upon the damage to the farm of the claimants, the destruction of their crops, fences, &c. For this the committee deemed it proper to make allowance at the rate of \$1,000 per year.

Mr. Speaker, I call for the previous question.

The previous question was seconded and the main question ordered; which was upon the amendment reported by the committee.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. THORNTON moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

J. AND O. P. COBB AND COMPANY.

Mr. DELANO, from the Committee of Claims, reported back without amendment a

joint resolution for the relief of J. & O. P. Cobb & Co., of Aurora, Indiana.

The joint resolution, which was read, proposes to direct the Treasurer of the United States to pay to Messrs. Cobb & Co., out of any money applicable to the payment of claims against the Quartermaster's Bureau, \$7,890 13, in full compensation for hay taken and destroyed by order of General Boyle, on the Ohio river, in July, 1863.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DELANO moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE HENRY PREBLE.

Mr. DELANO. The Committee of Claims, to whom was referred Senate bill No. 176, entitled "An act for the relief of George Henry Preble," a commander in the Navy of the United States, have directed me to report it back, and move that it be indefinitely postponed.

Mr. BLAINE. I trust the gentleman from Ohio will not press that motion. Let the bill go on the Private Calendar.

Mr. DELANO. Very well. I withdraw the motion to postpone indefinitely, and move that the bill be referred to the Committee of the Whole on the Private Calendar.

The motion was agreed to.

CHARLES TAYLOR.

Mr. SLOAN, from the Committee of Claims, submitted an adverse report on the petition of Charles Taylor, collector of customs for the district of Saluria, Texas, praying reimbursement of moneys paid by him to subordinates and not allowed him by the Treasury Department; which was laid on the table.

JOHN TRADER.

Mr. SLOAN also, from the Committee of Claims, submitted an adverse report on the petition of John Trader, praying compensation for the use of lots in Washington city by the quartermaster's department; which was laid on the table.

BENJAMIN DE FORD AND OTHERS.

Mr. SLOAN also, from the Committee of Claims, submitted an adverse report on the petition of Benjamin, Isaac, and Thomas De Ford, of Baltimore, Maryland; praying compensation for property used by the Army; which was laid on the table.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bill No. 1090, authorizing the Secretary of the Treasury to receive into the Treasury the residuary legacy of James Smith, to authorize the regents of the Smithsonian Institution to apply the income of the said legacy, and for other purposes; when the Speaker signed the same.

VICTOR MYLENS.

Mr. WASHBURN, of Indiana, from the Committee of Claims, reported a bill for the relief of Victor Mylens, first lieutenant sixty-eight New York volunteers; which was read a first and second time.

The bill directs the Secretary of War and the proper accounting officers of the Treasury to recognize the military services of Victor Mylens, late of the sixty-eighth New York volunteers, as an officer of said regiment; and that he shall receive the pay and allowances of the rank of second lieutenant from the 17th of April to the 16th of May, 1863, and of the rank of first lieutenant thereafter to the 6th of June, 1865, deducting therefrom the amount received by him as a private soldier in said regiment for the same time.

The report was read.

Mr. COBB. I make the point of order that that bill should have its first consideration in

the Committee of the Whole House on the Private Calendar.

The SPEAKER. The point of order comes too late.

Mr. WASHBURN, of Indiana. I demand the previous question.

The House divided; and there were—ayes 31, noes 12; no quorum voting.

The SPEAKER. No quorum voting, the Chair will appoint tellers.

Mr. CONKLING. I ask what objection is there to letting the gentleman from Wisconsin say a few words?

Mr. WASHBURN, of Indiana. I have no objection to hearing him for an hour if we had that much of the morning hour remaining, but we have only twelve minutes left, as I understand. I withdraw the call for the previous question, and yield to him for five minutes.

Mr. COBB. This, sir, is a proposition to recognize the services of a foot soldier as an officer. It is entirely new legislation, and ought not to be enacted without full consideration. Now, shall we launch out upon this entirely new and untraveled ground? Bills heretofore introduced to pay soldiers as officers, who for one cause or another failed to receive their commissions and be mustered in, have uniformly been rejected. I have no doubt this is a worthy soldier, and that he ought to have been promoted. I know many bad soldiers who were promoted when good ones were neglected.

This man, it appears, was captured by the enemy. The Governor of his State issued a commission, which he did not receive in consequence of his captivity, and, as I understand, another was commissioned and served in his place, and received pay as such. If we are to commence with this case and to look over the vast army we had in the field to find all of the men who served worthily and who, before being discharged, had the misfortune to be cheated out of their promotion and the consequent emoluments, then we will start in an undertaking that will have no end. The expense to the Treasury no man can conjecture. I only ask the House to pause before launching out into this wide sea of claims.

If I have any time left I yield to the gentleman from Illinois.

The SPEAKER. The gentleman has two minutes.

Mr. HARDING, of Illinois. The rule which prevails at the War Department is to refuse to muster and pay any officer who has not performed at least some duty under his commission. I had a similar case myself which was rejected by the War Department. We have passed a law if the man returned from captivity and served one day his pay shall go back and commence with the date of his commission. I hope this bill will pass. This man served well and was only prevented by captivity with the enemy from being mustered in under his commission; and I do not think because of that fact he should be denied his rights.

Mr. WASHBURN, of Indiana. The gentleman from Wisconsin misunderstands this case. This man did serve; he was in the battle of Gettysburg, and while wounded was taken prisoner and held as such by the enemy for a long time. His commission was issued, but he failed to get it on account of his imprisonment.

Mr. McKEE. I will state another fact that, notwithstanding the statement of the gentleman from Wisconsin, no other person was appointed in this man's place or received pay for it.

Mr. COBB. If the gentleman is correct then the report is wrong.

Mr. WASHBURN, of Indiana, called for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Indiana, moved to

reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was disagreed to.

#### ADVERSE REPORTS.

Mr. McKEE, from the Committee on Claims, reported back adversely the petition of Mary Riggles and the memorial of Chaplain Gonzales; and the same were laid on the table.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, made adverse reports in the following cases; which were laid on the table, and ordered to be printed:

House bill No. 198, for the relief of Alexander W. McConnell, together with the petition accompanying the same, praying compensation for property and stores taken by United States troops at Savannah, Georgia; and

The petition of James Todd, administrator of Samuel P. Todd, deceased, late purser in the United States Navy, praying reimbursement for losses sustained by him on clothing.

#### ALMANSON EATON.

Mr. WASHBURN, of Massachusetts, from the same committee, reported a joint resolution for the relief of Almonson Eaton, receiver of public money for the land office at Stevens Point, Wisconsin; which was read a first and second time.

The bill authorizes the proper accounting officer in settling the account of the petitioner, upon satisfactory evidence being made and filed, to credit to him the sum of \$2,092 72 of the public money lost and destroyed by fire from the burning of the offices, books, papers, and the public money of the register and receiver at Stevens Point on the night of December 29, 1865.

Mr. ROSS called for the reading of the report.

The report was read, and at the conclusion of the reading the morning hour expired, and the bill went over until Friday next.

#### PETROLEUM COMPANY OF WASHINGTON.

Mr. HENDERSON, by unanimous consent, introduced a bill to incorporate the Petroleum Company of Washington city; which was read a first and second time, and referred to the Committee for the District of Columbia.

Mr. HARDING, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CIVIL SERVICE.

The SPEAKER announced as the next business in order the consideration of bill of the House No. 889, to regulate the civil service of the United States and promote the efficiency thereof, on which Mr. HALE was entitled to the floor.

Mr. HALE. As I understand there are other matters of business that will come up to-day which render it desirable that this bill should give way to them, and as I have to leave to-day, I will yield the floor to my colleague on the committee, [Mr. SCHENCK.]

Mr. SCHENCK. I yield to my colleague, [Mr. DELANO,] who wishes to proceed with the Private Calendar.

#### ORDER OF BUSINESS.

Mr. DELANO. Mr. Speaker, there are one or two very meritorious claims on the Private Calendar. This, I understand, is objection day, and probably the last objection day that will occur during the session. I am authorized by the gentleman from Pennsylvania, [Mr. ANCONA,] who expects soon to announce the death of his colleague, to state that before he takes the floor we may have half an hour for the consideration of the Private Calendar. For that purpose I move that the House resolve itself into the Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The SPEAKER. It will be understood, if there is no objection, that at half past two o'clock to-day business will be suspended, and

the floor will be assigned to the gentleman from Pennsylvania [Mr. ANCONA] to announce the death of his colleague, Mr. JOHNSON.

There was no objection.

#### PRIVATE CALENDAR.

The House resolved itself into the Committee of the Whole House, (Mr. BOUTWELL in the chair,) and proceeded to the consideration of bills and joint resolutions on the Private Calendar as on "objection day;" which were disposed of as follows:

Those bills on the Private Calendar which had been heretofore called to which less than five members objected were laid aside; and those called for the first time to which no objection was made were likewise laid aside to be reported to the House.

#### JOHN R. BECKLEY.

Joint resolution (H. R. No. 174) authorizing the Secretary of the Treasury to audit and pay the claim of John R. Beckley.

No objection being made, the joint resolution was laid aside to be reported to the House, with a recommendation that it do pass.

#### SUFFERERS BY PORTLAND FIRE.

An act (S. No. 425) for the relief of the sufferers by the late fire in Portland.

Mr. DELANO. I suppose it is hardly desirable to take this up to-day.

The CHAIRMAN. The bill will be considered as objected to.

#### JOHN T. JONES.

A bill (S. No. 122) for the relief of John T. Jones, an Ottawa Indian, for depredations committed by white persons upon his property in Kansas Territory.

Mr. DELANO. I know nothing of this bill. The CHAIRMAN. It will be considered as objected to.

#### DONAHUE, RYAN, AND SECOR.

A joint resolution (S. R. No. 141) for the relief of Donahue, Ryan & Secor, builders of the iron-clad monitor Camanche. [Objected to.]

#### BOLMER AND WEBER.

A bill (H. R. No. 821) for the relief of Bolmer & Weber, of St. Louis, Missouri. [Objected to.]

#### GOLDSMITH BROTHERS.

An act (S. No. 192) for the relief of Goldsmith Brothers, of the city of San Francisco, California, and Portland, Oregon, brokers. [Objected to.]

#### E. J. CURLEY.

A bill (S. No. 448) for the relief of E. J. Curley.

Less than five objections being made, the bill was laid aside to be reported to the House.

The Clerk, having concluded the reading of the bills subject to five objections, then proceeded to read those subject to one objection.

#### MRS. EMMA A. PORCH.

A bill (H. R. No. 1094) for the relief of Mrs. Emma A. Porch. [Objected to.]

#### GEORGE HENRY PREBLE.

A bill (S. No. 176) for the relief of George Henry Preble, a commander in the Navy of the United States. [Objected to.]

There being no further bills upon the Calendar subject to one objection, the Clerk proceeded to read the bills remaining on it subject to five objections.

#### MRS. EMMA A. PORCH.

A bill (H. R. No. 1094) for the relief of Mrs. Emma A. Porch.

Less than five members objecting, the bill was laid aside, to be reported to the House with the recommendation that it do pass.

#### GEORGE HENRY PREBLE.

A bill (S. No. 176) for the relief of George Henry Preble, a commander in the Navy of the United States. [Objected to.]

Mr. DELANO. I move that the committee do now rise.

The motion was agreed to.



So the committee rose; and the Speaker having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole House had had under consideration the Private Calendar, and had instructed him to report to the House a joint resolution and two bills with the recommendation that they do pass.

The House proceeded to the consideration of the joint resolution and bills reported by the committee.

JOHN R. BECKLEY.

Joint resolution (H. R. No. 174) authorizing the Secretary of the Treasury to audit and pay the claim of John R. Beckley.

Mr. DELANO. I demand the previous question on the joint resolution.

The previous question was seconded and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. DELANO moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

E. J. CURLEY.

A bill (S. No. 443) for the relief of E. J. Curley.

Mr. DELANO. I demand the previous question on that bill.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. DELANO moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MRS. EMMA A. PORCH.

A bill (H. R. No. 1094) for the relief of Mrs. Emma A. Porch.

Mr. DELANO. I move the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DELANO moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONGRESSIONAL PRINTER.

Mr. LAFLIN. The Committee on Printing, which is authorized to report at any time, have instructed me to report a bill providing for the election of a congressional printer.

The bill was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. The first section provides that the House of Representatives shall elect *viva voce* some competent person, who shall be a practical printer, to take charge of and manage the Government Printing Office.

The second section provides that the person so elected shall be deemed an officer of the House of Representatives, and shall be denominated "Congressional Printer," and shall hold his office for two years and until his successor shall be elected. He shall print and bind the Journals and such other documents as may be ordered by each House of Congress; and shall execute all the printing and binding for the Executive Departments now required by law to be executed at the Government office; and shall in all respects be governed by the laws in force in relation to the Superintendent of Public Printing, and the execution of the printing and binding.

The third section provides that from and after the passage of this act, and the election of a Congressional Printer in pursuance thereof, the office of Superintendent of Public Printing shall be abolished.

The fourth section provides that this act shall take effect from and after its passage; and all laws inconsistent with its provisions are hereby repealed.

Mr. ROSS. I would inquire how this bill comes before the House at this time?

The SPEAKER. It was reported from the Committee on Printing, which is authorized to report at any time.

As the question was raised the other day in regard to the authority of another committee, the Committee on Enrolled Bills, to report original bills or resolutions under the general authority to report at any time, the Chair will state that it has been decided upon appeal that the Committee on Printing is not confined merely to resolutions for printing copies of documents, but it can also at any time report bills and joint resolutions pertaining to the subject of printing.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. LAFLIN. This bill explains itself; its provisions are short and so plain that they can be clearly understood by every member of the House who has given his attention to its reading. The object of the bill is to place the control of the Government Printing Office in the hands of Congress; that being the body which is chiefly responsible for the heavy expenditures made in that office, it has been thought proper that upon them should devolve the responsibility of selecting the individual to manage that office.

It is needless for me to occupy the time of the House by any further explanation of why it has been thought expedient by the Committee on Printing to recommend the passage of this bill. The committee do not desire to press the subject upon the House without due and proper consideration. If there is any one here who desires to discuss this question I am perfectly willing—in the mean time retaining possession of the floor—to give him such an opportunity. I believe in a matter of this magnitude, in regard to which there may properly be a just difference of opinion, it is due to those who may differ with the committee that they should have an opportunity to express that difference. I do not care to press this subject to an immediate consideration without affording such an opportunity. This session being so near its close I trust no member of the House will consider me as ungenerous if I ask that any one who may choose to submit his views in opposition to this bill will do so in as short a time as possible—will condense his views into as brief a space as he can.

And now, if there is any one who desires to speak, either in favor of or in opposition to this bill, I will give him the opportunity, retaining, as I have already said, my control of the floor.

The SPEAKER. The Chair will state that it is the desire of the Pennsylvania delegation to take the floor at half past two o'clock, to announce the death of their late colleague, Mr. JOHNSON.

Mr. ROSS. I would suggest to the gentleman from New York [Mr. LAFLIN] that as this is a new measure and just introduced, it had better be postponed until next week, and in the mean time the bill can be printed.

Mr. LAFLIN. I cannot consent to that arrangement. As gentlemen are well aware, it is now so late in the session that if this bill should encounter the veto of the President it will be impossible for us to pass it over that veto, unless it should now be passed at once.

Mr. CONKLING. Let us vote now.

Mr. LAFLIN. As there seems to be no one who cares to discuss this subject, I now call the previous question.

Upon seconding the demand for the previous question, upon a division, there were—ayes 80, noes 23.

So the previous question was seconded.

The main question was then ordered; which was upon ordering the bill to be engrossed and read a third time.

Mr. TRIMBLE. I move that the bill be

laid on the table; and upon that motion I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division, there were—ayes 21, noes 87; not one fifth voting in the affirmative.

Before the result of the vote was announced, Mr. FINCK called for tellers.

Mr. CONKLING. I suggest that we take the yeas and nays on the passage of the bill. We do not want them twice on substantially the same question.

Mr. FINCK. Has the bill been printed?

The SPEAKER. It has not been.

Mr. FINCK. What is the necessity of rushing through the House a bill of this kind to-day which has not been printed?

Mr. CONKLING. We propose to elect a printer that we may have this and other bills printed. [Laughter.]

Mr. NIBLACK. I beg to appeal to the gentleman from New York [Mr. LAFLIN] to let the bill lie over till next week.

Mr. FINCK. I insist on my call for tellers. Tellers were ordered.

The SPEAKER. Twenty-five members—a sufficient number to call the yeas and nays—have voted to order tellers. If there be no objection the Chair will consider the yeas and nays as ordered.

There was no objection.

So the yeas and nays were ordered.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House was requested:

An act (S. No. 490) to amend an act entitled "An act to provide a temporary government for the Territory of Idaho," approved March 3, 1863; and

Joint resolution (S. R. No. 157) in relation to ocean mail service between San Francisco, in California, and Portland, in Oregon.

DEATH OF HON. PHILIP JOHNSON.

The SPEAKER. The hour of half past two o'clock having arrived, the Chair, in pursuance of the arrangement agreed to by unanimous consent, recognizes the gentleman from Pennsylvania, [Mr. ANCONA], who takes the floor to announce the death of his colleague, Mr. JOHNSON.

Mr. ANCONA. Mr. Speaker, it has become my melancholy duty to announce to the House the death of a friend and colleague, Hon. PHILIP JOHNSON, a member of this House from the State of Pennsylvania. This sad event occurred on Thursday evening, at eight o'clock, at his rooms in this city. Though suffering with a chronic disease for the past three years, preventing his attendance here nearly all of last and up to a recent period of this session, the immediate cause of his death was a cold contracted a week ago, when last he participated with great earnestness in the discussions in this House, resulting in congestion of the lungs.

PHILIP JOHNSON was born in Warren county, New Jersey, January 17, 1818. In 1839 he removed with his father to Northampton county, Pennsylvania. He was educated at Lafayette College, Easton, Pennsylvania, spent several years teaching school in the South, after which he studied law, and was admitted to the bar in 1848, soon afterward elected clerk of the courts, and in 1853 and 1854 to the State Legislature from Northampton county. In 1860 he was the revenue commissioner for the third judicial district of the State, and was elected the same year a Representative from Pennsylvania to the Thirty-Seventh Congress; reelected in 1862 and 1864 to the Thirty-Eighth and Thirty-Ninth Congresses.

Mr. JOHNSON was a man of positive convictions, sound judgment, quick of comprehension, and earnest in his advocacy of measures he believed right. Of stern integrity and unquestioned fidelity to the principles of his political faith, with manners which to those who did not know him well might have

appeared somewhat *brusque*, he possessed great kindness of heart and was devoted in his friendships.

It was my privilege to enjoy an intimate acquaintance with him since we first met in this city, in July, 1861; for a time occupying the same rooms in common with two other colleagues of congenial sentiment, one of whom (the late Hon. Thomas B. Cooper) passed to that home from whose bourn no traveler returns, long since. I visited him frequently during his illness, seeking and profiting by his counsels—always clear, comprehensive, and correct. He died as he lived, calmly, and in full possession of all his mental faculties. Surrounded by his sorrowing relatives and friends, his spirit took its departure from the earthly tenement, leaving it undisturbed, with features placid and serene as in life, so that it could hardly be realized as death.

Mr. Speaker, I offer the following resolutions:

*Resolved*, That the House has heard with deep emotion the announcement of the death of Hon. PHILIP JOHNSON, a member of this House from the State of Pennsylvania.

*Resolved*, That this House tenders to the relatives of the deceased the expression of its sympathy on this afflicting event, and as a testimony of respect for the memory of the deceased the members and officers of the House will go into mourning by wearing crape on the left arm for the residue of the session.

*Resolved*, That the members of the House will attend the funeral of the deceased from the Hall of the House of Representatives at eleven o'clock a. m. to-morrow; and that a committee of arrangements of nine members be appointed to superintend the same.

*Resolved*, That the Clerk communicate a copy of the foregoing resolutions to the widow of the deceased; and, further, that he communicate these proceedings to the Senate, with the request that it unite in the ceremonies of this occasion.

*Resolved*, That as a further mark of respect to the memory of the deceased the House do now adjourn.

Mr. MOORHEAD. Mr. Speaker, in seconding the resolutions which have been offered by my colleague from the Berks district, I beg leave to add my tribute of respect to the character of my deceased friend. He had many admirable traits, was kind-hearted, generous, manly, and of unquestioned integrity and fidelity to his convictions of duty. He served several years in the Legislature of Pennsylvania. It was there that I first formed his acquaintance and began to appreciate his value. He was an active, efficient member of the body, and was devoted to the interests of his constituents, among whom his popularity grew as their knowledge of him extended. When opportunity offered for sending him to a wider sphere of usefulness they elected him as their Representative to the Thirty-Seventh Congress. He was reelected to the Thirty-Eighth and Thirty-Ninth, when failing health admonished him to decline the nomination, which would have been freely given him, to the Fortieth.

During much of the last and present sessions he has been largely withdrawn from active participation in the proceedings of the House; but his mind was equally intent upon the great questions now engaging the attention of the nation, and when last in the House about a week since he participated in debate.

His views on public affairs were decided, and he never shrank from their assertion or vindication, yet he never heedlessly obtruded them, nor allowed them to weaken the ties of friendship. His ill health often weighed upon his spirits and occasionally made him appear despondent.

Mr. JOHNSON had few advantages in early life. Until he reached manhood he was comparatively untrained. But, appreciating the importance of education, he roused himself to the required effort, and by his own labor supported himself and paid the expenses of a collegiate course at Lafayette College, after which he turned his attention to the study of law and soon became a practitioner at the bar.

His mind was clear and quick; he had a good delivery and easy power of expression. His friends were warmly attached to him because of his manliness and truthfulness. He will be much missed in his town and district, at the bar and in the social circle. I lament

his death as of a friend I have long known and highly esteemed.

Mr. Speaker, this is another loud admonition to us all. But a few days since a highly valued friend, H. S. Magraw, Esq., a member of the Maryland Legislature, and a warm personal and political friend of the deceased, was stricken down in full health by apoplexy. While watching over his insensible condition I received the startling news that PHILIP JOHNSON was dead. They have both passed together into immortality. How important that we, while using our best energies to reconstruct our Government for time, should not fail to use proper exertions for reconstruction personally for eternity.

Mr. BOYER. Mr. Speaker, the shadow of death has again fallen upon us, and one who was familiar here during six eventful years will be seen in this place no more! I stood by his bedside on the evening of his death. He was then near the hour of his dissolution, and struggling with the agony of his disease; but calm and patient and uncomplaining, as he had always been through the whole period of his protracted illness. His was a nature not easily depressed nor discouraged, and yet never over hopeful nor exultant. The state of his health made it necessary for him of late to be frequently absent from his place in this House; but he was never away from choice, and when present no one was a more vigilant and conscientious observer of passing events.

Although the district which I have the honor to represent lies adjoining to the one lately represented by the deceased, I had not, until I met him here, the pleasure of his intimate personal acquaintance. But the more I learned to know him the more I admired the sterling virtues which distinguished him. His qualities were all of the solid kind. There was nothing about him which was meant for show alone. He was plain and unassuming, and what might be termed old-fashioned in his manners; sometimes blunt but never gross or wantonly offensive. His wit, which was often pungent, was never barbed with malice. His exuberant humor and quick perception of the ludicrous never left him even in his sickness; and he remained till almost the day of his death a most genial and cheerful companion. He had many friends. His enemies were few; for he was amiable, forgiving, and without deceit. Candid and generous himself, he could not tolerate the opposite in others, and if the fires of his sarcasm were ever meant to scorch it was when provoked to indignation by a mean action, which his soul abhorred.

His character was decided. He was not in the habit of halting long between two opinions; and although never obstinately closed to conviction, he did not often find occasion to change his mind, for his judgment was clear and practical. Indeed, the most distinguishing quality of his mind was his plain common sense. He adhered with great fidelity to the political party to which he belonged; not for office or emolument, but from convictions of right and a sense of public duty. His public and private character were equally above reproach. By the death of PHILIP JOHNSON Pennsylvania has lost an incorruptible Representative, and those who were associated with him in life have lost a friend, the recollection of whose solid merits and mirthful pleasantries will long survive and keep his memory green amid the fading years.

Mr. STROUSE. Mr. Speaker, having been intimately acquainted for years with Mr. JOHNSON, I feel it a duty on this sad occasion to express my deep regret at the loss of one whom I was proud to call my friend. Nearly thirty years ago Mr. JOHNSON came to Northampton county, Pennsylvania, and settled in Easton, the county town. His industry, ability, and honorable conduct very soon secured him troops of friends, and he became deservedly one of the most popular men in northeastern Pennsylvania. Of this the many positions of trust and

responsibility conferred upon him, not by executive appointment, but by the free suffrage of the people of his district, afford the best evidence. For three successive terms they chose him as their Representative in this House; and such was their confidence in his sterling integrity and ability that he would have been again their choice at the last election had he not peremptorily declined a renomination on account of his failing health.

In every relation of life he maintained an unsullied and spotless character, and even those who differed with him on questions of governmental policy readily acknowledged his honesty of purpose and true patriotism. As a man he was what is well designated the noblest work of God—"an honest man." As a husband he was most affectionate and kind. As a counselor he was reliable and conscientious; and in the forum, both in the State and in the councils of the nation, he was candid, truthful, patriotic, and honorable. As a friend, I can well say he was warm-hearted and sincere, ever ready to aid those in need and extending his generous hand to those who by misfortune were thrown upon an uncharitable world.

His kindness of heart was touchingly manifested at the time when the three years' troops were raised in 1863. Several companies of volunteers from Mr. JOHNSON's district were ordered to report at Pottsville, my home, for the purpose of joining the regiment then forming in my district. At that time Mr. JOHNSON wrote me several letters requesting me most earnestly to see to it for him, that "the boys from old Northampton" were well cared for and to do all I could for the comfort of the soldiers from his district, adding that any disbursement of money I might make he would gladly repay. Acts and conduct like these express more genuine patriotism than all the windy harangues of the politician.

But he is gone from our midst! While we mourn his loss—a loss indeed to the devoted and faithful partner of his bosom as well as to his district, State, and the nation—we can console ourselves by the knowledge that the virtues manifested by him in this world have secured him a place in the bright realms of our Heavenly Father. May his honorable course of conduct be imitated by men of our country; and when our time comes—when the last bell shall toll for us—may we be prepared to appear at the bar of that great tribunal from which there is no appeal, and may we so have lived as our good departed friend has lived, to truly earn the title of "good and faithful servant." *Requiescat in pace.*

The resolutions submitted by Mr. ANCONA were unanimously adopted.

The SPEAKER. In accordance with uniform usage, the committee of arrangements was named by the Speaker yesterday. At the suggestion of the gentleman from Pennsylvania, [Mr. ANCONA,] he was excused, and his colleague [Mr. GLOSSBRENNER] was appointed chairman of the committee; and the Chair has also appointed the gentleman from New Jersey [Mr. SITGREAVES] in place of the gentleman from Kentucky, [Mr. HARDING,] who also requested to be excused. The committee is as follows: Hons. ANDREW J. GLOSSBRENNER, of Pennsylvania; JOHN B. ALLEY, of Massachusetts; JAMES K. MOORHEAD, of Pennsylvania; CHARLES A. ELDRIDGE, of Wisconsin; JOHN A. NICHOLSON, of Delaware; WILLIAM E. FINCK, of Ohio; THOMAS W. FERRY, of Michigan; WILLIAM E. NIBLACK, of Indiana, and CHARLES SITGREAVES, of New Jersey.

And then (at two o'clock and fifty-five minutes p. m.) the Speaker declared the House adjourned till Monday next.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By the SPEAKER: The petition of A. H. Arnold, of Jonesboro', Georgia, for payment for property destroyed by United States forces. Also, the petition of M. L. McClelland, Hon. F. Church, Hon. S. I. Anthony, A. Gurney, General R. A. Cameron, and 70 others, business men of Valpa-

raiso, Indiana, praying that there may be no curtailment or withdrawal of the national currency.

By Mr. CONKLING: The petition of willow-growers, asking increased tariff on willows.

By Mr. DONNELLY: The petition of Stephen Howson, and others, citizens of Minnesota, praying for the removal of the land office from Taylor's Falls, Minnesota, to Cambridge, Minnesota.

By Mr. DODGE: The petition of Peter Cooper, W. B. Astor, Wilson G. Hunt, and many others, praying that books, maps, charts, &c., imported for the use of literary institutions and the encouragement of the fine arts, be admitted free of duty.

By Mr. GARFIELD: The petition of O. K. Wolcott, and 20 others, citizens of Farmington, Trumbull county, Ohio, for an increased protection on flax, hemp, and jute.

By Mr. GOODYEAR: The petition of divers citizens of Schoharie county, New York, praying for a protective duty on flax.

By Mr. HUNTER: The petition of Mrs. Anna Bagley, for a pension.

By Mr. LONGYEAR: The memorial and statement of Colonel George G. Briggs, and others, officers of the seventh Michigan cavalry, asking for payment of Lieutenant John H. Hamlin, for military services in said regiment.

By Mr. MOOREHEAD: A petition from citizens of Alleghany county, Pennsylvania, engaged in the manufacture of leather, asking for a reduction of internal revenue tax.

By Mr. O'NEILL: The petition of William Johnson, for American register for brig Karnak.

By Mr. PAINE: The petition of Mary J. Dexter, of Wauwatosa, Milwaukee county, Wisconsin, for a pension.

By Mr. PERHAM: The petition of Henry Mitchell, for compensation for services rendered the Government.

By Mr. PRICE: The petition of 56 citizens of Linn and Jones counties, Iowa, asking for the establishment of a mail route from Central City, Linn county, to Monticello, in Jones county, Iowa.

By Mr. RAYMOND: The petition of John T. Hoffman, Samuel G. Courtney, and others, citizens of New York city, remonstrating against movements looking to the impeachment of the President, and praying for the adoption of measures to promote the peace and prosperity of the country.

By Mr. UPSON: The petition of Ira Chaffe, John R. Kellogg, and 39 others, citizens of Allegan county, Michigan, praying Congress to make an appropriation for a survey, and the improvement of the harbor at Saugatuck, at the mouth of the Kalamazoo river.

By Mr. WILLIAMS: The memorial of tanners, &c., of Pittsburgh and Alleghany cities and vicinity, praying for a reduction of the internal revenue tax on the manufacture of leather.

## IN SENATE.

MONDAY, February 4, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.

On motion of Mr. STEWART, and by unanimous consent, the reading of the Journal of Saturday was dispensed with.

## WISCONSIN SENATORS.

The PRESIDENT *pro tempore* presented the credentials of Hon. TIMOTHY O. HOWE, chosen by the Legislature of the State of Wisconsin Senator from that State for the term of six years, commencing March 4, 1867; which were read and ordered to be filed.

He also presented resolutions of the Legislature of Wisconsin instructing Hon. JAMES R. DOOLITTLE to resign his seat in the United States Senate; which were ordered to lie upon the table and be printed.

## PETITIONS AND MEMORIALS.

Mr. CONNESS presented the petition of John Clark, a soldier of the Mexican war and a pensioner, praying for an increase of his pension; which was referred to the Committee on Pensions.

Mr. HOWE presented a memorial of the Legislature of the State of Wisconsin, in favor of the establishment of a mail route from the city of Milwaukee to Painsville in that State; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. CHANDLER. I rise to present a memorial of citizens of Michigan, which I will read:

"We the inhabitants of the State of Michigan, vessel-builders and owners, desire to set forth the following facts and circumstances and petition your honorable body for relief:

"In consequence of the laws of the United States prohibiting foreign-built vessels from coasting in the waters of the United States, and the business of freighting being far more profitable in our country than in Canada, the owners of vessels in Canada and England are applying to your honorable body to enact special laws registering their vessels in the United States, against which we the undersigned beg

leave most respectfully to enter our solemn protest, and therefore set forth a few facts and reasons for the same.

"Owing to the enormous debt of the United States and the absolute necessity of providing not only for the interest but the gradual reduction of the principal, your honorable body has been compelled to levy large taxes upon almost every branch of industry in our country, which has raised the prices of all commodities to a fearful extent, causing the necessity of high prices for labor and rendering vessel-building unprofitably high in our States, while in Canada, under their small debt and light taxation, it being comparatively new and sparsely settled, provisions and labor very low, the abundance of and convenience to water communication of her timber, vessels can be built there at about one half the cost they can in the waters of the United States.

"And if Congress continues to permit the Canadian vessels to become registered in the United States free from the enormous expense we are subjected to, it gives foreigners not only a preference over our own vessel-building and business, but must eventually retard ship-building in our country and throw large numbers of mechanics and laborers out of employment.

"Even at the present time there are a large number of vessels being built in Canada with the intention of getting them registered in the United States.

"There are other and perhaps stronger arguments which might be given why foreign vessels should not be registered in the United States; but those already given, we believe, are quite sufficient.

"We therefore pray that your honorable body will hereafter cease to register any more foreign vessels in the United States; and your petitioners in duty bound will ever pray."

This memorial is numerously signed by our most extensive merchants and ship-builders. I ask its reference to the Committee on Commerce.

It was so referred.

Mr. HOWARD presented a petition of citizens of Michigan, praying for a survey of the Kalamazoo river and harbor so far as it impedes navigation, and an appropriation for the improvement of that harbor; which was referred to the Committee on Commerce.

He also presented a memorial of the supervisors of the county of Muskegon, in the State of Michigan, praying that the land included in township No. 12, north of range No. 15 west, in the State of Michigan, now held as an Indian reservation, may be placed in the market; which was referred to the Committee on Public Lands.

He also presented a petition of citizens of Michigan, who had settled upon and improved lands in Mason county in that State, which were afterward granted to the railroad from Pere Marquette to Flint by an act of Congress, praying for the adoption of measures for their relief; which was referred to the Committee on Public Lands.

Mr. SUMNER presented a resolution of the Legislature of the State of Massachusetts, in favor of an appropriation for the protection of certain headlands and bluffs and the removal of certain obstructions in Boston harbor; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. DAVIS presented the memorial of Frances Ann McCauley, widow of Daniel S. McCauley, praying for compensation for the judicial services of her husband as consul general at Tripoli, Barbary, and Alexandria, in Egypt; which was referred to the Committee on Foreign Relations.

Mr. COWAN presented a memorial of citizens of Pennsylvania, remonstrating against the passage of any law authorizing the curtailment of the national currency, or a return within a limited time to specie payments, and against compelling all national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

He also presented a memorial of bankers of the city of Pittsburgh, Pennsylvania, remonstrating against any alterations in the provisions of the act to provide a national currency; which was referred to the Committee on Finance.

Mr. PATTERSON presented a resolution of the Legislature of Tennessee in favor of an amendment to the act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, approved July 2, 1863, so as to enable the State of Tennessee

to accept the benefit of the provisions of that act; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. FESSENDEN presented the petition of James H. Norwood, praying to be compensated for his services as assistant assessor of internal revenue in the first district of South Carolina; which was referred to the Committee on Finance.

Mr. WILSON presented a communication addressed to him as chairman of the Committee on Military Affairs, by the Secretary of War, inclosing a report of General Grant in regard to military operations in connection with Indian affairs; which was ordered to be printed.

## REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 632) to authorize the building of a military and postal railroad from Washington, District of Columbia, to the city of New York, asked to be discharged from its further consideration; which was agreed to.

Mr. HENDRICKS, from the Committee on the Judiciary, to whom was referred the bill (S. No. 500) to amend the twenty-first section of an act entitled "An act to amend the several acts heretofore passed to provide for the enrolling and calling out the national forces, and for other purposes," approved March 24, 1863, reported it with a recommendation that it be indefinitely postponed; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 534) to provide for the allotment of the members of the Supreme Court among the circuits, and for the appointment of marshals for the Supreme Court and for the District of Columbia, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 902) to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States," reported it with amendments.

He also, from the same committee, to whom was referred a resolution, submitted by Mr. DAVIS on the 12th of December, 1865, declaratory of the principles of the Constitution in relation to the writ of *habeas corpus*, reported it with a recommendation that it be indefinitely postponed; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 84) to regulate the time and places of holding the district court of the United States within and for the district of Maine, reported it with a recommendation that it be indefinitely postponed; which was agreed to.

## BILLS INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 563) supplementary to the several acts of Congress abolishing imprisonment for debt; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 564) to provide for the more efficient government of the insurrectionary States; which was read twice by its title, referred to the joint Committee on Reconstruction, and ordered to be printed.

Mr. FESSENDEN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 163) to provide in certain cases for the removal of alcohol from bonded warehouse free from internal tax; which was referred to the Committee on Finance.

## CLAIMS OF LOYAL EAST TENNESSEANS.

Mr. PATTERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved, That the Secretary of War be requested,*



if in his judgment not incompatible with the public interest, to communicate to the Senate the order of General Burnside organizing a commission for the adjudication of claims for property taken from the loyal people of East Tennessee for the use of the Army; also the order of General Schofield organizing a commission for the same purpose, together with the names of the claimants and the several amounts of the claims so adjudicated by the commissions organized by General Burnside and General Schofield.

#### SAND CREEK MASSACRE.

Mr. POMEROY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to furnish the Senate a copy of the evidence taken at Denver and Fort Lyon, Colorado Territory, by a military commission, of which Colonel S. F. Tappan, Veteran battalion first Colorado cavalry, was president, ordered to inquire into and report all the facts connected with the so-called Sand Creek massacre in 1864.

#### CHANGE OF REFERENCES.

On motion of Mr. FOWLER, it was

*Ordered*, That the Committee on Claims be discharged from the further consideration of the bill (S. No. 557) for the relief of James Fulton, paymaster United States Navy, and that it be referred to the Committee on Claims.

#### PAYMENT OF KENTUCKY MILITIA.

The PRESIDENT *pro tempore*. The Chair will take this opportunity to lay before the Senate the joint resolution (S. R. No. 94) providing for the payment of certain Kentucky militia forces, which has been returned from the House of Representatives with an amendment.

Mr. WILSON. That resolution comes back from the House of Representatives with a slight amendment intended to guard it more carefully, I understand. I hope the Senate will concur in the amendment.

Mr. GRIMES. Let us hear it read.

The Secretary read the amendment, which was to add at the end of the resolution the following:

And no allowance shall be made for any troops which did not perform actual military service in full connection and cooperation with the authorities of the United States and subject to their orders.

The amendment was concurred in.

#### COMPENSATION OF TENNESSEE SENATORS.

Mr. HARRIS. I am instructed by the Committee on the Judiciary, to whom was referred a communication from the Secretary of the Senate in relation to the compensation of the Senators from the State of Tennessee, to report the following resolution on the subject:

*Resolved*, That the Secretary of the Senate be directed to pay to the Senators from the State of Tennessee the compensation allowed by law, to be computed from the commencement of the Thirty-Ninth Congress.

I should like to have the resolution acted upon now.

There being no objection, the resolution was read twice, and considered as in Committee of the Whole.

Mr. TRUMBULL. I merely wish to say in regard to that resolution that in my judgment, according to the practice of the Senate, the Senators from Tennessee were entitled to compensation from the time the State of Tennessee was recognized by act of Congress to be entitled to representation, and not before. The majority of the committee thought differently and propose to pay them from the commencement of the Congress. It is a matter that I shall take up no time about, but it seems to me if that is settled to be the rule when we come to admit Senators, as some time or other we shall, from the State of South Carolina and other States, they will claim compensation from the commencement of their terms, going back two or three Congresses. I do not see upon what principle this resolution can be passed, except it is that the State of Tennessee was entitled to representation all the time, and therefore that the persons selected as Senators are entitled to be paid from the time the term commenced.

Mr. WILSON. What committee is that from?

Mr. TRUMBULL. From the Judiciary Committee.

Mr. WILSON. I hope we shall have no

further action on this subject at present. We should consider the matter. I move that it lie over until to-morrow.

The question being put, there were, on a division—ayes 14, noes 12; no quorum voting.

Mr. DOOLITTLE called for the yeas and nays, and they were ordered.

Mr. SHERMAN. If the Senator from Massachusetts wishes to look into this matter for his own information I have no objection to the resolution being laid over; otherwise, it being a personal question, I think it ought to be settled now.

Mr. WILSON. I will simply say that it seems to me to be a most extraordinary proposition, and I want time to reflect on a matter of this kind. It seems to me to involve a principle that would place us in a very ridiculous attitude before the country.

Mr. HARRIS. If the Senator says that he wants to examine into this question, I consent that the resolution shall lie over.

Mr. DOOLITTLE. Upon the statement of the Senator from Massachusetts that he desires to look into this matter a little further, I ask unanimous consent to withdraw the call for the yeas and nays.

The PRESIDENT *pro tempore*. The vote last taken discloses the want of a quorum, and the Chair must count the Senate to ascertain if there be a quorum present. [After counting.] The Chair ascertains by counting the Senate that a quorum is present. The call for the yeas and nays can be withdrawn by unanimous consent, and the further consideration of this resolution may be postponed until to-morrow by unanimous consent. Is there any objection? No objection being made the call is withdrawn, and the further consideration of the resolution postponed until to-morrow.

#### RAILROADS IN CALIFORNIA.

Mr. STEWART. I move to take up for consideration the bill (S. No. 461) to aid in the construction of the San Francisco Central Pacific railroad.

Mr. WILSON. I hope that bill will not be taken up this morning. I think a bill so long as that ought not to be taken up in the morning hour. There are a great many small bills, for the consideration of which the only chance is the morning hour. The bill now proposed to be taken up is a large bill, and it will take a long time to read it.

Mr. CONNESS. I do not know what the Senator means when he calls this a large bill.

Mr. WILSON. A long one.

Mr. CONNESS. If the Senator had been informed he would have known that the bill had been already read in the Senate, and has been postponed now for nearly two weeks. It is not as large a bill as the Senator imagines, but it is of great consequence to us. I hope the Senate will consider it now, for there is no opportunity to consider such business unless it be during the morning hour.

The motion of Mr. STEWART was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 461) to aid in the construction of the San Francisco Central Pacific railroad.

The bill, after having been considered heretofore, was recommitted to the Committee on Public Lands, and reported with an amendment to strike out all of the original bill after the enacting clause, and insert the following:

That the right of way through the public lands be, and the same is hereby, granted to the State of California, in trust for the San Francisco Central Pacific Railroad Company, or for the California Pacific Railroad Company, corporations existing under the laws of the State of California, to construct the road hereinafter named, and for the successors and assigns of that one of said companies as shall have first completed with the terms of this act, and shall first complete such road, for the construction of a railroad from the city of Sacramento, or Marysville, or from both of said points, through the counties of Yuba, Sutter, Yolo, and Solano, to a point at or near the City of Benicia or Vallejo, in the last named county, in said State; and the right is hereby given to that one of said corporations as shall first comply with the terms of this act to take from the public lands hereby granted adjacent to the line of such railroad material for the construction thereof; said right of way is granted to such railroad to the extent of one hundred

feet in width on each side of the center of such road where it may pass over the public lands; also all necessary grounds for station buildings, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations, not exceeding five acres in any continuous ten miles of said line.

SEC. 2. *And be it further enacted*, That there be, and is hereby, granted to the State of California, to aid in the construction of that one of the above-mentioned railroads as shall be first completed according to the terms of this act, and to secure the safe and speedy transportation of mails, troops, munitions of war, and public stores over the route of said line of railway, every alternate section of public land designated by odd numbers, to the amount of ten alternate sections per mile, on each side of said railroad line, as said company may adopt, wherever in the line thereof the United States have full title thereto, respectively; but in case it shall appear that the United States have, when the line or route of said road is definitely located, as hereinafter provided, sold any section or any part thereof, granted as aforesaid, or that the right of preemption, homestead settlement, or other private right, has attached, or that the same has been reserved by the United States, then it shall be lawful, within two years thereafter, for any agent or agents, to be appointed by the Governor of said State, to select, subject to the approval of the Secretary of the Interior, from the lands of the United States (to which no right has attached, and not being within the limits of any reservation as aforesaid) nearest to the tiers of sections above specified, so much land in alternate sections, or parts of sections, as shall be equal to such lands as have been sold, reserved, or otherwise appropriated, or to which the right of preemption or homestead settlement shall have, at the time of the location of said road attached, as aforesaid, which lands shall, when said road shall be completed as herein provided, be held and disposed of by the State of California for the use and purpose aforesaid: *Provided*, That the lands to be so located shall in no case be further than twenty-five miles from the line of said road: *Provided, further*, That the lands hereby granted shall be exclusively applied toward the cost of the construction of said railroad, for and on account of which the said lands are hereby granted, and the title thereto shall remain in the United States until said road shall be fully completed, and the same shall be applied to no other purpose whatsoever: *Provided, further*, That any and all lands heretofore reserved to the United States by any act of Congress, or granted, appropriated, or set apart for, or promised to any other railroad company, or for any other purpose, and all lands containing gold, silver, or cinnabar, and all town and village lots are hereby reserved from the operations of this act, except so far as it may be found necessary to locate the route of said road through such reserved lands, in which case the right of way only to the extent of one hundred feet wide shall be granted, subject to the approval of the President of the United States.

SEC. 3. *And be it further enacted*, That whenever the surveyor general of the United States for the State of California shall first certify to the Secretary of the Interior that such railroad is completed from Sacramento city or Marysville to Benicia or Vallejo, in a good and substantial manner, and in all respects as required by this act, it shall be the duty of the Secretary of the Interior to transfer to the Governor of said State all lands granted as aforesaid.

SEC. 4. *And be it further enacted*, That the said railroad shall be constructed in a substantial and workmanlike manner, with all the necessary drains, culverts, bridges, viaducts, crossings, turnouts, and watering places, and all other appurtenances, including furniture and rolling-stock, equal in all respects to railroads of the first class when prepared for business; the gauge to be the same as that of the Central Pacific railroad.

SEC. 5. *And be it further enacted*, That as soon as the lines of said road shall be surveyed and located the Governor of said State shall cause a map of the location to be filed with the Secretary of the Interior, who thereupon shall cause lands not already surveyed, within twenty miles of the line of said location, to be surveyed, and the odd sections and parts of sections not occupied by homestead settlements, or otherwise hereinafter excepted, to be set apart for the purposes contemplated by this act. And the sections and parts of sections of land which by the aforesaid grant shall remain in the United States within ten miles on each side of said road shall not, before the 4th of July, 1872, be sold for less than double the minimum price of public lands when sold.

SEC. 6. *And be it further enacted*, That each and every grant, right, and privilege herein are so made and given to said State for the purpose aforesaid, upon and subject to the following conditions, namely: that the said company shall commence the work on said road within six months from the approval of this act by the President, and shall complete the road from Sacramento city to Benicia or Vallejo within three years thereafter, and the road from Marysville to Benicia or Vallejo on or before the 4th day of July, 1871.

SEC. 7. *And be it further enacted*, That in case either of said companies shall elect, and file such election with the secretary of state for the State of California, within six months from the passage of this act, to the effect that said company will only connect by railroad the said city of Benicia or Vallejo with the main road at a distance not exceeding twelve miles from the city of Benicia, and abandon the construction of the balance of the aforesaid road, then and in that event the company so electing shall, subject to all the conditions and provisions aforesaid, be entitled to the benefit of one quarter of the grant hereby made, and in case the said election shall not be filed as herein required, and the said connection shall not be completed as in this act provided, the whole of the hereby granted lands shall, when said whole line is completed as aforesaid, be held by said State for the

benefit and use of the company complying with the terms of this act.

Sec. 8. *And be it further enacted*, That the lands hereby granted to said State, mentioned as aforesaid, shall be conveyed and transferred to said company, as the Legislature of said State may provide for the purposes aforesaid.

The amendment was agreed to.

Mr. SAULSBURY. As these new States, western States, are getting all the public lands within their limits, and the old States get none given to them, I propose an additional section to this bill for the benefit of my own State.

*And be it further enacted*, That two hundred thousand acres of the public lands of the United States, to be located as shall be directed by the Secretary of the Interior, be granted to the Junction and Breakwater railroad, in the State of Delaware.

I will say, Mr. President, that this road is not completed, and an appropriation of the public domain would be of great service to the company to enable them to complete their road. I am aware of no grant of public lands to any of the old States to aid them in the construction of public works or for any other purpose, unless it be the act passed a few years ago which provided for granting to the States thirty thousand acres of land for each of their members in Congress, for educational purposes. I think that we on the Atlantic coast have as much interest in the public lands as gentlemen on the Pacific coast and in the far West; and while the public lands are being given away it is nothing but just that we should have some portion of them. If there were not a proposition before the Senate to grant public lands to assist in the construction of railroads in the western States and the States on the Pacific coast I should not offer this amendment.

Mr. CONNESS. I hope the honorable Senator, if he wants public lands for the State of Delaware, will make the experiment on a bill to be introduced by him here, and not incur the present bill with such an amendment. I presume the Senator is not quite in earnest in the matter.

Mr. SAULSBURY. I do not think this amendment will incur this bill at all. If Senators are opposed to my amendment it is a very easy matter for them to vote it down. I certainly shall not take up the time of the Senate in discussing the question, but I know of no more proper case than the one before the Senate to get the sense of the Senate on the question whether we of the Atlantic border, we of the old States, shall have any interest in these public lands and receive any benefit from their distribution.

The amendment was rejected.

The bill was reported to the Senate, as amended, and the amendment made as in Committee of the Whole was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed. Its title was made to read, "A bill for a grant of land to the State of California to aid in the construction of certain railroads in said State."

#### COMPENSATION OF CIVIL EMPLOYÉS.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of House joint resolution No. 224.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 224) giving additional compensation to certain employés in the civil service of the Government at Washington.

The PRESIDENT *pro tempore*. The pending amendment will be read.

Mr. WILLIAMS. I ask the consent of the Senate to withdraw the amendment that I reported from the Committee on Finance, and to substitute another, which I am instructed by the committee to report in place of it.

The SPEAKER *pro tempore*. The Senator from Oregon asks the unanimous consent of the Senate to withdraw the amendment reported by the Committee on Finance to this joint resolution. An amendment to that amendment having been proposed, and being now pending,

the original amendment cannot be withdrawn without the consent of the Senate. Is there any objection? No objection being made the amendment is withdrawn.

Mr. WILLIAMS. I now offer the amendment which I submitted informally a few days ago, to strike out all after the resolving clause of the joint resolution and insert the following:

That there shall be allowed and paid, out of any money in the Treasury not otherwise appropriated, to the following described persons, now employed in the civil service at Washington, as follows: to civil officers, temporary and all other clerks, messengers and watchmen, and employés, male and female, in any of the following-named Departments, or any bureau or division thereof, to wit: State, Treasury, War, Navy, Interior, Post Office, Attorney General, Agricultural, and including civil officers and temporary, and all other clerks and employés, male and female, in the offices of the Coast Survey, Naval Observatory, navy-yard, Paymaster General, including the division of referred claims, Commissary General of Prisoners, Bureau of Refugees, Freedmen, and Abandoned Lands, Quartermaster General, Capitol and Treasury extension, city post office, and Commissioner of Public Buildings, to the superintendent of meters, an additional compensation of twenty per cent. on their respective salaries as fixed by law, or, where no salary is fixed by law, upon their pay respectively, for one year from and after the 30th day of June, 1866; but when any of said persons is or shall be only entitled to receive salary or pay for a part of said year the said twenty per cent. shall be computed on the amount such person is so entitled to receive for services in any or all of said Departments or offices within said year: *Provided*, That the above-named additional compensation to the employés of the Patent Office shall be paid out of the funds of said office: *Provided further*, That the resolution shall not apply to persons whose salaries as fixed by law exceed three thousand five hundred dollars per annum, nor to any person whose salary has been increased by law since the 30th day of June, 1864, except those clerks in the office of the Quartermaster General whose pay was equalized with that of first-class clerks by act of July 28, 1866: *Provided further*, That all extra compensation allowed and paid to any of said persons during the current fiscal year by the head of any Department shall be taken and considered as a part of the said twenty per cent., so that all of said persons shall receive twenty per cent. on their respective salaries, as aforesaid, and no more; but no person shall be required to refund any sum that he may have received, as aforesaid, in excess of said twenty per cent. on his salary.

Mr. DOOLITTLE. In listening to the reading of that portion of the amendment naming the persons to be included, watchmen, clerks, &c., I did not hear the watchmen of the Executive Mansion mentioned. There are some watchmen employed there as well as in the various Departments, and I suppose this proposition ought to apply to them as well as to the others, if we are to make it general. I suggest, therefore, that it be amended in that respect.

Mr. FESSENDEN. How much do they receive?

Mr. DOOLITTLE. When the appropriation bill was under consideration last year these watchmen called upon me and stated that their pay was less than that of the watchmen of the Capitol. I thought it would be just to put them all on the same footing, and I think such an amendment was made. If we are to act on this question now I shall move to insert the watchmen of the Executive Mansion.

Mr. FESSENDEN. I should like to know what they receive now. I think the Senator should give us an explanation on that point, and tell us how many there are of them. He ought to know that before he moves the amendment.

Mr. SHERMAN. They come within the exception.

Mr. HENDRICKS. I understood that there were two of these watchmen, and that they received the same pay as the watchmen of the Capitol.

Mr. FESSENDEN. Very well; that is very much larger than watchmen receive in the Departments. We have not increased in this joint resolution the compensation of the watchmen of the Capitol; it does not apply to them at all. They receive very much larger pay than those in the Departments. The pay of the employés of the Executive Mansion was fixed last year in the bill reorganizing the force there, by which they were paid very liberally and very handsomely; and if the watchmen there receive the same pay as those of the Capitol they receive a very much larger pay than

in the Departments. We have not increased the pay of the watchmen of the Capitol in this joint resolution, and there is no reason why these others should be included in it.

Mr. GRIMES. I will inquire of the Senator who has charge of this joint resolution what is included in the term "employés." The joint resolution gives increased compensation to civil officers, temporary and all other clerks, messengers and watchmen, and employés, male and female, in any of the following-named Departments, enumerating several of them, and then specifying "the Coast Survey, Naval Observatory, navy-yard." Does that include the workmen of the navy-yard? Are they to be considered as "employés" under this resolution?

Mr. FESSENDEN. That would cover all the workmen, I think. It was not intended that it should.

Mr. WILLIAMS. If gentlemen will take the pains to read this amendment carefully I think they will see what it means. I think there is no difficulty in understanding it. The first clause includes all "civil officers, temporary and all other clerks, messengers and watchmen and employés, male and female, in any of the following-named Departments, or any bureau or division thereof, to wit: State, Treasury, War, Navy, Interior, Post Office, Attorney General, Agricultural." That clause includes all officers, clerks, messengers, watchmen, and employés, male and female, in the different Departments. Then it proceeds to include all "civil officers and temporary and all other clerks and employés, male and female, in the offices of the Coast Survey, Naval Observatory, navy-yard, Paymaster General," &c. The Senate will see that this applies only to those clerks and employés who are in the offices, and does not embrace the mechanics and laborers in the navy-yard or any of the other branches of business enumerated in this portion of the resolution.

Mr. RAMSEY. If it is in order to do so, I should like to move an amendment to the amendment by inserting after the words "navy-yard," in the thirteenth line, the word "arsenal." There is a large number of employés there.

The PRESIDENT *pro tempore*. The amendment of the Senator from Wisconsin [Mr. DOOLITTLE] to the amendment is pending.

Mr. RAMSEY. I was not aware of that.

Mr. DOOLITTLE. Perhaps I am mistaken in supposing that the watchmen at the Executive Mansion ought to be included in this joint resolution; but if the joint resolution should lie over until to-morrow morning I will look into the matter. The language of the resolution is very sweeping and goes very far, and if we undertake to make it general we ought to reach all who are in the civil service.

Mr. TRUMBULL. As this joint resolution is likely to go over, I should like to make an inquiry of the Senator from Oregon who has it in charge, to know whether the thirty-third and thirty-fourth lines, which exclude from the operation of the joint resolution and deny its benefits to any person whose salary has been increased by law since the 30th of June, 1864, would not deprive the female clerks who are employed in the Departments from having any benefits from this joint resolution? I think we increased their compensation slightly last year.

Mr. WILLIAMS. Yes, sir.

Mr. TRUMBULL. It would have that effect?

Mr. WILLIAMS. Yes, sir.

Mr. TRUMBULL. If that is to be the effect of it I object. I think they are paid little enough, and they ought to have the benefits of this resolution, and I trust that before it shall pass the Senate it will be amended in that particular. I know no reason why a faithful clerk, who is a female, and who performs the duties as well and as efficiently as a male, should receive but \$600, as some of them do, or \$720 or \$900 a year, while no male clerk has less than \$1,200, and then why we should increase

the pay of the \$1,200 clerk, who is a male, and exclude from the benefits of the act the female who gets but \$900, or perhaps \$600. If the intention of the joint resolution is to deny its benefits to the female clerks, I hope it will be amended before it shall be enacted into a law; and at the proper time I shall move that amendment, if no other person does, so as not to deny the female clerks in the Departments the benefits of this resolution.

Mr. WILLIAMS. I do not intend to oppose any such amendment to this joint resolution, but I will state the facts by which a majority of the committee, as I understand, were influenced in directing me to report the amendment in its present shape. This resolution proceeds upon the assumption that the salaries that were fixed prior to 1864 are adequate to compensate those who are now in the employment of the Government at the present high prices. At that time these ladies received \$600 per annum; subsequently their salaries were fixed at \$720 per annum, and then at the last session of Congress their salaries were raised to \$900 per annum. In addition to that they have each received \$100 of the balance of the \$225,000 which the Secretary of the Treasury was authorized to distribute among those clerks who received less than \$1,200.

Mr. TRUMBULL. Allow me to inquire have all the lady clerks received that?

Mr. WILLIAMS. They have.

Mr. TRUMBULL. Both the \$600 and the \$900 clerks?

Mr. WILLIAMS. There are no \$600 ones. There are no female clerks in the Treasury Department at this time receiving \$600. They all receive \$900.

Mr. TRUMBULL. Allow me to inquire if they do not receive in the Quartermaster General's Department and some other Departments less than \$900?

Mr. FESSENDEN. No.

Mr. TRUMBULL. That is my impression.

Mr. FESSENDEN. We raised them all last year in all the Departments to \$900. There were, I believe, six or eight in the Post Office Department who were accidentally left out, and this resolution will apply to them.

Mr. WILLIAMS. All the ladies, I think, who are clerks in the Departments have been paid \$900; and I was about to say, in addition to that, a portion of them in the Treasury Department have received some share of the \$165,000 that was put in the hands of the Secretary of the Treasury for distribution at the last session of Congress. The idea that influenced the decision of the committee, as I understand, was this: that the question as to how much these ladies should receive had been before Congress and it had been determined, and was last year determined, that they should receive \$900 per annum. The question of their compensation was taken up and considered, and they were allowed \$900 per annum; but as to these other clerks, their salaries were fixed many years ago, and they have not been changed by subsequent legislation. It was said that as the subject of the compensation of these ladies had been considered by Congress at the last session, and as it was then the judgment of Congress that \$900 per annum was an adequate compensation, this twenty per cent. ought not to apply to them. I recognize the force of the argument advanced by the Senator from Illinois, that a lady in the Treasury Department or any other Department who performs duties that are equal in importance to those devolved upon a clerk of the other sex should be entitled to receive the same compensation. I know of no particular reason why they should not receive that compensation. I have simply stated upon what idea, as I understood it, this exclusion of these ladies proceeded, without intending to oppose any amendment.

Mr. CONNESS. Will the Senator permit me a word—

#### TENURE OF OFFICE.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business

of Saturday, which is the bill (S. No. 453) regulating the tenure of certain civil offices. This bill is returned to the Senate from the House of Representatives with an amendment, and the question is on the motion of the Senator from Illinois [Mr. TRUMBULL] that the Senate concur in the amendment made in the bill by the House of Representatives.

Mr. POLAND. This bill returned from the House came in while the bankrupt bill was under consideration on Saturday, and it seems in some way it has obtained precedence. I desire to inquire if when this bill is completed the bankrupt bill will then be entitled to be considered?

The PRESIDENT *pro tempore*. The Chair will state that there are several bills in the list of special orders, the bankrupt bill among them, and the oldest special order would be entitled to priority. The Chair is not advised at this moment which, in the special orders, is the oldest special order. The Chair will state, in reply to the suggestion of the Senator, that this bill when it came from the House was laid before the Senate by the Chair to expedite business by the unanimous consent of the Senate, the Chair supposing that it would be very soon disposed of.

Mr. POLAND. I have no desire to antagonize the bankrupt bill in the order of business with the bill that is now before the Senate; but I desire to have it understood that I shall ask to have the bankrupt bill proceeded with immediately upon the disposal of this bill, whether I am entitled to it as a matter of right or not.

Mr. HOWE. I inquire if this bill has precedence of the bill in the charge of the Senator from Vermont?

The PRESIDENT *pro tempore*. The Chair thinks it has, it being the unfinished business of Saturday, being the business in hand at the time of the adjournment. Under the rule that is the unfinished business after the expiration of the morning hour.

Mr. HOWE. How was the other bill displaced?

The PRESIDENT *pro tempore*. It was displaced by the common consent of the Senate, and this bill was taken up.

Mr. FESSENDEN. It being a proposition for a committee of conference, it was not supposed that it would take any time.

Mr. SHERMAN. I do not think it is fair that the bankrupt bill should be displaced by the accidental fact that the question on the amendment of the House to this bill led to discussion, and thus crowded it for the rest of the session on Saturday. If it is in order, I move to lay aside the unfinished business and proceed to the consideration of the bankrupt bill.

Mr. EDMUNDS. I hope my friend from Ohio will not insist on that motion. The bill now under consideration has gone through a discussion in this body and in the House of Representatives, and has come back with one single amendment, which has been under discussion before. Now, the simple question is, it having been debated, whether we shall agree in that amendment, or whether we shall not. It is a bill which it is quite desirable, if it is to pass at all, should pass early, for reasons that it is unnecessary to mention. Therefore, I hope the Senate will be willing to proceed now with it. We shall gain time by so doing on the whole, because it is now fresh before us and we can soon dispose of it. I am not disposed to occupy time. A single vote on it will then leave us free to proceed with something else.

Mr. SHERMAN. I submit my motion, not with any desire to interfere with the order of business, but simply because I do not think it is exactly fair, when a bill comes from the House with an amendment and by common consent the question is about to be put to the Senate, to allow a long debate to intervene on that motion, thus crowding aside the pending business. It is rather contrary to the usual custom, because the action of the Senate on a House amendment is usually taken as a matter

of course and rapidly disposed of, either referred, agreed to, or rejected. Certainly the Senator from Vermont, [Mr. POLAND,] in agreeing to waive his right to the floor, did not expect or did not intend to allow a long discussion to intervene on another subject postponing his bill. I think it is a matter of justice and fairness to the bankrupt bill that it should be disposed of one way or the other. I do not think the pending question should be pressed unless the Senate by common consent would appoint a committee of conference, which they can do by disagreeing to the House amendment, and that may expedite the action of the Senate on the bill; and if that can be done without further debate I think it will expedite the passage of the bill itself.

Mr. EDMUNDS. That is precisely what I desired the Senate to do when the bill came back to us, but that was opposed by my friend from Illinois, on the ground that he wished to have a direct vote on the main question of concurrence. That having led to a little debate, I think it is right, as it is now suggested, to ask the Senate to dispose of it. It will only take but a short time, and then we can go on again with the bankrupt bill. There are peculiar reasons attending the passage of this bill which I think make it right that I should insist upon that; although I entirely agree with the Senator from Ohio, that in an ordinary and usual case it would be my duty to yield and not displace the pending business by the accidental circumstance of a debate having arisen. As it is, I hope the Senate will finish this bill.

Mr. HOWE. I wish the Senate would allow this bill to go over. I agree with the Senator from Ohio that, in justice to the bankrupt bill and those having charge of it, it ought to go over, and I should like it as a matter of personal convenience. I should like to say something upon the question on agreeing with the House of Representatives in the amendment, and I would rather not say it to-day.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the motion of the Senator from Ohio?

Mr. POMEROY. What is the motion?

The PRESIDENT *pro tempore*. That the Senate postpone the present and all prior orders and proceed to the consideration of the bankrupt bill.

Mr. EDMUNDS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 16; as follows:

YEAS—Messrs. Buckalew, Davis, Dixon, Doolittle, Foster, Harris, Henderson, Hendricks, Howe, McDougall, Morgan, Nesmith, Norton, Patterson, Poland, Pomeroy, Ramsey, Ross, Saulsbury, Sherman, Sumner, Van Winkle, Willey, and Yates—24.

NAYS—Messrs. Brown, Chandler, Conness, Cragin, Edmunds, Fessenden, Fogg, Grimes, Howard, Kirkwood, Lane, Morrill, Trumbull, Wade, Williams, and Wilson—16.

ABSENT—Messrs. Anthony, Cattell, Cowan, Creswell, Fowler, Frelinghuysen, Guthrie, Johnson, Nye, Riddle, Sprague, and Stewart—12.

So the motion was agreed to.

#### ORDER OF BUSINESS.

Mr. WADE. I rise to give notice that I shall endeavor to call up to-morrow the joint resolution proposing an amendment to the Constitution limiting the presidential term. I do not suppose it will take very long, and I am very anxious to dispose of it. I wish it to be understood, therefore, that I shall try and get it up then.

Mr. EDMUNDS. I wish to give notice that as soon as the bankrupt bill is disposed of I shall ask the Senate to take up the amendment of the House, which has just been laid over.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill of the Senate (S. No. 433) for the relief of E. J. Curley.

The message further announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 284) for the relief of George M. Fay and Nahum Fay;



A bill (H. R. No. 1094) for the relief of Mrs. Emma A. Porch;

A bill (H. R. No. 1095) to authorize the Secretary of the Treasury to pay certain drafts to W. W. Potter;

A bill (H. R. No. 1096) for the relief of J. & O. P. Cobb & Co.;

A bill (H. R. No. 1097) for the relief of Victor Mylens, first lieutenant sixty-eighth New York volunteers;

A bill (H. R. No. 1099) providing for the election of a congressional printer;

A joint resolution (H. R. No. 174) authorizing the Secretary of the Treasury to audit and pay the claim of John R. Beckley; and

A joint resolution (H. R. No. 259) of thanks of Congress to Hon. Edwin M. Stanton, Secretary of War, M. C. Meigs, Quartermaster General, and Brevet Lieutenant Colonel James M. Moore, assistant quartermaster.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker had signed the enrolled bill (S. No. 438) for the relief of E. J. Carley, and the enrolled joint resolution (S. R. No. 94) providing for the payment of certain Kentucky militia forces; and they were thereupon signed by the President *pro tempore* of the Senate.

#### HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred to the Committee on Claims:

A bill (H. R. No. 284) for the relief of George M. Fay and Nahum Fay;

A bill (H. R. No. 1094) for the relief of Mrs. Emma A. Porch;

A bill (H. R. No. 1095) to authorize the Secretary of the Treasury to pay certain drafts to W. W. Potter;

A bill (H. R. No. 1096) for the relief of J. and O. P. Cobb & Co.;

A bill (H. R. No. 1097) for the relief of Victor Mylens, first lieutenant sixty-eighth New York volunteers; and

A joint resolution (H. R. No. 174) authorizing the Secretary of the Treasury to audit and pay the claim of John R. Beckley.

The bill (H. R. No. 1099) for the election of a congressional printer, was read twice by its title, and referred to the Committee on Printing.

The joint resolution (H. R. No. 259) of thanks of Congress to Hon. Edwin M. Stanton, Secretary of War, Major General M. C. Meigs, Quartermaster General, and Brevet Lieutenant Colonel James M. Moore, assistant quartermaster, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### BANKRUPT BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 598) to establish a uniform system of bankruptcy throughout the United States.

The Secretary resumed the reading of the amendments reported by the Committee on the Judiciary.

The next amendment was in section thirty, line three, after "bankrupt," to insert the words "on his own application;" so as to read:

That no person who shall have been discharged under this act, and shall afterward become bankrupt, on his own application shall again be entitled to a discharge whose estate is insufficient to pay seventy per cent. of the debts proved against it, unless the assent in writing of three fourths in value of his creditors who have proved their claims is filed at or before the time of application for discharge, &c.

The amendment was agreed to.

The next amendment was to strike out of lines eight and nine of section thirty the words "no discharge shall be granted to a debtor a third time bankrupt."

The amendment was agreed to.

The next amendment was to strike out section thirty-one after the enacting clause, in these words:

That any creditor opposing the discharge of any bankrupt may, upon filing a specification in writing

of the grounds of his opposition, demand that the question of the bankrupt's right to a discharge to be tried by a jury, and the same shall be so tried at a stated session of the district court, unless it be satisfactorily shown to the court that it would be unjust to the bankrupt to subject him to the expense and delay of such trial, in which case it shall be the duty of the court to refuse such trial. But only one such trial shall be had; and if the jury disagree the court shall decide upon the application as if no jury had been called; and the verdict of the jury or the decision of the court shall be final, so far as the proceedings in bankruptcy are concerned.

And in lieu thereof to insert:

That any creditor opposing the discharge of any bankrupt may file a specification in writing of the grounds of his opposition, and the court may in its discretion order any question of fact so presented to be tried at a stated session of the district court.

The amendment was agreed to.

The next amendment was in lines three and four of section thirty-three, to strike out the words "executor, administrator, guardian, trustee, assignee, or factor;" and in line four to strike out the word "other" before "fiduciary," so as to make the section read:

That no debt created by the fraud or embezzlement of the bankrupt, or by his defalcation as a public officer, or while acting in any fiduciary character, shall be discharged under this act; but the debt may be proved, and the dividend thereon shall be a payment on account of said debt; and no discharge granted under this act shall release, discharge, or affect any person liable for the same debt for or with the bankrupt, either as partner, joint contractor, indorser, surety, or otherwise.

The amendment was agreed to.

The next amendment was to strike out all of section thirty-three after the word "otherwise" in line ten, as follows:

And in all proceedings in bankruptcy commenced after one year from the time this act shall go into operation, no discharge shall be granted to a debtor whose assets do not pay fifty per cent. of the claims against his estate, unless the assent in writing of a majority in number and value of his creditors who have proved their claims is filed in the case at or before the time of application for discharge.

Mr. WILSON. Before the question is taken on striking out that whole clause, I move to amend it in the eleventh and twelfth lines by striking out the words "commenced after one year from the time this act shall go into operation."

Mr. POLAND. If the amendment of the Senator from Massachusetts should be adopted, and the amendment that is proposed by the Judiciary Committee as to the residue of this clause should not be adopted, it would make a very material change in this bill. The result would be that in no case whatever would a bankrupt be entitled to be discharged if his estate did not pay fifty cents on the dollar, unless the creditors assented to the discharge. I do not wish to enter into any discussion on the subject, but to state what the effect of this proposition will be. I do not think the Senate are prepared to make such an important limitation upon this subject, as would be the effect if this amendment were adopted and the residue of the clause were not stricken out. If the amendment of the Judiciary Committee is agreed to, it is immaterial what becomes of this amendment of the Senator from Massachusetts, for that strikes out the whole clause.

Mr. WILSON. The Senator from Vermont has stated the precise effect of the amendment if adopted. That is just what I intended to do by the amendment should it be adopted. This bill is modeled on the bill of my State, probably the most perfect bankrupt bill in the country, and that bill requires the payment of fifty cents on the dollar or the assent of a majority in number and amount of the creditors before the bankrupt can be discharged. I think the experience of twenty-five or thirty years shows that that law operates well, and that there is very little difficulty in a bankrupt getting discharged under it in a proper case. If it extended over the whole country I think we should have an excellent system. While this bill, if it shall pass, will relieve a great many excellent men who ought to be relieved and whom I shall be glad to see relieved, we shall have a great deal of dishonesty enacted under it, and there will be a great deal of fault found and complaints made, as there were at the time we passed the

bankrupt bill in 1841 or 1842. I think if we pass this bill with the amendment I propose all persons in the country who ought to be discharged will find no great difficulty in making settlements with their creditors. I do not know what others will do; I simply want to vote for it myself. I believe it to be sound policy.

Mr. HARRIS. The proposition of the Senator from Massachusetts is a very ingenious mode of entirely defeating this measure. No honest man could get a discharge under this law if the amendment should prevail. How is it? An honest man devotes his property so far as it will go toward the payment of his debts in the first place. He then finds a balance of indebtedness which he has no means of paying. The proposition of the Senator from Massachusetts is, that in addition to the devotion of his property to the payment of his debts he shall pay fifty per cent. of the balance of the debts, when probably he has not a dollar to devote to that purpose. No honest man can get a discharge under the law if the proposition of the Senator from Massachusetts prevails; it defeats the bill.

Mr. WILSON. I will simply say that after twenty-five years' experience in an agricultural, mechanical, and commercial State, where there is a great deal of indebtedness, we find that the system works admirably, and honest men experience no great difficulty under it. I do not know what the Senate intends to do; but I shall vote that way myself. I have great doubts about the propriety of passing this bill, especially at this time, and with the limitations we have got upon it. I see very plainly that a man may be a man of fortune and yet not be compelled to pay his debts. I expect it will be so construed that the stay laws which have recently been passed in some States to enable men to retain their property, so that their creditors can obtain nothing from them will be included under this bill, and their creditors may whistle for their claims.

Mr. POLAND. I suppose there will be a great many dishonest men in the world whether this bankrupt law is passed or not. There are a great many men in the world who evade the payment of their debts now. I know no reason why we may not have as ample and as sharp machinery in a bankrupt law to compel dishonest debtors to disgorge as in any other law. The provisions of this bill are exceedingly sharp in relation to the means furnished for ascertaining the truth in that respect; and if my friend, the Senator from Massachusetts, can devise anything more stringent, anything that will be more available, he is perfectly welcome to have it put into the bill. It is drawn with very great care in that respect. If my friend has any fears in relation to the stay laws of the southern States I shall be perfectly willing for one to vote for an express amendment that shall prevent their being included.

In relation to what the Senator says as to the exemption that has been made, that a man may have the benefit of this law and still be a wealthy man, have a large amount of property, I will only remark that the provisions of this bill do not allow any debtor to retain any greater amount of property or any different property from what, by the laws of the several States, he is now entitled to retain. It exempts nothing from the reach of the creditors except what is exempt now by law. We have not increased the amount of exemption at all, or allowed a debtor to retain anything against his creditors except what is now protected by law from his creditors under any process of the law now known.

Mr. WILSON. I wish the Senator from Vermont had given us his deliberate opinion whether those stay laws will be under this bill protected. I should be very glad to hear his opinion upon that point.

Mr. POLAND. I am very willing to give my opinion to the Senator. I think those stay laws are unconstitutional and void, and that nothing in this bill covers them or protects them or makes them valid.

Mr. WILSON. Well, if the bill is to pass,

and I suppose it is from indications about us, we shall see what will be the result. I have always been in favor of a bankrupt law well guarded, taking care of the creditor and the debtor alike, doing justice to both, although I have thought that until matters were settled and the creditors had an opportunity to collect something of the millions of indebtedness due them from the rebel regions of the country, it would not be wise to pass such a bill. I had hoped that before this time some progress would have been made in the settlement of these vast claims from that section of the country. Instead of that, however, they have been recently passing stay laws and exemption laws.

It seems to me that we ought to have in this bill something that shall set aside those laws, something by which persons may not roll in wealth themselves while their creditors are starving, for I know to-day many a man who is toiling and supporting his family by wages, while others have his earnings for years in their pockets and are living in idleness.

Now, sir, I do not wish to legislate either for the debtor or the creditor in this matter. I wish all honest debtors to pay over what property they have got and get their discharge; but under this bill, as it now stands, men may own in several of the States a large amount of property, and yet hold it in such a way that poor laboring men, men who have labored for them for wages, men who are struggling to obtain a livelihood, cannot get from them what is honestly their due. If this bill was only to operate in the future I would not care anything about the exemptions, for, believing as I do sincerely, after much reflection upon the subject, that nine tenths of the credits in this country are injurious and demoralizing to the people of the country, I should be perfectly willing that every person who credits another should rely entirely upon the integrity and personal character of the person to whom he gives the credit. But it is not so; there are tens of thousands of men in the country who in the past have been embarrassed.

We all want to relieve them. I should be glad to see every honest man among them relieved, and I should also be glad to see those who have property covered, hid away, or protected by any exemption laws give up that property and pay their debts, except a reasonable amount to be retained by their families.

I shall vote for the amendment, because I believe one of the oldest, if not the oldest and best bankrupt law in the United States, from which this bankrupt bill has been drawn substantially, has that provision in it, and there it works well, and our experience justifies us, I think, in putting it into this bill.

Mr. STEWART. The adoption of this amendment of the Senator from Massachusetts, of course, is the end of the bill. There will be no bankrupt bill if you now provide that no debtor shall be a discharged bankrupt unless his assets are sufficient to pay fifty per cent. of the claims against his estate. And now I should like to say a word in regard to one remark made by the Senator from Massachusetts in support of this amendment. He says that it is objectionable to pass this bill at this time, because there is a large amount of indebtedness due by persons in the South, payment of which has been postponed in consequence of the rebellion, which will be lost to northern creditors if this bill be passed. I think he is entirely mistaken as to the practical operation of this bill so far as that matter is concerned.

In the first place, the theory of a bankrupt bill is, that when a man is hopelessly insolvent it is better for the creditor that he should be discharged, so that he need not send good money after bad, and it is better for the community that the debtor should be discharged, so that he may be of use to the community. If a man, whether in the South or in the North, is hopelessly insolvent, I would not wish to tax the creditor by putting him to the expense of attempting to collect anything.

A word further in respect to the operation of this bill in the South. Gentlemen complain of stay laws, and I admit they are onerous and wrong. This bill sweeps out of existence the stay laws. If a southern debtor has property and is willing to avail himself of stay laws or of the prejudices of the community which would prevent a fair verdict by a jury in a suit for the recovery of a northern debt, this bill enables the creditor to force him into bankruptcy, to compel a distribution of his assets, and this through the process of the United States courts, whereas the State courts there as now organized are very poor machinery for the collection of debts.

Then I say that where the debtor is hopelessly insolvent it is better for the northern creditor that he should know it, and the less money he sends after what is lost the better; and where the debtor is not insolvent, but wishes to shield behind stay laws or to avail himself of a prejudice that exists in the community, so as to affect juries or interrupt the due administration of justice, this bill enables the creditors to go into the United States courts and coerce the debtor into bankruptcy and have a fair distribution of the assets. So far as the northern debtor is concerned it is much better that he should have a settlement. This bill enables him to get a settlement in any event. If he can get nothing he knows it; if there is anything to be distributed it enables him to reach the debtor who is attempting to evade payment. Really it is some relief to the northern creditor.

Then, throughout the North values have changed so rapidly in the last six years, men's property has fluctuated to such an extent, that there is a large number of persons who are insolvent, with large indebtedness hanging over them, which is merely the result of the fluctuation in prices, and which no human foresight could have guarded against. It is highly important that they should be relieved. The community demands their services in the avenues of business. If there ever was a time when a bankrupt bill was appropriate it seems to me now is the time.

Furthermore, we should have such a law on our statute-book as a regular system for all time. All civilized nations recognize the importance of this. A bankrupt bill holds up a moral standard for traders that does not exist independently of it. If a trader commits an act of fraud, an act of bankruptcy, he can be driven into bankruptcy, although he may have a large surplus above what is sufficient to pay his debts. Such a law fixes a standard of morality which is higher than is recognized by the insolvent laws of the different States. It is a compulsory as well as a voluntary system of bankruptcy. Most of the States have their insolvent laws, but they are not as good for the general creditor throughout the United States as this bankrupt law would be. The insolvent laws in most of the southern States enable a debtor to much more easily prevent his property being fairly distributed among his creditors than this bill. You cannot wipe out the insolvent laws that exist in the South. The States all over the Union have insolvent laws, and under those laws there is no possibility of a creditor non-resident in the State getting a portion of the proceeds when there is a distribution. That was the evil aimed at by the framers of the Constitution when they gave Congress power to pass a uniform bankrupt law, as the debates show, because the States were passing bankrupt and insolvent laws that gave a preference to resident over non-resident creditors. There was an evil in that respect, and that was the very evil intended to be removed by giving this power to Congress. The evil still exists, however.

I say, then, this bill, as a measure in favor of creditors, and of northern creditors if you please, is of some advantage to them. It gives them a remedy which they do not now have, and takes away from them no right which they now have. Anything that can be done to avoid the payment of a debt can be much more read-

ily done under the State insolvent laws that exist throughout the South.

I hope the bill will become a law; but if this amendment prevails it is the end of the bill.

Mr. WILSON. Why does the Senator say that it is the end of the bill? I should like to know why he makes that particular remark. I do not so understand it. We can pass the bill afterward, and the bill will be effective. I do not see anything that justifies the Senator in making that declaration. If he means to say that some persons cannot be cleared of their debts, relieved of their obligations, if we pass the bill in this form, it is a fair declaration; but the bill, in my judgment, is a much better bill with the amendment than it is without it.

Mr. STEWART. I will explain why it is the end of the bill. Here is one man who is a rascal, who has committed all the acts of bankruptcy that are possible, who has concealed his property, and has defrauded his creditors in every possible way. Under the amendment the creditors cannot drive that man into bankruptcy unless they can show that they can make fifty per cent. out of his assets. If he has got his property hid so that the assets available will not pay fifty per cent. of his debts, the creditors cannot drive him into bankruptcy. He will be able to say to them, "Although I have committed innumerable frauds, although I ought to be hung, perhaps, for the frauds I have committed, still I have not got property which can be got hold of to divide fifty per cent. among my creditors, and therefore you cannot force me into bankruptcy." Is that right?

Mr. WILSON. This bill was drawn by an eminent member of the House of Representatives, and passed by the House of Representatives, and they propose precisely the same thing at the end of a year. I propose to begin now and require the debtor to pay fifty cents on the dollar, or obtain a majority in number and amount of the creditors before he can be discharged. There is no end to the bill by adopting the amendment. The bill is just as good a bill, and in my judgment a much better and safer one for us to pass, with the amendment than without it; and after we put it in operation, if modifications be needed they can be made. In my judgment, if this bill passes as it stands you will find thousands of men over this country who have concealed property, who have cheated creditors, rushing forward first to obtain relief under it, as was the case under the old bankrupt law, and you will find a great outcry against it.

Now, sir, I believe that if the well-settled system existing in my State, and which has existed there for a quarter of a century, containing the provision which I have here moved, which works admirably, and under which hardly any man fails to obtain his discharge, is incorporated into this bill, its operation will be better and more satisfactory, and will work out greater results of justice than it will in this manner. I shall therefore vote for the amendment.

Mr. GRIMES. The Senator from Massachusetts the other day in debate enlightened us as to the paternity of a bill which was then under consideration. Now, I should like to know of him whether or not he regards this as a western measure.

Mr. WILSON. No, sir. I do not think it is a measure that the agricultural, laboring, and mechanical interests generally take a great deal of concern in. It is a commercial bill. I believe a good bankrupt bill ought always to exist. I think that it was a great mistake that the old bill, after it had done all the evil it could do, was not properly amended according to the experience of the country and then continued in force. If that had been done we should now have a good bankrupt bill in the country. We ought to have such a bill, and I move this amendment for that purpose. This I know is a commercial measure, a measure for protecting the business men of the country

more than the agricultural and mechanical interests.

Mr. JOHNSON. If I understand the amendment proposed by the Senator from Massachusetts, it is that no party shall have the benefit of the bankrupt act who is now actually bankrupt, unless he shall be able to show assets to the amount of fifty cents on the dollar upon his whole indebtedness. The effect of that amendment, as I think the honorable member will see when he reflects more maturely upon it, would be to deprive of the benefit of this law perhaps nearly half, if not more, of those who stand very much in need of this relief. The honorable member tells us that a provision of the same kind is found in the insolvent laws of Massachusetts. I suppose in that he is right; and as these laws have been in force for many years as far as relates to all who could be benefited by a discharge under those laws, he thinks the amendment which he proposes would have no deleterious operation. But the honorable member knows that the Supreme Court have decided, and that is considered now as the settled doctrine on the subject, that the insolvent laws of the States have no operation to free the citizens of those States from the obligation to pay any debts which they may owe to the citizens of other States. And the result is that even the people of Massachusetts who may be unfortunately bankrupt, as well as the people of the other States who are in that situation, are not now, and have not been since the repeal of the last bankrupt act, able to free themselves from the embarrassments of their debts. In the absence of the bankrupt law, therefore, those debtors who are honest (for the law is intended only to apply to them) have exhausted all their assets, and they could not be relieved from their debts by surrendering what they had at the moment they ascertained they became bankrupt; there being no law in force by which they could be relieved to that extent, they have lived on hoping often against hope until they are without anything.

And independent of that, the civil troubles to which we have been subjected, and which have more or less had an effect upon commercial men, and upon all other men, have been such as at once in many cases to sweep away from them all their assets so that they are hopelessly insolvent. Now, all that the House proposed was to require a debtor to show assets to the amount of fifty cents on the dollar who may apply for the benefit of this statute after the expiration of a certain period, I think, and not from the passage of the act. The object of that provision is very apparent. If at the time of the passage of the act, when he can be relieved, he is in the possession of assets which would go to discharge in whole or in part his debts, although he finds that he may not be able to go on so as to save anything for himself after discharging his debts, and he refuses to apply until he has exhausted all his assets, there may be some reason in requiring of him the possession of assets to the extent of fifty cents on the dollar, or any other amount before he shall have the benefit of this law; but what is to become of the almost innumerable number of men who are now unable to pay their debts and unable to show any assets? The honorable member cannot, I am sure, fail to be aware that whatever may be the condition of Massachusetts debtors or Massachusetts men in the South, whatever their condition was before the war commenced, every thing has been swept away. I suppose there is no debtor in the South who would be able to show assets to the amount of fifty cents on the dollar if he was in debt any amount. Those who have been trading with Massachusetts and trading with the other Atlantic States in mercantile business have had taken from them, by means of the war, in consequence of the war, all the assets they had. One of the objects of this bill is to provide for that class of citizens as well as to provide for the class of citizens who have become unfortunately bankrupt in our own States.

The view of the committee, however, was that, looking to the purpose of an act of this description, looking to what we supposed was the policy that ought to be pursued in reference to such cases, it was not advisable to include in the law any such limitation. I know it may be said that it is one of the means by which frauds to any extent may be prevented. But no party is entitled to the benefit of this act unless he can show that he has been perfectly innocent of all fraud. The objection to the provision is as it came from the House, and it applies with still more force to the amendment of that provision suggested by the honorable member from Massachusetts, that it makes the absence of assets to the extent of fifty cents on the dollar conclusive evidence against the debtor. Why should that be so? How many of the merchants of the land and the business men of the country, to say nothing of the South, from time to time have embarked in enterprises depending for their success upon the honesty of others, an amount which if lost would reduce their assets to less than fifty cents on the dollar? Are they to be denied the privilege of the law? Are they to be stricken down hopelessly, having no means at all of laboring successfully for the support even of their own families, and still less of laboring so as to increase the wealth of the country? It will be so if this passes; and the committee were of opinion—and in that opinion, I believe I may say, if it is proper to refer to such a subject at all, there was perfect unanimity—that it was a sufficient guard against any improper appropriation of assets after an act of bankruptcy committed or after the fact of bankruptcy became known to the debtor, to provide that he should not be entitled to a discharge unless he was able to show that he had acted fairly. Innocent mistake we thought ought not to involve him in hopeless misery, to use a term not at all too strong for the condition in which a hopeless bankrupt is placed, with his wife and children around him, dependent not only for education, but even for maintenance upon his being able to provide the means by which both are to be obtained or acquired. We thought—and in that particular we acted in accordance with nearly all the laws to be found on the continent of Europe and in England—that innocent bankruptcy was no crime, and that in the absence of crime it was fit and proper that every man should be made a freeman absolute, a freeman discharged from the thralldom of debt, a freeman discharged from the thralldom of laws which enforced may make a slave of a freeman.

The honorable member from Massachusetts and others who are upon this floor—and in that opinion I concurred—thought that the institution of human slavery was abhorrent, not only to all ideas of justice, but to all ideas of humanity, and that it should be at once put an end to. They thought evidently the other day, as that opinion was indicated in the debates, that the laws to be found in the statutes of some of the States authorizing the sale, even for crime, of any individual, were abhorrent to all the modern notions of humanity. And yet, Mr. President, can any one imagine a slavery more absolute and more heart-rending, a slavery that more effectually strikes at human energy, than that which, although not existing in the walls of a penitentiary or of a jail, a man sees in his own household in the utter hopelessness with which his wife and his children from day to day live, with no expectation of being relieved from the slavery of debt in the absence of a law of this description? And all that the law proposes is, that he who is in that condition of human thralldom shall be permitted to escape from it and be again a man, if he has innocently been brought to that condition.

I hope, Mr. President, the amendment will not prevail, and that the bill as it came from the House in that particular section will be altered by striking out the clause which the committee have moved to strike out.

The PRESIDING OFFICER. (Mr. Edmunds in the chair.) The question is on the

amendment of the Senator from Massachusetts [Mr. Wilson] to the amendment of the committee.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the committee.

Mr. DAVIS. I desire to offer an amendment to the amendment. After the word "and" in line ten of the clause proposed to be stricken out I move to strike out all the residue of the words of that clause and to insert in lieu of them these words:

*Provided*, That no person who files a petition asking to be declared a bankrupt, or who may file any pleading in court, or give his consent on the record to the judgment or order of the court declaring him to be a bankrupt, shall have a discharge from his debts, until a majority, both in number and amount of debt, of his creditors shall give their assent thereto by some pleading or other paper filed, by order of the court or upon the record.

I will say a word in explanation of my amendment to the amendment. The object of my proposition is to discriminate between voluntary and involuntary bankruptcy. The effect of my amendment, if adopted, will be to leave the provisions and principles of the bill as reported by the committee to apply to all cases of involuntary bankruptcy, and to establish a different rule in relation to all cases of voluntary bankruptcy. My own judgment would be that where a man is declared a bankrupt against his will he is made an involuntary bankrupt: where his property is wrested from him and distributed among his creditors, if he makes a fair and full surrender, he ought to be entitled to his discharge. But in that other and more recent class of cases of bankruptcy, voluntary bankruptcy, I want to establish a different rule.

I have always doubted myself whether the framers of the Constitution intended to allow any other class of bankruptcy than involuntary bankruptcy; but the act of 1841 established a different principle, and created voluntary as well as involuntary bankruptcy, and I suppose that the law of 1841, and its acquiescence in by the country, has probably settled forever the principle that bankruptcy may be voluntary as well as involuntary. But I know the abuses to which the law of 1841 was made subservient. Hundreds of thousands of men that owed but a small amount of debt, in my own State many who owed debts under \$500 and as low as \$200, filed their petitions to be declared bankrupts, and were so adjudged and received their discharge. If these men, owing but a small amount of debts, had with energy and frugality and industry gone to work they could in a very short time have made money enough to liquidate and discharge all their debts; but they fraudulently preferred the mode of liquidation by bankruptcy sooner than by labor and economy.

Now, sir, I suppose you cannot by any system or by any regulations which may be adopted, define and eviscerate clearly and infallibly the cases of voluntary and involuntary bankruptcy. In many cases where the purpose seems apparently to be to declare a debtor a bankrupt against his will, it may, and no doubt often will be with his full consent and concurrence. But so far as that point can be ascertained and made certain, my wish and the principle of my proposition is simply that in cases of voluntary bankruptcy the bankrupt shall not have his discharge until a majority of his creditors, both in number and amount, give their assent upon the record to his discharge. I believe that that principle would work very inconsiderable, if any, injustice, because I doubt not that in every case even of voluntary bankruptcy where a bankrupt ought to have his discharge from his debts he would be able to obtain the consent of a majority of his creditors, both in number and amount; and my proposition is simply to guard against fraud committed under this bill by persons who voluntarily seek bankruptcy.

Mr. POLAND. I do not design upon these amendments to enter into any discussion about the general merits of a bankrupt law. The



principle upon which this bill goes is, that a debtor who is unable to pay his debts and who surrenders all his property is entitled by law to have a discharge. The simple question is, whether we will say that the principle of this law is to be entirely thrown aside, and declare that whether a man shall have a discharge or not shall depend upon the consent of the creditors. If we require that we may as well not have any bankrupt law.

Mr. DAVIS. I do not think the proposition I make interferes with the general principle of the bill. I agree as a general proposition both of humanity and of policy that where a debtor is unable to pay his debts and he is forced into bankruptcy against his will, or, if you pleased, without his concurrence, and he is compelled to surrender his property to his creditors, he ought to have his discharge. The proposition which I make does not apply to that class of cases at all. It applies only to cases where the application is in form, as well as in substance, in the name of the debtor himself to be declared a bankrupt, and in all such cases that the debtor where he seeks himself to be declared a bankrupt shall not have the privilege of canceling his debts by a judgment against him in bankruptcy unless that judgment is concurred in by a majority of his creditors both in number and in amount.

In every case in which the proceeding is instituted by a creditor and not by the debtor himself, the general principle of the act would be left to apply, and the debtor would be allowed to have the benefit of his free and full discharge. It would only be in case where the proceeding was instituted formally by the debtor himself and not by his creditors, and where the presumption might arise that it was a fraud and speculation on his part to get a discharge from his debts under the forms of this proceeding by his own movement, and not by the movement of his creditors—it would only be in that class of cases that the consent of a majority of the creditors in number and amount would be required under my amendment. Indeed, I am not certain that it would not be a salutary principle, one that would be promotive of justice and not at all inhumane in its operation, to require such a consent of creditors in every case of bankruptcy, whether it be voluntary or involuntary.

The PRESIDING OFFICER. (Mr. EDMUNDS.) The question is on agreeing to the amendment of the Senator from Kentucky to the amendment of the committee.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question again recurs on the amendment of the Committee on the Judiciary.

Mr. HOWARD. Let it be read.

The Secretary read the amendment, which was to strike out all of section thirty-three after the word "otherwise" in line ten, in the following words:

And in all proceedings in bankruptcy commenced after one year from the time this act shall go into operation, no discharge shall be granted to a debtor whose assets do not pay fifty per cent. of the claims against his estate, unless the assent in writing of a majority in number and value of his creditors who have proved their claims is filed in the case at or before the time of application for discharge.

Mr. HOWARD. I was not in my seat when the pending amendment was first stated, but I can see no reason for making such a distinction as this. I think it is unfounded. I can see no justice in it; I hope, therefore, it will be stricken out. I will not detain the Senate, however, at this time with any further remarks. The amendment was agreed to.

The next amendment was in line fifteen of section thirty-four to strike out "two years" and insert "one year;" so as to make the proviso to that section read:

Always provided, That any creditor or creditors of said bankrupt, whose debt was proved or provable against the estate in bankruptcy, who shall see fit to contest the validity of said discharge on the ground that it was fraudulently obtained, may, at any time within one year after the date thereof, apply to the

court which granted it to set aside and annul the same.

Mr. POLAND. It is just perhaps that I should make some little explanation in reference to this amendment. Under the bankrupt law of 1841, whenever a bankrupt pleaded his discharge in bankruptcy when sued for any debt that had accrued prior to the discharge, the creditor was at liberty upon the trial to come in and impeach the discharge. When the discharge was set up and pleaded as a defense to an action against a bankrupt the creditor was authorized to come in and answer that discharge by showing that there was some fraud in the proceedings of the bankrupt, that his property was not all surrendered, that there were almost any violations of the requirements of the bankrupt law. By this bill the discharge is made final and conclusive. The discharge when pleaded by the bankrupt to an action is not allowed to be impeached in that collateral way. But the creditor is authorized to apply to the court which granted the discharge to have the discharge itself set aside. If the creditor discovers that the bankrupt has been guilty of any concealment of his property, or for any reason was not entitled to the discharge, he might have appeared before the court and objected to the court's giving the discharge, and he may again apply to the court after the discharge has been given to have the discharge itself annulled or set aside.

Mr. HOWE. Within what time?

Mr. POLAND. The bill as it passed the House gave the creditor two years for that purpose. The amendment proposed by the committee restricts it to one year. I do not desire to discuss the relative merits of the respective times, one year or two years; but the effect of this amendment is to reduce the time from two years as the House fixed it to one year.

Mr. HOWE. I decidedly like the amendment reported by the committee. I think effect should be given to this judgment of the court in bankruptcy some time or other. I think it should take effect at least in a year. That is time enough, it seems to me, given to any creditor who did not appear on the hearing to move for a rehearing, which I understand this to be in effect. The very object of the bill is to enable insolvent debtors to procure a discharge from their indebtedness, and they ought to be able to know whether they are discharged or not in some reasonable time. To require them to go through all the steps preliminary to a hearing, give all the notices, cite all the creditors, have the hearing, obtain the decree, and then be compelled to wait two years to know whether that decree is worth anything or not seems to me to be a very great hardship.

I believe a year is as long as is allowed any party to move for a rehearing on a new trial in ordinary proceedings. To allow so long a time as two years goes very far to defeat the whole purpose of the bill. It is said that there is a great urgent public necessity for unfettering a vast amount of business talent and ability that is now tied up by indebtedness. If you want to unfetter it do so. There is no object in merely changing the fetters. Do it in the course of their lives. They will be unfettered in the course of time at some time or other, and the great majority of them, I am inclined to think, before they would be by the force of this bill if that time is extended to two years. I hope the Senate will agree to the amendment of the committee.

Mr. HOWARD. After the proceeding has been finished, resulting in the granting of a discharge to the bankrupt, which is a formal paper issued by the court under its seal to discharge him from his debts, there is a privilege given to creditors to contest the validity of the discharge. Otherwise, I suppose, that the bankrupt's discharge would be binding and conclusive upon all creditors, and would prevent them forever from questioning the validity of the discharge upon the ground of fraud. There are numerous causes which creditors may allege by way of setting aside the discharge

and having it canceled. The bill itself spreads out before us this field of objections. I read from page 42 of the bill:

No discharge shall be granted, or, if granted, be valid, if the bankrupt has willfully sworn falsely in his affidavit annexed to his petition, schedule, or inventory, or upon any examination in the course of the proceedings in bankruptcy, in relation to any material fact concerning his estate or his debts, or to any other material fact; or if he has concealed any part of his estate or effects, or any books or writings relating thereto, or if he has been guilty of any fraud or negligence in the care, custody, or delivery to the assignee of the property belonging to him at the time of the presentation of his petition and inventory, excepting such property as he is permitted to retain under the provisions of this act, or if he has caused, permitted, or suffered any loss, waste, or destruction thereof; or if, within four months before the commencement of such proceedings, he has procured his lands, goods, money, or chattels to be attached, sequestered, or seized on execution; or if, since the passage of this act, he has destroyed, mutilated, altered, or falsified any of his books, documents, papers, writings, or securities, or has made or been privy to the making of any false or fraudulent entry in any book of account or other document, with intent to defraud his creditors; or has removed or caused to be removed any part of his property from the district with intent to defraud his creditors; or if he has given any fraudulent preference contrary to the provisions of this act, or made any fraudulent payment, gift, transfer, conveyance, or assignment of any part of his property, or has lost any part thereof in gaming, or has admitted a false or fictitious debt against his estate; or if, having knowledge that any person has proved such false or fictitious debt, he has not disclosed the same to his assignee within one month after such knowledge; or if, being a merchant or tradesman, he has not, subsequently to the passage of this act, kept proper books of account; or if he, or any person in his behalf, has procured the assent of any creditor to the discharge, or influenced the action of any creditor at any stage of the proceedings, by any pecuniary consideration or obligation; or if he has, in contemplation of becoming bankrupt, made any pledge, payment, transfer, assignment, or conveyance of any part of his property, directly or indirectly, absolutely or conditionally, for the purpose of preferring any creditor or person having a claim against him, or who is or may be under liability for him, or for the purpose of preventing the property from coming into the hands of the assignee, or of being distributed under this act in satisfaction of his debts; or if he has been convicted of any misdemeanor under this act, &c.

There is a vast number of causes which may be alleged by the creditors against the validity of the discharge, and these causes cover almost every transaction connected with the bankrupt's estate, the entries in his own books, and a thousand other matters, which it will be very difficult for the creditors or any one of them for a considerable length of time to develop and expose. The policy of the bill, as it passed the House of Representatives, was to allow a reasonable time for making the necessary inquiries, with a view to contest the validity of the discharge, and they fixed the time at two years within which this was to be done. I think that time is quite short enough for the benefit of the creditor. The great creditor classes of this country reside chiefly at the East and in eastern cities. It is not to be presumed that they or their attorneys can within any very short time make a full and thorough investigation into the condition of the affairs of a bankrupt who lives at a distant place in the far West; and the same may be said of every section of the country. Non-resident creditors, whose claims and rights are as dear to them as to any other class of men, certainly ought to be allowed a reasonable length of time to contest the validity of the discharge, and to show the court that the discharge was based upon falsehood or upon fraud; and it seems to me that one year is quite too short a time within which to confine the inquiries of the creditors.

I hope, therefore, that two years will be retained. I do not remember what the fact was in relation to the act of 1841, whether the time was one year or two years.

Mr. POLAND. By the act of 1841 it was not necessary that the creditor should apply to get the discharge set aside. He could contest it wherever it was set up as a defense.

Mr. HOWARD. He could contest it at any time?

Mr. POLAND. Yes, sir.

Mr. HOWARD. I believe such was the law. There was no limit as to the time within which this contestation could be made. The creditor could at any time within twenty years contest the validity of the discharge upon the

ground of fraud. Here the committee propose to limit this contestation to one year from the time of the discharge. I think that is entirely too short. If a bankrupt has been honest and truthful in his proceedings in bankruptcy and has obtained a discharge honestly and fairly, he has nothing to fear during the short period of two years that should embarrass him in reëntering into any commercial business. On the other hand, if he has been guilty of fraud or falsehood in procuring his discharge, two years is a period quite short enough within which to allow the creditors to contest that discharge and show the fraud and falsehood. I hope the amendment will not be agreed to.

The question being put on the amendment,

Mr. HOWE called for a division; and the ayes were—6, and the noes 19; no quorum voting.

Mr. HOWE. I give it up: I withdraw the call for a division.

The PRESIDING OFFICER. There is no quorum present and voting.

Mr. POLAND. I think if the question be put again it will be shown that there is a quorum.

The PRESIDING OFFICER. The Chair ascertains by actual count that a quorum of the Senate is present.

Mr. HOWE. I do not insist upon a further division.

The PRESIDING OFFICER. The amendment, then, will stand as disagreed to. The next amendment of the committee will be reported. The Secretary read the next amendment, which was in section thirty-four, line thirty, to strike out the words "and true" after "proved."

The amendment was agreed to.

The next amendment was in section thirty-six, to strike out the words "and not true," after "not proved," in line thirty-five.

The amendment was agreed to.

The next amendment was in section forty-seven, to strike out the words "of the salaries," and insert "for the services."

Mr. POLAND. As the bill was originally drawn, the registers had a salary given them. As the bill now stands they are paid by fees, so that this becomes a mere necessary verbal alteration.

The amendment was agreed to.

The next amendment was in line fifty, of section forty-seven, to strike out "commissioners" and insert "judges."

Mr. POLAND. That is necessary in consequence of an amendment already adopted.

The amendment was agreed to.

The PRESIDING OFFICER. The amendments reported by the committee have been gone through with. The bill is still open to amendment.

Mr. POLAND. Section forty-nine confers jurisdiction under this act upon "the supreme court of the United States for the District of Columbia." I believe there is no such court. I move that the words "United States for" be stricken out, so as to read "the supreme court of the District of Columbia," which I believe is the name of the local court here.

The PRESIDING OFFICER. That correction will be made if there be no objection.

Mr. POLAND. In the next line jurisdiction is conferred upon "the district courts of the several Territories." The local name of these territorial courts is supreme courts. I move, therefore, to strike out the word "district" and insert "supreme."

The PRESIDING OFFICER. That change will be made if there be no objection.

Mr. WILLIAMS. I propose the following amendment, to come in at the end of the last section of the bill:

And provided further, That no proceedings in voluntary bankruptcy under this act shall dissolve or affect the obligation of any existing contract or indebtedness.

Mr. POLAND. Perhaps we ought to understand the importance of this amendment and not let it pass in silence. I hardly under-

stand the amendment myself; but if I have anything like a correct understanding of it, it provides that this bill shall be prospective merely; have no effect upon existing debts and contracts. That is a pretty important principle. I do not desire myself to enter into the discussion of it at all. Twenty-five years ago, when the bankrupt law was passed in 1841, this subject was discussed at very great length and with very great ability at two or three several sessions of Congress before the bill was finally passed, and at the session when it was finally repealed. It was claimed, with great emphasis and earnestness at least, that a bankrupt bill of this sort would be unconstitutional; that we had no right to make it apply to existing debts; but it was determined otherwise by Congress in the passage of that bill, and that principle was universally sustained by the courts everywhere, so that it is no longer open to this objection of unconstitutionality.

As to the question of expediency, it seems to me there can be no doubt about it. If we are to have a bankrupt law at all, is it not just as necessary that men who are now laboring under a mass of debt that they cannot pay should be discharged as that men should be discharged from debts that accrue hereafter? The question of constitutionality having been settled beyond all question or cavil by the thousand judicial decisions that were made under the bankrupt law of 1841, it seems to me that difficulty is entirely removed. And as to its expediency, as to the rightfulness of it, as to the propriety of the thing itself, there can be no question in the mind of any man.

Mr. WILLIAMS. I do not propose to make any speech in support of this amendment. I am opposed to the enactment of any bankrupt law made applicable to existing indebtedness. I would support a bankrupt law to operate prospectively, so that every man who makes a contract can make it in reference to a bankrupt law in existence. Without undertaking to say whether this part of the law which this amendment is intended to affect is constitutional or unconstitutional, I do not believe in the justice of any such legislation. And as to the necessity of the retrospective effect of this law, I disagree very much with the honorable Senator from Vermont. According to the information I have, there never has been a time in the history of this country when there was so little necessity for a bankrupt law as at this time; no time when the people were so generally free from debt in the United States as they are at this time.

Mr. POLAND. Then it will not do any harm to make it retrospective.

Mr. WILLIAMS. For that reason there is no pressing necessity, as it seems, for a bankrupt law to operate upon existing indebtedness. Doubtless there are very many persons who will be greatly injured by the enactment of this law. I am convinced that if the law is enacted in its present shape its history will be very much like the history of the other bankrupt law: just as soon as an opportunity is afforded, all the dishonest debtors of the country will avail themselves of the advantages of the law, and all those who are honest and endeavoring to struggle along and pay their debts will be deprived of its advantages; and the conduct of the dishonest debtors will make the law so odious that it will be repealed, and the other was, in a very short time, and the real benefits of the law will in that way be wholly defeated.

I do not see why a prospective bankrupt law could not be enacted. I believe that was the intentment of the men who made the Constitution, that a bankrupt law should be made to operate *in futuro*, that all legislation should be such as to enable men when they make a contract to know what the obligation and effect of the contract is. I hope, sir, that this amendment will be adopted. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. SHERMAN. In the consideration of this bankrupt bill I have felt disposed to fol-

low the committee in all their amendments, so that if we are to have a bankrupt law we shall have one that has been carefully matured, carefully considered, and well guarded to carry out the intention of the framers of the law. It is manifest that the amendment of the Senator from Oregon is totally inconsistent with the great body of the bill. If adopted, it is a virtual defeat of the bill. The adoption of this amendment will require of course the recommitment of the bill. I prefer to defeat the bill by a direct vote rather than do it by indirection. I think the gentleman who has charge of this bill will admit that if this amendment be adopted the whole bill must be re-framed. The bill has been framed mainly to apply to preëxisting debts, and this clause is entirely inconsistent with many sections of the bill, so that it would not be fair to vote in favor of this amendment unless you want to defeat the bill by indirection.

My own course as to this bankrupt bill will be decided somewhat by the plain and obvious public opinion of the State of Ohio. In the State of Ohio there is a strong prejudice against a bankrupt bill. A part of that grows out of the fact that it is an agricultural community, and bankrupt laws are not favored by agricultural and mechanical communities. They are commercial measures; and they are only justified by the fluctuations and losses in commercial transactions. They are the growth of the English system of commerce, and generally an agricultural community have a strong prejudice against a bankrupt law. A part of this prejudice in this case has grown out of the abuses of the law of 1841, when men apparently wealthy suddenly took the benefit of the bankrupt law, discharged themselves from all their liabilities, and soon after became rich again, and sometimes honest creditors saw the debtors who had been discharged by the bankrupt law rolling in wealth, while they themselves in some cases were suffering the pangs of poverty. The remembrance of that transaction, which was before my time, undoubtedly prejudices the public mind against a bankrupt law.

But rather than that I have the best evidence that the public sentiment of the State of Ohio is against it from the action of the Legislature two years ago when this very bill, or one similar in character, was introduced into Congress. The Legislature of Ohio with great unanimity then instructed the Senators from that State to vote against it. While I do not feel bound by legislative instructions, while I do not regard myself as compelled to obey the wishes of the Legislature if inconsistent with the duty which I owe to myself and my position, I yet pay great respect to the views of the Legislature as an evidence of the public sentiment of the State; and I always do respect that expression, especially when I am convinced that the Legislature expresses the sentiments of the people of the State, as is the case on this matter. I shall feel bound, therefore, to vote against this bill; but in doing so I am desirous to promote all proper amendments to the bill and to see it consistent, so that if passed against my own judgment it may be a bill creditable and uniform and consistent throughout.

Mr. WILLIAMS. I should like to ask the Senator if he feels bound to vote against a bill operating prospectively? Suppose this amendment should be adopted and the bill should be recommitted to the committee and they should prepare a bill in accordance with the instructions which the adoption of this amendment would involve, would he feel bound to vote against it?

Mr. SHERMAN. I think it would be better at once to recommit the bill. It would not be fair to defeat it in this way. If the amendment were adopted, as a matter of course the gentleman having charge of the bill would at once move its recommitment. If the Senator desires to recommit it on the ground that he will not vote for anything but a prospective bill, he had better make a motion to recommit expressly with those instructions.

I might say that there is another opposition to this bill from the commercial cities—Cincinnati for example. Most of the letters I receive, in regard to this bill, are either from persons who desire to avail themselves of its benefits or persons in Cincinnati who are creditors. They claim that, by this bill, their debtors in the southern States will be discharged—that the property of the southern States, now greatly reduced in value, will be thrown suddenly upon the market by bankrupts, and that they will be paid off with nothing; that they are substantially excluded by public opinion from becoming purchasers of property in the southern States, and that there is great danger that they may lose all chance of recovering their debts if this bill becomes a law. Now they are able, by compromises and by adjustments, to get some portion of their debts, but their impression is that if this law passes, which must be uniform in its operation, the little property that is in the hands of their debtors in the South will be suddenly thrown into the market and sold at the present depreciated prices, and they defeated in the collection of their debts.

These considerations will induce me to vote against the bill on its passage. At the same time I shall vote against any amendment that would embarrass the bill or make it inconsistent with itself.

Mr. POLAND. What has been said by the honorable Senator from Ohio in reference to the objections to this bill, and especially those growing out of the fact of the indebtedness of the South to the North, has not very much connection with this amendment that is moved by the Senator from Oregon.

Now, Mr. President, in consequence of the fact of my having been the organ of the Judiciary Committee to report this bill to the Senate at the last session, I have been made the object, the victim almost, of an immense correspondence upon the subject of this bankrupt law; and so far as I have been able to discover who are the most anxious and the most desirous for the passage of this bankrupt bill, it is northern creditors of southern debtors. With the single exception of one gentleman in Philadelphia, who has got a southern debt that he fears he will lose, the universal expression to me of all that class of persons, so far as I have any knowledge of it, has been that their only chance of getting pay from southern debtors was by the passage of a bankrupt law.

They say that the property in the South is almost entirely in land; it is owned in large quantities, large tracts by persons who are largely in debt; that the owners of this land are the persons who control the State legislation and the State courts; they are the persons whose influence procures the stay laws; they are the persons who control in reference to the State courts the sentiments, judgments, and opinions of those courts. They say that the only chance for them to collect anything off their southern debtors is to have a bankrupt law passed that will enable them to bring those debtors into the United States courts and to lay hold of this land and divide it up. And I may say in connection with this subject that our loyal friends throughout the South, a very large number of whom have written to me on this subject, regard this as one of the most beneficial measures for them. The universal sentiment among the loyal people of the South, the real loyalists so far as I have been able to discover it in my correspondence, and it has been quite extensive, is that as a mere measure of reconstruction, as a measure of settlement, as a measure to put things upon a proper basis in the South, nothing would be so beneficial to them as the passage of a bankrupt law. And in reference to the sentiment of northern creditors on this subject, the great mass of the southern debt is in the northern cities, and I believe every city of the North unless it be the city of Cincinnati, through the boards of trade, through every organ of the creditor interest of those cities where the great mass of southern indebtedness is held, has given expression to a

universal and almost unanimous opinion in favor of the passage of a bankrupt law. So that this class of persons who it is feared are going to be injured by the passage of a bankrupt law, in consequence of their holding debts against the South, are more clamorous for its passage than even the persons who desire to take the advantage of it themselves.

Mr. JOHNSON. My information is of the same character with that stated by the honorable member from Vermont; and if I had not been so informed, reasoning on what I know must be the condition of the South, I should have come to the same conclusion myself. The difficulty mentioned by the honorable member from Ohio does not exist in point of fact in the first place; at least I am so told. A northern creditor can sue in the local courts and get judgment and get his process with as much facility as any southern creditor, if there be southern creditors; and he can make his money out of the assets, whatever they may be, of his debtor just as soon as any other creditor. But that is not the difficulty in which the northern creditor would be placed. These gentlemen own large estates; they are now comparatively valueless. Most of them were in debt when the war commenced; they are of course in debt still, and their negroes have been emancipated, their lands have been desolated because of the war, and they have now no means at all of cultivating them to advantage. The result is that they sell their lands to different purchasers. The debtor of to-day who owns a thousand acres is forced to-morrow to sell, and the next day perhaps he only owns one hundred acres, if he owns any, if he does not sell all. There being no bankrupt law, that places what would have been assets, and will be assets if you pass this bill, out of the reach of the creditor; he cannot follow the lands into the hands of a purchaser under the bankrupt, there being no existing bankrupt act.

But that is not all. The local creditor may sue, or the northern creditors may sue, such of them as think proper to sue, and he who sues first gets his judgment first, gets his execution first, and then the property is sold to satisfy his debt, and it often sells for not more than enough to satisfy that debt. I saw a statement the other day, showing the destitution of the South and how completely their property was rendered valueless, of the sale of a sugar plantation that had been purchased a few years ago at \$225,000; I suppose there were some slaves upon it. It was bought in the other day at a compulsory sale at \$25,000. If the bankrupt law had been in force that estate would have gone into the hands of the assignee, and he could have husbanded the estate from time to time until eventually what inured only to the benefit of the creditor suing, to the extent of \$25,000, might have brought \$200,000 and gone to the payment of all the debts.

I look upon the bill, therefore, as effecting two things, effecting one just as completely as it does the other, and both of them very proper objects. The first is, that it enables the creditor to secure at once against the debtor and against rival creditors the assets of his debtor; and the other is, that it enables the debtor to escape the thralldom of debt.

Mr. POMEROY. I have thought that perhaps there has been no time in the history of the country when a bankrupt law would be so generally sustained as now. During this whole war there has been an impression and a belief that at its close a bill of this character would be necessary and would be sustained. I know that so far as relates to the States bordering on the rebellion their business men have been destroyed, to a great extent, by raids, by marauding parties taking their goods and destroying their property. This Government cannot reimburse them, whether the damage was done by the Union or the rebel armies. The Government cannot make good the illegal acts of its own forces, and never undertakes to repair damages done by the rebel army. If we intend to afford any relief to the men who have been

thus circumstanced, there is no course left to us but to pass a bankrupt law and relieve them in that way if we would have them again enter upon the trades, occupations, and business which they have followed.

As to the objection suggested by the Senator from Ohio, which he thinks will be made by that class of men in the North who trade with the South, I have only to say that I do not believe it will make much difference to them whether this bill becomes a law or not. If twenty-five years experience of trading with the South has not taught them anything, they will not be apt to learn it in the future. There never has been a time for many years past when a man from the North could enforce the collection of a debt there, unless he was of that standing and character which enabled him to have friends and supporters there. I have been associated with men who could not appear in the courts there, men who believed as I do. There has been no time in twenty years past, or at least within the past ten years, when they could collect a debt there at all. There may be exceptions, but this has been the general rule; and if men persist in selling goods in that direction let them take all the risks. I have no objection to their doing it, but they must take the risks. I noticed that in St. Louis as soon as the rebellion closed large quantities of goods were shipped South on short time. During the war they had been selling goods for cash, if they sold at all; but at its close they commenced selling on thirty or ninety days credit, and I happen to know that in very many cases these short bills went to protest and the time was extended and extended, but they are not collected yet. It is only the old experience of twenty years that has been reenacted over again.

Sir, I do not think that a bankrupt law of this character will ultimately work any injury to the community at large, though it may for a time to individuals. I shall vote against this amendment because I follow the recommendation of the committee, believing that if they have not matured this bill it cannot be perfected by an individual amendment, especially if it is an amendment that requires the reorganization of the whole bill. I can see very many reasons why a law of this kind should not be retrospective; but at the same time, coming out of this war as we have done, trying to wipe out what we cannot cure, I am for passing this bill and letting us see its results.

Mr. HENDERSON. I desire to submit a motion that the bill be recommitted to the Committee on the Judiciary with instructions to report a bill on the subject of bankruptcy with provisions as follows:

I. That no person shall be authorized to become a voluntary bankrupt except on the conditions following:

*First.* He shall relinquish all his property to the assignee in bankruptcy for the benefit of his creditors, regardless of State exemptions, except a specified amount not to exceed in value \$500.

*Second.* His indebtedness provable under the act must amount to at least \$1,500.

*Third.* The assets shall pay at least thirty per cent. of any debt existing at the time of the passage of the act, or otherwise the same shall not be discharged unless a majority of the creditors consent.

*Fourth.* No debt contracted or accruing after the passage of the act shall be discharged by certificate in cases of voluntary bankruptcy unless the assets shall have paid fifty per cent. of the amount proved.

*Fifth.* All future acquisitions of the bankrupt, obtained by descent, devise, bequest, or in the course of distribution, shall be subject to the payment of his former debts.

*Sixth.* No debt shall be discharged unless it be specified in the original or supplementary schedule of the debtor or presented for proof by the creditor.

II. Involuntary bankruptcy shall be subject to the following restrictions:

*First.* The petitioning creditors seeking to



obtain a judgment of bankruptcy must represent and establish against the alleged bankrupt an indebtedness not less than \$1,500.

*Second.* A specified amount of property not to exceed \$1,000 shall be exempt from the proceedings, in favor of the head of a family, and not to exceed \$500 in other cases.

*Third.* Subsequent acquisitions, as in the case of involuntary bankruptcy, obtained by devise, descent, bequest, or in the course of distribution, shall be subject to the payment of discharged debts.

The PRESIDING OFFICER. The question is on the motion of the Senator from Missouri to recommit the bill with these instructions.

Mr. WILLIAMS. I inquire whether that motion is in order at this time?

The PRESIDING OFFICER. Certainly. A motion to recommit supersedes a motion to amend.

Mr. HENDERSON. I shall not take up the time of the Senate in discussion; but I suppose that this proposition presents a test vote. It may be that a majority of the Senate do not agree with me in my views in reference to this matter; and I admit that if the bill be recommitment it will be perhaps the end of it for this session. If it be not recommitment, possibly it would be as well to perfect it and pass it at once, as we have but little time.

My view is that it is inexpedient and improper to pass any bankrupt law at present. I am rather inclined to think that our experience upon the subject has demonstrated that there is no necessity for any law of this character. Anyhow, no bankrupt law that has been passed by Congress has given satisfaction to the people. The first law that was adopted (in 1800) was continued in force only five years. It was repealed within a few years after its passage. The act of 1841 was repealed by the same Congress which passed it. The act was passed in August, 1841, and repealed in March, 1843. It was in force but a short time.

This bill is a much more sweeping act than either of those laws. It will be remembered that the act of 1800 followed the English rule of bankruptcy, the rule which was in force when our Constitution was adopted, which I apprehend the framers of the Constitution had reference to when they declared that Congress should have power to pass uniform laws on the subject of bankruptcy. In England at that time there was no such thing as voluntary bankruptcy. It was all involuntary. No man had a right to go into court and make a schedule of his debts and pray for a judgment of discharge from his indebtedness, either the indebtedness existing at the time or that which might be contracted subsequently. It was all involuntary or coerced bankruptcy. The act of 1841, although it provided for voluntary bankruptcy, had many provisions which were much better than the provisions of this bill, because it did not permit every individual, or almost every individual, no matter what might be his indebtedness, to pray for a discharge; but this act provides that any man who owes \$300 of indebtedness may apply.

I apprehend that the State laws in almost every State of the Union grant \$300 exemption. Hence the effect will be that parties who own \$300 worth of property and perhaps owe three or four hundred dollars of indebtedness, instead of dividing that property among their creditors, will present a petition to the district court for a discharge and use up that money in the payment of costs and fees and charges in procuring a bankrupt's certificate, instead of dividing the money among honest creditors. My experience is that where a debtor has given evidence of his honesty and his intention to pay his debts there is but little trouble in procuring a third or a half in value of the creditors at any time to agree to release him. Hence, if the bill should be passed, I am clearly of the impression that some amendment such as that offered by the Senator from Kentucky [Mr. DAVIS] ought to be adopted if it is made to apply to debts already existing.

It is true that by the Constitution there is no limitation on our discretion in that respect as there is in regard to the States. Congress cannot pass an *ex post facto* law, but it may pass a law impairing the obligation of contracts. The Constitution provides that the States shall not pass laws impairing the obligations of contracts. Hence it is utterly impossible for a State to pass a law operating upon present or existing contracts and discharging individuals from them. It has been so decided and settled. What was it that induced the Convention to adopt a provision of that sort? The simple idea that prevailed in regard to *ex post facto* laws, that laws of that character are unjust within themselves. Parties make a contract in view of the existing law, and therefore it should not be interfered with. It has been decided by the Supreme Court, in the case referred to by the Senator from Maryland, that the States may discharge from contracts entered into after the passage of an insolvent law.

Mr. JOHNSON. As between their own citizens.

Mr. HENDERSON. Yes, sir. Now, the idea of the Convention in the adoption of this provision was, perhaps, merely a continuation of the idea existing at the time that Congress might regulate commerce. It strikes me that there is no necessity for a bankrupt law as between citizens of the same State. It is best to leave the States to regulate that matter for themselves. For instance, Indiana does not desire any bankrupt law to control contracts or debts so far as the citizens of Indiana are concerned. So in regard to New Jersey; New Jersey would prefer, so far as her own citizens are concerned, to determine that matter for herself. So of my own State. But as it has been decided by the Supreme Court that a bankrupt's discharge under a State law will not be good as against a creditor residing in another State from the one where the discharge was obtained or where the contract was entered into, an act of this sort in all probability is necessary so far as to regulate trade between citizens of different States.

It must be seen that this law is more extensive in its operation than any law I am aware of that has ever been adopted either in England or in this country. The English law applied only to traders, to merchants, not to individuals who did not undertake to make a livelihood by trade, commerce, business, buying and selling for profit. By the English law of bankruptcy none others could avail themselves of it. This law, however, like the act of 1841, extends to all classes of individuals, and I am satisfied that the unpopularity of the act of 1841 in a great degree proceeded from the fact that the door was open for all persons to obtain bankrupt certificates voluntarily. That was the cause of its repeal. That presented the obnoxious points, and presented them so strongly to the minds of the people as to induce the repeal of the act very soon.

I have provided in the instructions which I have submitted that when a man asks to be discharged as a bankrupt all his property shall be transferred except \$500. In case of involuntary bankruptcy I submit that in all probability a larger amount could be very justly and properly exempted from the operations of the law; but where the bankrupt himself asks to be discharged ought he not in all reason to give up a greater amount of his property? Is it unjust to require him, when he prefers to surrender his property and obtain a bankrupt certificate, a discharge from all his indebtedness, to reserve a smaller proportion than where he is forced into bankruptcy? I believe not. It is a voluntary thing with him. If he desires to surrender the property and asks for it, let him have less exempted than in the other case. I do not think any voluntary clause should be left in the bill. If I had the framing of it I would have no voluntary clause in it. I would follow the act of 1800 on that subject, and not adopt the provision of the act of 1841 which rendered it so odious to the community. But

if the bankrupt sees fit to insist upon a discharge let him surrender all his property except \$500.

My second provision is that his indebtedness provable under the act must amount to \$1,500 at least. The Senator from Vermont will see that after a party owing \$300 can proceed and go through all the necessary costs of procuring a certificate, the \$300 will be entirely used up in the costs of the proceeding, and there will be nothing left for the creditors. Why not then put some limitation on it—such a limitation anyhow as would be available to the creditors to a certain extent, and let them have something? What is the use of a party taking the little that he may have and proceeding voluntarily to obtain a discharge as against his creditors, and give it to the officers of the court instead of to the creditors? Surely, after paying the costs of the proceeding and the fees of the officers, even the amount I propose would leave very little for the creditors.

I further provide that the assets shall pay at least thirty per cent. of any debts existing at the time of the passage of the act. For my own part I would not let it operate upon any debt existing at the time of its passage if I could. I agree with the Senator from Oregon, that the idea prevalent in the Convention which induced the framers of the Constitution to say that no State should pass any law impairing the obligation of contracts, arising as it did from a feeling of justice toward others, should induce us to be at least very wary how we interfere with existing obligations and contracts.

I do not appreciate the argument of the Senator from Vermont and the Senator from Maryland who spoke of the distress in the South. I cannot see that this bill is to be very beneficial to the people of the South. I do not so look upon it. I cannot see that it will help the people of the South who are now passing stay laws, as we are informed, to protect themselves. The land-owners who are in the Legislatures, it is said, are passing stay laws to protect themselves and their people. I cannot see that to declare all those laws invalid and tear them up root and branch and turn the property of those people over to registers in bankruptcy is to benefit them materially. It may give them a discharge, but what good does the discharge do when all their lands are sold?

Mr. POLAND. It is to help their creditors.

Mr. HENDERSON. I doubt whether it will help their creditors. I am sure that the constituency I represent are as much interested in this matter as perhaps any people, because the credits in my State against the people of the South are very large. They were very large when the rebellion broke out, and they have not been paid since. I do not think that my constituency, standing in the light of creditors, will be benefited by the passage of this law. I cannot see that it will benefit the people of the South or benefit the people of the North to whom they are indebted.

Where a man is disposed to do right, where he is disposed to be honest, as I have said before, a majority of his creditors can be obtained almost at any time to release him upon the payment of a fair percentage of his indebtedness. I would not, therefore, interfere with existing contracts any further than I could help. Then I require that at least thirty per cent. of the existing indebtedness be paid.

The fourth provision is that no debt or contract accruing hereafter shall be discharged in the case of a voluntary certificate unless the assets shall pay fifty per cent. of the amount proved. This subject was examined many years ago, under a resolution of the New York Legislature, by the chancellor and the judges of the supreme court of the State of New York. After having examined very thoroughly into the operation of the insolvent and bankrupt laws of the State of New York, they made a report, from which I beg leave to read an extract:

"Judging from their former experience, and from

observation in the course of their judicial duties, they were of opinion that the insolvent law was the source of a great deal of fraud and perjury. They were apprehensive that the evil was incurable and arose principally from the infirmity inherent in every such system. A permanent insolvent act, made expressly for the relief of the debtor, and held up daily to his view and temptation, had a powerful tendency to render him heedless in the creation of debt, and careless as to payment. It induced him to place his hopes of relief rather in contrivances for his discharge than in increased and severe exertion to perform his duty. It held out an easy and tempting mode of procuring an absolute release to the debtor from his debts; and the system had been, and still was, and probably ever must be, from the very nature of it, productive of incalculable abuse, fraud, and perjury, and greatly injurious to the public morals.

If we hold out an inducement by a general law to every man who may be involved to the extent of \$300 to proceed and get a bankrupt's discharge by giving that \$300 to the officers of the court, will it not present the temptation here spoken of? If a man in business knows that without paying any part of his indebtedness he may if he becomes insolvent procure a discharge and forever stand exempt from the obligation of his debts, is it not a very great inducement to the commission of fraud? If not, it most certainly is to the indulgence of great heedlessness and recklessness in business. I would therefore put some limitation on voluntary bankruptcy in this respect that I would not apply to involuntary bankruptcy. I propose that where a party applies to procure for himself the benefits of the act he shall pay some part of his indebtedness.

If this distress is so very great as is supposed by the Senator from Maryland and the Senator from Vermont in regard to existing debts, I still apprehend that thirty per cent. of them can be paid, and if not that a majority in interest of the creditors will at least agree to the discharge of the party. That is my experience. I repeat that where good faith is shown by a debtor generally his creditors are perfectly willing to give him his discharge upon the payment of a very small percentage of his indebtedness. But in regard to subsequent indebtedness I would not hold out this inducement, that any man who is reckless and careless in business may procure a discharge without paying at least one half of his indebtedness, unless by the consent of the creditors. I would still let the creditors give him his discharge by consent.

There is another instruction which I have embodied, that all future acquisitions of the bankrupt, obtained by descent, devise, bequest, or in the course of distribution shall be subject to the payment of his former debts. I am perfectly willing to relieve all future acquisitions by labor, but I am wholly unwilling, so far as I am individually concerned, to allow a party to hold a bankrupt's certificate and to receive large inheritances and to enjoy those inheritances free from the payment of his debts. It seems to me that it is unjust, and that it produced a good deal of the ill-feeling against the acts previously passed, and it will have the same effect again.

Finally, I provide that no debt shall be discharged unless it be specified in the original or supplementary schedules of the debtor or presented for proof by the creditor.

In reference to involuntary bankruptcy, I say first, that the petitioning creditor, seeking to obtain a judgment of bankruptcy, must represent and establish against the alleged bankrupt an indebtedness of not less than \$1,500. Two hundred and fifty dollars indebtedness is all that is required by the bill now in order to push the party to bankruptcy. The reasons I have given in reference to applying a law of that character to merchants, traders, and those having credits in other States than the States of their residences will apply very strongly in support of this provision.

I provided also that in cases of involuntary bankruptcy a specific amount of property, not exceeding \$1,000, shall be exempted in favor of the head of a family, and not exceeding \$500 in other cases. The Senate, it is true, has expressed its opinion on this point, and that is to leave the exemption laws of the

respective States to apply, and the Senator from Maryland thinks that provision constitutional. I cannot bring my mind to that opinion. However, I do not desire to enter into any remarks upon it now. I feel very clear that if the law be passed with that provision not much good will result from it, because the States, in order to retain for themselves the entire magistracy over this subject, will pass such exemption laws as will render perfectly futile the operation of this measure, and it will do no good.

There ought, therefore, to be some specific amount specified. I put the amount at \$1,000, which is larger than in cases of voluntary bankruptcy. Where a party comes in voluntarily and seeks a discharge he ought to surrender nearly all his property. Where his creditors push him to bankruptcy there is some reason why he should have a larger exemption. If \$1,000 dollars be not sufficient let him have \$2,000, and if that be not sufficient let him have \$3,000. I am not particular about the amount, but I think the amount ought to be specific and made applicable in each and every State of the Union, because very great injustice will be worked by suffering the different States to avoid the payment of their creditors outside, for it will be remembered that so far as their own citizens are concerned they can regulate this matter for themselves, and it is only in reference to outside creditors that it becomes necessary to have a bankrupt law at all.

The remaining proposition of this branch of the instructions is the same as the last one of the other, namely: that after the discharge all acquisitions that come from relatives by descent, devise, bequest, or in the course of distribution, shall be subject to the payment of the debts. That is the old Maryland law of insolvency, and a very good provision it is.

Mr. HENDRICKS. I should not have a word to say upon the proposition of the Senator from Missouri except for his suggestion that this will be a test vote. I shall probably not vote for the bill, and yet I would not vote for his proposition to recommit. I think that defeats the bill; I think it is due to the committee, on so grave a question as this, to allow the bill to come to a final vote, mainly upon the propositions that shall come from the committee, at least from such portions of the committee as support the measure; and it is for that reason that I shall vote against the proposition of the Senator from Missouri to return the bill to the committee. This bill received very full consideration by the Judiciary Committee at the last session, and, with some exceptions, is perhaps as good a system of bankruptcy as can be established. I do not say it is a perfect bill; but the objections to the bill are perhaps inherent in the subject of the legislation itself. While I shall probably not vote for the bill, I have voted against bills with more confidence in my judgment upon the subject than in this instance.

The Constitution clearly contemplated a uniform and perhaps a permanent system of bankruptcy in the country, and I am inclined to the opinion that if a good system can be once established to take the place of the various systems of the States it will be an advantage. The evil of the times grows out of the different systems of insolvency in the different States. Clearly the framers of the Constitution contemplated some uniform and perhaps permanent system; and while I will not vote for this bill perhaps, because I do not know what is the pleasure of the people I represent on the subject, yet I repeat that I think it is but fair to allow the bill to come to a vote, and I shall vote against amendments calculated to embarrass the bill. I shall only vote for such amendments as I think will improve the bill, and for none with a view to embarrass it.

Mr. JOHNSON. I do not propose to speak to the particular amendment suggested by my friend from Missouri, because, if I understand correctly what the Senate has already done, it has decided substantially against each one of his propositions. The honorable

member tells us that he doubts very much whether the clause in the Constitution was intended to embrace or does embrace other than traders, and that it was not contemplated to provide for cases of voluntary bankruptcy. It is true that at the time the Constitution was adopted the bankrupt laws of England were made applicable exclusively to traders, but England long since has applied them to all other classes; and the power to apply them to other classes in the Parliament at the time the Constitution was adopted nobody could have questioned. The clause, therefore, which gives to Congress the power to pass bankrupt laws has been considered as equivalent to the same power existing in Parliament; and the Supreme Court, in the case of *Sturgis vs. Crowninshield*, admit, I think, very clearly that the clause embraced every class of debtors, and was not confined to traders. In the same case they also, in words, state that under that power Congress may provide for voluntary as well as involuntary bankruptcy. I have the opinion by me.

Mr. HENDERSON. That question did not arise in the case.

Mr. JOHNSON. It did not arise in that case in some respects. That case involved the constitutionality of a State insolvent law which undertook to discharge debts, and in considering that question Chief Justice Marshall, who gave the opinion, went into an examination of the whole subject: first, what was the extent of the congressional power to pass bankrupt laws; secondly, how did it conflict with the power of the States to pass insolvent laws? It was maintained in relation to the power of the States that they had not authority by an insolvent law to discharge a debt. The Chief Justice said it would be exceedingly difficult to decide that a law passed by a State discharging a debt and all the subsequent acquisitions which the debtor might make would not be an insolvent law within the powers which the States had because of the reservation; in other words, he did not consider the power with which Congress was clothed to pass laws on the subject of bankruptcy as interfering with the right of the States until that power was exercised to pass laws discharging debts as between their own citizens; and in express terms the court admit that it is in the power of Congress under its authority to pass bankrupt laws to include every variety of bankrupts, every class of bankrupts, and also to provide that a bankrupt might himself apply for the benefit of such laws.

The motion to recommit was not agreed to.

The question recurred on the amendment proposed by Mr. WILLIAMS; and being taken by yeas and nays, resulted—yeas 10, nays 26; as follows:

YEAS—Messrs. Cowan, Cragin, Fogg, Grimes, Henderson, Lane, Trumbull, Willey, Williams, and Wilson—10.

NAYS—Messrs. Brawn, Chandler, Conness, Doolittle, Edmunds, Fessenden, Harris, Hendricks, Howard, Howe, Johnson, McDougall, Morgan, Norton, Patterson, Poland, Pomeroy, Ramsey, Riddle, Ross, Sherman, Stewart, Sumner, Van Winkle, Wade, and Yates—26.

ABSENT—Messrs. Anthony, Buckalew, Cattell, Cresswell, Davis, Dixon, Foster, Fowler, Frelinghuysen, Guthrie, Kirkwood, Morrill, Nesmith, Nye, Saulsbury, and Sprague—16.

Mr. POLAND. In the last section of the bill the provision is that "no petition or other proceeding under this act shall be filed, received, or commenced before the 1st day of November, A. D. 1866." I move to strike out "November" and insert "April," and to strike out "1866" and insert "1867;" so as to take effect the 1st day of April, 1867.

Mr. HARRIS. I think it would be better to say June.

Mr. POLAND. I will modify my amendment so as to say June instead of April, to make it take effect on the 1st day of June next.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment was agreed to.

Mr. HOWARD. I move to strike out the

thirty-seventh section of the bill, and I ask the Clerk to read that section.

The Secretary read it, as follows:

SEC. 37. *And be it further enacted*, That the provisions of this act shall apply to all corporations and joint stock companies, and that upon the petition of any officer of any such corporation or company, duly authorized by a vote of a majority of the corporators present at any legal meeting called for the purpose or upon the petition of any creditor or creditors of such corporation or company, made and presented in the manner hereinafter provided in respect to debtors, the like proceedings shall be had and taken as are hereinafter provided in the case of debtors; and all the provisions of this act which apply to the debtor, or set forth his duties in regard to furnishing schedules and inventories, executing papers, submitting to examinations, disclosing, making over, secreting, concealing, conveying, assigning, or paying away his money or property, shall in like manner, and with like force, effect, and penalties, apply to each and every officer of such corporation or company in relation to the same matters concerning the corporation or company, and the money and property thereof. All payments, conveyances, and assignments declared fraudulent and void by this act, when made by a debtor, shall in like manner, and to the like extent, and with like remedies, be fraudulent and void when made by a corporation or company. No allowance or discharge shall be granted to any corporation or joint stock company, or to any person or officer or member thereof: *Provided*, That whenever any corporation by proceedings under this act shall be declared bankrupt, such decree of bankruptcy shall work a forfeiture of all the franchises of such corporation, and the affairs of such corporation shall be wound up in the manner provided in this act in respect to natural persons.

Mr. HOWARD. This section applies to bodies corporate and does not apply to natural persons, whether individuals or associations of partners. By its very terms it is applicable to corporations; and it makes no distinction between the various kinds of corporations, whether they be trading commercial corporations or corporations for any other purpose.

Originally, it was beyond a doubt the purpose of a bankrupt act to discharge the person of the debtor from arrest, or as the case might be to discharge him from the liability under which he labored. I may be mistaken, but I am of the impression that the English bankruptcy laws do not apply to corporations. Such laws have always been regarded as laws for the relief of honest, unfortunate debtors, and for the benefit of creditors, and they apply, I think, exclusively to natural persons, not to corporations.

A corporation exists only by express law. Corporations in the States draw their being from the statutes of the States, which statutes are called their charters. Their existence, all their attributes, all their liabilities, all penalties imposed upon them, the very life and being, the very soul and essence of a corporation is derived from the State statutes. The States have full and complete control over corporations erected or created by their laws; and I have yet to learn that it is within the constitutional competency of Congress to interfere in any way whatever with the functions or operations of State corporations. If I am wrong about this I should like very much to be set right by the learned chairman of the Committee on the Judiciary, who I have no doubt is fully prepared [Mr. TRUMBULL. The Senator from Vermont has charge of the bill] to explain this subject, which is somewhat mysterious to me. I do not understand how such a clause could have got into a Federal bankrupt bill. The mode of winding up a State corporation, the mode in which it shall exercise its functions, the mode in which it shall die and be buried, are all prescribed by the charter or by the laws of the State applicable to these corporations; and until now it has, I believe, been unheard of that Congress has attempted to step in and regulate the mode by which a State corporation shall cease to exist or be wound up. Still I find in this bill this strange clause, and to me it is a very strange clause, that whenever any corporation by proceedings under this act shall be declared bankrupt—

Such decree of bankruptcy shall work a forfeiture of all the franchises of such corporation.

To me this is a very strange principle. I do not believe we have power to do this. I do not believe that under the bankrupt clause of

the Constitution Congress is authorized to step in and declare what shall be or what shall not be cause of forfeiture of a State charter. It is not, perhaps, even generally true of trading corporations erected by the States that insolvency is absolutely a cause of forfeiture. It may be a cause of forfeiture or it may not be, according as the State legislation has established; but can Congress declare a cause of a forfeiture of chartered rights which are not declared to be such by the State legislation? If we can, I beg some gentleman to point out to me in the Constitution whence this anomalous power is derived. I do not see it in the Constitution as yet.

Again, sir, as I have already remarked, there is in this clause no discrimination between the various kinds of corporations. It does not declare that commercial or trading corporations only shall be subject to the act and lose their charters in case of insolvency, but it brings within its broad sweep every corporation that is capable of contracting a debt and standing in the relation of debtor. Sir, you may commence with the humble corporations known ordinarily as lyceums, for there are a great many in the country, and library associations, all of which ordinarily are authorized to contract debts. This bill includes them and throws them and their little property into the immense maelstrom of the bankrupt assets. It includes every town library association that exists by charter. It includes every mechanics' association that possesses the faculty of contracting a debt. It includes every bank erected throughout the United States under a State charter. It includes every railroad corporation. It includes every association possessed of corporate rights and existing under a State charter, and declares that in case such corporation shall be declared bankrupt in a Federal court under the proceedings here detailed in this bill, proceedings entirely alien and foreign to the proceedings presented by the State laws, it declares that whenever any one of those corporations shall become bankrupt it shall forfeit its charter, and, as a matter of course, cease to exist.

The committee had to take but one more step, and they might have taken that step, in my judgment, with precisely the same propriety that they took this step, and have gone so far as to declare that every State of the Union that is insolvent may be brought into a bankrupt court and have its State rights and State sovereignty forfeited by a bankrupt decree!

Now, Mr. President, I do not believe the authors of the Constitution ever contemplated any such thing as this; but that when in the Constitution they gave to Congress the power to pass uniform laws on the subject of bankruptcy they meant the bankruptcy of natural persons, for they knew as well as we do that a State corporation can exist only by virtue of its State charter; that it can act only upon the principles recognized in the State charter; that its whole existence, operation, life, and death are regulated and prescribed by the legislation of the State. It would be rather an interesting spectacle certainly for the creditors of the innumerable corporations existing in the States to come before the bankrupt court, file a petition, and actually drive these corporations into insolvency and into a forfeiture of their charter.

All the property of these innumerable corporations is thus exposed to be placed in the hands of an assignee in bankruptcy, and to be administered as ordinary bankrupt assets, and the very existence of these corporations, valuable as they are to the State, is placed at the mercy of the Federal power, and this bill yields the principle—and it is a great fault of the bill—that Congress may declare what may be the cause of forfeiture, and that that cause of forfeiture may be something different from the cause or causes of forfeiture embraced in the State charter or in the State laws.

Sir, let us be a little cautious how we tread upon this forbidden ground. Let us abstain, so far as reason requires, from trenching upon

what hitherto has been acknowledged as the exclusive jurisdictional limits of the State governments. I move, sir, to strike out this whole section.

Mr. JOHNSON. The proposition of the honorable member from Michigan involves two questions. The first is the most material; the other, as far as the law is concerned, such a law as we may pass beneficially, is comparatively unimportant. The first question is, whether the power to pass bankrupt laws embraces corporations. The second is, if it does embrace corporations, to what extent we may apply the remedy which the bankrupt law affords. The power conferred upon Congress to pass uniform laws on the subject of bankruptcy is of course as comprehensive as it could be made; and the only question, therefore, is whether a corporation can be a bankrupt. What is bankruptcy? What is being a bankrupt? Bankruptcy is an inability to pay debts. A bankrupt is the party who is unable to pay his debts. Then, whether a corporation can get itself brought into a state of bankruptcy and be, in the estimation of the law, a bankrupt, depends upon this inquiry: what is, in contemplation of law, a corporation? Is it not a person named a corporation? That the Supreme Court has decided.

The first case that arose—I speak now from recollection, but I know I am right in substance—in the Supreme Court was, whether a corporation could sue in the courts of the United States unless all the corporators were citizens of the same State and the party sued was a citizen of another State, and the court decided that the jurisdiction did not attach unless it was averred, and proved if denied, that all the corporators were citizens of the one State. The court soon corrected their error. I say their error, because they admitted it to be an error. It was found exceedingly pernicious, and in a great measure to defeat the object of the jurisdiction of the courts of the United States, to inhibit a corporation from suing in the United States courts, which was practically a positive inhibition, if it was necessary to prove as well as to aver that all the corporators were citizens of one State. Some ten or fifteen years ago, therefore, when the question was again presented, the court, I believe by an opinion in which the judges all concurred, decided that in the view of the judicial clause of the Constitution of the United States conferring jurisdiction upon the courts of the United States a corporation is a citizen of the State which incorporates it and where it has its location.

Mr. HOWARD. That is the present doctrine of the Supreme Court.

Mr. JOHNSON. And that is now the doctrine. They have more than once reviewed it and always with the same result.

That being the case, a corporation, in the eye of the Constitution, according to the doctrine of the Supreme Court, is a person, is a person entitled to sue and liable to be sued in the United States courts where the jurisdiction of the courts of the United States depends upon the residence of the parties, as we know it does in cases where they must be citizens of different States. That being so, it would seem to follow necessarily that a corporation also is a person who may become a bankrupt. To consider it as a person for the purpose of contracting debts and suing for their recovery and liable to be sued to enforce debts which it may owe, and not to consider it as a person against whom any other remedy can exist in favor of creditors, would appear to be almost absurd.

Now, what is the remedy which the bankrupt law affords? First, the compulsory process is but a remedy. It is a means furnished the creditor to enforce the performance of his obligation on the part of the debtor, and where it exists it is almost as potential, and is rather more potential in its actual, fruitful results than permitting the creditor to go into the courts and sue the corporation. If it is fit and proper that a creditor of a corporation should be entitled to the remedy of collecting his debts in



whole or in part by means of the compulsory process which a bankrupt law affords, why should it not be equally in the power of the corporation to avail itself of the voluntary clause? If we have the right—and I do not argue that now, because the Supreme Court have recognized the right—of passing a voluntary as well as a compulsory bankrupt law, and if it is right to subject corporations to a compulsory bankrupt law, why is it not right to give them the benefit of a voluntary bankrupt law?

But there are other motives, if there was any doubt on the subject, which I think are persuasive to show that the law should be made to operate upon corporations. I do not mean of course to charge it universally as true of the corporations to be found within the several States; but the most gigantic frauds, the frauds which have done more than anything else to unsettle confidence in the integrity of our people, both at home and abroad, have been the frauds perpetrated through the instrumentality of charters. Everybody can recollect the case of the Ohio Trust Company, chartered by Ohio, composed, it was thought, of some of the best men in that State, and at the beginning so it was. They got involved after receiving upon deposit millions and millions of money, and having their offices in nearly all the commercial towns of the country, and particularly in New York, all at once, either by fraudulent misconduct or mistake they became bankrupt and ruined thousands. If there had been a bankrupt law in force at the first moment it was discovered that they were about to get into a hopeless state of bankruptcy their assets might have been taken advantage of and the creditors might have saved themselves from actual total loss.

Look at the railroad companies. How many of them have almost ruined their creditors? They first exhaust the whole amount of their capital; they then contract a running debt, and that will not do; the road is not completed; and then they mortgage a first and second and third time, to the injury of those who are creditors upon open account; and the first mortgage goes into the courts of the States and closes up the corporation, and all the debtors are ruined, where they are in a condition to be ruined by the loss of their debts.

So in relation to banks. What was the case here the other day in this city? A bank, with a capital of some two or three hundred thousand dollars, called "national," and therefore obtaining a confidence which the name alone gave because sanctioned by an act of Congress, went into debt to the amount of millions, and not a creditor will get, perhaps, ten cents in the dollar. It was known for several weeks that they were in a ticklish condition, and if some of the creditors had then been armed with the compulsory process which the bankrupt law affords their debts might have been saved.

The other question, and the one which I said is not so material to the beneficial operation of this bill, is to what extent will you carry the remedy? The bill provides that the franchise itself is to be forfeited, the whole concern wound up. Upon reflection I think it would be advisable to change that part of the bill. The effect of it would be that if you proceed against any of these corporations who have property worth nothing except as it may be used in connection with a franchise, you destroy the value of the property if you put an end to the franchise. As is suggested by my friend behind me, [Mr. SHERMAN], a railroad is worth nothing unless it is worked. The United States by this bill—and according to my view they would not have the authority to do it if the bill or any other bill undertook to do it—declare that the franchise may be forfeited. I will not stop to inquire whether they can forfeit the franchise or not. That is a question not necessary to be discussed, as I think, because unimportant in the view which I am about to present. We declare by this bill as

it stands that if a railroad company is declared a bankrupt, either upon a voluntary or a compulsory application, the franchise is to be forfeited and the concerns of the company wound up. Many of those franchises are of inestimable value. The franchise itself is property, and it is only valuable as property as long as it remains a franchise. To extinguish it is to strike out of existence the property itself. The assignee in bankruptcy therefore might be authorized to sell the road or to sell the franchise instead of providing that the franchise itself is to go with the bankruptcy.

Mr. HENDRICKS. I wish to inquire of the Senator if he is of the opinion that the assignee can sell the franchise?

Mr. JOHNSON. That is a question that requires some consideration. The franchise is sold under State laws.

Mr. HENDRICKS. When the Legislature of the State agrees to it.

Mr. JOHNSON. Very well. I do not see that it makes much difference. If the franchise is property, and that I assume is true—I suppose that will not be denied—and if it is property that may be used for the purpose of paying the debts of the corporation, then I do not see why the assignee in bankruptcy cannot sell it as well as the creditor who sues in a State court. Does my honorable friend from Indiana deny that it is competent for a creditor to sue a corporation, get his judgment, and levy it upon the road itself and sell every thing? What can he do under that judgment? Supposing it to be a railroad corporation he can sell all the motive power; he can sell all the iron rails and all the ties, and leave nothing but the naked bed; and where the bed itself belongs to the company he can sell that. Then what is there left?

Mr. HENDRICKS. In reply to the Senator my view is this: that the road, the bed, the track, the rolling stock cannot be sold except the Legislature of the State creating the corporation has authorized its sale, either directly or indirectly. As the Senator is aware, most of these questions come up on foreclosures of mortgages. The Legislature, authorizing the corporation to mortgage its property, impliedly authorizes the sale of its property upon the foreclosure of the mortgage. But if the Legislature has merely created a corporation and authorized it to transact a class of business, and that corporation has fallen in debt and the creditor takes a judgment at law, in the absence of an express authority to sell, I apprehend that the officer of the court cannot sell, and that the only remedy of the creditor then would be to go into chancery and, through the instrumentality of a receiver, take possession of and use the property. I have not recently examined the question with great care, but it is a troublesome one.

Mr. JOHNSON. Could any decree a chancellor could pass in the case cited by the honorable member enforce the corporation to carry on the road, compel the president for the time being or the directors to remain president or directors? If not, who is to appoint them? How is the road to be carried on?

Mr. HENDRICKS. In the case which I have mentioned the court appoints the receiver, and through its own officer takes possession of the corporate property and uses it for the benefit of the creditors, and makes the money for the creditors out of the use of the property itself, and does not undertake to sell the property, and thereby pass the franchise.

Mr. JOHNSON. The question is not whether we can extinguish the franchise; I have said just now I thought it was better the franchise should not be extinguished for other reasons; but if the State can authorize a creditor of a corporation to come into a court of chancery and have a receiver appointed to take possession of the road and to carry it on for the benefit of the creditors, why cannot we, by a bankrupt law, authorize the assignee to take possession of the road and carry it on for the benefit of the creditors? To destroy the franchise instead of benefiting the creditors

would be an injury. The only benefit that the franchise can be to the creditors is by enabling the creditors to have the benefit of the franchise, and that can only be by exercising the franchise. If the franchise be in a company authorized to carry on a railroad, and authorized to do nothing else, then in order to secure the creditor the advantage of the franchise it may be necessary to give to the assignee in bankruptcy the authority to carry on the road, just as my friend admits chancery might in a State court, independent of any mortgage incumbrance, authorize a receiver to be appointed and give him the power to carry on the road for the benefit of all the creditors. What I suggested, however, was—and I make the suggestion to my friend from Vermont, who has more particularly this bill in his charge as *quasi* chairman—that I think he had better amend the latter part of the section so as to preserve the franchise.

Mr. HENDRICKS. I did not interrupt the Senator from Maryland with a view of controverting any of his positions, but my purpose was entirely and only to have the benefit of his view upon a question which, after hearing the argument of the Senator from Michigan, somewhat troubled my mind. A corporation exists by virtue of State legislation. What this corporation may do depends altogether upon the will of the State Legislature, and how the franchise may pass from one person to another ordinarily depends upon the will of the Legislature; and it has not been regarded as a thing to be sold by the corporations themselves or by a court at law. The question upon my mind was this: what shall be done with the corporate property when the assignee takes possession of it? He cannot permanently retain the possession, and therefore the answer of the Senator from Maryland did not meet the trouble fully. What will the assignee do with the corporate property? If he cannot transfer the franchise the corporate property, as has been so forcibly demonstrated by the Senator from Maryland, is almost valueless. Can the assignee by a sale of the corporate property pass with it the franchise, the right to use it as the corporation itself might use it?

I am certainly in favor of striking out this proviso, and I hope the Senator having the bill in charge will consent to that. I think it suicidal. I think you might as well provide in the other portions of the bill that when a man is declared a bankrupt he shall be put to death as to provide that a corporation being declared bankrupt its franchises shall cease, its life shall cease. If we can do this, we ought to do that. If we can sell the corporate property, and pass with that the right to use it under the State laws, that is the end which is desirable. And before the vote is taken on the motion of the Senator from Michigan I move to strike out the proviso.

Mr. JOHNSON. There is no objection to that.

The PRESIDING OFFICER. The Senator from Indiana moves to amend the amendment by striking out the proviso in the section proposed to be stricken out by the Senator from Michigan, and the question is on that amendment to the amendment.

Mr. HOWARD. I wish to inquire whether that motion is in order?

The PRESIDING OFFICER. A motion to amend the amendment is in order.

Mr. HOWARD. My motion is to strike out the whole section, and the motion of the Senator from Indiana is to strike out a part of it.

The PRESIDING OFFICER. The amendment to the amendment is in order.

Mr. POLAND. It seems to me that if my friend from Michigan had examined this bill through and with a little more care he would not have been so much alarmed at this thirty-seventh section. It extends the provisions of this bill to corporations. The term used is broad enough, to be sure, to include colleges, academies, lyceums, and every variety of corporations, although they are not business cor-

porations and not likely to have any debts. But it seems to me that if my friend from Michigan had examined a little further and had seen that no corporation could be proceeded against, unless it had been guilty of an act of bankruptcy, he would have had very little fear for the academies, colleges, and lyceums. The same provisions, both for voluntary and involuntary bankruptcy, are extended to corporations, in order to allow the creditors of a corporation to proceed against it and to wind it up under this system of bankruptcy. They have, in the first place, to establish that the corporation has committed an act of bankruptcy. In the case of an individual there are a great variety of things that amount to an act of bankruptcy; but in the case of a corporation the only act of bankruptcy that could be charged would be the making of a fraudulent assignment or a fraudulent concealment of their property. We could hardly suppose that in the case of a college.

Mr. HOWARD. Does the Senator from Vermont mean to say that voluntary proceedings may not be taken by a corporation?

Mr. POLAND. By no means, sir. The fear that the Senator expressed was, that under the involuntary system proceedings would be instituted against religious and educational and eleemosynary corporations and they would up. There is very little fear of a corporation of that sort committing an act of bankruptcy by making a fraudulent assignment of its property. But the section was not intended for that class of corporations at all, and I am entirely willing to have the section amended, and will propose, if the gentleman's motion to strike out the whole section does not prevail, to amend it so that it shall apply to all banking, trading, and business corporations. That is what the section was intended for.

When as to the application the Senator refers to by the corporation itself or by its officers, the voluntary system of bankruptcy in favor of the corporation, what can be the object of that? This section itself provides that where the officers of a corporation carry it into bankruptcy, a case of voluntary bankruptcy on the part of the corporation, no debt against the corporation shall be discharged and no claim against any stockholder or officer of the corporation. What could be the object on the part of the corporation or of its officers, or on the part of anybody, to carry the corporation voluntarily into bankruptcy, when the act itself provides that when they get through there shall be no allowance made to them in property, no discharge granted to the corporation or any of its officers or stockholders, and when they have got through and surrendered everything they have got precisely where they started, and if there are any debts not paid they owe them the same as before if contracted as a corporation, and if there is a liability on the part of the stockholders or officers the same liability remains.

It seems to me that the section with this limitation—and I am willing that it shall be confined to banking, business, and trading corporations, that is the real purpose and object of it—is very necessary. We have found it so in my own State, and they have in other States. I understand that in Massachusetts their insolvency system in the first place left out corporations; and they were obliged to put them in. I know very well, you know, Mr. President, [Mr. EDMUNDS in the chair,] that in our State some of the greatest attempts at defrauding creditors have been made under the guise of manufacturing corporations. In 1841, when the last bankrupt law before this was passed, one of the greatest objections to that bill on the part of its opponents was that it did not include these banking and trading corporations; and those persons who are conversant with the history of those times understand very well that the failure to include corporations in that bill was one of the great features of its unpopularity, one of the great reasons why that bankrupt law was repealed.

In relation to the last clause, the portion of

the proviso about forfeiture, I feel a little scruple myself whether Congress has a right to declare a forfeiture of the charter. It is wholly unnecessary for the purposes of this bill to retain it, and I shall be content to have those words stricken out, and indeed it seems to me rather necessary that they should be stricken out, because this section itself saves all the remedies in favor of the creditors against the corporation. If we destroy the corporation, forfeit its franchise and take it away, what would the remedy of the creditors be good for against the corporation? What is the use of saving remedies in their favor if we destroy the corporation itself? Inasmuch as their whole property is to be surrendered and no discharge is to be executed I can see no possible danger arising from leaving the franchise, the corporate existence to remain; and therefore, as I said in the outset, I shall be willing to have this section modified so as to make it extend only to banking, trading, and business corporations and companies, and to strike out in the proviso the words "such decree of bankruptcy shall work a forfeiture of all the franchises of such corporation."

Mr. HOWARD. Mr. President, as I have already remarked, I am in favor of a judicious and well-framed bankrupt law, if we can have one, and I shall probably vote for the present bill on its final passage if it ever reaches that point. I wish, however, to call the attention of the Senate, and particularly that of the honorable Senator from Vermont, to the danger of a collision of jurisdiction in the operations of this law. In most of the States, I believe, they have a system of winding-up acts in regard to banks, by which the banks of the State, if they become insolvent, are wound up, their affairs closed, and their assets distributed among their creditors. We have a system like that in my State, and I presume there is a similar system in other States.

Now, take for instance a case of this kind: a bank in the State of New York becomes insolvent, if you please bankrupt, using the word "bankrupt" in the sense of insolvent. Proceedings are taken on the part of the State authorities to wind up the bank and distribute its assets. A receiver is appointed by an order of the court of chancery, whose duty it is to enter upon the premises, take the books and assets of the bank, and hold them subject to the order of the court, and the court afterward proceeds to sell the property and distribute the avails. Now, suppose during any portion of this proceeding a creditor of the bank, acting under the involuntary clause of this bankrupt bill, should file his petition in the bankrupt court, and ask to have that bank and its affairs committed to the kind care of an assignee in bankruptcy, and the Federal court or bankrupt court should make such an order: how is such an order to be enforced?

It would inevitably bring on a collision of jurisdiction between the two courts, or rather between the Federal authority and the State authority, which would be very unpleasant. If, however, this bankrupt act shall be adjudged to be the paramount law, if upon this large field of subjects it is supreme, then it would be competent for the bankrupt court, at any moment before the final distribution of the assets of an insolvent bank, to lay hold of those assets and dispose of them according to the provisions of this bill, in defiance and contempt of the laws of the State upon precisely the same subject.

I call the attention of the honorable Senator to this view of the matter for the purpose of further illustrating the objection which I make to this portion of the bill upon constitutional grounds. I cannot understand how Congress by way of a bankrupt act can exercise any power or authority over corporations which are purely the creatures of State legislation. If the power belongs to the State to regulate its own corporations, if the State gives them their peculiar faculties, imparts to them life and all the laws of their being, it must be and is an exclusive power, one with which we can-

not interfere. My objection rests upon the fundamental principle that we have not, in reference to State corporations, the power to interfere; at least I think not. I am not sure that the question has ever been adjudged in any court. It is to me not entirely a new one, to be sure, for I have reflected upon it before.

If the Senate should not see fit to strike out the entire section for the reasons which I have alleged, I think the amendment suggested by the Senator from Vermont, confining the section to trading corporations, would be a very decided improvement, and I should vote for it.

Mr. POLAND. I do not apprehend that there can be any such difficulty in relation to conflict of jurisdiction as the Senator from New York suggests. In my own State we have a statute system of winding up an insolvent bank, and I suppose they have in every State, some of them more extensive than ours, applying to all corporations; but I do not suppose, if this bill passes and becomes a law and corporations are brought within the provisions of it, that if proceedings were pending under the State law and the State court had got full jurisdiction of the whole subject the United States court would interfere, or would have any right to interfere, to take away the administration which had been begun in the State court. That is the ordinary and general principle: where there are concurrent jurisdictions, where there are two courts, either of which may have jurisdiction of the same subject, the one that first takes jurisdiction retains it and has it. That is a familiar principle, which my friend from Michigan must understand as well as anybody.

In relation to the constitutional doubt that my friend suggests, although these corporations are made by the State; although, instead of being natural persons, they are creatures that are born out of State laws, still if they can be debtors and creditors I do not apprehend there is any question but what they may come within the purview of a bankrupt law. I do not desire to go into—

Mr. HOWARD. Then I suppose, if the Senator will allow me, he would hold that the jurisdiction of the district or bankrupt court in such a case as I put would out the jurisdiction of the State court.

Mr. POLAND. Not by any means, if the State court had first taken jurisdiction.

Mr. HOWARD. That is only in cases of concurrent jurisdiction. Here, according to your theory, the Federal legislation is supreme, and there would be no concurrence.

Mr. POLAND. So far as regards a general bankrupt law, between a bankrupt law as passed by Congress and a bankrupt law as passed by a State, I understand that when Congress has acts the State law itself becomes inoperative. When Congress have legislated on a subject that is specially within the jurisdiction of Congress their legislation ousts the State legislation. But there are a great variety of suits at law: ordinary suits, where a party may sue either in the State courts or the United States courts; but when he has once sued in the State court or in the United States court, and that court has got jurisdiction, that is the end of it. That is a principle that is perfectly well settled. It is precisely so here. Where there is a system of State law by which a corporation may be wound up, and its assets distributed among the creditors, and here is a general bankrupt law under which the United States courts might take jurisdiction of it, if the State courts get the first jurisdiction under the State law, which is not superseded by the general bankrupt law, they retain it; and the idea that the United States court would afterward take away that jurisdiction it seems to me is an objection entirely without foundation.

Mr. BUCKALEW. There seems to be considerable difference upon this present question. I propose to submit a motion to the Senate upon which all Senators can agree. I move that the Senate do now adjourn.

Mr. POLAND. Senators all understand how very difficult it has been to get this meas-

ure before the Senate. I have been notified by the chairman of the Committee on Finance that the day after to-morrow he intends to proceed with his appropriation bills. I really hope—

The PRESIDING OFFICER. The Chair will remind the Senator from Vermont that debate is not in order on a motion to adjourn.

Mr. HENDRICKS. There will be no difficulty in getting a vote to-morrow.

Mr. POLAND. I desire simply to say that if the Senate propose now to adjourn, I shall ask the Senate to-morrow to proceed with the bill until it is finished.

The PRESIDING OFFICER. The question is on the motion of the Senator from Pennsylvania that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, February 4, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

### ORDER OF BUSINESS.

The SPEAKER stated the first business in order was the call of States and Territories for bills and joint resolutions for reference, under which joint resolutions of State Legislatures under the amended rule could be presented, not to be brought back by a motion to reconsider.

### LONGEVITY RATIONS.

Mr. BRANDEGEE introduced a joint resolution declaratory of the law of longevity rations to officers of the Army; which was read a first and second time, and referred to the Committee on Military Affairs.

### NAVAL COAL DEPOT IN NEW JERSEY.

Mr. HUNTER introduced a bill to facilitate the establishment of a marine and naval coal depot on the eastern shore of New Jersey, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

### PROHIBITION OF SALE OF GOLD.

Mr. KELLEY introduced a bill prohibiting the Secretary of the Treasury from selling gold; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

### NATIONAL THEOLOGICAL INSTITUTE.

Mr. WELKER introduced a bill to amend an act entitled "An act to incorporate the National Theological Institute," and to define and extend the powers of the same; which was read a first and second time, and referred to the Committee for the District of Columbia.

### APPEALS FROM DISTRICT JUDGES.

Mr. McKEE introduced a bill to empower the judges of the district courts of the United States to hear and determine appeals from their own judgments and decrees; which was read a first and second time, and referred to the Committee on the Judiciary.

### TAX ON STATE BANK CIRCULATION.

Mr. TRIMBLE introduced a bill to repeal the tax on State bank circulation; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

### MARTHA E. KING.

Mr. HAWKINS introduced a bill for the relief of Martha E. King; which was read a first and second time, and referred to the Committee on Military Affairs.

### RELIEF OF LOYAL CITIZENS.

Mr. MAYNARD introduced a bill for the relief of loyal citizens of the United States in the lately insurgent States; which was read a first and second time, and referred to the Committee on the Judiciary.

## AGRICULTURE.

Mr. MAYNARD presented joint resolutions of the State of Tennessee directory to our Representatives in Congress; which were referred to the Committee on Agriculture, and ordered to be printed.

## RECONSTRUCTION.

Mr. DEFREES introduced a bill to reestablish civil governments in the States lately in rebellion, and enable them to assume their proper relations with the States in the Union; which was read a first and second time, referred to the joint select Committee on Reconstruction, and ordered to be printed.

## RAILROAD IN TEXAS.

Mr. ANDERSON introduced a bill to authorize and provide for the construction of a military and postal road from Galveston, in the State of Texas, to Fort Gibson, in the Indian Territory, with a branch to Little Rock, in Arkansas; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

## RECONSTRUCTION.

Mr. ASHLEY, of Ohio, introduced a bill, which he stated had been drawn up by the delegation of southern loyalists from Louisiana, to guaranty a republican form of government to the States of Texas, Louisiana, Arkansas, Mississippi, Alabama, Georgia, North Carolina, South Carolina, Virginia, and Florida; which was read a first and second time, referred to the joint Committee on Reconstruction, and ordered to be printed.

## RAILROAD AND TELEGRAPH LINE.

Mr. ASHLEY, of Ohio, also introduced a bill to aid in the construction of a railroad and telegraph line from the Colorado river to the Pacific Central railroad, and to secure to the Government of the United States the use of the same for postal, military, and other purposes; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

## NAVY-YARD ON THE NORTHWESTERN LAKES.

Mr. SPALDING introduced a joint resolution in respect to a navy-yard on the northwestern lakes; which was read a first and second time, and referred to the Committee on Naval Affairs.

## SUFFRAGE IN THE DISTRICT.

Mr. BEAMAN introduced a joint resolution of the Legislature of the State of Michigan, approving the action of Congress in passing over the President's veto the bill annulling all distinction on account of color in the exercise of the elective franchise in the District of Columbia; which was referred to the Committee for the District of Columbia, and ordered to be printed.

## CORPORATION OF WASHINGTON.

Mr. UPSON introduced a bill to repeal section third of an act entitled "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," approved May, 1864; which was read a first and second time, and referred to the Committee for the District of Columbia.

## HARBOR ON THE KALAMAZOO RIVER.

Mr. UPSON also introduced a bill to provide for the survey of the harbor at the mouth of the Kalamazoo river; which was read a first and second time, and referred to the Committee on Commerce.

## JAMES R. DOOLITTLE.

Mr. COBB. I hold in my hand joint resolutions of the Legislature of Wisconsin, which I desire to have printed and referred to the appropriate committee. It is suggested that the Committee on Freedmen's Affairs would be appropriate.

The Clerk read the title of the resolutions as follows:

Joint resolutions in regard to Hon. JAMES R. DOOLITTLE.

Several MEMBERS. Read, read.

The SPEAKER. It is not usual under this call to have these resolutions read. Is there objection?

Mr. LE BLOND. I object.

The SPEAKER. The Chair will put the question.

The question was taken on having the resolutions read, and it was decided in the affirmative.

The Clerk accordingly read as follows:

Whereas joint resolutions were passed at the last session of the Legislature of Wisconsin declaring it to be the duty of Hon. JAMES R. DOOLITTLE to resign the office of United States Senator, in which resolutions his course and votes upon measures devised by Congress to secure permanent peace and protection to the people, his disobedience of instructions by the Legislature to vote for the passage of the civil rights bill, and his desertion of the cause of human rights were fully recited as reasons for thus declaring it to be his duty to resign; and whereas Senator DOOLITTLE has disregarded said resolutions and the wishes of the people of Wisconsin therein expressed, and yet adheres to his seat in the Senate in violation of duty, and did in a speech in the Senate on the 28th of July last wrongfully attribute the passage of said resolutions to a "tyrannical Republican caucus able to control a majority of the Legislature," and has repeatedly declared in public speeches that the Legislature passing said resolutions did not truthfully reflect the voice of the people; and whereas Senator DOOLITTLE has renounced fidelity to his former professions and principles, has deliberately put himself in active antagonism to those principles of justice and equal rights which should be the foundation of republican government, by uniting his political fortunes with those of the enemies of the Republic, has grossly betrayed a constituency that elevated him to the Senatorship, and by faithlessness to the high trust confided to him has shown himself totally unworthy of further confidence and support; and whereas the people of the State of Wisconsin, uniting their voice with that of the nation, have delivered their solemn verdict in direct condemnation of the purpose, policy, and course of the Senator, and thereby adjudged him guilty of a flagrant breach of political trust; Therefore

Resolved, by the Assembly, (the Senate concurring,) That Senator JAMES R. DOOLITTLE be, and he is hereby, instructed to resign his senatorial office.

Resolved, That the Governor be requested to forward to the Presiding Officer of each House of Congress, and to each of our Senators and Representatives in Congress, a copy of the foregoing preamble and resolutions.

AUGUR CAMERON,  
Speaker of the Assembly.  
WYMAN SPOONER,  
President of the Senate.

Approved January 28, 1867.

LUCIUS FAIRCHILD, Governor.

The resolutions were ordered to be printed, and referred to the Committee on Freedmen's Affairs.

## RATE OF INTEREST IN THE DISTRICT.

Mr. COBB introduced a bill to establish and limit the rate of interest on money in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

## SPECIE PAYMENT.

Mr. LYNCH introduced a bill to provide for the resumption of specie payments; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

## EXPANSION AND CONTRACTION OF CURRENCY.

Mr. LYNCH also introduced a bill to provide against undue expansion and contraction of the currency; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

## PACIFIC RAILROAD.

Mr. DONNELLY introduced a bill to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and secure to the Government the use of the same for postal, military, and other purposes;" which was read a first and second time, referred to the select Committee on the Pacific Railroad, and ordered to be printed.

## WAGON-ROAD IN OREGON.

Mr. HENDERSON introduced a bill extending the time for completing a military wagon-road in the State of Oregon; which was read a first and second time, and referred to the Committee on Public Lands.



## RAILROAD AND TELEGRAPH LINE TO MEXICO.

Mr. CLARKE, of Kansas, introduced a bill granting lands to aid in the construction of a railroad and telegraphic line from the city of Lawrence, in the State of Kansas, to the boundary line between the United States and the republic of Mexico, in the direction of the city of Guaymas, on the Gulf of Mexico; which was read a first and second time, referred to the select Committee on the Pacific Railroad, and ordered to be printed.

## BRIDGE ACROSS THE MISSOURI.

Mr. CLARKE, of Kansas, also introduced a bill to authorize the construction of a bridge across the Missouri river at Fort Leavenworth, Kansas; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

## WYANDOTT INDIANS.

Mr. CLARKE, of Kansas, also introduced a bill for the alienation of the lands of the incompetent class of Wyandott Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

## JAMES S. PORTER.

Mr. HUBBARD, of West Virginia, introduced a bill for the relief James S. Porter; which was read a first and second time, and referred to the Committee of Claims.

## ORGANIC ACT OF COLORADO.

Mr. BRADFORD introduced a bill amendatory of the organic act of Colorado Territory; which was read a first and second time, and referred to the Committee on the Territories.

## SURVEY OF THE COLORADO RIVER.

Mr. BRADFORD also introduced a bill for completing the survey of the Colorado river; which was read a first and second time, and referred to the Committee on Appropriations.

## WAGON-ROAD IN COLORADO.

Mr. BRADFORD also introduced a bill to survey and construct a wagon-road from Denver City to Colorado City; which was read a first and second time, and referred to the Committee on the Territories.

## EQUALIZATION OF BOUNTIES.

Mr. O'NEILL introduced a bill supplementary to an act to equalize bounties, approved July 28, 1866; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

## IRA G. ROBERTSON.

Mr. FARQUHAR introduced a joint resolution for the relief of Ira G. Robertson, of Indiana; which was read a first and second time, and referred to the Committee on Military Affairs.

## IMPEACHMENT OF THE PRESIDENT.

The call of the States and Territories for bills and joint resolutions having been concluded, the House resumed the consideration of the following resolutions offered last Monday by Mr. KELSO:

*Resolved*, That for the purpose of securing the fruits of the victories gained on the part of the Republic during the late war, waged by rebels and traitors against the life of the nation, and of giving effect to the will of the people, as expressed at the polls during the late election by majorities numbering in the aggregate more than four hundred thousand votes, it is the imperative duty of the Thirty-Ninth Congress to take, without delay, such action as will accomplish the following objects:

1. The impeachment of the officer now exercising the functions pertaining to the office of the President of the United States of America, and his removal from office upon his conviction in due form, of the crimes and high misdemeanors of which he is manifestly and notoriously guilty, and which render it unsafe longer to permit him to exercise the powers he has unlawfully assumed.

2. To provide for the faithful and efficient administration of the executive department within the limits prescribed by law.

Mr. LOAN. On those resolutions I now move the previous question.

The previous question was seconded and the main question ordered; the pending question being upon Mr. JENCKES' motion to refer the resolutions to the Committee on the Judiciary.

The question was taken, and the motion was agreed to.

Mr. JENCKES moved to reconsider the vote by which the resolutions were referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to:

## EQUAL SUFFRAGE.

Mr. NOELL. I offer the resolutions I send up to the Clerk's desk.

The Clerk commenced the reading of the resolutions, as follows:

*Resolved*, That Governments were made for the people, and not the people for the Government—

Mr. BLAINE. I rise to a point of order: and my point of order is that the gentleman has already offered one resolution under this call.

Mr. NOELL. I do not think I have offered a resolution under this call.

The SPEAKER. The gentleman offered a resolution in January last: the call has rested with the State of Missouri since the holidays.

Mr. NOELL. Have I a right to offer the resolution by a vote of a majority?

The SPEAKER. A majority can give the gentleman leave to offer the resolution.

Mr. BLAINE. Missouri has held the floor for resolutions for four Mondays; I think other States should have a chance to be heard. I do not know the object of the gentleman's resolution, but I appeal to him not to insist upon offering it now, but let other States be heard.

Mr. NOELL. I do not ask to debate the resolutions now; I only ask leave to offer them, and then let them go over under the rule.

Mr. BLAINE. I will not object to that.

Mr. NOELL. I ask leave merely to submit the resolutions.

No objection was made.

The resolutions were received and read, as follows:

*Resolved*, That Governments were made for the people, and not the people for the Government; that every adult citizen of sound mind in any State or Territory has the right to a voice in the formation of the constitution of said State, and in the representation and laws of said State, and that any State which disfranchises any class of its citizens on account of sex is not republican in form and should be overturned by Congress.

*Resolved*, That the Committee for the District of Columbia is hereby instructed to report to this House without delay a bill so amending an act entitled "An act to regulate the elective franchise in the District of Columbia," which passed Congress January 8, 1867, as to abolish the disfranchisement of persons from voting on account of sex.

*Resolved*, That the Committee on the Judiciary are instructed to report a bill calling a convention and authorizing every adult citizen of sound mind in the State of Massachusetts to vote for delegates to said convention for the purpose of making a constitution for said State republican in form.

Mr. NOELL. When I offered the other resolutions I was prevented by objections from the other side from explaining my object in presenting them. I desire to debate these resolutions.

The SPEAKER. The gentleman rising to debate the resolutions, they will go over until next Monday, under the rule.

## SUFFRAGE IN DISTRICT OF COLUMBIA.

Mr. FERRY presented joint resolutions of the Legislature of the State of Michigan, commending the action of Congress in passing a bill abolishing all distinction of color in the exercise of the elective franchise in the District of Columbia; which were laid upon the table, and ordered to be printed.

## CONTRACTION OF THE CURRENCY.

Mr. WILSON, of Iowa. I offer the following resolutions, upon which I call the previous question:

*Resolved*, As the opinion of this House that the public interest will not justify a greater curtailment of the national circulation than \$4,000,000 per month, or \$48,000,000 during the year 1867, which \$48,000,000 ought not to be exclusive of and in addition to the compound-interest notes falling out during the current year.

*Resolved*, That in lieu of such an amount of compound-interest notes as may become due and be redeemed within the year, as may be in excess of the \$4,000,000 of currency now authorized by law to be withdrawn from circulation each month, the Secretary of the Treasury ought to be authorized and required to issue United States legal-tender notes without interest.

The question was upon seconding the call for the previous question.

Mr. HOOPER, of Massachusetts. Will it be in order to move to refer these resolutions to the Committee of Ways and Means?

The SPEAKER. If the previous question is not seconded and any member rises to debate the resolutions they will go over under the rule. If no member rises to debate them the motion to refer will be in order.

Mr. HOOPER, of Massachusetts. I hope the previous question will not be seconded.

Mr. CONKLING. I want to make an appeal to the gentleman from Iowa [Mr. WILSON] to at least allow us to understand these resolutions before we are called upon to vote upon them.

Mr. LE BLOND. I object to debate.

The SPEAKER. Debate is not in order pending the call for the previous question.

Mr. CONKLING. I am not debating the resolutions; I am appealing to the gentleman to withdraw his call for the previous question, and for leave to do that I am not beholden to the gentleman from Ohio, [Mr. LE BLOND.]

The SPEAKER. That is in the nature of debate, and is not in order if objected to by any member.

Mr. BLAINE. If the previous question is not seconded will a motion to refer them be in order?

The SPEAKER. If no member rises to debate the resolutions a motion to refer will then be in order.

Mr. WILSON, of Iowa. That would be equivalent to killing the resolutions.

Mr. ROSS. I would ask if the resolutions are susceptible of division if we come to a vote upon them?

The SPEAKER. There are two separate resolutions, and a vote can be demanded on each one of them.

The question was then taken upon seconding the call for the previous question; and upon a division there were—ayes 45, noes 69.

Before the result of the vote was announced, Mr. WILSON, of Iowa, called for tellers upon seconding the previous question.

Tellers were ordered; and Mr. WILSON, of Iowa, and Mr. LE BLOND were appointed.

The House divided; and the tellers reported—ayes 40, noes 76.

So the previous question was not seconded.

Mr. BLAINE. I rise to debate the resolution.

The SPEAKER. Debate arising the resolution goes over under the rules.

## HOLDING EVENING SESSIONS.

Mr. KASSON. I offer the following resolution, on which I demand the previous question:

*Resolved*, That on and after to-morrow, and until otherwise ordered, the House will take a recess daily, except on Saturdays, from half past four p. m. to half past seven p. m.; and that on reassembling the first hour each evening shall be devoted to hearing and considering reports of committees, under the same regulations that now govern the morning hour.

The SPEAKER. As this resolution proposes to change the order of business so as to have at night proceedings as if in the morning hour, a two-thirds vote is necessary for its adoption.

On seconding the call for the previous question there were—ayes 40, noes 68.

So the previous question was not seconded.

Mr. WENTWORTH. I rise to debate the resolution.

Mr. KASSON. I desire to modify the resolution.

The SPEAKER. The Chair will state that, by the usage, the call for the previous question not having been seconded, some gentleman opposed to the call is entitled to the floor. The gentleman from Illinois, [Mr. WENTWORTH,] who opposed the demand for the previous question, rises to debate the resolution, and it goes over under the rule.

Mr. KASSON. Can I not offer another resolution?

The SPEAKER. Only by consent of a majority of the House.

## REDUCTION OF THE CURRENCY.

Mr. PRICE. I offer the following preamble and resolutions, on which I demand the previous question:

Whereas much embarrassment now prevails in the country, affecting injuriously the commercial and other interests thereof, on account of the uncertainty of what may be done by this Congress affecting the volume of currency now in circulation: Therefore, be it

*Resolved*, (as the opinion of this House,) That any greater reduction of the currency than that already authorized by law, to wit, \$4,000,000 per month, would not be advisable.

*Resolved*, That the said reduction should be so managed as to take the amount so retired and canceled from the interest-bearing notes, and not from the non-interest-bearing notes.

*Resolved*, That that part of the compound-interest notes which shall fall due during the next year and shall not be retired and canceled under and by virtue of the law now authorizing the retirement and cancellation of \$4,000,000 per month should have their places supplied by legal-tender notes bearing no interest.

Mr. CONKLING. I rise to a point of order. My point is that in effect this is the same resolution which was introduced by the gentleman's colleague, [Mr. WILSON, of Iowa.] I ask the Speaker to examine it.

Mr. PRICE. Allow me to say to the gentleman from New York [Mr. CONKLING] that I wrote this resolution a month ago, and have had it lying in my desk ever since. It is not the resolution introduced by my colleague; but covers additional ground and has reference to different points.

The SPEAKER. The Chair will decide the point of order raised by the gentleman from New York. It has been decided repeatedly that though a resolution *totidem verbis* the same as one on which the House has already acted cannot be introduced, yet a proposition differing in language, although it covers precisely the same ground, can be entertained. The Clerk will read from page 12 of the Digest. The Clerk read as follows:

"No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. And no bill or resolution shall, at any time, be amended by annexing thereto, or incorporating therewith, any other bill or resolution pending before the House. (Rule 48.) The latter clause of this rule, as originally reported to the House, contained at the end of it, 'nor by any proposition containing the substance, in whole or in part, of any other bill or resolution pending before the House.' Those words were stricken out by the House before it would agree to the rule, by which it would seem to have been decided that an amendment containing the substance of another bill or resolution may be entertained. (Note to rule 48.) Such, too, has been the practice ever since."

Mr. LAWRENCE, of Ohio. I desire, if it be in order, to move the following as a substitute for the resolutions of the gentleman from Iowa:

That the public interest demands that there shall not be any reduction in the amount of the outstanding United States notes, commonly called "greenbacks," during the current year.

The SPEAKER. No amendment is in order unless the gentleman from Iowa withdraws the demand for the previous question.

Mr. PRICE. I insist on the demand.

Mr. WARD, of New York. I desire a division of the question, so that the vote on these resolutions may be taken separately.

The SPEAKER. It will be in order to call for a division after the previous question is recorded.

On seconding the call for the previous question there were—ayes 49, noes 71.

Mr. PRICE called for tellers.

Tellers were ordered; and Messrs. PRICE and CONKLING were appointed.

The House divided; and the tellers reported—ayes 68, noes 69.

So the previous question was not seconded.

Mr. WENTWORTH. I rise to debate these resolutions.

The SPEAKER. Debate arising, the resolutions go over under the rule.

Mr. GRINNELL. I offer the following resolutions, on which I demand the previous question:

*Resolved*, That the public interest demands that there shall not, during the current year, be any reduction in the amount of the outstanding United States notes commonly called greenbacks.

*Resolved*, That the Committee of Ways and Means be instructed to report such bill as may be necessary to effect this object.

The House divided; and there were—ayes 51, noes 64.

Mr. GRINNELL demanded tellers.

Tellers were ordered; and Mr. GRINNELL and Mr. RANDALL, of Pennsylvania, were appointed.

The House again divided; and the tellers reported—ayes 68, noes 66.

So the previous question was seconded.

The question then recurred, Shall the main question be now put?

Mr. POMEROY demanded the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL moved that the resolution be laid on the table.

Mr. LAWRENCE, of Ohio, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 71, nays 82, not voting 87; as follows:

YEAS—Messrs. Alley, Ames, Ancona, Baldwin, Banks, Baxter, Bergen, Bidwell, Blaine, Boutwell, Boyer, Brandegee, Broomall, Campbell, Conkling, Cooper, Dawes, Deming, Denison, Dixon, Dodge, Eldridge, Eliot, Finck, Garfield, Glessbrenner, Aaron Harding, Hart, Hawkins, Hise, Hogan, Holmes, Hooper, Hulburd, Humphrey, Hunter, Jenckes, Kasson, Kerr, Ketcham, Ladin, George V. Lawrence, Le Blond, Marvin, McRuer, Moorhead, Morrill, Niblack, Nicholson, Noell, Patterson, Perham, Pike, Pomeroy, Samuel J. Randall, Raymond, Ritter, Rogers, Rollins, Rousseau, Scofield, Shanklin, Spalding, Nathaniel G. Taylor, Trimble, Burt Van Horn, Andrew H. Ward, Hamilton Ward, William B. Washburn, Wentworth, and Winfield—71.

NAYS—Messrs. Allison, Anderson, James M. Ashley, Baker, Beaman, Bingham, Blow, Bromwell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Defrees, Donnelly, Dumont, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Goodyear, Grinnell, Griswold, Abner C. Harding, Harris, Hayes, Henderson, Higby, Hill, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, Ingersoll, Julian, Kelley, Kelso, Koontz, Kuykendall, William Lawrence, Leftwich, Loan, Longyear, Lynch, Marshall, Marston, Maynard, McClurg, McKee, Miller, Morris, Moulton, O'Neill, Orth, Paine, Plants, William H. Randall, Ross, Sawyer, Schenck, Shellabarger, Sloan, Stevens, Stillwell, Stokes, Thayer, Francis Thomas, Thornton, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Warner, Henry D. Washburn, Welker, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Windom—82.

NOT VOTING—Messrs. Arnell, Delos R. Ashley, Barker, Benjamin, Chanler, Culver, Darling, Davis, Dawson, Delano, Driggs, Hale, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, James R. Hubbell, Jones, Latham, McCullough, McIndoe, Mercur, Myers, Newell, Phelps, Price, Radford, Alexander H. Rice, John H. Rice, Sitgreaves, Starr, Strouse, Taber, Nelson Taylor, John L. Thomas, Elihu B. Washburne, Woodbridge, and Wright—87.

So the House refused to lay the resolutions on the table.

The question again recurred, Shall the main question be now put? on which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 87, nays 66, not voting 41; as follows:

YEAS—Messrs. Allison, Anderson, James M. Ashley, Baker, Beaman, Bingham, Blow, Bromwell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Defrees, Delano, Deming, Donnelly, Dumont, Eggleston, Farnsworth, Farquhar, Ferry, Goodyear, Grinnell, Griswold, Abner C. Harding, Harris, Hayes, Henderson, Higby, Hill, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Ingersoll, Julian, Kelley, Kelso, Koontz, Kuykendall, William Lawrence, Leftwich, Loan, Longyear, Lynch, Marshall, Marston, Marvin, Maynard, McClurg, McIndoe, McKee, Miller, Morris, Moulton, O'Neill, Orth, Paine, Patterson, Plants, William H. Randall, Ross, Sawyer, Schenck, Shellabarger, Sloan, Stevens, Stillwell, Stokes, Nathaniel G. Taylor, Thayer, Francis Thomas, Thornton, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Warner, Henry D. Washburn, Welker, Whaley, James F. Wilson, Stephen F. Wilson, and Windom—87.

NAYS—Messrs. Alley, Ames, Ancona, Baldwin, Banks, Baxter, Bergen, Bidwell, Blaine, Boutwell, Boyer, Brandegee, Broomall, Campbell, Conkling, Cooper, Davis, Dawes, Denison, Dixon, Dodge, Eldridge, Eliot, Finck, Garfield, Glessbrenner, Aaron Harding, Hart, Hise, Hogan, Holmes, Hooper, Hotchkiss, Hulburd, Humphrey, Hunter, Jenckes, Ketcham, Ladin, George V. Lawrence, Le Blond, McRuer, Moorhead, Morrill, Niblack, Nicholson, Noell, Perham, Pike, Pomeroy, Samuel J. Randall, Raymond, Ritter, Rogers, Rollins, Scofield, Shanklin, Spalding, Trimble, Burt Van Horn, Andrew H. Ward, Hamilton Ward, William B. Washburne, Wentworth, and Winfield—66.

NOT VOTING—Messrs. Arnell, Delos R. Ashley,

Barker, Benjamin, Bromwell, Bundy, Chanler, Culver, Darling, Dawson, Driggs, Eckley, Hale, Hawkins, Asahel W. Hubbard, Demas Hubbard, Jones, Kasson, Kerr, Latham, McCullough, Mercur, Myers, Newell, Phelps, Price, Radford, Alexander H. Rice, John H. Rice, Rousseau, Sitgreaves, Starr, Strouse, Taber, Nelson Taylor, John L. Thomas, Elihu B. Washburne, Williams, Woodbridge, and Wright—41.

So the main question was ordered.

During the vote,

Mr. GLESSBRENNER stated his colleague, Mr. DAWSON, was paired on all questions with Mr. MYERS.

Mr. LONGYEAR stated his colleague, Mr. DRIGGS, was absent on account of sickness.

The vote was then announced as above recorded.

The resolutions were then adopted.

Mr. GRINNELL moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## EVENING SESSIONS.

Mr. HOOPER, of Massachusetts. I move to suspend the rules to offer for consideration the following resolution:

*Resolved*, That until otherwise ordered the House will on each day, except Saturday, take a recess from half past four until half past seven o'clock, for the transaction of business.

The question being put, there were—ayes 48, noes 68.

Mr. PRICE and Mr. ROLLINS demanded the yeas and nays.

The yeas and nays were not ordered.

So the rules were not suspended.

## ROLL OF HONOR.

Mr. FARNSWORTH. I ask unanimous consent to offer the following joint resolution.

Mr. HOOPER, of Massachusetts. I call for the regular order.

Mr. FARNSWORTH. I hope the gentleman will allow me to offer this. It will not take any time.

Mr. HOOPER, of Massachusetts. I will yield.

The joint resolution was read, as follows:

*Be it resolved by the Senate and House of Representatives, etc.*, That the thanks of Congress and of the country are due, and are hereby tendered, to Hon. Edwin M. Stanton, Secretary of War; Major General M. C. Meigs, Quartermaster General; and Brevet Lieutenant Colonel James M. Moore, Assistant Quartermaster, for their care in collecting and burying the loyal and honored dead of the war, and for their persevering labors in obtaining the names of those who died, whether of wounds received in battle, disease, or starvation in rebel prisons, and publishing them upon the "rolls of honor" of the nation.

The joint resolution was read a first and second time, ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## DUTIES ON IMPORTS.

Mr. MORRILL. Will the gentleman from Massachusetts allow me to offer a resolution to go to the Committee on Printing?

Mr. HOOPER, of Massachusetts. Yes, sir. The resolution was accordingly read, as follows:

*Resolved*, That the Committee on Printing be instructed to inquire into the expediency of printing for the use of the House of Representatives the digest of the statutes of the United States prescribing the rates of duties on imports and the cost thereof, including any compensation to the compiler.

The resolution was referred to the Committee on Printing under the law.

## POOR OF THE DISTRICT OF COLUMBIA.

Mr. INGERSOLL. Will the gentleman from Massachusetts allow me to submit a joint resolution appropriating \$25,000 for the relief of the poor of the District of Columbia?

Mr. HOOPER, of Massachusetts. I will allow it to be offered.

Mr. LE BLOND. Let it be reported.

The joint resolution was read, as follows: Whereas the extreme severity of the present winter

has doubled the sufferings and distress of the poor: Therefore,

*Resolved by the Senate and House of Representatives, &c.,* That there is hereby appropriated out of any money in the Treasury not otherwise appropriated the sum of \$25,000, to be paid to Major General O. O. Howard, to be distributed to the suffering poor of this District, without distinction of race or color, in such sums or in such mode as may seem to him shall be proper; and that he report his acts and doings under this act in detail to the next Congress.

Mr. CONKLING. I would like to know whether the gentleman from Illinois will allow me to offer an amendment, that the sum so appropriated shall be embraced in the next tax levy of the city of Washington?

Mr. INGERSOLL. No, sir.

Mr. CONKLING. What is the objection?

Mr. INGERSOLL. I think it would be unjust to impose this upon the tax-payers of this city. There are several thousand people—

Mr. ELDRIDGE. I object to debate.

Mr. McKEE. I object to the introduction of the resolution.

Mr. INGERSOLL. I move to suspend the rules.

The SPEAKER. Does the gentleman from Massachusetts yield for that motion?

Mr. HOOPER, of Massachusetts. I do not.

Mr. ROSS. I suggest to my colleague that he insert a like appropriation for the city of Peoria, Illinois.

The SPEAKER. The resolution is not before the House.

#### REPORTS FROM COMMITTEE ON COMMERCE.

Mr. ELIOT. Will my colleague yield to me?

Mr. HOOPER, of Massachusetts. Yes, sir.

Mr. ELIOT. I desire to say that there are several matters of public interest to be reported from the Committee on Commerce, among others the river and harbor appropriation, and there has no opportunity offered for reports from that committee. I therefore ask that one week from next Saturday, after the morning hour, the Committee on Commerce may have an opportunity to report; and in the mean time I am in hopes that the river and harbor bill will be reported and printed, in order that action may be had upon it at that time.

Mr. RANDALL, of Pennsylvania. I object.

Mr. ELIOT. Then I move to suspend the rules.

Mr. HOOPER, of Massachusetts. I do not yield for that.

#### CONGRESSIONAL PRINTER.

The SPEAKER stated that the regular order of business was the consideration of the bill reported on Saturday from the Committee on Printing, providing for the election of a congressional printer, the pending question being upon Mr. TREMBLE's motion to lay the bill on the table, upon which the yeas and nays had been ordered.

Mr. ELIOT. I move to postpone the regular order of business for one hour.

The question was put, and there were—ayes 38, noes 61.

Mr. PRICE demanded tellers.

Tellers were ordered; and Messrs. ELIOT and HUMPHREY were appointed.

The House divided; and the tellers reported—ayes 60, noes 38.

So the consideration of the regular order of business was postponed for one hour.

#### REPORTS FROM THE COMMITTEE ON COMMERCE.

Mr. ELIOT. I now move to suspend the rules, so as to enable me to move that Saturday week be assigned for the consideration of reports from the Committee on Commerce.

Mr. RANDALL, of Pennsylvania. Would it be in order for me to move to amend so as to include the Committee on Banking and Currency? I do not know of any reason why this privilege should be extended to the Committee on Commerce and not to other committees.

The SPEAKER. It is not in order to move to amend a motion to suspend the rules.

The question was taken on the motion to suspend the rules; and there were—ayes eighty; noes not counted.

So the rules were suspended, two thirds of the members present voting therefor.

Mr. ELIOT. I now move that Saturday next, after the morning hour, be set apart for the consideration of reports from the Committee on Commerce.

The motion was agreed to.

#### POOR OF THE DISTRICT OF COLUMBIA.

Mr. INGERSOLL. I move to suspend the rules to enable me to introduce a joint resolution appropriating \$25,000 for the relief of the poor of the District of Columbia.

Mr. LE BLOND. I have repeatedly objected to this resolution, and shall do so now unless the gentleman will embrace the mayors of the cities of Washington and Georgetown.

The SPEAKER. The motion to suspend the rules is not debatable.

Mr. INGERSOLL. The mayor of the city of Washington does not desire to be one of the persons to distribute this fund.

The question was taken; and there were—ayes 43, noes 53.

So (two thirds not voting in favor thereof) the rules were not suspended.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had agreed to the amendments of the House to the joint resolution of the Senate (S. R. No. 94) providing for the payment of certain Kentucky militia forces.

#### ENROLLED BILL AND JOINT RESOLUTIONS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

An act (S. No. 433) for the relief of E. J. Curley; and a

Joint resolution (S. R. No. 94) providing for the payment of certain Kentucky militia forces.

#### RECONSTRUCTION.

Mr. LYNCH. I move to suspend the rules to enable me to offer the following preamble and resolutions:

Whereas the overthrow of the armed forces of the rebellion left the people of Virginia, North Carolina, South Carolina, Georgia, Florida, Mississippi, Alabama, Louisiana, Arkansas, and Texas "deprived of all civil government;" and whereas the governments now existing in those States, established by the President of the United States, have no constitutional sanction, and, being under the control and administration of the leaders of the rebellion, fail to afford to loyal citizens of the United States that protection to which they are entitled: Therefore,

*Resolved*, That it is the duty of Congress immediately to establish such governments over those States as shall maintain the authority of the national Government, suppress violence, establish order, and protect all the citizens thereof in their lawful rights, to the end that they may as speedily as is consistent with the safety of the nation be restored to their former relations to the Union.

*Resolved*, That in the formation of new State governments for those States all loyal citizens have a right to participate and should be protected in the exercise of such rights by the national Government.

Mr. LE BLOND. Do these resolutions come in on leave?

The SPEAKER. The gentleman from Maine moves to suspend the rules to enable him to offer them.

Mr. BINGHAM. Do not these resolutions go to the joint Committee on Reconstruction without debate?

Mr. LYNCH. I move to suspend the rule which requires these resolutions to go to the joint Committee on Reconstruction, together with all other rules that would prevent their being received and considered at this time.

The SPEAKER. That motion is in order, and if agreed to, by a two-thirds vote the resolutions will come before the House for consideration until rejected or adopted, or disposed of in some other way.

Mr. LE BLOND. I call for the yeas and nays upon suspending the rules.

Mr. FARNSWORTH. Let us take a vote by division first.

Mr. LE BLOND. We may as well take the

yeas and nays at once; but if gentlemen desire it I will withdraw my call for the yeas and nays and let the question be first taken by a division.

The question was then taken upon suspending the rules; and upon a division, there were—ayes twenty.

Before the noes were counted,

Mr. LYNCH called for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division, there were—ayes fourteen.

Before the noes were counted,

Mr. LYNCH called for tellers upon ordering the yeas and nays.

The question was taken; and there were—ayes twenty-two.

So, there being in the affirmative one fifth of a quorum, tellers were ordered.

Messrs. LYNCH and INGERSOLL were appointed tellers.

The House again divided; and the tellers reported that there were—ayes 25, noes 46.

So (one fifth voting in the affirmative) the yeas and nays were ordered.

Mr. THAYER. I rise to a privileged motion.

The SPEAKER. There is one privileged motion now pending—the motion by the gentleman from Maine [Mr. LYNCH] to suspend the rules in order to allow him to introduce the resolutions which have been read.

Mr. THAYER. Is not another privileged motion in order?

The SPEAKER. A motion to adjourn would be in order.

Mr. THAYER. I desire to move to reconsider the vote by which the regular order was postponed for an hour.

The SPEAKER. The gentleman can enter a motion to reconsider that vote, but it cannot now be acted upon, pending the motion to suspend the rules; for if that motion should be agreed to it would suspend the rule by which the subject referred to by the gentleman from Pennsylvania [Mr. THAYER] was made the regular order.

Mr. THAYER. I would inquire of the Chair if a suspension of the rules under this motion would bring the resolutions of the gentleman from Maine [Mr. LYNCH] before the House for discussion and consideration at the present time, to the exclusion of the regular business of the House?

The SPEAKER. That would be the effect of the motion if agreed to.

Mr. THAYER. Then I hope the rules will not be suspended.

The question was taken; and it was decided in the negative—yeas 60, nays 82, not voting 48; as follows:

YEAS—Messrs. Alley, Allison, Anderson, James M. Ashley, Baldwin, Baxter, Boutwell, Brandegee, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullum, Deming, Dixon, Donnelly, Dumont, Ezegston, Grinnell, Abner C. Harding, Hayes, Higby, Hill, Ingersoll, Julian, Kasson, Kelley, Kols, William Lawrence, Loan, Lynch, Maynard, McClurg, Morrill, Moulton, O'Neill, Orth, Paine, Perham, Pike, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Stevens, Stilwell, Stokes, Francis Thomas, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, Wentworth, James F. Wilson, and Stephen F. Wilson—60.

NAYS—Messrs. Ames, Ancona, Bakker, Beaman, Bergen, Bingham, Blow, Boyer, Buckland, Campbell, Conkling, Cooper, Davis, Dawes, Deitres, Delano, Eckley, Eldridge, Eliot, Farnsworth, Farquhar, Ferry, Finck, Garfield, Glossbrenner, Goodyear, Aaron Harding, Harris, Hawkins, Henderson, Hogan, Holmes, Hooper, Hotchkiss, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Humphrey, Hunter, Jenckes, Ketchum, Kootz, Kuykendall, Ladin, George V. Lawrence, Le Blond, Leitch, Longyear, Marshall, Marvin, McIndoe, McRae, Miller, Moorhead, Morris, Niblack, Nicholson, Noel, Plants, Pomeroy, Price, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, R. R. Rousseau, Schenck, Shanklin, Spalding, Nathaniel G. Taylor, Thayer, Thornton, Trimble, Trowbridge, Andrew H. Ward, William B. Washburn, Whaley, Windom, and Winfield—82.

NOT VOTING—Messrs. Arnell, Delos R. Ashley, Banks, Barker, Benjamin, Bidwell, Blaine, Bromwell, Chanler, Culver, Darling, Dawson, Denison, Dodge, Driggs, Griswold, Hale, Hart, Hise, Ashel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Jones, Kerr, Latham, Marston, McCullough, McKee, Mercer, Myers, Newell, Patterson, Phelps, Radford, Alexander H. Rice, John H. Rice, Sitgreaves, Starr, Strouse, Taber, Nelson Taylor, John L. Thomas,



Elihu B. Washburne, Henry D. Washburn, Welker, Williams, Woodbridge, and Wright—48.

So (two thirds not voting in the affirmative) the rules were not suspended.

#### REMOVAL OF NAVAL ACADEMY.

Mr. SCHENCK. I move to suspend the rules in order to enable me to offer a resolution for action at this time.

Mr. THAYER. I rise to a privileged motion; I move to reconsider the vote by which the regular order was postponed for an hour.

Mr. SCHENCK. I ask the gentleman to hear my resolution read; I am not certain but Philadelphia is interested in it.

Mr. THAYER. I will hear the resolution read.

The resolution was read, as follows:

*Resolved*, That the Committee on Naval Affairs be instructed to inquire into the propriety of an immediate removal of the United States Naval Academy from its present location in the State of Maryland to some point in a loyal State where the pupils in that institution will be secure against the surrounding political and social influences hostile to the national Government, which now predominate at Annapolis; and that the committee report by bill or otherwise.

Mr. THAYER. I withdraw my motion to reconsider.

Mr. SCHENCK. I now move that the rules be suspended, in order to enable me to submit for consideration at the present time the resolution which has just been read.

Mr. ELDRIDGE. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 36, not voting 48; as follows:

YEAS—Messrs. Alley, Allison, Anderson, James M. Ashley, Baker, Baxter, Beaman, Blaine, Blow, Boutwell, Brandegee, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Davis, Deming, Dixon, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Maynard, McClurg, McIndoe, Miller, Morrill, Morris, Moulton, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Rollins, Sawyer, Schenck, Seefeld, Shellabarger, Spaulding, Stevens, Stokes, Thayer, Trowbridge, Upson, Van Aornam, Burt Van Horn, Robert F. Van Horn, Hamilton Ward, Warner, Wentworth, James F. Wilson, Stephen F. Wilson, and Windom—96.

NAYS—Messrs. Ancona, Bergen, Bingham, Campbell, Cooper, Deftrees, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Harris, Hise, Hogan, Humphrey, Hunter, Kerr, Kuykendall, Le Blond, Lettwich, Marshall, Niblack, Nicholson, Noell, Samuel J. Randall, Ritter, Ross, Rousseau, Shanklin, Stilwell, Nathaniel G. Taylor, Francis Thomas, Thornton, Trimble, and Andrew H. Ward, and Winfield—36.

NOT VOTING—Messrs. Ames, Arnell, Delos R. Ashley, Baldwin, Banks, Barker, Benjamin, Bidwell, Boyer, Bromwell, Chanler, Culver, Darling, Dawes, Dawson, Delano, Denison, Dodge, Donnelly, Driggs, Griswold, Griswold, Hale, Hart, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbard, Jones, Latham, Marvin, McCullough, McKee, McKuer, Mercer, Moorhead, Myers, Newell, Phelps, Radford, Alexander H. Rice, John H. Rice, Rogers, Sitgreaves, Sloan, Starr, Strouse, Taber, Nelson Taylor, John L. Thomas, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whaley, Williams, Woodbridge, and Wright—48.

So (two-thirds voting in favor thereof) the rules were suspended, and the resolution was received.

Mr. SCHENCK. I demand the previous question on the resolution.

Mr. PAINE. With the consent of the gentleman from Ohio, I desire to propose an amendment to his resolution—to strike out the words "to inquire into the propriety of an immediate removal," and insert in lieu thereof the words "to report a bill providing for the immediate removal."

Mr. PIKE. As a member of the Committee on Naval Affairs, I hope that if this amendment be adopted the House will indicate to what place the Academy shall be removed.

Mr. SCHENCK. Some gentlemen around me ask me to modify my resolution by accepting the amendment which the gentleman proposes. I cannot do this; yet I am perfectly willing that the House shall vote upon the

amendment; indeed, I am rather inclined to vote for it myself.

I will simply say that I have offered the resolution in good faith. I have seen too much of the social influences brought to bear upon officers and soldiers stationed in the midst of a community not sympathizing loyally with such officers and troops to wish to expose any longer these young cadets or pupils at the Naval Academy to the influences which by reason of their being educated at Annapolis may injuriously affect them as well as our future Navy and the prosperity of the country.

Mr. PAINE. I do not desire a separate vote on my amendment. Unless the gentleman from Ohio will accept it I prefer that it should not be voted on.

Mr. SCHENCK. The opinions of members vary so much in reference to the amendment that I cannot accept it.

Mr. PAINE. Then I withdraw the amendment.

Mr. SCHENCK. I renew the demand for the previous question.

Mr. HARRIS. I ask the gentleman to withdraw the call for the previous question.

Mr. SCHENCK. I will yield if the gentleman wishes simply to ask a question. I do not propose to open the subject for debate.

Mr. HARRIS. I do not wish to ask a question; I wish to debate the subject.

Mr. SCHENCK. I cannot yield for debate.

Mr. LE BLOND. I would like my colleague to inform us what particular necessity there is for the passage of this resolution. I for one have not heard any complaints on this subject, and I know no reason why we should adopt such a resolution.

Mr. SCHENCK. Mr. Speaker, I want to get the institution out of the political and social atmosphere which exists at Annapolis.

Mr. LE BLOND. I would like to offer an amendment.

Mr. SCHENCK. I insist on the call for the previous question.

The previous question was seconded; there being—ayes 67, noes 40.

The main question was ordered; which was upon agreeing to the resolution.

Mr. LE BLOND called for the yeas and nays. The yeas and nays were ordered.

Mr. BINGHAM. I ask for a division of the question upon this resolution, so that the vote may be first taken upon that part of the resolution ending with the words "to some point in a loyal State."

The SPEAKER. This resolution cannot be divided. The rule declares that a resolution or motion may be divided "if it comprehend propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the House." The portion of the resolution following the words the gentleman has quoted would not be intelligible if standing alone.

The question was taken on the adoption of the resolution; and it was decided in the affirmative—yeas 108, nays 35, not voting 47; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Baxter, Beaman, Bingham, Blaine, Boutwell, Brandegee, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Davis, Deftrees, Delano, Deming, Dixon, Donnelly, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Grinnell, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Maynard, McClurg, McIndoe, McKee, McKuer, Miller, Moorhead, Morrill, Morris, Moulton, O'Neill, Orth, Paine, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, John H. Rice, Rollins, Sawyer, Schenck, Seefeld, Shellabarger, Sloan, Spaulding, Stevens, Stokes, Thayer, Trowbridge, Upson, Van Aornam, Burt Van Horn, Robert T. Van Horn, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, James F. Wilson, and Stephen F. Wilson—108.

NAYS—Messrs. Ancona, Bergen, Boyer, Campbell, Cooper, Dodge, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Harris, Hise, Hogan, Edwin N. Hubbard, Humphrey, Hunter, Kerr, Le Blond, Lettwich, Marshall, Niblack, Nicholson, Noell, Samuel J. Randall, Ritter, Ross, Rousseau, Shanklin,

Stilwell, Nathaniel G. Taylor, Francis Thomas, Thornton, Trimble, and Andrew H. Ward—35.

NOT VOTING—Messrs. Alley, Arnell, Delos R. Ashley, Baldwin, Banks, Barker, Benjamin, Bidwell, Blow, Chanler, Culver, Darling, Dawes, Dawson, Denison, Driggs, Farquhar, Hale, Asahel W. Hubbard, Demas Hubbard, Jones, Kuykendall, Latham, Marvin, McCullough, Mercer, Myers, Newell, Patterson, Phelps, Radford, Raymond, Alexander H. Rice, Rogers, Sitgreaves, Starr, Strouse, Taber, Nelson Taylor, John L. Thomas, Hamilton Ward, Elihu B. Washburne, Williams, Windom, Winfield, Woodbridge, and Wright—47.

So the resolution was adopted.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CONSTITUTIONAL AMENDMENT.

Mr. BINGHAM moved to suspend the rules, to enable him to submit the following resolution:

*Resolved*, That the Secretary of State be and is hereby respectfully requested to report to this House what States now represented in Congress have ratified the amendment to the Constitution proposed by the Thirty-Ninth Congress.

The rules were suspended, and the resolution was received.

Mr. BINGHAM demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. CONKLING and Mr. BOUTWELL suggested that the resolution be modified so as to read "directed" instead of "respectfully requested."

Mr. BINGHAM accepted the modification. The resolution as modified was adopted.

Mr. BINGHAM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ELECTIVE FRANCHISE.

Mr. NIBLACK. I ask unanimous consent for leave to submit the following resolution:

*Resolved*, That the Committee on the District of Columbia be, and is hereby, instructed to report a bill conferring the elective franchise within said District on all foreign-born male persons over the age of twenty-one years, who are entitled to naturalization under existing laws, and who have resided one year within the District, and have declared their intention to become citizens of the United States.

Mr. FARNSWORTH. I object.

#### PERE MARQUETTE HARBOR.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting, in response to a resolution of the House, a report of the chief of Engineers relative to the improvement of the harbors of Pentwater and Pere Marquette; which, on motion of Mr. FERRY, were referred to the Committee on Commerce, and ordered to be printed.

#### BILLS ALLOWED TO BECOME LAWS.

The SPEAKER, by unanimous consent, also laid before the House the following letter from the Secretary of State.

The Clerk read as follows:

DEPARTMENT OF STATE,  
Washington, February 1, 1867.

SIR: I have had the honor to receive an authenticated copy of a preamble and resolution passed by the House of Representatives on yesterday, in which I am directed to inform the House whether certain laws, to wit: one a bill "to repeal section thirteen of 'An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes,' approved July 17, 1862," and another a bill "to regulate the elective franchise in the Territories of the United States;" which bills are reported by the Committee on Enrolled Bills to have been presented to the President of the United States respectively on the 9th and 12th ultimo, have been filed in my (this) Department.

In reply, I have respectfully to state that the two laws referred to in the resolution were this day filed in this Department, together with an accompanying note from Colonel William G. Moore, which note is as follows:

EXECUTIVE MANSION, WASHINGTON, D. C.,  
January 31, 1867.

SIR: I am directed by the President to transmit to you an act to repeal section thirteen of an act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels,

and for other purposes, approved July 17, 1862; and an act to regulate the elective franchise in the Territories of the United States. These bills were presented to the President for his approval, and have not been returned by him to the House in which they originated within the time prescribed by the Constitution of the United States. Having therefore become laws, they are transmitted to you for such further proceedings as the laws of the United States require.

I have the honor to be, very respectfully, your obedient servant,  
WILLIAM G. MOORE,  
United States Army.

To Hon. WILLIAM H. SEWARD, Secretary of State.

I have the honor to be, sir, your obedient servant,  
WILLIAM H. SEWARD.

To Hon. SCHUYLER COLFAX, Speaker of the House of Representatives.

Mr. TROWBRIDGE. I move that the communication be printed and referred to the Committee on Enrolled Bills.

The motion was agreed to.

#### CONGRESSIONAL PRINTER.

The SPEAKER stated as the next business in order the consideration of the bill reported last Saturday by the chairman of the Committee on Printing, providing for the election of a Congressional Printer, the pending question being on the motion of Mr. TRIMBLE to lay the bill on the table, on which the yeas and nays were ordered.

Mr. LAFLIN. I ask our friends on the other side of the House if they are not willing to have the vote taken by yeas and nays on the passage of the bill at once instead of having them taken on the motion to lay it on the table.

Mr. TRIMBLE. My object was to have the yeas and nays on the question as a test vote. I suppose if it is taken on laying the bill on the table that will be a test vote.

The SPEAKER. The Chair understands the gentleman to insist upon his motion.

The question was taken on laying the bill on the table; and it was decided in the negative—yeas 32, nays 100, not voting 49; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Campbell, Cooper, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Hise, Hogan, Edwin N. Hubbell, Humphrey, Hunter, Kerr, Le Blond, Leftwich, Marshall, McCullough, Niblack, Nicholson, Samuel J. Randall, Ritter, Ross, Rousseau, Shanklin, Nathaniel G. Taylor, Thornton, Trimble, Andrew H. Ward, and Winfield—32.

NAYS—Messrs. Alley, Allison, Anderson, James M. Ashley, Baker, Banks, Baxter, Beaman, Bingham, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Culom, Davis, Dawes, Defrees, Deming, Dixon, Donnelly, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James B. Hubbell, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Lufin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McKee, McRuer, Miller, Moorhead, Morrill, Morris, Moulton, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Raymond, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Stevens, Stokes, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, William B. Washburn, Welker, Wentworth, Whaley, James F. Wilson, and Windom—109.

NOT VOTING—Messrs. Ames, Arnell, Delos R. Ashley, Baldwin, Barker, Benjamin, Bidwell, Blaine, Chanlor, Culver, Darling, Dawson, Delano, Denison, Dodge, Driggs, Hale, Harris, Hooper, Asahel W. Hubbard, Dennis Hubbard, Jones, Latham, McIndoe, Mercur, Myers, Newell, Noel, Phelps, Pomeroy, Radford, William H. Randall, Alexander H. Rice, Rogers, Sitgreaves, Starr, Stilwell, Strouse, Taber, Nelson Taylor, Francis Thomas, John L. Thomas, Hamilton Ward, Elihu B. Washburn, Henry D. Washburn, Williams, Stephen F. Wilson, Woodbridge, and Wright—49.

So the bill was not laid on the table.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LAFLIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CIVIL SERVICE.

The SPEAKER announced as the next business in order the consideration of bill of the House No. 889, to regulate the civil service

of the United States and promote the efficiency thereof, on which Mr. SCHENCK was entitled to the floor.

Mr. SCHENCK. I yield to the chairman of the Judiciary Committee, who desires to make a report.

#### PRESIDENTIAL PROCLAMATIONS.

Mr. WILSON, of Iowa. I rise to make a privileged report. In accordance with leave granted by the House, I report back from the Committee on the Judiciary House bill No. 859, to declare valid and conclusive certain proclamations of the President and acts done in pursuance thereof, or of his orders, in suppression of the late rebellion against the United States. I do not propose to consider this bill until the pending special orders, namely, the civil service bill and the bill equalizing bounties reported by the gentleman from Ohio are disposed of.

The SPEAKER. Those are pending by unanimous consent, and therefore take precedence of the bill reported by the gentleman from Iowa.

Mr. WILSON, of Iowa. I give the House notice that this will come up after those are disposed of.

#### COMMON SCHOOLS IN THE DISTRICT.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That one thousand copies of the various bills to establish a system of common schools in the District of Columbia be printed together for the use of the House.

#### TARIFF BILL.

Mr. LAFLIN also, from the same committee, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That two thousand extra copies of the amendments of the Senate to the tariff bill be printed for the use of the House.

#### CIVIL SERVICE REPORT.

Mr. LAFLIN also, from the same committee, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That two thousand extra copies of the report of the joint select Committee on the Civil Service of the United States be printed for the use of the House.

#### LAND OFFICE REPORT.

Mr. LAFLIN also, from the same committee, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That ten thousand copies of the report of the Commissioner of the General Land Office, 202, with the separate and connected maps, and the balance with the connected map only, be printed for the use of the House.

Mr. LAFLIN moved to reconsider the several votes just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### VISIT OF AGASSIZ TO BRAZIL.

Mr. BANKS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President of the United States be requested to communicate to this House, if in his opinion it can be done compatibly with the public interest, a copy of every official correspondence which may have taken place respecting the recent visit to Brazil, for scientific purposes, of Professor Louis Agassiz.

#### FORTIFICATION BILL.

Mr. STEVENS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union (Mr. POMEROY in the chair) and resumed the consideration of the special order, being bill of the House No. 919, making appropriations for fortifications and other works of defense for the fiscal year ending June 30, 1868, the pending question being upon the following amendment offered by Mr. BLAINE:

For commencement of two additional forts for the

defense of Portland harbor, Maine, including the purchase of sites, \$150,000.

Mr. SPALDING. I move to amend the amendment by striking out the last word. I ventured to suggest the other day that it was worthy of consideration whether we should go into these extensive appropriations for fortifications upon the coast. Now, I will agree that I was mistaken when I said that these appropriations for two additional fortifications at Portland and at other places were not in the estimates; I find them in the estimates. But it will be noted that these are for fortifications additional to those already erected at those points.

It seems to be the case that our old forts and fortifications all along the coast are to be of no use, or of comparatively little use, on account of the great improvements in the armor and guns used on board of our ships, or perhaps on board the enemy's ships. It seems that extra fortifications are to be placed, not only at Portland, but all along the eastern coast.

I want the members of the House to be apprised of the fact that this is only the first of a series of appropriations, amounting altogether to an enormous sum. I will advert for a moment to the list of estimates for additional fortifications. I read from the estimates:

For two additional ports for defense of Portland harbor, Maine, \$100,000.

For additional fort for defense of Portsmouth, New Hampshire, \$75,000.

For additional fort for defense of Boston harbor, Massachusetts, \$75,000.

For two forts for the defense of Narragansett bay, Rhode Island, \$100,000.

For permanent defenses at mouth of Columbia river and at Admiralty inlet, \$400,000.

There are some of the items of appropriation for new fortifications, which this appropriation bill is to be made to contain; and the first of the series is now moved as an amendment. I am content to vote for this appropriation for Portland harbor provided we are to go into this whole scheme of fortifications. If it is intended to inaugurate this system of new fortifications I will vote for this amendment, and I will vote for all others; but it is desirable that the committee shall understand what they are about to do. I have referred to this item for Portland harbor. If this amendment shall prevail, my friend and colleague, [Mr. SCHENCK,] the chairman of Military Affairs, will propose another amendment, and then another, and then another, until we shall have gone through the list of items which I have enumerated and what I read from the book of estimates. If the committee now understand the subject, if they understand that this is only one of a series of appropriations of the same character, and are prepared to vote for it with that understanding, then I will vote for it and for all of them. That is all I have to say, sir.

Mr. SCHENCK. As direct reference has been made by my colleague [Mr. SPALDING] to the action of the Committee on Military Affairs in connection with this subject, I will reply to him, though in but few words. The gentleman is right in regard to one portion of his statement, and entirely wrong in another. He says that if this amendment shall prevail it is the purpose of the Committee on Military Affairs to follow it up with other proposed amendments to the bill. He is wrong in saying we shall follow up this amendment by proposing amendments all the other items for which estimates have been made.

Mr. SPALDING. With perhaps one exception.

Mr. SCHENCK. And that exception is one that did not meet with the concurrence of the Committee on Military Affairs after a full investigation of the matter with the authorities at the other end of the avenue, the Secretary of War, and the chief of Engineers. That exception embraced a proposed appropriation of more money than all the other items put together. Now, how does this matter come before this committee from the Committee on Military Affairs? A bill is introduced from the Committee on Appropriations proposing

certain items of appropriation to keep up the defenses of the country on the sea-coast. In reporting that bill they have left out a number of items in regard to which my colleague [Mr. SPALDING] now admits he was mistaken in supposing they were not estimated for by the War Department. They were items which therefore were estimated for, which were thought by the War Department to be necessary for the complete defenses of the country. Finding these items thus omitted from the bill from the Committee on Appropriations, the subject was brought to the attention of the Committee on Military Affairs, and they were asked to investigate these several items, and to move their adoption by way of amendment, or as many of them as the Committee on Military Affairs might think it expedient to propose for adoption into this fortification bill, when it should come up for consideration here.

The Committee on Military Affairs, in pursuance of this investigation, with the communication from the War Department before them, and the opportunity of obtaining facts from General Humphreys, the engineer-in-chief, considered the various propositions to amend by the insertion of other items and adopted those, which in the aggregate amount to between three and four hundred thousand dollars; but objected to reporting, and have instructed me not to report, one of the amendments, embracing a proposed expenditure of \$400,000 for defense of the mouth of the Columbia river. In reference to the mouth of the Columbia river, the committee thought such was the character of the bar there, such the difficulty of entering it by vessels of any large draft, that probably a hostile fleet, or an enemy's vessel, if able to get over the bar, would be in a more dangerous condition than anybody on shore would be from their attack. The committee may have been mistaken about this; but our conclusion was not to recommend the adoption of that largest item. They were equally in favor of the examination of these other items; and I am instructed to move, among the rest, this item in relation to the defenses of Portland.

Mr. STEVENS. I may be mistaken, but my recollection is that the item now proposed to be inserted is not embraced in the estimates from the Department.

Mr. SCHENCK. It is estimated for, and is one of the five items which the Committee on Military Affairs agreed to recommend. My colleague [Mr. SPALDING] has satisfied himself by examination that he was mistaken in supposing these items were not estimated for, as the gentleman from Pennsylvania [Mr. STEVENS] can by an examination of those estimates.

Now, one word more in reply to my colleague. He asks if this is a scheme to appropriate money for a new system of defenses. Not so; but it is to make additional defenses to those which we now have at points where additional defenses are needed; to extend the present system, not to abolish it or substitute anything for it.

With this explanation of the manner in which these matters are presented, the conclusions of the War Department approving and recommending to our consideration the items asked for, and of the action of the Committee on Military Affairs upon them—which was, as the gentleman must be advised, a discriminating action, for they rejected one portion of the recommendation and approved the other—with this explanation I am ready to submit this question to this committee.

Mr. BLAINE. On page 86 of the official estimates will be found this among other items:

For two additional forts for the defense of Portland harbor, \$150,000.

The gentleman from Ohio [Mr. SPALDING] very kindly corrected the error into which he fell in that respect.

Mr. SPALDING. I withdraw my amendment to the amendment.

Mr. LYNCH. Mr. Chairman, I renew the amendment. I corrected the gentleman from

Ohio when he made the statement before as my colleague has done now. It is evident that the gentleman had not examined the question very carefully, for he denied on the former occasion that there were any estimates made for these fortifications.

I wish simply to say, Mr. Chairman, that plans and estimates for these works were made in 1861 by a board of engineers appointed by the Secretary of War. They found at Portland harbor three forts—one commenced some ten years since, the other two being old fortifications and entirely useless against modern vessels of war with modern armaments. These are an inner line of fortifications, constructed for the purpose of guarding the main channel to Portland harbor. But outside of these fortifications and outside of their range there is a high island behind which vessels can lie protected from the range of the old fortifications and shell not only the vessels in the harbor but the city itself. The board of engineers determined therefore that it was necessary to have other works. A large amount of money has been expended upon the old fortifications; yet they are entirely useless against modern war vessels unless an outer line of fortifications be constructed in accordance with the plan reported at that time. I wish the House to understand that this is not a new matter brought forward now for the first time. It is a part of the system of fortifications determined upon in 1861.

With these remarks, as the matter has already been fully explained, I leave the question.

Mr. HILL. I desire to inquire of the gentleman from Maine [Mr. LYNCH] whether he knows of any estimates having been made by competent parties as to the entire cost of these proposed fortifications. This proposition is to appropriate \$150,000 to begin with. Now, I would like to know what amount it is going to take to end this matter; how much we may expect to appropriate for this purpose before we get through.

Mr. LYNCH. I cannot answer that question. I do not know what is to be the entire cost of these fortifications. I suppose that with these, as other fortifications, the engineer department estimates the amount necessary to commence them; and the work goes on from year to year until completed.

Mr. HILL. Then, for all this House knows, the erection of these fortifications may involve an expenditure of five or ten million dollars.

Mr. LYNCH. I suppose that the engineer department and the War Department assume that it is necessary to protect our cities and harbors, cost whatever it may; that they report in favor of such works as will be effective for that purpose, the cost being a secondary consideration. The gentleman, I suppose, will not take the ground that if a fortification is necessary in order to protect our coast he ought to vote against it, even if it cost \$10,000,000. I submit that the only question in such a case as this is whether the work is absolutely necessary; it is not a question of cost.

Mr. HILL. Mr. Chairman, I desire to say in reply to the gentleman from Maine, that I am not disposed to be niggardly upon the subject of fortifications; but I do think that before gentlemen bring in here propositions for the appropriation of hundreds of thousands of dollars to begin a work, it is due to this House that they should take some steps to ascertain what it will probably cost to complete the work.

Mr. LYNCH. I would inform the gentleman from Indiana [Mr. HILL] that "gentlemen" of this House did not bring this matter here. It is brought to our attention by the Government, within whose charge this matter comes. It is not proposed by any individual member of the House, but by a committee acting on the recommendation of the Secretary of War.

Mr. HILL. I beg leave to say that when I spoke of "gentlemen bringing in propositions" I did not mean to make any reflection upon the gentleman from Maine. I simply meant to refer to the persons concerned in bringing this forward, whether members of this House

or connected with any other department of the Government.

Mr. PAINE. I will state for the information of the gentleman from Indiana and other members, that one very good reason why no member of the committee has presented a statement of the cost of this work is that up to this time no detailed plan and no estimate of the expense have been made by the War Department itself.

Mr. LYNCH, by unanimous consent, withdrew his amendment.

Mr. MAYNARD. I renew the amendment. Mr. Chairman, it seems to me this is an inopportune time for us to engage in building fortifications upon the sea-coast. I presume there is less possibility of war now on the part of this country or any other than at any preceding period of our history. The events of the past five years have put the whole civilized world under bonds to keep the peace toward us. I do not see there is any necessity, therefore, in expending money to complete those works already begun, much less commencing new fortifications. Moreover, sir, the art of attack and defense has undergone material and important changes during the last five years, and it is now undergoing such changes that expenditures made at this time may, in all probability, be utterly valueless. We cannot lose sight of the important fact that not a solitary work upon the southern sea-board, so far as I can recollect, except Fort Pickens, but was attacked during the late war with success by one side or the other. Forts on which we expended money almost uncounted when attacked by us or the rebels succumbed. To expend public money in building other structures like those upon our sea-board seems to me to be a waste of our means. Besides, if this particular work is as important as its friends insist, let us have an estimate; let us see the magnitude of the work and the ultimate expense so that we may judge understandingly. Such estimates can be made. There is no necessity of passing this at once. In former short sessions, when current appropriations only extended to the first of the ensuing July, there may have been such necessity, but as the next Congress will commence in time to pass the appropriation bills for the next fiscal year, I think we can leave this matter to be determined by them.

I am opposed to this whole thing, and will, at the proper time, move that the bill be laid on the table, so the whole subject may go over to the next session. I withdraw my amendment to the amendment.

The amendment was rejected, only twenty-five voting in the affirmative.

Mr. KASSON. I move in line three to insert the following:

For repairing and enlarging Fort Porter, at Black Rock, New York, \$50,000.

For Fort Niagara, Niagara river, New York, \$100,000.

For Fort Knox, Penobscot river, Maine, \$75,000.

For Fort Preble, Portland harbor, Maine, \$150,000.

For Fort McClary, Portsmouth, New Hampshire, \$100,000.

For Fort Independence, Boston, Massachusetts, \$100,000.

For two forts for the defense of Narragansett bay, Rhode Island, \$100,000.

For new battery at Fort Hamilton, New York, \$80,000.

For modifications of Forts La Fayette and Columbus, Castle William, South Battery, Fort Wood, and Fort Gibson, New York harbor, \$300,000.

For purchase and repairs of instruments, \$10,000.

Mr. Chairman, these are for works already commenced. The committee were led to suppose, by a misplacement of the estimates, that these were for new works, but as they are not they are now offered.

The committee divided; and there were—ayes 27, noes 45; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Mr. KASSON and Mr. CONKLING.

The committee again divided; and the tellers reported—ayes 34, noes 65.

So the amendment was rejected.

Mr. BERGEN. I move the following amendment, to come in after line thirty-eight:

For draining Government lands at Fort Hamilton, New York, \$5,000.



Mr. Chairman, there is a large extent of land near Fort Hamilton, New York, which is swampy and unhealthy and ought to be drained. The State of New York passed a law for draining low lands at the expense of the land-holders. I submit it is as just and proper for the United States to pay for the drainage of the low lands belonging to it. These low lands give rise to fever and ague, and they ought to be drained, if for no other consideration than the preservation of the health of the garrison-always kept at Fort Hamilton.

The amendment was rejected.

Mr. SCHENCK. I move now to insert the other items of which I gave notice. In the present disposition of the House I will not divide them, but offer them as a whole:

For commencement of an additional fort for defense of Portsmouth harbor, New Hampshire, including purchase of site, \$75,000.

For commencement of a fort on Long Island head, Boston harbor, \$75,000.

For continuation of the sea-wall on Governor's Island, New York harbor, \$100,000.

For commencement of a fort at Point San José, San Francisco harbor, California, \$50,000.

If any gentleman desires a division of the question he can ask for a vote upon them separately. I offer them as one amendment.

Mr. SPALDING. All together.

The amendment was disagreed to.

Mr. SCHENCK. I now move an amendment of a different character, to insert the following:

For purchase of sites now occupied for temporary sea-coast defenses, provided that no such purchase shall be made except upon the approval of its expediency by the Secretary of War and of the validity of the title by the Attorney General, \$25,000.

It has been developed, in the progress of the late war for the suppression of the rebellion, as an existing fact that there are several important points of defense which ought to be in the possession of the Government. They have been occupied during the war by earthworks, temporary structures. Claims for rent for the use of the premises and for damages have been sent in against the Government, to pay which will amount perhaps to as much or more than would purchase all these sites. It is therefore proposed by the War Department to have a small appropriation of \$25,000 to enable the Government to purchase these sites, not with a view of constructing at these points permanent defenses hereafter in the shape of forts to be kept up, but to be used, as they have been heretofore, for the temporary construction of earthworks in case the necessity should arise for such defenses hereafter from a war with another country. There is an item in the bill for the purchase of sites for permanent sea-coast defenses which is different from this. This is a smaller appropriation for the purpose of securing these sites on favorable terms for use as mere temporary defenses.

I will send to the Clerk's desk to be read a communication on this subject made by the chief of Engineers to the Secretary of War, inclosed in a letter of the Secretary of War to myself, which will serve as the only further explanation that I propose to give on the subject:

WAR DEPARTMENT.  
WASHINGTON CITY, February 4, 1867.

SIR: I have the honor to send herewith, for the consideration of the committee, a communication from the chief of Engineers of February 2, respecting an appropriation for the purchase of sites now occupied for temporary sea-coast defenses, which has the approval of this Department.

Very respectfully, sir, your obedient servant,

EDWIN M. STANTON,

Secretary of War.

Hon. R. C. SCHENCK, Chairman of Military Committee, House of Representatives.

ENGINEER DEPARTMENT.  
WASHINGTON, February 2, 1867.

SIR: During the late war quite a number of positions on our northern coast were taken possession of and occupied with batteries of a temporary character to cover harbors against apprehended raids of rebel privateers and to afford harbors of refuge for our coasters and other vessels when pursued by the enemy. As the necessity for the immediate preparation of these works was of too pressing a character to permit of delay in negotiating with the owners of the sites for their purchase or rent, they were taken possession of under the authority of the War Department

without any agreement being entered into with the owners, who now in some instances have come forward with claims for rent and damages.

It is not proposed, in most of these cases, to replace these works by permanent fortifications, but to rely, in the event of war, upon temporary structures similar to those now existing, to be prepared on the breaking out of hostilities, and as the same sites will be again needed it would be economy for the Government to purchase them and thus get rid of all claims to rent and damages, and at the same time secure the existing works from being destroyed.

One of the largest items of the cost of these works is the earthen embankment, which, if the Government owned the land, could be maintained at trifling expense. I have, therefore, the honor to recommend that application be made to Congress at its present session for an appropriation for the purchase of such sites as it may be desirable, in the opinion of the War Department, to retain. The exact amount that will be needed for the purchase of these sites has not been ascertained, but it is believed that \$25,000 will be ample.

The form of appropriation might be as follows:

For purchase of sites now occupied for temporary sea-coast defenses, provided that no such purchase shall be made except upon the approval of its expediency by the Secretary of War and of the validity of the title by the Attorney General, \$25,000.

Very respectfully, your obedient servant,  
A. A. HUMPHREYS,  
Chief of Engineers.

Hon. E. M. STANTON, Secretary of War.

Mr. MAYNARD. It seems to me this is an indirect mode of getting at a number of private claims. It seems that the Government during the war found it necessary to take possession of individual property, and this is a mode by which they can be paid without getting the action of Congress directly to pay them. We are not informed where these sites are or how much land is expected to be purchased. In other words, it is throwing the whole matter over, nominally, to the War Department, but actually to some subordinate officer, who will dispose of the public money according to his ideas of what is right between the Government and the owner of the property. That is a mode of disposing of the public money which has been found to be unsatisfactory heretofore, and I would respectfully submit to the chairman of the Committee on Military Affairs whether we had not better have some information before we make the appropriation. It strikes me this is a great deal like buying a pig in a poke.

Mr. SCHENCK. The argument presented by my friend is very ingenious, but it has one defect: it does not conform to the facts. That I consider rather fatal to it. He thinks this is a mode of paying private claimants. They have asked nothing of the sort. They have not even offered for sale, nor is it certain that they will sell this property. But the facts are simply these, as the gentleman would have heard if he had paid attention to my statement: these sites have been taken possession of during the war for the suppression of the rebellion. They are found to be admirably adapted to the defense of the coast in case of attack. Temporary earthworks have been constructed upon them. Those earthworks we have no right to hold. We took possession of the land in a summary way, and the land will now revert to the owners, and these earthworks, some of which are considerable and important structures, will necessarily go to decay. They will be washed down or plowed up and will disappear.

The War Department, inasmuch as they have found these to be eligible sites for these works, and as they will be the same at any other time when the country is engaged in a war, proposes to purchase the sites. The amount to be paid, as I have already remarked, will probably be less than the owner would claim for rent and damages. But the gentleman from Tennessee [Mr. MAYNARD] is mistaken in supposing that the appropriation is made for the purpose of paying these claims. The purchase is recommended because of the intrinsic value of the sites themselves for the objects of the Government in making a defense of the coast.

The gentleman is therefore mistaken, however ingenious his argument may be, in putting it upon the ground that this appropriation is designed for the payment of private claims.

Mr. STEVENS. Can the gentleman inform us where this property lies?

Mr. SCHENCK. Some of these sites are on the Delaware river, below Newcastle; some on the coast of Maryland, and some further north. A number of the most valuable are on the Delaware river, commanding bends of that river and the approaches to Philadelphia. It is not intended that there shall be fortifications there, and they will probably never be used in that way. It is simply intended to secure them for the purposes of defense in some way hereafter by making this purchase and taking care of the fortifications now constructed, and to prevent them from being washed away and disappearing, as they will if the land passes back to the owners of the property.

Mr. MAYNARD. I do not wish to act under a misapprehension of facts, nor do I desire to do any injustice. Can the gentleman tell us whether these parties have already received any compensation?

Mr. SCHENCK. I think not. There were some cases where the ground was occupied under a contract either express or implied, and where the Quartermaster General has settled with the parties; but as a general rule the claims are still outstanding.

Mr. MAYNARD. Does the gentleman suppose that these claims will not at some time be presented either here or at the War Department?

Mr. SCHENCK. I think they will; indeed, I think some of them have been presented now, but I think this will be a summary way of getting rid of them. I am willing that the gentleman shall move an amendment saying that this payment shall be held to exclude all such claims.

Mr. MAYNARD. I think it would be a very summary mode of disposing of these cases. I suppose there are thousands of cases all over the country where it has been found necessary to build forts at very great expense, and where the necessary land has been taken, and in some instances where very valuable houses have been destroyed. And I suspect that the owners of such property, who find themselves unexpectedly the owners of forts, will come to the War Department and urge their claims for damages.

[Here the hammer fell.]

Mr. SCOTFIELD. I rise to what I believe to be a privileged motion: I move to strike out the enacting words of the bill.

The CHAIRMAN. That motion is not in order in Committee of the Whole; it must be made in the House.

Mr. SCOTFIELD. I trust the Chair will reconsider the decision. I understand that a motion to strike out the enacting clause is always in order in Committee of the Whole, and that if it prevail it has the effect of defeating the bill.

The CHAIRMAN. It can only be made after the committee has gone through with the bill. The committee is now engaged in perfecting the bill by claims.

Mr. MORRILL. I desire to offer an amendment to this bill.

The CHAIRMAN. Upon further reflection the Chair is of opinion that the motion of the gentleman from Pennsylvania [Mr. SCOTFIELD] to strike out the enacting words of the bill is in order.

Mr. SCOTFIELD. I will withdraw my motion long enough to allow the gentleman from Vermont [Mr. MORRILL] to offer his amendment.

Mr. SCHENCK. I suppose the pending amendment must first be disposed of.

The CHAIRMAN. There is an amendment already pending, offered by the gentleman from Ohio, [Mr. SCHENCK.] When that amendment shall have been disposed of, the question will be taken upon the motion to strike out the enacting words of the bill.

Mr. SCHENCK. I move to amend the amendment by adding \$1,000 to the appropriation. I do so for the purpose of saying in reply to the gentleman from Tennessee [Mr. MAYNARD] who persists in the idea that this is a scheme for paying claimants, that I want

him to understand that this appropriation is proposed simply because these sites are held by the Government to be valuable for purposes of the Government. The gentleman complains that there are persons in Tennessee and elsewhere, who have had their farms occupied for forts, who are presenting claims which will not be paid in this way. Now, I propose this to the gentleman in order to compromise our differences; I aver that it is necessary along the coast to secure the sites that have been occupied during this war by the Government, with a view to a war with a foreign country; and that to say the least of it there is a possibility of our having a war with some other country. Now, if the gentleman will rise in his place here and say that he believes it is equally important for the Government to keep and hold the sites for forts in Tennessee and elsewhere, because he apprehends the secessionists will undertake to fight the Government again, perhaps I may go with him to hold those sites. But I do not believe the secessionists will again fight, and therefore I do not believe it is necessary to secure those sites to enable the country the better to carry on war against another rebellion. I believe we may have war with a foreign Government, but never again with rebels.

Mr. MAYNARD. I will rise in my place and say that I concur with the gentleman from Ohio [Mr. SCHENCK] in the belief that there is no necessity for keeping forts in the interior with a view to another rebellion. I also believe there is precisely as much necessity for keeping them for that purpose as for keeping these earthworks on the Atlantic coast in view of a war with any foreign nation.

Mr. SCHENCK. There seems, then, to be only a difference of opinion between us in regard to whether we may or may not have a foreign war. I do not suppose there can be any difference of opinion between us in regard to another rebellion.

I now withdraw my amendment to the amendment.

The question was then taken upon the amendment of Mr. SCHENCK, and it was not agreed to.

Mr. SCOFIELD. I now move to strike out the enacting clause of this bill, in order to test the sense of this committee upon the merits of this bill. For myself I have come to the conclusion, after hearing the bill discussed somewhat, that neither the convenience of the country nor the wants of the country demand the large expenditure of money which is contemplated by this bill.

Mr. MORRILL. Will the gentleman from Pennsylvania [Mr. SCOFIELD] yield to me for a moment?

Mr. SCOFIELD. Certainly.

Mr. MORRILL. I am opposed to the motion of the gentleman from Pennsylvania for the reason that I desire to offer the following amendment to this bill:

*Provided*, That not more than one half of the several sums herein appropriated shall be expended during the year ending June 30, 1868.

Mr. WILSON, of Iowa. I would inquire of the gentleman from Pennsylvania if he insists upon his motion to strike out the enacting clause of this bill?

Mr. SCOFIELD. Certainly; I insist upon my motion.

Mr. WILSON, of Iowa. Then no amendment is in order.

Mr. MORRILL. I desire to oppose the motion of the gentleman from Pennsylvania because I wish to offer the amendment I have read. We have already rejected appropriations as meritorious as any contained in this bill. If any bill for fortifications should pass, clearly those items of appropriation which have been omitted from this bill should be included. My own judgment is that we should reduce the whole appropriations one half at least. I understand that the amounts named in the bill are not less than \$3,000,000. Now, I am unwilling that we shall entirely suspend these operations where work has already been com-

menced, and where it would be about as expensive for the Government to take care of them and repair damages as to go on and complete them. I hope that the House will come to the conclusion to appropriate for expenditure during the next fiscal year one half of the amounts proposed by the Committee on Appropriations and recommended by the War Department.

I yield to the gentleman from Iowa [Mr. KASSON] the remainder of my time.

Mr. KASSON. I want to suggest to the gentleman from Pennsylvania [Mr. SCOFIELD] that he withhold his motion till the bill has been gone through with and perfected, so far as we may be able to do it by amendments. With the bill in that condition I think his motion could be voted upon much more satisfactorily.

Mr. SCOFIELD. Mr. Chairman, I think we may as well test at this time as any other the sense of the House upon this bill. If the bill embraces some meritorious features, as the gentleman from Vermont [Mr. MORRILL] seems to think, these should have been carefully sifted out by the committee and embraced in a bill by themselves. The committee can, if it deem proper, report them in a future bill. I believe that this bill as a whole will, if passed, involve a wasteful expenditure of the public money not justified by the present condition of our finances.

Mr. KASSON. One million nine hundred and sixty thousand dollars, nearly two million dollars, of the appropriations estimated for and recommended by the Departments are not embraced in this bill. The bill as reported by the Committee on Appropriations does not embrace one half of the estimates.

Mr. SCOFIELD. I suppose, Mr. Chairman, that a bill so long as this cannot be entirely bad; but taken in the aggregate it seems to me to involve such large and unjustifiable expenditures that I desire to test the sense of the House upon it at this time.

Mr. MAYNARD. Will the Chair please state the effect of the proposition of the gentleman from Pennsylvania?

The CHAIRMAN. Rule 123 states that—

"Whenever a bill is reported from a Committee of the Whole, with a recommendation to strike out the enacting words, and such recommendation is disagreed to by the House, the bill shall stand re-committed to the said committee without further action by the House."

If the recommendation is agreed to by the House, then the bill is defeated.

On agreeing to the motion of Mr. SCOFIELD, to strike out the enacting clause of the bill, there were—ayes 58, noes 40.

So the motion was agreed to.

Mr. BRANDEGEE. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 919, making appropriations for fortifications and other works of defense for the fiscal year ending the 30th of June, 1868, and had directed him to report the same with a recommendation that the enacting clause be stricken out.

Mr. STEVENS. I move that the House resolve itself into the Committee of the Whole on the state of the Union and resume the consideration of the President's message. There are several gentlemen who have been waiting for some time an opportunity to deliver speeches.

Mr. HILL. I move that the House adjourn.

On the motion there were—ayes 58, noes 45.

Mr. MORRILL called for tellers.

Tellers were ordered: and Messrs. MORRILL and SPALDING were appointed.

The House divided; and the tellers reported—ayes fifty-nine, noes not counted.

So the motion was agreed to; and the House (at four o'clock and twenty minutes p. m.) adjourned.

# PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. COOK: The petition of citizens of La Salle, Illinois, praying that the internal revenue tax on glassware manufactured in this country be taken off.

By Mr. CO. KLING: The petition of soldiers, asking extension of time of payment for lands in Beaufort, South Carolina.

Also, the petition of Mrs. H. A. McNiel, asking compensation for losses suffered in the war.

By Mr. DELANO: The petition of 24 citizens of Coshocton county, Ohio, remonstrating against all legislation calculated to curtail the national currency, or having in view an immediate return to specie payments.

By Mr. EGGLESTON: The memorial of Joseph Harris, praying for compensation for loss of goods taken by Government detectives in 1865 from his store in Cincinnati.

By Mr. FERRY: Joint resolutions of the Legislature of Michigan, approving the action of Congress in passing over the President's veto the bill annulling all distinction on account of color in the exercise of the elective franchise in the District of Columbia.

By Mr. GARFIELD: The petition of 28 citizens of Canfield, Mahoning county, Ohio, praying Congress to forbid the further contraction of currency; also, that national banks may not be required to redeem their notes in New York; also, for increased protection on American flag.

By Mr. GRISWOLD: The petition of wool-growers in Washington county, New York, for protection against importation of foreign wools.

By Mr. HOCHKISS: The petition of flax-growers of the twenty-sixth congressional district of New York, for protection.

By Mr. HUMPHREY: A petition for American register for the yacht *Glanco*.

By Mr. HARDING, of Illinois: The petition of the people of Mercer county, Illinois, for protection to wool-growers.

By Mr. HOLMES: The petition of Frederick E. Babbott, for American register for schooner *W. A. Glover*.

By Mr. MARVIN: The petition of citizens of Kingsborough, Fulton county, New York, against any further reduction of the national currency.

By Mr. O'NEILL: The memorial of T. Morris Perot, president of the Mercantile Library Company of Philadelphia, its directors and many of its members, asking that there may be no legislation on the subject of the tariff which takes from the free list the importation of books, maps, &c., intended for public libraries, colleges, and other literary institutions.

By Mr. PERHAM: The petition of Mrs. Harriet Pond, for pension.

By Mr. UPSON: The petition of James Clendenin, Wallace McIntosh, and 72 others, citizens of Cass county, Michigan, praying Congress to take measures for the impeachment of the President.

Also, of Moses S. Adams, and 29 others, for the same purpose.

By Mr. WARD, of New York: The petition of 180 citizens of Steuben county, New York, in favor of increasing the tariff on wool.

Also, a remonstrance of 98 citizens of Plattsburg, New York, against further contraction of the currency, and against legislation hostile to national banks.

By Mr. WELKER: The petition of John A. Rettig, and 63 others, citizens of Medina county, Ohio, asking the amendment of the revenue law so that harness and saddle makers shall be taxed as shoemakers and tailors.

## NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. O'NEILL: A supplement to an act entitled "An act to equalize bounties," approved July 23, 1866, and also to provide for a bounty to seamen, firemen, and coal-passers.

## IN SENATE.

TUESDAY, February 5, 1867.

Prayer by Rev. T. R. HOWLETT, of Washington, District of Columbia.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in obedience to a resolution of the Senate of the 30th of January, information in relation to the late massacre of United States troops by Indians at or near Fort Phil. Kearney, in Dakota Territory.

Mr. HENDERSON. I move that that communication and accompanying documents be referred to the Committee on Indian Affairs, and printed.

The PRESIDENT *pro tempore*. The Chair will suggest that a similar communication from the Secretary of War has been referred to the Committee on Military Affairs.

Mr. HENDERSON. It should have gone to the Committee on Indian Affairs.

Mr. WILSON. If that be the case I move that the Committee on Military Affairs be discharged from the further consideration of the subject, and that it be referred to the Committee on Indian Affairs.

Mr. HENDERSON. Let them both be referred to the Committee on Indian Affairs and printed.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented two petitions of officers of the Army and Marine corps of the United States, praying for an increase of their pay by restoring the commutation of the Army ration to fifty cents; which were referred to the Committee on Military Affairs and the Militia.

He also presented a petition of officers of the United States Army, praying for an increase of pay; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN presented a petition of citizens of the county of Orange, State of New York, who were formerly enlisted men of the Ordnance corps, praying that they may be included in the act of Congress providing for additional bounty; which was referred to the Committee on Military Affairs and the Militia.

Mr. FOWLER presented the petition of James Fulton, paymaster United States Navy, praying to be relieved from all responsibility for a deficiency in the clothing and small-store account of the "inspection," discovered in October, 1866, the same having been stolen by the clerk of the "inspection," which was referred to the Committee on Naval Affairs.

Mr. SUMNER. I present twenty-eight different petitions from citizens of North Carolina, white and black, in which they ask Congress, by its law-making power, to establish a loyal civil government in North Carolina; one that shall be on a thoroughly loyal basis, so that North Carolina may be restored to her place in the Union. I ask that these twenty-eight petitions, numerous signed, be referred to the joint Committee on Reconstruction.

They were so referred.

Mr. SHERMAN. I present a petition signed by nearly all the members of the General Assembly of the State of Ohio, praying that a specific duty of one dollar per gallon may be levied on imported wine. They state at length the great progress that has been made in the cultivation of the grape and the manufacture of wine in the United States, and they claim that a specific duty such as they propose would afford a sufficient revenue to the Government and give a much-needed protection to this new and valuable branch of American industry, and that in a short time it would enable the domestic wine to supersede the foreign article. As this subject has been disposed of in the Senate for the present I move that this petition lie on the table.

The motion was agreed to.

Mr. CHANDLER presented the petition of James C. Darragh, formerly second lieutenant company K, ninth Michigan cavalry volunteers, praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented a resolution adopted at a meeting of the manufacturers and others interested, in the city of Detroit, on the 25th of January, 1867, in favor of a removal of the five per cent. revenue tax imposed on manufacturers; which was referred to the Committee on Finance.

Mr. JOHNSON presented a memorial of citizens of Little Rock, Arkansas, representing that a large amount of property in that city was sold in May, 1865, for the non-payment of the United States direct tax, and remonstrating against the passage of any law designed to remedy the defects in the sale; which was referred to the Committee on the Judiciary.

#### RESOLUTIONS OF MICHIGAN.

Mr. CHANDLER presented the following concurrent resolutions of the Legislature of

Michigan; which were read and ordered to lie on the table, and be printed:

*Resolved, by the House of Representatives, (the Senate concurring.) That the action of the Congress of the United States in promptly passing over the President's veto the bill annulling all distinction on account of color in the exercise of the elective franchise in the District of Columbia merits and receives the hearty and unqualified approval of this Legislature.*

*Resolved, (the Senate concurring.) That the Clerk of this House cause a copy of the foregoing resolution to be forwarded to each of the Senators and Representatives in Congress from this State.*

#### REPORTS FROM COMMITTEES.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 509) to amend certain acts in relation to the Navy, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 843) for the relief of Rufus C. Spalding, paymaster in the United States Navy, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Cincinnati W. Harper and Clarence C. Harper, children and heirs-at-law of the late John Harper, deceased, praying for compensation for the use and occupation of their land by the United States Government, in the county of Norfolk and State of Virginia, for hospital and navy-yard purposes, submitted an adverse report, and asked to be discharged from the further consideration of the subject; which was agreed to.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 903) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1868, reported it with amendments.

Mr. ROSS, from the Committee on Printing, to whom was referred a motion to print the memorial of the officers and managers of the National Association for the Relief of Destitute Colored Women and Children, praying for such action as may secure them from loss in a lawsuit instituted against them by Richard S. Coxe, and protect them in their pursuits while carrying out the objects of the association, reported in favor of printing the memorial.

Mr. VAN WINKLE, from the Committee on Finance, to whom was referred the petition of Jacob Shavor and Albert C. Corse, praying for compensation for past use and purchase of an invention for post-marking and cancellation of postage stamps on letters-patent by and patented to Marcus P. Norton, of Troy, New York, asked to be discharged from its further consideration, and that it be referred to the Committee on Post Offices and Post Roads; which was agreed to.

#### HENRY E. MORSE.

Mr. EDMUNDS. I am instructed by the Committee on Pensions, to whom was referred a bill (S. No. 538) for the relief of the widow and children of Henry E. Morse, to report it back with a recommendation that it pass, and as it is a bill making provision for a very destitute widow, I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Interior to place the name of Mrs. Marion W. Morse, widow of Henry E. Morse, late a private of company G, ninth Vermont volunteers, on the pension-roll at the rate of eight dollars per month, to commence September 23, 1863, and also to allow to their minor children under sixteen years of age the amount given by law to the minor children of widows entitled to pensions.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. DAVIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 565) authorizing the circuit and district courts of the United States to remit or mitigate for-

feitures, fines, and disabilities accruing in certain cases; which was read twice by its title, and referred to the Committee on Finance.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 566) to enable States to select swamp and overflowed lands within their limits, omitted to be selected under the act of Congress of 28th September, 1850; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 567) to authorize and provide for the construction of a military and postal road from Galveston, in the State of Texas, to Fort Gibson, in the Indian Territory, with a branch to Little Rock, in Arkansas; which was read twice by its title, and referred to the Committee on the Pacific Railroad.

#### TRAINS ON THE OVERLAND ROUTE.

Mr. MORRILL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved, That the Secretary of War be directed to communicate to the Senate whether any order has been issued by Lieutenant General Sherman in regard to the protection of trains on the overland route, so called, and if so, what.*

#### CHARLESTOWN NAVY-YARD.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved, That the Committee on Naval Affairs be instructed to inquire into the recent transactions at the navy-yard at Charlestown, and especially to ascertain if, through negligence or design, any ship has been sent to sea or is now about to be sent to sea with rotten planks or timbers, so as to endanger its safety.*

#### PROCEEDS FROM COTTON SALES.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved, That the Secretary of the Treasury be directed to report for the information of Congress what amount of money has been received from sales of cotton or other property turned over to the Treasury Department under the several laws of Congress, and what disposition has been made of the same, whether any of the money has been paid or refunded to claimants, and if so, the names of such claimants, the amounts severally paid, and under what authority of law and upon what evidence such payments have been made.*

#### SOLDIERS' DISCHARGE PAPERS.

Mr. KIRKWOOD submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire what further legislation, if any, is necessary for the relief of soldiers and sailors who have lost their discharge papers, and that said committee have leave to report by bill, or otherwise.*

#### BILLS BECOME LAWS.

A message from the President of the United States, by Mr. W. G. Moore, his Secretary, announced that the President had approved and signed on the 31st of January the following bills:

A bill (S. No. 16) for the relief of Josiah O. Armes;

A bill (S. No. 253) to incorporate the First Congregational Society of Washington;

A bill (S. No. 380) to incorporate the Washington County Horse Railroad Company in the District of Columbia;

A bill (S. No. 410) for the relief of Solomon P. Smith;

A bill (S. No. 446) for the relief of George W. Fish;

A bill (S. No. 454) for the relief of Matilda Harmon, of the county of Greene and State of Tennessee, widow of Jacob Harmon;

A bill (S. No. 455) for the relief of Barbara Frye, widow of Henry Frye;

A bill (S. No. 476) for the relief of William A. Hinshaw and Jacob M. Hinshaw, minor children of Jacob M. Hinshaw, deceased; and

A bill (S. No. 511) for the relief of Mrs. Mary E. Finney, widow of First Lieutenant Solon H. Finney, late of the sixth regiment Michigan cavalry.



The message further announced that the President had approved and signed on the 5th of February the following bills:

A bill (S. No. 69) to provide for the payment of pensions;

A bill (S. No. 218) exempting certain property of debtors in the District of Columbia from levy, attachment, or sale on execution; and

A bill (S. No. 479) to punish illegal voting in the District of Columbia, and for other purposes.

#### CLAIMS IN INSURRECTIONARY STATES.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of House bill No. 902.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 902) to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States."

It proposes that the provisions of chapter two hundred and forty of the acts of the Thirty-Eighth Congress, first session, approved July 4, 1864, shall not be construed to authorize the settlement of any claim for supplies or stores taken or furnished for the use of, or used by the armies of the United States, nor for the occupation of or injury to real estate, nor for the consumption, appropriation, or destruction of or damage to personal property by the military authorities or troops of the United States, where such claim originated during the war for the suppression of the southern rebellion in a State declared in insurrection by a proclamation of the President of the United States, or in a State which by an ordinance of secession attempted to withdraw from the United States Government; but nothing herein contained is to repeal or modify the effect of the joint resolution of Congress passed July 28, 1866, extending the provisions of the act of July 4, 1864, to the loyal citizens of the State of Tennessee.

The Committee on the Judiciary reported the bill with various amendments. The first amendment was in line thirteen, after the word "State," to insert "or part of a State;" so as to read "in a State or part of a State declared in insurrection."

Mr. HOWE. I wish to suggest to the Senator from Illinois whether a better form of expression would not be, "in a State which or any part of which was declared to be in rebellion."

Mr. TRUMBULL. We follow the language heretofore used.

Mr. HOWE. Very well; I will not urge the point just now.

The amendment was agreed to.

The next amendment was in line fourteen, to strike out "a" and insert "the," and in line fifteen to insert "dated July 1, 1862;" so as to read, "declared in insurrection by the proclamation of the President dated July 1, 1862."

The amendment was agreed to.

Mr. JOHNSON. The bill as it originally stood excluded from compensation all persons whose property may have been taken by the Army, although they were residing in and the property was located in that portion of a State or States which was not declared to be in rebellion by the proclamation specifically mentioned in the amendment just adopted by the Senate. There were other proclamations subsequent to that. I forget the date of the second proclamation; but I know that there was one, and perhaps more than one, subsequent to the specified proclamation of 1862. I forget the date of the occupation by the United States of New Orleans and the surrounding territory, but I think it was some time after the particular proclamation, and from the time that was acquired the authority of the United States was never for a moment disturbed within the limits of that military occupation.

Now, I suggest to the honorable member from Illinois, the chairman of the Judiciary Committee, and to the Senate, why it would not be just and right to secure to loyal citizens of Louisiana who were within the military occupation of that State by the United States, and whose property was taken for the United States, the benefit of this bill. If it be right to give the benefit of the bill to those who were occupying a part of a State not embraced in the rebellion, by force of the proclamation of July 1, 1862, I cannot see why it is not equally right to give the benefit of the bill to those who were within the military occupation which the United States obtained in Louisiana, being loyal, and who may more or less have contributed to the military occupation or the retention of it, whose property may have been taken subsequently for the use of the United States. I have reason to know that there were in New Orleans and the immediate surrounding country a great many men who were really loyal, many more than the country is now aware of, who looked with the greatest solicitude to the coming of the troops of the United States, and who rejoiced when that event occurred, not for a moment forgetting the allegiance they owed the United States or their love of the institutions of the General Government. Now, to say that their property which was taken by the United States for the benefit of their troops after that period is not to be paid for seems to me to be as unjust as it would be to say that the property of those who happen to be in a portion of a State not included within the proclamation of the President of July 1, 1862, should not have the benefit of the law.

The principle upon which the provision stands is that the property of a loyal citizen which has been used by the United States is to be paid for, provided only that he does not happen unfortunately to be within the limits of a State the whole of which was declared to be in rebellion. I propose, therefore, to amend the bill by inserting between the fifteenth and sixteenth lines these words: "or which at the time the property was taken was within the military occupation of the United States and so remained to the close of the war."

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Maryland that there are other amendments of the committee not yet passed upon.

Mr. JOHNSON. I will postpone my amendment until they are passed upon.

The Secretary read the next amendment of the Committee on the Judiciary, which was in lines nineteen and twenty to strike out the words "the joint resolution of Congress passed July 28, 1866," and insert "any act or joint resolution;" so as to read:

That nothing herein contained shall repeal or modify the effect of any act or joint resolution extending the provisions of the said act of July 4, 1864, to the loyal citizens of the State of Tennessee.

Mr. FOWLER. Do I understand that the committee propose to strike out the provision as to the joint resolution of July 28, 1866?

The PRESIDENT *pro tempore*. The amendment proposes to strike out certain words and insert other words in lieu of them.

Mr. TRUMBULL. I will state to the Senator from Tennessee that it leaves the joint resolution in relation to Tennessee in full operation.

Mr. FOWLER. That is all I wished to know.

Mr. TRUMBULL. It only alters the language so as to bring in West Virginia, too.

Mr. FOWLER. I have no objection to the amendment.

The amendment was agreed to.

The next amendment of the committee was to insert after "Tennessee" at the end of the bill the words "or of the State of West Virginia or any county therein."

The amendment was agreed to.

The PRESIDENT *pro tempore*. The amendments reported by the committee having been disposed of, the question is on the amendment of the Senator from Maryland.

Mr. JOHNSON. My amendment is to insert after "1862," in line fifteen, the words "or which at the time the property was taken was within the military occupation of the United States and so remained to the close of the war."

Mr. TRUMBULL. I trust that amendment will not be adopted. It will open the Treasury to claims all over the southern country where our armies were in possession. They were in possession of different portions of the country during that whole period, and it would be very difficult to determine precisely what was within our lines. The whole object of this bill is to declare the sense of an act already in existence. The Quartermaster General and Commissary General have already put a construction upon that act, and they have decided in both departments that no claims could be allowed against the Government for quartermasters' or commissary stores which originated in States in insurrection against the Government. That is their decision, but claimants in rebellious States are not satisfied with the decision; they are instituting appeals and constantly pressing claims of persons in the rebellious States who claim to be loyal citizens. When the Congress of the United States passed that act it was intended to confine it to claims originating in the loyal States. That, I think, is the legitimate meaning of the act, and in my judgment the Commissary General and the Quartermaster General have placed the proper construction upon it; but there is some question about it; or at least lawyers employed by claim agents make questions, and they are appealing to the War Department and appealing to the President to put a different construction upon the act. It is to settle that question and to prevent a different construction which should open the Treasury to claims all over the United States that this bill, which originated in the House, is now proposed to be passed.

Now, what does the Senator from Maryland propose to do? He proposes to enlarge that act. I shall enter into no argument with the Senator from Maryland as to the propriety of paying the just claims for commissary and quartermasters' stores which were taken by our Army and used when they were taken from loyal citizens. The Senator knows that I advocated at the last session of Congress the passage of a bill, under proper restrictions, that would allow such persons to be paid through the Court of Claims; but the Senate was unwilling to pass it, even restricted and guarded as the bill was which the Committee on the Judiciary reported at that time. The Senate was unwilling to pass it, and did not pass it. While the present law exists I think it should receive the construction which has been placed upon it by the officers of the Government who are charged with its execution, and in order to make that certain this bill was proposed. Now, the Senator from Maryland offers a proposition which would open the Treasury to any claim which might be presented from any portion of the rebellious States which was within the lines of our Army and so continued till the end of the war. I think it will be very dangerous to allow such claims to be brought in. It ought not to be done in this bill at any rate. Let us provide for these claims, not only in those localities, but everywhere else, if we can, in the general bill which is proposed for that purpose. I trust the Senate will not adopt the amendment offered by the Senator from Maryland.

Mr. JOHNSON. I was aware that the honorable member was in favor of paying all claims of this description made by men who were loyal at the time the claims originated, and I supposed because he was in favor of that principle that he would not object to the amendment which I suggest. Now, as I understand the action of the commissary and quartermaster's departments, independent of what the honorable member states, they have held that under the act which this bill proposes to explain and

construe no claim of a loyal citizen could be paid if his State as a State was declared to be in rebellion by the President's proclamation. This bill does not confirm that ruling, if I understand it. They supposed that excepting from the proclamation declaring a State to be in insurrection any portion of the State still left the claimant without remedy, because the parts excepted were a part of the State declared to be in rebellion. Now, this bill provides that claims due to persons that were residing in a part of a State excepted from the proclamation of insurrection did not fall at all within the true meaning of the original act. The Senate, I am sure, are aware that in the very proclamation referred to specifically in the amendment of the Judiciary Committee to this bill various counties in Virginia were excepted from the operation of the proclamation.

Mr. TRUMBULL. Not one that is not in West Virginia.

Mr. JOHNSON. Yes; the whole of West Virginia; and the Senate will remember that under the act of 1861 the President was authorized to declare, not a State in insurrection merely, but a State if the whole was in insurrection, or such part of a State as might be in insurrection, excluding such parts as he supposed were not in that condition from the scope of his proclamation; the result of which necessarily was that with reference to such parts their citizens stood as they would have stood if there had been no proclamation declaring the State to be in insurrection. That being the case, the only question is whether the provision which I propose to incorporate in this bill does not stand precisely upon the same ground.

The honorable member tells us that it may let in a vast variety of claims, which it would be very difficult for the United States to disprove by disproving the facts upon which they are to rest, the facts being that those portions of the State in the military occupation of the United States were so in the military occupation, and that the parties themselves were loyal. That applies just as well to the portions of the States excepted from the proclamation; that is to say, you are to ascertain what portions of a State are excepted; and then you are to ascertain what in point of fact was the condition of the claimant; was he or was he not loyal; for it is not to be disguised that in the parts of States which were excepted, in West Virginia, for example, as we heard from my friend, one of the Senators from West Virginia, [Mr. WILLEY,] the other day, there were a great many of their citizens who were not loyal, but very disloyal, as I understood him to say, and as I believe the history of the contest proved. They aided the rebellion as much as they could.

Now, the amendment which I propose does not say that claims of this description which arise in any portion of a State which at any time may have been in the military occupation of the United States are to be entitled to be covered by the provisions of the bill, but that any part of a State which came under the military occupation of the United States and so remained up to the close of the war should not be included in the provisions of the original bill.

I have said enough to explain the ground upon which I suppose the amendment ought to receive the sanction of the Senate, and am very willing, of course, that the Senate should dispose of it as they may think proper.

Mr. SAULSBURY. However unwisely that portion of the people of the South who desired a separation from the Federal Union may have acted, if this bill becomes a law it will be difficult to escape the conviction that that portion of them who adhered to the fortunes of the Federal Union did not act more unwisely. And why do I say so? I say so because this bill is in contravention of every promise and pledge made by the Federal Government to that portion of the people of the South who continued their fidelity to the Federal Union. What was the basis of their duty to the Federal Union? It was that if they rendered to

you allegiance you should afford to them protection; and from the beginning of this war up to its close your uniform promise to that class of people was that you would if they adhered to you afford them protection. Now, sir, hundreds and thousands of them, as you yourselves admit, did, consistently from the inception of the war to its termination remain what you call loyal. I ask you, sir, in what better situation ought a Union man in the State of Massachusetts to stand than a Union man in South Carolina or Mississippi? If you compensate for damages done to the property of a Union man in a non-seceding State, a State not declared by your proclamations to be in rebellion, upon what principle do you deny compensation to equally as good a Union man wherever he may be located? Why, sir, had you proclaimed in the inception of this war to the people of the South, those people of the South, I mean, who adhered steadfastly to the Federal Union, that you would not at the termination of the war redress any grievance they might have endured or any wrongs they might have suffered, how many Union-men do you suppose you would have had in the South? Not a corporal's guard; and if you had had no Union men in the South, had that people been united heart and soul every man of them, instead of your flags floating over every State in the South it would have floated nowhere in the South.

Then, sir, I protest against this act by Congress as a gross wrong done to that portion of the people of the South who continued their fidelity to the Federal Union. You are drawing a distinction between what you call Union men in one section of the country and in one State of the Union and those persons of a like character residing in a different section and in a different State. Such a principle is unjust. It should have no recognition here; it is contrary to your promises and pledges made during the continuance of the war.

Mr. BUCKALEW. Mr. President, I am entirely convinced that the sooner we investigate and determine claims connected with the late war and growing out of it the better for the Treasury; that upon pure business principles of public administration, instead of pushing claims away from us, pushing them out of sight, delaying them, refusing to examine them ourselves or to have them examined by any competent authority, we should proceed promptly to determine the principles upon which the Government will make payment for claims connected with the late war; and having established those principles we should proceed to investigate all cases and determine them. I am entirely convinced in my own mind that by delaying the investigation and decision of these claims we shall eventually pay two or three times as much as we would now, and probably we shall make payment at a time when by reason of a contracted currency and of other circumstances the burden will be practically greater upon the Treasury than it would be now if we met these cases.

Then, sir, there is another consideration. By the lapse of time that evidence on behalf of the Government which is now attainable will be destroyed or lost. These claims will grow stronger, however, so far as the affirmative is concerned when they are presented to us. The claimants will carefully preserve all the evidence in their own favor; and some years hence, when they come forward before Congress or before the Court of Claims, they will be able to make out an irresistible argument in favor of their demands, whereas evidence on the part of the Government will be lost. Men who know anything about a particular transaction now might be called upon to testify in behalf of the Government; but those men will have died, they will be dispersed. Men connected with your military service who are still within reach, who can now enlighten you upon the subject of these claims, will be dispersed all over the country, to the Pacific coast, to remote States of the North, and you will be unable to obtain that evidence which is necessary to defend the Government and to defend

the Treasury against unjust or inflated claims hereafter.

Therefore, sir, in my opinion, upon pure business principles, it is the policy of the Government to meet this whole subject at once, to meet it promptly. I am not in favor of paying doubtful claims; much less am I in favor of paying stale claims; but I know how it is in all legislative bodies composed of men who have human sympathies and who are appealed to by claimants, in many cases I think successfully, when claims ought to be resisted; and I apprehend danger to the Treasury, danger to the public interests from this policy of pushing away from us these cases, refusing to look at them now while they are fresh and while we can command the whole subject and view it in an intelligent manner and settle proper rules, deferring the evil day, pushing it away from us and leaving to future years the investigation and decision of these cases. For my part, I am for meeting all just responsibilities of the Government at this time, for establishing rigid rules of exclusion to shut out fraudulent and evil claims from the Treasury; establishing some rules now, before Congress is appealed to in individual cases, and gives way step after step until the Treasury shall eventually be loaded down with enormous masses of claims, which if met now would be rejected, and rejected forever.

Mr. WILSON. I have opposed the payment of these claims when they have been brought up here, and opposed the bill which was before us at the last session of Congress. I agree with what has been said by the Senator from Pennsylvania, and have prepared a measure which I intend to move as an amendment to the bill which was before us at the last session whenever it shall come up. That proposition, which I have drawn up provides for the appointment of a commission for each one of these States to make the examination now, under prescribed rules and regulations, and lay the facts before Congress and the country. I hope such action will be taken, for I agree that that is a question which we should meet, and meet now, so as to know precisely what we have got to do, for as time goes on these claims will increase.

This, however, is simply a measure to prevent money being paid out until we have some general policy. I hope, therefore, the amendment proposed by the Senator from Maryland will not be adopted, and that no money will be paid out in the rebel States for these claims at present, but that Congress will adopt a general plan by which we can do justice to the really loyal men in that section of country and prevent the millions of frauds that will be attempted.

The amendment was rejected.

The bill was reported to the Senate, as amended, and the amendments made as in Committee of the Whole were concurred in. It was ordered that the amendments be engrossed and the bill read a third time.

The bill was read the third time.

Mr. SAULSBURY. Upon the passage of the bill I ask for the yeas and nays.

The yeas and nays were not ordered.

The bill was passed.

#### ORDER OF BUSINESS.

The PRESIDING OFFICER, (Mr. HARRIS in the Chair.) The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the bankrupt bill.

Mr. WADE. I move to postpone that bill and all prior orders, and proceed to the consideration of the joint resolution proposing an amendment to the Constitution of the United States imposing a restriction upon the presidential term.

Mr. FESSENDEN. Let us finish the bankrupt bill first.

Mr. WADE. We shall never finish it as we are going on.

Mr. FESSENDEN. I think we can finish it to-day.

Mr. POLAND. I hope this motion will

not prevail. I think in all fairness I am entitled to have the bill now before the Senate considered and finished. I think the Constitution will keep for one day longer.

Mr. WADE. I suppose the Constitution will keep a good many days just as it is, but I do not think it is the best way to have it continued. Now this bankrupt bill has passed the House; it is here, and can probably be finished, though I do not know about that. Yesterday we were all day upon it, and I believe took no votes upon it at all, and I do not suppose we shall to-day, for the ingenuity of men can invent as many fancies over a bill as they please, and they debate each one for a day and no progress is made. But as it is a measure that has passed the House, there is no doubt about its passage here at some time during the session; it probably will be finished when the time comes that we cannot talk any longer upon it. The joint resolution which I propose to take up, however, has got to pass both bodies, if it is to be acted upon at this session. I do not believe, from what I understand by conversing with many members, that it will lead to very much delay or debate. I believe it meets the approbation of almost every Senator, and has no relation to any party matter whatever. I am very anxious to have it taken up and passed upon now, because most, if not all of the State Legislatures are in session, and if we delay it for other business they will have adjourned and the thing will have to lie along a great while. I hope the Senate will consent to take it up and pass it without debate. I promise myself to make no speech about it.

Mr. FESSENDEN. I really hope that this bankrupt bill will not be interfered with. We have had it under consideration for several days and have now almost got through with it. When the Senator says that we made no progress yesterday I think he is mistaken. I think there was a great deal of progress made. We acted on all the remaining amendments of the committee and took several votes, but did not quite finish the bill. I think it may be finished to-day. In my opinion it is very poor policy to follow up a measure almost to completion and then drop it for some new measure, which will undoubtedly create considerable discussion. As to the State Legislatures, they will be in session longer than we shall, undoubtedly. They sit ordinarily later than the 4th of March, so that there will be time enough to act on this other question. But my great objection is in regard to the mode of doing business. We had better finish one thing at a time, especially when an important measure is under consideration. I hope we shall finish the bankrupt bill, and then I shall have no objection to proceeding with the other measure.

Mr. WADE. I am perfectly satisfied that if we do not take up this joint resolution now the Senator will come in in a day or two with his financial measures, that every thing else must give place to, of course, and in my opinion if we do not take it up now it will get the go-by.

Mr. FESSENDEN. I do not think so.

The PRESIDING OFFICER. The question is on the motion to postpone the bankrupt bill and all prior orders, and take up Senate joint resolution No. 33, proposing an amendment to the Constitution of the United States.

Mr. WADE. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. SUMNER. As the yeas and nays are ordered, I desire to make one remark. I am as earnest for the proposition of the Senator from Ohio as he can be. It ought to be adopted, and I do not allow myself to doubt that it will be adopted. But I agree with the Senator from Maine. We are already launched in one important business; let us get through with it. I think we can go through with it to-day. Let us finish the bankrupt bill, and then take up the proposition of the Senator from Ohio.

There is another reason why we should pro-

ceed with the bankrupt bill in preference to the proposition of the Senator from Ohio. A constitutional amendment does not need the signature of the President of the United States. We may, therefore, act upon that proposition even down to the last day, whereas an act of legislation does require the signature of the President. There is a difference between the two cases.

Mr. BUCKALEW. I desire to say that I will vote on some other occasion to take up this resolution. Yesterday, however, when we adjourned, it was understood among members that to-day was to be given to the Senator from Vermont for the conclusion of his bill. I consider myself, having acquiesced then, bound in good faith to stand by that understanding. To-morrow, or any other occasion when it is proper, I will vote with the Senator from Ohio to take up his resolution. I think it is a very important and very interesting measure, and I desire to propose some additional provisions to it, for which, when the time arrives, I shall ask the attention and discussion of the Senate.

Mr. WADE. If the friends of the joint resolution think that it had better go over I shall not quarrel with them about it; and if I may be permitted to do so I will withdraw the call for the yeas and nays, and also the motion to take it up; but I give notice that I shall press it to-morrow if this bankrupt bill is out of the way.

The PRESIDING OFFICER. The motion can be withdrawn by the unanimous consent of the Senate. The Chair hears no objection, and the motion is withdrawn.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1130) to amend section twelve, chapter two hundred and twenty-nine of the laws of the first session of the Thirty-Ninth Congress;

A bill (H. R. No. 1131) to authorize the Secretary of War to convey certain lots in Harper's Ferry, West Virginia;

A bill (H. R. No. 942) donating a portion of the Fort Leavenworth military reservation for the exclusive use of a public road;

A bill (H. R. No. 1125) granting an additional pension to Samuel Downing, one of the last surviving soldiers of the revolutionary war;

A bill (H. R. No. 1127) to fix the pay of the quartermaster sergeant of the battalion of Engineers;

A bill (H. R. No. 1128) to authorize the payment of prize money to certain officers and enlisted men of the Signal corps of the Army;

A bill (H. R. No. 1129) providing for the issue of certificates of service to officers and soldiers of volunteers;

A joint resolution (H. R. No. 261) for the relief of Stephen E. Jones;

A joint resolution (H. R. No. 262) for the payment of Captain James Kelley, sixteenth United States infantry; and

A joint resolution (H. R. No. 263) for the purchase of Davids island, New York harbor.

#### BANKRUPT BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 598) to establish a uniform system of bankruptcy throughout the United States, the pending question being on the motion of Mr. HENDRICKS to strike out the proviso to the thirty-seventh section.

Mr. HENDRICKS. I understand that the Senator having the bankrupt bill in charge desires to amend the proviso which I moved to strike out yesterday evening, and with the permission of the Senate, in order to allow him to move his amendment, I will withdraw the motion which I made to strike out the proviso.

The PRESIDING OFFICER. The motion of the Senator from Indiana is withdrawn.

Mr. POLAND. I will move an amendment to this thirty-seventh section, which I think will obviate the objection which was made by the Senator from Indiana, and also the objection of the Senator from Michigan, to this section. I propose to amend the section in the second line by inserting after the word "all" the words "moneyed and business" so that it will read:

That the provisions of this act shall apply to all moneyed and business corporations and joint-stock companies, &c.

Mr. HOWARD. Let me suggest as a substitute for the word "business" the word "commercial." It seems to me that the word "business" is a little more comprehensive than the word "commercial," and may be construed to include all corporations to carry on any kind of business, even the business of distributing charities or the business of employing teachers in schools, or of conducting religious exercises. Certainly the Senator from Vermont does not design to include such corporations. I wish to remove as far as possible all chance for caviling interpretations of the statute, all doubt and uncertainty. I merely make the suggestion to him. I think the word "commercial" would be preferable to the word "business."

Mr. POLAND. I desire to obtain precisely the same result by this amendment that the Senator from Michigan desires, if we can only agree upon the exact word. My amendment proposes to limit this section to moneyed and business corporations, and the Senator from Michigan proposes the word "commercial" instead of the word "business."

Mr. HOWARD. Then I will suggest to the Senator to add the word "commercial," so that it will read, "moneyed, business, or commercial corporations."

Mr. POLAND. I accept that.

The amendment, as modified, was agreed to.

Mr. POLAND. I now propose to amend the proviso to this thirty-seventh section by striking out in lines twenty-seven, twenty-eight, and twenty-nine the following words:

Such decrees of bankruptcy shall work a forfeiture of all the franchises of such corporation, and the affairs of such corporation shall be wound up.

And inserting in lieu thereof:

All its property and assets shall be distributed to the creditors of such corporation.

So that the proviso will read:

Provided, That whenever any corporation, by proceedings under this act, shall be declared bankrupt, all its property and assets shall be distributed to the creditors of such corporation in the manner provided in this act in respect to natural persons.

The amendment was agreed to.

Mr. HOWARD. I made a motion yesterday to strike out the whole of this section, upon which I believe no vote has been taken. For the reasons which I gave yesterday I entertain very strong doubts of the constitutionality of the whole section; in other words I entertain doubts as to the applicability of the bankrupt power in the Constitution to State corporations, and in order to test the sense of the Senate upon that, to me, very grave question, I hope the vote will be taken on my motion.

The PRESIDING OFFICER. The question is upon the motion of the Senator from Michigan to strike out the thirty-seventh section of the bill.

Mr. HOWARD. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. POLAND. I do not desire to take up any time in arguing this constitutional question. Under the provision of the Constitution authorizing Congress to establish uniform laws on the subject of bankruptcy, I understand that they are invested with power over the relation of debtor and creditor to the fullest extent; and that, although these corporations are artificial persons, created by laws of the State, the relations of debtor and creditor that they hold with other persons are as much within the jurisdiction and within the power of Congress in the establishment of a bankrupt law as the relations of any other class of creditors and



debtors; and I think it is very essential, in order to the well-working of any bankrupt system that it should include this class of persons, debtors and creditors, as much as any other class.

The question being taken by yeas and nays, resulted—yeas 9, nays 23; as follows:

YEAS—Messrs. Brown, Chandler, Davis, Fogg, Fowler, Howard, Norton, Saulsbury, and Yates—9.  
NAYS—Messrs. Buckalew, Doolittle, Edmunds, Fessenden, Harris, Henderson, Hendricks, Johnson, Kirkwood, Morgan, Morrill, Patterson, Poland, Pomeroy, Ramsey, Ross, Stewart, Sumner, Trumbull, Wade, Willey, Williams, and Wilson—23.

ABSENT—Messrs. Anthony, Cattell, Conness, Cowan, Cragin, Creswell, Dixon, Foster, Frelinghuysen, Grimes, Guthrie, Howe, Lane, McDougall, Nesmith, Nye, Riddle, Sherman, Sprague, and Van Winkle—20.

So the motion to strike out did not prevail.

Mr. FOGG. I move to amend the bill on page 15, section thirteen, line five, by inserting after the word "value" the words "and in number," and by striking out all after the word "debts" in the sixth line to the end of the tenth line, in these words:

*Provided*, That when the number of creditors present amounts to five and less than ten, the votes of two, at least, shall be necessary for a choice, and when the number of creditors amounts to ten or more, the votes of three, at least, shall be necessary for a choice.

So that the section will read:

That the creditors shall, at the first meeting held, after due notice from the messenger, in presence of a register designated by the court, choose one or more assignees of the estate of the debtor, the choice to be made by the greater part in value and in number of the creditors who have proved their debts, &c.

Mr. POLAND. I hope that amendment will not prevail. The choice might be controlled by a number of creditors whose debts in the aggregate amounted to but a very small sum. Their interest might be but one tenth of the interest that was held by the minority. It appears to me that the control of the appointment of the assignee should be regulated by the amount of interest. This is the principle that applies in all corporations in voting, in electing officers, in controlling corporations by a stock vote; and it should be so in reference to the control of these proceedings. So far as the control is given to creditors, it should be regulated by the amount of their interest, and not by the number of persons in whom those interests are divided.

Mr. FOGG. The honorable Senator, I think, does not understand the effect of the amendment which I propose. The amendment is that this choice shall be made by the greater part in value and number, which requires that the majority in number of the creditors shall also represent a majority in value of the debts. I offer the amendment because I think under many circumstances two creditors might come in and overslaugh the great number of creditors. There will be no difficulty if there should be a failure to choose, because the remainder of the section provides for that very contingency. I do not expect to be able to vote for the bill, but I wish, if the bill does pass, that it shall be as unobjectionable to the people of this country as possible.

Mr. JOHNSON. Will the Senator be kind enough to say how it changes the section? I do not understand it.

Mr. FOGG. As the bill now stands when only five creditors are present, two representing a majority of the debts in value may choose the assignee, and if there are not over ten present, three representing a majority of the debts may choose the assignee.

Mr. JOHNSON. What do you propose?

Mr. FOGG. I propose in the choice of an assignee to require the concurrence of a majority in value of the debts and a majority in number of the creditors; that is, a majority of the creditors representing a majority of the debts.

The amendment was agreed to.

Mr. FOGG. I offer another amendment, to add at the end of the thirty-second section the following proviso:

*Provided*, That in relation to all debts contracted and existing prior to the passage of this act no dis-

charge shall be granted or be valid unless with the assent in writing of three fourths of the creditors of the bankrupt who have proved claims in the court having jurisdiction of the proceedings.

Mr. JOHNSON. The principle of that amendment has, I think, been discarded by almost every State in the Union. The provision which it proposes to make was found in nearly all the original insolvent systems, (and they were bankrupt laws in point of effect;) but experience was supposed to have proved that it operated very unjustly against the insolvent, and that it warred with a principle which would seem properly to be of universal application, that no man should be a judge in his own case. It places the debtor in the hands of his creditor. It makes the creditor the judge whether the debtor shall be discharged or not, instead of making a disinterested tribunal the judge.

I do not think that I am in error in the fact which I have stated, that it is not now to be found in many, if in any, of the States of the Union. The provision is, if I understand it as read from the desk, that no man is to be discharged under this law except with the assent of three fourths of his creditors; that is as much as to say that three fourths of his creditors are to decide—

Mr. FOGG. The provision is in relation to debts contracted before the passage of this act.

Mr. JOHNSON. I understand it; that three fourths of the creditors are to decide whether the bankrupt shall have a discharge from his debts. Now, the honorable member, as I judge from the particular phrase he has adopted in the amendment and from his calling my attention to it now, supposes that there is a distinction between cases of bankruptcies already existing and those which may subsequently arise; or rather, to speak according to the tenor of the amendment, between debts now contracted and debts which shall hereafter be contracted. The principal object of this bill is to provide for existing bankruptcies. If it be indiscreet or wrong in principle to subject a subsequently occurring bankruptcy, because of debts which may be contracted hereafter, when the law shall have passed, to the restraints of such a provision, it is equally improper, as I respectfully submit to the honorable member from New Hampshire, to make it depend at all upon the will of creditors whether the party is to have his discharge or not.

Mr. FOGG. As I said before, I do not expect to be able to vote for this bill, because I do not believe that any considerable portion of my constituents favor it. As was stated yesterday, it has been the fate of the two bankrupt bills that have existed heretofore in this country to have been vastly unpopular with the people. It has been their fate to be early repealed; in one case to have been repealed by the very Congress that enacted it; and to all who remember the operations of that bill I believe the very memory of it among the masses of the people is as odious as any act that ever stood upon the statutes of the American Congress. This bill is only demanded, I believe, by a small portion of the American people. It is only demanded, and I believe will only be tolerated, in a commercial community. Among the masses of the yeomanry of the country, among the farmers of the country, among the mechanics of the country, among the men who earn their bread by the sweat of their brows, and only contract debts when necessary, and always with the purpose of honestly paying them, this bill seems to be a dishonest bill: all such bills seem to be dishonest bills. It is a bill to enable a debtor to repudiate the contract which he has honestly made with his creditor for a value which he has received. Some portions of the principles involved in this bill are an every-day occurrence in commercial communities. A man contracts debts; he is unfortunate; he cannot pay them; and his creditors compound with him, and almost always do so when there is no law.

The Senator from Maryland has said that there is no difference in principle between debts contracted under this law and debts con-

tracted before its passage. It seems to me the Senator cannot have well considered that remark. All the debts contracted prior to this law have been contracted without any honest mental reservation that the contract might be repudiated, either by any legal proceedings or any illegal proceedings, by any honest means or by any dishonest means. Therefore, you are passing a law here to enable a debtor to exercise a power against his creditor which he did not have a right to exercise when he contracted his debt, which he does not have the right to exercise to-day. The debtor who contracts a debt after the passage of this act contracts it knowing, if he is an intelligent man, and his creditor knowing, that in a certain contingency or contingencies he may repudiate the debt; he may come into court and surrender his property and tell his creditor to take what little he has got, which is not exempt by either State law or national law, and make the most of it, and obtain a discharge. The man who contracted a debt before such a law was in existence contracted it knowing that no such act existed, knowing that the property possessed by him was liable to be taken under judicial proceedings to satisfy the debt, knowing that there was no civil or other jurisdiction which could wipe out the obligation which he accepted from his creditor. The difference is very great it seems to me.

While I am up, I desire to say one word in relation to the practical operation of this bill in another respect. By the action of the Senate in refusing to make this a uniform bankrupt law—for I think that was the result—and making it vary according to the laws of the different States, you enable a person in one State who may have \$5,000 or \$7,000, for in California the exemption is \$5,000 of gold value amounting at least to \$7,000 in currency, to retain that property in his possession visible to all the world, and if he has a debt of \$300 he may go into voluntary bankruptcy, live in his nice house, have his horses and his carriage if you please, and I do not know what else; surrender his debt of \$300 to his creditor, and surrender nothing else under Heaven, provided he does not have more than \$5,000 or \$7,000, or it may be \$50,000; for I am told in some of the States the exemption is of a kind which would allow \$50,000; but when he owes merely \$300 he may go into bankruptcy and wipe out that \$300, and retain a fortune and be a gentleman, and it may be that that \$300 creditor may be a poor man who has not a tithe of the property which he possesses.

Mr. President, it seems to me that when this law goes before the people, when the few debtors who are clamoring for it have got their purpose, you will find one universal cry of repeal among the people. Every man who holds obligations that are wiped out by this law will feel, even if his debtor is worth nothing, that he has been cheated out of so much money; that he has been robbed to that extent; and the law will be as odious as the law of 1841 was odious, and will be as fatal politically to the party and to the men who enact it as that law was.

Mr. President, I do not propose to detain the Senate in further discussing this bill. I only desire to utter my solemn protest against it; and if I were in the habit of predicting I would utter a prediction against it; but as I am not in the habit of predicting I shall save myself that trouble, and save myself from the mortification of being mistaken if I should not prove a true prophet.

Mr. JOHNSON. I think the honorable member is entirely mistaken in applying the term "repudiation" to cases of this description. No man who is unable to pay his debts, because he has no means to pay his debts, can be justly called a repudiator of his obligations. By accidental or unfortunate circumstances he has come to a condition in which it is impossible for him to pay his debts; and it is therefore, in almost every community, provided that in such a contingency, looking to the interest of the creditor as well as to the general

interest of the country, he should be freed from the harassing character of his debts, so that he may be enabled to enter into business by which he can support his family and benefit the country. And it is not peculiar to individual creditors. Governments have been obliged to do the same thing. The European Governments, England included, have often been compelled by circumstances to pay to their creditors less than the par amount of their obligations; but nobody suggested that they were justly chargeable with the offense of repudiating their obligations provided the allegations upon which they legislated were true in point of fact.

The honorable member is also, as I think, mistaken in the ground upon which he attempts to draw a distinction between debts now contracted and debts which may be contracted in the future. He supposes that in relation to the latter there is no impropriety in giving to the debtor the benefit of a law of this description, because the creditor at the time the debt is contracted is supposed to be aware that there is such a mode of relief furnished by the existing law to his debtor. The argument is equally forcible, if it be true—and I suppose the honorable member will not deny that—that Congress, under the power to pass a bankrupt law, may pass a law applicable to existing debts. No bankrupt law has ever been passed except because of the large amount of existing debts which were depressing the industry of the country and ruining the debtor. When, therefore, a man, whether in the absence or in the existence of a bankrupt system, contracts a debt, his creditor is supposed to know that there is in the Congress of the United States a power to discharge his debtor upon his delivering up his assets; and if, therefore, it would be proper to apply the principle which the honorable member proposes to apply to debts contracted after this law shall be passed, because the creditor is supposed to know of the existence of the law when he becomes a creditor, it is equally proper to apply it to existing debts because he is supposed to know that under the power to pass uniform laws on the subject of bankruptcy Congress may provide that existing debts may be discharged by means of a bankrupt law, as well as prospective debts.

And the honorable member (although it is not involved in the particular amendment) is also mistaken in supposing that a bankrupt law can be applied only to mercantile debts or debts *quasi* mercantile. In the beginning no one ever doubted the power of Parliament to pass laws bringing within the operation of a bankrupt law all classes of debtors. The Parliament did only bring within the scope of those laws a certain class of debtors; but for years, particularly in modern times, they have gone on from period to period to modify the laws so as to bring within their operation almost all the people of the kingdom who become debtors and innocently unable to pay their debts.

Mr. MORRILL. Traders of a certain description.

Mr. JOHNSON. No; traders of almost every description. They make everybody traders. They go on to define who are traders; but the definition includes everybody. Nobody ever doubted, as I submit to my honorable friend from New Hampshire, that Parliament might pass a law comprehending every class of debtors, whether they called them traders or not, or whether in the general acceptance of the term they were considered as traders; and the power which Congress has is to be considered with reference to the power which Parliament has. The extent of that power does not depend upon the actual exercise of the power by England at the time of the adoption of the Constitution, but depends upon the character of the power, what power had England over bankruptcy, and the moment that we ascertain what that power was, then when by general terms, as general as the language affords, that power was conferred upon Congress, we have it. We are therefore to compare the two powers, and when upon that comparison we find

that one was intended to be equally coextensive with the other and find that the other might be used so as to incorporate every kind of indebtedment, it follows that ours was intended to apply to every class of debtors without reference to the character of the class.

Mr. FOGG. A single word more. I cannot feel that the question of power is exactly as the Senator from Maryland supposes, that this Congress has the same power as the Parliament of Great Britain. You know, sir, it is an adage as old as the British constitution itself that Parliament is almighty, is omnipotent. Parliament may do what it will; but we are a Government of limited powers, with a written Constitution. The powers of Congress are limited by that written Constitution. The honorable Senator well knows, although the question has been adjudicated otherwise as I acknowledge, that the best, the wisest, the greatest men this nation has produced have doubted the power of Congress, under a general act establishing a uniform system of bankruptcy, to make that system apply to debts already existing. It has been contended by the ablest of our jurists and the ablest of our statesmen that Congress had no such power; that the exercise of that power would be the exercise of an *ex post facto* power, and the enactment of such a law would be the enactment of an *ex post facto* law. I am aware, as I have said, that our courts have adjudicated otherwise, and therefore I do not propose to raise that question; but I do say that the fact that the British Parliament may wipe out every debt in the whole empire of Great Britain does not prove that the American Congress may do that.

But, sir, to return to the question immediately involved in my amendment, what does it propose? It proposes that in relation to all debts contracted prior to the passage of this act no discharge of the debtor shall be granted except upon the written assent of three fourths of his creditors. Is not that a reasonable proposition? Is that a great concession to the moral element in this country that does not believe in repudiating anything? I do not think that I called this repudiation before; but I did say that among the great masses of our honest people, among our farmers all over the land, among our hard-working mechanics, it would be regarded and it would be denounced as a repudiating act. I do say so; I know it, sir. I know that the very word "bankrupt" is an odious word among the masses of our people, of our honest men out of the commercial circles everywhere.

Now, in relation to the hardship of this matter, I have had some experience in my intercourse with men who have been unfortunately in debt and who have been unfortunately reduced to bankruptcy, and my experience has been that while there is here and there among creditors a Shylock, who would take not only the flesh, but the bones and the blood of his debtors, yet Shylocks are not the ordinary rule among creditors—far from it. I do not recollect in all my experience a case where an honest, honorable merchant, or an honest, honorable tradesman, who by misfortune had been reduced into a position where he was unable to pay his debts, has been oppressed by the persistent cruelty of a majority or one half or one quarter of his creditors. Occasionally, as I have said, there is a creditor who is a Shylock, who would take everything the debtor had and perhaps incarcerate him in prison for life; but no man has among his creditors one fourth of the number who are of that character. I repeat I have never known a case where an honest upright debtor, who had been reduced to penury by misfortune and was unable to pay his debts, could not get three fourths of his creditors, especially when he surrendered all he had to them, to grant him a free discharge.

I offer this amendment because I think it will remove a great portion of the odium which I am sure will attach to this bill everywhere when you get out of the commercial communi-

ties. Everywhere among the honest yeomanry of the land, you will find that this bill will be regarded as a bill repudiating honest debts, enabling dishonest debtors to shake off their responsibilities, and compelling honest creditors to lose the earnings of their life time.

Mr. POLAND. My friend from New Hampshire very frankly acknowledges that he is hostile to this bill, and that if his amendment prevails he does not expect to vote for it.

Mr. FOGG. No. The honorable Senator mistakes me. I said that I did not expect the amendment would be adopted so that I could vote for the bill. I did not say that if my amendment was adopted I should not vote for the bill.

Mr. POLAND. I perhaps stated the Senator's language a little too strong; but he certainly avows himself very strongly opposed to the principle upon which this bill is founded. Mr. President, my experience here has been short; but I have learned this: that the opponents of a measure are not the safest persons to amend it; they are not its best friends; they are not the ones to be relied on ordinarily to make amendments that are really acceptable and profitable to the measure itself. I do not desire to go into the various topics that have been suggested by the Senator from New Hampshire. I desire merely to say to the Senate that twice already it has voted down by a vote nearly unanimous a proposition substantially like that proposed by the Senator from New Hampshire, only in a less objectionable form. Yesterday the Senate voted down a proposition to make the discharge dependent upon the debtor getting a majority of the creditors. The proposition of the Senator from New Hampshire is to require that he should have three fourths. I can say in reply to this proposition, as I said to the one that came up yesterday, the principle of this bill is that a man who is unable to pay his debts, who has not sufficient property to pay his debts, may go into bankruptcy, surrender all the property he has, have that distributed among his creditors, and get a discharge by law. The principle of this amendment is to remit him to his creditors. If he is obliged to get the consent of his creditors to obtain his discharge, he can get it as well without a bankrupt law as with.

A word in relation to the bankrupt law of 1841. It is said that this bill will share the fate of that law. The bankrupt law of 1841 undoubtedly was very loosely drawn. It did not provide as strictly as it ought to have done against fraud. There were undoubtedly some cases where fraudulent bankrupts went through, got their discharge, while still retaining property. The bill now before the Senate has very much stricter provisions on that subject. It authorizes the creditors within two years after a discharge is obtained, if they find the bankrupt has been guilty of any fraud, any concealment of property, to apply and get the discharge itself set aside and their debts again restored to full life.

I do not design now to go at all into the history of that act of 1841 or the reasons of its unpopularity; but we all understand that the bankrupt law of 1841 came up as one of a series of political measures. It was passed through Congress by the votes of one party against those of the other party. I believe there was in the House but a single instance of a vote in favor of the bankrupt bill except by members of the then dominant party. It was passed with a series of other measures—the national bank bill, the land distribution bill, &c. The party that passed the bankrupt bill very soon met with political reverses, and the bankrupt bill shared the fate of the party and of its associate measures. The cry that was got up against that bankrupt bill was rather a political cry than one that grew out of any fault with the working of the law itself; and I never had any doubt myself that if that law had continued upon the statute-book for another year until it could have been amended, until some of its imperfections could have been provided against by subsequent legislation, it

would have stood and have become a permanent bankrupt law, such as all commercial countries have and such as in my judgment this country ought to have.

Mr. FOGG. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 6, nays 24; as follows:

YEAS—Messrs. Buckalew, Cragin, Fogg, Lane, Morrill, and Wilcox—6.

NAYS—Messrs. Conness, Davis, Dixon, Doolittle, Edmunds, Fessenden, Harris, Henderson, Howard, Howe, Johnson, McDougall, Morgan, Nesmith, Norton, Patterson, Poland, Ramsey, Ross, Saulsbury, Stewart, Sumner, Van Winkle, and Wade—24.

ABSENT—Messrs. Anthony, Brown, Cattell, Chandler, Cowan, Creswell, Foster, Fowler, Frelinghuysen, Grimes, Guthrie, Hendricks, Kirkwood, Nye, Pomeroy, Riddle, Sherman, Sprague, Trumbull, Williams, Wilson, and Yates—22.

So the amendment was rejected.

Mr. HOWARD. I move to amend the bill by striking out in lines twenty-seven, twenty-eight, and twenty-nine of section thirteen, on page 16, the words "manner provided by law for the prosecution of marshals' or other bonds given to the United States," and inserting "name and for the benefit of any injured party;" so as to make the clause read:

The bond shall be approved by the judge or register by his indorsement thereon, shall be filed with the record of the case, and inure to the benefit of all creditors proving their claims, and may be prosecuted in the name and for the benefit of any injured party.

So as to give the injured party, whatever may be his relation, the right to sue upon the official bond given by the assignee, in his own name and for his own benefit. The bond, it will be observed, is to be given by the assignee to the United States, and strictly, according to the rules of law, upon any breach of the conditions of the bond the United States only would have the right to sue. My amendment is to enable any creditor or any injured party, whether the United States or any individual, to bring suit upon that bond in his own name and for his own benefit, so far as he may be interested.

The amendment was agreed to.

Mr. SUMNER. I offer an amendment, to come in on page 13, after the word "bankrupt," in line thirty-one of section eleven:

*Provided*, That the judge shall not proceed to the consideration of any such petition until the petitioner has taken and subscribed the oath prescribed by the act of Congress approved 2d July, 1862.

On this I have simply one remark to make. I have heard it said that certain persons at the South were moved to go into rebellion on the idea that in that way they would wipe out their debts to northern creditors. I do not doubt that that was the case with some persons. How extensively rebels acted under that motive I have no means of knowing; but it seems to me that we ought not to provide them the means of wiping out their debts to northern creditors. Therefore, I propose that we shall require of them that they shall take what is usually known as the test oath before their petition is proceeded with. That is the object of my amendment.

Mr. JOHNSON. If the honorable member would make it operate equally and provide that no such person should be sued or imprisoned, there might be something like justice in the proposition. I do not think a provision of this sort is to be found anywhere in any of the statutes, so far as I have known, in England or elsewhere. It is true that the parties to whom the amendment applies have committed acts which may be treason or not treason as things actually stand now. They certainly were treason at one time; but whether they are now protected because of the acknowledgment of belligerent rights as between the United States and the confederates is a question upon which I express no opinion. But, however that may be, we look to the time when they are to become citizens of the United States in all respects. They are now citizens. They can go to New York or Boston or anywhere else and contract debts. Massachusetts gentlemen may go down to the South, buy their

property, sue them. I do not see any justice in denying them the right to have the benefit of this act, unless it is for the purpose of punishing; and according to that view, if they are to be punished, the honorable member might propose, if he supposes we have the power, that they should be liable to suit, liable to execution, and liable to imprisonment as long as the creditor might think proper.

Requiring a test oath, so far as we have heretofore gone, was only supposed to be necessary in relation to officers of the United States or quasi officers. You would not permit any one who had been engaged in the rebellion to be a member of this branch of Congress or the other, and hence you required the test oath; you would not permit a lawyer to practice in the courts without taking a test oath. To say nothing of the authority of Congress to pass the latter branch of that law, supposing the power to exist, yet each provision was thought by Congress to be necessary in order to keep the offices of the Government in the hands of loyal men; and certainly that reason does not apply to the poor debtors who are crushed to the earth by debt, and are unable to do anything for the support of themselves or for the benefit of their country.

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. DIXON. I ask for the reading of the oath referred to on the amendment.

The Secretary read the oath prescribed by the act of July 2, 1862, as follows:

I, A. B., do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, counsel, countenance, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever, under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

Mr. CONNESS. As I understand the object and purpose of this bill, it is to furnish a mode of relieving citizens who are hopelessly involved from the condition of the thrall which circumstances have placed upon them, and to enable them to enter again into the world of business, and not only for the purpose of giving relief to the persons as individuals, but for the additional purpose of giving the benefit of their industry and their efforts and their energies to society. If that be the purpose of the act, it is equally as important to relieve a man who was a rebel, a man who is ready now to labor and to work, as it is to relieve a loyal man. I am willing to apply what is called the test of loyalty where it may be properly done; but I would as soon think of introducing it, I will not now say where, as to introduce it in connection with this bill. I think that test oaths, perhaps, have their degree of usefulness, and will for a time to come, but I do not think that this is the sphere of their usefulness, and therefore I cannot vote for the amendment.

Mr. SUMNER. I submit that this is the "sphere of their usefulness;" at least for the present. The time will come I trust, and very soon, when there will be no occasion for test oaths. I shall welcome that time as cordially as the Senator from California or any other Senator on this floor. Suffice it to say that hour has not yet sounded. There is not a mail which does not bring us reports of the grossest insubordination in this rebel region, of injustice to neighbors, of cruelty to freedmen. The rebellion is not yet completely suppressed. When that time is reached, then let us open this Chamber and open all our courts, as we shall freely open all our hearts; but that time has not yet come. Until then we owe it to ourselves and we owe it to the country to fix all possible safeguards; and now as you are

about to pass this important measure, which is going to readjust the relations of debtor and creditor throughout the country, I submit that you must teach hard-hearted men that they cannot come forward and claim the benefits of this act unless they can show that they are loyal citizens, and we have no other way of bringing them to that test except by requiring the oath which Congress has already prescribed in many other cases.

Mr. POLAND. The subject of the rebellion and the rebels is connected with almost everything that we have here in the Senate; but I thought we had at last got upon a bill that would steer clear entirely of that. I have as poor an opinion of the rebellion as my friend, the Senator from Massachusetts; I believe I would do anything that was proper to be done in the way of punishing those who went into it as cheerfully and as firmly and strongly as he would; but it seems to me this proposition of the Senator is going a very great way. It is substantially saying that every man who had anything to do with the rebellion shall have no benefit of this law if it passes. Why, Mr. President, we might with just the same propriety pass a law that no man should be a suitor in court; we might with the same propriety pass a statute that no man should prosecute any claim in any court of the United States unless he could take this test oath as to put it on to this bill. We might with the same propriety say that a poor debtor should not be allowed to take the poor debtors' oath unless he could, in the first place, take the test oath. We might as well require it in the one case as the other.

This test oath has, so far as the law applies it now, been confined to specific cases. We require that a man shall be able to take that oath and take it truly before he occupies any official place, before he practices as an attorney, before he occupies any official governmental relation. All that I am in favor of; but when we come to apply it to the ordinary transactions of life, and to say that a man shall not do business, a man shall not work out by the month unless he is able to take the test oath, I cannot agree to it. We might just as well apply it to every branch of business, to every vocation in life, it seems to me, as to apply it to this bill.

We all understand the condition of the country South. Some were in fault and some were not. That whole country is broken down and impoverished. If there is any need of a bankrupt bill anywhere there is need of it there; and are we going to exclude that whole southern country and all its people from the benefits of this law because they may have engaged in a causeless rebellion or been led into it by ambitious, unscrupulous leaders? It seems to me this is carrying the thing altogether too far.

Mr. POMEROY. If the Senator from Massachusetts would modify his amendment so as to require the test oath so far as it may be applicable to a debtor of this kind I would not object to it, and I think that modification will secure some votes for his amendment; it will certainly secure mine. The oath as it now stands is made to apply to persons who are about to enter on the discharge of the duties of some office.

Mr. CONNESS. The Senator will excuse me for asking him to suggest, before he takes his seat, how he thinks the oath can possibly be made applicable to this case.

Mr. POMEROY. I have not got that far yet. I was about to say to the Senator from Massachusetts that I think it would strengthen this bill if it was somewhat restrictive in its operation. I said yesterday that now for the first time in the history of the country a period had come when perhaps a bankrupt bill could be sustained. I never heretofore have supposed that one of this character could be made popular and sustained in the States; but it will strengthen it amazingly if leading and notorious rebels can be excluded from the operations of the act, at least until restoration or reconstruction has been made complete. I



would not have it apply in such a way that they should be forever, eternally excluded; but until some system of restoration has been agreed upon, until the status of the people of the rebel States has been established in this country and under this Government, so that we may know what their relations to the Government are, I am not for letting them in to take the benefit of this bankrupt law. I would not say that they may not come in next year or within three months; but just at this particular time, before we have any method adopted that promises peace and union to these States, I am not prepared to send this law down there for execution and application to such men. I am willing to apply it to loyal men, those even whose honest purpose is to become loyal and good citizens in the future. Unfortunately, however, there are many men in the South, and they are the rich and the wealthy men of the South, who will make no promises for the future even of loyalty and devotion to this Government. I do not propose to let those men up if they are bankrupts. I have got no motive for doing it if other Senators have. And yet I would not exclude all the South by any means. In our constitutional amendment we only struck at leading rebels, those who had added perjury to treason, and said they should not hold office. We did not apply it to everybody.

Mr. SUMNER. I accept very cheerfully the suggestion of the Senator from Kansas. I supposed that in administering the oath the change would naturally be made. But I will modify my amendment by adding these words at the end of it: "omitting such words thereto as refer to the duties of any office," and then only that part of the oath which is peculiarly in the nature of a test will be administered.

Mr. POMEROY. I shall vote for the amendment with that modification, and will only add to what I have already said this remark: that I hope the time may soon come when the status and condition of these States will be so established, and their relations to this Government will be so cordial, that we may extend to all their citizens the same laws and the same provisions of law in all respects that we extend to all other citizens.

Mr. STEWART. There has been a great deal said about making this a uniform law. It was strenuously contested here for two days last week that if we allowed the State exemption laws to prevail the bill would be wanting in uniformity. Now, it seems to me that if we exclude from the operation of the law one third or one fourth of the inhabitants of the United States it will certainly be wanting in uniformity. I believe that would destroy the law altogether. This amendment is equivalent to saying that it is impolitic to pass any law on the subject of bankruptcy, because there is no court which will say that you can pass a bankrupt law and at the same time exclude from its operation a large class of the people of the United States. There is no court which will sustain that as a uniform law.

As I understand this law, it is for the benefit of the loyal as well as disloyal, to enable the business of the country to readjust itself and prosper after the great troubles through which we have passed. It is to the interest of all parties that this law should be passed, the interest of the creditor that he may have the debtor's property distributed fairly in the United States courts, the interest of the honest but unfortunate debtor that he may again engage in business and be enabled to elevate his energies in such a way as to be useful to the community. And if you say that it shall not operate as to a large portion of the people the law is unconstitutional. We cannot pass that kind of a law. That is too manifest a want of uniformity.

But perhaps it may be said that this is done by way of punishment. Then it comes under the prohibition to pass an *ex post facto* law, and it will destroy the efficacy of the bill. You cannot accomplish the object in this way. There are other ways of punishment. In making a

uniform law you have no right for any reason to except any large class. As the Senator from Kansas suggested, you may perhaps put an oath as to present belief, which every body can take, and it will be uniform. You can make them swear that they do not believe in secession, if you choose, but even that would be out of place in a law of this kind. The question presented is simply this: will you have a bankrupt law at all? With such a provision as this in it I am satisfied the law will be unconstitutional and void.

Mr. HOWARD. The honorable Senator from Nevada objects to the amendment offered by the Senator from Massachusetts, that it is unconstitutional. What is the amendment? In legal effect it is this: that it excepts and excludes from the operation of the bankrupt bill before us that large class of persons who have participated in waging war against the United States. They are not to receive the benefit of the act according to the amendment of the Senator from Massachusetts. But does this exclusion render the bill unconstitutional? Will the Senator from Nevada say that the bill would be unconstitutional if it were confined exclusively to merchants and traders? I think he would not. I think he would concede at once the power of Congress to pass a bankrupt act to apply only to traders and merchants.

Mr. STEWART. Right there let me ask a question. Suppose it included some merchants and excluded others, would not that be unconstitutional for want of uniformity?

Mr. HOWARD. The operation of the bill must necessarily include such classes only as Congress sees fit to apply it to, and undoubtedly it is for Congress to judge whether it is best to apply the benefit of the act to any one particular class or whether it is best to exclude that class. The act itself will be uniform upon the persons and the subject-matter embraced within its purview; and all else are excluded. I cannot regard that objection as well taken, I confess.

Well, sir, as to the propriety and expediency of excluding the classes embraced in the amendment of the Senator from Massachusetts, I am in favor of it. We are about to pass an act of Congress which is to operate as an act of forbearance, indulgence, and mercy to a large class of persons, persons who without any fault on their own part have become insolvent and unable to pay their debts. Congress is now coming forward and in the shape of an act is about to say to them, "If you make a surrender of all your property liable to be taken upon execution you shall be discharged from the obligation of your contracts." This is an act of indulgence and mercy and kindness and humanity on the part of the Government. The question is whether that class of persons at the South, who have willfully been engaged in making war upon the Government of the United States for the purpose of overthrowing it, are now in justice or morality entitled to this great act of jubilee on our part?

Sir, an immense proportion of this class at the South have been rendered bankrupt and reduced to poverty by their own criminal conduct. Immense estates at the South, valued at millions of dollars, have been squandered and destroyed by this rebellion, have been engulfed in the immense whirlpool that has carried away, not only the property, but the persons of so many of the citizens of the rebellious States. They went into this criminal conduct willfully, knowingly; they appropriated their property for the purpose of waging this war; they voluntarily deprived themselves of their property, rendered themselves bankrupt and unable to pay their debts, either domestic or those which they owe abroad by means of their own unjustifiable and treasonable conduct and principles.

Now, sir, can that class of persons, after having done all in their power with fire and sword as well as their money to destroy this Government and overthrow it, come forward consistently and claim at our hands this great act of mercy and indulgence? I am unwilling to

grant them this. Let them meet the fate they have courted. They threatened themselves at the beginning of the war that they would fight until they were driven to the last ditch, until not a man, woman, or child should be left on the soil of the South to tell the tale of their ultimate destruction if they should be destroyed. We have driven them into the last ditch by force of arms. I am unwilling now to turn around and say to these people, "I will discharge you from your honest debts because you are insolvent," while at the same time I know that this insolvency has been created by their own efforts to destroy my Government and my country. Sir, let them meet the decrees of retributive justice without flinching, and not ask us for mercy in such a shape as this.

Mr. JOHNSON. Mr. President, like my friend from Vermont, [Mr. POLAND,] I was a little surprised to find that the rebellion was to be brought in this debate. In answer to the concluding remarks of the honorable member from Michigan, I do not know that the citizens of the South are the parties who are asking for the passage of this act. I rather think the application comes from citizens of States that are called loyal. Certainly no representative of the southern States that were in the rebellion is here or in the other House. The whole legislation, therefore, upon the subject has been the result of the judgment of the representatives of the loyal States and for the benefit of their people. What made the citizens of Michigan, such of them as are unfortunately in that condition, bankrupts in fact? I suppose it was misfortune of one kind or other. In the South many became bankrupt perhaps because of the war, and perhaps because of other circumstances. But I should like to know of the honorable member from Massachusetts, and of the honorable member from Michigan, if they propose to except from the operation of this law all southern debtors. Do they mean to deny the creditors in the loyal States the right to proceed compulsorily against their debtors in the disloyal States under this law?

Mr. HOWARD. I do not know that the amendment of the honorable Senator from Massachusetts covers that case.

Mr. JOHNSON. I know it does not. Then it is proposed to leave the compulsory branch of the law in force. What will be the effect of that? Whether a rebel debtor, so to term him, is to be discharged or not is to depend upon a loyal creditor. If a loyal creditor proceeds against him it is not proposed to qualify the discharge which the debtor is to obtain under the compulsory process so as to limit it only to those who may be able to take the oath proposed by the honorable Senator from Massachusetts to be prescribed. Then the result of this bill is that the debtor's discharge is to depend upon the fact of whether the loyal creditor applies himself for the benefit of the law. He will have to apply. If he does not apply for the benefit of the law as against his debtor in all human probability he will never get a dollar of his debt. Leave the estate in the hands of the bankrupt debtor and he may dispose of it just as he thinks proper. Whatever he has left he may live upon until he exhausts every dollar of his property; he may sell it, convert it into money, leave the State and leave the country, and then what is to become of the loyal creditor? The bill is intended and will operate as much if not more for the loyal creditor than it will for the disloyal debtor.

Now, Mr. President, I should just as soon have thought of applying such a provision as this to this bill as of proposing an amendment, which at one time I thought perhaps my friend from Massachusetts would propose, that the law was to apply to all citizens of the United States without distinction of color, [laughter,] so as to revive the question whether there are such distinctions or should be such distinctions. We want a bankrupt law for the benefit of all, not for the benefit of the South, but we want it to operate upon citizens of the South who are debtors, not only for their benefit, but for

the benefit of their creditors who are found in the loyal States, and, among other States, in the State of Michigan. Does the honorable member propose to deny to the creditor who lives in Michigan the right to proceed as against his disloyal debtor in the State of Louisiana? I understand him to say so.

Mr. SUMNER. Certainly not. It is not applicable to that case.

Mr. JOHNSON. I understand it perfectly, and I have asserted it so. It is not proposed. Well, will he not apply, and if he does apply, is it suggested that the effect of the discharge is not to be as absolute of such a debtor as it will be of a debtor in the loyal States? And if it is to be, why is it to be? Only upon the ground that he who surrenders either by compulsion or voluntarily all his estate ought to be discharged from his debts.

Mr. SUMNER. I will merely make one remark in reply to the learned Senator from Maryland. He says that he understood the proposition. I doubt not that he did, but I am inclined to think, nevertheless, that the Senate may perhaps have been—he will pardon me the expression—a little befogged by the remark of the Senator. I wish, therefore, that the Senate should distinctly understand that my amendment is simply applicable to a voluntary petitioner for the benefit of this act who himself has been a debtor. It is not applicable to any adversary proceedings against him.

Mr. JOHNSON. I said so.

Mr. SUMNER. I know the Senator said so. It is not applicable to any adversary proceedings against a bankrupt: it is only applicable to the case of the bankrupt himself seeking the benefits of this act; and the question is then presented whether at this moment, this day, in the present condition of things in that whole rebel region, you are prepared to allow disloyal persons, in other words persons who cannot take the test oath, to come forward and share the benefit of this great act of mercantile and commercial amnesty; for that is the character of the bankrupt act? The day for amnesty, whether it be mercantile or political, has not yet come. There is no one who is more anxious for that day than I am, or who will welcome it more sincerely; but it has not yet come; and it cannot come until all the foundations of security are fixed throughout that whole region; it cannot come until the existing governments in that region are entirely brushed aside as having no legal or constitutional existence. They are the creatures of a usurpation; that is all. They ought not to exist; and until they are brushed aside and until you have security in that region there is no opportunity for amnesty.

Mr. FESSENDEN. Mr. President, I took some part in passing the bankrupt act of 1841. That contained, as this does, what is called the voluntary clause, and I have always been in favor of it. I have been in favor of it for several reasons. I believe that we ought to have a bankrupt act in the country; and my observation has convinced me that it is impossible to pass any bankrupt act at all except under the pressure of opinion and feeling created by the existence of a good deal of bankruptcy in the country and the desire of individuals to be relieved. I have no question about the constitutional authority, the perfect power of Congress to pass it in that form if it sees fit.

The reasons, in addition to what I have already stated, why I have been in favor of it are two: first, because I am willing to relieve individuals, of whom there are a great number who cannot be relieved in any other way, for their own benefit; and second, because I believe it would be very beneficial to the country to restore to the power of labor and usefulness, and to relieve from the oppressiveness of a burden of debt which they cannot meet, a large number of individuals who would become active and useful citizens, and thus advance the interests of the country.

These reasons have always operated on me as sufficient to induce me to run the risk of the

odium (if odium may be occasioned by it) or the unpopularity that may arise from the passage of such a law. I believe it will be beneficial and useful; and when the country has once been relieved in that way by the voluntary clause, it will be but a very short time before it will cease to operate, because then all come under what is called the compulsory clause, as a general rule. That is to say, existing debts being swept away, others will be incurred under the act itself; and they will be debts made with a perfect understanding in the community as to what they will be subject to, what the law of the land is, and every body who gives credit will give it with a perfect understanding of what the result may be.

That being the case, I am utterly opposed to the proposition of the Senator from Massachusetts. I have felt pained that I was obliged, by my sense of duty and by the conduct of men in the southern States which were in rebellion, to resort to the stringent measures to which we have been obliged to resort in order to prevent evil to the public. These test oaths and other measures of that description are in themselves of an objectionable character always, and only to be excused by the necessity of the case. So far as they are applicable to political power, to holding office, so as to prevent certain men from seeking or being able to get the control of public affairs, I think they are entirely justifiable at present; but outside of that I am desirous, and I presume every Senator here is desirous, that at the earliest possible day all these States of which we speak may become again prosperous, that they may be relieved from their present condition of pecuniary and other suffering, and may again be prosperous in every sense of the word. I think we all desire that. It is for the benefit of the whole country that it should be so, not quite so directly for our benefit as for theirs; but indirectly whatever tends to promote their prosperity and their good tends to the prosperity and the good of the whole country.

Now, sir, in legislating upon business affairs, matters merely of every day occurrence, having no connection with the political power of the country, no connection with any question which would tend to create difficulty hereafter, but simply affecting their pecuniary interests, their prosperity as individuals constituting communities, I am shocked at the idea of making a distinction between them and us. Why do it in any law which has reference simply to matters of business, affecting only individual prosperity and comfort? I would relieve them gladly if I could do so with a proper regard to the safety of the country from all these test oaths. I cannot do it according to my own judgment of what is necessary, and therefore I leave that to time and the changes that time brings with it. But, sir, in everything else, with reference to any measure that may tend to promote the prosperity of that region, I feel an interest in it which would induce me certainly on no occasion to make a distinction between them and us with regard to those ordinary matters. I was in favor at the last session of appropriating a large sum of money to repair the levees on the Mississippi river; and the Senate I think passed the proposition, but the other House rejected it. I am in favor of other measures which will tend to encourage the growth of the interests of that section of the country just as much as I am of measures which will tend to encourage the growth of our own interests and of our own prosperity, because they are now a part of the body-politic, and sooner or later they must resume their position as States.

Hence a proposition of this character coming from my friend from Massachusetts a little surprises me. I am astonished that he does not see that it is for our good as well as for the good of these communities that there should be no distinction in all the ordinary affairs of life, in the application of beneficial laws, between them and ourselves. Sir, if an amendment of this sort was incorporated into the bill, desirous as I am to pass it I would

not vote for the bill. I would not vote for anything which to my mind is of so odious a character.

Mr. DOOLITTLE. Mr. President, whatever may be said about other laws affecting commercial transactions, I believe the bankrupt system of every civilized nation on the globe embraces within its provisions even alien enemies; and the proposition to exclude from the benefits of this bill those persons who have been once engaged in rebellion, but have given up the cause of the rebellion and profess at least their determination to be obedient to the Constitution and laws of the United States, is the last proposition I ever expected to hear presented or entertained in this body.

Mr. President, aside from that question, the truth is that what the South perhaps needs more than anything else at the present time is the breaking up of the large landed estates into smaller farms, to be occupied and cultivated by the system of free labor. And this bill, in my judgment, both in its compulsory clauses and in its voluntary clauses, will tend to do that very thing. When proceedings are taken against a debtor who may reside at the South, whose property mainly consists in vast bodies of real estate, the result of the decree of the court will be that the lands are to be sold, and they will be sold and titles will be given, titles upon which men can rest, and in that way the estates will be divided.

If you hold out to persons having this kind of property, when it is incumbered and they are involved, the right to come into the court of bankruptcy and ask for a sale and distribution of the property, it will operate in the same way; and, in my judgment, by leaving it in its full operation, both in its compulsory provisions and in its voluntary provisions, the measure is one of the best measures that can be conceived for the purpose of breaking up the great landed estates of the South and dividing them into small farms, which is essential to the adoption of that kind of civilization which rests upon free labor. The other system, resting upon slave labor, continually increased the landed estates; but the free labor system has a tendency to break them up into small farms, and by breaking them into small farms have more thickly-settled neighborhoods, and with those neighborhoods come villages and school-houses and all that which distinguishes the northern civilization of the free States.

Mr. SUMNER. Mr. President, I sympathize with the Senator from Wisconsin in his aspirations: I hope that these great estates will be broken up. Possibly in the bankrupt bill there may be something which will have a tendency in that direction: how much I know not. However, I accept the Senator's argument in favor of a bankrupt bill. I am sincerely in favor of such a measure. All Senators about me know that from the first moment this bill has been brought forward I have avowed myself without hesitation in its favor. I am, therefore, one of its friends. Being one of its friends I desire its improvement. I wish it to be put on a foundation of justice that can stand. I submit that while it proposes to open the doors of the court-house to persons yet reeking with rebellion, it is not founded in justice, nor is it founded in humanity, and there I come directly in conflict with the able Senator from Maine. His argument to my mind was not an argument for humanity or for justice, but just the reverse. It is because I wish to organize justice and to organize humanity in that whole rebel region that I have brought forward the proposition on which you are to vote.

I do not imagine that such an amendment if adopted would be in any permanent act of bankruptcy. I should hope anxiously that the time would come soon when it might be dropped; but that is not the question. We are to deal with the hour as it is, not to deal with the hour as it may be to-morrow or next year. We are to deal with the existing exigency. Now, the Senator from Maine, as I understood him, recognized the value of test oaths

on certain matters. He does intend perhaps to remove them. Why? Because we are still in that transition period, passing from the bloody agonies of a rebellion to a peace that unhappily is not yet assured. Give us that true and glorious peace, and then gladly will we tear to pieces all these statutes requiring test oaths; but until that day comes, so blessed and so much longed for, we cannot give up the oaths. The Senator from Maine does not propose to give up the oaths.

And that brings me to the precise question whether the oath should not be applied to this case. Look at that region: is it not now in a state of insubordination? Is it not full of cruelty and bloodshed? Is there one of those States where there are not hundreds of those persons to whom you are bound by every tie of honor and justice daily sacrificed? And by whom are they sacrificed? By the late rebels, who cannot take your test oath. Is there any such thing as security in those States now? Is there security of person, security of opinion, security of property? Nothing of the kind. But then civilization exists only through security. If I were to embody in one word what I most desire now for that unhappy part of my country it would be security. Security, of course, for human rights, security for property, security for business, security for travel. We all know that no such security now exists there.

Mr. POLAND. I should like to inquire of the Senator from Massachusetts how those things are to be bettered by preventing people going into bankruptcy?

Mr. SUMNER. I am coming to that. Security, I say, is what we require there. Security from whom? From rebels, from persons who cannot take a test oath. Those people must be made to feel that they are no longer masters. The rebel spirit must be broken down. Now, I know no better way to break it down for the present, during this transition period, than by excluding them from these Chambers, by excluding them from office, by excluding them from the benefits of a great act of legislation like that which you are about to adopt. This is my reply to the Senator from Vermont. Let us do all we can to break down the rebel spirit, and let us tell Unionists, without distinction of color, (if I may be pardoned the expression by my friend from Maryland,) let us teach them all that, so far as we can, we mean to protect them and save them harmless from their oppressors.

I say, then, let us break down the rebel spirit. Do not give them any additional strength. Unhappily they are now too strong. There is an old maxim of law which both of my learned friends [Mr. POLAND and Mr. FESSENDEN] will remember well, to this effect: that whoso would have equity must do equity. Let these rebels do equity, and how gladly shall we do every equity to them. Then they will not ask to come into these Halls or to come into the court-house or to come into the privilege of the bankrupt act; every thing will be open to them; but while they continue to do wrong to those to whom we owe protection I cannot consent to relax any of that austerity or rigor, if you choose to call it so, which is important in the support of human rights. I believe that human rights are of some value, and I do not think that men who trifle with them are to be lightly taken by the hand or to be accepted into our fraternity.

Mr. FESSENDEN. Mr. President, the Senator surprises me more and more. Through all that country every one knows that there are many who entered into this rebellion unwillingly and because they were compelled to do so by the pressure of power upon them. How many of this class there are we do not know, but unquestionably many thousands. We know very well that they have all been made bankrupt substantially; their property has been destroyed; they are poor; they cannot pay their debts. Now, the Senator in order to be severe would strike at every man without distinction who cannot take the test oath, no matter under what circumstances he was compelled

to act as he did, no matter what pressure was brought to bear upon him to force him into ranks that he hated; in order to practice vengeance upon the whole mass of the community the Senator would punish the whole, the comparatively innocent as well as the guilty. And how? Not simply by excluding them from office, not simply by excluding them from political power, not simply by providing all the safeguards that are necessary to prevent their doing evil in the Republic, but by denying them bread and water, because the argument goes to that extent: starve them, scourge them. Ay, it goes to that extent, or it goes for nothing. The same argument that applies to the Senator's extent would go the whole extent. Sir, I accede to no such bloody doctrine as this. "Security!" What kind of security do you get by making men desperate, more desperate than they are now? These men are poor; they plunder perhaps; they oppress. They are suffering under all the irritation produced by their condition. Is it not a sensible thing to relieve them, make them feel that they have a stake in the community, that there is a chance for them to lift themselves out of the slough of despond into which they have fallen, to elevate themselves into men of property, to become intelligent, useful citizens, instead of saying, "You shall have no benefit from any beneficial and kind law; stay where you are, bankrupt, broken, desperate, driven to all extremities, and made to feel that the more you oppress your fellow-man the more you are justified by the condition in which we insist upon keeping you?"

Is that the kind of security the gentleman expects to gain from legislation of this description? Sir, I hold to no such security as that. If I lived in a community of desperate men my policy would be to render them less desperate; my policy would be to encourage them to do something for themselves, to lift themselves above the condition into which they were fallen, to turn their attention to the arts of peace, and not drive them to robbery and plunder, which follow a feeling of desperate circumstances.

Sir, the Senator is mistaken. He has spoken to-day not from the impulses of his heart, which I know to be good—and in nothing that I say would I intimate that he is not just as kind as I know he is—but from a mistaken view as to the extent to which this thing ought to be carried. I adjure the Senate to carry their legislation not into matters which regard private life, and regard simply the ordinary business of the world. I go as far as anybody in depriving these people of power in the Republic until I am satisfied that that power can be exercised with safety to the Republic; and when that moment arrives I would withdraw my hand even from them; but under no circumstances would I, with regard to the ordinary affairs of life, make a distinction between them and ourselves. While they remain a part of this great Republic they shall have the benefit of all the laws that we pass of this description or of any other description, so far as they can have it without danger to ourselves or to the whole.

Mr. SUMNER. Mr. President, I agree with the Senator in his last position. He says he would make no distinction with them in the ordinary concerns of life. Agreed: I am with him. I make no distinction in the ordinary concerns of life; I insist that your legislation shall bear equally upon them and upon others; but the question is whether the measure you are about to pass comes in the category of the ordinary concerns of life. It is, on the contrary, I submit, extraordinary. It is a new act of legislation providing a great, a peculiar remedy, one that this country has not known for a whole generation. The Senator alluded to the early bill. I remember it well. It was in 1841. All that intervening time has passed and you have had no bankrupt act. Now at last you are about to have one, and the question is to whom this extraordinary act of legislation shall be applicable.

I take the Senator from Maine at his word.

I will not make any difference between them and us in the ordinary concerns of life; but when the question is on what is extraordinary, on what does not belong to the ordinary concerns of life, there my friend from Maine must pardon me if I cannot see our duty as he sees it. To my mind the course that the Senator proposes will help, so far as it has any influence, to invigorate that spirit of the rebellion which I know he hates as well as I. I know he would not intentionally do anything to invigorate it; but I fear that his words to-day may add somewhat to those multitudinous influences which are spreading over that region calculated to awaken those old feelings which ought to be trampled out forever.

I said when I was up before that what I sought as the one thing needful to my country at this moment was security. I do not see well how you can vote on any measure now without bringing it to that great test: does it help to establish the foundations of security in that part of our country which has been so unhappily deranged? I ask myself that question every day. I cannot avoid it; it presses upon me in all that we do; and when any measure is proposed which seems to my mind, so far as it has any influence to impair somewhat the bases of security, to invigorate, it may be, anew the rebel spirit, to quicken the spirit of outrage which exists so extensively there, I hope I shall be pardoned if I array myself against it. I cannot do otherwise. I am seeking for my country repose, tranquillity, all that is comprehended in that blessed word—peace. There is nothing that I will not do to accomplish that result. It is because I most earnestly seek that result that I have brought forward the proposition on which you are to vote.

The Senator from Maine in his last remarks was careful again to express his adhesion to the test oaths as they exist; he does not seek to do them away, but he wishes no extension of them. Now, I desire no extension of them; but then I surrender myself freely to the principle of the case. If sound principle requires that the test oath shall be extended to other cases I go where principle leads.

The Senator reminded us that if this provision was adopted it would bear hard upon certain persons who were pressed into the rebellion and who were really loyal in heart. Let me ask my friend if that same argument is not equally strong against every test oath on our statute-books? Is not the oath hard on all that class of persons to whom the Senator has referred?

Mr. FESSENDEN. Yes, and therefore I would not extend it.

Mr. SUMNER. The Senator says it is hard and therefore he would not extend it. To that let me reply, that the principle which governs in the one case should govern in the other before us. If the oath is proper in the other cases it is proper in this. But the Senator says he would not extend this principle. Let me say that the true Unionists at the South, so far as I have conversed with them, have always been anxious that you should not in any way impair the efficacy of the existing test oaths. They saw in them how much of safety and protection there was for Unionists.

I will not proceed any further. I hope the Senate will adopt the amendment.

Mr. HENDERSON. The Senator from Massachusetts will see by referring to the nineteenth section of the bill that after proceedings in voluntary bankruptcy have been commenced the creditors must file their claims before the register or before the court. I desire to ask him before voting on this proposition whether, if his amendment be adopted, he intends to apply it also to the creditors, so that no creditor shall have his claim allowed until he takes the test oath.

Mr. SUMNER. I had not so intended. I had intended to meet simply the case of a voluntary bankruptcy and to require the oath of the petitioner himself. There I stop.

Mr. HENDERSON. If that be the case I cannot vote for the proposition. However



proper it might be as applied in the case of a debtor, it surely must be applied to the creditor in order to make it anything like equal. I think it would be but proper to make the creditor in a case of involuntary bankruptcy, to which the Senator says he does not intend his amendment to apply, take the oath. Otherwise you enable rebel creditors to push to bankruptcy a fellow rebel and even a loyal debtor without taking the oath. The Senator, I understand, does not propose to require the rebel creditor to take the oath even when he pushes to bankruptcy a loyal man.

Mr. SUMNER. Allow me to make a suggestion to my friend. I have moved this proposition with reference to voluntary bankruptcy. The Senator of course can move his proposition when mine has been acted upon. The proposition which he makes now would not come in the place where mine is moved; it would come in another part of the bill. Let the Senator move his proposition, and I shall be ready to act upon it.

Mr. HENDERSON. I merely desired, not to offer the proposition, but to know to what extent the Senator wished to carry his amendment. It seems to me that in cases of voluntary bankruptcy, if it is applicable to the debtor, it ought to be to the creditor, and that no creditor should be permitted to prove his claim unless he takes the test oath. The Senate will see at once that if the two propositions together be carried in the southern States, so far as debts are confined to the southern States, it would be utterly impossible to get a case of voluntary bankruptcy under the act. I misunderstood the Senator in reply to a question propounded by the Senator from Maryland as to his desire to make the requirement apply to a case of involuntary bankruptcy. I understood him to say that he did not propose to make it obligatory upon the debtor in a case of involuntary bankruptcy before he obtained a discharge to take the test oath. In that view, both in regard to voluntary and involuntary bankruptcy, the adoption of this proposition would work very harshly indeed. I cannot therefore consent to vote for it.

Mr. HOWE. I want to say just this upon the pending proposition: if I regarded this act as the Senator from Massachusetts and the Senator from Michigan seem to regard it, as a private act for the relief of individual debtors from the obligation of their debts, then I should agree with the Senator from Massachusetts that rebels ought to be excluded from the benefits of the act; and I should think that thieves and murderers and all other criminals ought to be excluded from the act, and I should think that the debtors themselves ought to be excluded from the act, and I should be opposed to the act. But I do not understand that to be the nature or the purpose of the bill. I understand it to be, not a private law but a public law, not a law administering the public charities of the nation or the clemency of the nation to anybody in the world, but a law declaring that upon grounds of public policy, not upon grounds of public charity, it is better that the estates of certain debtors insolvent should be taken possession of by the courts, should be administered for the benefit of all their creditors, and then that the indebtedness of the individual should be at an end. If it be a matter of public policy that that should be done with reference to one debtor, it is a requirement of public policy that it should be done with reference to every other debtor, whether he be guilty or innocent, whether he has committed one crime or another or no crime at all.

And as I understand that to be the purpose of the bill I shall vote against this amendment, with no view of encouraging rebels to cease to be rebels. I agree with the Senator from Maine that there are undoubtedly a great many down in these southern districts who did not enter into the great rebellion voluntarily. But there are none down there who cannot come out of the guilt of the rebellion voluntarily;

there is nobody compelling them to stay in rebellion, and therefore I am not for encouraging them to come out any further than we have. We have dealt very generously and magnanimously with them I think heretofore. I do not think we have anything to do with the question of crime in the enactment of this law. It is a matter which the people of the United States demand, which the public demand, for the public good and not for individuals.

The question being taken by yeas and nays, resulted—yeas 10, nays 30; as follows:

YEAS—Messrs. Chandler, Cragin, Fogg, Fowler, Howard, Lane, Pomeroy, Sumner, Wade, and Wilson—10.

NAYS—Messrs. Brown, Buckalew, Conness, Cowan, Davis, Dixon, Doolittle, Edmunds, Fessenden, Foster, Harris, Henderson, Hendricks, Howe, Johnson, Kirkwood, Morgan, Morrill, Norton, Patterson, Poland, Ramsey, Ross, Sanbury, Sherman, Stewart, Van Winkle, Wiley, Williams, and Yates—30.

ABSENT—Messrs. Anthony, Caltell, Creswell, Frelinghuysen, Grimes, Guthrie, McDougall, Nesmith, Nye, Riddle, Sprague, and Trumbull—12.

So the amendment was rejected.

Mr. POLAND. I move to amend section ten, which is the section authorizing the Chief Justice and two associates to frame rules. The Supreme Court will be in session in the spring, have an adjourned term, and I move to amend the section by striking out the word "chief" in the first line, then changing the word "justice," in the second line, to "justices," and after the words "United States," in the same line, striking out the words "with the assistance of any two of the associate justices of the Supreme Court, to be selected by said justice;" so that the section will read:

That the justices of the Supreme Court of the United States, and subject to the provisions of this act, shall frame general orders for the following purposes, &c.

The amendment was agreed to.

Mr. POLAND. I hope we shall now be allowed to get a vote on the bill.

Mr. EDMUNDS. I move to insert the following proviso in the same section in which the proviso offered by the Senator from Massachusetts was proposed to be inserted; it is to come in after the word "bankrupt" on page 13, section eleven, line thirty-one:

Provided, That all citizens of the United States petitioning to be declared bankrupt, shall, on filing such petition and before any proceedings thereon, take and subscribe an oath of allegiance and fidelity to the United States; which oath shall be filed and recorded with the proceedings in bankruptcy.

The object of this amendment is to apply to these persons who have been rebels and who still ought to be entitled to petition in bankruptcy if they are willing to return to their allegiance. The Government has so far always required when any of those persons have been admitted to rights of citizenship again a fresh oath of allegiance, because the fact is well known that in most cases they have taken an oath of hostility, that is an oath in favor of the confederacy. The simple effect of this amendment is to require every citizen who is to take the benefit of the act to readhere, if he has been a rebel, to the United States. I am sure there can be no objection to that.

Mr. JOHNSON. I am not sure that I understand the amendment. Is it made to apply to all persons who may seek the benefit of the act, or only to citizens—

Mr. EDMUNDS. All citizens of the United States.

Mr. JOHNSON. Let it be read again.

The Secretary read the amendment.

Mr. JOHNSON. I have no objection.

The amendment was agreed to.

Mr. HENDERSON. On page 12, section eleven, line four, I move to strike out "three hundred" and to insert "one thousand;" so as to read:

That if any person residing within the jurisdiction of the United States, owing debts provable under this act exceeding the amount of \$1,000, shall apply by petition, &c.

Mr. POLAND. It seems to me this amendment ought not to be adopted. There is a very large class of debtors who owe less than \$1,000 who have no means of paying, whose condition requires the aid of a bankrupt law as

much as those who owe larger amounts. It would operate as a very great hardship upon a very large class of persons, who are intended to be benefited and relieved by the provisions of this act, to have it limited to those whose debts were more than \$1,000.

Mr. HENDERSON. I offered the amendment in good faith, supposing that the bill is to become a law. I apprehend from the votes we have had in the Senate that it is a foregone conclusion that the bill is to be adopted. If it is to be, I think it would remove many objections that will be presented in its operation to confine it at least to amounts of \$1,000 and over. I am clearly satisfied that \$300 will not more than pay the expenses attending a bankrupt certificate, and it only opens the door, as I stated yesterday, for individuals to petition the courts for the relief granted under the bill, and to obtain that relief by making distribution of their property to the officers of the court. It will amount to that; and much objection will be made to the bill in consequence of that fact.

There was a limitation under the law of 1800, I believe, to \$500, and a limitation under the law of 1841. If I remember aright, no person could be driven to bankruptcy under the act of 1841 unless he was a trader and unless he owed \$2,000. Under this bill, as I understand it, an individual can be driven to bankruptcy for a debt of \$250. Some of his creditors, small creditors, may drive him into bankruptcy and cause his assets to be entirely eaten up in the costs of the proceeding. He may give his assets over to the officers of the court, and after the creditors have been denied all benefit of the assets he may obtain a certificate. I am satisfied that it will operate badly, I am satisfied that if the bill becomes a law in that shape it will receive, and justly receive, many comments on its improper character upon this point.

I do not see, unless the party gives his property to his creditors, that the law is to work any benefit at all. Debtors owing a smaller amount than \$1,000 can generally make an arrangement with their creditors just as good as can be obtained under this law. To pass it in this shape, turn over the property to the courts, let it be entirely destroyed in this way, without the creditors being benefited, is I think highly improper. I have offered the amendment in good faith, and desire that it shall be adopted if the bill is to be passed.

The amendment was rejected.

Mr. FOGG. I move to insert \$500 instead of \$300 in that clause.

Mr. POLAND. I desire merely to say that in the English system of bankruptcy, which is the one we fashion after more than any other, the one we know the most about, the one that has been longest in operation, where they have had the benefit of more experience than anywhere else, the sum is still smaller than that named in this bill. Fifty pounds is the limit in the English bankrupt laws. It seems to me there can be no harm in leaving this amount where the House left it.

Mr. HENDERSON. Permit me to ask the Senator if the English laws allow voluntary bankruptcy at all?

Mr. POLAND. Certainly.

Mr. HENDERSON. I was under the impression that they did not. They did not until the last few years I am satisfied, unless it was by the act of 1849 or since that time. Before that I am sure under the English laws there was no such thing as voluntary bankruptcy.

Mr. POLAND. It is in full operation there now.

Mr. HENDRICKS. It is a very recent act, then.

Mr. FOGG called for the yeas and nays on the amendment and they were ordered; and being taken, resulted—yeas 19, nays 20; as follows:

YEAS—Messrs. Brown, Buckalew, Cragin, Davis, Dixon, Doolittle, Edmunds, Fessenden, Fogg, Foster, Harris, Henderson, Howard, Howe, Johnson, Morrill, Ramsey, Sherman, and Williams—19.

NAYS—Messrs. Conness, Hendricks, Kirkwood, Lane, McDougall, Morgan, Norton, Patterson, Poland, Pomeroy, Ross, Saulsbury, Stewart, Sumner, Trumbull, Van Winkle, Wade, Wiley, Wilson, and Yates—20.

ABSENT—Messrs. Anthony, Cattell, Chandler, Cowan, Creswell, Fowler, Frothinghaysen, Grimes, Guthrie, Nesmith, Nye, Riddle, and Sprague—13.

So the amendment was rejected.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The Chair will take the question on the amendments collectively unless some Senator asks for a separate vote on some particular amendment. Is any amendment excepted?

Mr. SUMNER. I except the one on page 46.

Mr. GRIMES. That was not agreed to.

Mr. SUMNER. I understand my colleague's amendment was not agreed to, but the committee's amendment was agreed to; words were struck out on page 46. It is at the bottom of page 46, line ten to line seventeen of section thirty-three. The committee's amendment to strike out was agreed to. I wish to have another vote on that.

The PRESIDENT *pro tempore*. That will be excepted. Is any other amendment asked to be excepted? The question, then, will be on the residue of the amendments made as in Committee of the Whole.

The remaining amendments were concurred in.

The Secretary read the excepted amendment, which was on page 46, section thirty-three, line ten, after the word "otherwise" to strike out the following words:

And in all proceedings in bankruptcy commenced after one year from the time this act shall go into operation no discharge shall be granted to a debtor whose assets do not pay fifty per cent. of the claims against his estate, unless the assent in writing of a majority, in number and value, of his creditors who have proved their claims is filed in the case at or before the time of application for discharge.

Mr. SUMNER. On concurring in that amendment I should like to have the yeas and nays.

The yeas and nays were ordered.

Mr. POLAND. In relation to that amendment I have merely to say that the committee had this bill under consideration, and they were entirely unable to see any reason for making this distinction: why the assent of a majority of the creditors should be required to a discharge when the proceeding was commenced more than a year after the passage of this act, when it was not in case the proceedings were commenced within the year. If the Senator from Massachusetts can give any reason he can give what we were not able to discover.

Mr. WILSON. It seems to me that there is a very plain reason. The reason is this: within the year persons who are now bankrupts will have an opportunity to commence proceedings; after a year's time the provision will apply to persons who are not now in a condition of bankruptcy; and I think the distinction a good one and one that ought to exist. I think it will be much safer for the law itself and for the community that it shall exist, because, that being the law, persons engaged in business will be less reckless, more careful of their affairs, finding that they cannot be discharged without paying something to their creditors. This bill applies to men who are already bankrupt, and you allow it to apply to them for a year, and that whole class of men can enter their cases, and then you begin again. The men who are not when the bill passes and for one year are not in a condition of bankruptcy, but after that time become so, are required to pay fifty cents on the dollar, or have the assent of a majority of the creditors in number and amount. I believe it does no injustice to men who are now in a condition of bankruptcy, but applies to operations commenced a year hence.

We have tried that experiment for a quarter of a century in Massachusetts and it works well. Ninety-nine out of every hundred honest men get their discharges without any trouble, whatever they may pay generally. The effect of it is to check wild and reckless operations, to make men more careful in their business

affairs, and therefore it is much safer for the great mass of the community. We are to let off now all who are bankrupt; and I know men to-day who ride in their carriages with money covered up who are to be released by this bill, whose creditors, reduced from abundance to poverty, are toiling for day wages—men among my neighbors and friends. There is quite as much suffering in that direction as there is in the other; but this releases the whole class of bankrupts in the country to-day, and applies only to men who shall enter their cases a year hence. I hope it will be adopted.

Mr. CONNESS. There is always a difficulty when you undertake to regulate a general principle by an individual case. The Senator tells us that he knows of some cases—

Mr. WILSON. Will the Senator allow me to say a word?

Mr. CONNESS. Certainly.

Mr. WILSON. I hope the Senator does not undertake to say that because I mentioned a particular case I therefore govern my action on this subject by that case. It is the principle we are adopting, and it was only to illustrate it that I referred to the case of particular men.

Mr. CONNESS. If the honorable Senator had heard me out he would have understood that there was nothing in my allusion that would misrepresent or misplace him. I said that there was always a difficulty where we undertook to try a general principle by an individual case. Is there any objection to that form of illustration by the Senator? The Senator stated that he knew of cases where injustice would result if this provision was not retained as it occurs in the bill originally.

Now, Mr. President, my objection to retaining the provision is, that it is in violation of the very purpose of the act, the purpose sought to be obtained by its passage; namely, it proposes that the bankrupt shall not be released unless his creditors consent in certain cases.

If that is to be the case you may as well not pass this law; you gain by it nothing but that a man who is able to pay fifty cents on the dollar of his indebtedness may be released; but if he is unable to pay that and his creditors will not consent, he may not be released, and therefore, so far as he is concerned, he cannot have the benefit of this act. Well, sir, I apprehend that that would go to the uniformity of the act or the operation of the act. If there may be cases where persons may obtain by fraudulent proceedings a discharge from their obligations under this act, it is our business as law-makers to so fashion the law that that may be prevented; but we must not go to the violation of the very principle of the act we pass for the purpose of defending the community against injustice of the class spoken of.

I hope, Mr. President, that this course will not be taken, and that the amendment made in Committee of the Whole will be affirmatively voted by the Senate.

Mr. SUMNER. The Senator from Vermont asked if there was any good reason for this clause which I have moved to retain. I reply to him very easily: there is a reason, and the reason is found in the first place in the reason of the thing, and in the second place in experience. In the first place, in the reason of the thing, my colleague has already explained that; he has shown the essential equity of the proposition. Can any one show the contrary? The proposition is, that no discharge shall be granted to a debtor whose assets do not pay fifty per cent. of the claims against his estate unless the assent in writing of a majority, both in number and in value, of his creditors is filed in the case before the discharge. Is not that equity? Does it present any serious embarrassment to an honest debtor? I submit not. If his estate fails to pay fifty per cent., then there is the other condition that a majority of his creditors may make the concession of his discharge.

And is it possible to suppose that if a debtor is honest the majority of his creditors will not make the concession of a discharge? I submit that there can be no doubt on that point,

therefore the proposition is reasonable in itself. Then I say it is also sustained by experience. Remember the oft-quoted saying of Patrick Henry, when he exclaimed that he had but one lamp by which his feet were guided, and that was the lamp of experience. Now, a Massachusetts Senator may be pardoned for inclining to this cause, following simply the lamp of experience. In the State of Massachusetts we have a well-considered bankrupt system, in which this principle has obtained a place. It has been found to work well. The experience of Massachusetts is therefore in its favor.

I conclude, then, that you have on the side of this proposition both reason and experience.

Mr. BUCKALEW. I desire to amend the proposition by omitting the words "commenced after one year from the time this act shall go into operation," in the eleventh and twelfth lines. I move to amend the text by striking out these words before the vote is taken upon the amendment made in committee.

The PRESIDENT *pro tempore*. As an amendment to the amendment the Senator from Pennsylvania moves to strike out the words named by him.

Mr. POLAND. This is precisely the proposition that has been made once before in committee at least, and two or three times in substance; that is, to make the discharge of the debtor in all cases depend upon the assent of the creditors. It has been voted down three or four times.

In relation to the proposition to strike out this part of the section the committee reported in favor of striking it out because they were unable to see any reason for it, and I have hardly heard any, except the Senators from Massachusetts say that they have such a provision in their State and it has worked well, and they have had it for many years. My friend from Massachusetts seems to suppose that there is to be a different state of things after the passage of this bankrupt law; business is going to be done upon a different principle; men are not going to be likely to fail and become bankrupts, as they have been heretofore. I expect no such thing. I suppose the world will go on very much the same; trade will go; men will be unfortunate; men will fail after the passage of this bankrupt law, as they have done before. Why a man who becomes a bankrupt after the passage of this law and has occasion to apply for the benefits of it should stand upon any different principle, why any different rule should be applied to him, why he should not be entitled to his discharge upon precisely the same ground as the man who has already become bankrupt before the passage of the law or within one year after its passage, is more than the committee were able to see, and more than I am able to see, with all the light that has been cast upon it by both the Senators from Massachusetts.

Mr. BUCKALEW. I made this motion for the very reason just stated by the Senator from Vermont, that I can see no reason for applying a different rule to applicants who may come into court after the 1st of March say of next year and those who may come into court during the one year which will elapse from the passage of this law. If there be any reason for the discrimination based upon time I have failed to perceive it. If my amendment prevails, then the question will come up generally as to all applicants, whether the consent of a majority of the creditors shall be required for their discharge or not, and we can get a distinct and fair vote on that proposition.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment, and on that question the yeas and nays have been ordered.

Mr. SHERMAN. The amendment is to strike out?

Mr. HOWARD. The amendment is to strike out the clause, and those who are in favor of striking out the clause will therefore vote "yea."

Mr. DOOLITTLE. I understand the question is whether we shall concur in the amendment made in the Committee of the Whole.

The PRESIDENT *pro tempore*. That is the question.

Mr. DOOLITTLE. Then those who are in favor of the amendment striking out will vote "yea."

Mr. SUMNER. Those who are in favor of retaining the provision will of course vote "nay;" that is, they will vote against the amendment of the committee.

The question being taken by yeas and nays, resulted—yeas 31, nays 10; as follows:

YEAS—Messrs. Buckalew, Chandler, Conness, Davis, Dixon, Doolittle, Edmunds, Fessenden, Harris, Hendricks, Howard, Howe, Johnson, McDougall, Morgan, Morrill, Norton, Patterson, Poland, Pomeroy, Ramsey, Ross, Saulsbury, Sherman, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, and Yates—31.

NAYS—Messrs. Brown, Cowan, Cragin, Fogg, Foster, Grimes, Henderson, Lane, Sumner, and Wilson—10.

ABSENT—Messrs. Anthony, Cattell, Creswell, Fowler, Frelinghuysen, Guthrie, Kirkwood, Nesmith, Nye, Riddle, and Sprague—11.

So the amendment was concurred in.

Mr. HENDRICKS. If the amendments made by the committee are disposed of, I have one amendment to suggest.

The PRESIDENT *pro tempore*. The bill is before the Senate and still open to amendment.

Mr. HENDRICKS. The amendment is to strike out what was proposed by the Judiciary Committee to be stricken out on page 4, section three, commencing in the fourth line:

Upon the nomination and recommendation of the Chief Justice of the Supreme Court of the United States.

So that the section will read:

That it shall be the duty of the judges of the district courts of the United States within and for the several districts to appoint in each congressional district in said districts one or more registers in bankruptcy, &c.

These registers will be very important officers and they ought to be selected by some person who knows them personally. The register ought to be an honest man, and he ought to be a good business man. I do not know that it will be necessary that he should in all cases be a lawyer; but he should be selected by some person who knows him personally, because he has very much to do with the adjudication. He aids the judge in all proceedings in bankruptcy. In other words, he is an officer of the court, and I think he ought to be appointed by the court. As the bill now stands, the district judge is to appoint the register, but he can only appoint some one who is nominated by the Chief Justice. I submit to Senators that if they desire to make this a good bill that provision ought not to be in it. Take the State of Indiana. The present Chief Justice at one time lived in an adjoining State; but is he presumed to know who will make good registers in the different congressional districts? Is he presumed to be as well acquainted with the lawyers of Indiana as the judge of the district court? Take the State of California. Will any Senator say that the Chief Justice can know who is a suitable man to nominate for register in that State. If the Chief Justice is to nominate, in nearly every case he must do it upon the recommendation of other persons; so that these nominations will come to be political nominations.

I do not want to discuss this, but I feel an interest in this feature of the bill that it shall be made right. Politics has nothing to do with my view of the subject at all; for both the district and circuit judge in Indiana differ with me in politics. Both were appointed by Mr. Lincoln, and both, I believe, at least the district judge, as I understand, sustains the policy of Congress; but I know that he will make good selections of registers; and he is acquainted with the lawyers of the State; he is acquainted with the business men. These appointments ought to be made by the district judge, for the register is an officer under the district judge. Suppose the register proves himself to be unfit for the place or unfaithful in the discharge of his duties, ought not the district judge to remove

him at once? And yet he cannot do it if he is to depend upon the pleasure of the Chief Justice.

Mr. JOHNSON. I concur with the honorable member from Indiana that it would be exceedingly injudicious to retain this provision in the bill. We have a district court in Oregon, a district court in California, at an immense distance from the Chief Justice. It is impossible for him to know the lawyers in Oregon or the lawyers in California, such of them as would be likely to be selected.

But it occurs to me there is a constitutional difficulty in this provision. The Constitution provides that all officers whose appointments are mentioned in the Constitution shall be appointed upon the nomination of the President, by and with the advice and consent of the Senate, but that Congress may with reference to other officers vest the appointment in a head of a Department or in a court. There is no authority to vest it in any individual member of a court; but this clause, so far from vesting the appointment in the courts who are mentioned in the section, gives them merely a negative upon the nomination of the Chief Justice. It makes him as much a constituent part of the nominating power as the President is in the cases in which the President, by the Constitution, is to nominate, and the appointment is to be made by him only with the advice and consent of the Senate.

I am opposed to it, therefore, because I think it is perhaps liable to that constitutional objection; but principally because the duty itself is one which, in my judgment, the court is much more able to perform than the Chief Justice of the United States can be. If he is situated here, or wherever may be his locality, he does not go into the circuits, except in his own circuit; he has no knowledge at all of the districts where these officers are to discharge their functions, and he can only know upon recommendations made to him at a distance; and very likely (although he would not, I am sure, tolerate it if he knew it) it might be made a political matter, to the injury of the particular service for which the officer was appointed.

Mr. HENDRICKS. I intended when I rose up to say that the amendment which I now propose was recommended by the Judiciary Committee. It is the amendment of the committee.

Mr. WILLEY. I think there is a great deal more in this proposition than the Senate perhaps are aware or appear to think about it just now, and I should be glad to attract the attention of Senators to it. I do not mean in regard to whether better appointments can be made by the district courts or by nomination of the Chief Justice, although it seems to me very evident that it would be exceedingly inconvenient on the part of the Chief Justice to make nominations for these registers all over the country. There is to be at least one register in every congressional district. That would involve the appointment of upward of two hundred registers, and it might amount to three hundred, because there may be more registers in some congressional districts than one. Now, look how the thing would operate. Here is the Chief Justice engaged in the discharge of his duties. Here are two hundred and forty or perhaps three hundred districts in which registers are to be appointed. There will be competition for these offices no doubt, and hence will come up a swarm of applicants or recommendations to the Chief Justice of the United States from two hundred and forty-one districts in the United States, out of whom he must make a selection of men with whom he has no acquaintance whatever. What does he know about the qualifications in California? What would he know about the qualifications of men in Maine? He must depend at last upon the recommendations of others, and as he would most likely depend upon the recommendation of the district courts, why not give authority to the district courts to appoint their own officers, for these are in some sense officers of the district courts.

My friend from Indiana said that he did not feel disposed to discuss the political aspects of this question. Sir, there, it seems to me, is the importance of it. No man has a higher opinion of the present distinguished gentleman who presides over the Supreme Court of the United States than I have; no man would less presume than I to intimate that he could be influenced by any improper feelings or considerations; but, sir, he is a man, subject to human infirmities, subject to the influence of human passions and motives. Besides, he is not to live forever, and there will be a successor. I ask Senators to reflect one moment whether there is not danger in taking this first step, for that is always the fatal step in a wrong direction, whether there is not danger in doing that which will bring, in the remotest degree, political influences into contact with the Supreme Court of the United States. It was the object of our fathers in organizing our judicial system to place that august tribunal as far as possible from all these influences. Sir, are we not instructed by the agitation of the public mind at this time, are we not instructed by the newspapers, and by what I am pained to see, harsh criticisms upon that court already for leaning toward political influences, or at least being subject to them in some degree, are we not warned to do nothing which would bring them directly in contact with political influences?

Sir, it is in vain to say that political influences will not be brought to bear upon these nominations. It cannot be avoided. It will be vain to attempt to escape bringing these political influences to bear more or less upon the Chief Justice in making these nominations. This will be the first step. If we never make it, there never will be any danger in that direction; and inasmuch as, it seems to me, these appointments can be as well made, if not better made, by the district courts themselves, I beseech Senators let us avoid this great danger of inviting the judiciary into the political arena, or of bringing political influences in any contact with the Supreme Court.

Mr. JOHNSON called for the yeas and nays on the amendment, and they were ordered; and being taken, resulted—yeas 21, nays 21; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Edmunds, Foster, Fowler, Harris, Hendricks, Johnson, McDougall, Norton, Patterson, Ross, Saulsbury, Sherman, Stewart, Trumbull, Van Winkle, and Willey—21.

NAYS—Messrs. Brown, Chandler, Conness, Cragin, Fessenden, Fogg, Grimes, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Pomeroy, Ramsey, Sumner, Wade, Williams, Wilson, and Yates—21.

ABSENT—Messrs. Anthony, Cattell, Creswell, Frelinghuysen, Guthrie, Nesmith, Nye, Poland, Riddle, and Sprague—10.

So the amendment was rejected.

Mr. WILSON. Mr. President, I intend to vote against the bill as it now stands. I understand from the best sources that the provision on which we have voted this afternoon was incorporated into the bill as a compromise, and a great number of gentlemen voted for the measure because it was regarded as a compromise. I refer to the provision that has been stricken out in regard to one year's time. By that provision as it passed the House of Representatives all the present debtors in the country within a year could enter their cases and obtain their discharges, and after that, persons who become bankrupt in the country, as the bill is to last, would be required to pay fifty cents on the dollar, or obtain the assent of a majority in number and amount of their creditors, and after that a second or third or fourth time they would have to pay seventy cents on the dollar, or obtain a majority in number and amount of their creditors.

Now, sir, we have stricken out this first provision to stand permanently in the country. We tried that experiment once in my State. We passed a bankrupt bill or an insolvent act; men ran into debt and then took the benefit of the insolvent act. We found the whole system demoralizing both for debtor and creditor. We changed it and required that the debtor should



pay fifty cents on the dollar or obtain a majority in number and amount of his creditors to release him. Twenty years of experience proves that system to be eminently wise, and under its operations there can be no question that business affairs are carried on with more caution, with more care than before.

Now, we have stricken this out, and what are we to have? There are tens and tens of thousands of debtors in the country who will take advantage of this act, who want to be released and ought to be released; but we make it a permanent system, and men who two years hence can get anybody to credit them can rush in and take advantage of this act and pay nothing, and in some of the States hold \$100,000 of property and nothing can be realized by their creditors, for the exemption laws of some States may enable them to do it and cover it up.

This is the way the matter stands. I think if the bill had stood as it came from the House of Representatives that no great hardship would be imposed on any portion of the people; that after the first year or two we should find it working admirably; we should find that in all parts of the country the practical operation would be to make debtors less reckless and creditors more careful. It would have had an excellent influence upon business operations in the country. Men, instead of going on recklessly when they were in debt, until they squandered everything they had, would see where they stood, and would feel that they had got to pay fifty cents on the dollar or else satisfy their creditors that they had acted honestly. We should have had fault enough found with the bill if we had passed it in the form in which it was passed by the House of Representatives. Gentlemen voted for it in that House, in the form in which it came to us, who desired to have fifty cents paid or no discharge without the assent of creditors hereafter, and to let all persons who wish to take advantage of the act, who are now embarrassed, to do so for one year without being subject to that requirement. The bill passed with their votes; it came here; and we have stricken out that provision. I believe that vote to be wrong. I believe we are starting a system by this bill as it stands that will encourage dishonesty, recklessness, and carelessness in business affairs. If that provision had been retained the debtors of the country who are now debtors, who have been embarrassed for years, would be able to obtain their releases, and then in the future men engaged in business would know that under the national bankrupt law they must pay their creditors fifty cents on the dollar, or they must so conduct their affairs as to satisfy a majority in number and amount of their creditors that they honestly ought to be discharged, and there would be no hardship upon honest men in requiring them to obtain that assent. As it is now I shall not and cannot give my vote to the measure. I shall vote against it.

Mr. COWAN. I have merely a word to say, and I wish to say it before the final vote is taken.

I am opposed to the bill *in toto*, for other, however, and very different reasons than those given by the Senator from Massachusetts. I am opposed to the bill because it is to be administered through the medium of registers and the United States courts, machinery utterly and totally unable to administer any law of the kind, and which will render it so obnoxious that it will not remain on the statute-book longer than the act of 1841 did; and that went from the books simply because it was administered in the United States courts.

Mr. President, a bankrupt law to be efficacious must be as near to the people as an insolvent law, a stay law, or any other law. You cannot administer any law of this kind in a great State like Pennsylvania, for instance, with the courts one hundred and fifty miles apart: it is utterly impossible. The people cannot get to them. The court becomes merely the medium by which all the rogues and knaves of the country are sifted through in fraud of

their creditors; and the creditors in such cases not being able to get into the courts, except very few of them, never get a dividend. I think in western Pennsylvania, under the bankrupt law of 1841, there never was a dividend made; there never was a dollar paid to a creditor; and the creditors, other than those who resided perhaps in the city of Pittsburgh, could not get to the court. How was a man to go a hundred miles who had a claim against a bankrupt, say for \$100? He would say at once, "It is not worth while to go for that; I might just as well lose it as go there and give it all to the lawyers, to prevent this fellow from pursuing his fraudulent claim to a discharge;" and hence it is that the creditors give it up, stay at home, and the whole results in a gross and gigantic fraud, which the people will soon repudiate and strike out.

Under the Constitution it is the duty of Congress to pass uniform laws on the subject of bankruptcy, just as it is their duty to pass uniform rules of naturalization; but these laws ought to be administered in the State courts, where they can be brought to the doors of the people, and where those whose interests are to be affected by the proceedings in bankruptcy can go into court, and where they can go without such extraordinary expenses as would be incurred by going into the United States courts. If, then, the bill had been framed so as to be administered in the common law courts of the United States, there is no difficulty in the world about it; no necessity in the world why you should create two hundred or three hundred or five hundred or six hundred registers, and cover the country with a swarm of officers. If it had been put, I say, into the State courts and administered through the common law judges of the State courts known to the people, where the business of the country is wont to be administered then the law might have been efficacious.

There is nothing about the law which requires it to be administered in the United States courts. In fact every characteristic of the law would require it to be administered in the State courts, in the common law courts. I know that a great many people entertain the idea that it is like the fugitive-slave law; you could not compel the State courts to administer it. That is not the case; State courts administer the naturalization laws; and why not administer the bankrupt laws? The clause in the Constitution which confers authority over both is *in pari materia* and almost *in hæc verba*, almost in the same words.

Mr. President, believing, as I do, that this law will simply become the engine of fraud and corruption, and will become odious to the people, as all laws of the kind must necessarily be when they are carried into strange tribunals, and when they are required to travel one hundred and fifty or two hundred miles before they can get to them, I am opposed to this bill. I agree it may do very well in Rhode Island; it may do very well in Delaware; it might do in a small State where the United States court is convenient; but in a great State like New York, Pennsylvania, or Ohio, to my mind it is as idle a dream as ever was entertained to suppose that you can administer a bankrupt law there and make it satisfactory to the people; and I venture the prediction now, that if you pass this bill it will not remain on your statute-book un repealed two years.

Mr. SUMNER. I shall vote for the bill, but with great reluctance. Two votes of the Senate to-day have gone very far to diminish my interest in the measure, which I have watched with the profoundest sympathy from its first introduction into this Chamber. The vote by which this bill is opened to rebels is one; the other is the vote on which my colleague has commented, which seems to me in its nature improvident at least, if not inequitable. It was only a little while ago that I had the privilege of conversing with two different gentlemen, each of whom I regard as more than respectable authority on this subject. One was a professional gentleman of New York,

who had recently visited every one of the rebel States; the other was a very distinguished and philanthropic merchant of the North, who had debts in the South to the amount of a great many tens of thousands of dollars. Both of those gentlemen concurred in recommending the two provisions to which I now allude. Both insisted that this bill, in order to be made properly efficacious and beneficial, must exclude the rebels from its benefit; and they also insisted that a discharge should not be given without the consent of a majority of the creditors where there were not assets to the amount of fifty per cent.

These gentlemen spoke from great knowledge and experience. My own judgment has been in harmony with what I may call their testimony. It is in that spirit that I have acted. I have sought to amend the bill in good faith. I have failed, and for the moment I shall yield. I regret very much the votes of the Senate. I am sure that if the bill becomes a law those votes will impair its value very much; I might almost say incalculably. I do not know that they will not make us regret its passage.

Mr. POLAND. I desire to say one word with reference to what has been said by the Senator from Massachusetts. In relation to his objection that we have failed to incorporate into this bill the test oath, I have no doubt but what the gentleman will change his mind upon sleeping upon it. I cannot believe that that idea will last him twenty-four hours.

Mr. SUMNER. I have slept upon it a great many weeks and months.

Mr. POLAND. In relation to the other question, the objection that the bill does not contain the provision of the Massachusetts insolvent law, of which we have heard so much, I do not regard that as vital; and if it be true, as has been stated, that the members of the House from Massachusetts were induced to vote for the bill because it contained this provision, and the House should non-concur in this amendment of the Senate, I cannot suppose that on the part of the Senate that would be made a division between the two Houses upon which the bill should fail. It certainly would not so far as I am concerned.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read a third time.

Mr. GRIMES. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. COWAN (when his name was called) said: I would vote against the bill. I am paired off, however, with the Senator from Rhode Island, [Mr. ANTHONY,] who would vote for the bill, he not being able to come to the Chamber.

Mr. HARRIS, (after first voting in the affirmative.) I desire to change my vote. I vote "nay."

The result was announced—yeas 20, nays 22; as follows:

YEAS—Messrs. Chandler, Conness, Dixon, Doolittle, Edmunds, Fessenden, Foster, Howard, Howe, Johnson, McDougall, Morgan, Norton, Poland, Pomeroy, Ramsey, Ross, Stewart, Sumner, and Van Winkle—20.

NAYS—Messrs. Brown, Buckalew, Cragin, Davis, Fogg, Fowler, Grimes, Harris, Henderson, Hendricks, Kirkwood, Lane, Morrill, Patterson, Saulsbury, Sherman, Trumbull, Wade, Wiley, Williams, Wilson, and Yates—22.

ABSENT—Messrs. Anthony, Cattell, Cowan, Creswell, Frelinghuysen, Guthrie, Nesmith, Nye, Riddle, and Sprague—10.

So the bill was rejected.

Mr. CHANDLER and others addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from Michigan. Prior to recognizing any Senator, however, the Chair, with the permission of the Senate, will lay before the Senate a message from the President of the United States.

Mr. SHERMAN, Mr. WILSON, and others, addressed the Chair.

The PRESIDENT *pro tempore*. The Chair will not offer the messages if Senators insist on submitting motions.

Mr. SHERMAN. I have no objection to the messages being laid before the Senate.

Mr. WILSON. I wish to enter a privileged motion. I wish to enter a motion to reconsider the vote on the bankrupt bill.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

Mr. CHANDLER. I move that the Senate proceed to the consideration of House bill No. 344, the bill to construct the Niagara ship-canal.

Mr. SHERMAN. I move that the Senate proceed to the consideration of the executive business.

Mr. CHANDLER. Let my motion be put first.

Mr. GRIMES. I move that the Senate do now adjourn.

The motion was agreed to, there being on a division—ayes 25, noes 13; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, February 5, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### INVESTIGATION OF INDIAN AFFAIRS.

Mr. WINDOM. The Committee on Indian Affairs, who were instructed by the House to make an investigation in regard to the administration of the Indian Bureau, have directed me to make a report. I move that it be re-committed to the committee and ordered to be printed.

The motion was agreed to.

Mr. WINDOM. I also present a minority report on the same subject. I move that the same disposition be made of it.

The motion was agreed to.

### JOHN FOWLER AND COMPANY.

Mr. BIDWELL, by unanimous consent, introduced a joint resolution for the relief of John Fowler & Co.; which was read a first and second time, and referred to the Committee of Ways and Means.

### TARIFF BILL.

Mr. WILSON, of Iowa. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Committee of Ways and Means be instructed to report the tariff bill as amended by the Senate, in such a manner as to exhibit the rates of duty imposed on the several articles under the tariff in force on the 1st day of April, 1861; on the 1st day of January, 1865; and thereafter proposed by House bill No. 718, as amended by the Senate.

The SPEAKER. The Committee of Ways and Means are in session on the tariff bill, and not one of the members is now present.

Mr. WILSON, of Iowa. This is only for the convenience of members when they come to consider the bill.

Mr. JENCKES. I object.

### MATILDA VICTOR.

On motion of Mr. WASHBURN, of Indiana, leave was granted for the withdrawal from the files of the House of the papers in the case of Matilda Victor, on condition that copies of them were left.

### FRANKING PRIVILEGE.

Mr. FINCK, by unanimous consent submitted the following report; which was laid on the table, and ordered to be printed:

The Committee on the Post Office and Post Roads, to whom was referred the following resolution:

*Resolved*, That the franking privilege be continued to the members of the Thirty-Ninth Congress, the same as if the Fortieth Congress did not meet until the first Monday in December next.

Report that they have duly considered the subject. The forty-second section of an act to amend the laws relating to the Post Office Department, provides that the authority to frank mail matter is conferred upon and limited to the following persons:

1. The President of the United States, by himself or his Private Secretary.
2. The Vice President of the United States.
3. The chiefs of the several Executive Departments.
4. Such principal officers, being heads of bureaus, or chief clerks of each Executive Department, to be used only for official communications, as the Postmaster General shall by regulation prescribe.
5. Senators and Representatives in the Congress of the United States, including Delegates from Terri-

ories, the Secretary of the Senate and Clerk of the House of Representatives, to cover correspondence to and from them, and all printed matter issued by authority of Congress, and all speeches, proceedings, and debates in Congress, and all printed matter sent to them; their franking privilege to commence with term for which they are elected, and to expire the first Monday of December following such term of office, &c.

And it is further provided in said section: "That the franking privilege heretofore granted shall be limited to packages weighing not exceeding four ounces; except petitions to Congress and congressional or executive documents, and such publications or books as have or may be published, procured, or purchased by order of either House of Congress or a joint resolution of the two Houses, which shall be considered as public documents, and entitled to be franked as such; and except also seeds, cuttings, roots, and scions, the weight of the package of which may be fixed by regulation of the Postmaster General."

Mr. FINCK. By this section the franking privilege to Senators and Representatives in Congress, &c., does not expire until the first Monday of December following such term of office. The committee are therefore of opinion that no further legislation, such as is contemplated by said resolution, is necessary, and ask to be discharged from the further consideration of the subject.

### RECEPTION OF GENERAL PHILIP H. SHERIDAN.

Mr. SCHENCK. Mr. Speaker, I have the pleasure of announcing to the House of Representatives the presence in this Hall of "Phil. Sheridan," whom every man writes down "a soldier." [Great applause upon the floor and in the galleries.] I move that he be introduced to this House by the Speaker, and for that purpose the House take a recess for five minutes.

The motion, amid applause, was unanimously agreed to.

A recess was accordingly taken, and Major General Philip H. Sheridan, United States Army, in company with General U. S. Grant, was escorted by the Speaker and Mr. SCHENCK to the Speaker's stand.

The SPEAKER. Gentlemen of the House of Representatives, it affords me peculiar pleasure by your order this day to introduce to you Major General Philip H. Sheridan. [Applause.] While this country will cherish in the heart of hearts of all loyal people the achievements upon fields of danger and of death of all its glorious defenders, they can never forget one who was brave among the bravest, true among the truest, and the recollection of whose deeds will survive as long as history shall endure. I present to you General Philip H. Sheridan. [Great applause.]

General SHERIDAN. Gentlemen, I am much obliged to you for this very kind and unexpected reception. [Renewed applause.]

The Speaker then presented individually the members of the House to General Grant and Major General Sheridan.

The time for the recess having expired, the Speaker resumed the chair, and called the House to order.

### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed a bill (S. No. 461) for the grant of land to the State of California to aid in the construction of certain railroads in said State, in which he was directed to ask the concurrence of the House.

It further announced that the Senate had indefinitely postponed House bill No. 84, to regulate the time and place of holding the district court of the United States within and for the district of Maine.

### SAMUEL DOWNING.

Mr. McINDOE, by unanimous consent, from the Committee on Revolutionary Pensions, reported a bill granting additional pension to Samuel Downing, the last surviving soldier of the revolutionary war; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Samuel Downing, the last surviving soldier of the revolutionary war, upon the pension-roll for additional pension at the rate of \$500 per annum from the 3d of

September, 1866, to continue during the remainder of his life.

Mr. MARVIN. Mr. Downing resides in Saratoga county; he is one hundred and five years of age, and is the last surviving soldier of the Revolution now on the pension-roll. I am personally acquainted with him, and know him to be a worthy man. He deserves of his country this small sum as a testimonial of the respect and veneration in which he is held by a grateful people—a testimonial to one who fought with Washington for our independence. I trust there will not be a dissenting voice in this House against this act of justice to this old man.

Mr. McINDOE moved the previous question.

The previous question was seconded.

Mr. ANCONA. I would like to suggest an amendment to this bill. This House passed a bill a few days ago for the relief of the last surviving soldier of the revolutionary war, and I think this should be amended so as to read, "one of the last surviving soldiers."

Mr. McINDOE. I have no objection.

The amendment was accordingly made.

The main question was ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. McINDOE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

### ARMY APPROPRIATION BILL.

Mr. STEVENS, from the Committee on Appropriations, reported a bill making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes; which was referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for Saturday next after the morning hour, and from day to day till disposed of.

### VACANCY ON A COMMITTEE.

The SPEAKER. The Chair appoints to fill the vacancy on the Committee on the Post Office and Post Roads, occasioned by the death of Mr. Johnson, the gentleman from Tennessee, [Mr. CAMPBELL.]

### FORTIFICATION BILL.

Mr. ROLLINS. I call for the regular order.

The House resumed the special order, being the consideration of the bill pending at the adjournment last evening, (H. R. No. 919,) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense, for the fiscal year ending June 30, 1868, the pending question being on agreeing to the report of the Committee of the Whole, recommending that the enacting words be stricken out.

The question being taken, there were—ayes 67, noes 44.

Mr. LYNCH demanded the yeas and nays; and tellers on ordering the yeas and nays.

Tellers were ordered; and the Chair appointed Messrs. LYNCH and SCOTFIELD.

The House divided; and the tellers reported—ayes twenty-eight.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—ayes 87, nays 66, not voting 47; as follows:

YEAS—Messrs. Ames, Ancona, Anderson, James M. Ashley, Baker, Baxter, Brandegee, Bromwell, Broomall, Buckland, Bundy, Campbell, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cooper, Cullom, DeFrees, Delano, Deming, Denison, Eckley, Eggleston, Eldridge, Farquhar, Finck, Garfield, Glossbrenner, Goodyear, Griswold, Aaron Harding, Abner C. Harding, Hawkins, Hayes, Henderson, Hise, Hogan, Hotchkiss, Edwin N. Hubbell, James R. Hubbell, Ingersoll, Julian, Kerr, Ketcham, Koontz, Kuykendall, George V. Lawrence, William Lawrence, Le Blond, Lefschew, Maynard, McClurg, McCullough, Moorhead, Monilton, Nicholson, Neill, Orth, Samuel J. Randall, Ritter, Ross, Rousseau, Scofield, Shellabarger, Sloan, Spaulding, Stilwell, Stokes, Nelson Taylor, Thayer, Francis Thomas, Thornton, Trimble, Trowbridge, Van Aernam, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Welker, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, and Winfield—87.

**NAYS**—Messrs. Alley, Allison, Baldwin, Banks, Beaman, Bergen, Bidwell, Blaine, Blow, Boutwell, Darling, Davis, Dawes, Dixon, Dodge, Eliot, Farnsworth, Ferry, Grinnell, Hart, Higby, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, Hubbard, Humphrey, Hunter, Jencks, Kasson, Kelley, Kelso, Luffin, Longyear, Lyness, Marston, Marvin, McIndoe, McKuer, Miller, Morrill, Morris, Newell, Niblack, O'Neill, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Sitzgreaves, Stevens, Taber, Nathaniel G. Taylor, Upson, Burt Van Horn, and William B. Washburn—36.

**NOT VOTING**—Messrs. Arnell, Delos R. Ashley, Barker, Benjamin, Bingham, Boyer, Chanler, Culver, Dawson, Donnell, Driggs, Damont, Hale, Harris, Hill, Asahel W. Hubbard, Demas Hubbard, Jones, Latham, Loan, Marshall, McKee, Mercur, Myers, Phelps, Radford, Rogers, Shanklin, Starr, Strouse, John L. Thomas, Elihu B. Washburne, Henry D. Washburn, Williams, Windom, Woodbridge, and Wright—47.

So the enacting clause was stricken out.

Mr. SCOFIELD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAY OF A DECEASED MEMBER.

Mr. ANCONA, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Sergeant-at-Arms be directed to pay to Mrs. M. E. Johnson, widow of the late Hon. Philip Johnson, the remainder of salary that would have been due him up to the 4th of March, 1867.

Mr. ANCONA moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### POST OFFICE AND CUSTOM-HOUSE, NASHVILLE.

Mr. CAMPBELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of reporting a bill providing for the erection of a building in the city of Nashville, State of Tennessee, suitable for the accommodation of the post office, the Federal court, and the custom-house in said city.

#### JAIL IN THE DISTRICT OF COLUMBIA.

Mr. DARLING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the District of Columbia be requested to confer with the Secretary of the Interior as to the propriety of adopting the plans of the new jail for the District which were recommended for adoption by the three officials doing business in the Interior Department, and also to inquire the reason why a specification has not been submitted with the plans for contractors to estimate on, as the act requires; and that the said committee be authorized to send for persons and papers, and report by bill or otherwise, as they shall consider necessary, so as to insure a proper jail for the District.

Mr. DARLING moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CHANGE OF REFERENCE.

Mr. INGERSOLL. I desire to ask the consent of the House to withdraw from the Committee of Claims the memorial of Mr. Dainese, which I referred to it some days since, and to ask that it be referred to a special committee of five.

Mr. COBB. I object.

#### DEATH OF PRESIDENT LINCOLN.

Mr. BANKS. I present the correspondence of the State Department with the Government of Brazil in reference to the death of President Lincoln. I move that it be printed, and referred to the Committee on Foreign Affairs.

The motion was agreed to.

Mr. ROLLINS. I demand the regular order of business.

The SPEAKER. The regular order of business proceeds with the call of the committees, resuming the call where it was suspended yesterday, with the Committee on Military Affairs.

#### STEPHEN E. JONES.

Mr. BLAINE, from the Committee on Military Affairs, reported a joint resolution for the

relief of Stephen E. Jones; which was read a first and second time.

The joint resolution was read. It directs the Paymaster General to pay to Stephen E. Jones full pay and allowances as a first lieutenant of cavalry for the period during which he actually served as aid-de-camp on the staffs of General Nelson and General George H. Thomas, prior to the time when he was mustered into the service of the United States.

Mr. BLAINE. I move the previous question on the joint resolution.

The previous question was seconded and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HARDING, of Illinois. I call for the reading of the report, if there be one. The joint resolution only discloses the fact that this gentleman served on the staffs of two generals.

Mr. BLAINE. He actually served and never received a cent of pay for the better part of a year, as the report will show.

The report was read. It sets forth quite briefly that Stephen E. Jones was appointed on the staff of General Nelson when that officer was ordered to Kentucky in 1861, under a misapprehension of the power of the commanding officer; that he was subsequently transferred to the staff of General Thomas when that officer relieved General Nelson, and was finally appointed an additional aid-de-camp by the President, with the rank of captain, but has never been paid for the eleven months which he actually served prior to muster into the United States service.

Mr. CLARK, of Ohio. Will it be in order to refer the resolution to the Committee of Claims?

Mr. BLAINE. I decline to yield, Mr. Speaker, for any such motion. The resolution, I think, explains itself, and the report which has just been read leaves nothing to be said. The case on all grounds of equity is complete. In framing the resolution and drafting the report I was guided simply by the official papers which I obtained at the War Department; not allowing myself to be governed by any personal knowledge or prepossessions in regard to the gentleman in whose behalf the resolution is submitted. It is perfectly fair, however, to say, in support of that resolution and report, that I know something personally of Captain Jones, and his record in the war is one in the highest degree honorable to him as a gentleman and a patriot. The papers in the case show that he earned the esteem and confidence of all the officers under whom he served, and among them were some of the first in the American Army.

Before moving the previous question on the final passage of the resolution it may be proper to say that, on grounds of general equity, Mr. Jones ought to receive the pay of captain for the time specified; but the law would only allow the pay of a first lieutenant of cavalry, that being the highest grade to which an aid of General Nelson could be commissioned. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. BLAINE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### EQUALIZATION OF BOUNTIES.

Mr. SCHENCK. The Committee on Military Affairs have instructed me to report back a number of memorials on the subject of equalization of bounties and ask that the committee be discharged from their further consideration, and that they be laid on the table; the committee having reported a general bill upon that subject.

The motion was agreed to.

#### — ARMY SUTLERS.

Mr. SCHENCK. I am also instructed by

the Committee on Military Affairs to report back a joint resolution to repeal section twenty-five of the act to increase and fix the peace military establishment, and ask that the committee be discharged from its further consideration, and that it be laid on the table. This is a proposition to repeal that portion of the Army bill passed at the last session of this Congress which provides for dispensing with sutlers in the Army, and also providing that what have hitherto been the duties of sutlers in supplying soldiers shall be performed through the subsistence department.

The motion was agreed to.

#### ENGINEER QUARTERMASTER SERGEANT.

Mr. SCHENCK, from the Committee on Military Affairs, reported a bill to fix the pay of the quartermaster sergeant of the battalion of Engineers; which was read a first and second time.

The bill was read at length. It provides that from and after the passage of this act the pay and allowances of the quartermaster sergeant of the battalion of Engineers of the Army of the United States shall be the same as those allowed by law to the sergeant major of that battalion.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### VOLUNTEER SERVICE CERTIFICATES.

Mr. SCHENCK, from the Committee on Military Affairs, reported a bill providing for the issue of certificates of service to officers and soldiers of volunteers; which was read a first and second time.

The bill was read. The first section provides that the President of the United States shall cause to be furnished, upon application, to every officer who has been regularly mustered into the volunteer service in either the Army or the Navy of the United States during the late war for the suppression of the rebellion, and who has been honorably discharged therefrom, a certificate neatly engrossed on parchment, which shall set forth the date of the entry of the officer into such service, his rank, and the date of his discharge therefrom.

The second section provides that in case of the death of any such officer his legal representatives shall be entitled to receive a certificate as aforesaid.

The third section provides that in any case where clear and full proof shall be made to the Secretary of War to his satisfaction, and in such form as shall be prescribed by him, by any enlisted man who was mustered as a volunteer into the Army of the United States and afterward honorably discharged therefrom, having served any time between the 19th of April, 1861, and the 12th day of April, 1865, that his discharge has been lost without fault of his own, the Secretary shall cause to be issued to such person a certificate in lieu of such discharge, which certificate shall not however be competent to be used as evidence in support of any claim against the Government; and such qualifications restricting the use of such certificate shall be distinctly expressed in the body of the certificate.

Section four provides that in like manner and under the same conditions and restrictions as are contained in the foregoing section, a certificate may be issued in the case of any soldier who is deceased on application made by his proper representatives.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. SCHENCK. If it is desired, I can explain in a few moments the object of this bill. A great many volunteer officers have left the service, indeed I may say all of them have left the service, with simply an acceptance of their resignations or some record in the War Office without anything in a permanent form



to show they have served the country. A joint resolution was referred to the committee providing for giving a small certificate, neatly engrossed on parchment, to those officers, to be preserved by themselves and their families. The committee have deemed it proper to report a bill embracing not only the provisions of the joint resolution, but the further provision that where a soldier has lost his discharge he also shall have some certificate given to him in lieu of the discharge, that certificate, however, not to be used for any other purpose.

The committee have been opposed entirely to the issuing of duplicate discharges or certificates in lieu of discharges, to be used for the purpose of collecting bounties, pensions, or anything of that kind, because of the door that would be opened for fraud. But the committee have, in another bill, provided that upon application made for bounty, when the discharge is lost, proof to supply the absence of the discharge shall be admitted to sustain the claim. Thus the soldier may collect his bounty hereafter, as he collects his pension now, upon proof of his identity and of the loss of the discharge. This bill relates to an entirely different subject, and is designed to give to the soldier a permanent parchment certificate as a memorial of his honorable service.

Mr. STEVENS. Is this certificate to be of any avail to the soldier except as a mere memorandum?

Mr. SCHENCK. That is all.

Mr. STEVENS. The difficulty now occurring, as I know, almost every day, is that where soldiers have lost their discharges, as many have, although they are recorded in the proper archives here, the authorities refuse to furnish the soldiers copies or to allow them access to the records, so that they may be enabled to recover what is due them by the Government. I trust that this difficulty will be provided for.

Mr. SCHENCK. I have already explained to the House that it is fully provided for in its appropriate place. If the gentleman will look at the bounty bill, which is now a special order and will come up immediately after the civil service bill, he will find that the ninth section provides for that whole matter. But this bill has a different object—to give the soldier something to preserve as a memorial of his service.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### AMENDMENT OF PENSION LAWS.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the memorial of James W. Webb, asking for an amendment of the pension laws; and the same was referred to the Committee on Invalid Pensions.

#### LOST DISCHARGES.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the petition of Bernard Quinn and others, asking for some legislation upon the subject of lost discharges; and the same was laid on the table.

#### DUPLICATE DISCHARGES.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the petition of Lucius E. Marshall, of Harrisville, Wisconsin, asking for the passage of a law to provide for the issuing of duplicate discharges; and the same was laid on the table.

#### PAY OF DISCHARGED OFFICERS.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the petition of citizens of Jefferson county, Pennsylvania, for a modification of the law giving pay proper to certain

discharged officers; and the same was laid on the table.

#### ABOLITION OF SUTLERS.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the remonstrance of J. D. Stevenson against the abolition of sutlers in the Army; and the same was laid on the table.

#### ADDITIONAL BOUNTY.

Mr. SCHENCK. The Committee on Military Affairs, to whom was referred the petition of soldiers of the sixty-third Ohio volunteer infantry, asking for additional bounty, have directed me to report it back, and move that the committee be discharged from its further consideration, and that it be laid on the table, as the matter is already provided for in the general bill reported by the committee.

The motion was agreed to.

Mr. MAYNARD. I desire to ask the gentleman from Ohio a question: whether his committee expect during the present session to bring in an adequate bounty bill?

Mr. SCHENCK. Such a bill has already been reported, has been printed twice, with and without amendments, and is the first business in order after the civil service bill.

Mr. MAYNARD. Do the Committee on Military Affairs intend to press that bill to its passage?

Mr. SCHENCK. We do intend to press it as strongly as we can.

#### IMPRISONED UNION SOLDIERS.

Mr. SCHENCK. The Committee on Military Affairs have directed me to report back a joint resolution for the relief of Union soldiers now in prison in the United States for minor offenses, together with a communication on the subject from the War Department. The committee think no legislation necessary, and have directed me to move that they be discharged from the further consideration of the subject, and that the joint resolution be laid on the table.

The motion was agreed to.

#### BOUNTY, ETC.

Mr. SCHENCK, from the same committee, also reported back sundry bills, petitions, &c., in regard to the bounty law, &c., covered by general law; which were laid on the table.

#### FORT LEAVENWORTH MILITARY RESERVATION.

Mr. SCHENCK, from the same committee, reported back House bill No. 942, donating a portion of the Fort Leavenworth military reservation for the exclusive use of a public road, with the recommendation that it do pass.

The bill provides that a strip of land one hundred feet in width along the southern boundary of the Fort Leavenworth military reservation, in the State of Kansas, extending from the Missouri river to the western boundary thereof, shall be set apart for the perpetual and exclusive use of a public road.

Mr. SCHENCK. The committee have reported this after an investigation of all the facts and papers in the case.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TRANSFER OF INDIAN AFFAIRS.

Mr. SCHENCK. I am instructed by the Committee on Military Affairs to report back House bill No. 960, to restore the jurisdiction of Indian affairs to the War Department. The House having already passed an amendment to another bill covering this subject, I move that this bill be laid on the table.

The motion was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the bill was laid on the table;

and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PRIZE MONEY FOR SIGNAL CORPS MEN.

Mr. SCHENCK, from the same committee reported a bill to authorize the payment of prize money to certain officers and enlisted men of the Signal corps of the Army; which was read a first and second time.

The bill directs the proper accounting officers of the Treasury to pay to the officers and enlisted men of the Signal corps of the Army who performed duty in the fleet under the command of Admiral Farragut, while that fleet was engaged in action in Mobile Bay on the 5th of August, 1864, from any money in the Treasury not otherwise appropriated, such sum or sums of prize money to each respectively as will be equal to what has been allowed in distribution to officers and sailors of the Navy of corresponding rank, the same as if their names had in any case been borne upon the ship's books.

Mr. BOUTWELL. Does this appropriation come from the prize money, or is it an additional appropriation from the Treasury?

Mr. SCHENCK. It will probably come out of the prize money which has accumulated at the Treasury Department. We consulted the Fourth Auditor's office, and it is not exactly certain how the prize money has been distributed.

I will say that several officers and men belonging to the Signal corps were detailed at the request of Admiral Farragut to serve on the vessels in the action in Mobile Bay. In the naval operations these officers and men exposed themselves, doing good service and received the thanks of the naval commander. When the prize money came to be distributed they were left out, because the law provides prize money shall only be distributed to those who are borne upon the ships' books. The committee at first were not disposed to regard the equities in the case, or to report favorably, supposing it to be the first instance of the kind and would be establishing a precedent, but it appeared afterward, in the case of Admiral Porter's squadron, payment had been made to signal officers and men serving with that squadron, the precaution having been taken to enter their names on the books, which was not done in this case. Prize money also was paid to the officers and soldiers of Harrison's army who served in 1812-15, with Commodore Perry upon Lake Erie. The committee looked into the facts of the case, and recommend the passage of this bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. KETCHAM, from the Committee on Military Affairs, made adverse reports on the following cases; which were laid on the table, and ordered to be printed:

Resolutions to consolidate the Census Bureau and Provost Marshal's Bureau; petition of Edward Kunkle; memorial of W. A. Howard; and petition of Selina Coc, widow of S. B. R. Coe.

#### JAMES KELLEY.

Mr. KETCHAM, from the same committee, reported a joint resolution for the payment of Captain James Kelley, of the sixteenth United States infantry; which was read a first and second time.

The joint resolution directs the payment of a sum equal to the pay, allowances, and emoluments of captain of infantry in active service from the 24th of June, 1864, till the 31st of October, 1866, in full settlement of his claim.

Mr. TAYLOR, of New York. If there is a report in this case I would like to have it read.

The report was read.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KETCHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### JUDGE ADVOCATE'S CORPS.

Mr. BLAINE, from the Committee on Military Affairs, reported a bill to amend section twelve, chapter two hundred and ninety-nine, of the laws of the first session of the Thirty-Ninth Congress; which was read a first and second time.

The bill amends the section aforesaid by repealing all after and including the words "until otherwise provided by law," so as to place the judge advocates thereby authorized to be retained in service upon the same footing in respect to tenure of office and otherwise as other officers of the Army of the United States.

Mr. FARNSWORTH. I would like to know what this is about.

Mr. BLAINE. I will send to the desk a communication from the Judge Advocate General to the Secretary of War, which explains the whole matter.

The Clerk read as follows:

WAR DEPARTMENT,  
BUREAU OF MILITARY JUSTICE,  
WASHINGTON, D. C., January 19, 1867.

SIR: The undersigned, Judge Advocate General of the Army, has the honor to submit the accompanying draft of a proposed enactment, and the following suggestions in support of the recommendation that the provisions thereof become law.

The object of the legislation desired, is to complete and settle the organization of the Judge Advocate's corps of the Army upon a basis called for by the needs of the service and sanctioned by experience.

It is sought, without increased expenditure, without multiplication of officers, and without extension or alteration of the functions of the Department, to secure to the military establishment, while it may be secured, the permanent effectiveness of a branch of the service comparatively insignificant in cost and numbers, but indispensable to the interests of the Army, and the value of which is liable to be irreparably impaired unless legislation shall consolidate and preserve its force.

The plan offered simply places the officers authorized by the Army bill of last session to be retained upon the same footing with other officers of the establishment. The design is merely to insure, in the only mode in which it can be done, the maintenance of a small corps of subordinates in this Department, who, qualified by capacity and culture, have been trained, by years of labor, to the duties which are required to be performed, and whose services, while they cannot be spared without serious and, it is confidently affirmed, incurable detriment to the interests of the Government, are invested with a value which must be sacrificed unless their tenure of office is now made the same as that of other officers of the Army.

The following are respectfully submitted as a few of the considerations thought to imperatively call for the adoption of the provision suggested:

1. Certainly not less than four or five Judge advocates of the number authorized to be retained, will, for an indefinite period, be needed in the Bureau of Military Justice, for the performance of current labors connected with its ordinary routine functions. For a comprehensive exhibit of the present and anticipated business of this bureau, reference is respectfully made to the following paragraph of my last report, October 8, 1866:

"The operations of the bureau during this period (about eleven months) are briefly presented by the following summary:

"1. Number of records of general courts-martial and military commissions received, reviewed, and filed, eight thousand one hundred and forty-eight.  
"2. The number of special reports made as to the regularity of judicial proceedings, the pardon of military offenders, the remission or commutation of sentences; and upon the miscellaneous subjects and questions referred for the opinion of the bureau; including also letters of instruction upon military law and practice to judge advocate, reviewing officers, &c., four thousand and eight.  
"3. The number of records of military courts received at this bureau reached a minimum soon after the passage of the late Army bill. Since that time these records have continued to increase with the increase of the Army; and their number, as also the amount of the other business of the office as an advisory branch of the War Department, will continue to be augmented until the peace establishment shall be completely organized and the new Army be fully recruited. The fact that in a large class of important cases commanders of departments and armies are not authorized to execute the sentences in time of peace, and that such cases can no longer be summarily disposed of without a reference to the Executive, will also require from this bureau a very considerable number of reports to be made to the President which heretofore have not been called for. The aggregate

business, therefore, of the office will not be reduced in proportion to the reduction of the military force."

It is to be added that since the date of this report the business of the bureau has, as was anticipated, continued to increase, both in the number of judicial records required to be reviewed, and in the amount of the varied miscellaneous cases and questions of law referred to it for consideration and report. At the present time there is found ample employment for the Judge advocates now detailed as assistants in the bureau, and it is believed that the services of none of them could well be dispensed with.

2. It is found absolutely essential to the accuracy, uniformity, and expedition of the administration of military justice that an accomplished and instructed officer of this corps be assigned to duty at the headquarters of each of the most important commands into which the national territory is geographically divided. This distribution which is substantially impracticable without the legislation asked, will employ, necessarily and usefully, for many years at least, three or four more Judge advocates.

It is also of very great importance that several of these officers be constantly available for detail on courts-martial in cases requiring unusual care; for assignment to special temporary duty, in investigations and like service requiring legal as well as military knowledge and experience; and for such inspections in the line of the department business as only trained Judge advocates are suitable for.

For these, among other well-considered reasons, I feel it my duty to recommend the passage of a law conferring the same status upon the corps of ten Judge advocates as is held by the general staff of the Army, as provided in the draft, which is herewith submitted, whereby the discrimination against this corps alone is simply removed.

These views are the result of the experience of this bureau in connection with the administration of military justice, and are submitted for your consideration, and in the hope that it may be agreeable to you to refer them to the consideration of the Military Committee of Congress.

I have the honor to be, very respectfully, your obedient servant,

J. HOLT,  
Judge Advocate General.

Hon. E. M. STANTON, Secretary of War.

Mr. ROSS. I would ask if this is regarded by the Military Committee as one of the necessary steps to make a military despotism in this country?

Mr. BLAINE. The report just read is very clear and explicit, and nothing I can say will add to it. If gentlemen will not listen to what the judge advocate writes, I am sure they will not listen to what I may say. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BLAINE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADVERSE REPORT.

Mr. SITGREAVES, from the Committee on Military Affairs, made an adverse report on the memorial of Robert A. Constable, of the Ohio volunteers; which was laid on the table, and ordered to be printed.

#### GOVERNMENT LAND AT HARPER'S FERRY.

Mr. BINGHAM, from the Committee on Military Affairs, reported a bill to authorize the Secretary of War to convey certain lots in Harper's Ferry; which was read a first and second time.

The bill, which was read, authorizes the Secretary of War to convey by deed in fee-simple the lots of ground in Harper's Ferry, in West Virginia, which have heretofore been granted for the use of churches and for charitable purposes, so as to secure their permanent use and possession for the same purposes and no others.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PURCHASE OF DAVID'S ISLAND.

Mr. BINGHAM, from the same committee, reported a joint resolution for the purchase of David's Island, New York harbor; which was read a first and second time.

The joint resolution authorizes the Secretary

of War to purchase for the Government of the United States David's Island, in New York harbor, for the sum of \$38,500, in accordance with the terms and conditions of the lease with Simeon Leland.

Mr. BINGHAM. I move the previous question.

Mr. RANDALL, of Pennsylvania. I would like to hear some explanation of the necessity of this purchase.

Mr. BINGHAM. I withdraw the previous question and will explain it to the gentleman very briefly.

Mr. ROSS. I rise to a point of order. I submit that this bill makes an appropriation and must have its first consideration in Committee of the Whole.

The SPEAKER. The Chair overrules the point of order. The bill provides that the Secretary of War shall purchase this island, but there will have to be an appropriation made in some other bill to pay for it.

Mr. BINGHAM. I will state that this island is now in the occupancy, under lease, of the Government of the United States, as it was deemed essential for the use of the Government, and fixtures have been erected upon it by the Government to the amount perhaps of half the cost of the island under the terms of the lease. A friend tells me that the fixtures amount to more than the entire sum named in the bill.

By the terms of the lease the Government of the United States is permitted and privileged to purchase this property at this sum, provided the contract is concluded before the first day of next April. This bill is recommended by the Secretary of War, doubtless on the ground that the purchase is essential for the use of the Government, and on the further ground that unless we avail ourselves of the privileges secured to us by this lease the Government will have to pay much more for it.

Mr. TAYLOR, of New York. Let me state that David's Island is not in the harbor of New York. It is on Long Island sound, twenty miles from New York.

Mr. SCHENCK. They call it in New York harbor, although I believe it lies on the sound opposite New Rochelle.

Mr. TAYLOR, of New York. It is not in New York harbor.

Mr. SCHENCK. I think it would be well to amend the bill by substituting for "in New York harbor" the words "on Long Island sound." I move that amendment.

The amendment was agreed to.

Mr. SCHENCK. With the permission of my colleague, [Mr. BINGHAM,] I will add one word. This island is now in the occupation of the Government, under a lease, and has valuable buildings upon it. Under that lease the Government has the privilege of taking it at the appraisement made five years ago of \$38,500, which was regarded by all parties as exceedingly cheap. Some newspaper correspondent telegraphed to New York that the Committee on Military Affairs were going to report in favor of the purchase of this island, and a gentleman in New York offered for it twice the price that the Government is to pay under the appraisement of five years ago.

Mr. RANDALL, of Pennsylvania. I have always been taught during my life-time that anything you did not want was dear at any price, and I believe that to be true. This is a proposition for the purchase of an island on which there is a hospital, which during the pendency of the war was very useful; but now that the war is over I do not consider that a hospital at that point is at all necessary. Because somebody believes this island is worth double what the United States Government can obtain it for, that is no reason why the Government should speculate in that manner. At this time, when economy is so necessary in the administration of the Government, I do not think we should buy unnecessary islands or any land whatever that we can possibly do without. I therefore move that the bill be laid—

Mr. BINGHAM. No, sir; the gentleman cannot have the floor to make any motion of that sort.

Mr. RANDALL, of Pennsylvania. Very well; I want to take no advantage of the courtesy of the gentleman; but I want a thorough ventilation of the subject.

Mr. BINGHAM. I have no doubt from what has already transpired that the House is fully advised, from any view that can be taken of this matter, that it is to the peculiar advantage of the Government to avail itself of the privileges secured to it alone by the existing lease. If the Government shall not need the island hereafter it can sell it, after having acquired the title to it, for twice the amount it will now have to pay for it. We should bear in mind, also, that the permanent structures upon the island erected by the Government are worth twofold the price proposed to be given for it.

Mr. SPALDING. I would ask my colleague [Mr. BINGHAM] if he desires the Government to become a speculator in land?

Mr. BINGHAM. Not at all; the Government has use for the island.

Mr. SPALDING. If there is need of the island, that is one thing.

Mr. DARLING. Will the gentleman yield to me for a moment?

Mr. BINGHAM. I cannot yield now; the Committee on Military Affairs has much business to dispose of and is limited as to time. I call for the previous question.

The previous question was seconded.

The question was upon ordering the main question to be now put.

Mr. RANDALL, of Pennsylvania. I move that the bill be laid on the table.

The question was taken; and upon a division, there were—ayes 41, noes 47; no quorum voting.

Mr. RANDALL, of Pennsylvania. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 64, nays 73, not voting 53; as follows:

YEAS—Messrs. Ames, Anderson, Beaman, Brandegee, Campbell, Reader W. Clarke, Cobb, Cooper, Culion, Darling, Delano, Dumont, Eckley, Eldridge, Finch, Glossbender, Aaron Harding, Abner C. Harding, Harris, Hawley, Hill, Hise, Hogan, Holmes, Hotchkiss, John H. Hubbard, Edwin N. Hubbard, Hulburd, Kerck, George V. Lawrence, William Lawrence, Le Blond, Leftwich, Marshall, McInroe, Miller, Morrill, Moulton, Niblack, Neill, O'Neill, Orth, Samuel J. Randall, Ritter, Rollins, Ross, Scofield, Shanklin, Sloan, Spaulding, Stevens, Stokes, Nathaniel G. Taylor, Francis Thomas, Thornton, Trimble, Trowbridge, Robert T. Van Horn, Andrew H. Ward, Henry D. Washburn, Volker, Wentworth, Stephen F. Wilson, and Windom—64.

NAYS—Messrs. Alley, Allison, Ancona, Baker, Baldwin, Barker, Baxter, Bergen, Bidwell, Bingham, Blaine, Blow, Brownell, Broomall, Bundy, Sidney Clarke, Davis, Dawes, DeFrance, Deming, Dixon, Farquhar, Ferry, Garfield, Griswold, Hart, Henderson, Higby, Hooper, James R. Hubbard, Hunter, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McKee, McRuer, Moorhead, Newell, Nicholson, Paine, Perham, Pike, Plants, Pomerey, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rousseau, Schenck, Sitgreaves, Taber, Nelson Taylor, Thayer, Upson, Van Aernum, Bart Van Horn, Hamilton Ward, William B. Washburn, Williams, and Winfield—73.

NOT VOTING—Messrs. Arnell, Delos R. Ashley, James M. Ashley, Banks, Benjamin, Boutwell, Boyer, Buckland, Chanler, Conkling, Cook, Culver, Dawson, Denison, Dodge, Donnelly, Driggs, Eggleston, Eliot, Farnsworth, Goodyear, Grinnell, Hale, Hayes, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Humphrey, Ingersoll, Jenckes, Jones, Latham, Loan, McCullough, Mercer, Morris, Myers, Patterson, Phelps, Radford, Rogers, Sawyer, Shellabarger, Starr, Stilwell, Strouse, John L. Thomas, Warner, Elihu B. Washburne, Whaley, James F. Wilson, Woodbridge, and Wright—53.

So the bill was not laid on the table.

The question recurred upon ordering the main question; and being taken, the main question was ordered.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. BINGHAM. Upon that question I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. BINGHAM moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has expired.

#### TEXAS ACCOUNTS AND CLAIMS.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, in answer to a resolution of the House of the 17th ultimo, relative to the accounts of the State of Texas with the United States; which was laid upon the table, and ordered to be printed.

#### NATIONAL BANK TAXES.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, in answer to a resolution of the House of the 28th ultimo, relative to the amount of taxes annually paid by national banking associations to the United States and to the several States; which was referred to the Committee on Banking and Currency, and ordered to be printed.

#### MASSACRE NEAR FORT PHIL. KEARNEY.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, in answer to House resolution of January 29, 1867, requesting information concerning the massacre of United States troops by Indians near Fort Phil. Kearney; which, on motion of Mr. WINDOM, was referred to the Committee on Indian Affairs, and ordered to be printed.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed an act (S. No. 538) for the relief of the widow and children of Henry E. Morse, in which the concurrence of the House was requested.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House was requested, an act (H. R. No. 902) to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States."

#### ORDER OF BUSINESS.

Mr. KASSON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the President's message. I make this motion in order to enable the gentleman from Massachusetts [Mr. HOOPER] to speak upon the question of the currency. After he shall have concluded his remarks, I shall ask the Committee of the Whole to proceed to the consideration of the Indian appropriation bill.

The SPEAKER. The committee can lay aside the President's message at any time, and then the special order will come up for consideration.

The question was taken; and there were—ayes fifty-five, noes not counted.

So the motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. GARFIELD in the chair,) and resumed the consideration of the President's annual message.

Mr. HOOPER, of Massachusetts. I propose to speak upon the bill reported from the bank committee, which was made a special order for the 18th December last, but which has not yet been reached in consequence of the pressure of other business before the House. I feel some hesitation in commencing the discussion of this bill to amend the national banking law, as it is evident that great diversity

of opinion prevails in the House, and throughout the country, not only in regard to the provisions of the bill, but in reference to the whole subject of the national banks. The discussion, therefore, when the bill comes up for consideration, is not unlikely to take a wide range, and cover the whole subject of the currency in the future of the country.

The principal object of the bill is to provide the power which experience has shown to be necessary to enforce the requirements of the original law by enlarging the authority of the Comptroller in cases of neglect or refusal on the part of the banks to conform to those requirements.

It renders some provisions of the law more clear and definite; and it prescribes the mode of proceeding by receivers who may be appointed to close up the business of a bank.

It requires all the banks in the cities named as places for the redemption of circulating notes to redeem at New York, not only their own circulation, but also the circulation of any bank for which they act as redeeming agents.

It prohibits the banks from including and reporting compound-interest Treasury notes, or any balance due them which bears interest, as part of their reserve of lawful money.

It changes the law in reference to usurious interest to the forfeiture of the whole debt, instead of the forfeiture of the amount of interest, as prescribed in the present law.

It provides circulating notes for new banks organized under the law by scaling down the proportions to the existing banks, and requires any excess over the new allotment of circulating notes to be returned to the Comptroller.

It reduces the national taxation on the circulation of the banks to half of one per cent. per annum, instead of one per cent. as provided in the present law; the tax of half of one per cent. on deposits is continued; and the tax of half of one per cent. on the capital of the banks is repealed.

These are the principal amendments proposed by this bill, but there are various changes of less importance to carry out more effectually the object and intention of the bank act.

One of the objects originally assigned in favor of the law authorizing the creation of the national banks was the benefit the Government would derive in negotiating loans, by making them the basis of the bank circulation, thereby producing a direct demand for a large amount of Government bonds, and securing for them, at least in the minds of our own people, the prestige of being recognized as the highest form of moneyed security in the country.

The returns published, of October 1, 1866, show \$426,000,000 as the amount of United States securities, belonging to the national banks; of which over \$331,000,000 were deposited in the Treasury as security for their circulating notes. It could hardly be deemed wise and expedient, at this time when it is so desirable to bring about a settled condition of the currency and finances, to disturb this large investment by requiring the national banks to be wound up, and their notes to be withdrawn from circulation to substitute United States legal-tender notes in place of them, as was proposed in some resolutions offered and voted down before the recess of Congress, and since then proposed in a bill by the gentleman from Pennsylvania, [Mr. RANDALL.] So great a change could not be effected at a time like this without producing much embarrassment to the industry of the country.

I cannot doubt that it is the settled opinion of this Congress that the amount of circulating notes of the national banks should not be increased beyond the \$300,000,000 now prescribed in the law. If more paper money is needed, which I do not believe, it would, in my opinion, be far better to increase the legal-tender notes issued by the Government, so that the profit to be derived from any increase of the paper circulation would be reserved for the Government. This would remove the inducement of private interest to favor any such increase. I was opposed in the last ses-



sion to the recommendation of the Comptroller of the Currency to withdraw \$100,000,000 of legal-tender notes and issue in place of them an equal amount of bonds bearing interest at six per cent. in coin, on which the banks should be authorized to issue \$90,000,000 more of circulating notes. I should be in favor of withdrawing all the circulating notes of the national banks, and substituting legal-tender Government notes for them, in preference to an increase of the amount of bank notes, believing, as I do, that the amount of \$300,000,000 now authorized is as much if not more than the banks can sustain, if we are ever to resume specie payments as was contemplated at no very distant future when the law was passed for the creation of the national banks. If we are to have irredeemable paper money as the permanent currency of this country, I would prefer to have it all issued by the Government, that the whole profit of it may be for the benefit of the Government, and its issue controlled by the Treasury Department under regulations prescribed by law.

The issue of the legal-tender notes when first proposed, and which I earnestly advocated, was represented to be a temporary measure to meet the exigencies of the Government. The national banks were not then organized; in fact the law had not been passed to authorize those banks. The Government legal-tender notes were not proposed to take the place of coin, though the law declared they should "be received the same as coin, at their par value, in payment for any loans that may be hereafter sold or negotiated by the Secretary of the Treasury." It may be said there was no coin then in circulation. The currency of the country at that time consisted of the notes of State banks, which had all suspended specie payments, with most of the coined money of the country locked up in their vaults, by the sale of which the banks afterward realized a large profit in legal-tender notes. The question then presented was, whether the Government should borrow State bank notes at a high rate of interest, for the payment of the Army and for carrying on the war, or whether they should issue for that purpose notes of their own, without any cost for interest. This latter alternative was adopted; and the legal-tender notes furnished to the Treasury over seven hundred millions of money, nearly five hundred millions of which was without any cost for interest, at a time when the Government was in most pressing need. It did more; it stimulated industry, and provided the people of this country with the ability to loan the Government \$2,000,000,000 to continue the war until armed rebellion was conquered, and the power and authority of the Government was asserted and recognized throughout the whole country.

It cannot be denied, however, that this was attended by many serious evils, which were subsequently developed. It operated unequally and unjustly on different interests. The great increase of paper money, while it stimulated every kind of industry, also stimulated speculation in every direction. The nominal value of property was enhanced to a fearful extent, to the great injury of all those who derived their support from wages, salaries, and fixed incomes; debtors were enabled to discharge their obligations in a currency depreciated at times to more than half its value, at the time the debt was incurred. The mere fluctuations in the value of the currency impoverished some, while it enriched others, and set at defiance all calculations of prudence in business. The profits of speculation were for a time so large, that the slow patient gains of labor and industry became distasteful. The cities were crowded with gambling speculators in gold and stocks and merchandise, and fraud and corruption were presented in every direction. These were the natural results of continuing an inflated and irredeemable paper money. But the life of the nation was at stake then, and no one who claimed to be loyal stopped to consider, or hesitated to make any sacrifice which the exigency of the

country demanded. The use of State bank notes by the Government would have been attended by similar evils without any of the benefits obtained by the use of legal-tender notes. And the evils of State bank notes would have been aggravated by their uncertain and unequal value in different parts of the country, unless the Government guaranteed their security, as it should guaranty the security of any money it sanctions, by using it for payments to public creditors.

Now the question is presented—the exigencies of the war being passed—what shall be done to arrest those evils and bring the country back to its normal condition, in which industry will be satisfied with securing the legitimate rewards of labor, when every one will know what value is represented by money, and when the value of money will not fluctuate and change from day to day, but become intrinsic and permanent, so far as the daily and common transactions of business are concerned.

When armed rebellion was suppressed the military power of the country was promptly put upon a permanent peace footing by disbanding the forces no longer required to maintain the authority of the Government, and arresting at once the immense expenditures of the war. Why could not the same course be pursued in regard to the currency and the financial policy that the war rendered necessary, but which is not adapted to the condition of permanent peace? The object of the Government should be now to give employment to the industry of the country by relieving it from taxation, and by encouraging in every way the development of its resources. It should be understood that the unusual powers which the Treasury Department had exercised to sustain the war will not be continued beyond the exigency that rendered them necessary.

In a condition of peace the revenue of the Government ought not to exceed \$300,000,000, or at most \$350,000,000; which should be ample provision for interest on the public debt, as well as all current expenses of the Government. There is no longer occasion to borrow money or to authorize new loans to increase the public debt. But the speedy reduction of the debt is a matter of small importance, compared with that of relieving the productive industry of the country from the heavy taxation with which it is now oppressed. I have not been able to join in congratulating the Secretary of the Treasury on the progress that has been made in the reduction of the debt during the past year, as it seems to me our industry could now ill afford it. I can understand why those foreign presses that exhibited toward us unfriendly sentiments during the war should be lavish in compliments of a policy which cannot fail to cripple our own manufacturers and producers. When the debt of the country has been funded, the currency restored to a sound condition, and our industry so far relieved from taxation that it can compete with the labor of other countries, we can then better commence a more rapid reduction of the public debt.

The only way in which the currency of the country can be made equal in value to the money of other countries with which we are connected by commerce, is by gradually reducing the amount of paper money, until what remains in circulation shall become the equivalent of coin, and, at the option of the holder, command an equal amount of coin. Whenever the paper money is at par with coin they will together constitute the money of the country. The constant and increasing supplies of the precious metals now produced in this country would rapidly furnish a sufficient amount for all business and other requirements, if used for currency, instead of being exported as it is now, to pay for importations of the products of foreign manufacture, to compete with and discourage the industry of our own people.

I concur with most of the arguments in the learned speech recently delivered by the gentleman from Pennsylvania, [Mr. KELLEY;] but he made one statement which I cannot understand, and which did not seem to me consistent

with the general tenor of his remarks on the subject of currency. He asserted, if I understood him correctly, that the standard of the value of the currency should be the resources of the country and the integrity of the Government, and not gold and silver. There is no other standard now of the value of a dollar in this country than what the gold speculators in New York determine for it each day, and from hour to hour; but gold is the standard by which the value of the dollar is computed by them. Until the bill authorizing the issue of the legal-tender notes was passed the standard legal value of the dollar was a prescribed quantity of gold or silver. I wish to ask what constitutes a dollar, and how will its value be estimated and ascertained, when the standard has no reference to gold and silver, but only to the resources of the country and the integrity of the Government?

Mr. KELLEY. Will the gentleman yield for a reply?

Mr. HOOPER, of Massachusetts. Certainly.

Mr. KELLEY. Mr. Chairman, in the first place, I wish to remark to the gentleman, who has so kindly indorsed most of the opinions expressed in my recent remarks on financial topics, that he has, I think, slightly misapprehended my position. I did not argue as an abstract proposition that the resources of the country and the integrity of the Government should be the basis of our currency. I was considering the question of our duty under existing conditions, and did but assert that we had in the season of our extremity adopted the resources of the country and the integrity of the Government as its basis, and expanded our currency to meet the exigencies which would have destroyed us had we adhered to a specie basis; but I maintained that, having due reference to the ultimate restoration of our currency to its international character, we should adhere to the basis I indicated and reduce its volume, if we should determine to reduce it at all, so slowly and with such excellent judgment as not to embarrass and impair the internal industry and production of the country.

I do not see how, by adopting gold as the basis of our currency, we can give to a dollar a more fixed and unchanging value than our greenback dollars have. They are the given portion of a fixed amount of currency; and if Congress will, regardless of recommendation or importunity, refuse to indulge in experiments of expansion or contraction, but maintain the existing volume of paper currency, each dollar will continue to be the same proportionate part of the same amount of currency applicable to the business of the country. You may, by law, determine the weight, the diameter, the thickness, and the quality of the metal of a dollar, but you cannot fix its value. The price of wheat is now very high. The last crop was short, and a barrel of flour will buy many dollars. Next year, if by the blessing of the early and the later rains there shall come an abundant crop, a barrel of flour of like quality will not buy half so many dollars. The value of a dollar is equally regulated by the law of supply and demand, whether it be paper or gold; whether it represent one basis or the other.

Mr. HOOPER, of Massachusetts. I thank the gentleman for his explanation. I now resume the line of remark which I was pursuing when I yielded to the gentleman.

In Russia, during the wars with France, under the first Napoleon, paper roubles were issued by authority of the Government representing the silver rouble, worth about eighty cents of our coined money. But those paper roubles gradually depreciated in value to about twenty cents, or one quarter of the silver rouble; and that paper continued to circulate for many years after peace was restored. It was not left, however, to the brokers and speculators to determine its value in the coin of the country. Each year the Government determined and declared its convertible value as compared with coin. For many years the rate was about three and sixty hundredths of paper to one of

silver, and at about that rate the paper roubles were gradually withdrawn from circulation.

Whatever we issue as currency, by whatever name we call it and whatever laws are passed in reference to it, the foreign exchange will determine its value by the standard of gold and silver; and it will pass as currency according to that standard of value. When a barrel of flour sells here for fifteen dollars in currency, and gold is worth fifty per cent. premium, ten dollars will be the price here of a barrel of flour in the coined money of the civilized world. In other words, fifteen dollars in currency will be the equivalent of ten dollars in coined money.

I am not in favor of an immediate resumption of specie payments, nor am I ready to name a time when I think specie payments should be resumed; but, in my judgment, that most desirable event should be constantly kept in view, and any legislation calculated to retard it should be strenuously resisted by every one who regards the honor and the true interest of the country. The settled policy of the Government should be to resume specie payments at the earliest period that is possible without jeopardizing the substantial interests of the industry of the country; and all the action of Congress in reference to the currency and to finance should indicate that purpose. Time is necessary to accomplish the resumption of specie payments; but the preparatory steps should commence now. It should be understood by every one that it is the settled policy of Congress to reduce the amount of paper money until its value is restored and becomes equal to coin. I do not believe it necessary to withdraw all the legal-tender notes to accomplish that object, nor do I believe it necessary to contract their amount to such an extent as to derange the business of the country. I am certain specie payments could be sustained with a much larger amount of notes convertible into coin than formerly.

One of the great causes of money panics, which so many seem now to apprehend, has heretofore been the absence of any security for the State bank notes. The failure of a few banks produced a distrust of all banks, and there was then a general endeavor among those who held bank notes to get rid of them by passing them to others or demanding coin for them. The note of a failed bank organized under the general law of any State, with security deposited for its circulation, was no better to one who could not afford to wait for payment of the note until the security was realized. When such notes were received in payment for labor performed and were relied upon to furnish the means for immediate support, if they would not pass at the shop, they must be sold to the broker for whatever he would give—generally one half or less than the note represented when it was received. Such panics have always been the result of want of confidence, which often extended to the most prudent and best managed bank, as well as to those that had been imprudently managed. Few if any banks, however well managed, can long sustain themselves against a panic caused by the sudden loss of public confidence.

The notes of all the national banks are made absolutely as secure as the Government itself; by law they are received at par in all parts of the United States in payment for taxes and all other dues to the Government, except for duties on imports, and for all debts owing by the United States, except interest on the public debt. Whenever a bank fails to redeem its notes in lawful money it forfeits the bonds deposited as security with the Treasurer. The Government, then, so far as the holders of the notes are concerned, assumes the liability of the bank, and the notes are redeemable in lawful money on demand at the Treasury of the United States. This imparts such a degree of security and confidence to the national bank notes, that they circulate as well after as before the failure of the bank.

There is never any general demand for coin among the holders of bank notes so long as

there is confidence in the security of the notes. They are generally held in small amounts for immediate use, except by banks and bankers. When the merchant or trader accumulates any considerable amount of them in his business he sends them to his bank to be exchanged for credit on its books, which is known by the technical name of "deposit," and which he can draw out at any time by checks as he requires money.

Nor will there be any general demand for coin among those holding "deposits" in banks so long as the foreign exchanges are not against the country. I say no general demand; there is always more or less specie wanted in comparatively moderate sums for specific purposes. But when a continuation of high prices has encouraged excessive importations from abroad and has discouraged the shipments of our own products to foreign countries, there is an outward flow of specie created by the demand for export to pay the foreign debt which has accumulated. But the merchants and bankers owe that foreign debt, and not the community who hold the circulating notes. The merchants and bankers at such a time will demand their deposits from the banks in specie. If any national bank fails under that demand, the security for its circulating notes is not affected; and their notes will continue to circulate as before until they are paid into the Treasury of the United States or brought there for redemption. The banks in the city of New York, under the exploded State bank system, almost always held specie enough to pay their circulating notes twice over. It was their "deposits," and not their circulation, that troubled them whenever a general demand for specie occurred.

Any general demand for specie is usually at the shipping-ports on the sea-board for export, to meet an unfavorable condition of the foreign exchanges, and is mostly concentrated in the city of New York. For that reason the city of New York should be the common redeeming point for the bank-note circulation. It may be said that there was no foreign demand for specie when the banks suspended specie payment in December, 1861; but that was an exceptional case. The banks then suspended voluntarily, as a matter of expediency, under the apprehension that the effects of the war and the urgent demands for money by the Government would deprive them of their specie.

An unfavorable condition of the foreign exchanges is immediately indicated by an increased demand for specie. Under a prudent system of bank management that demand for specie could generally be met without seriously disturbing the business of the country. At first a moderate contraction of bank loans would be a sufficient check to it. But if the indications are disregarded, and the banks, competing with each other, continue to stimulate the high prices by increasing, instead of contracting their loans, the demand for specie will increase until it becomes so intense that it can neither be met nor controlled. The only relief, then, is a suspension of specie payments.

I have been supposing and calling attention to a condition of specie payments with no other lawful money but coin, in which banks could redeem their liabilities, which has always been the case in this country heretofore when the banks paid specie. We have yet to learn what the effect would be in a condition of specie payments in which the banks are authorized to redeem their liabilities in legal-tender notes, as well as coin, both being lawful money. Experience alone can indicate to us what that condition will require. If I supposed that we could not resume specie payments until all the legal-tender notes were withdrawn from circulation, I should feel that resumption was removed to a distant future. I am by no means certain that the same percentage held by the Treasury in coin of the legal-tender notes in circulation, which the bank law requires to be held in lawful money by banks in the city of New York of their liabilities, namely, twenty-five per cent., might not be sufficient to secure specie payments

on the part of the Government as well as the banks. But experience only can teach us what amount of paper money the Government can sustain, and what amount of liability the banks can safely sustain, under the condition of being redeemable on demand in specie. I admit that there is a good deal of speculation in any views that may be presented on this subject, as we have had no experience to guide us; yet it is a road we must travel over, as we progress in settling the future financial policy of this nation. Of one thing we can be certain, which is, that the larger the amount of specie held in reserve to meet the redemption of the paper money, and the larger the amount of specie in the country, the larger will be the amount of paper money that can be sustained in circulation. It must be obvious to every one that one hundred millions of coin would sustain a larger amount of circulating notes than ten millions of coin.

The resumption of specie payments cannot be brought about by a contraction of currency so sudden and extensive as to disturb the industry of the country; it must be by such action on the part of the banks and the Government as will render coin as valuable here as it is in other countries. Until that is the case it is useless to talk of resuming specie payments. This country is now the largest producer in the world of the precious metals; but it may well be questioned whether the country derives any benefit from this unrivaled production so long as we treat it as merchandise, and of no use except to be shipped abroad and its proceeds returned to us in foreign manufactures. The injury this inflicts upon our own manufactures and our own industry more than counterbalances the gains of the miners. The fact that the precious metals are exported shows conclusively that they are more valuable abroad. The Bank of England and the press in Great Britain never consider and represent specie to be a mere product of labor to be exported, and its accumulation as an incumbrance to be got rid of as soon as possible; but it is valued as a basis for the prudent extension of accommodations to the business and industry of the people. The banks of England and of France are able to hold large amounts of specie by pursuing at all times the policy of watching and guarding carefully the "exchanges" with other countries, and by discouraging and counteracting all unusual inducement or tendency to export specie. Under wise laws and prudent management the banks in the city of New York would be practically, to a great extent from their position, the guardians and conservators of the currency of this country.

It is to be hoped that Congress will resist all attempts to remove the limitations and restrictions in the bank law, which were intended as bounds, outside of which the banks could not lawfully move with impunity to endanger the prosperity of the country; and that the amount of their circulation will not be increased, nor the amount of reserve of lawful money be decreased. There is a common misrepresentation in regard to the reserve of lawful money required by the law, in the statement, that no purpose is accomplished by requiring a bank to have the reserve, as the bank is forbidden to use it. The truth is, however, that a bank is expected to use its reserve whenever the occasion calls for it; but when by such use it is reduced below the prescribed proportion to the liabilities of the bank, no new loans can be made by the bank until the proportion is restored, either by reducing the liabilities or increasing the lawful money. It is a minimum reserve of power, to be used when necessary; but whenever reduced below that minimum, to be restored again at the earliest time from the first income and before any other use can be made of the funds of the bank.

It has been urged that an increase of paper money is needed to encourage industry and to lift the business of the country out of the languishing condition into which it is said to have recently fallen. I am told that importations of foreign merchandise have recently been so

great that importers are sustaining heavy losses, and look to Congress to relieve them by authorizing the issue of more paper money to raise the prices of their merchandise, and the sale of the surplus gold in the Treasury to furnish greater facilities to pay for their importations. At the same time an increase of the tariff is demanded by the manufacturers to prevent this competition of foreign merchandise, attracted here by the high prices arising from the abundance of money and the inflation of the currency during the past year.

It is difficult to perceive how the increase of paper money at this time could benefit the manufacturers or promote the interest of labor. It would only promote speculation, and, by rendering prices still higher, increase the cost of manufacturing and the expense of living to the workmen. On the other hand, a judicious reduction of currency might cause a gentle and healthy contraction of bank loans sufficient to reduce the cost of materials, so that manufacturers could again afford to start their works, and their workmen could afford to live. The extraordinary prices, mad speculations, and the extravagance and fraud which have prevailed ought to satisfy every one that it is time to establish a sounder policy in the management of the finances, and of the currency.

Any increase of paper money, either in bank notes or legal-tender notes, would not render money cheaper nor remedy the evils which the industry of the country is now laboring under. In the cities of New York and Boston the circulation of the banks when they were State institutions was in each about eight million dollars. Now the circulation of the national banks in the city of New York is over thirty millions, and in Boston over twenty-four millions, and yet the banks often cannot, or do not pay the checks drawn upon them by their depositors; because, as they say, they have no currency to pay with. So much of their reserve of lawful money is in compound-interest Treasury notes, which they really hold for investment, that they decline to pay checks drawn upon them by their depositors, but require the checks to be passed as money until they are settled at the "clearing-house" as an offset for similar checks on other banks received in the business of the day.

This bill discourages the accumulation of bank balances in New York by prohibiting banks from returning as part of their reserve any balances bearing interest, as no bank can afford to pay interest on such balances unless it can loan them. Such balances are generally loaned, therefore, "on call," as it is termed; that is, to speculators, who pledge stocks or gold with a margin, and with the understanding that they may be at once sold on failure to respond promptly to the demand to pay back the loan. The stock and gold speculations in the large cities, and particularly in the city of New York, are generally sustained by such loans; hence the panics and decline in stocks which occur whenever there happens to be any unusual demand for money. Such loans cannot be prohibited, but they should be discouraged. They may be profitable to the banks, but they are fraught with danger to the security of the community. I understand that we are not legislating to increase the profits of the banks, but to increase their safety and usefulness to the public. These balances are accumulated in New York from banks in all parts of the country, not for the redemption of their circulating notes, but for the sake of the interest received on them and their ready command for speculation. It is not proposed that banks shall not pay interest on balances, but that such balances bearing interest shall not be counted by any bank as part of its reserve of lawful money. There is great danger if interest is paid on them that balances will be kept in the weakest banks; the weaker a bank becomes the more tempting will be its offers for such balances. If no interest is paid by any, there will be more care in regard to the character and management of the institutions selected as redeeming agents.

It is unpleasant to many persons to listen to the suggestion that a bank can be weak or fraudulent or imprudent; they seem to consider it irreverent. They think of well-managed banks with which they have been familiar, and feel as many do when they hear of back-sliding in a clergyman, as if it was a reflection on the pure, devoted, high-minded pastors they have known. For the benefit of those who entertain the impression that all banks are immaculate and do not require any restraining influences of law, I would refer to the frauds developed among banks during the past year; for example, in the Merchants' National Bank of Washington. And I will ask the Clerk to read a few short extracts from a recent letter published by Hon. C. V. CULVER, a member of this House, which gives some insight into the actual management of banks.

The Clerk read as follows:

Extracts from letter dated November, 1866, of C. V. CULVER, in relation to the failure of Culver, Penn & Co.:

"In 1861 my office was opened at Franklin, and successively others at Titusville, Oil City, and other points, as occasion demanded, by means of which I became intimately connected as a banker with all the interests of the region. The rapid increase of business made it both desirable and necessary to provide increased facilities for its accommodation, and the private banking offices were converted into corporate banks."

"The entire management of these banks was intrusted to me as fully as had been that of my own private business, and their success was most satisfactory."

"From a single private office at Franklin our combination extended by natural, healthy, and apparently necessary growth, until it embraced twenty banks and banking-houses, including the central office at New York, Culver, Penn & Co. All of these enjoyed the highest degree of real prosperity, having good credit, ample resources, large patronage, and profitable employment for their means."

"The Venango Bank at Franklin and the Petroleum Bank at Titusville were organized under the free banking law of Pennsylvania. Their circulation was secured by the deposit of Government bonds of an equal amount with the auditor general of the State at Harrisburg."

"I bought and deposited the securities, and exchanged them for others, at my own discretion, subject only to the approval of the auditor general."

"You [the president and directors] never troubled yourselves for a moment to know what I was doing or why."

"It was left entirely to me to determine when the circulation should be increased or diminished and the securities deposited therefor withdrawn."

"As this circulation was very large—that of the Venango Bank being \$600,000, and that of the Petroleum Bank \$900,000—I knew that its sudden withdrawal at the expiration of the time prescribed by Congress would be an inconvenience both to the banks and the community, and as a matter of prudence I deemed it best to commence its withdrawal at an early day, and make it a gradual operation."

"Over \$1,300,000 of the notes of these two banks were redeemed from May, 1865, until March, 1866, the time of the suspension of Culver, Penn & Co., and of the banks in consequence."

Mr. HOOPER, of Massachusetts. It would seem as if there should be some legislation to regulate and secure the public against mismanagement of banks when twenty of them can be managed by one individual, the president and directors never troubling themselves for a moment to know what was done in the bank nor why anything was done, and all twenty of the banks fail in consequence of the failure of Culver, Penn & Co., of New York. The banks need some regulation and restraint for their own good as well as for the security of the public. Nothing can be more wholesome in its effects upon them than the requirement to redeem their circulation and to discourage the accumulation of their funds in the large cities to be used for speculative purposes. The effect of a prompt and frequent redemption of circulating notes in New York would discourage the use of those notes elsewhere than at home, among the customers of the bank. It would soon be evident to a bank doing a legitimate business that it was for its interest to keep their circulation for use about their own neighborhood, instead of sending it away, and that the redemption of it at distant places should be casual and exceptional.

It has seemed to me that the managers of banks do not generally recognize the difference

between the national bank circulation and that of the old State banks. Under State law the banks had practically unlimited power as to the amount of their circulation, but the circulation was comparatively local in its character, and there was a constant effort by each bank to put its circulation out at the greatest distance possible from home, while all the banks were competing to increase their own circulation by gathering up and sending home that of other banks. The experience thus far with the national bank circulation has shown that the notes rarely return to the bank that issues them, but that they become, like the Government legal-tender notes, part of the great mass of the currency of the country. The notes of the most obscure national bank on the most distant frontier has upon it a stamp of nationality which overrides any security given to it by the bank purporting to issue it, and it circulates from one end of the country to the other as readily as a Government legal-tender note. The bank that issued it is bound to redeem it on demand in lawful money; but who wishes to have it redeemed? Other banks do not; they are too glad to use it for currency, and the lawful money in which it would be redeemed would generally have no greater value than the bank note. The effect would have been precisely the same if Government legal-tender notes had been loaned, without interest, to the same amount as the circulating bank notes were furnished. The Treasurer of the United States borrowed in 1863 and since, large amounts of their circulating notes from the national banks before they were put in circulation, and few or none of them have ever been seen by those banks since.

My friend from Maine [Mr. LYNCH] says the people in his State require more currency. But if \$9,000,000 was added to-morrow to the circulation of the national banks in Maine, the whole of it would be incorporated at once into the great mass of the currency of the country, and the State of Maine would get only her proportion of the whole mass, as she does now. I admit that it would be a source of profit to those banks in Maine that received it; but it would decrease the pecuniary resources of that State and diminish the amount that those banks could loan to the people there, as they would have to invest more than ten millions of their money in Government bonds, which sell at a premium, to obtain the nine millions of circulating notes which they would add to the general mass of the circulation of the country.

A majority of the Committee on Banking and Currency were opposed to any increase of the circulating notes of the national banks beyond three hundred millions, as now prescribed in the law. But recognizing the justice of the claims in various States where few or no national banks are organized, and of State banks that seek to be organized as national banks, the committee could suggest no fairer or better way of providing for them than to reduce the amount of circulation allotted under the law to the existing national banks. It was proposed, therefore, to obtain the additional amount required, by reducing the present allotment ten per cent. of all the banks, which furnishes a margin of thirty millions for new institutions to be organized under the law. In accordance with the views of a majority of the committee, the bill reported exempts from this reduction all banks having not more than \$300,000 of capital, and compensates for it by taking a larger proportion from banks with over \$1,000,000 of capital. This leaves in the law what has always seemed to me to be its most objectionable feature in principle and the most dangerous provision in practice, that is, the authority to a national bank having not more than \$500,000 capital to invest its whole capital in United States bonds as security for circulating notes; reserving no portion of capital for its business of banking. More than that, the law requires the bank to hold in lawful money fifteen per cent. of the amount of the notes as a reserve to secure their redemption on demand; but having invested all its capital in bonds to secure the



notes, the reserve required can only be obtained, directly or indirectly, by borrowing. This seems to me objectionable in principle. In practice it is an invitation to organize banks for the sole object of obtaining the notes to circulate, without doing any business of banking. In other words, it simply provides a mode of obtaining from the Government without interest \$90,000 in notes that will circulate as money, and which, to all intents, are as good as the same amount of legal-tender notes, on the deposit of \$100,000 in United States bonds as security.

One case has been brought to the knowledge of the committee, of a national bank in which the stockholders were represented to be the partners of a house in the brokerage business with some members of their families. The whole capital of the bank was invested in bonds deposited with the Treasurer of the United States as security for its circulating notes, with an additional amount of bonds in the Treasury as security for public money in the bank as a Government depository. It was found, on an official examination of this bank, that it was located in one of the desks in the brokers' office, and the only entry on its books was about twenty thousand dollars, deposited to the credit of the Treasurer of the United States.

It seems to me that the allotment of circulation by the existing law, and as proposed by this bill, is wrong in principle. The Acting Comptroller of the Currency has addressed to me a letter in which he proposes an amendment, which I shall offer at the proper time, by which the margin of circulating notes for the organization of new banks will be increased to nearly forty million dollars, and sufficient in the opinion of the Comptroller to meet all the requirements for new banks for several years to come. For the information of the House I will ask the Clerk to read the letter to which I have referred.

The Clerk read as follows:

TREASURY DEPARTMENT,  
OFFICE OF COMPTROLLER OF THE CURRENCY,  
WASHINGTON, January 7, 1867.

SIR: In order to avoid discriminating specifically in prescribing the amount of circulation a bank may have upon its capital, I would suggest a scale like the following as an amendment to the House bill, commencing in line five hundred and sixty-nine: "And the amount of such circulating notes to be furnished to each association shall not be more in proportion to its paid-up capital than as follows:

"On the first \$500,000 of paid-up capital, seventy-five per cent. of such capital; on the second \$500,000 of paid-up capital, sixty per cent. of such capital; on the third \$500,000 of paid-up capital, fifty per cent. of such capital; on the fourth \$500,000 of paid-up capital, forty per cent. of such capital; on the fifth \$500,000 of paid-up capital, thirty per cent. of such capital; on the sixth \$500,000 of paid-up capital, twenty-five per cent. of such capital; on the fourth and fifth millions of paid-up capital, ten per cent. of such capital, and on all paid-up capital over five millions circulation shall be issued upon the bonds deposited, which the law requires to be with the Treasurer of the United States, not exceeding one third of the paid-up capital."

This schedule would give circulation upon capital as follows:

1st	\$500,000 @ 75 per ct.	\$375,000		
2d	500,000 @ 60 per ct.	300,000	\$1,000,000	\$675,000
3d	500,000 @ 50 per ct.	250,000	1,500,000	925,000
4th	500,000 @ 40 per ct.	200,000	2,000,000	1,125,000
5th	500,000 @ 30 per ct.	150,000	2,500,000	1,275,000
6th	500,000 @ 25 per ct.	125,000	3,000,000	1,400,000
4th	1,000,000 @ 10 per ct.	100,000	4,000,000	1,500,000
5th	1,000,000 @ 10 per ct.	100,000	5,000,000	1,600,000

One bank of ten millions capital must deposit bonds to the amount of \$3,334,000, upon which circulation may be issued to the amount of \$3,000,000.

Very respectfully,

H. R. HULBURD,  
Deputy and Acting Comptroller.

HON. SAMUEL HOOPER,  
Committee on Banks and Currency,  
House of Representatives.

Mr. HOOPER, of Massachusetts. This bill proposes, as I have before stated, to prohibit the use of compound-interest Treasury notes as part of the reserve of lawful money required in the national banks. The object and intention when the issue of those Treasury notes was authorized was that they might circulate as money for only a short period, until the interest accrued upon them had accumulated to such an extent that they would gradually be changed in their character, and instead of circulating as money would become more valuable to hold as a

security payable with interest at maturity. The total amount issued by the Treasury Department has been \$266,495,440, and of that amount there had been redeemed by the Treasurer and canceled to the 1st of this month \$121,594,600, leaving the amount outstanding \$144,900,840, none of which are now in circulation as money, but are all held by banks and others as interest-bearing investments. On the 1st of October last the national banks held, according to their reports to the Comptroller of the Currency, \$82,415,860 of these compound Treasury notes, which were included as part of their reserve of lawful money. Their whole reserve of lawful money was \$205,770,641, exclusive of specie, but including the compound Treasury notes.

It is a mistake to suppose that because the interest accrued on the compound-interest Treasury notes causes them to be held as investment, they therefore constitute no part of the currency. So far as they are held and returned by the national banks as part of their reserve they take the place of so much lawful money, and their use and effect on values is precisely the same as an equal amount of United States legal-tender notes. The banks would substitute for them an equal amount of the legal-tender notes if they could not return the Treasury notes as lawful money. The national bank law requires the reserve of the banks to be in "lawful money of the United States." Coin and the United States legal-tender notes known as "greenbacks" are the only mediums for currency which have been declared by law to be "lawful money of the United States."

Every act authorizing the issue of United States legal-tender notes declared them to be "lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest" on the portion of the public debt made payable in coin. The act of June 30, 1864, which authorized the issue of the compound-interest Treasury notes, did not make them "lawful money." It said only that—

"Said Treasury notes may be disposed of by the Secretary of the Treasury, on the best terms that can be obtained, for lawful money; and such of them as shall be made payable, principal and interest, at maturity, shall be a legal tender to the same extent as United States notes for their face value, excluding interest, and may be paid to any creditor of the United States at their par value, excluding interest, or to any creditor willing to receive them at par, including interest." \* \* \* "Nor shall any Treasury note bearing interest issued under this act be a legal tender in payment or redemption of any notes issued by any bank, banking association, or banker, calculated or intended to circulate as money."

The fact that these Treasury notes had never been declared "lawful money of the United States," in connection with the preceding provision against their being a legal tender in payments for the redemption of bank notes, was believed to be sufficient to exclude them from being held by the banks as part of their reserves of lawful money. The managers of banks who return them as part of their reserve defend it by saying that they hold the compound notes to redeem their liability for deposits, and not for the redemption of their circulating notes, thereby evading the letter as well as the spirit of the national bank act, which requires the reserve to be in "lawful money of the United States."

Mr. PRICE. With the consent of the gentleman from Massachusetts, I would like to ask him whether a compound-interest note is not a legal tender in the payment of any debt for which any other United States note is a legal tender?

Mr. HOOPER, of Massachusetts. I suppose the gentleman means at its face value, or for the amount for which it was issued.

Mr. PRICE. I ask the gentleman whether a \$100 compound-interest note is not a legal tender in payment of \$100, as much so as any other note issued by the Government of the United States, and whether it is not lawful money?

Mr. HOOPER, of Massachusetts. I leave it for the lawyers to decide whether it is lawful money or not. In the case of the greenbacks

the law declared them to be lawful money and a legal tender.

Mr. PRICE. My question is this: if I owed the gentleman \$100, payable in lawful money, could I not compel him to receive in payment a compound-interest note for \$100?

Mr. HOOPER, of Massachusetts. If it had two years' interest accumulated on it I would receive it with pleasure.

Mr. PRICE. Whether it had two days or two years? I ask the gentleman to answer.

Mr. HOOPER, of Massachusetts. Yes, sir.

Mr. PRICE. I could compel you to receive it?

Mr. HOOPER, of Massachusetts. Yes, sir, for its face value; but whether that would make it lawful money is a question I leave to the lawyers. The present Chief Justice when Secretary of the Treasury was of opinion that the compound-interest notes were not "lawful money."

Mr. POMEROY. It is a question of mathematics: things equal to the same thing are equal to one another.

Mr. PRICE. Does the gentleman assert they are lawful money?

Mr. HOOPER, of Massachusetts. I will, to save time and stop this argument.

Mr. PRICE. I wish the gentleman to go upon the record as saying the compound-interest notes issued by the Government, declared to be lawful money, are not lawful money.

Mr. HOOPER, of Massachusetts. It would take too much time to explain what constitutes lawful money. What is it in the gentleman's opinion?

Mr. PRICE. Lawful money, sir, is anything that will pass from one person to another in payment of a debt; the law says such are compound-interest notes, and they are therefore lawful money and legal tenders.

Mr. HOOPER, of Massachusetts. No one can doubt that if it is desirable to withdraw and cancel any notes that have been issued by the Government and used as money, these compound-interest Treasury notes should be first withdrawn and canceled, as it would stop the interest on them, which now accrues at the rate of over seven hundred thousand dollars each month, and it would be equally a contraction of the currency, so far at least as they are held by banks as part of their reserve of lawful money.

The greater part now outstanding of these Treasury notes mature between June and December of the present year, and are payable, principal and interest, at maturity; they must therefore be withdrawn and canceled before the end of this year. If, therefore, it would make too great a contraction in a single year to withdraw these notes, in addition to the \$4,000,000 legal-tender notes which, according to the law of the last session, are to be withdrawn in each month, that law might be repealed or its operation be suspended, at least for the present year.

When the compound-interest Treasury notes cease to have the adventitious value which the national banks now impart by holding and returning them as lawful money, the banks will more readily part with them; and those notes would then be redeemed gradually, from time to time, as it suited the convenience of the Treasury, instead of being presented on the day of their maturity in amounts so large that their prompt payment may be at the time exceedingly inconvenient if not impossible. In view of the importance to the Treasury Department of anticipating the demand for the payment of these notes and of redeeming them in the spring and early summer, when there is usually less demand for money, it may be expedient to require payment for any sales of gold from the Treasury to be in whole or in part in compound-notes, including the interest accrued.

The seven-thirty Treasury notes, amounting to \$676,856,600, maturing within the next two years, are convertible, at or before their maturity, into the five-twenty six per cent. bonds. It may be said, therefore, that when the com-

pound-interest Treasury notes are provided for, there will be no unfunded liabilities of the Treasury beyond what can be easily paid out of the ordinary revenue, except the United States legal-tender notes. At the regular session of the Fortieth Congress, in December next, we may hope that the report of the Secretary of the Treasury will exhibit a condition in which there will be no demands outstanding for settlement to embarrass the Treasury; and by that time we shall have acquired an experience in relation to the effects of preceding legislation to guide the action of Congress in adopting such measures as may seem requisite to restore the currency to a sounder condition and to secure the future prosperity of the country.

In concluding these remarks, I wish to repeat that I believe much could be done during this year to prepare the way for resuming specie payments, with benefit instead of injury to the true interests of labor and business, if the banks would coöperate, particularly the banks in the city of New York, in the measures that may be requisite for that purpose. The banks can do much, if they have the inclination, to check if not to control and prevent the export of specie; so that the precious metals furnished from our mines might, instead of being exported, accumulate here to hasten and aid resumption, thereby removing the apprehensions of reducing the amount of money in circulation below what an active and healthy condition of business would require. To reduce the loans of banks which encourage large importations and promote speculation, would have more effect in aiding resumption than the contraction of the circulation. One great obstacle to resumption is the profit and the ease in managing banks with an irredeemable currency. I believe that all the amendments of the bank act proposed in this bill would tend to promote more prudent management in the conduct of the banks, and to make it for their true interest to aid at the proper time in restoring a sound condition of currency instead of obstructing it, as their action during the past year, in largely increasing their loans, has indicated. Whenever the resumption of specie payments occurs, it will be brought about in one of two ways: either by the banks coöperating with the Treasury Department in wise and judicious measures to bring it about gradually and without disturbing industry; or failing in this, it will be abruptly forced on the country by a public clamor which, regardless of consequences, will no longer submit to conditions that impoverish the country for the benefit of importers, bankers, and the whole various and motley tribe of speculators.

[During the delivery of the above speech, the hour having expired, on motion of Mr. CONKLING, by unanimous consent, the time of Mr. HOOPER, of Massachusetts, was extended till he had concluded.]

#### INDIAN APPROPRIATION BILL.

The CHAIRMAN stated that by order of the House the committee would now proceed to the consideration of House bill No. 1039, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1868.

By unanimous consent, the first reading of the bill for information was dispensed with.

Mr. BLAINE. Would it not be wise to postpone the further consideration of this bill till after final action on the bill which has passed this House transferring the jurisdiction of Indian affairs to the War Department?

Mr. KASSON. Not at all, as that bill does not affect these appropriations.

Mr. MAYNARD. Is this more than a bill making appropriations to carry out treaty stipulations?

Mr. KASSON. That is all.

Mr. MAYNARD. If the bill passed here the other day becomes a law, will these appropriations for agents, &c., be necessary?

Mr. KASSON. It will be left to the discretion of the Secretary of War. Where Army officers are placed instead of civilians, of course they will be paid out of the appropriations for the War Department, and these appropriations will not be called for.

Mr. WINDOM. The gentleman from Iowa, I suppose, has not the slightest expectation that bill will pass the Senate, and of course thinks it better for us to pass these appropriations.

Mr. KASSON. I have confidence in the good sense and patriotism of that body, and I think they will pass it.

Mr. WINDOM. It is from that confidence, I presume, he asks this bill be passed.

Mr. KASSON. I move on page 14, line three hundred and twelve, to strike out "them" and insert "the Red Lake band of Chippewas;" so it will read:

For the fourth of fifteen installments for the purpose of supplying the Red Lake band of Chippewas with gilling twine, cotton matter, calico, linsey, blankets, sheeting, flannels, provisions, farming tools, and for such other useful articles, and for such other useful purposes as may be deemed for their best interests, per third article supplementary treaty of 12th April, 1864, \$8,000.

The amendment was agreed to.

Mr. KASSON. I move on page 25, line five hundred and eighty-five, to strike out "seven" and insert "eight;" so it will read:

Kickapoos:

For fourteenth installment of interest, at five per cent., on \$100,000, for educational and other beneficial purposes, as per second article treaty May 13, 1854, \$5,000.

For fourteenth installment on \$200,000, to be paid in 1868, per second article treaty 18th May, 1854, \$7,000.

The amendment was agreed to.

Mr. KASSON. I move on page 32, line seven hundred and sixty-three, under heading "Nez Percé Indians," to strike out "seven" and insert "eight;" so it will read:

For second of four installments to enable the Indians to remove and locate upon the reservation, to be expended in plowing lands and fencing lots, as per first clause fourth article treaty of June 9, 1863, for the fiscal year ending June 30, 1867, \$40,000.

The amendment was agreed to.

Mr. KASSON. I move on page 40, line nine hundred and sixty-three, to insert the following:

Pottawatomies of Huron:

For permanent annuity in money and otherwise, as per second article of the treaty of November 17, 1807, \$400.

The amendment was agreed to.

Mr. GRINNELL. I move on page 42, after line one thousand and eight, to insert the following:

Provided, That the band of Sacs and Foxes now in Tama county, Iowa, shall be paid *pro rata* their portion of annuity so long as they are peaceful and have the assent of the Governor of Iowa to reside in that State.

Mr. Chairman, this proviso I desire to explain, and trust it will appear so manifestly just as to meet with no opposition. The Indians to whom this will apply are a band called Nussquokas, of the Sacs and Foxes, numbering some two hundred, with their lodges near the Iona river, and about twenty miles from my own residence.

On their removal, near twenty years ago, to the reservation west of the Missouri river, a powerful band made war on them, and coming back to their old haunts declared that they would all be killed if they remained. Some ten years since, on their petition and that of their white neighbors to the State Legislature, they being in the senatorial district which I happened to represent, I took up their cause, and without objection a law was passed permitting them to own land and reside in the State. Their just portion of the annuity of the Sacs and Foxes was denied them until last year, when it was granted by Secretary Harlan, and is only given now as a temporary allowance by the present Commissioner of Indian Affairs.

I see no good reason why it should not be permanent. I know of no other band which has not been decimated in numbers and suffered by the vices of the whites. Where they

are without money they are objects of our charities. To compel them to go to Kansas is to settle them where they are not wanted, or to provoke the murderous spirit of the warriors from whom they once fled. As to their character, of which I am asked, I have never heard that they were thievish or quarrelsome. They may have no Logan among their "braves;" but with their *pro rata* of the annuity which I ask schools may be established, more comfort brought to their wigwams, and it is to be hoped such a Christian civilization as will not require the romance of a Jefferson or Seba Smith to find heroes worthy to adorn the sad history of our Indian tribes, which, without a change of policy, will soon be as far beyond our reach as they now seem below our consideration.

The amendment was agreed to.

The Clerk read as follows:

For the general incidental expenses of the Indian service in Colorado Territory, presents of goods, agricultural implements and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, \$20,000.

Mr. BRADFORD. I move to amend the foregoing paragraph by adding the following proviso:

Provided, That no part of said money shall be disbursed by Alexander Cummings, the present superintendent of Indian affairs for Colorado Territory.

Mr. KASSON. Will the gentleman suggest some one by whom the money shall be expended; if he will I have no objection to giving my consent, so far as I have authority.

Mr. BRADFORD. It must be expended under the direction of the Secretary of the Interior. I find on examination of the accounts of the present superintendent that a great deal of the money has been squandered during the past year.

Mr. KASSON. I have no doubt the money in that instance, as in a good many others, has been very badly expended; and I have endeavored during the last few days to convince the House that such has been the fact generally. But when the gentleman proposes that it shall not be expended under the direction of the present superintendent some other direction must be made, or perhaps he will not only fail in accomplishing his purpose but the money itself may not be expended at all.

Mr. KELLEY. Mr. Chairman, I find myself very much befogged as to matters in Colorado Territory, and I would inquire if there is any information before the House which will justify it in acting thus invidiously in regard to that Territory as is proposed by the amendment of the gentleman from Colorado, [Mr. BRADFORD.] I have seen and heard a good deal of controversy about the affairs of Colorado Territory. I am not a partisan for or against the present Governor of that Territory. I find myself utterly at sea as to accurate information on the subject. The statements of the two sides of the question are irreconcilably in conflict and I would like something like definite information before we adopt the proposed amendment.

Mr. BRADFORD. In reply to the gentleman from Pennsylvania, I will state that I find upon examining the accounts of the superintendent of Indian affairs of Colorado Territory, now on file in the office of the Commissioner of Indian Affairs, that a large portion of the appropriation made last year has been squandered by the superintendent. I find that the sum of \$1,800 purports to have been paid to one M. B. Cummings for services as clerk of said superintendency for the year ending December 31, 1866, when it is understood that this M. B. Cummings resides in the city of Philadelphia; and it is a notorious fact that this clerk has not been within the limits of Colorado since May last. I find that the sum of \$350 appears to have been paid to one A. Boyd Cummings, as secretary of some Indian council. Who that A. Boyd Cummings is I am not advised. I find that one item in the account of said superintendent, for the

quarter ending December 31, 1865, the sum of \$2,342, is inserted as money paid to one John Wanless for transporting nineteen thousand six hundred pounds of freight from Denver to the Middle Park, at twelve cents per pound, at an estimated distance of one hundred and sixty miles, when it is a well-known fact that the distance is less than eighty miles. I find many other items in his account equally dishonest; and for that reason I have moved the amendment.

The amendment was agreed to.

The Clerk read as follows:

For the general incidental expenses of the Indian service in Utah Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, \$15,000.

Mr. HOOPER, of Utah. I move to amend the foregoing paragraph by striking out the appropriation of \$15,000 and inserting \$25,000. I will state in explanation of this motion, that the estimate of the Department of the Interior for this appropriation was \$25,000, and that the Committee on Appropriations, with a view to economy, I suppose, reduced it to \$15,000. In conversing with the gentleman from Iowa, [Mr. KASSON,] I explained to him that it was necessary, in order to carry out what was asked for by the superintendent of Indian affairs in the Territory, that we should have \$25,000, and that that would fall far short of what we really should have to do for the Indians in Utah. I will state that there is no Territory in the United States which has received less in the way of Indian appropriations than Utah, and no Territory has settled so large a colony with so little expense of money. I understand the gentleman from Iowa has no objection to the amendment.

Mr. KASSON. I will only say that I believe the Indian business of the Territory of Utah is more safely and wisely conducted than that of any other Territory of the Union, and I have been satisfied, as the gentleman has stated, that it was not wise to cut down the estimate.

The question was taken and the amendment was agreed to.

Mr. BIDWELL. I move to insert between lines fourteen hundred and twenty-two and fourteen hundred and twenty-three the following:

For the purpose of enabling the Secretary of the Interior to purchase the improvements and claims of settlers in Round valley, for an Indian reservation, in the State of California, the following sum or so much thereof as may be necessary, namely, \$100,000: *Provided*, that the Secretary of the Interior shall deem it for the public interest to acquire possession of the whole of the said valley and that the said purchase can be made for a reasonable valuation.

I wish to explain that amendment. It is necessary that the Government shall secure before the lands are all taken up in California a sufficient quantity of land to enable them to maintain the Indians who will be required to be removed to a reservation. The state of things is different in California from what it is in any other State or Territory. We have no tribes there that make treaties; and they are placed upon reservations. It is therefore incumbent upon the Government to reserve lands upon which they can be placed. This valley is peculiarly adapted for that purpose. It is admitted by all to be the best, and perhaps the only place in northern California where the Indians can be properly taken care of. I feel the more anxious about this, because I know the people of that portion of the State are depending upon me to see that this question is properly adjusted; and that the settlers who occupy a portion of this valley should be purchased out, so that it may be used for the purposes of an Indian reservation. I refer only to those settlers who have settled in good faith and have improvements on their lands.

It is not designed to disturb the Indians upon any of the reservations in California, but simply to provide a place where Indians may be taken as soon as it is found necessary to remove them to a reservation.

I believe that the claims of those *bona fide*

settlers in the valley who have improvements and would have a right to be paid can be purchased for about seventy-five or eighty thousand dollars; but it will take a certain amount to ascertain the valuation of their improvements, to make the proofs, &c. It will certainly be necessary to provide some place of this sort, and if delay occurs and years roll on what can now be purchased for \$100,000 may cost the Government two or three hundred thousand dollars. All the reports I have seen in reference to this matter agree that the Government ought to have possession of this entire valley and ought to induce the settlers there to give it up for that purpose, for there is no place so suitable for an Indian reservation.

I hope, therefore, that my amendment will be adopted.

Mr. HARDING, of Illinois. If these lands were not subject to settlement by what right are these settlers there now?

Mr. BIDWELL. I believe that all the public lands of the United States are subject to settlement.

Mr. DEMING. I rise to a point of order. I submit that a proposition to purchase a valley for the settlement of Indians is not in order on a general appropriation bill.

The CHAIRMAN. The Chair thinks the objection comes too late. The amendment has been offered, and remarks have been made upon it.

Mr. BIDWELL. I will state that a bill reported from the Committee on Indian Affairs has this same object in view. If this amendment be adopted, the second section of that bill may be stricken out, and that will obviate the necessity of having that bill considered in Committee of the Whole. It is for that reason that I ask for the adoption of my amendment.

I have no further remarks to make upon this question, unless some gentleman desires to ask questions in regard to it.

Mr. KASSON. As this amendment is in the nature of new legislation, and involves so much consideration, both as to the propriety of the purchase and the amount required for the purpose if the purchase should be made, I feel entirely unwilling to consent to its being incorporated into this bill. I have outside information that the amount asked for, \$100,000, will be altogether inadequate to complete this work if it is once begun. I think such a matter as this should receive the investigation and special report of the Committee on Indian Affairs, or some other committee of this House, before it is incorporated into a bill like this, which our committee has sought to limit to the closest rule of regularity. I hope, therefore, this amendment will not be pressed, or if pressed that it will not be adopted.

Mr. BIDWELL. I will not insist upon the amendment if it is to give rise to very serious objection. But I do say that some such provision as this is absolutely necessary if the Government desires to properly maintain and care for the Indians in California.

Mr. HILL. I would inquire of the gentleman from California [Mr. BIDWELL] whether, if we make this appropriation for the purpose of purchasing this property, there is or can be any legislation to prohibit persons from settling on this land for the purpose of being bought out by the Government?

Mr. BIDWELL. The valley is now full of settlers; it cannot hold any more. In answer to the objections of the gentleman from Iowa [Mr. KASSON] I will say that I am willing to add to my amendment a proviso that the entire purchase shall not cost more than the sum here named; and if it cannot be made for that sum then none of the appropriation shall be used. I am very anxious to secure this legislation in some bill.

Mr. KASSON. That would not do away with my objection, because it relates to the whole subject of making an appropriation for a matter so little understood by the House, and which before it is introduced here should have the special report of some committee.

Mr. BIDWELL. I will withdraw my amendment.

The Clerk resumed reading the bill.

The following clause was read:

Navajo Indians in New Mexico: For subsistence for the Navajo Indians, and for the purchase of sheep, seeds, agricultural implements, and other articles necessary for brooking the ground on the reservation upon the Pecos river, \$100,000.

Mr. WINDOM. I move to amend the clause just read by increasing the appropriation to \$101,000. I do this for the purpose of making an inquiry of the gentleman from Iowa, [Mr. KASSON,] I would inquire of him if these are not the same Navajo Indians that have been maintained by the military in New Mexico for the last year or two?

Mr. KASSON. I should suppose the chairman of the Committee on Indian Affairs [Mr. WINDOM] is better acquainted with that subject than any member of the Committee on Appropriations.

Mr. WINDOM. Then I desire to say that these are the same Indians which the War Department has been feeding for the last two years, or at least the last year. Now the War Department proposes to turn them over to the Interior Department, and this appropriation is in view of that transfer. Under the War Department there have been expended during the last year for these Indians the sum of \$1,500,000. It is proposed to turn them over to the Department of the Interior, and the gentleman from Iowa [Mr. KASSON] proposes to give that Department the sum of \$100,000; or only one fifteenth part as much as the War Department required.

Now I ask the gentleman, considering his vote on the Indian bill the other day, and his justification of the military department upon the subject of Indian affairs, why he proposes only one fifteenth as much for the "stealing" Indian Bureau as the military department required? This \$100,000 is for the subsistence of the Indians, for the seeds and agricultural implements for them, and for all other necessary articles, including sheep: while these same Indians cost \$1,500,000 last year under the gentleman's improved system for managing Indians.

Mr. KASSON. I propose to answer to-morrow in the House several of the suggestions made the other day by the gentleman from Minnesota, [Mr. WINDOM,] one of which he has just repeated. I propose to-morrow to give that gentleman an opportunity to substantiate several of the statements he has heretofore made upon this subject. I could do it in part this afternoon; but the hour is so late, and there is such a necessity for completing this bill to-day, that I prefer to correct his statements to-morrow in the House.

I will say now, however, in answer to his question why we appropriate only \$100,000 for the use of the Interior Department for this purpose, that while the War Department has maintained these Indians without any help, which the gentleman knows much better than he states, in view of the prospect of transferring this Indian Bureau to the War Department we believe \$100,000 will be ample under the administration of the War Department to sustain both the war and the peace expenditures.

Mr. WINDOM. The gentleman now assumes peculiar honesty, as he did the other day peculiar knowledge of the affairs of the Indian Bureau. He tells the House that this bill has been brought in with a view to turning the Indian Bureau over to the War Department. I leave the question of honesty for the House to determine.

Mr. KASSON. I am sorry, Mr. Chairman, that my friend from Minnesota does not recover more readily from the soreness of his defeat on the bill which we had under consideration the other day. I can assure him there is no soreness anywhere else. I am sorry that the "squaw" still remains on his brain to such an extent as to disturb his equanimity. [Laughter.]

Mr. WINDOM. I suggest that the gentle-



man has the "squaw on the brain" much worse than I have, as he has referred to the matter three times where I have alluded to it once. I hope that it is altogether on the brain with him. [Laughter.] I withdraw the amendment.

Mr. SCOFIELD. I am sorry that the gentleman from Iowa, with whom I voted the other day, has not answered the question of the gentleman from Minnesota. If it is a fact that, under the management of the War Department, \$1,500,000 has been expended on these Indians in New Mexico, the House should know it; and perhaps it might be proper for us to reconsider our action of the other day.

Mr. KASSON. I supposed that members of the House understood very well, as does the gentleman from Minnesota, that the War Department for a long period of time sustained these Indians from its military rations almost entirely, I believe. This resulted from the necessity of the case. There was some discussion between the War Department and the Indian Bureau in reference to the management of those Indians; but not being upon the Committee on Indian Affairs, I cannot enter into the details. I have never heard before that it cost \$1,500,000 to sustain those Indians. I think my friend from Minnesota must have been misinformed on that point.

However that fact may be, the appropriation reported here is all that was estimated for. Of course the committee did not increase the amount of the estimates. As to the amount appropriated last year I propose to speak tomorrow. I am disinclined to detain the committee at this late hour.

The Clerk resumed and concluded the reading of the bill.

Mr. KASSON. I move that the committee rise and report the bill.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the Chair, Mr. GARFIELD reported that the Committee of the Whole on the state of the Union, having had under consideration the President's annual message, had come to no resolution thereon; also that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. No. 1039) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1868, had directed him to report the same to the House with sundry amendments.

#### MARY J. DEXTER.

On motion of Mr. DELANO, by unanimous consent, the Committee of Claims was discharged from the further consideration of the petition of Mary J. Dexter for a pension, and the same was referred to the Committee on Invalid Pensions.

#### RETROCESSION OF ALEXANDRIA.

On motion of Mr. INGERSOLL, by unanimous consent, the bill (H. R. No. 932) to repeal an act entitled "An act to retrocede the county of Alexandria in the District of Columbia to the State of Virginia, and for other purposes," was ordered to be printed.

#### GLASS AND PORCELAIN COMPANY.

Mr. RANDALL, of Pennsylvania, by unanimous consent, introduced a bill to incorporate the Potomac Glass and Porcelain Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

Mr. DAWES moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INDIAN APPROPRIATION BILL.

The SPEAKER. The pending question is, Will the House agree to the amendments reported from the Committee of the Whole on

the state of the Union to the bill (H. R. No. 1039) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1868?

Mr. KASSON. I call for the previous question.

Mr. SCOFIELD. I hope that will not be sustained.

On seconding the call for the previous question, there were—ayes 22, noes 20; no quorum voting.

Mr. KASSON. I will not insist on a vote this evening upon seconding the call for the previous question. I move that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and thirty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. ALLISON: The memorial of A. S. Gillet, of Elgin, Iowa, praying Congress to enact a law declaring all dealers in liquor criminals worthy of being punished as such.

Also, the petition of citizens of Mitchell and Allamaker counties, in the State of Iowa, asking for the removal of the five per cent. tax on woolen manufactures.

By Mr. DODGE: A memorial of American residents at Beyroot, Syria, praying that the consul be raised to the position of a consul general.

By Mr. HOOPER, of Utah: A memorial of the Legislative Assembly of the Territory of Utah, praying for the repeal of an act entitled "An act to prevent and punish the practice of polygamy in the Territories of the United States."

Also, a memorial of the Governor and Legislative Assembly of the Territory of Utah, for a donation of town sites in aid of a common school fund.

Also, memorial of the Governor and Legislative Assembly of the Territory of Utah, praying for the repeal of so much of an act as subjects all mailable matter between Kansas and California to letter postage.

Also, a memorial of the Governor and Legislative Assembly of the Territory of Utah, praying for additional clerks in the Legislative Assembly.

By Mr. KASSON: A petition to remove internal revenue tax from woolen manufactures, by manufacturers in Clark county, Iowa; by manufacturers in Decatur county, Iowa; by manufacturers in Madison county, Iowa; by manufacturers in Polk county, Iowa; by manufacturers in Guthrie county, Iowa; by manufacturers in Warren county, Iowa; by manufacturers in Page county, Iowa.

By Mr. PRICE: The petition of citizens and manufacturers of woolen goods in the counties of Cedar, Linn, Scott, and Jackson, asking that a law be passed at the present session of Congress relieving them from the five per cent. tax on said manufactures.

Also, the petition of citizens and manufacturers in the county of Black Hawk, asking that a law be passed at the present session of Congress relieving the manufacturers of woolen goods from the five per cent. tax.

Also, the petition of 60 citizens of Linn county, Iowa, asking that no act be passed curtailing the currency, or compelling a return to specie payments within a limited time, or compelling national banks to redeem in the city of New York.

By Mr. VAN AERNAM: The petition of Lory Waller, Anson Gibbs, Erastus Dickinson, and Jabez Blackman, soldiers of the war of 1812, praying Congress to grant adequate pensions to the surviving soldiers of that war, and to the widows of those who have died.

By Mr. VAN HORN, of Missouri: The petition of Bachman, Tobener & Co., and others, tobacco manufacturers, of Kansas City, Missouri, praying for a change in the tax on cigars.

Also, the petition of citizens of Clay county, Missouri, against a curtailment of the currency.

By Mr. WARD, of New York: The petition of 51 leading citizens of Elmira, New York, in favor of the restoration of commander A. K. Hughes to the active list in the Navy.

By Mr. WILSON, of Pennsylvania: The petition of citizens of Bellefonte, Center county, Pennsylvania, praying Congress to refrain from the passage of any law authorizing the curtailment of the national currency, &c.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 6, 1867.

The House met at twelve o'clock m. Prayer by Rev. ROBERT LAIRD COLLIER, D. D., of Chicago, Illinois.

The Journal of yesterday was read and approved.

#### RECONSTRUCTION.

Mr. MILLER, by unanimous consent, presented the following resolutions; which were

referred to the joint select Committee on Reconstruction, and ordered to be printed:

IN THE HOUSE OF REPRESENTATIVES.  
TUESDAY, January 8, 1867.

Mr. Mann, of Potter, offered the following resolutions; which were twice read, considered, and adopted:

*Resolved*, That as all the legislative power of the national Government is vested in Congress, it is the imperative duty of that body to enact such laws, and provide for the establishment of such governments, in the States lately in rebellion as will secure to every loyal person therein full and complete protection to life, liberty, property, and the enjoyment of equal political rights, to the end that the foundation of such governments may be fixed on principles of eternal justice, which will endure for all time.

*Resolved*, That the Clerk of this House be requested to forward a copy of the above resolution to each of the Senators in Congress and members of the House from the State.

[Extract from the Journal of the House of Representatives of the Commonwealth of Pennsylvania.]

ADIN W. BENEDICT,  
Clerk House of Representatives.

#### COPYRIGHTS.

Mr. HAYES, by unanimous consent, from the joint Committee on the Library, reported back Senate bill No. 491, amendatory of the several acts respecting copyrights, with an amendment.

The first section of the bill provides that every proprietor of a book, pamphlet, map, chart, musical composition, print, engraving, or photograph, for which a copyright shall have been secured, who shall fail to deliver to the Library of Congress at Washington a printed copy of every such book, pamphlet, map, chart, musical composition, print, engraving, or photograph, within one month after publication thereof, shall, for every such default, be subject to a penalty of twenty-five dollars, to be collected at the suit of the Librarian of Congress, as other penalties of like amount are now collected by law.

The second section provides that every such proprietor may transmit any book, pamphlet, map, chart, musical composition, print, engraving, or photograph, for which he may have secured a copyright, to the Librarian of Congress, by mail free of postage, provided the words "copyright matter" be plainly written or printed on the outside of the package containing the same; and it shall be the duty of the several postmasters and deputy postmasters, when such package shall be delivered to them, or any of them, to see that the same is safely forwarded to its destination by mail, without cost or charge to said proprietor.

The amendment of the committee is as follows:

Insert in second section, between lines eight and nine, after the word "postmasters" the words "to give a receipt for the same if requested, and."

The amendment was agreed to.

The bill was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. HAYES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ALLOWANCE FOR TRANSPORTATION, ETC.

Mr. DONNELLY, by unanimous consent, introduced a joint resolution declaratory of the law allowing for transportation, bounty, &c.; which was read a first and second time, and referred to the Committee on Military Affairs.

#### EMPLOYÉS OF THE HOUSE.

Mr. ROLLINS, by unanimous consent, from the Committee on Accounts, reported a bill to equalize the pay of the officers and employés of the House of Representatives and to prohibit the allowance of extra compensation, and for other purposes; which was read a first and second time, ordered to be printed, and recommended.

#### MERCANTILE INSURANCE COMPANY, NEW YORK.

Mr. ALLISON, by unanimous consent, moved that Senate bill No. 302, for the relief of the Mercantile Insurance Company of New York be taken from the Speaker's table.

The motion was agreed to; and the bill was taken up, read a first and second time, referred to the Committee of Claims, and ordered to be printed.

Mr. RANDALL, of Pennsylvania, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BOUNDARY BETWEEN OREGON AND IDAHO.

Mr. HENDERSON, by unanimous consent, introduced a bill directing the Commissioner of the General Land Office to cause the boundary line between the State of Oregon and the Territory of Idaho to be surveyed and suitably marked at the earliest practicable period; which was read a first and second time, and referred, on motion of Mr. BRANDEGEE, to the Committee on the Territories.

Mr. BRANDEGEE moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REMOVAL OF WRECK OFF NEW YORK HARBOR.

Mr. RAYMOND, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be requested to communicate to this House the report of the engineer in relation to the wreck sunk off the entrance of New York harbor, northeast of Sandy Hook light-house.

#### REPORT OF J. ROSS BROWNE.

Mr. HIGBY, by unanimous consent, submitted the following resolution; which was, under the law, referred to the Committee on Printing:

*Resolved*, That ten thousand copies of the report of J. Ross Browne on mineral resources, &c., in addition to those already ordered, be printed for the use of the members of this House; and also that a copy of the rules prepared at the General Land Office to aid in the disposal of the mineral lands under the law for that purpose be added to each copy of said report.

#### J. H. RILEY.

Mr. PRICE, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

*Resolved*, That the sum of \$200 be allowed and paid to J. H. Riley for services rendered by him as clerk to the House Committee on the Pacific Railroad during the first and second sessions of the present Congress.

Mr. PRICE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ALLISON moved to reconsider the several votes on the foregoing bills and resolutions, on which motions were not made to reconsider; and also moved to lay that motion to reconsider on the table.

The latter motion was agreed to.

Mr. SCHENCK called for the regular order of business.

#### INDIAN APPROPRIATION BILL.

The House accordingly resumed the consideration of House bill No. 1039, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1868, reported from the Committee of the Whole last evening with various amendments.

Mr. KASSON. I move the previous question.

Mr. SCOFIELD. I hope the gentleman will allow me to make a motion.

Mr. KASSON. I would like to hear what the motion is before I allow it to be made.

Mr. SCOFIELD. There is a large amount of these appropriations for the maintenance and benefit of the Indians not called for by treaties, and I wish to make a motion to recommit the bill with instructions to strike them all out.

Mr. KASSON. There is a certain amount of appropriations made for purposes not pro-

vided for by treaties, but they are customary appropriations in anticipation of treaties. I have only to assure the gentleman that the Committee on Appropriations have endeavored to make the appropriations as small as possible.

Mr. SCOFIELD. I have no doubt the committee are following precedents in making these appropriations. But here are appropriations introduced in the bill, and almost everybody knows that they are wasteful appropriations that never reach the Indians to any considerable extent, and what little does reach them is rather a damage than a benefit to them. I wish, therefore, to instruct the committee not to follow the bad precedents in this case in making these very large and useless expenditures of the public money.

Mr. KASSON. I agree with the gentleman on the facts of mismanagement, but I do not agree that these appropriations are unnecessary or useless. I hope that the evil of the present administration of Indian affairs may be corrected.

Mr. SCOFIELD. I would inquire of the Chair whether, if the previous question is not seconded, my motion will not be in order?

The SPEAKER. It will.

On seconding the previous question, there were—ayes 25, noes 25; no quorum voting.

The Chair ordered tellers; and appointed Messrs. KASSON and SCOFIELD.

The House divided; and the tellers reported—ayes 53, noes 53.

The SPEAKER. The Chair votes in the affirmative; so the previous question is seconded.

The main question was then ordered.

The question recurred on agreeing to the amendments made by the Committee of the Whole.

Mr. KASSON. I wish to say, touching the point made by the gentleman from Pennsylvania, that the amounts to which he refers are by no means so large as I gathered his impression to be from the statement he made a little while ago. There are amounts not called for by the treaties in the sense of being specially stipulated, but they come under the head of transportation, which cannot be accurately estimated for the reason that the contracts are *in futuro*. The amounts, therefore, can only be determined when the contracts are made and executed. But the transportation is a necessary result of the treaties. It is necessary to give the goods to the Indians, and so it is with the amounts coming under the head of insurance. That covers all the amounts to which I suppose the gentleman refers except those relating to general and incidental expenses of the Indian service, and those are customary and as indispensable as they are customary, although the amounts are necessarily larger than I wish they were.

The amount appropriated by this bill is, in round numbers, \$2,550,000. I stated on a previous occasion that the amounts had grown continuously and very largely with the successive appropriations required for this service. For example, in the year 1829 the appropriations amounted, in round numbers, to \$199,000; in 1839 to \$60,300. The bureau was transferred in 1849 from the War to the Interior Department, which was then organized. The appropriations for that year were a little short of \$1,000,000. In 1861, the year of the beginning of the late war of the rebellion, our Indian appropriations were \$1,522,000; in 1863 they were about the same sum. In 1864 the appropriations arose to over two millions; in 1865 to over two and a quarter millions.

Now, in regard to the appropriations for 1861, that is at the last session of the present Congress, I desire to make a particular statement. Preliminary to that statement I send to the Clerk's desk, and ask to have read, a statement made on that subject by the gentleman from Minnesota, [Mr. WINDOM,] the chairman of the Committee on Indian Affairs. The extract is from the Daily Globe:

The Clerk read as follows:

"The gentleman from Iowa [Mr. KASSON] and the

gentleman from Ohio [Mr. SCHENCK] both oppose this bill and defend the amendment emanating from the Military Committee on the ground of economy. On that point I wish the attention of the House for a few moments. The gentleman from Iowa says that when we look at the fearful increase in the appropriations for Indian affairs it is time that we should pause and ascertain whether some remedy cannot be found for the extravagance of the present system. He says that the expenses have increased within a few years until they now reach nearly four million dollars. The fact, as stated by the Commissioner of Indian Affairs in a letter to the chairman of the Committee of Ways and Means, is that the appropriations in 1866, instead of being \$1,000,000, were \$2,468,050 for the entire Indian service. This included all payments under treaty stipulations and the providing for and taking care of three hundred thousand Indians. Mr. Speaker, this is the alleged extravagance of the Indian department."

Mr. KASSON. Now, sir, the point of fact was made by the chairman of the Committee on Indian Affairs, [Mr. WINDOM,] that the appropriations made in 1866 amounted only to \$2,468,050, and he says his statement is based upon a communication from the Commissioner of Indian Affairs to the Committee of Ways and Means. I do not know what communication he refers to, and I should be glad if he would state it to the House.

Mr. WINDOM. I desire to know of the gentleman from Iowa [Mr. KASSON] if he intends I shall be compelled to answer him from time to time as he proceeds, or whether I shall be allowed an opportunity to reply to him after he concludes his argument. If I am expected to get up and be questioned and be limited as to time for my answer, then I prefer not to answer at all. If I am to have time hereafter to answer I will do so.

Mr. KASSON. I will not press the gentleman. He shall have more time from me than he gave me when he closed the debate on the bill transferring the Indian Bureau to the War Department.

Mr. WINDOM. That means simply no time at all, for he asked me for no time at all, for I had none to give him. But the gentleman had already had twenty minutes or a half an hour; I do not remember how much it was. If the gentleman proposes to show to this House that I have made any incorrect statements, I demand of the House the right to correct him. I have the document before me now; I am willing to give him the authority which I quoted on this point, and on every point. But I am not willing to be called up and examined and be required to answer "yes" or "no" without any opportunity to answer fully. If he will give me time to answer fully I will do so.

Upon this point now, I will state that I read from a document dated December 31, 1866. In the excitement of the debate the other day, I misquoted only in this particular: I stated that it was a letter addressed to the chairman of the Committee of Ways and Means, [Mr. STEVENS.] It was in fact a letter addressed by the Commissioner of Indian Affairs to the Secretary of the Interior; being suggested by a letter addressed to the Commissioner of Indian Affairs by the chairman of the Committee of Ways and Means. That is the authority which I read.

Mr. KASSON. I asked the gentleman for his authority in good faith, because he called in question the accuracy of a statement I had made. I had only the desire to do him justice. I do not want the gentleman to take the floor on a single occasion when he does not wish to take it. I want him to take it when he thinks it necessary to correct any statement he may have made on a former occasion.

I state now distinctly that so far from the statement I made being an overstatement, it was an understatement of the amounts appropriated for the Indian service at the last session of this Congress; and I will proceed to prove it. I hold in my hand the regular book of estimates, containing also the appropriations made by law at the last session of the present Congress. The total amount appropriated there in a single bill amounts to \$3,780,772 82. In addition to that I have to state that earlier in the session, during the first month of the session, there was diverted by a joint resolution

approved December 21, 1865, the sum of \$500,000 more from another fund, for the benefit of the Indians in the southern superintendency.

I have also to say that there were some items in the sundry civil expenses bill which amounted to \$414,000. There was also an appropriation for replacing lost goods amounting to over thirty-nine thousand dollars. There was also appropriated for the Wyandotte and Winnebago Indians over four thousand dollars. There was also for surveying Indian reservations under the provisions of Indian treaties \$50,000. There were also sundry items in the deficiency bill amounting to \$35,000; and then for the Indian tribes of the Upper Missouri and Upper Platte over one hundred and twenty-one thousand dollars, making in all \$4,945,597.09 appropriated for the Indian service at the last session of Congress, falling short by only a few thousand dollars of \$5,000,000.

Hence, when I stated to the House that the amount reached \$4,000,000, I was not accurate in the figures, but it was a want of accuracy below the magnitude of the amount. I did not get it large enough. When the gentleman called me to account for the inaccuracy of that statement it was not only due to myself but due to the House that I should ascertain whether or not I was correct in my statement; and these investigations have been made for the purpose of ascertaining the amount as accurately as possible. I believe there are a few items still omitted from the aggregate which I have now submitted to the House.

Mr. WINDOM. Will the gentleman yield to me for a moment?

Mr. KASSON. Yes, sir.

Mr. WINDOM. I do not rise, Mr. Speaker, as the gentleman very kindly intimated I might, for the purpose of correcting anything I said the other day, for what I then said was correct as I stated it. But I rise for the purpose of giving him my authority. If that authority was not correct, it is not my fault. I stated what it was at the time. And, by the way, the gentleman now states the amount from estimates. Whether the committee on which he acts always report bills for the entire amount estimated I do not know.

Mr. KASSON. I do not state the amount from the estimates, but from the law as passed, which is contained in the book of estimates.

Mr. WINDOM. The authority from which I quoted the other day states:

"Taking the appropriations of 1866 as a general basis for the estimate, the following figures under the three heads last mentioned will be nearly correct:

Fulfillment of treaties.....	\$1,960,000
Salaries of superintendents, agents, and clerks.....	101,450
Transportation and insurance.....	127,368
Interpreters, repairs of buildings, &c., and various contingencies.....	91,700
Interest on trust funds.....	187,532
	<hr/>
	\$2,468,050

This is the aggregate as I stated it the other day. If there is an error it is an error on the part of the Department, not on my part. I quoted my authority at the time.

Mr. KASSON. It will be observed, Mr. Speaker, that I made no charge of willful misstatement against the chairman of the Committee on Indian Affairs. I never make such a charge against any member of this House. The House will bear me testimony that I am thoroughly exempt from any such indecorum. But I do say that the gentleman, before he called in question my statement, should have examined the authority upon which he made the denial; because if there be one thing in which I take pride in connection with my action in this House it is the fact that never is a statement made by me calculated to mislead the House. It is especially my duty, as well as my pleasure, to manifest this characteristic when I represent the Committee on Appropriations. I have taken pains to exhibit this matter correctly; and I am very glad that I am able to do so, for it at least shows that if the state-

ment of the Commissioner of Indian Affairs is now accurately presented to the House, then that bureau itself misstates an important fact having a bearing upon the action already taken by the House, manifesting its distrust in the administration of that bureau.

Now, let me say, touching the present head of the Indian Bureau, Colonel Boggy, that I have no imputation to make upon him from any facts which have come to my knowledge. I have always found that the French creoles, from their acquaintance with the disposition and habits of the Indians, are peculiarly well qualified to manage them successfully. I have no quarrel with any officer of the Interior Department. I wish it understood that every argument I have advanced in this House has been based on my conviction that the public interest requires the change of jurisdiction which I have advocated, a change in the administrative system, in order to secure greater integrity and efficiency, and to get rid of the double-headed system which has brought so many evils on the country.

Why, sir, the chairman of the Committee on Indian Affairs gave the House to understand that this cry about outrages committed by the Indians and their massacres is all a mere matter of alarm. So far from it, all the papers that I have taken up for a week past from the West, and especially the Chicago papers, which collect all the news from the Territories, are filled with accounts of Indian outrages and massacres, and of the aggregation of various tribes for the purpose of a general war. We can do nothing without troops there. When war comes we must have troops, and then the expenses spoken of by the gentleman from Minnesota [Mr. WINDOM] occur. It is in this manner that these military expenses have grown up.

The gentleman from Minnesota ridicules the idea of intrusting the affairs of the Indian Bureau to the War Department, and he stated yesterday that the Indians on the Bosque Redondo reservation had cost \$1,500,000 for one year. If I misunderstood him I ask him to correct me now.

Mr. WINDOM. The gentleman did not misunderstand me, and if he wants my authority for the statement I will give it to him.

Mr. KASSON. I do not, and I shall now proceed to give what authority I have for stating that the gentleman is greatly in error in that statement. I find in the report made by the joint special committee which went over the plains to examine into Indian affairs this statement:

OFFICE COMMISSARY GENERAL OF SUBSISTENCE,  
WASHINGTON CITY, December 28, 1865.

SIR: I have the honor to acknowledge the receipt of your communication of the 23d instant, and in reply respectfully inform you that the expense of subsisting the Navajoes and Apaches at Bosque Redondo reservation from March 1, 1864, to October 1, 1865, (eighteen months), was about \$1,114,981.70.

I have the honor to be, very respectfully, your obedient servant,  
A. E. SHIRAS,

Assistant Commissary General Subsistence.

Hon. J. R. DOOLITTLE, Chairman of Joint Committee to Investigate Indian Affairs, United States Senate.

That shows that for a period of a year and a half, so far from the expenditure being at the rate of \$1,500,000 a year, the expenditure for the whole of eighteen months was, in round numbers, only \$1,100,000 for the subsistence of the Indians on the Bosque Redondo reservation.

Sir, these Navajoes Indians had for years and years, not the present generation alone, but the generation before them, been making war continually on the whites. In order to stop it the general in command of that military department employed a very good assistant, who knew the habits of these Indians. They occupied fastnesses in the cañons, where they could not be successfully pursued. There are no more inaccessible fastnesses in New Mexico than those which these bands occupied. The general called to his aid Kit Carson, and through his genius and tact, aided by the troops, they have been able to collect from time to time about nine thousand men, women, and children of this tribe and remov-

ing them to the Bosque Redondo reservation. They have been collecting them for the past two or three years. They have made these Indians work upon the reservation. They have irrigated it by digging ditches and canals through it. They have got it under cultivation to a considerable extent. All these expenses have been extraordinary; but at last they have got them to a point now where they think they can be safely turned over to the civil management, instead of guarding them by a large number of troops, compelling them to work, and keeping them from committing outrages as they have done hitherto. Consequently this year the appropriation is only for \$100,000.

I make this statement not only to correct errors in previous statements made on this floor, but also to answer the question put to me yesterday by the gentleman from Pennsylvania, [Mr. SCOFIELD.]

Now, sir, so much for the Bosque Redondo business; so much for the thousands of Indians taken captive in war with great difficulty and brought to a condition of semi-civilization by the military.

Mr. WINDOM. Will the gentleman yield to me now, or when he gets through?

Mr. KASSON. Now, sir.

Mr. WINDOM. The gentleman quotes a letter of General Shiras, assistant commissary general, making a certain statement of the amount expended to subsist these Indians for eighteen months. The gentleman's error arises from the fact that the commissary department does not estimate anything for transportation. According to the authority which I read the other day, and now hold in my hand, the amount for transportation was greater than the amount for subsistence. I read from the report of the Commissioner of Indian Affairs, dated May 1, 1866:

"The report of General Carleton shows that the cost of subsistence furnished in 1865, after deducting produce raised on the reservation, (valued at \$73,246.93,) was \$694,226.27. The cost of transporting this I have been unable to ascertain; but as military supplies for New Mexico are purchased in St. Louis and taken by land, the land transportation from Leavenworth alone would amount (allowing two pounds per day to each person subsisted) to about \$800,000. Taking into consideration the cost of transportation from St. Louis to Leavenworth, the cost of cartage and other incidental expenses, the cost of subsisting these Indians during the year 1865 could not have been less than \$1,500,000. General Eaton estimates that the cost of subsistence during the current fiscal year will be \$638,848.73. This, of course, does not include transportation, and is based upon the supposition that the number of Indians to be subsisted will be six thousand. The average number subsisted during the last calendar year, as reported by General Carleton, was seven thousand nine hundred and nine. General Eaton gives no reason for supposing that this number will be reduced to six thousand, but says it is probable."

I will call the gentleman's attention to a discrepancy between himself and one of his military authorities. He estimates the Indians at nine thousand and General Eaton at six thousand. As I have shown by this report it has cost about one million five hundred thousand dollars for their support, including transportation. I submit the question of authority to the House. The gentleman has simply made a statement showing the subsistence, and omitting, as I understand it, transportation, which is the larger sum of the two.

Now, as to one other statement, I am informed by the Superintendent of Indian Affairs of New Mexico, he has an offer from responsible persons in that Territory, to feed those Indians at twenty to twenty-two cents per head, while it has cost the War Department twenty-nine and one half cents per head; and that this could have been done at any time.

Furthermore, I wish to call the gentleman's attention to the peonage at this reservation. I have authority in this document for stating that by order of the commanding officer, these Indians were to be returned to their "masters," and this after the constitutional amendment abolishing slavery had been adopted.

Mr. KASSON. I decline to yield further.

Mr. WINDOM. This is a question of the slavery of these Indians:



Mr. KASSON. That is a side question from the Indian appropriation bill. About that fact I have no information, nor has the committee, and for that reason it should not be sprung upon us at this time.

Mr. WINDOM. I would be glad to give the gentleman information on that point.

Mr. KASSON. The gentleman says I differ with my authority in regard to the number of these Indians. Let me say, General Carlton, who commands that department, on page 312 of the same report of the Indian commissioner uses this language:

HEADQUARTERS DEPARTMENT OF NEW MEXICO, SANTA FE, NEW MEXICO, April 24, 1865.

GENERAL: I returned yesterday from the Bosque Redondo. It will be impossible to organize into bands and systematically direct the labors of the nine thousand Indians we have at that point, unless the lands are properly surveyed. I have written two letters to the Secretary of the Interior on the subject.

There is my authority for referring to nine thousand Indians as being there at the date of this communication, which is April 24, 1865. The military officer, General Carleton, commanding in that district, puts the number at nine thousand.

It will be observed that the gentleman's estimate of \$1,700,000 does not rest upon actual figures. So far as transportation is concerned it is merely a statement as to what they suppose the transportation of subsistence would cost, while the fact is, as I learned this morning at the subsistence department, that the habit has been to give them one pound of wheat and one pound of beef or some kind of carcass as their ration, and consequently a large part of these supplies are obtained in the vicinity and without transportation at all; for one advantage of gathering these Indians at Bosque Redondo reservation was to get them in the vicinity of settlements where supplies could be more cheaply obtained. Consequently the large estimate as to the cost of transportation falls to the ground as a mere conjecture of the Indian Bureau, for the purpose of raising an issue against the economy of the War Department.

Mr. WINDOM. Will the gentleman yield to me for a question?

Mr. KASSON. I will.

Mr. WINDOM. As the gentleman has read the statement of General Shiras, the commissary general, giving the cost of subsistence, I desire to ask if that includes transportation.

Mr. KASSON. I suppose every member knows what subsistence means. The statement I have read contains all I know except what I have learned at the subsistence department, as I have just stated.

Mr. WINDOM. Will the gentleman answer my question or not?

Mr. KASSON. I have already stated that I have no other information on the subject.

Mr. WINDOM. I understand the gentleman to say he does not know whether it includes transportation or not. Everybody else knows that it does not.

Mr. KASSON. If there is no other point upon which the gentleman desires information I will yield to the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. WINDOM. Not now. I have failed to obtain much on that point from the gentleman.

Mr. MAYNARD. When this bill was up yesterday I put an inquiry to the gentleman from Iowa which he answered very fully and satisfactorily. On further examination of the bill I find it is composed of two parts: one consists of appropriations to meet the demands of existing treaties; but there is another, embracing a very large portion of this bill, which goes to general intercourse with the Indians, making in the aggregate something more than \$1,000,000. Now, sir, by a very decided vote of this House the other day it expressed the opinion that the management of the Indians should be transferred from the Interior Department to the War Department. Should the Senate concur in the action of the House that change will be made, and the act will go into

effect at the commencement of the next fiscal year. The existing appropriation for carrying through the affairs of the Indian Bureau for the present year are made. There is no necessity for any further appropriation until the 1st of July next. If in the mean time the law should be changed and the Indian affairs should be placed under the control of the War Department, it would be better to have these appropriations made upon the basis of estimates furnished by the War Department rather than estimates furnished by the Interior Department. The next Congress assembles on the 5th of March, proximo. It will have ample time to pass an Indian appropriation bill before the commencement of the next fiscal year; and I submit to the gentleman and to the House whether we had not better, as a matter of prudence, suspend any action upon this bill during the present session, and see whether that change in the management of the bureau is made. If the proposed change in the law is made we may expect a radical improvement in the management of the affairs, and the next Congress will have full opportunity to provide for the wants of the bureau; whereas if we go on and make the appropriations now under present estimates and the law is changed, the work will all have to be done over again.

Mr. KASSON. As I stated yesterday, this bill is framed in the usual manner and for the usual object of our annual Indian appropriation. If the bill which has passed this House transferring the jurisdiction of the Indian Bureau shall pass the Senate prior to the passage of this bill, then in the Senate its provisions can be modified to meet the emergency if necessary, and when it comes back to the House we can concur in the amendments of the Senate. If not, the only effect, as the matter now stands, would be that the appropriations for compensation of civil officers and employés would lapse, and nothing would be taken out of the Treasury. If the bill which has passed the House transferring the entire jurisdiction over the Indians from the Interior Department to the War Department should become a law, my impression is that no part of this bill would need to be changed. It would only be a lapse of all the appropriations not called for under the new system.

I think it important that we should pass this bill at this time according to custom in order that there may be no failure. There is still some doubt as to how long Congress will remain in session, and it is desirable to have the business disposed of as usual.

I will now pass to one other fact touching the Navajos at Bosque Redondo. I find from a report made by the Commissary General of Subsistence to the Secretary of War, that for six months of the last calendar year, the amount expended by the commissary department, not alone for the subsistence of the Indians on the Bosque Redondo reservation, but for all the Indians at numerous posts and places, was \$437,914 49. This was the expenditure, not for the Bosque Redondo reservation alone, but for fifty-two posts and reservations. I mention this as an important fact in order that the House may not be misled by any exaggerated reports from anybody in or out of the Indian Bureau touching these expenditures.

Now, there remains but a single point more in regard to which I will detain the House.

Mr. SCOTFIELD. Will the gentleman allow me three minutes before he goes on?

Mr. KASSON. I will now if you wish it.

Mr. SCOTFIELD. I have made the effort to recommit this bill, not from any hostility to its general purposes. I know very well that this large appropriation must be made, useless almost as it is and wasted as large portions of it always are. But there are appropriations under the head of "miscellaneous" which the gentleman from Tennessee [Mr. MAYNARD] says he thinks amount to a million.

Mr. KASSON. That is a mistake.

Mr. SCOTFIELD. A portion of these appropriations I think ought to be stricken out; and

I wish it to be recommended to the committee for that purpose.

Let me call the gentleman's attention to one or two items. Here is one:

For defraying the expenses of the removal and subsistence of Indians in Oregon and Washington Territory, (not parties to any treaty,) and for pay of necessary employés, \$50,000.

There is no treaty in that case. We have made no arrangement to remove these Indians from their present location; there is no contract, and the House is not advised that there is any necessity for it; and yet we are asked to appropriate no less than \$50,000.

Here is the next item:

Navajo Indians in New Mexico:

For subsistence for the Navajo Indians, and for the purchase of sheep, seeds, agricultural implements, and other articles necessary for breaking the ground on the reservation upon the Pecos river, \$100,000.

Now, of that \$100,000 everybody who has had anything to do with these Indian transactions knows that \$5,000 will never reach the Indians. And of this million of dollars, if it is a million in all, not five per cent. will ever fall into the hands of the red-skins.

Now, I submit that the vote ordering the main question to be now put should be reconsidered, and the House should have the opportunity of saying whether they will not send this bill back to the Committee on Appropriations with instructions to strike out these worthless and corrupting appropriations.

Mr. KASSON. I have already intimated to the gentleman from Pennsylvania, [Mr. SCOTFIELD,] who knows very well how heartily I sympathize with him in the desire to avoid the mismanagement of this fund, that it is impossible for us to get along without appropriations of this kind. We cannot refuse these appropriations without great danger to the interests of the whites in those Territories, by permitting and leaving the Indians to wander abroad and commit outrages upon the whites from time to time, as they always do under such circumstances. There are always stray bands of twenty or thirty or one hundred or more each, floating and roaming around through the Indian Territory, committing ravages upon the bordering white settlements. And out of this fund the expenses of collecting these Indians together, feeding them in part, providing them with agricultural implements, &c., are paid, in order to remove them from the vicinity of the whites and locate them upon some reservation permanently or temporarily selected for that purpose.

Now the difficulty is that if we refuse these appropriations, and do not allow this to be done, we will soon find ourselves embarked in a war created by the difficulties occurring between the whites and Indians; and then will arise expenses to the extent of hundreds of thousands and perhaps millions of dollars from that war.

Now I should be as glad as the gentleman from Pennsylvania [Mr. SCOTFIELD] himself to strike out from this bill every such appropriation if I did not know from my acquaintance with Indian affairs that it would expose us to a war from the contact of the neglected Indians with the whites. The gentleman on my right from Oregon [Mr. HENDERSON] no doubt understands the condition of Indian affairs in his State, and I presume he will concur in the statement which I have made. If I am in error he will correct me, as he is familiar with the condition of affairs in his own State.

Mr. HENDERSON. The gentleman from Iowa [Mr. KASSON] is perfectly correct in his statement. The eastern portion of the State of Oregon is entirely overrun by fractions of tribes, who are engaged in robbing, murdering, and generally committing ravages upon the white settlements. They are so small bands that no treaties ever have been or ever will be made with them by the Government, until there is an expenditure of a considerable sum of money to gather them together and locate them. That is essentially necessary at the

present time for the welfare both of the Indians and the whites.

Mr. KASSON. I have but one or two other points to make. The gentleman from Tennessee [Mr. MAYNARD] will find upon a careful examination of the bill that he largely over-estimates the amount of these indefinite appropriations. Whatever they are I think I have shown that they are in the main necessary for the preservation of peace between the whites and the Indians.

Now, in regard to the Indian wars which are said to have cost the Government so many million dollars. Two or three years ago there came down upon the Platte route across the plains, the main route of communication with the Pacific, sundry stray bands of hostile Indians, who at once entered upon the work of robbery and murder, commencing, I believe, at Plum creek. They did not come there to avoid the military or to find them, but as they always do to rob and pillage and murder, to sacrifice men, women, and children, leaving them there weltering in their blood, a prey to the wolves and coyotes of the plains. That was the first notice which the whites had of those "harmless people," and of the disposition they entertained toward the whites. They also came down a few years ago into the southern part of the State of Minnesota, and there and in the northern part of the State of Iowa they committed one of those frightful massacres that make the blood of all civilized men run cold. And so they continually act. And when gentlemen rise here and attempt to relieve these Indians from this charge and represent them as a "harmless people," a people that the military are provoking to war in order to spend \$30,000,000 of money, then I submit that these gentlemen know nothing at all of the habits of the Indians on the plains.

How was it with the late massacre at Fort Phil. Kearney? I have before me a list of the officers and soldiers killed there. A party was sent out to obtain wood to supply the fort; a small number of the Indians waylaid them, and after they had followed unwisely into one of the gorges they were surrounded by overwhelming numbers of devils incarnate, who brutally murdered every one of them, officers and soldiers. The slaughtered men represented some ten States. I find upon this list names from Massachusetts, New York, Indiana, Ohio, Pennsylvania—several from the city of Philadelphia—and from other States, who were murdered without any provocation whatever by these Indians.

Now, if it be possible by accurate statements of the character of these Indians in warfare, I desire to correct this innocent idea that they are a harmless people, and that simply by sending a missionary or a civil messenger to them they would bow their heads in obedience to the doctrines of Christianity, and accept the laws of war as known and practiced among civilized nations.

The mass of them, both the chiefs and the members of the tribes, are men who know no law but the law of violence. There are a few chiefs who are friendly to the whites. One of them has recently come into a fort and has notified General Sherman, who knows him well, that there is now danger of a universal and sweeping war; that we are upon the very threshold of such a war. The newspapers contain statements that some twelve thousand Indians have already taken the war-path; and this chief says that, so soon as the season opens, they will come down upon all the routes used by the whites across the country.

I hold, sir, that there can be no security against these depredations and wars except by establishing a military police over the whole Indian country; and when an Indian tribe observes its treaty let its stipulations be fulfilled; when it violates the treaty, abolish that treaty. Let it be distinctly understood that so long as there is peace between them and the whites so long and no longer shall they receive the allowances which may be voted to them by Congress.

Sir, the whole western newspaper press has been for a long period of time insisting upon the necessity of a radical and vital change in our system of dealings with the Indians. Every mail brings me papers urging such a change. I know the feeling of western men, and I know that they put no confidence whatever in the administrative system of the Indian Bureau. Why, sir, a year ago last fall, when I was on the plains, one of the military columns—so very expensive as they are stated to be and are—was in pursuit of the Indians, when the civil emissaries of the Government came out there and stopped the column just before it had reached the point where it was to strike the blow. They said, "Fight these Indians no more: let us have a talk with them;" and Colonel Leavenworth, an accomplished man, was sent along with others to make a treaty with them. In the same way treaties were made elsewhere; and the effect of those treaties was simply, as General Pope predicted at the time, that the Indians obtained new supplies with which to make a new war upon the whites; and they are now nearly all on the war-path. The Arapahoes, the Apaches, the Cheyennes, and several other bands of Sioux are threatening to destroy all the white settlements, and to render unsafe for travel all our routes across the plains.

As a gentleman near me reminds me, powder was recently actually furnished to these Indians by agents or traders. The Indian chief to whom I have referred declared that not only the chiefs but members of the tribes had been supplied with from one to three revolvers each, and were perfectly ready to make war. The Indian Bureau has allowed powder to be served out to them; and they have obtained arms from the traders, either with or without the consent of the Indian Bureau. Provided with all these instrumentalities, the Indians are sweeping down in thousands for the destruction of the whites, both civilians and troops.

Mr. THAYER. I ask the gentleman to yield to me for a moment.

Mr. KASSON. I will do so.

Mr. THAYER. It seems to me that the gentleman, in his eloquent peroration, has made the best possible argument against his bill. If Indian wars and Indian atrocities are to be prevented by squandering millions of money upon Indian agents, I desire to ask why this practice, which has so long obtained, has not prevented Indian wars and Indian outrages heretofore? If there is anything in the gentleman's argument, why has not this practice heretofore produced the results which he contends should logically be its consequences?

Now, sir, so far as regards such appropriations in this bill as have in view the carrying out of existing treaties, those appropriations must be made. We must abide by the treaties we have made. But so far as regards the immense sums proposed to be appropriated for other purposes—immense sums which are thrown to these savages to prevent the atrocities which the gentleman has so eloquently described—the past experience of the Government shows that this method of treatment is unavailing to prevent the outrages which are annually perpetrated by these savages. I say, therefore, that the proposition of my colleague [Mr. SCOFIELD] has much in it deserving the attentive consideration of this House, and that those portions of the bill to which I have adverted, having in view the appropriation of immense sums not required for the fulfillment of existing treaties, should, in my judgment, be stricken from the bill. I hope the House will yet give my colleague an opportunity to make the motion he has indicated.

Mr. KASSON. I wish to reserve time to answer questions put to me.

The SPEAKER. Except by unanimous consent, when the gentleman's hour expires, he cannot be allowed to proceed.

Mr. KASSON. I wish to answer the suggestion made by the gentleman from Pennsylvania. There are no such immense sums for general purposes appropriated by this bill as

he suggests. Nearly the entire bill is to carry out existing treaty stipulations. We could not discriminate between those treaties broken by the Indians and those that are not. We have added at the conclusion of the bill the following, which guards that subject for the first time:

SEC. 2. And be it further enacted, That no moneys or annuities stipulated by any treaty with an Indian tribe for which appropriations are herein made, or for which appropriations shall hereafter be made, shall be expended for, or paid, or delivered to any tribe which, since the next preceding payment under such treaty, shall have engaged in hostilities against the United States, or against its citizens peacefully and lawfully sojourning or traveling within its jurisdiction at the time of such hostilities; nor in such case shall such stipulated payments or deliveries be resumed until new appropriations shall have been made therefor by Congress; and it shall be the duty of the Commissioner of Indian Affairs to report to Congress, at each session, any case of hostilities, by any tribe with which the United States has treaty stipulations, which shall have occurred since his next preceding report.

Secondly, we must have some appropriations which do not touch the tribes now making war, nor those with whom we have treaties; but only to enable us to carry out existing arrangements for Indians collected, or to be collected, under civil control.

Thirdly. The military department must have some funds, so that when they capture Indians they may, as they will have to subsist them upon reservations or elsewhere, just as they have been subsisted on the reservation at Bosque Redondo under restraint. These Indians have to be subsisted on Army rations or from special funds or they would be starved. That is all I have to say on that.

Mr. BROMWELL. I would ask the gentleman from Iowa whether if this provides for withholding treaty money from tribes which have broken treaties, if that will not lead to the committing of savage atrocities by them as well as withholding appropriations not provided for by treaty, of which he has spoken?

Mr. KASSON. It of course provides for fulfilling our treaty stipulations.

Mr. WINDOM. The gentleman says I have referred to these as a harmless people. I believe I have never made any such reference. I believe there is no member of this House who better knows how far they are from harmless. The terrible experience of my own constituents proves them much more nearly allied to demons than to angels.

I am also charged by the gentleman with championing the present Indian system. That is not my position. I introduced a bill intended to correct the evils complained of in that system, and appealed to the House to pass it to prevent the evils shown to exist also under military superintendency.

I referred to the military not for the purpose of casting any reflection, but merely to show we are not more secure under them than under civil management.

So far as these large appropriations are concerned, I desire to say that if the Indians shall be transferred to the War Department you will appropriate twenty, thirty, or a hundred millions for the military service and you will never hear of it again. Three or four millions per annum will be squandered in the Indian service and no one will ever think of asking any questions, nor of looking into the vast maelstrom of military expenditure; just as no one would ever have known of the reckless extravagance in New Mexico if this investigation had not taken place. For the fact is that the appropriations for the military service are so enormous that a few millions are easily stolen without attracting attention. The Indian service will afford a rich field for military speculations if the transfer shall be made.

Mr. KASSON. If the bill passed the other day becomes a law, and the jurisdiction of Indian affairs be transferred to the War Department, we will still have an Indian appropriation bill and examination into all Indian matters by the able committee at the head of which is the gentleman from Minnesota.

The great evil now is that we have a double-headed system in which one branch of the

service charges the responsibility on the other. I understand that the instance in reference to which we hear so much and touching the origin of which the dispute has never been settled, the killing of the Cheyennes was by volunteer soldiers with volunteer officers, and not an officer or soldier of the regular Army among them. I ask for the question.

Mr. THAYER. I move to reconsider the vote by which the main question was ordered.

The House divided; and there were—ayes 45, noes 42; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. KASSON and Mr. THAYER.

The House again divided; and the tellers reported—ayes seventy-one, noes not counted.

So the vote ordering the pending question was reconsidered.

The question recurred, Shall the main question be now put? and being put it was disagreed to.

Mr. SCOTFIELD. I move to recommit the bill to the Committee on Appropriations, with instructions to strike out all appropriations not required by treaty stipulations, or not necessary to pay Indian agents, &c., under the law.

Mr. MAYNARD. I hope the gentleman will modify his motion so that the bill shall be recommitted with instructions to report back the bill with sums necessary to carry on existing treaty stipulations, until it is decided whether the bill passed the other day shall become a law.

Mr. SCOTFIELD. I agree to that.

Mr. KASSON. There must be some appropriations for Indians on reservations like those at Bosque Redondo, which cannot sustain themselves and must be saved from starvation by rations doled out to them.

Mr. SCOTFIELD. I do not well see how I can so frame it as to include what the gentleman suggests.

Mr. KASSON. If the gentleman will make his motion with instructions to report a bill excluding all indefinite appropriations not necessary to carry out treaty stipulations or to maintain Indians now in the custody of the United States it will come, perhaps, as near to what he desires as is practicable.

Mr. SCOTFIELD. I am disposed to accept that modification. But I do not know that it will cover all these appropriations to which I object.

Mr. KASSON. The objection made by the gentleman shows that any modification will fail of accomplishing entirely his purpose. This will cover much more than it is safe to strike out. It will strike out a portion of the expenses under the head of general incidental expenses, but it will enable us to take care of those Indians over whom we have control, those just gathered on the reservations.

Mr. SCOTFIELD. I will accept the modification omitting the word "indefinite."

Mr. KASSON. I will leave the gentleman to fix it for himself; but I confess that I doubt whether he can fix it in a practicable way.

The motion of Mr. SCOTFIELD, as modified, was agreed to; and the bill was accordingly recommitted.

Mr. SCOTFIELD moved to reconsider the vote by which the bill was recommitted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CONGRESSIONAL GLOBE.

Mr. LAWRENCE, of Ohio. I ask unanimous consent to offer the following resolution for reference to the Committee on Printing:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled.* That the publishers of the Congressional Globe shall be, and are, directed and required to so arrange the Index to the volume of the Congressional Globe heretofore to be published that it shall give the number and title of every bill and resolution introduced into Congress, with a reference to the pages showing the proceedings thereon. Also, that said publishers be, and are, directed to insert in one of the volumes of the Globe for each session a plan of the Senate and House of Representatives, showing the seats occupied by the members respectively, and a list of the members and officers of the Senate and House of Repre-

sentatives, with the post office address and occupation of such of them as may furnish the same to said publishers.

Mr. SPALDING objected.

#### CONSTITUTIONAL AMENDMENT.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit a report from the Secretary of State, in answer to a resolution of the House of Representatives of yesterday, making inquiry as to the States which have ratified the amendment to the Constitution proposed by the Thirty-Ninth Congress.

ANDREW JOHNSON.

WASHINGTON, February 5, 1866.

DEPARTMENT OF STATE,

WASHINGTON, February 5, 1867.

The Secretary of State having received a resolution of the House of Representatives of the 4th of February, 1867, directing him to report to that House what States now represented in Congress have ratified the amendment to the Constitution proposed by the Thirty-Ninth Congress, has the honor to report to the President that authentic evidence of such ratification has been received at this Department from the following-named States: Connecticut, Tennessee, New Jersey, Oregon, Vermont, West Virginia, Kansas, and Missouri.

A printed copy of a joint resolution ratifying the said amendment, bearing the printed names of the Speaker of the House of Representatives and President of the Senate of the State of New Hampshire, followed by the words "approved July 7, 1866," the printed name of the Governor of said State, and "a true copy, attested Walter Harriman, Secretary of State," has also been received at this Department. Respectfully submitted.

WILLIAM H. SEWARD.

*To the President.*

On motion of Mr. BINGHAM, the communication was laid on the table, and ordered to be printed.

PENTWATER AND PERE MARQUETTE HARBORS.

The SPEAKER also laid before the House a communication from the Secretary of War, in answer to a resolution of the House of February 1, 1867, transmitting maps of the harbors of Pentwater and Pere Marquette, supplemental to his report of the 2d instant; which was ordered to be printed and referred to the Committee on Commerce.

#### IMPROVEMENT OF THE MISSISSIPPI.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in answer to resolution of the House of January 25, 1867, the report of the chief engineer, accompanying General Wilson's report on the survey and improvement of the Mississippi river; which was referred to the Committee on Commerce, and ordered to be printed.

#### SOUTHERN SUPERINTENDENCY.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, communicating the accounts of the superintendent and agents of the southern superintendency, in compliance with the act of March 5, 1865; which was referred to the Committee on Indian Affairs, and ordered to be printed.

The SPEAKER then proceeded, as the regular order of business, to call the committees for reports, resuming the call where it was last suspended with the Committee on Military Affairs.

#### CLAIMS FOR HORSES.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the letter from the Secretary of War in relation to claims for horses, including the letter from the acting quartermaster general on the same subject, no further legislation being needed on the subject; and the same was laid on the table.

#### ARMY SUPPLIES.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of a communication from the quartermaster general in relation to a plan for settling the claims against the Government for supplies taken by the Army; and the same was referred to the Committee of Claims.

#### THE LATE WAR.

Mr. SCHENCK. I am instructed by the committee to report back a resolution providing for the publication of a work illustrative of the late war, together with the correspondence of the War Department in relation to the same; and I am instructed by the committee to say that they find such a work would be attended with enormous expense. I move that the committee be discharged from the further consideration of the resolution, and that it be laid on the table.

The motion was agreed to.

#### MILITARY PEACE ESTABLISHMENT.

Mr. SCHENCK also, from the Committee on Military Affairs, reported back, with the recommendation that it do not pass, bill of the House No. 895, to amend an act entitled "An act to increase and fix the military peace establishment of the United States," approved July 28, 1866; and the same was laid on the table.

#### ARMY RATIONS.

Mr. SCHENCK also, from the same committee, reported back, with the recommendation that it do not pass, bill of the House No. 898, to place all officers of the Army on the same footing therein as to the allowance of extra rations as officers of the volunteer service; which was laid on the table.

#### VOLUNTEER SERVICE.

Mr. SCHENCK also, from the same committee, reported a bill declaring and fixing the rights of volunteers as a part of the Army; which was read a first and second time.

The bill provides that in computing the length of service of any officer of the Army, in order to determine what allowance and payment of additional and longevity rations he is entitled to, and also in fixing the relative rank to be given to an officer, there shall be taken into the account and credited to such officer whatever time he may have actually served, whether continuously or at different times, as a commissioned officer of the United States, either in the regular Army or since 19th April, 1861, in the volunteer service.

The bill further provides that in all matters relating to pay, allowances, rank, duties, privileges, and rights of officers and soldiers of the Army of the United States, the same rules and regulations shall apply, without distinction, for such time as they may be or have been in the service, alike to those who belong permanently to that service and to those who as volunteers have been in the service.

The bill also provides that nothing therein contained shall be construed as affecting or in any way relating to the militia of the several States when called into the service of the United States.

Mr. SCHENCK. I propose in a very few words to explain to the House the object of this bill: and then, unless there are members who desire to make inquiries of me, I will call the previous question.

There prevails in what is called the regular Army an idea that volunteers are not a part of the Army of the United States; the main object of this bill is to correct that idea. In all respects volunteers have been called throughout the late war by those who represented the regular Army the "militia." Now volunteers are not militia; the militia are State organizations; and when they are called into the service of the United States they go bodily into that service with all their State organizations complete. The State militia, by regiments, by brigades, and by divisions, are simply called into the service of the United States, and they cooperate with the Army of the United States. Volunteer soldiers, however, although obtained for limited periods of time, are yet obtained under the laws of the United States. All drafts, all enlistments, all that relates to volunteers, all that is done with them when they are once raised and are constituted a part of the military forces of the Government, is in relation to them as soldiers of the United States.

There is but one exception, indeed, from



which any one might infer anything else. During the recent war the commissions of all regimental and company officers of volunteers were granted by the Governors of the several States from which they came; yet those Governors of States in doing this only acted as the agents of the Government of the United States.

The second section of this bill provides that in all things relating to their privileges, rights, &c., the rules and regulations of the service shall apply without distinction for such time as they may be or have been in the service, alike to those who belong permanently to that service and to those who, as volunteers, may be or have been mustered into the military service under the laws of the United States for a limited period. But nothing in this act is to be construed as relating in any manner to the militia of the several States when called into the service of the United States. Then there is a specific provision contained in the other section of the bill: that for the purpose of computing the time for which is allowed the longevity ration, or the additional ration for every five years of service, when officers are appointed in what is called the regular Army, the permanent Army of the country, there shall be computed whatever time they may have served under a volunteer commission. That is, when the longevity ration is granted to an officer now in the Army of the United States, his length of service in the Army shall not be computed simply from the time he was appointed in the regular Army, but he shall have allowances made to him also for that period of time which he passed in the volunteer service.

Again, it is provided that in fixing the relative rank of officers of the same grade and of the same date of appointment or commission there shall be taken into account the time they served in the volunteer service. This provision is made necessary from this fact: that in reorganizing the Army and in extending it a great number of original vacancies have been filled. In filling those vacancies it has been provided that a certain proportion of the appointments shall be taken from those who have served in the volunteers and a certain other proportion taken from the regular Army. Now it turns out in practice that this course is pursued; a number of officers are appointed or commissioned as of the same date, and it becomes necessary to determine which of them shall have relative rank above the other. The present regulation requires that in order to fix their relative rank an account shall be taken of any previous service in the Army before they were thus appointed. If a man has been in the regular Army for a year, or for six months, or for three months, or for even one month, he is credited with that year or six months or three months or one month of service, because they say he has been for that time in the Army and must be put in relative rank above others of the same grade who have not served so long in the regular Army.

Mr. SPALDING. Will the gentleman yield to me for a moment?

Mr. SCHENCK. I will yield for a question.

Mr. SPALDING. I desire to make but a single remark. I have in my mind the case of a young man who served four years in the volunteers, and afterward served a year in the regular Army. He was an orderly sergeant, and his officers recommended him for a commission, but he could not obtain it because he had not served two years in the regular Army.

Mr. SCHENCK. I was just going to state such a case by way of illustration. Under the present system a man may have been in the volunteer service and may have fought through the whole war against the rebels, yet in the regular Army he is put below a captain who has held the position for only a month, upon the ground that he has never been in the Army at all. By this bill we propose that time spent in the volunteer service shall be counted as time served in the Army. This is the whole of the bill. With this explanation, unless some gentleman desires further information, I will call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LONGEVITY RATION.

Mr. SCHENCK. The Committee on Military Affairs, to whom were referred a petition of certain officers of the United States Army praying that officers on the retired list may be allowed longevity rations, and a petition of Brevet Major General L. Thomas, on the same subject, have directed me to report them back, accompanied by a bill, of which we recommend the passage, entitled "An act to extend to general officers and officers on the retired list the benefit of the additional ration for every five years' service."

The bill was read a first and second time. It provides that section fifteen of the act to increase the present military establishment of the United States, and for other purposes, approved July 5, 1838, be amended so that general officers shall not hereafter be excluded from receiving the additional ration for every five years' service. It is further provided that officers on the retired list of the Army shall have the same allowance of additional rations for every five years' service as officers in active service.

Mr. SCHENCK. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ASYLUM FOR DISABLED SOLDIERS.

Mr. SCHENCK also, from the Committee on Military Affairs, reported a bill to amend the act establishing the National Asylum for Disabled Volunteer Soldiers; which was read a first and second time.

The bill provides that, the act named in the title be amended so that in case any manager selected by the Senate and House of Representatives who may have been or may be afterward, and during his term of service as manager, elected a member of Congress, he shall not for that reason be ineligible to hold the place of a member of the board of managers, but may continue to serve on the board to the end of his term the same as if he were not a member of Congress.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### GRANT OF PROPERTY TO OHIO.

Mr. SCHENCK also, from the Committee on Military Affairs, reported a joint resolution granting certain public property to the State of Ohio; which was read a first and second time.

The bill, which was read, provides that the building, sheds, furniture, lumber, and other property now at Camp Chase, near Columbus, Ohio, shall be donated to that State, to be used in the erection of the State Asylum for the Idiotic.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote

by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### GRANT OF LAND FOR BRIDGE PURPOSES.

Mr. SCHENCK, from the same committee, also reported a joint resolution for the reduction of the military reservation of Fort Riley, and granting land for bridge purposes to the State of Kansas; which was read a first and second time.

The bill, which was read, declares the southwestern boundary of the military reservation of Fort Riley, in the State of Kansas, to be hereafter the channel of the Republican river from its mouth to where said river intersects the present western line of said reservation; and grants the land released from said reservation, lying between Smoky Hill and the Republican river, to the State of Kansas, to aid in the construction of a bridge across the Republican river on the public highway leading from the present reservation, and on the express condition this grant shall be accepted by the State with the guarantee, by act of the Legislature, that said bridge shall be kept up and in good condition, and be free to the United States for all transit purposes without toll.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADDITIONAL BOUNTY.

Mr. SCHENCK. The Committee on Military Affairs, to whom were referred petitions of soldiers, &c., asking for additional bounty, have directed me to report it back, and move that the committee be discharged from its further consideration, and that it be laid on the table, as the matter is already provided for in the general bill reported by the committee.

The motion was agreed to.

#### J. H. HAMLIN.

Mr. SCHENCK, from the same committee, reported a joint resolution to pay Lieutenant John H. Hamlin for military services; which was read a first and second time.

The joint resolution directs the payment to Lieutenant John H. Hamlin, of Michigan, late first lieutenant of the Michigan cavalry, full pay and allowances of second lieutenant of cavalry from 8th of January, 1863, to 28th of March, 1864, when he was mustered in as first lieutenant.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. Moore, one of his Secretaries.

#### COURT OF CLAIMS.

Mr. SCHENCK, from the same committee, also reported back House joint resolution No. 226, extending the provisions of section two of an act entitled "An act to extend the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States," approved July 4, 1864, with an amendment.

The bill, which was read, provides that the provisions of section two of the above-entitled act be, and they are hereby, extended to cover all cases of property of any kind taken by order of Major General Lewis Wallace, for the use of forces under his command during the Morgan raid through the States of Indiana and Ohio, in July, 1863, whether such prop-

erty was taken or receipted for by officers of the United States Army or any other person belonging to said forces.

The amendment reported by the committee was to strike out all after the word "cases" in line four, and insert in lieu thereof the following:

Where quartermasters' stores were actually furnished to the forces under the command of Major General Lewis Wallace, duly receipted for by persons acting under his authority during the Morgan raid through the States of Indiana and Ohio, in the summer of 1863, and for the purpose of giving such receipts for property so applied, the said persons shall be held to be proper officers of the Government.

The amendment was agreed to.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. SCHENCK, from the same committee, made adverse reports on the following cases: the petition of Daniel H. Bingham, with leave to the petitioner to withdraw his papers; resolution respecting bounties to certain California volunteers, their cases having been provided for in a general law; the case of Mrs. Stager, widow of Solomon Stager, the same having also been provided for; and they were laid on the table.

#### MARTHA TRENIS.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of the claim of Martha Trenis, and the same was referred to the Committee of Claims.

#### VOLUNTEER OFFICERS.

Mr. SCHENCK, from the same committee, reported back a joint resolution for the relief of certain officers of volunteers, recommending its passage.

The joint resolution, which was read, provides that in every case in which a commissioned officer or enlisted man was detached from his regiment, in pursuance of orders from the War Department, and directed to report to Brigadier General Daniel Ullman in New York city, with a view of being mustered as commissioned officer in the brigade which General Ullman was authorized by the War Department to raise, and who reported in New York without neglect, and under order of his superior officer entered on duty, and was afterward mustered, but by reason of capture by the enemy or other cause beyond his control, without fault or neglect of his own, was not mustered within a period of not less than thirty days, the Department shall allow to him full pay and emoluments of the rank in which he served from the date at which he received the order of the War Department, deducting therefrom all pay actually received for such period; and in case of the death of any such officer or enlisted man prior to or after muster or after honorable discharge, his heirs or legal representatives shall be entitled to the pay aforesaid.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. SCHENCK, from the same committee, made an adverse report on the petitions of the following persons, Kentucky volunteers, namely: H. F. Riley, S. S. Brown, Marcus C. Courtney, H. E. Bailey, Josiah Grover, Sergeant R. W. Thornbrough, and Jabez Gifford, asking for back pay and bounty; and the petitions were laid on the table, with leave to the petitioners to withdraw their papers at their own request.

Also adversely on the petitions of George M. Willing and of John Fales; which were laid on the table.

Also adversely on House bill No. 931, to grant relief to honorably discharged soldiers who have lost their discharges; which was laid on the table, the case being provided for in a general bill already passed.

Also adversely on House joint resolution No. 255, to provide longevity rations; which was laid on the table, the case having been provided for in a bill already passed.

#### OLIVER LUMPHREY.

Mr. SCHENCK also, from the same committee, reported a bill for the relief of Oliver Lumphrey; which was read a first and second time.

The bill directs the Paymaster General to pay to Oliver Lumphrey, late a lieutenant in the first New York cavalry, a sum equal to the pay of a first lieutenant in the United States cavalry, from 1st March, 1865, to 1st June, 1865, deducting therefrom any amount which he may have received as a non-commissioned officer or private during the same time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PAYMENT FOR HORSES.

Mr. SITGREAVES, from the Committee on Military Affairs, reported a bill to amend an act entitled "An act to provide for the payment of horses and other property lost in the military service of the United States," approved March 3, 1849; which was read a first and second time.

The bill provides that the act to which it is a supplement shall, from the commencement of the late rebellion, extend to and embrace the cases of all horses lost, killed, or disabled, by drowning or otherwise; provided it shall appear that such loss occurred without any fault or negligence on the part of the owner, and while he was in the line of duty as an officer, non-commissioned officer, or soldier.

Mr. WASHBURN, of Massachusetts. I suggest to the gentleman from New Jersey whether this bill would not cover the case of horses lost during transportation by water? Under the present law, where a horse is lost for any reason during transportation, except the unavoidable dangers of the sea, the ruling of the Department has been that it cannot be paid for. For example, we had before our committee a case of this nature: a horse was being transported on board a steamboat on the Mississippi river, and no railing had been put up on the side of the boat. During the night an accident occurred, and the horses and mules on board became frightened, and one horse was kicked overboard. The committee decided that the law did not cover that case.

Mr. SITGREAVES. This bill provides for all cases of lost horses.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SITGREAVES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### SETTLEMENT OF OFFICERS' ACCOUNTS.

Mr. MARSTON, from the Committee on Military Affairs, reported back, with the recommendation that it do not pass, a joint resolution to facilitate the settlement of officers' accounts; and the same was laid on the table.

#### ADVERSE REPORTS.

Mr. MARSTON also, from the same committee, reported back, with the recommendation that it do not pass, bill of the House No. 1014, to amend an act entitled "An act making

appropriations for the support of the Army for the year ending June 30, 1866;" and the same was laid on the table.

#### BOUNTY ON PENNSYLVANIA VOLUNTEERS.

Mr. MARSTON also, from the same committee, reported back, with the recommendation that it do not pass, bill of the House No. 975, for the payment of bounty to the soldiers of the one hundred and eighty-sixth Pennsylvania volunteers; and the same was laid on the table.

#### TENNESSEE INDEPENDENT SCOUTS.

Mr. MARSTON, from the Committee on Military Affairs, also reported a bill for the relief of Captain Beaty's company of independent scouts; which was read a first and second time.

The question was upon ordering the bill, with its preamble, to be engrossed and read a third time.

The preamble states that David Beaty, of Fentress county, Tennessee, on the 25th of January, 1862, organized a company of independent scouts, numbering one hundred and two men, including himself as captain, and his first and second lieutenants; that the company was on continuous duty, engaged in the work of suppressing the rebellion, from the date of its organization until the 1st day of June, 1865, serving under the orders of the commander of the Union Army in Tennessee; that said company was never mustered into the service of the United States by any properly authorized mustering officer, and neither officers nor privates of said company have ever received from the Government of the United States any compensation for their services.

The bill provides that the organization set forth in the foregoing preamble shall be recognized as a part of the military force of the United States, engaged in suppressing the recent rebellion, and the members thereof, on making proof of actual service, are declared to be entitled to the same pay, bounty, pensions, and other allowances as though they had been regularly mustered into the service of the United States.

Mr. LE BLOND. I would like to hear from some member of the Committee on Military Affairs whether this was a regularly organized company under the laws of the United States, or whether it was merely an organized guerrilla party?

Mr. MARSTON. It was not an organized company under the laws of the United States; it was never regularly mustered into the service. But Captain Beaty raised this company in January, 1862, and continued in the service of the United States, acting under the authority of the military commander of Tennessee all the time until June, 1865.

Mr. LE BLOND. Did he act in the military organization and under the proper officers? If so, I have no objection to make.

Mr. MARSTON. I have here the letters of General Thomas and General Burnside, under whom they acted, recommending this bill.

Mr. DAVIS. I desire to suggest to the gentleman from New Hampshire [Mr. MARSTON] to amend his bill so as to require the proof to be submitted in such form as may be prescribed by the Secretary of War.

Mr. MARSTON. That will be so at all events, because no one else can prescribe what testimony shall be furnished.

The preamble and bill were then ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time, and passed.

Mr. MARSTON moved to reconsider the vote by which the bill and preamble were passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RETIRED ARMY OFFICERS.

Mr. MARSTON. The House referred to the Committee on Military Affairs the petition of some thirty or forty persons of Philadelphia, asking the repeal of the law which retires officers of the Army at a certain age, and that no

retirement be made without the report of a board of examination. The committee have had that subject under consideration, and have instructed me to report a bill to repeal the twelfth section of the act approved July 17, 1862, entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes."

The bill was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

It provides that the twelfth section of the act approved July 17, 1862, entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes," be and the same is hereby repealed; and that the President shall be authorized to assign any officer retired under the act of August 3, 1861, to any appropriate duty, and the officer thus assigned shall receive the full pay and emoluments of his grade while so assigned and employed.

Mr. MARSTON. I call for the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MARSTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### D. RANDOLPH MARTIN, ASSIGNEE.

Mr. MARSTON, from the Committee on Military Affairs, also reported a joint resolution authorizing the Secretary of War to adjust and settle the claims of D. Randolph Martin, assignee of the Washington, Alexandria, and Georgetown Railroad Company; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution, which was read at length, proposes to authorize the Secretary of War to adjust and settle the claim of D. Randolph Martin, assignee of the Washington, Alexandria, and Georgetown Railroad Company, for the use and occupation of the road of the company by the United States from January 11, 1862, till August, 1865, and to pay him such sum as may be found equitably due for such use and occupation.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MARSTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had disagreed to the amendments of the House to the bill (S. No. 453) regulating the tenure of certain civil offices.

#### LEAVE OF ABSENCE.

The SPEAKER asked leave of absence for Mr. HUBBARD, of West Virginia, until next Tuesday.

Leave was granted.

#### SOLDIERS ON CLERICAL DUTY.

On motion of Mr. ANCONA, the Committee on Military Affairs was discharged from the further consideration of a resolution relative to the pay of soldiers detailed for clerical duty; and the resolution was laid on the table.

#### AMENDMENT OF MILITARY LAWS.

On motion of Mr. ANCONA, the Committee on Military Affairs was discharged from the further consideration of a resolution proposing an amendment of the act fixing the military peace establishment of the United States; and the resolution was laid on the table.

#### BOUNTIES.

Mr. ANCONA, from the Committee on Mil-

itary Affairs, reported back, with a recommendation that it be passed, a bill (H. R. No. 1049) to amend an act entitled "An act making appropriations," &c., approved July 28, 1866, giving additional bounties to discharged soldiers in certain cases.

The bill, which was read at length, provides that claims for the additional bounties provided by the act of July 28, 1866, in cases where the claimant's discharge certificate is alleged to have been accidentally lost or destroyed, may be presented to the Second Auditor of the Treasury for settlement; and upon proper application, accompanied with proofs of such loss, the Auditor is to examine and determine the claim as in like cases of claims settled by him. The payment of any such claim is to be made by a paymaster on the usual form of Treasury certificate issued by the Auditor and countersigned by the Comptroller. The nature of the proofs required and the forms in which they shall be presented are to be prescribed by the Treasury Department. But no provision of the bill is to be construed to relieve a claimant from any requirement prescribed in the act of July 28, 1866, or the regulations of the Secretary of War made in conformity therewith, except the single one requiring the production of the discharge.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ANCONA moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. ANCONA. I move that the Committee on Military Affairs be discharged from the further consideration of the bill (H. R. No. 952) supplementary to an act granting additional bounty to certain enlisted soldiers, approved July 28, 1866; and that the bill be laid on the table, as the subject is covered by the bill just passed.

The motion was agreed to.

#### NELSON BELL.

Mr. ANCONA. I also move that the Committee on Military Affairs be discharged from the further consideration of the memorial of Nelson Bell, in relation to the same subject, and that the memorial be laid on the table.

The motion was agreed to.

#### ARSENAL PROPERTY AT PITTSBURG.

Mr. ANCONA also, from the Committee on Military Affairs, reported a bill to authorize the purchase of certain lots of ground adjoining the Alleghany arsenal, at Pittsburg, Pennsylvania; which was read a first and second time.

The bill, which was read at length, proposes to authorize and empower the Secretary of War to accept the offer of the St. Francis Hospital Society to sell to the United States certain lots of ground situated in the borough of Lawrenceville, Pennsylvania, numbered one, two, three, and four, containing about ninety-six hundred square feet, and upon which is a spring supplying the arsenal with water. Three thousand eight hundred dollars is appropriated to pay for the lots upon their conveyance to the United States by a good and sufficient title in fee simple.

Mr. ANCONA. The reading of the bill will fully explain its purpose. It goes to this extent and no further: upon these lands adjoining the arsenal is situated a spring from which the arsenal is supplied with water. The United States derived the right to a portion of the water some years ago. The lots are in market and can be bought at a reasonable rate. It is recommended by the War Department that the purchase should be made, and I hope the bill will pass.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ANCONA moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAY OF CLERKS AT SPRINGFIELD ARSENAL.

Mr. BLAINE, from the same committee, reported a joint resolution fixing the pay of the clerks at the Springfield arsenal; which was read a first and second time.

The joint resolution, which was read, authorizes increase of the pay of the clerks at Springfield arsenal from \$800 to \$1,200 per annum.

Mr. BLAINE. I move the previous question on the joint resolution.

The previous question was seconded and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BLAINE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CHARLES B. WILDER.

Mr. DEMING, from the same committee, reported a joint resolution for the relief of Charles B. Wilder; which was read a first and second time.

The joint resolution, which was read, directs the payment to Charles B. Wilder, late captain and assistant quartermaster, of the sum of \$935, the same having been paid by him, under order of his superior officer, for indemnity.

Mr. SPALDING. I ask for the reading of the report.

The SPEAKER. There is none.

Mr. SPALDING. Let the gentleman explain it.

Mr. DEMING. The gentleman from Ohio calls for the report in this matter. I was but instructed this morning to report this to the House, and have had no time to prepare a written report.

But I will explain the purpose of the joint resolution to the satisfaction of my friend. It seems Captain Wilder, assistant quartermaster, by order of the War Department, was made superintendent of freedmen's affairs in Virginia, and while in charge of those affairs he was ordered by the Government to loan the freedmen certain horses and mules, and as security received a deposit corresponding in value with that of the animals loaned. Subsequently he was relieved from that department, and he paid over to his successor the \$935 of deposit. Afterward he was restored to the department, but his predecessor had sunk the money in the Treasury. He was ordered, nevertheless, to return that amount to the freedmen on the return of the animals which had been loaned. This is merely to reimburse him. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was passed.

Mr. DEMING moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ANTHONY ZIMANDY AND OTHERS.

Mr. DEMING, from the same committee, moved that that committee be discharged from the further consideration of the memorial of Anthony Zimandy, the petition of Mrs. Almira Thompson, papers in the case of Thomas Turner, &c., and that they be laid on the table.

The motion was agreed to.

#### WALTER C. WHITTAKER.

Mr. ROUSSEAU, from the same committee, reported a joint resolution for the relief of Walter C. Whittaker; which was read a first and second time.

The joint resolution, which was read, directs that Walter C. Whittaker be paid as colonel of the sixth Kentucky cavalry from 19th September, 1861, to 1st January, 1862, inclusive.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.



Mr. ROUSSEAU moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TWENTY-FIRST NEW YORK CAVALRY.

Mr. ANCONA, from the same committee, reported back House bill No. 1003, for the relief of the members of the twenty-first New York cavalry, with an amendment.

The bill directs the payment to the privates and non-commissioned officers of the twenty-first New York cavalry, for traveling expenses from Colorado Territory, where they were mustered out in 1866, to the place of enrollment, the sum of \$250 each, deducting the amount paid for commutation of traveling expenses.

The amendment was to add the following proviso:

*Provided, however,* That the payment shall only be made to such members of said organization who did not elect to be mustered and discharged at the rendezvous where the regiment was to be mustered out: *Provided also,* The foregoing shall be extended to the first regiment of Michigan cavalry authorized to be paid by section ten of an act making appropriations for sundry civil expenses, approved July 28, 1866.

The amendment was agreed to; and as amended the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ANCONA moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### WAR DEBTS OF LOYAL STATES.

Mr. BLAINE. I desire to give notice that at the earliest opportunity I shall call up House bill No. 993, to reimburse the loyal States for troops furnished to the Union Army and for expenses incurred in the same, for the purpose of having a vote upon it, not expecting any discussion. The motion to reconsider has been entered, and I give this notice so that gentlemen may not consider the question as being sprung upon them when I call it up.

Mr. RANDALL, of Pennsylvania. I suggest to the gentleman to name the day.

Mr. BLAINE. If I can I will do it to-morrow; if not I may on Tuesday next.

#### NEWSBOYS' HOME.

Mr. INGERSOLL, by unanimous consent, introduced a bill to amend an act establishing the Newsboys' Home; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

#### COURT OF CLAIMS.

Mr. DELANO. I ask unanimous consent to take up from the Speaker's table House bill No. 902, an act to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States," for the purpose of concurring in the amendments of the Senate.

No objection being made, the bill was taken up, and the amendments of the Senate concurred in.

Mr. DELANO moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORGANIZATION OF THE HOUSE.

Mr. WILSON, of Iowa. I ask unanimous consent to take from the Speaker's table House bill No. 874, to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House, and for other purposes.

No objection being made, the bill was taken from the Speaker's table, and the amendment of the Senate, to strike out the third section, was concurred in.

Mr. WILSON, of Iowa, moved to reconsider

the vote by which the amendment of the Senate was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CIVIL SERVICE.

The SPEAKER announced as the next business in order the consideration of bill of the House No. 889, to regulate the civil service of the United States and promote the efficiency thereof, on which Mr. SCHENCK was entitled to the floor.

Mr. SCHENCK. Mr. Speaker, I would very gladly occupy the attention of the House for a little while in presenting what I deem to be the very great merits of this bill, both as a measure of economy and of wisdom in every respect, and especially as one which I think will secure to this country a very much more equitable administration of all its affairs in the different departments of the civil service; but my colleague on the joint select Committee on Retrenchment, [Mr. JENCKES,] who reported the bill from that committee, has presented the whole subject in so exhaustive and so satisfactory a manner that I deem any further discussion so far as representing the views of the committee to be entirely unnecessary. I shall therefore content myself with presenting some two or three slight amendments to the bill, and will then yield a portion of the hour to which I am entitled to gentlemen who wish to be heard on the subject, intending at the close of the hour, if not sooner, to move the previous question.

I move to amend the bill in section ten by striking out in lines one and two the words "all citizens of the United States," and inserting in lieu thereof the words "none but citizens of the United States, or persons who have served in the Army of the United States and been honorably discharged therefrom."

The amendment was agreed to.

Mr. SCHENCK. I move further to amend the same section in line three by inserting after the word "act" the words "or to be retained if already in service in any Department;" also in line fourteen by striking out the words "from those of" and inserting the words "the same as." The section, as amended, will then read as follows:

SEC. 10. *And be it further enacted,* That none but citizens of the United States, or persons who have served in the Army of the United States and been honorably discharged therefrom, shall be eligible to examination and appointment under the provisions of this act, or to be retained, if already in service in any Department, and the heads of the several Departments may, in their discretion, designate the offices in the several branches of the civil service the duties of which may be performed by females as well as males, and for all such offices females as well as males shall be eligible, and may make application therefor and be examined, recommended, appointed, tried, suspended, and dismissed in manner aforesaid; and the names of those recommended by the examiners shall be placed upon the lists for appointment and promotion in the order of their merit and seniority, and without distinction, other than as aforesaid, the same as male applicants or officers.

The amendments were agreed to.

Mr. SCHENCK. My colleague from Ohio, [Mr. BINGHAM,] who desires to move an amendment to the bill, to which I have no objection, is not present, and in his absence I will yield the floor to the gentleman from Connecticut, [Mr. HUBBARD,] who desires to speak for five or ten minutes on this subject.

Mr. HUBBARD, of Connecticut. Mr. Speaker, I rise to bespeak the favor of the House for the bill under consideration. I regard it as one of the most important bills ever offered here since I first had the honor to take a seat in this Hall.

It proposes to inaugurate a new system for the regulation of the civil service of the country, than which nothing can be more needed. It does not appear to have been framed by the distinguished lawyer from Rhode Island, who has charge of it, in hostility to any party, or in the interest of any party, but in the interest of the country and for the best good of all. It is not only not partisan in its character, but it seeks to bring down the partisan leader from his throne. When I contemplate the present

vicious system of appointments and removals, which tolerates the practice of so much favoritism and proscription, engendering so much dislike and hatred of the Government, when every one of its acts should be calculated to inspire sentiments of respect and affection; when I see how liable the Government is to suffer in its finances for the want of a more efficient system, I feel certain that there is now pressing upon us a great public necessity for the adoption of the bill. It is emphatically a bill to retrench and reform by way of regulating the civil service of the country. It may have defects; if so, they can be remedied by amendment or by future legislation. It provides for a systematic examination of candidates for office, which shall be open to all, and prefers those who shall be found best qualified, having regard to age, character, and ability. It provides also for just and reasonable inquiry in all cases of alleged misconduct of persons installed in office, by means of which they may be relieved from the odium of the charge if innocent, or may be dismissed from office if found wanting in fidelity to the Government or lacking in ability to discharge the duties assigned to them. These are the operative features of the bill.

It throws wide open the door, and invites all to come in and compete for the honor of a place in the civil service of the country. Be they Republicans or Democrats, they shall be entitled to wear the medal of merit if found worthy. Perhaps one of the best features of the bill is that within its scope it kills out partisanship in appointments to office. As the proposition comes from the Republican side of the House, I hope gentlemen of the Democratic side will accept it and vote for it. I think they will if they love their country, which I do not question. I have not been accustomed to call them disloyal because they differed with me, radically, in political views.

I will take occasion to state right here that upon the breaking out of the rebellion I raised a company of men to fight for the flag, and that one half of them were Democrats. The company was ordered to New Orleans, and fought at Irish Bend and at Port Hudson.

When General Banks called for volunteers to make the second attack upon that impregnable fortress that company, all that had survived of it, under its gallant commander, stepped out to a man and asked to be counted in, and they were half Democrats. The company was then ordered to join the Army of the Potomac, and with thinned ranks they fought with Sheridan when the guns of the enemy shook the hills that skirt the valley in which those three great and glorious victories were won.

Mr. GRINNELL. What are they now?

Mr. HUBBARD, of Connecticut. Most of the few who survive vote the Republican ticket. Mr. MILLER. Do any of them vote the Johnson ticket?

Mr. HUBBARD, of Connecticut. No, not one. A large proportion of that company has gone down the bourn whence no traveler returns. Republicans and Democrats fought together, and died together, and rest in the same grave. I speak this because it is the truth. I instance what transpired in a single case, partly within my own knowledge, to illustrate what was done all over the country.

It is certainly true that the people of the North raised troops to fight the rebellion without distinction of party. I now propose that we shall vote for this bill regulating the subordinate appointments without distinction of party. It is a business measure, not a party one. The gentleman who reports it is as devoted a Republican as I am; but I declare I would vote for it just as quick if it were reported by any member from the other side of the House.

The bill makes no attack upon executive powers. It provides that the President shall appoint the board of examiners by and with the advice and consent of the Senate. It regards only the subordinate offices, whose name is legion. It will secure honesty, ability, and

efficiency in these offices, and thereby save millions of dollars to the people every year. It will furnish a strong incentive to the young to lead honorable and useful lives. A certificate of good character and of efficiency from such a Government board, a board appointed by the President of the United States, will help destitute young men to obtain employment in private life if they fail to get a public office. Thousands upon thousands of poor boys will struggle hard and practice much self-denial to obtain such a prize.

Any one can go before the board, be examined, and take a certificate of good character and of ability, if found worthy. Some of the offices require but little learning, and the certificate will recommend the applicant for such a place as he may be qualified to fill, good character in all cases being indispensable.

The bill comes from one of our most able committees, reported by its distinguished chairman, a gentleman whose great attainments in the science of political economy, as well as in the legal profession, whose high personal character, as well as devoted patriotism, commend his reports to the favorable consideration of the House. In spite of all his other onerous duties here he has spent many a weary hour over this great subject; and whether the bill shall be adopted or rejected, it will stand as a monument to perpetuate the memory of his wisdom and of his devotion to the country so long as the records of this Congress shall last.

Mr. SCHENCK. I now yield to the gentleman from Vermont [Mr. WOODBRIDGE] for ten minutes.

Mr. WOODBRIDGE. Mr. Speaker, the bill under consideration was introduced before this body something more than a year ago, and was referred to the Committee on the Judiciary, of which I have the honor to be a member. It became my duty, under the direction of that committee, to examine the bill, and I gave it that consideration which I deemed the importance of the subject demanded. At that time I came to the conclusion it would be unwise to pass the measure. My colleagues then on the committee agreed with me and instructed me to report the bill back to the House and ask that the committee be discharged from its further consideration. Out of courtesy, however, to my friend from Rhode Island [Mr. JENCKES] such a course was not taken, and the bill was referred to a select committee, who have now reported it to the House for its action with their approval.

As near as I can recollect, the main features of the bill have not been changed; and I may say, in passing, that for its scope, its clearness, its precision, and its honesty of purpose, it does great credit to my friend from Rhode Island, [Mr. JENCKES], who is its reputed author.

The theory of the bill is perfect. It raises a superstructure which it is delightful to gaze upon; and when gilded over, as it has been by the very able and manly speech of my friend from Rhode Island, it would seem now to have become a magnificent house of refuge, into which the Government may retire and save itself from all the follies and weaknesses of human nature. But like all schemes, which through all time have been devised to free social organization from the natural weaknesses and wickednesses of man, it wants foundation.

Poets have described their Arcadia; and yet no man ever reached one. Speculative and dreamy philosophers have got up communities where selfishness should never enter; where property should be held in common, and where the law of love should reign supreme; and yet no such community ever did exist and never will in this world, at least until the arrival of that glorious day when "the lion and the lamb shall lie down together." Sir, selfishness is imbedded in our nature; and I am sorry to say that often it only wants a little temptation to be developed into wickedness.

Now, I believe that for the aggregation of men in the civil service there is no greater corruption

than in other departments of business. Take the gentleman's own profession, noble, manly, elevated as it is, no man can enter it who is not, theoretically at least, of good moral character, and is possessed of considerable learning. Every man who does enter it is brought to reflect and study upon the great cardinal principles of justice and right. And yet, sir, in that profession we find the natural selfishness of man out-cropping into wickedness and corruption. It enters the pulpit itself; it disgraces the marts of trade; it gets into the Halls of Congress; and sometimes, I have no doubt, it soils even the ermine of the judge. Sir, legislation to prevent corruption in the civil service of the Government will be, as such legislation always has been, a failure. Under the operation of this bill, if it should become a law, no department of the Government will, in my judgment, be any purer than it is now.

But, sir, there are other objections to the bill. One is that it is anti-democratic. My friend from Rhode Island has said, and it is undoubtedly true, that Belgium and Prussia and France and England have a similar system of appointing officers to the civil service. But where is the analogy between England and this country? That, sir, is a country of aristocracy, a country of classes, where as a rule a man cannot rise unless he is born to position. In England the coal-heaver of to-day is a coal-heaver on the day of his death. The boy who digs in the mines to-day digs in the mines when his hair is silvered with age. How different here! The cotton-spinner of to-day floats to-morrow upon one of our splendid monitors—the highest achievement of naval architecture upon the inland seas of Europe. The rail-splitter of to-day becomes to-morrow the President of the United States. Here the avenues to position, to power, to wealth, are open to all, and they ought not by any legislation of ours to be closed. In this country the poor man cannot be kept down. The rich man and the man elevated by birth, if he has not the requisite inherent talents, cannot be kept up. The race is to all men. The avenues are all open; and I think it would be dangerous for us to close these avenues to the many and provide a royal road for a fortunate or favored few.

Mr. STEVENS. Will the gentleman allow me a word?

Mr. WOODBRIDGE. Yes, sir; although I have but little time left.

Mr. STEVENS. As I understand this bill it provides for an examination of those now in office.

Mr. WOODBRIDGE. Not necessarily.

Mr. STEVENS. And those not found competent on examination are to be turned out.

Mr. WOODBRIDGE. The incompetent will not necessarily be turned out.

Mr. STEVENS. If the report be unfavorable to them they are to be turned out.

Mr. WOODBRIDGE. They ought to be. [Here the hammer fell.]

Mr. WOODBRIDGE. I ask the gentleman from Ohio to allow me a few minutes longer.

Mr. SCHENCK. I give the gentleman an allowance of five minutes more, on the condition that he shall confine himself to the practical view of the question, avoiding the roses and the poetry. [Laughter.]

Mr. WOODBRIDGE. Then, again, it is said by my friend on the other side that this bill will prevent removals from office; and hence I suppose he would argue that it will give stability to our institutions. Now, sir, I am not opposed to removals from office. The power of removal is a power the improper exercise of which is doubtless dangerous; yet it is a power the proper exercise of which is healthful. Now, sir, I believe that there should be an occasional change even of administration; and I mean political changes. I believe that such changes are the great safety-valve of a republican form of government. I believe that if any party should control the Republic for a hundred years it would fall apart by reason

of its own corruption. The health of the nation requires that the stable shall be occasionally cleaned out. Hence I believe that this system of periodical changes is not a dangerous, but rather a wholesome system.

Again, sir, what are to be the practical workings of this bill? If I understand its provisions correctly it starts out with the appointment of three commissioners at an annual salary of \$5,000 each, with their expenses. They are to have a clerk who is to receive \$2,000 per annum, and a messenger with a yearly salary of \$900. What are to be the powers of these commissioners? They are to prescribe the examination to which applicants for office in the civil service shall be subjected. They divide the territory of the United States at their own convenience and hold their examinations at any point they see fit. Then, again, they have power to appoint assistant examiners all over the country, which I venture to say would create an unheard-of drain upon the Treasury.

This great traveling menagerie, this inquisitorial court, starts out upon its elevating, reformatory, and retrenchment expedition. It goes perhaps to my district and to the capital of my State. A building is hired at the expense of the Government. The bell is rung and the school opens, a poor broken-down old pensioner of the war of 1812 presents himself as an applicant for the position of keeper of a light-house upon our beautiful lake, at a salary of perhaps a hundred dollars a year, or a young one-armed soldier, who fought for the country in the late rebellion, for the post of watchman in the custom-house, or perhaps a sweet and modest maiden presents herself for examination. The messenger ushers her in before this august tribunal: the clerk calls upon her to rise and answer the questions propounded, while he writes out her replies, and the poor girl, in the modesty of her womanly nature, shrinks back in fear and disgust and fails, and is then requested to pay five dollars to the collector of revenue for the privilege of appearing before the commissioners of examination.

But, sir, I do not desire to speak lightly of the bill. It is drawn with care and with the best intentions. It might work in Belgium, France, or England, where the masses are mere machines; but in free America it will never work.

[Here the hammer fell.]

Mr. SCHENCK. I now yield fifteen minutes to the gentleman from Rhode Island.

Mr. JENCKES. Mr. Speaker, I am not one of those who believe in the sudden coming of any millennium, political or other, and do not expect, if this bill becomes a law, all of those results which have been painted in such glowing language by the eloquent gentleman from Vermont.

When I first entered the public service of this Government during the war, I could not but be struck at once at the great difference between the military and naval administrations and that of the civil departments. It led me to inquire into the cause of this great difference, and to see whether such difference existed in the systems of other nations. I found that in England, during the Crimean war, what indeed I had in part known previously, great complaint existed against the civil service from its almost total inefficiency, arising, as admitted and proclaimed, from the vicious mode of appointments to office in that service.

I learned that the evil in England had almost been entirely cured, and I looked into her history to find the reason of the change. I found it, sir, in the adoption of a wise and practical system regulating the appointments in the different departments of the civil service. That complaint was against almost every officer; then there was a "Tite Barnacle" in every office trying "how not to do it;" and live men have been put in office, and in every strain which has come upon the English civil service it has responded nobly. I found the same cause to exist here, and believed I had discovered that the deficiency in our civil service

is the result of the same vicious mode of appointment. Acting on that belief, and after studying with great care other systems, I presented a bill at the opening of this Congress, which was referred to the Committee on the Judiciary. The bill has since undergone the scrutiny of two committees. The subject was referred to the Committee on Retrenchment. They took it into consideration, and directed me to report the bill now before the House.

From what I have seen in my experience it is my profound conviction this measure ought to be adopted. With the other members of the Committee on Retrenchment I have been through the different offices here, and have visited custom-houses and other public offices elsewhere. We have examined their accounts, their regulations, their mode of doing business, and in my judgment a more vicious system does not exist in any civilized nation on the face of the earth. Every other civilized nation has reformed its system except ours; and while we have in the Military and Navy Departments excelled perhaps other nations, so that we can point with pride to the *personnel* of our forces, both on sea and land, yet who speaks with pride of those who are working in these treadmills of the public service, thrust in by political preference or personal liking, and who hold on to their places just for the purpose of earning sufficient to get a livelihood, doing as little as they can?

The gentleman from Vermont [Mr. WOODBRIDGE] says his remarks are based upon an examination of this bill. Sir, he has not seen the bill now before the House. The first draft of it contains many of the provisions here, it is true, but not all of them; but if what he says now is the result of the memory of what he had in his mind one year ago, then his memory must have failed altogether.

He says this system cannot prevent fraud and robbery in the public service. Why, Mr. Speaker, in the present service is there any check whatever upon fraud and swindling? Where do you find it? Why do we send out investigating committees every session with power to search through custom-houses, post offices, and Departments at Washington? Why is it that these frauds exist? Turn to the system of France and you will find the name of every man that has entered the civil service there for a hundred years past upon the record, with the date of his birth, time of his entry, degree of his standing, whether any complaint existed against him, the degree of merit or demerit in his career, whether continued till death, or if dismissed, stating for what cause.

If you look at the statement of Minister Bigelow appended to the report you will find that the director of finances, at the time he wrote, entered the public service in the lowest position and rose to the highest attainable under their law by gradual promotion for meritorious service.

If you look at Prussia you will find a system even more exact and exacting than that of France. Who, in the recent great strain upon the Government of Prussia in its gigantic struggle with Austria, heard any complaint in regard to its civil service? Where was there a clerk who forgot the order of the council of war to send arms and munitions? Where were their messengers of the departments running hither and thither, as during the Crimean war, with articles of subsistence for troops and no troops to receive them? Nowhere. The system worked to perfection; it was more than successful; it placed Prussia among the highest of the continental Powers. That was due chiefly to the perfection of the civil service, whose discipline contributed to the perfect equipment and supply of her army.

But the gentleman says this system may work well in Prussia or in England, but not in America. Here he is sadly at fault. The effect of the system in England and Prussia has been, not to bring the scions of the aristocracy into the service as heretofore, but to exclude them. Those who have gone to work "with peasant's

heart and arm" have crowded out the sons of the aristocracy; and to the vigor of the hardy yeomanry very much of the perfection of the service is due. We propose hereafter to throw the door open to all the people. Let him who can best serve the people be entitled to serve them and to the reward of his service.

The gentleman says he believes in change; and he advocates the present system because changes take place in it. What is the change under the present system? Why, the first appointment is for partisan service or for personal considerations, without any regard whatever to the fitness of the man for the place to which he is appointed.

No one perhaps would appoint a man absolutely incapable, one who could not write or spell, or a blind man, to office. But the Government now in almost every case has to pay for the education of its servants. Is that right? Is it not a waste of the public money? Can we justify ourselves in going on with a system of national education to provide incumbents for at least twenty-five thousand offices, when during their education the Government is suffering all the while from their ignorance? This proposed system would save all that. It requires that those who present themselves shall have the requisite qualifications for the places they seek, and shall not be promoted except they prove themselves to be efficient officers.

There was another phase of the present system upon which the gentleman dwelt briefly, and I was glad he did it; and it is this, that as soon as a man begins to understand the duties of his office he is removed, and another man as incompetent as he was when he took it is put in his place. Thus the Government proceeds in this course of experimental education with no benefit to itself or to the people. If this be a healthful system let the gentleman from Vermont [Mr. WOODBRIDGE] make the most of it. I am not aware that such a system ever took root in his native State. There I believe no one can teach even a primary school without an examination as to his or her qualifications as a teacher. This system is applied to the schools all over the country. Why should it not be applied to the clerks in the Departments and to the officers in the custom-houses?

Another thing, when these men, after such an examination as is here provided for, enter the services every man has his eye upon every other just as in the Army or Navy. If in the military or naval service an officer is guilty of peculation charges would be made against him. In France there is a record kept of the services of every officer, and every charge against him, his successful vindication of himself, or his being convicted, or punished, is recorded in a permanent record. Sir, I speak of these things from some knowledge of them. The committee saw with its own eyes how these matters are. Who that comes from England on a steamer is not invited to slip a greenback into the hands of some custom-house official at New York, not as a bribe, of course, but in order to facilitate the business of getting his baggage through the custom-house? What merchant is there who brings goods through the custom-house at New York who has not to pay, not only the duties prescribed by law, but to pay something to some man connected with the customs department who after office hours will arrange to get his goods in in advance of anybody else? They do not call it bribery, but simply expediting business.

It seems to me, sir, that the gentleman from Vermont [Mr. WOODBRIDGE] does not recollect the scope of this bill, although he pronounced a glowing eulogium upon it. He seems to have the idea that the commission to be appointed under it is to go about the country holding meetings like school committees previous to opening schools. He cannot have looked into the books descriptive of the civil service of England, or of any of the continental nations of Europe, or he could never have entertained such an idea. There is nothing formal or imposing about these examinations. They simply

apply those tests which are applied to school-teachers all over this land when they seek employment in their profession. They are to be conducted with dignity and decorum, in quiet and with order, and the final result will be sent back to the central board in Washington, a list being made out of those candidates who prove to be competent. That will end the duties of the commission, and the heads of the Departments who seek faithful servants will be sure they have them when they select them from these lists.

Now, let me say one word about the practicability of this measure. We have taken testimony upon this subject which has been published. I have personally made inquiries of all those who would be called upon to administer this law. They all say that it would be perfectly practicable; that three commissioners, with their assistants, can do all the work that is required. In England there are but two commissioners, with their assistants, twenty-one in number, in different parts of the kingdom, all men of learning and character. In this bill we provide that a small fee shall be paid for an examination, which I have no doubt will pay all the expenses, not only for the salaries of the commissioners but their traveling expenses, and perhaps even more than that.

I will state one remarkable instance of the working of this system in the English service. A year or two ago there were eight vacancies in the office of the under-secretary of state for India. In the Indian service competition is open to all, and there were some seven hundred and odd applicants for these eight vacancies. About four hundred appeared before the commissioners for examination. Of those four hundred many received certificates that they possessed more than the minimum qualifications. The eight persons who were selected and who went into the employment of the Government in India not only possessed the minimum qualifications, but very nearly the maximum; and they also obtained certificates of merit in other studies, in other languages, in other sciences than those required by the rule. In that way the Indian government secured the services of probably eight of the best-fitted men within the limits of Great Britain. Among them was one who came all the way from India to be examined; a Brahmin of high caste and pure blood, who obtained one of the situations.

It has been suggested that these examinations might be had in the different Departments; but I have ascertained and believe that it is practicable for one commission to do all this service, and to do it well. And now, as it never could have been done before in our whole history, except perhaps on one or two occasions, this commission can be constituted without reference to party. We can secure worthy and competent men, who will discharge their duties faithfully and satisfactorily to the nation. And if they do not produce the political millennium in the civil service, which the gentleman from Vermont [Mr. WOODBRIDGE] portrays, they will at least contribute to lift us out of the disgraceful condition in which our civil service now is.

Mr. SCHENCK. If this bill, so far as the action of this House is concerned, should not become a law, it will be on account of the most extraordinary opposition ever made perhaps to any measure presented for action. Any one who heard the exceedingly poetical and imaginative speech of my friend from Vermont [Mr. WOODBRIDGE] must have been struck with the singular character of his assault on this bill. If the bill is to die, it will die because it is smothered with roses. But it strikes me it will be about as easy to batter down a stone wall with flowers as to break down a measure so substantial in its character and merits as this appears to me to be with the weapons the gentleman used against it. In the midst of all that poetry with which he entertained us it is difficult to ascertain any particular point he made. But one at least may be taken hold of,



as that upon which he seemed to place his principal reliance: that this bill is anti-democratic in its character.

A word then upon that point. Why is it anti-democratic? Is it because it throws open these places in the different Departments of the Government, to be occupied without distinction by all men, rich and poor, and by persons of both sexes, according to their merits as evidenced and ascertained upon an examination in order to determine whether they have the necessary qualifications? Is there anything in the bill itself which makes this an "anti-democratic" measure? It provides that appointments shall be made "from those persons who shall have been found best qualified for the performance of the duties of the offices to which such appointments are to be made, in an open and competitive examination, to be conducted as prescribed" in the bill. Now, sir, the "beautiful girl" from Vermont, (and I know that Vermont has beautiful girls,) and the "one-legged soldier" seeking occupation would, when brought before a board of examiners, be entitled to have their qualifications fairly measured by the requirements of the office to be filled. And I can imagine many cases in which your "one-legged soldier" or your "beautiful girl" from Vermont would come out with flying colors, manifesting all necessary fitness to fill the places to which they might aspire with credit to themselves and advantage to the Government. I do not rate the intelligence of the girls of Vermont, I do not measure the capacity of our one-legged soldiers, by so low a standard as that of the gentleman from Vermont. I hold that they can enter into a competitive examination for the positions to which they aspire with as good a prospect as any others may have of passing through the ordeal successfully.

But what does the gentleman want in order to make this bill less "anti-democratic?" If he is serious in his objection, I suggest that, to make the bill conform to his ideas, he ought to move to amend by striking out the provision that appointments shall be made from those persons who, in an open, competitive examination, shall be found best qualified; and inserting something like this, which will accomplish the object the gentleman seems to have in view:

That the appointments shall be made from such persons as are recommended by a member of Congress from Vermont or some other State, for services performed in securing by treats of liquor or otherwise the votes of Bill Johnson and Sam Smith for said member at the last preceding election. [Laughter.]

If the gentleman wants to change the present character of the bill, I admit that this would do it. If he prefers the present condition of things let him endeavor to induce this House to reject all propositions to introduce a mode of proceeding by which the best ability of the country for the particular places shall be secured; let him persuade the House to adhere to the present system of making official appointments depend upon the personal and political influence which the applicant may be able to bring to bear, without regard to his want of qualifications for the position sought. I presume no gentleman will deny that this is the manner in which appointments are secured under the present system.

It may be said that there are examinations now. But who does not know that those examinations are little better than a farce? Who does not know that in such examinations those succeed whom the heads of the bureaus or Departments wish to succeed, and those are rejected who are not agreeable to "the powers that be?" But what sort of examinations would the gentleman have in these cases if he prefers that the old condition of things shall be continued? Instead of inquiring in regard to those very inconsiderable accomplishments—reading, writing, arithmetic, &c., I suppose he would have the candidate subjected to an inquiry to ascertain his skill in packing a convention to procure the nomination of a friend to office; to determine his expertness in writ-

ing a letter for the newspapers, bepuffing his patron here in Congress or elsewhere.

Mr. WOODBRIDGE. I only desire to say that the gentleman from Ohio may understand such things; but we in Vermont do not.

Mr. SCHENCK. I do not know much about the way they manage matters in Vermont, but from the manner in which the gentleman has described the treatment to which the "beautiful girl" would be subjected I should suspect the gallantry of the people there, however good they may be in other respects.

What is his real objection? I will give the precise language used by the gentleman from Vermont. He admits "the scope, the excellent scope, the clearness, the precision, and the good purpose of the bill." But what is its fault? He says "it is too good; it smacks of Arcadia. It approaches too near an attempt to bring about the millennium, when the lamb and lion are to lie down together."

The heavy fault, then, of the bill is its merits. If it prevails, appointments will be made with reference to merit and that alone. It is a most strange objection to be made to a measure introduced into this House that it is too good to be passed. We have in the midst of a variety of subjects before us at length hit upon something so excellent in character, and in Heaven's name let us not put the legislative boon away from us. But really and truly, without distorting the argument, his whole objection seems to turn upon the sole idea this fair principle is too sublime, too pure, too excellent to be fitted for the condition of the men who administer the Executive Departments of the Government.

It is said these commissioners will not perform their duty properly. We must in all things act through human agencies, and in matters of this sort could a better plan be devised for getting examiners? Instead of having two or three clerks, tools and instruments of the head of the Department, selected to pass friends through, and none others, it is proposed to elevate these commissioners into dignity and importance, who shall in every instance be nominated by the President and confirmed by the Senate, and be incapable of removal except by consent of the Senate. That is the language of the bill fairly and fully. If you cannot trust these, whom can you trust? I find there is only one minute of my time left.

Mr. McKEE. With the gentleman's consent, I move to amend by adding in section ten, line three, after the word "act:"

Except those who have voluntarily aided or encouraged any insurrection or rebellion against the Government of the United States.

Mr. HUMPHREY. I offer, so it may be pending, the following amendment:

Add the following proviso to section five: *Provided, however,* That any person holding office in the said civil service of the United States, who shall, directly or indirectly, contribute or use any money or do any act (other than to vote) in aid of or to promote the success of any candidate or party at any election of Federal, State, county, city, or town officers, or shall be a candidate for nomination or election to any such office, shall be deemed guilty of misconduct in his said office, and be removed therefrom.

Mr. SCHENCK. I now demand the previous question.

The previous question was seconded and the main question ordered.

The question recurred on Mr. McKEE's amendment.

Mr. LE BLOND demanded the yeas and nays.

The yeas and nays were ordered.

Mr. STEVENS moved that the bill be laid on the table.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 66, not voting 52; as follows:

YEAS—Messrs. Ancona, Baker, Barker, Baxter, Beaman, Blaine, Blow, Buckland, Campbell, Sidney Clarke, Cobb, Cook, Dawson, Defrees, Delano, Denison, Eggleston, Eldridge, Farquhar, Ferry, Finck,

Glossbrenner, Goodyear, Grinnell, Aaron Harding, Abner C. Harding, Hawkins, Henderson, Hill, Hise, Edwin N. Hubbell, James K. Hubbell, Ingersoll, Jenckes, Kasson, Kelso, Kerr, Koontz, Kuykendall, George V. Lawrence, William Lawrence, Le Blond, Loan, Longyear, Marshall, Marvin, McClurg, McKee, Morris, Newell, Niblack, Orth, Perham, Price, Radford, Ritter, Sawyer, Scofield, Shanklin, Stevens, Stokes, Taber, Trimble, Upson, Van Aernam, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, James F. Wilson, Windom, Winfield, and Woodbridge—72.

NAYS—Messrs. Alley, Ames, Anderson, James M. Ashley, Baldwin, Banks, Bergen, Bidwell, Bingham, Brandegee, Bromwell, Bloomall, Bundy, Cooper, Culom, Darling, Dawes, Deming, Dixon, Dodge, Donnelly, Eckley, Eliot, Griswold, Hayes, Higby, Hotchkiss, Chester D. Hubbard, John H. Hubbard, Hulbard, Humphrey, Hunter, Julian, Kelley, Ketcham, Ladin, Lettwich, Marston, McKuer, Miller, Myers, Nicholson, Neill, O'Neill, Paine, Patterson, Plants, Samuel J. Randall, William H. Randall, Raymond, Rollins, Ross, Schenck, Shellabarger, Starr, Nelson Taylor, Thayer, Thornton, Trowbridge, Burt Van Horn, Warner, William B. Washburn, Welker, Wentworth, Williams, and Wright—66.

NOT VOTING—Messrs. Allison, Arnell, Delos R. Ashley, Benjamin, Boutwell, Boyer, Chanler, Reader W. Clarke, Conkling, Culver, Davis, Driggs, Dumont, Earnsworth, Garfield, Hale, Harris, Hart, Hogan, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, Jones, Latham, Lynch, Maynard, McCullough, McIndoe, Merour, Moorhead, Morrill, Moulton, Phelps, Pike, Pomeroy, Alexander H. Rice, John H. Rice, Rogers, Rousseau, Stigraevs, Sloan, Spaulding, Stillwell, Strouse, Nathaniel G. Taylor, Francis Thomas, John L. Thomas, Elihu B. Washburne, Henry D. Washburn, Whaley, and Stephen F. Wilson—52.

So the bill was laid on the table.

During the roll-call,

Mr. JENCKES changed his vote from the negative to the affirmative.

The result having been announced as above, Mr. JENCKES moved to reconsider the vote by which the bill was laid on the table.

Mr. BRANDEGEE. With the consent of the gentleman from Rhode Island, I move that the House adjourn.

Mr. STEVENS. I ask the gentleman to withdraw the motion to allow me to report a bill from the joint Committee on Reconstruction.

Mr. ELDRIDGE. I move to lay the motion to reconsider on the table.

The SPEAKER. The Chair recognizes the gentleman from Connecticut, who moved to adjourn.

Mr. BRANDEGEE. If I can I will withdraw the motion to adjourn, and yield to the gentleman from Pennsylvania.

Several MEMBERS objected.

Mr. JENCKES. I withdraw the motion to adjourn and to reconsider for the purpose of allowing the gentleman from Pennsylvania to report his bill.

Mr. STEVENS. I report from the joint Committee on Reconstruction a bill.

Mr. ELDRIDGE. I rise to a privileged motion, to reconsider the vote by which the civil service bill was laid on the table, and to lay that motion on the table.

The SPEAKER. The Chair recognizes the gentleman from Pennsylvania, who rises to a privileged question; but will also recognize the privileged motion of the gentleman from Wisconsin [Mr. ELDRIDGE] when the gentleman from Pennsylvania has presented his privileged motion.

GOVERNMENT OF INSURRECTIONARY STATES.

Mr. STEVENS. I report from the joint select Committee on Reconstruction a bill to provide for the more efficient government of the insurrectionary States.

The bill was read a first and second time; and the question was on ordering it to be engrossed and read a third time.

Mr. LE BLOND. I wish to inquire of the Speaker whether it is the intention to put this bill on its passage now?

The SPEAKER. The Chair does not know; he does not even know what the bill is.

Mr. STEVENS. I will say that if there is any objection I shall not urge it to-night.

Several MEMBERS called for the reading of the bill.

Mr. RANDALL, of Pennsylvania. To save time, and with a view to having the bill printed, I object.

The SPEAKER. Any member has a right to demand that it be read.

Mr. RANDALL, of Pennsylvania. I understood the gentleman to say that if there was any objection he would not proceed.

The SPEAKER. He said he would not press it to a final passage to-night if there was objection.

Mr. RANDALL, of Pennsylvania. Well, then, I object.

The bill was read as follows:

Whereas the pretended State governments of the late so-called Confederate States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were set up without the authority of Congress and without the sanction of the people; and whereas said pretended governments afford no adequate protection for life or property, but countenance and encourage lawlessness and crime; and whereas it is necessary that peace and good order should be enforced in said so-called States until loyal and republican State governments can be legally established: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That said so-called States shall be divided into military districts and made subject to the military authority of the United States, as hereinafter prescribed; and for that purpose Virginia shall constitute the first district, North Carolina and South Carolina the second district, Georgia, Alabama, and Florida the third district, Mississippi and Arkansas the fourth district, and Louisiana and Texas the fifth district.

SEC. 2. *And be it further enacted,* That it shall be the duty of the general of the Army to assign to the command of each of said districts an officer of the regular Army not below the rank of brigadier general, and to detail a sufficient force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

SEC. 3. *And be it further enacted,* That it shall be the duty of each officer assigned, as aforesaid, to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals; and to this end he may allow civil tribunals to take jurisdiction of and to try offenders, or when in his judgment it may be necessary for the trial of offenders he shall have power to organize military commissions or tribunals for that purpose, anything in the constitution and laws of the so-called States to the contrary notwithstanding; and all legislative or judicial proceedings or processes to prevent the trial or proceedings of such tribunals, and all interference by said pretended State governments with the exercise of military authority under this act shall be void and of no effect.

SEC. 4. *And be it further enacted,* That courts and judicial officers of the United States shall not issue writs of *habeas corpus* in behalf of persons in military custody unless some commissioned officer on duty in the district wherein the person is detained shall indorse upon said petition a statement certifying upon honor that he has knowledge of the alleged detention, and that he believes the same to be rightful; and further, that he believes that the indorsed petition is preferred in good faith and in furtherance of justice, and not to hinder or delay the punishment of crime. All persons put under military arrest, by virtue of this act, shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted.

SEC. 5. *And be it further enacted,* That no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district; and the laws and regulations for the government of the Army shall not be affected by this act, except in so far as they conflict with its provisions.

Mr. STEVENS. I would inquire of the Chair what would be the effect of moving to recommit this bill and then adjourning?

The SPEAKER. If the House adjourns now this bill will be the first business in order after the reading of the Journal, without any motion to recommit. It is now the first business in order until disposed of.

Mr. STEVENS. I move that the bill be printed.

The motion was agreed to.

Mr. BINGHAM. Will the gentleman from Pennsylvania [Mr. STEVENS] permit me to offer an amendment to the preamble and also an amendment to the fourth section of the bill, in order that the bill and amendments may be printed together?

Mr. STEVENS. I move that the bill be recommitted; and now I think we better adjourn.

Mr. BINGHAM. Does not the motion to recommit cut off all opportunity to amend?

The SPEAKER. It does, while the motion to recommit is pending.

Mr. LE BLOND. I desire to make an inquiry of the gentleman from Pennsylvania,

[Mr. STEVENS.] I understand that this bill just now introduced will be the first business to be considered to-morrow after the reading of the Journal. Does the gentleman propose to put this bill upon its passage within any specified time, and if so, how soon?

Mr. STEVENS. I think I shall ask that it be put upon its passage to-morrow.

Mr. LE BLOND. And the bill to be printed between now and when Congress shall convene to-morrow?

Mr. STEVENS. Yes, sir.

Mr. LE BLOND. Without permitting any debate upon it?

Mr. STEVENS. Well, sir, I am very willing that the debate which has been going on here for three weeks, and which the gentleman will find in the Globe, shall all be read over by him whenever he can take time to read it. [Laughter.] But I do not see any necessity for any further debate beyond to-morrow.

Mr. LE BLOND. I appeal to the gentleman whether it is proper, upon a bill of the character of the one just introduced, of the magnitude of this bill, establishing military jurisdiction over all these States, is it proper to pass it here without even an hour's debate upon it? I appeal to the gentleman to allow some latitude of debate upon this bill; to fix some future day for final action upon it, and allow a reasonable debate upon it, without forcing it to its passage at so early a period.

Mr. STEVENS. I have indicated no intention to ask a vote upon this bill without a half an hour's debate upon it. On the contrary, if the gentleman asks it I will yield that much to him.

Mr. LE BLOND. I do not ask it on behalf of myself.

Mr. STEVENS. Well, of anybody else.

Mr. LE BLOND. On behalf of the American people I ask more time for debate. If I had the power I would demand it as a right on behalf of the American people. I ask the gentleman to name a time some days hence, and allow a reasonable debate upon so important a proposition as this.

Mr. STEVENS. I will see what the American people think of it in the morning. [Laughter.] If they are generally for a prolongation of the debate, of course I will go with them. But I will wait until then, in order to ascertain what the American people want. In the mean time I move that the House adjourn.

Mr. LE BLOND. I will tell the gentleman what the American people want. They want the Constitution and laws of the country preserved and obeyed; they want men to be tried in pursuance of the Constitution and the laws, and not by military despotism, as this bill provides.

Mr. STEVENS. I insist upon my motion to adjourn.

Mr. DELANO. Will the gentleman withdraw that motion for a moment, in order to enable me to submit a resolution, which will give rise to no debate?

Mr. STEVENS. I will withdraw the motion to adjourn if the gentleman will renew it.

Mr. DELANO. I will do so.

PARKER AND MATTHEWS.

Mr. DELANO. I now offer the following resolution:

*Resolved,* That the prosecution of the claim of David Stout Parker and Forman Matthews, owners of the schooner Twilight, against the United States, in the Court of Claims, under and by virtue of a resolution of this House, dated March 20, 1866, referring said claim to said court, but which by mistake was described as the claim of "J. Stout Parker," and all the proceeding hitherto had thereon, are hereby legalized, and that they shall and may be continued in said court, under said reference, with the same force and effect in all respects as if no such mistake had been made in the name of said claimant.

I will state that the object of this resolution is simply to correct a mistake which was made in the name of the claimants when the case was referred to the Court of Claims last session.

The SPEAKER. The Chair doubts if the gentleman can attain his object by a single House resolution.

Mr. DELANO. Oh, yes, sir. It needs only a resolution of the House to refer a claim to the Court of Claims.

The SPEAKER. The Chair is informed that the decision of the Court of Claims has been otherwise.

Mr. DELANO. The House passed a resolution referring this claim to the court last session, and this is merely to correct an error in the name of one of the parties.

The resolution was agreed to.

PRIVILEGED QUESTION.

Mr. WINDOM. I desire to enter a motion to reconsider the vote by which the reports of the Committee on Indian Affairs in regard to the administration of the Indian Bureau were recommitted to the committee.

The motion was accordingly entered.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had indefinitely postponed bill of the House No. 668, to limit the time for bringing suits before the Court of Claims.

Mr. DELANO. I now renew the motion to adjourn.

The motion was agreed to; and accordingly (at four o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. BUCKLAND: The petition of S. E. Hubbard, and others, citizens of Sandusky city, Ohio, against the contraction of the national currency, &c. Also, the petition of Perry, late private in forty-ninth regiment Ohio volunteer infantry, for relief.

By Mr. DAVIS: The petition of Henry Thaler, John Shean, and 79 others, journeymen cigar-makers and manufacturers of cigars in the twenty-third congressional district of New York, praying a change in the laws regulating the inspection and stamping of cigars.

Also, the petition of Messrs. Foot & Herriek, Michael Zahin, and 29 others, cigar manufacturers, journeymen cigar-makers, and dealers, of Onondaga county, New York, praying for a change in the mode of imposing taxes on cigars under the internal revenue act.

Also, the petition of William A. Lawrence, William Kellogg, and 28 others, farmers and manufacturers of the twenty-third congressional district of New York, praying legislation to encourage the culture of flax.

By Mr. DEMING: The petition of the Sequasson Woolen Company, of Windsor, Connecticut, for repeal of the five per cent. tax on woolen goods.

By Mr. EGGLESTON: The memorial of Isabella Fogg, praying for an increase of her pension.

Also, the memorial of E. West, president of the Cincinnati and Zanesville Railroad Company, praying for a reduction of the duty on iron and steel imported for the use and construction of railroads.

By Mr. FERRY: The petition of Michael Wood, Gabriel Culver, and 38 others, citizens of Mason county, Michigan, praying for relief for improvements made upon lands settled upon, but diverted by reservations for Flint and Pere Marquette railroad.

By Mr. HUBBARD, of Connecticut: The petition of Francis N. Holley, and others, in relation to tax on sales of woolen goods.

By Mr. HUNTER: The memorial of Lorin Palmer, and others, manufacturers of cigars and dealers in tobacco, asking that the present tax may be changed to a specific tax, &c.

By Mr. INGERSOLL: The petition of Professor William Livingston, Rev. Edward Beecher, Rev. William S. Bulch, and 11 others, professors in the various institutions of learning in Galesburg, Illinois, asking for an exemption under the income tax to the amount of \$1,200.

By Mr. KELLEY: The petition of Edward McManus, Patrick Donnelly, and John Walters, messengers in quartermaster, subsistence, and miscellaneous claim, branch of the Third Auditor's office of the United States Treasury, praying Congress for an increase of pay, their present compensation being totally inadequate for the labor performed or support of their families.

By Mr. McKEE: The petition of T. W. Campbell, claiming pay for the time he acted as lieutenant colonel of the seventeenth Kentucky cavalry without a commission.

Also, the petition of George Baker, claiming compensation for use of printing office at Gallatin, Tennessee.

By Mr. MARVIN: The petition of David Gather, private company C, one hundred and seventy-seventh regiment New York State volunteers, for pension.

Also, the petition of commissioned officers of the one hundred and seventy-seventh regiment New York State volunteers, with copy of evidence of second lieutenant company C, of that regiment.

By Mr. RAYMOND: The petition of George H. Hayward, and others, gaugers of the customs of the city of New York, praying for an increase of compensation.

By Mr. THAYER: The petition of J. S. Lovering, and others, sugar refiners of Philadelphia, asking for new classification and increased duties upon certain sugars.

Also, the petition of James Fulton, paymaster United States Navy, for relief.

By Mr. VAN HORN, of New York: The petition of 60 citizens of the town of Alabama, Genesee county, New York, asking the passage of the pending tariff on wool.

## IN SENATE.

WEDNESDAY, February 6, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

## EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in compliance with the resolution of the Senate of the 2d instant, a copy of the letter on which the Secretary of State founded his recent inquiries addressed to Mr. Motley, minister of the United States at Vienna; which, on motion of Mr. SUMNER, was referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a message from the President of the United States communicating, in compliance with a resolution of the Senate of the 2d instant, a report of the Secretary of State in relation to the steps that have been taken by him to secure to the United States the right to make the necessary surveys for an inter-oceanic ship-canal through the territory of Colombia; which, on motion of Mr. CONNESS, was ordered to lie on the table and be printed.

He also laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate of the 31st ultimo, the names of the deputy marshals, bailiffs, and criers in the District of Columbia who have received compensation for the year 1866; which, on motion of Mr. MORRILL, was ordered to lie upon the table and be printed.

He also laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of the Treasury, in answer to a resolution of the Senate of January 31, on the subject of a treaty of reciprocity with the Hawaiian Islands; which was ordered to lie on the table and be printed.

He also laid before the Senate a report of the Secretary of the Interior, communicating, in obedience to law, copies of the accounts of the superintendent and agents having charge of the Creeks, Chickasaws, Seminoles, Wichitas, &c.; which was referred to the Committee on Indian Affairs.

## HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred to the Committee on Military Affairs and the Militia:

A bill (H. R. No. 942) donating a portion of the Fort Leavenworth military reservation for the exclusive use of a public road;

A bill (H. R. No. 1127) to fix the pay of the quartermaster sergeant of the battalion of Engineers;

A bill (H. R. No. 1128) to authorize the payment of prize money to certain officers and enlisted men of the Signal corps of the Army;

A bill (H. R. No. 1129) providing for the issue of certificates of service to officers and soldiers of volunteers;

A bill (H. R. No. 1130) to amend section twelve, chapter two hundred and twenty-nine, of the laws of the first session of the Thirty-Ninth Congress;

A bill (H. R. No. 1131) to authorize the Secretary of War to convey certain lots in Harper's Ferry, West Virginia;

A joint resolution (H. R. No. 261) for the relief of Stephen E. Jones;

A joint resolution (H. R. No. 262) for the payment of Captain James Kelley, sixteenth United States infantry; and

A joint resolution (H. R. No. 263) for the purchase of David's island, New York harbor.

The bill (H. R. No. 1125) granting an additional pension to Samuel Downing, one of the last survivors of the revolutionary war, was read twice by its title, and referred to the Committee on Pensions.

## PETITIONS AND MEMORIALS.

Mr. CONNESS presented a memorial of merchants and importers of San Francisco, California, praying to be refunded the amount of duties paid by them on goods destroyed by fire in 1850 and 1851; which was referred to the Committee on Finance.

Mr. WADE presented a petition of citizens of Washington city, District of Columbia, praying that a charter may be granted for the purpose of building a railroad from Washington city, through Virginia, to Cincinnati, Ohio; which was referred to the Committee on Commerce.

He also presented a petition of citizens of Washington, District of Columbia, praying for an examination of the advantages which Washington presents over all other places for the location of a navy-yard and harbor for the building and security of the great iron-clad naval vessels of the Government; which was referred to the Committee on Naval Affairs.

Mr. POMEROY presented resolutions of the Legislature of Kansas, in favor of a grant to the Union Pacific railway, southern branch, of like or equal aid as has been granted to the Union Pacific railroad with its several branches; which were ordered to lie on the table and be printed.

He also presented a memorial of the Legislative Assembly of the Territory of Arizona in favor of a grant of lands to aid in the construction of a railroad from the most available point on the Colorado river, to run through the central portion of that Territory to connect with the Southern Pacific railroad on the eastern boundary of the Territory; which was ordered to lie on the table, and be printed.

Mr. SUMNER. I present a petition of loyal citizens, without distinction of color, of the State of North Carolina, in which they set forth the grievances and cruelties to which they are subjected through the prevalence of the rebel spirit and the reestablishment of rebel power, and they ask that government may be founded in that State on the loyal population. I ask the reference of the petition to the joint Committee on Reconstruction.

It was so referred.

Mr. SUMNER. I also present a petition, numerously signed, from citizens of Arkansas, in which they ask that the loyal people of the State shall be recognized as the only true basis of the government, and that Congress would declare that all loyal men, without distinction of color, are entitled to vote. I ask its reference to the joint Committee on Reconstruction.

It was so referred.

Mr. NORTON presented the petition of José Mirabal, Antonio Fernandez, and others, praying for a confirmation of the Spanish grant known as the Rio Grande grant, in New Mexico; which was referred to the Committee on Private Land Claims.

Mr. FRELINGHUYSEN presented a memorial of the officers of the various national banks in Newark, New Jersey, remonstrating against the passage of the so-called "Randall bill," to withdraw the circulation of the national banks and issue greenbacks in its stead; which was referred to the Committee on Finance.

Mr. FOGG presented the memorial of Caleb Lyon, late Governor of Idaho Territory, representing that on the 13th of December last, while traveling on the sleeping-car from Philadelphia to Washington, he was robbed of \$47,666 66, being the unexpended residue of money belonging to the Indian department, and praying for an investigation into all the facts connected with the robbery and the passage of an act relieving him from the burden

of the loss of the money and enabling him to settle his accounts; which was referred to the Committee on Claims.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 234) to incorporate the National Capitol Insurance Company, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 128) authorizing limited partnerships in the District of Columbia, reported it without amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 907) to amend the law of the District of Columbia in relation to judicial proceedings therein, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 529) to incorporate the Howard University in the District of Columbia, reported it with an amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom were referred various petitions of officers of the United States praying for an increase of pay, reported a bill (S. No. 568) to provide for a temporary increase of the pay of the officers of the Army, and for other purposes; which was read and passed to a second reading.

Mr. LANE, from the Committee on Pensions, to whom were referred the petition of John Clarke, late of the first United States infantry, and the petition of James Walsh, late a private in company L, third United States artillery, praying for an increase of pension, asked to be discharged from their further consideration, the cases having been provided for by general law; which was agreed to.

Mr. WILLEY, from the Committee on Claims, to whom was referred the memorial of Seth Eastman, of the United States Army, praying for a restoration of the copyright of his pictures used in illustrating the Government work on the history of the Indians, &c., submitted an adverse report; which was ordered to be printed.

Mr. POLAND, from the Committee on the Judiciary, to whom was referred the bill (S. No. 524) establishing the salaries of the judges in the Territories, reported it without amendment.

Mr. HENDRICKS, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1038) providing for an additional term of the circuit court of the United States in the eastern district of Arkansas, and for other purposes, reported it with an amendment.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred a bill (H. R. No. 668) to limit the time for bringing suits before the Court of Claims, have instructed me to report it back and recommend its indefinite postponement. I will State to the Senate that the law now limits the bringing of claims before the Court of Claims to six years, and we see no necessity for any additional legislation upon the subject.

The report was agreed to; and the bill was indefinitely postponed.

Mr. SUMNER. The Committee on Foreign Relations have instructed me to report a joint resolution, which is applicable to the same subject on which they have already reported a joint resolution, and, indeed, it is the one already reported, but in a new draft.

The joint resolution (S. R. No. 164) supplementary to other joint resolutions to enable the people of the United States to participate in the advantages of the Universal Exhibition at Paris in 1867 was read and passed to the second reading.

## BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce the following bills; which were severally read twice by their titles, and referred to the Committee on the District of Columbia:

A bill (S. No. 127) to authorize the formation of corporations for manufacturing, mining, mechanical, or chemical purposes; and



A bill (S. No. 570) extending the time for the completion of certain street railways.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 571) to amend an act entitled "An act granting lands to the State of Kansas to aid in the construction of a southern branch of the Union Pacific railway and telegraph from Fort Riley, Kansas, to Fort Smith, Arkansas," approved July 28, 1866; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 165) to refer the claim of the trustees of A. G. Sloo to the Court of Claims; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. BUCKALEW asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 572) fixing the time for choosing electors of President and Vice President of the United States; which was read twice by its title.

Mr. BUCKALEW. I will state that the time named in this bill is the second Tuesday of October. I move that the bill be referred to the Committee on the Judiciary.

The motion was agreed to.

#### DISTRICT BUSINESS.

Mr. MORRILL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That Saturday next be assigned for the consideration of legislation for the District of Columbia.

#### TRANSIT ROUTES ACROSS MEXICO.

Mr. ROSS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President of the United States be requested to communicate to the Senate, if not deemed incompatible with the public interest, copies of all correspondence not heretofore communicated with reference to grants to American citizens for railroad and telegraph lines across the territory of the republic of Mexico.

#### PENSION BILLS.

Mr. LANE. I am directed by the Committee on Pensions to report the following resolution, and to ask for its immediate consideration:

*Resolved*, That there shall be an evening session of the Senate commencing at seven o'clock p. m., on the 13th instant, for the purpose of considering reports and bills reported by the Committee on Pensions.

Mr. SUMNER. What day is proposed?

Mr. LANE. This day week.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. POMEROY. I suggest that the evening be the 14th. I know that there are some Senators who have engagements for the 13th.

Mr. LANE. I have no objection to that amendment. I accept the modification and name the 14th.

The resolution, as modified, was agreed to.

#### PRINTING OF DOCUMENTS.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print ten thousand copies of the report of J. Ross Browne upon mines and mining, have instructed me to report it back with an amendment, and I ask for its present consideration.

The Senate proceeded to the consideration of the resolution.

The amendment was, after the word "printed" to insert "and bound;" and at the end of the resolution to add "with a title page and index;" so as to make the resolution read:

*Resolved*, That ten thousand copies of the report of J. Ross Browne to the Treasury Department, on the statistics of mines and mining, be printed and bound for the use of the Senate, with a title page and index.

The amendment was agreed to; and the resolution, as amended, was adopted.

Mr. POMEROY. The Committee on Printing yesterday morning made a report in favor of printing a memorial, which was presented by me the previous day, from the officers and managers of the National Association for the Relief

of Destitute Colored Women and Children, relative to a law-suit instituted against them by R. S. Coxe; but there was no action taken on the report yesterday, and I suggest that it be now taken up and disposed of.

The Senate proceeded to consider the motion to print the memorial referred to, and it was agreed to.

#### TENURE OF OFFICE.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of the House amendment to the tenure-of-office bill.

The motion was agreed to; and the Senate resumed the consideration of the amendment of the House of Representatives to the bill (S. No. 453) regulating the tenure of certain civil offices, which was to strike out in the first section of the bill the words "excepting the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General."

Mr. HOWE. Mr. President, this bill concerns the power of the President of the United States to remove from office those who have been appointed by him with the advice and consent of the Senate. That power is not derived from the Constitution. By the Constitution of the United States the President has no more right to remove such an officer than he has to butcher him: not a whit. And I will tell you how I know it; for I assert it as much as a matter of fact as I do as a matter of law. I know it because I have read in the Constitution itself the enumeration of the powers which are granted to the President, and this is not among them; and there is nothing among them which bears the slightest similitude or likeness to the power in question. And to convince the Senate of that, if the Senate care anything about that, I propose to read this enumeration of powers. It is said:

"The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States."

There is nothing in that bearing the slightest similitude to the power in question.

"He may require the opinion, in writing, of the principal officer in each of the Executive Departments upon any subject relating to the duties of their respective offices."

To require a written opinion upon any subject from an officer of the Government is a very different thing from dismissing the officer from the public employ.

"He shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment."

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

"He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States."

There is an enumeration of the powers which by the Constitution are vested in the President, an enumeration of the whole of them. As I said before, this power to remove from office is not there, and nothing in the likeness of that power is there; and because I do not find it there, I say, as I said before, that the President has not that power in the Constitution.

But that is not the only reason why I say this power is not conferred upon him by the Constitution. I find by reading the Constitution precisely where this power of removal is vested by that instrument. By reading the

fourth section of this same article, article two, you find where this power of removal is vested. That section declares that—

"The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

There is where the power of removal is. It is in the court of impeachment, and by this instrument it is nowhere else. The Constitution, I say to you as a fact, left the power to remove a postmaster precisely where it left the power to remove a judge, and nowhere else; and why did it do this? For a good reason. The Constitution of the United States intended that men living under it should be free men, that conduct should be free, above all that opinion should be free; and they meant that this freedom should be enjoyed as much by the men who hold office as by the men who do not hold office; and therefore every officer that the Constitution created had assigned to it a fixed term, and every incumbent of such an office was exempt from this summary power of removal. The President has a fixed term; and you cannot remove him but through the court of impeachment. The Vice President has a fixed term. The judges have a fixed term of office. Representatives and Senators in Congress have severally fixed terms assigned to their offices; and although it was designed that Representatives and Senators should be primarily the advocates, not so much of their own opinions as of the opinions of their constituents, yet it was not provided that there should be a summary power of removal of even these officers by their constituencies. They may fail or refuse to represent the views of their constituents, and yet for the time being during the continuance of their term they are independent of the power of their constituents.

But, Mr. President, the framers of the Constitution could not foresee all the officers who might be required to administer this great Government of ours. They actually created but few offices. They left the work of creating others which might be found necessary to the legislative department of the Government. I think the framers of that Constitution supposed that the legislative department would imitate their example, and so often as they created a new office would fix the term of it and secure to the incumbent of it an estate in it during the existence of the term, and leave him independent in that office, subject to removal only by the intervention of that great tribunal which can remove a President, a Vice President, or a judge.

But it so happens that the very first office created after the Government was instituted was that first called the Department of Foreign Affairs and now called the Department of State, created during the first session of the First Congress which assembled under our Constitution. I find it was the fourth act enacted by that body. I regret to say that that Legislature did not follow the example set by the Constitution, did not assign to that office a fixed term, did not secure the independence of the incumbent for a day. The language of that act is very peculiar and extraordinary. I read only the second section. The second section is as follows:

"That there shall be in the said Department an inferior officer, to be appointed by the said principal officer, and to be employed therein as he shall deem proper, and to be called the chief clerk in the Department of Foreign Affairs, and who, whenever the said principal officer shall be removed from office by the President of the United States, or in any other case of vacancy, shall, during such vacancy, have the charge and custody of all records, books, and papers appertaining to the said Department."

The purpose of that section apparently is simply to determine who shall have charge of the office in case of vacancy; but into this section is injected terms which made the incumbent the mere creature of the President, and limited the duration of his term to the pleasure of the President. It was not in the terms of grant, because to have employed terms of grant would have been a plain denial that the Constitution did grant that power to

the President. If it had been the judgment of that Congress that the Constitution conferred this power of removal upon the President, then they would have said nothing about his being removed by the President, but they would have employed the ordinary terms and have said that in case of resignation, death, or vacancy occasioned by other cause, the chief clerk should have charge of the Department. But the members of that Congress knew it would not do to employ that language, because they knew that the Constitution had conferred no such power on the President to create a vacancy, and they meant to inject this power into this statute, and yet avoid the use of language which would amount to an express grant. I do not hesitate to say that that is a dishonest statute. There were not men enough in that Congress who believed the Constitution gave this power to the President to affirm that doctrine; there were not men enough in that Congress who thought the President ought to have the power to grant it to him; and they combined the two ideas, they combined the two factions, those who thought or pretended to think that the Constitution gave the power to the President, and those who thought the President ought to have the power, and compromised by the use of the language which I have read to you.

Mr. President, I say that is a dishonest statute, and I say further, that that very cowardly and skulking statute has done more to debauch American politics and American life than any other one cause; and I seriously doubt if it has not done more than all other causes combined; for that is the parent of this whole doctrine. It all sprung from that little source. Following upon this cowardly precedent have come all those statutes which have relinquished the whole control of the immense patronage belonging to this Government to the President of the United States.

The effect of this has been most disastrous everywhere and upon everybody. Office-holders, the subordinates of the President, have been reduced to a sort of spanielism that is contemptible to behold anywhere. You see it everywhere. I do not mean that you see it in every office-holder. I thank my God and congratulate the country that we have gradually, in spite of this, educated up a class of men who love principle, who love individual honor, and who love the public welfare even better than they love office; and we have seen a host of them during the last sad twelve months laid upon the altar because they did love principle, honor, and country better than office; but in their places have come a host of these very tools to whom I referred, who love office and place and emoluments better than they love honor, better than they love principle, better than they love country, better than they love all put together.

You saw and you read and you heard a great deal of the movements of what were called the departmental clubs organized here out of mere office-holders in the city of Washington during the last political canvass. You have seen another consequence growing out of this: you have seen men, good men, men who would not change their principles to hold on to an office, but would cushion them, stifle them, men who would not give up a conviction, but would hold on to it and keep still over it. And you have seen another class of men: you have seen a class of men who were all things to all men, who were always in agreement with the very man or the very society they were talking with and conferring with on both sides of all questions.

That is the effect of this system upon men holding office; but upon men outside, men who do not hold office, it has had a most disastrous effect, a most demoralizing tendency. You have, all of you, seen it during last summer. Office has been employed, patronage has been employed during the last summer in a way that it was never employed before, and for purposes for which, perhaps, it was never employed before, not as the reward of a party, but for the purpose of purchasing reinforcement

ments for a party. Offices have been held out as baits in every community to induce men to betray their convictions, to desert one party and to adhere to another.

Whoever has practiced the profession of an angler knows very well that the moment he drops his bait and hook into the water it will be surrounded by a school of fish, larger or smaller, nimble or more lubberly, all striving to get the bait, and all anxious to avoid the hook. The struggle is to get the bait if they can without taking the hook, while the effort of the angler is to get a fish when he loses his bait; sometimes the bait goes and no fish is caught; sometimes a lubber gets hold of the hook and is drawn to shore. You have seen that process enacted over and over again in every community in the United States during the past summer where you have been. Every one of these offices has been held out as a bait, and you have seen a little school, a very small number I admit, of politicians gathered around it; every one of them manifestly animated by the desire to get the office if he could without giving up his principles, without giving up his party associations, his party affiliations, but determined to get the office. Some very shrewd and active ones ran off with the office and did not give up their party associations; but some more clumsy fellows took the offices, took the principles, took the conditions, and were landed on the President's policy. But, then, that is not a happy state of things in American society nor in any other society. It is not a state of affairs which ought to be perpetual, which anybody ought to be ambitious to perpetuate. It is one which I am not ambitious of perpetuating.

But, Mr. President, while it has had this effect upon subordinates in office, this disastrous effect upon society generally, it has had a more evil tendency still, I think, upon the office of the President himself. It has made the President, instead of an honest and faithful and laborious servant of the American people, the captain of a great band, numbering from thirty to forty thousand office-holders; not merely the captain of that great band, but the confessor to it, the man—or the priest, if you please—to whom they go, regularly or irregularly, to make confession of faith, and I dare say of conduct also.

Mr. President, in the earlier and happier days of the Republic the questions asked about an aspirant for office were: is he honest? is he faithful? is he capable? Those questions are no longer put to anybody. The only question put now is: does he support the President's policy?

Mr. SAULSBURY. Will the honorable Senator allow me to ask him one question just there?

Mr. HOWE. Certainly.

Mr. SAULSBURY. I wish to know of the honorable Senator from Wisconsin whether those were the only questions put to applicants for office under the administration of Mr. Lincoln?

Mr. HOWE. Mr. President, those were the only questions put during the administration of Mr. Lincoln, so far as I know the catechism. After Mr. Lincoln was inaugurated, it is within my recollection, and I dare say within the recollection of the Senator from Delaware—no; I beg to correct myself; these were not the only questions put. There was one other question put, and I do not know but that was the main question; I do not know but that even these were sometimes left out of the catechism. The great question put during the administration of Mr. Lincoln was, "Is he loyal to the flag and the Constitution of his country?" And if that was answered in the affirmative, preferences were open to all men alike, according to their ability to fill them.

Mr. SAULSBURY. One other question, and I will not trouble the Senator further. Does the honorable Senator mean to be understood to say here in the Senate that all the removals, or any considerable portion of them, made by Mr. Lincoln in the States which had never assumed to secede were removals of disloyal men, men not true to the Government?

Mr. HOWE. I mean to say as a matter within my own knowledge that from the time the rebellion was inaugurated it was useless for us in the West to assign as a cause for removal that a man had voted for Douglas or for Bell or for Breckinridge or for anybody against Mr. Lincoln. If the fact were found to be, that in spite of his party affiliations during the fall before, in the spring and after the standard of revolt was raised he was then under the flag and willing to defend it, he was safe in his office so far as Mr. Lincoln was concerned. But before that time undoubtedly there were a great many removed from office by Mr. Lincoln for the reason that they had not supported Mr. Lincoln's election; and I find no fault with that. I find no fault with such an exercise of patronage as that at any time. When the two great parties of the country make up their issue and go to the people upon it, if the people decide in favor of one set of measures and against another I concede their right to have not only a President who is in favor of their system and of their measures, but the right to have a postmaster, and the right to have collectors, and the right to have assessors and Indian agents, and all kinds of civil employes of their way of thinking. I find no special fault with that doctrine, which I believe has been preached only for thirty or forty years, that to the victors belong the spoils; but the victory which entitles a man or a party to the spoils is a victory which is achieved by the assent of the American people; it is not a victory which is attained by desertion. If General Grant, instead of moving on the lines of General Lee before Richmond had moved over and joined the rebel forces, I do not think that would have been such a victory over the Federal flag as would have authorized Grant's troops to plunder his own camp; and when a President leaves the party which elected him and goes over to the party which refused to elect him, I do not think that is one of those heroic victories which authorizes him to turn over the patronage of the country to the few followers who gather about him.

The employment of this patronage has had the effect, not merely to change the character, but to change the very occupations of the President. By law he is the Commander-in-Chief of the Army and Navy of the United States; but you no longer see your President employed in studying the art of war. He is the organ of the American nation in communicating with other nations and potentates of the earth; but you no longer see the President employed in studying international law. He is the head of the nation; he knows that the nation is staggering under a load of debt; he knows that it is oppressed as it never has been oppressed before; but you do not see the President employing his time in the study of systems of finance or systems of labor or systems of economy. He has no time for these things. His time is absorbed in weighing the relative merits of rival candidates for a collectorship or for a post office.

But, sir, it has had a worse effect than either of these, perhaps than all of these, upon the President. It has gone very far to drag him out of the sphere to which the Constitution assigned him, and to plant him in the very sphere which the Constitution denied to him and assigned to the Congress of the United States. He is no longer content with the labor of executing the American will and enforcing American law. The President seems to be mainly ambitious of making American law and of dictating to the American will. The bold attempt (though not the first, I am obliged to admit,) we have ever seen of this we have seen within the past year and a half and during the Administration of the present President. You have seen the President enter boldly upon the field of legislation. You have seen him go into ten great American communities, which he says are States, which had the lineaments of States, which had governments over them; you have seen him deliberately take those organizations all to pieces,

without any authority of law in the world, and you have seen him take the very same material out of which they were built and build new organizations; and then you have seen him turn around and confront the American Congress and tell them that they must recognize those organizations which he made himself, and clothe them with the prerogatives of American States; and when you hesitated to do that, when you refused to do that, you have seen him turn to the American people, your constituents, the men whose representatives you are, and tell them to remove you from your places; and he really hoped to do it, he really hoped to secure a verdict of your constituents against your acts. What was the ground of that hope of his? Simply that you left in his hands this patronage. He was made to believe that the American people would follow that. He was made to believe that they would give up the cause for which they had been struggling for six years, the cause in which they had poured out so much blood and sacrificed so much life, rather than to give up those emoluments which, by your enactments and not by his, are attached to these several offices.

I say this; I think I am warranted in saying it by the very logic of every thing that transpired during that canvass. You know that one of his Cabinet ministers was said to have proclaimed during the last session of Congress that no man could partake of the President's bread and butter unless he would support the President's policy; and I cut yesterday from a paper of my own State a letter purporting to have been written by a gentleman I know very well, a resident of Wisconsin, a very able man, a very adroit politician, written on the 24th of February last, which, as it contains a more explicit statement of this policy and this reasoning than I can frame in the course of my remarks, I beg leave to produce.

It is dated Milwaukee, February 24, 1866, and is as follows:

"MY DEAR SIR: Inclosed please find check on New York for thirty dollars, the amount of one thousand copies of your great speech. Mr. Sholes and myself have sent them thoroughly over the State.

"The veto [of the Freedmen's Bureau bill] is popular here. The ratification meeting was a most decided success. I like the speech of the President on the 22d. It is straightforward and to the point. The people can understand it, and it explains some things that might before have seemed mysterious to them. I inclose you a slip from the paper of the postmaster at Whitewater. How long is this state of things to last? Are you and the President to be hunted down by your own officials? My advice is that a few—say only two or three—removals take place in this State just to show that lightning can strike. In every instance the places should be filled by men who have honorably served in the war and who voted for Lincoln and Johnson."

Offices were not to be given to those who supported the President's policy, but to be given to those who would leave the Republican party and go over to the other party to support the President's policy.

"A little of this kind of medicine now and considerable more of it before the first of September will unseat HOWE certain, and make COBB, PAINE, SAWYER, and McINDOE's condition precarious. This State next fall will go for Johnson by from fifteen to twenty thousand, if matters are only managed judiciously, and much of this depends upon the action of the Administration in defending itself.

Yours truly, J. A. NOONAN.  
Hon. J. R. DOOLITTLE, Washington.

Now, Mr. President, it is no answer to say that these friends of the President or that the President himself was mistaken in his calculation. I know they were mistaken; I knew well enough they would be mistaken; but the fact that such calculations can be based upon this employment of the patronage which you, and not the Constitution or the makers of the Constitution, put in his hands; the fact that such calculations can be based upon your action is enough to cause you to hesitate, to consider, and reverse what you have done heretofore; reverse the whole of it, and not part of it.

This whole enterprise was a plain violation of the Constitution. The Constitution declares that—

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

In defiance of that plain declaration of the instrument, you saw a President who thought he had more legislative power than all of you, and it was because, and only because, he had this patronage in his hands.

Mr. President, it is the purpose of this bill to restrict this power of removal; but when you assert the power to restrict it you affirm the power to destroy it. If the President has by the Constitution the power to remove one officer whom you have helped to make, he has power to remove every one of them, and you ought to acknowledge it and not attempt to restrict it. If he cannot remove the whole, he cannot remove any one without your permission; but when you affirm your power to take from him the right to remove one officer, you do in effect declare the right to take from him the power to remove any one and every one. Having asserted the power to restrict, I ask the American Senate, in the name of Heaven, why not destroy this power at once, put an end to it, to the whole of it?

I ask the Senate to destroy this power because it is only by destroying, not by restricting it, that you can accomplish any real good, and by destroying it you will return the American President to the sphere of labor and of duty assigned to him by the Constitution, and you will restore his subordinates to their manhood, of which they have not caught sight during their official terms.

The bill proposes, as I said, to restrict this power of removal. The bill proposes to deny to him the right to remove any one of the officers who have been appointed by and with the advice and consent of the Senate, except the heads of Departments. I ask you why except the heads of Departments? I have listened from the beginning of this discussion for a sound and sensible reason for this distinction. I am bound to say, and yet I wish to say it with the utmost respect for the great ability of those who have participated in the discussion, that I have been compelled to wait so far in vain. I have not heard a reason which has affected my understanding. Very likely the fault is in my understanding and not in the reasoning employed; but after all I must, out of justice to my Maker, insist that if you have good reasons, I have understanding enough to comprehend them when you fairly state them to me.

It was said, indeed it was said by my friend from Oregon, [Mr. WILLIAMS,] that we ought to leave the President so much authority as to remove the head of a Department out of respect to the presidential office. Why, sir, the earlier Presidents of the United States though they had this power did not exert it, and I never have understood that they fell short in the respect of the American people because they did not exert it. The later Presidents of the United States having no more power have exerted it, and I have not discovered that they have gained any in the respect of the American people because of it.

If it be so, that respect for the presidential office depends upon the patronage he has to distribute, your whole bill is a blunder, if it is not a crime. If you cannot entertain respect for an officer who cannot give you "bread and butter," for God's sake do not take any of this authority from the present President; he is the last one we can afford to strip of any of his titles to respect. We never had one that we could afford to detract from less. Reverse your action on this bill, pile up patronage in his hands, if you cannot respect a President without it. For myself, I know I will never respect a President of the United States, nor will the American people respect another President of the United States, until you turn him from the work which I called the other day the peddling of patronage, and turn him again to the discharge of his legitimate duties. Let us see once more an American President standing up as the first magistrate of the nation, doing justice, and commanding justice to be done, not as the organ of a party, but as the minister of a nation. Then I shall begin once more to respect the presidential office, never

until that time. It is whispered that I shall have to wait a long time for that day. I shall have to wait until I find an American Legislature which will undo deliberately the work which the first American Legislature carelessly did, a work which they never would have done, and you know they never would, if they could have foreseen the consequences of their own action. When James Madison stood there and defended the provision to confer this power upon the President, you know he did not conceive that we should come to electing Presidents for no other purpose than to dispense patronage; you know he did not conceive that we should come to elect Presidents who would confer it for the express purpose of rewarding partisan political friends, and you know he said that whenever that was done it would constitute a ground for impeachment.

Mr. EDMUNDS. If my friend will allow me, in answer to his imputation of knowledge to me that I do not possess, I wish to say a word. It appears from Mr. Madison's speeches and writings that he did contemplate the abuse of power on the part of the Chief Executive in every conceivable way, and he went so far as to point out how such abuses of power under such administrations of the laws should be prevented and punished. Therefore I think it unjust to Mr. Madison to say that he did not foresee that the Chief Executive might commit precisely the improprieties that are now laid against the President.

Mr. HOWE. My friend cavils with me about the employment of words. The possibility that a President might abuse this power he did foresee, because as my friend says he did, and as I said before, he did suggest the remedy. The remedy was, as I said, by impeachment, and he thought if that degenerate day ever did come in American politics, when the President should prostitute this patronage to the work of rewarding political partisan friends, we should have an American Congress brave enough and honest enough to remove him from office. The first day came long ago. We have seen the President for a long time doing that. The Congress which Mr. Madison supposed we should see has not yet made its advent. As yet we do not seem even to find a Congress which will withdraw from the President the authority of law to repeat these impeachable offenses.

Others said, I think my friend the Senator from Vermont said, that the President ought to have this power of removing the heads of Departments, because they were the confidential counselors and advisers of the President, and I think the Senator from Maine [Mr. FESSENDEN] echoed that sentiment and enforced it. Sir, if you mean to say that the Constitution made them such, that the Constitution designed they should be the confidential counselors and advisers of the President, all I can do is to deny it. You might just as well assert that the Constitution designed they should be his sisters. There is not a line or a letter in the Constitution which indicates either.

Mr. EDMUNDS. It says they shall give him opinions when he asks for them.

Mr. HOWE. Yes, sir; and because it says they shall give him opinions, I stand upon that very clause and say the Constitution never contemplated any such thing as you say ought to exist. If the makers of the Constitution had intended that the Secretary of State and of the Treasury should be the mere tools and the lackeys of the President, which your law makes them, instead of providing in that fundamental law that he might call on them for written opinions, the Constitution would have said that he should not call on them to black his boots nor to groom his horses. I am not sure but you will have to put that clause into the Constitution, if you mean to make the heads of your Departments occupy respectable positions for any great length of time. Do you find any statute authorizing the Senate to call on your Clerk for any information about the usages of the Senate? Did you ever see a by-law of a bank which said the stockholders or the direct-



ors might consult the cashier or demand his opinion about the management of the bank? You do not want such provisions as these for consulting men whose offices are held at your pleasure. The power of removal secures all this, and, unhappily for our country, it secures a great deal more than this which ought never to be secured.

Then, Mr. President, I do insist, not merely as a matter of law, as I said, but as a matter of fact, that the Constitution never designed to create these relations between the President and these heads of Departments. They are not there for any purpose of close and confidential communication or counsel with the President. They are there not as the tools of an Executive, but they were designed to stand there as ministers of the state. Will you not consent to place them in the character of ministers of state, clothe them with the prerogatives of ministers of state, and secure them the independence which every minister of state demands for the protection and for the welfare of the Republic?

The Senator from Maine [Mr. FESSENDEN] argued that the Constitution charged the President with the duty of seeing that the laws were faithfully executed, and therefore that he must have this power of summary removal in order to secure a prompt obedience and cooperation on the part of his subordinates, that these heads of Departments were created for the purpose of aiding him in the execution of the laws, and unless he was clothed with this power of summary removal they might become refractory and refuse to give him that prompt aid which he demanded. Why, Mr. President, a Secretary of the Treasury is no more an aid to the President in executing the laws than is the collector of customs in New York. The Postmaster General is no more an aid to the President in executing the laws than is the deputy postmaster at the confederate Cross-roads. I am not entirely sure, though, that he is a real functionary of the Government.

Mr. BROWN. He has not been confirmed yet. [Laughter.]

Mr. HOWE. My friend says he has not been confirmed yet. I had come to think of him as a real character, and to respect him very much as I respect all the rest of the office-holders. The Postmaster General, I say, is no more aid to the President in executing the laws than is every deputy postmaster. And if it be necessary that the President should have this power of summary removal to secure prompt obedience, then you ought to give him this power not merely over the principal officers, but you ought to give him this power over all the officers. You ought not to concur with the House in the amendment they have made; and you ought to rescind the bill you have enacted, reconsider the vote which you have taken, and leave this power in the hands of the President over every one of these offices. But I stand here to deny that any such power is necessary. I stand here to deny that that power is ever exerted for any such purpose. No, I will not go so far as to deny that it is ever exerted for that purpose. Some men may have been removed, undoubtedly have been removed, from office for a neglect of duty; but while one officer has been removed for neglect of duty a thousand and ten thousand faithful men have been removed from office who had neglected no duty in the world. This power of summary removal is not employed for the purpose of regulating official conduct; it is employed and used—the Senate, the American people, the world, God knows—for the purpose of regulating official opinion.

Mr. President, you do not clothe the general in the field with the power summarily to dismiss from his commission any subordinate of his. Is it not as essential to the success of the battle that the general should have prompt obedience on the part of every one of his subordinates as it is that the President should have thus prompt obedience on the part of his subordinates? No man will deny it. Why do you clothe the President with this most extraordi-

nary and monstrous demoralizing power, and withhold it from the general intrusted with the fate of armies as well as of nations, and who needs it so much more? That is not the reason why the power is given to him. It is not the purpose for which it is employed.

Mr. President, in many of the States, in the State in which I live, I believe that every officer of the State, with the exception of notaries public, is elected by the people of the State or by the people of the locality, elected for a specified term, and during that term he cannot be dismissed from that employment except upon a sort of impeachment, not an impeachment before the Senate, but an impeachment before the Executive of the State, just such an impeachment as your bill provides for leaving in the hands of the President of the United States, and which is abundant for the purpose of securing official good conduct.

It was intimated the other day, if not asserted, that this amendment of the House of Representatives was pressed upon us, it was intimated that I pressed it, because of the present anomalous condition of affairs, and I was reminded that it might not always be so, that it was not reasonable to suppose that the present President of the United States would always be President. I said then, and I wish to repeat now, that my advocacy of this provision is not grounded at all upon the fact that I do not accord with the policy or the conduct of the present President of the United States. Let who may be President, I should still say this was the true rule; I should still say you could not have the best and most efficient public service while political opinions instead of public service is the criterion of fitness for office. Our present position is indeed peculiar. The President is of one way of thinking, the Senate is of another way of thinking; but suppose that in 1868, as no doubt will be the case, the American people shall put into the presidential chair a man in accord with you. The President then elected, although he will have in the statute the authority to remove summarily without the consent of the Senate, will never do it, and you know it. Practically he will not have the power; nominally he will. A President whose friends control the Senate will never undertake to remove an officer without the consent of the Senate. It never is done where the President and the Senate are in accord with each other. When, therefore, you get, as you will, a President in harmony with the American Congress, and in harmony with the American people, this statutory power, for which the Senator from Vermont contends, will be of no practical use whatever, because it will not be exercised.

But suppose, against all rational probabilities, that at the election of 1868, 1872, or 1876—I think that it is best to postpone it a great while—suppose that in the course of time the condition of parties should be reversed, and suppose it should happen that the Senator from Vermont should find a Senate here opposed to him and a President in harmony with him. Then perhaps he thinks he would like to have a President for partisan purposes clothed with this power of summary removal. If he thinks so, I think he is mistaken.

Mr. EDMUNDS. I do not think so.

Mr. HOWE. I am glad to hear him disavow that opinion. When that time comes that power of removal in the hands of the President will not be worth a fig to any party, because whenever your enemies, whenever those gallant gentlemen who now occupy seats on the other side of this Chamber, shall be secured possession of the Government, shall be reinforced by members which shall enable them to make laws and to confirm appointments, you will find them actuated by a spirit very different from what seems to actuate us. The power to remove an officer is worth nothing to any party unless it is accompanied by the power to fill the place with the man you want, with a better man. Sir, I do not speak from the spirit of prophecy: I am instructed by history. In

1860 we elected a man who was in accord with us, but we had not a Congress in accord with him. Such a Congress was secured by secession, not by election. Suppose those gentlemen who left the Senate of the United States to enter into the service of the confederacy had seen fit to stay here, do you think President Lincoln could have removed a Democrat from office and appointed a Republican? Let me remind the Senate of what the present President of the United States thought was the duty of his party friends on just such an occasion. He was in that Senate: he voted against the election of Mr. Lincoln; he appealed to his party friends not to leave the American Senate, to fight their battles inside the Senate and inside the Constitution, inside the Union, as he called it. He exhorted them by every consideration which ought to have been addressed to them, and, as I think, by a great many considerations which never ought to have been addressed to them. But one of the arguments he presented was this; he said to them:

"I am for abiding by the Constitution; and in abiding by it I want to maintain and retain my place here, and put down Mr. Lincoln, and drive back his advances upon southern institutions, if he designs to make any. Have we not got the brakes in our hands? Have we not got the power? We have. Let South Carolina send her Senators back; let all the Senators come; and on the 4th of March next we shall have a majority of six in this body against him. This successful sectional candidate, who is in a minority of a million, or nearly so, on the popular vote, cannot make his Cabinet on the 4th of March next unless this Senate will permit him."

"Am I to be so great a coward as to retreat from duty? I will stand here and meet the encroachments upon the institutions of my country at the threshold; and as a man, as one that loves my country and my constituents, I will stand here and resist all encroachments and advances. Here is the place to stand. Shall I desert the citadel and let the enemy come in and take possession? No. Can Mr. Lincoln send a foreign minister or even a consul abroad unless he receives the sanction of the Senate? Can he appoint a postmaster whose salary is over a thousand dollars a year without the consent of the Senate? Shall we desert our posts, shrink from our responsibilities, and permit Mr. Lincoln to come with his cohorts, as we consider them, from the North, to carry off every thing? Are we so cowardly that, now that we are defeated, not conquered, we shall do this?"

That was the advice addressed to the Senate of 1861 by the present President of the United States, and you are admonished by that that whenever those gentlemen got possession of the Senate it is of no consequence that you have a friend of yours in the executive chair; he will be powerless to displace your enemies or to reward your friends. I do not deprecate that. I do not think any the worse of those gentlemen, because I know that would be their policy. I am glad to know of them that whenever they do get the reins in their hands they will have courage enough to drive the team. I want to see so much courage displayed by those who have the reins in their hands now.

Mr. President, I invoke the Senate to agree to this amendment of the House of Representatives. It will restore the President of the United States to the sphere of duty assigned to him by the Constitution; it will restore his subordinates to the official labors for which they were employed. It will transform the American people, that portion of them who need the transformation, from a race of office-seekers to a race of men. It will restore the public service to what it ought to be. By every consideration, it seems to me, which could move a Legislature we are exhorted to agree to that amendment of the House of Representatives.

Mr. JOHNSON. Mr. President, the particular question before the Senate is upon the amendment to this bill proposed by the House of Representatives. The bill as it passed the Senate excepted from its operation the Cabinet ministers. That exception the House have stricken out, and the question before the Senate is whether we will sanction that change.

I do not know that the question which my friend from Wisconsin has so elaborately discussed in the view that he takes of this measure is to be considered as before the Senate on this particular amendment. The bill as it passed the Senate rather affirmed the power of Congress to take from the President the

authority to remove without the sanction of the Senate officers generally, and in excepting, therefore, the particular officers who are named in the exception it is to be considered that a majority of the Senate were under the impression that the President has not that power. The question of power I have already discussed in the previous debate, and I said perhaps all that I had to say on the subject; but in that discussion I said that the question might have been presented for judicial determination when General Jackson directed the deposits to be removed from the United States Bank, which he could only do by dismissing from office the particular officer to whom in the first instance he sent that direction.

Subsequently to the discussion which was had in the Senate in relation to the propriety of that removal, the Senate of the United States passed a resolution condemning General Jackson for usurping a power in that respect which, according to the view of the Senate, he did not possess. In that discussion, as I stated when the matter was before us formerly, it was conceded by those who contested the propriety of that action upon the part of the President that he had a right to remove the Secretary who refused to obey his orders in relation to the deposits. Mr. Justice Story, in his Commentaries, Mr. Chancellor Kent, and the Supreme Court in two cases to which I formerly referred, all considered the question of constitutional power as finally settled. I propose now upon that question merely to refer to a passage in the speech made by Mr. Webster in the Senate upon the protest of President Jackson in 1834:

"In the first place, then, I have to say, that I did not vote for the resolution on the mere ground of the removal of Mr. Duane from the office of Secretary of the Treasury. Although I disapprove of the removal altogether, yet the power of removal does exist in the President, according to the established construction of the Constitution; and therefore, although in a particular case it may be abused, and, in my opinion, was abused in this case, yet its exercise cannot be justly said to be an assumption or usurpation. We must all agree that Mr. Duane is out of office. He has, therefore, been removed by a power constitutionally competent to remove him, whatever may be thought of the exercise of that power under the circumstances of the case."

In addition, therefore, to the authority of Story and of Kent and of the Supreme Court of the United States, we have the authority of Mr. Webster that the constitutional question is to be considered as practically settled. My friend from Wisconsin proposes now to open that question, to change what has been the settled opinion of the country, if we may judge from the continuing acquiescence in the exercise of that power, and to place ourselves in the condition in which we stood in 1789, when the matter became a subject of debate in this branch of Congress and in the other branch. Is nothing to be settled? Are the decisions of the Supreme Court to be wholly disregarded? Is the action of every President of the United States from Washington down to the present incumbent in relation to the same subject to be also disregarded? If it is, we are virtually making another Constitution.

In this I have the authority of Mr. Madison. In a letter to Mr. Ingersoll of the 25th January, 1831, he said:

"Can it be of less consequence that the meaning of a constitution should be fixed and known, than that the meaning of a law should be so? Can, indeed, a law be fixed in its meaning and operation unless the constitution be so? On the contrary, if a particular Legislature, differing in the construction of the constitution from a series of preceding constructions, proceed to act on that difference, they not only introduce uncertainty and instability in the constitution, but in the laws themselves; inasmuch as all laws preceding the new construction and inconsistent with it are not only annulled for the future, but virtually pronounced nullities from the beginning."

"Let it, then, be left to the decision of every intelligent and candid judge, which on the whole is most to be relied on for the true and safe construction of a constitution that which has the uniform sanction of successive legislative bodies through a period of years and under the varied ascendancy of parties; or that which depends upon the opinions of every new Legislature, heated as it may be by the spirit of party, eager in the pursuit of some favorite object, or led astray by the eloquence and address of popular statesmen, themselves perhaps under the influence of the same misleading causes."

So much in relation to the power. Now, supposing the power to exist which this bill assumes, as I said just now, the next question is whether it should be exerted as against the particular officers who are named within the exception, Cabinet officers. Why are they appointed, and why are they named Cabinet officers? They are appointed for the purpose of aiding the President in his official duties. They are not appointed, nor would the people of the United States consent to have them so appointed, for the purpose of thwarting the President of the United States in what he might consider was the duty incumbent upon him as President. He has very high powers, and he is false to himself if he refuses to exert them. He has very important and high duties, and he is equally false to himself if he disregards them. But how is he to exercise the powers with which he is unquestionably vested, and perform the duties which the Constitution imposes upon him, if he is to have around him not persons as friends and agreeing in the general scope of his policy, but men not subject to his control, and who may have a policy of their own entirely at war with that which he and the people of the United States may suppose to be the true policy of the country?

The honorable member can gain, as I think, no support in the way of argument for the proposition of the House because of the particular condition in which the President stands now to the party that elected him. Suppose that unfortunate and calamitous event had not happened, the assassination of President Lincoln, and he had discovered that he had a Cabinet around him upon whom he could not place reliance; that his Secretary of the Treasury, for instance, was pursuing a policy at war with what he believed to be the true policy of that Department, and so in relation to the other Departments; that the Secretary of State, in whose hands are placed the management of the concerns of the Government with foreign nations, was adopting a course inimical in his opinion to the true interest of the United States and injurious to their reputation; is he to be told "they shall retain their seats in spite of you unless we consent to their removal?"

The time was, and that time was at the period of General Jackson's protest, to which I have alluded, when an excitement arose in the country that affected the very existence of this body. The papers of the day that supported General Jackson and General Jackson's policy were crying out from day to day, "Look to the Senate, the aristocratic branch of the Government, the branch that is seeking to usurp to itself all power." At one time, judging from those signs, it was by no means certain that the tenure of office of the Senators of the United States might not be at some future day and at an early day changed. The President of the United States then was said to be the representative of the people, fresh from them, and therefore better able to know their will than anybody to be found in this Chamber. It was said that the very high and important duties which were devolved upon him by the Constitution required that he should at early periods go before the people and account to them for the manner in which he had discharged his trust, if he thought proper to ask for a reelection, and his policy in advance, his character in advance, his faithfulness to the institutions of the country in advance, are supposed to be known before he is elected to the Presidency; and when the Senate of the United States, by the course which they pursued in relation to the deposits, denounced him, the voice of the country far and wide was heard speaking loudly in condemnation of this body, and speaking so loudly in its condemnation that it threatened to affect even its existence.

Now, what is it proposed to do? To say, not to the present incumbent of the office, not to anybody who may become an incumbent of the office by the death or removal from office of the President elected as President by the people, but that he who may be elected Presi-

dent by the people, who may have been mistaken in relation to the character or the ability of the men whom he had selected to advise him, shall not have the power of changing them and obtaining others.

It has been said with truth, from the beginning of the Government, that there is to be found and has been found in almost every Cabinet one or more aspirants for the Presidency, and that their duties have been fashioned in a way that they thought would be calculated to gratify that aspiration. That condition of things will exist hereafter if it does not exist now. The President, by the power that he has to remove, has the means by which he can keep such an aspirant within proper limits; but declare that he shall not have the power to remove him, and you have virtually a President in anticipation warring with the President that is in office. That will not be concord, which is the very character the Cabinet relation assumes is to result as between the President and the Cabinet, but just as many wills and as many policies, if there can be as many policies, different from those of the President as the Cabinet ministers themselves number numerically.

I do not know what may be the fate of the amendment upon which the Senate is now called upon to vote. It was defeated when proposed by my friend from Wisconsin before the bill went to the House, by a vote, I think, of 27 to 15; but this I know: I think I know, and knowing it therefore I will predict it, that if it passes, the next Congress that may be elected after the next presidential election, if it contains a majority in each branch friendly to the President elected, will repeal it.

Mr. HOWE. The Senator from Maryland, upon the question of whether this power is derived from the Constitution or not, does not give us the benefit of his opinion. He knows the Constitution, for he has read it a great many times and for a great many years. If the power is in the Constitution he is the very man who could show it even to me; but instead of telling me where this curious power sleeps in the Constitution he contents himself with referring me to the casual declarations of this or that man who has gone before, and who seemed to admit that the power was in the Constitution.

I have said, and now repeat, that this power is the creature of the statute and not of the Constitution. I have read the statute which gives the power, which has continued the law; and although Mr. Webster said or intimated, in the language which has been read here, that that had been construed to be the constitutional power of the President, I must say I think Mr. Webster spoke without due consideration of that particular point, because if Mr. Webster had meant to say that the Constitution conferred that power he knew as well as any man who ever spoke the English language how to say it, and if he thought that power was in the Constitution he knew as well as any man who ever read it where the power was, and he would not have referred us to the act of 1789 as the evidence that that power was in the Constitution, but would have referred us to the Constitution itself.

But the Senator from Maryland argues this question with his usual adroitness, and having stated the opinion of Webster upon this point, and assuming that that settles the case that the Constitution confers the power, he asks us if nothing is to be considered as settled. I will not reply to that question put by the Senator from Maryland. I prefer to consider that question with my friends on this side of the Chamber; I am talking to them; and they say that that is not settled; their bill denies that the Constitution confers this power on the President, and they deny by their bill that the President ought to have this power. It is to them I am talking.

Mr. JOHNSON. It is true that, in what I have said to-day, I did not undertake to show that the true construction of the Constitution, in my opinion, was that the power exists by

any reasoning of my own. I did undertake what I considered a very unnecessary duty, and one that arrogated to myself more ability in such matters than I know I possess, when the subject was before the Senate upon a former occasion. All that I have done to-day is to refer to Mr. Madison, to Mr. Justice Story, to Kent, and to Webster; and when I referred to Mr. Madison the honorable member from Wisconsin and the Senate, I suppose, recollect that he did attempt to satisfy the House of which he was a member that the power existed, and he succeeded. I have not the vanity to suppose that I could add anything to the reasoning of that distinguished statesman. And whatever ability my friend from Wisconsin may possess which, if exerted, will enable him to shake the authority of Madison, I should despair if I attempted by any effort of my own to support that authority. The whole argument was exhausted, and he not only considered the question at that time and successfully aided in getting the construction of the Constitution, which is inconsistent with the provisions of this bill, maintained, but in after life, after the cares of office had ceased, after he was in his retirement at his home in Virginia, he wrote one or two letters full of argument on the same subject, in which he not only maintained the existence of the power, but said in relation to an article in the *Federalist* written by Mr. Hamilton, which averred that the power could be exercised as was supposed only with the concurrence of the Senate, that if he so meant to be understood in that passage of that article he had afterward changed his opinion. All that I got up to say now was that I am perfectly satisfied to stand, for the opinion which I have upon this subject, upon the arguments of Mr. Madison and the other great authorities to which I referred.

Mr. HOWE. I assent to much that the Senator from Maryland has now said. Taking the same side of the question I do not insist that the Senator from Maryland could add anything to the argument of Mr. Madison on the question whether the Constitution conferred this power on the President or not. I concede that Mr. Madison said everything on that side of the question that could be said. I only insist that the Senator from Maryland, if he would lend himself to the labor, could undo the argument which Mr. Madison submitted, and in a very short space of time. But the bill, I repeat, and I repeat it for the benefit of my friends on this side of the House, denies this power to the President as derived from the Constitution. It is to them I address myself when I urge them to perfect the reform which the bill but just inaugurates.

But the Senator from Maryland has thrown out one or two suggestions why, whether this power is conferred on the President or not by the Constitution, he thinks he ought to have it; and the first is, that those heads of Departments, he repeats again, are the confidential advisers of the President. He will repeat that, if he is not careful, so many times that he will get to believing in it. It has been my purpose in this debate to show that no such thing was designed; that there is nothing in the Constitution which intimates it, nothing in the character of these offices which indicates it.

But he supposes, nay he asserts, that there have always been in the Cabinet aspirants for the Presidency. Well, of what benefit is this authority to summarily remove them in that respect? They have been there, if at all, in spite of that authority, for the President has always had it in his power to remove them, and yet he has never cleared them out. They have been there in spite of the authority. Remove the authority and they cannot be any more than there. But aspirants for the Presidency may just as well be in the Cabinet as in the Congress, may just as well be in the Cabinet or in the Congress either, as among the people. If they are aspirants for the Presidency and they expect the Presidency to be conferred upon them by the American people, I infer, if they are not stupid aspirants, as some-

times happens to be the case, they will be all the more laborious to promote the public welfare. If that be the fact, I do not assume that that will unfit them for members of the Cabinet; I assume that they will only be all the more fitted.

But, Mr. President, the Senator tells us that it may so happen that each one of these aspirants for the Presidency may have a policy of his own, and that there may be as many policies in the Cabinet as there may be individuals in the Cabinet. Sir, I want to stand here simply to say to the Senate that there should be but one policy in any Cabinet, and that should be the policy prescribed to both President and Cabinet by the law-making tribunal of the United States. No head of an executive department has any business with a policy; nor has the President any business with a policy. He has a duty to discharge. His duty is to execute, not his own will, but the American will, and to derive that will from American law as spoken by the American Legislature.

Mr. DOOLITTLE. Mr. President, I do not intend to enter into a full discussion of the important question before the Senate. I will only say that the long practice of the Government and the opinions expressed by the great men who have preceded us, of all political parties and under all circumstances, have settled, if any doubtful construction of the Constitution can be settled, this question already. But, sir, I shall not go into an argument upon the construction of the language of the Constitution. If it were presented to me as an original question, the opinions of Mr. Webster, Mr. Madison, Mr. Justice Story, Chancellor Kent, and the action of political parties and the men of those parties have passed upon that question and given a construction for seventy years. The opinion of Mr. Webster, perhaps, is entitled to the greater weight, because at the time it was given he was the leading champion of the party in opposition to the President during the administration of General Jackson, and therefore if any party bias could operate upon Mr. Webster it would have operated upon him at that time. But as a great constitutional lawyer, rising above all the bias of party excitement, he gave his deliberate opinion that this constitutional question, which in the first place might have been a doubtful question, had been settled by the action of the Government and by the decisions of judges and legislators.

Mr. EDMUNDS. I wish to inquire of my friend whether in 1863, in this body, he did not vote for a law in the national bank act which expressly provided that the Comptroller of the Currency should be removable by the President only by and with the advice and consent of the Senate, and whether there was not a general concurrence at that time, when it involved no political consideration, in the propriety of such legislation?

Mr. DOOLITTLE. I did vote for the general bank law, although my convictions were not satisfied as to all its provisions. It was a thing regarded as necessary in the then existing state of the country and I gave it my support.

Sir, whatever may be said of the other officers of the Government who are embraced within the provisions of this bill, I think certainly the committee who reported it acted wisely in making the exception which has been here made of the heads of Departments. These heads of Departments stand in a peculiar relation to the President as his confidential advisers, from whom, by the very terms of the Constitution itself, he may demand an opinion in writing upon every important question which may arise in the administration of affairs. They are in the relation to him of private confidential advisers and secretaries, to enable him to execute the laws; and it is essential to the true administration of the laws that the Cabinet should be united and harmonious. If any mistake has arisen in the administration of affairs, either during the administration of Mr. Lincoln or the administration of Mr. Johnson, in my judgment, it is more to be attributed to the fact

that Mr. Lincoln did not have a Cabinet united and harmonious which he could call into confidential consultation with him upon the great questions presented to him in the course of his Administration; and the same mistake has undoubtedly arisen more or less in the administration of Mr. Johnson. It is essential to a proper administration, in my opinion, that the Cabinet should be united and should be harmonious.

But, sir, I probably should not have arisen at all if it were not for the fact that my colleague has thought proper, in the course of his speech, to read a letter, said to have been published in the newspapers, addressed to me. This letter is a private letter, which, by some means or other, has been purloined from among my private papers. I have never given any authority for its publication. I do not say that my colleague was aware of that fact, for had he been aware of it I presume he never would have used the letter. Having been obtained under those circumstances, I acquit him as a matter of course of all impropriety in the use of the letter which has been published. But, sir, in relation to the letter itself, I have felt it due to the gentleman who addressed it to me to state this fact, that it was not published with my consent, but was purloined from my private papers by some person unknown to me.

This letter contained a slip cut from a newspaper published by an editor residing at White-water, in the State of Wisconsin, who was the postmaster of that place; and it will be observed that all that is contained in the letter has reference to the course which was pursued by certain gentlemen residing in the State of Wisconsin, holding office under the Administration, and who were open-mouthed and most bitter in their denunciations personally against myself and against the President; and the writer of the letter suggests, how long shall this be endured, that the President and yourself are to be thus calumniated and maligned?

I shall not go into any further discussion of this question at the present time. My colleague, in the course of his remarks, seemed to concede that it was perfectly proper, in the changes of political parties, that when a party came into power it should nominate its friends to office. He claimed, however, that President Johnson has deserted the principles of the party which elected him to power, and has made removals because he intended to compel his friends who were associated with him to desert their principles also.

Sir, into this question as to who has deserted the principles of the party which elected Mr. Lincoln and Mr. Johnson to power in 1864 I shall not enter now. I only say to my colleague that while I concede to him all sincerity, for I do not question the sincerity of his motives, I know that so far as I am concerned I have not changed any of the principles which I have advocated on this floor, nor have I been false to a pledge which was ever given by myself or the party which I aided in elevating to power. The change is in himself. There are gentlemen upon this floor who have not changed. I see the honorable Senator from Massachusetts [Mr. SUMNER] and the honorable Senator from Missouri [Mr. BROWN] and the honorable Senator from Ohio [Mr. WADE] and other Senators that I could name. They stand now where they stood two years ago. I stand now where I stood two years ago. I was battling them then and over precisely the same question upon which I am battling them now. They have not changed, nor have I; but my colleague has advanced from the position where he stood side by side with me, and taken his position by the side of the Senator from Massachusetts. I question not his sincerity. If his convictions lead him there it is well. I question the sincerity of no other man. But whether he has changed in his position or I have changed, whether he has deserted the party and the principles upon which the party came into power in 1864, or whether I have deserted them, is a question which he and I can settle at another time.



For myself I am prepared to show, at all events I believe I can show, that I stand where I stood in 1864. This question of reconstruction was a question in discussion, it is true, in 1864. It was the very question upon which a portion of the Republican party called together a convention at Cleveland, because they were dissatisfied with the Administration and the policy of Mr. Lincoln. It is a question upon which there has been controversy in the Republican party from that day down to the present time. Upon that question I admit I took one side; the Senator from Massachusetts and some others took another. And I admit also that many Senators who stood with me then have become satisfied for some reason to advance and take position by the side of the Senator from Massachusetts. I do not find any fault if their convictions lead them there. But what I do say is, that because I have not advanced with them from my position to take another they have no right to condemn me as having deserted the positions which I occupied then and still occupy.

But, sir, I shall not go into that question on this occasion. I rose more to say in justice to the gentleman from whom the alleged letter was written that it was purloined from my private papers by some person unknown to me, and has been published without my consent. My colleague is now in his seat. As I stated before, I acquit him entirely of any knowledge on that subject, for I do not believe, had he known the manner in which it was taken, he would have used the letter in the Senate of the United States.

Mr. BUCKALEW. Mr. President—

Mr. DIXON. With the consent of the honorable Senator from Pennsylvania, before he proceeds I desire to submit an amendment which I intend to propose to the resolution of the Senator from Ohio [Mr. WADE] to amend the Constitution, when it shall come up. I desire to have the following inserted as a preamble:

Whereas at the first session of the Thirty-Ninth Congress an amendment to the Constitution of the United States was proposed to the Legislatures of the several States, which said amendment has not been ratified by the States in which rebellion against the United States recently prevailed; and whereas there is reason to believe that the following amendment to the Constitution of the United States would, if proposed by Congress, be ratified by the Legislatures of said States; and whereas there is also reason to believe that the constitutions of said States will soon be amended by the voluntary action of the Legislatures and people thereof by the adoption of an article in substance as follows, namely:

"ARTICLE.—Every male citizen who has resided in this State for one year, and in the county in which he offers to vote six months immediately preceding the day of election, and can read the Constitution of the United States in the English language, and can write his own name, or may be the owner of \$250 worth of taxable property, shall be entitled to vote at any election for Governor of the State, members of the Legislature, and all other officers elected by the people of the State: *Provided*, That no person by reason of this article shall be excluded from voting who has heretofore exercised the elective franchise under the constitution or laws of this State, or who at the time of the adoption of this amendment may be entitled to vote undersaid constitution and laws."

Now, therefore, in view of the above considerations and in the confident hope of an early fraternal restoration of the Union: *Resolved* by the Senate and House of Representatives, &c.

Then comes the resolution, and I propose to add to it this additional article:

#### ARTICLE.—

SEC. 1. The Union under the Constitution is and shall be perpetual. No State shall pass any law or ordinance to secede or withdraw from the Union, and any such law or ordinance shall be null and void.

SEC. 2. The public debt of the United States, authorized by law, shall ever be held sacred and inviolate, but neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the Government or authority of the United States.

SEC. 3. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States in which they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 4. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State excluding Indians not taxed. But when any

State shall, on account of race or color, or previous condition of servitude, exclude from voting at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, members of the Legislature, and other officers elected by the people, any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, then the entire class of persons so excluded from the elective franchise shall not be counted in the basis of representation. And no State shall require as a property qualification for voters more than the value of \$20 of taxable property, nor as an educational qualification more education than enough to enable the voter to read the Constitution of the United States in the English language and write his own name.

Mr. BUCKALEW. Mr. President, I do not propose to enter again into the general debate upon this bill; I spoke on a former occasion at length; but I desire to say something in answer to the Senator from Wisconsin who spoke this morning, [Mr. HOWE.]

The Senator from Wisconsin suggested a point which was made in the great debate on the subject of removals from office in the Congress of 1789, to wit, that the Constitution has made no provision and contains no grant of power upon that subject except in the clauses which relate to impeachment. I say that suggestion was made in that debate, and it received complete consideration from the several members of the House of Representatives who took part in the discussion. If ever there was a point or a suggestion triumphantly met and answered it was this. The debate which went on for nearly one month in the House of Representatives at various times touched this point. The debate upon it was exhaustive. Inasmuch as the Senator from Wisconsin, however, has introduced it now for the first time in the debate upon this measure, I choose to read from the old record of debates an important passage which will dispose of the Senator's argument, at least so far as it is founded upon former authority. About the close of the debate of 1789 Mr. Madison, in replying to his colleague, Mr. Page, said:

"I have a great respect for the abilities and judgment of my worthy colleague, (Mr. Page), and am convinced he is inspired by the purest motives in his opposition to what he conceives to be an improper measure; but I hope he will not think so strange of our difference if he considers the small proportion of the House which concurs with him with respect to impeachment being the only way of removing officers. I believe the opinion is held but by one gentleman besides himself. If this sentiment were to obtain, it would give rise to more objections to the Constitution than gentlemen are aware of; more than any other construction whatever."

In a House consisting of between fifty and sixty members, after a month's exhaustive consideration of this whole subject of removals, there were only two members left who entertained any such opinion as that which has now been introduced into this debate by the Senator from Wisconsin. In view of this it will not be necessary for me to go over the argument again; to restate those considerations and arguments which had so complete and decisive an effect upon the House of Representatives at the time mentioned.

Why, Mr. President, that very clause of the Constitution which provides that judges of the Supreme Court shall not be removed, or, in other words, provides that they shall hold their offices during good behavior, is itself decisive against any pretense of argument founded upon the impeachment clauses; because when the Constitution provides in effect that these particular officers shall not be subject to removal except by impeachment the conclusion is irresistible that other officers, both those enumerated in the Constitution and those subordinate ones which may be established by law, will be subject to such power. If this were not so that provision which fixes tenure during good behavior to the judicial office would be a provision nonsensical and absurd.

But what I rose for principally was to supply an omission in my former argument on this subject. During the former debate the Senator from Oregon [Mr. WILLIAMS] made the statement in unqualified terms that Mr. Madison had declared, with the acquiescence of the men of his age or of his time, that for an abuse by the President of his power of removing

from office he would be liable to impeachment by the House of Representatives, and to trial and sentence of degradation or removal from office by the Senate. He repeated this from a speech of a colleague of mine in the House of Representatives, a very able member who spoke upon removals from office at the present session, and alluded to this declaration of Mr. Madison, made in 1789. There is reason for care and for caution in the Senate in discussing questions connected with impeachment, in discussing questions of law connected with that great subject. I regret that the Senator from Oregon introduced this point into the debate; and I regretted also to hear the Senator from Wisconsin this morning speak with some degree of earnestness and at some length upon the same point. As, however, this matter is before us, and as our debates go to the country and opinions are formed upon them, I shall do what I think to be my duty: I shall bring before the Senate the record of the old debate so far as this point was concerned, and without argument of my own submit that record to public judgment.

In the first place, I will read what Mr. Madison did say:

"What will be the motives which the President can feel for such abuse of his power and the restraints that operate to prevent it? In the first place, he will be impeachable by this House before the Senate for such an act of maladministration; for I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust."

This was in the midst of the debate, and was an observation obviously thrown off in the heat of argument. It was taken up and answered by Mr. Gerry promptly and strongly. He said:

"It is said that the President will be subject to an impeachment for dismissing a good man. This, in my mind, involves an absurdity. How can the House impeach the President for doing an act which the Legislature has submitted to his discretion?"

Of course if the submission of the question of removal be by the Constitution itself the same observation would apply. He was speaking, however, upon a clause of the bill which in form conferred the power on the President to remove.

Again, Mr. Gerry said later in the debate, and when he spoke with great deliberation and power:

"How can you impeach the President, as was said by the honorable gentleman from Virginia, [Mr. MADISON], for exercising a power vested in him by law? Sir, it is an absurdity to talk of impeachment on such occasions when the officer is shielded by the law."

I read again from Mr. Benson:

"But it is supposed that the President may be impeached for an abuse of this power. How can that event take place? He will tell you he thought it incumbent on him to displace the officer, because he apprehended the public tranquility was in danger; and if he erred it was the error of the head not of the heart. And will any House of Representatives ever be found to impeach the Chief Magistrate of the United States for an error in opinion?"

I confine myself to a few pertinent extracts to show the current of the debate, but propose to add one remark: that although Mr. Madison participated frequently in the debate after he first spoke, and although he noticed every argument which had been advanced by the opposition against his views; although he exhausted the subject with a fullness and with a power that has few examples in argument in our legislative history, he never recurred to this point. He seems to have dropped it, to have taken the answers which were made by Mr. Gerry and by other gentlemen as decisive. He nowhere restates or attempts to vindicate his former observations on impeachment.

I have read so much from the record of this debate in order that the impression shall not go forth to the public that the Senate is committing itself, without propriety, in advance of any necessity or reason whatever to any particular opinion upon the law of impeachment; and I conceive that this is an act of duty to the Senate and to the public, inasmuch as this subject has been brought forward by others. This was my purpose in rising, and I have accomplished it.

Mr. SHERMAN. I do not desire to enter

into any debate on the general question of the power of Congress to regulate the tenure of office. I have already shown by my votes that I am of the opinion that Congress has the power to regulate the tenure of office and legislate in regard to removals from office. The Constitution does not in express terms confer upon any one the power of removal from office. The President has power to appoint to office, and the Senate has power to advise and consent to his appointments; but no express power is given to the President to remove persons from office. This power must necessarily exist in some department of the Government, and it was very natural at the beginning of the Government that the power should be exercised by the President, and that that should be acquiesced in from time to time. All that can be said about it is that the different departments of the Government have acquiesced in the exercise of the power by the President; but I think it has never been successfully denied that Congress may regulate the power of removal, as it may very many other functions of the Executive. As this bill is based upon the right of Congress to legislate in controlling and regulating the power of removal, I have no doubt of the constitutional power of Congress to pass such a bill as this. Nor have I any doubt that Congress may include within the provisions of this bill the Cabinet officers. It is, therefore, with me, not a question of constitutional law, but a question of propriety; and the question resolves itself into this: will Congress by law prevent the President from having a Cabinet of his own choice?

If this amendment be made and the bill passes in that shape, the result will be that when a President goes out of office, the Cabinet officers of his predecessor will be continued; the incoming President will be compelled to go on with the same Cabinet officers, unless the Senate concur with him in their removal. Suppose that by a violent change of public opinion, as may often occur in this country, a President of the United States is elected who represents the great body of the people, and the Senate remain of the old opinions, the Senate being a very conservative body, very seldom changing, or changing only by slow degrees. Suppose the Senate should refuse to obey the voice of the people and allow a President selected by the people to have a Cabinet of his own choice through whom and by whom alone he could perform the functions of his office. Suppose that some Cabinet minister under the old Administration should hang on to his office. It is hardly a probable supposition, I admit, because I do not see how any gentlemen could do it, or how any man could hold an office of that kind against the will and wish of his chief; but yet if we adopt the amendment of the House, and pass the bill in that shape, we compel the President to retain in office a man who is required to perform executive functions under him against his will, simply because the law forbids him from removing such an officer, and because the incumbent has not courtesy enough or has not sufficient deference to the public will to retire from his office. In other words, we are called upon to legislate to continue a man in office against the will of the people and against the will of his own chief.

Mr. President, I am not prepared to cast such a vote. I have no doubt whatever that the Cabinet officers ought to retire with the President, and the Cabinet officers ought to have harmonious relations, personal and political, with the President of the United States. The executive office is a unit, and must necessarily be so. All the heads of Departments must conform to the wishes of the President in a great measure. He must have power and control over them. It is impossible to divide the executive authority. The same reasoning does not apply to the minor officers, because they are merely subordinate agents, and whether they agree with the President in political opinion or not is a matter of perfect indifference. In England when a change of administration occurs every member of the

Cabinet, as a matter of course, tenders his resignation; new combinations and formations are made; but all the minor officers are retained. When there is a change of Cabinet ministry in England the subordinate offices are not affected.

If this bill is intended to prevent a wholesale removal of officers for political opinions I think it a wise measure and it ought to be supported; it ought to be voted for regardless of the political divisions that now separate the Senate from the President. It is a wise measure for all time. It ought to have been passed, and probably would have been passed long ago, if a similar condition of affairs had existed before. But when you propose to extend that principle to Cabinet officers a very different state of facts arises and different considerations apply to the subject.

Now, I say that if a Cabinet officer should attempt to hold his office for a moment beyond the time when he retains the entire confidence of the President I would not vote to retain him, nor would I compel a President to have about him in these high positions a man in whom he did not entirely trust, both personally and politically. It would be unwise to require him to administer the Government without agents of his own choosing.

It seems to me, therefore, that it would be unwise for the Senate to ingraft in this bill a provision that would enable a Cabinet officer to hold on to his office in violation of the will of his chief. No harm can result from leaving out such a clause, because if the President appoints an unfit man, sends his name to the Senate, the Senate can reject it. Suppose the personal relations between a Cabinet officer and the President become unpleasant so that they can have no social intercourse. The Senator from Wisconsin says in such a case as that the Cabinet officer would resign; but suppose he would not resign, suppose he should hold on to his power and to position, what then? There is nobody to remove him, no power to remove him; the President cannot remove him, and yet he can have no intercourse with him. Would you compel such a state of affairs? It seems to me that it would be unwise to do so.

There is no public exigency requiring such a rule. What is a Cabinet officer after all? The President's mere clerk, because, although these Cabinet officers are considered as high officers of the Government, they are the mere clerks or recording agents of the President, having scarcely any power except that which is given to them as a part of the executive authority. It seems to me that when there is any unpleasant relation, any unpleasant differences arising between the President and any one of these officers he ought to have the power to discharge him. I would as soon think of imposing upon the President a Private Secretary with whom he had no kindly relations, personal and political, as to impose upon him a Cabinet minister with whom his relations were not kind. If, however, he sees proper to remove any of these officers and undertakes to appoint an unfit man the Senate have ample power over the subject. If the name of a person is sent here that is not entirely acceptable to the Senate we have the power to reject him, and the President cannot fill the office until we are with him, so that there is no exigency that can arise for the passage of such a bill as this would be with the House amendment.

Therefore, while I am willing to regulate the tenure of office to prevent if possible the wholesale removal of officers at every change of the executive department, while I am willing by some strict law to keep in office men who have had experience and shown their fidelity, until they are removed for cause, I am not willing to extend that to the Cabinet ministers, from the very nature of whose office the power over them must be absolute. The power to separate the relations between them and the President must exist. Any gentleman fit to be a Cabinet minister, who receives an intimation from his chief that his longer continuance in that office

is unpleasant to him, would necessarily resign. If he did not resign it would show that he was unfit to be there. I cannot imagine a case where a Cabinet officer would hold on to his place in defiance and against the wishes of his chief; and if such a case should occur I certainly would not by any extraordinary or ordinary legislation protect him in that office and enable him to hold on to the office in defiance of what would be regarded in every constitutional Government as the proper rule, namely, to retire when he separates or differs in opinion from his chief.

My friend from Missouri [Mr. HENDERSON] suggests to me a case: suppose the southern men had not gone but at the beginning of the war; they and their party would have had a majority in the Senate of the United States. Suppose Mr. Lincoln could not have removed the Cabinet ministers who were then around him, that they could hold their offices in spite of him, that there was no power in him to remove them. That is precisely the case that is here provided for. It is a case which might have actually occurred in that instance. But for the withdrawal of the southern members from their seats in the Senate Chamber the Senate under the operation of a bill like this could have compelled the new President, Mr. Lincoln, to administer this Government with the agents his predecessor had around him, some of whom not very long before had actually been conspiring against the Government they were sworn to support. This is a pretty strong statement, but it is a case that might have arisen.

Take the case that may arise at the end of the present Administration. Suppose the President at the end of his term should go out of office and the people of the United States should, as we hope they will, elect some man in whom they have entire confidence; would you by this law enable the Senate of the United States to keep in office all the present heads of Departments? My friend from Wisconsin will say oh! no; that is not a supposable case because the Senate is all right. But, sir, we are legislating for the future. It will not do for us to legislate merely for the condition of affairs that now surrounds us. The case may be different when all the States are represented and are back here, as they probably will be before the next presidential election, when they are all represented on this floor by two Senators from each State. Suppose then, under the operations of this law, the voice of the people should not be heard then, and the present Cabinet should be kept in power, Senators would feel that this law did not operate very well then.

There is no public exigency requiring an exercise of power like this; nor do I believe, although perhaps it is going out of the record, that this subject was so fully considered in the House of Representatives as to give to the small vote that concurred in the passage of this amendment the force that I am always willing to give to the judgment of a coordinate branch of the Government.

Mr. SAULSBURY. Mr. President, I shall not enter into the discussion of this question, but only say that I shall, under no circumstances, vote to prevent the President of the United States from removing a Cabinet officer at any time that he wishes to do so. In fact, in my judgment, had the President been true to himself and his real friends he would have renewed some of his present Cabinet long ago. I believe the President to be patriotic. He has proved himself so throughout his whole life. There has been no President in the last thirty years who has appointed one tenth part of the numbers of his enemies to office as President Johnson; and there has been no President in that period who has removed so few of his enemies from office.

But, sir, having said this much, I wish to state that my principal object in rising was to disclaim in behalf of the party to which I belong any approval of the proposed amendment to the Constitution offered by the Senator from

Ohio, [Mr. WADE,] or the amendment thereto offered by the honorable Senator from Connecticut, [Mr. DIXON,] if, as I understand, it requires as condition to representation in Congress of any State the property qualification or the extension of suffrage to the negro race, which it seems to imply. Sir, I know what the judgment of the country will be, considering the intimate relations existing between the honorable Senator from Connecticut and the President of the United States; and that is, that that amendment will be considered an Administration measure. If so, I say for one—and I speak for the Democratic party of my State, and I think I can speak in behalf of one million eight hundred thousand Democrats in the non-seceding States—that that proposition will meet with no approval from them; and I trust in God that there is no southern State, however menaced by congressional authority, I had almost said congressional tyranny, that will so degrade itself or be so untrue and unfaithful to the friends who have stood up for their constitutional rights, as to adopt such a proposition as that. There is one State in this Union, although her electoral voice may not be very potential, that will never, under any circumstances, agree to it.

While I shall continue to support the President of the United States in all his constitutional rights and in every measure of public policy which I believe to be right in itself and conducive to the good of my country, I will not under any circumstances be so unfaithful to my own convictions of duty, to my fidelity to the principles of the great and glorious party to which I belong, as to countenance for a moment such a proposition as that.

I have said thus much in order, if possible, that the poison which has been thrown into this Chamber this morning may not have a too disastrous effect so far as my humble ability can prevent it; and having said thus much, I shall say no more, trusting to the fidelity of the party to which I belong, to its principles, that they shall not for a moment countenance the proposition of the honorable Senator from Connecticut.

Mr. CONNESS. I think this opportunity may not be allowed to pass without congratulating the country upon the prospect of the separation of the sheep from the goats. I will not say who are the sheep nor who are the goats. But I will add congratulation to the honorable Senator from Connecticut for the leave he has taken, after having strayed long from the right path, on his return to the fold. I think the prospect this morning is cheering and bright for the country. And in this connection I am very glad to hear the honorable Senator from Delaware say that, notwithstanding his emphatic dissent from the great proposition proposed this morning by the Senator from Connecticut, he will yet stand by the President in all that is right. With such a position from him as the leader of one party and such a proposition from the honorable Senator from Connecticut on the other side, I do not see but that the great passage that has yawned so deep and wide will be bridged over in due time, and that the country will be safe. Again I congratulate the Senator from Connecticut and the country.

Mr. DIXON. I suppose, then, I may count on the Senator's vote in favor of my amendment.

Mr. CONNESS. Unquestionably, after it shall be improved a little.

The PRESIDING OFFICER, (Mr. HENRICKS in the chair.) The question is on concurring in the amendment proposed by the House of Representatives to the bill.

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. DAVIS. Mr. President, in the year 1840 I made a report, somewhat elaborate, on this whole subject of the power of appointment and removal to the House of Representatives. I there assumed the ground distinctly that in order to remove as well as appoint the con-

currence of the whole appointing power was necessary, namely, the President and Senate. The converse of that proposition has been acted on from that time to the present, and I am not prepared to say now how far I would concede a modification of my former opinion by the subsequent practice and usage of the Government.

But, sir, in relation to members of the Cabinet, I hold that that is a subject which Congress has no power to legislate upon as regards their removal from office. The members of the Cabinet are not inferior officers in the sense of the Constitution, because the Constitution expressly provides that Congress by law may authorize the appointment of inferior officers of the Government by the heads of Departments. It would be an absurdity to say that the Constitution vested the appointment potentially of inferior officers of the Government in inferior officers of the Government; and when it by express language invests Congress with the power to give the appointment of inferior officers to the heads of Departments, it necessarily classifies the heads of Departments as superior officers of Government. As such they are appointed by the nomination of the President and the confirmation of the Senate.

The organized power to appoint the heads of the Departments is then a purely constitutional power. It is one that is organized by the Constitution, and it is to be exercised, according to my judgment, in conformity to the principle of the Constitution. If the Constitution permits the President to remove a head of a Department from office, Congress by its legislation has no power to shackle that power of the President to remove the head of a Department. If the power of removal inheres both in the President and in the Senate it is so by constitutional provision, it is so by constitutional principle, and Congress has no right and no authority to attempt by legislation the modification of the existence or exercise of that power.

It is, then, according to my opinion, a judicial question under the Constitution, and is to be adjudged by the Constitution and by the provisions of the Constitution. If the President removes a Cabinet officer, the question might arise by a writ of *quo warranto*, or some other judicial proceeding, inquiring into the right of the successor of that removed Cabinet officer to perform the duties of the place, and in that way it would become a judicial question under the Constitution, not for control or modification by act of Congress, but simply to be adjudged of by the courts as a question arising in court under the Constitution itself.

That view of the subject will induce me to vote against the amendment of the House. If it was a doubtful question, the expediency and the absolute necessity of the exercise of this power by the President is so great, so vital, that I would surrender any doubt that I had in relation to the principle, and would concede to the President the power and the right to remove his Cabinet officers.

I concur in the suggestions so forcibly made by the Senator from Ohio that the President cannot get along at all in the administration of his department of the Government with any sort of convenience in administration of the Government generally without the exercise of this power. I once had a conversation with Mr. John Quincy Adams in which he adverted to the state of relations between his father when he was President of the United States and his Secretary of State, Mr. Timothy Pickens. Mr. Adams stated to me distinctly, and in terms of extreme condemnation of Mr. Pickens, that he was holding on to his office and was thwarting his father in the administration of the executive department of the Government from day to day as opportunity afforded. He spoke in great harshness and condemnation of Mr. Pickens's course, and in no other terms I think than any just man would speak of any Cabinet officer who acted the same part

toward the President from whom he held his appointment. I cannot conceive of a greater breach of official propriety and of the just relations that ought to subsist between a President and his subordinates than for a Cabinet officer to hold on to his place when his judgment and his whole action and influence are thrown against the administration of the President. Yet this would be the anomalous and mischievous condition of things unless the President was clothed with a power to remove his Cabinet officer at his pleasure.

Under the two views of this subject I have presented I will not hesitate, whatever may have been the opinion that I expressed in 1840 so decidedly upon the point, now to vote against the proposed amendment of the House.

Mr. EDMUNDS. I do not rise to prolong the debate, but only to express the hope that the debate on this question may terminate and that we may come to a vote. The time left of the session and the pressure of business admonishes me, as I have no doubt it does every other Senator, of the necessity of condensing debate. While I should be glad to occupy some time in reply to some things that have fallen in the course of this debate, I feel it to be due to the business of the Senate to abstain. I hope the Senate will disagree to this amendment and adhere to the bill as it stands.

The question being taken by yeas and nays, resulted—yeas 17, nays 28; as follows:

YEAS—Messrs. Brown, Chandler, Creswell, Fogg, Fowler, Howard, Howe, Lane, Morrill, Pomeroy, Ramsey, Ross, Sumner, Trumbull, Wade, Wilson, and Yates—17.

NAYS—Messrs. Anthony, Buckalew, Cattell, Conness, Cowan, Davis, Dixon, Doolittle, Edmunds, Fessenden, Foster, Frelinghuysen, Grimes, Harris, Henderson, Hendricks, Johnson, Kirkwood, McDougall, Nesmith, Norton, Patterson, Poland, Riddle, Salisbury, Sherman, Stewart, and Williams—28.

ABSENT—Messrs. Cragin, Guthrie, Morgan, Nye, Sprague, Van Winkle, and Wiley—7.

So the amendment was non-concurred in.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 491) amendatory of the several acts respecting copyrights, with an amendment, in which the concurrence of the Senate was requested.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1134) declaring and fixing the rights of volunteers as a part of the Army.

A bill (H. R. No. 1135) to extend to general officers and officers on the retired list the benefit of the additional ration for every five years' service.

A bill (H. R. No. 1136) to amend the act establishing the National Asylum for Disabled Volunteer Soldiers; and,

A joint resolution (H. R. No. 269) for the relief of certain officers of volunteers.

#### EXECUTIVE SESSION.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

Mr. CHANDLER. I ask the Senator from Ohio to withdraw that while I move to take up the House bill No. 344, the Niagara ship-canal bill.

Mr. SHERMAN. There will be a struggle for the floor, and I would rather press my motion now.

The motion was agreed to.

Mr. FESSENDEN. I have no objection to an executive session; but I wish to say to Senators that to-morrow at one o'clock I shall move to take up the legislative appropriation bill.

The PRESIDENT *pro tempore*. The Sergeant-at-Arms will clear the galleries and close the doors.

The Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.



## IN SENATE.

THURSDAY, February 7, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.  
The Journal of yesterday was read and approved.

## EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 31st of January, 1867, information in relation to the condition of the Indians now located in the vicinity of Lake Traverse, and Fort Wadsworth, Dakota Territory, the part they took in the outbreak in Minnesota in 1862, and the cause of their being permitted to remain near the Minnesota frontier; which, on motion of Mr. RAMSEY, was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of January 24, 1867, the names of officers appointed under the act of July 28, 1866, who have not joined their regiments or stations, also their rank and the regiments to which they have been assigned, together with the reasons why they have not reported as ordered; which, on motion of Mr. WILSON, was ordered to lie upon the table, and be printed.

## AMENDMENT OF COPYRIGHT LAWS.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House to the bill (S. No. 491) amendatory of the several acts respecting copyrights, which was to insert between lines nine and ten of the second section the words "to give a receipt for the same if requested, and."

The amendment was referred to the Committee on Patents and the Patent Office.

## FRANCHISE IN TENNESSEE.

Mr. FOWLER. I wish to present a dispatch which I think will communicate to the Senate the announcement of the greatest victory that has been achieved since the rebellion commenced.

Mr. SUMNER. I hope it will be sent to the Chair and read.

Mr. FOWLER. I will send it to the desk and ask that it be read.

The Secretary read as follows:

NASHVILLE, TENNESSEE, February 6, 1867.

W. B. STOKES and J. S. FOWLER:  
The battle is won; bill passed House this afternoon—ayes 38, noes 25. Cause of human progress moves.  
J. J. NOAH,  
S. M. ARNELL.

## HOUSE BILLS REFERRED.

The following bills and joint resolution were severally read twice by their titles and referred to the Committee on Military Affairs and the Militia:

A bill (H. R. No. 1134) declaring and fixing the rights of volunteers as a part of the Army;

A bill (H. R. No. 1135) to extend to general officers on the retired list the benefit of the additional ration for every five years' service;

A bill (H. R. No. 1136) to amend the act establishing the National Asylum for Disabled Volunteer Soldiers; and

A joint resolution (H. R. No. 269) for the relief of certain officers of volunteers.

## PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and been requested to present to the Senate the petition of George W. Staples, praying for an amendment of the law relating to national banking associations. The petition sets forth that it is the practice of the banks in the city of New York to certify to the checks of many persons, brokers principally, doing a large business with the banks when those persons have no funds in the bank, and that such a practice is of very disastrous effect upon the banks and upon the public, stockholders and others. He prays for a law that shall subject to penalties officers who thus

certify when there are no funds in the banks. This petition, if there be no objection, will be received, together with the bill accompanying it, and referred to the Committee on Finance.

Mr. POMEROY presented a resolution of the Legislature of Kansas, in favor of an appropriation to enable the Department of Agriculture to make a scientific investigation of the disease among the cattle of that and adjoining States, commonly known as the "Spanish fever;" which was referred to the Committee on Agriculture, and ordered to be printed.

Mr. MORGAN presented a petition of merchants of New York, praying for amendments to the warehouse bill, approved March 16, 1866, requiring goods, wares, and merchandise deposited in bond in any bonded warehouse to be withdrawn for consumption in one year or be subject to an additional duty of ten per cent., so as not to subject tea, coffee, sugar, spices, and the raw produce of the East Indies to the additional duty of ten per cent.; which was referred to the Committee on Finance.

He also presented a memorial of the directors and stockholders of the Dorchester Union Freestone Company of New York city, remonstrating against the tax of four dollars per ton on imported building stone; which was referred to the Committee on Finance.

He also presented a petition of the gaugers employed at the custom-house, port of New York, praying for an increase of compensation; which was referred to the Committee on Commerce.

Mr. DAVIS presented the petition of Parker Quince, praying for compensation for services rendered as collector of internal revenue in North Carolina; which was referred to the Committee on Claims.

Mr. CONNESS presented a petition of citizens of Petaluma, California, praying for the passage of an act for the settlement and determination of the titles to the streets, alleys, squares or plazas, and lots on the public lands in that city; which was ordered to lie upon the table, a bill covering the case having been reported.

Mr. WILSON presented a petition of officers of the Army and Marine corps of the United States, praying for an increase of pay by restoring the commutation of the Army ration to fifty cents; which was ordered to lie on the table.

He also presented three petitions of seamen, firemen, coal-passers, and marines, praying for a bounty of \$100 a year, or eight and one third dollars per month for each month of service; which were referred to the Committee on Military Affairs and the Militia.

Mr. CHANDLER presented a memorial of a committee of the National Association of State and City School Superintendents, held in the city of Washington, District of Columbia, praying for the establishment of a national Bureau of Education; which was referred to the Committee on the Judiciary.

He also presented a petition of employes in the Executive Departments of the Government, praying that the tenure of offices now held in the civil service by all honorably discharged soldiers and sailors who were permanently disabled by wounds received or by diseases contracted in the service of the country during the late war may be changed so as to continue during good behavior; which was referred to the Committee on the Judiciary.

Mr. CATTELL presented a memorial of the officers of the Mercantile Library Company of Philadelphia, remonstrating against the repeal of the law which allowed the importation, duty free, of all books, maps, &c., intended for public libraries, colleges, and other literary institutions; which was ordered to lie upon the table, the Senate having acted upon the subject.

Mr. LANE presented a petition of employes in the Executive Departments of the Government, praying that the tenure of offices now held in the civil service by all honorably discharged soldiers and sailors who were perma-

nently disabled by wounds received or disease contracted in the service of the country during the late war may be fixed to continue during good behavior; which was referred to the joint select Committee on Retrenchment.

Mr. ROSS presented a resolution of the Legislature of Kansas in favor of the establishment of a daily mail route from Troy to Leavenworth in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a resolution of the Legislature of Kansas, in favor of the payment to certain non-commissioned officers and privates of company G, eighth regiment Kansas Veteran volunteers, of the extra bounty to which they were entitled under the terms of their enlistment, and which they failed to receive through the fraud or negligence of an officer of the United States; which was referred to the Committee on Military Affairs and the Militia.

He also presented resolutions of the Legislature of Kansas in favor of an increase of the pensions to the surviving soldiers of the war of 1812; which were referred to the Committee on Military Affairs and the Militia.

Mr. YATES presented the petition of Nancy A. Stocks, widow of Reuben Stocks, private company K, eighteenth regiment Illinois volunteer infantry, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. FRELINGHUYSEN presented the petition of Susan Ten Eyck Williamson, widow of Captain Charles L. Williamson, United States Navy, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of Charles S. Woodruff, praying to be indemnified for certain United States bonds and a compound-interest note, which he alleges were accidentally destroyed by him in the burning of certain old letters; which was referred to the Committee on Claims.

Mr. NORTON presented a resolution of the Legislature of Minnesota, in favor of the establishment of a tri-weekly mail route from Mankato, in Blue Earth county, through Medalia and Jackson, to Sioux city, in Iowa, via Spirit lake; which was referred to the Committee on Post Offices and Post Roads.

Mr. SHERMAN presented a petition of merchants of New York, praying that tea, coffee, sugar, spices, and the raw products of the East and West Indies may not be subject to the additional ten per cent. duty if they remain in bond over one year, and that when withdrawn for consumption they shall only pay duty on the actual amount withdrawn; which was referred to the Committee on Finance.

## PAPERS WITHDRAWN.

Mr. HENDRICKS. I have been requested to ask that F. A. Patterson be permitted to withdraw from the files the papers relative to a claim made by him to Congress upon which a bill was passed as a law at the last session of Congress. He wants to use the papers for some purpose, exactly what purpose I do not know; but as I understand from a colleague of mine in the House a bill was passed last session in his favor, and he asks leave to withdraw the paper on which the bill was passed. Leave was granted.

## REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on the District of Columbia, to whom was referred the memorial of the officers and members of the Newsboys' Association of Washington, praying for a change in the name of their association and an addition to their powers, reported a bill (S. No. 573) supplementary to the act incorporating the Newsboys' Home, and providing for the relief of certain minor children in the District of Columbia. The bill was read and passed to a second reading.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a joint resolution (H. R. No. 252) to permit Captain John A. Webster, jr., of the steamer Mahoning, to

receive from the Government of Great Britain a gold chronometer, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a joint resolution (H. R. No. 235) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 8, 1863, reported it without amendment.

He also, from the Committee on the Judiciary, to whom was referred a joint resolution (S. R. No. 153) authorizing the President of the United States to prevent the infliction of corporal punishment in the States lately in rebellion, reported it with amendments.

Mr. HENDRICKS. The Committee on Naval Affairs, to whom was referred a memorial of Charles W. Buck, late acting master United States Navy, praying compensation for loss of property by the capture and destruction of the steamer Water Witch by the rebels, in June, 1864, direct me to report it back, and ask to be discharged from its further consideration. The committee were not willing to report against the memorial, but it was not accompanied by any evidence, and the committee were unable to get from the Department satisfactory evidence of any equity on the part of the memorialist.

The committee were discharged.

#### PREVENTION OF SMUGGLING.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the amendment of the House to the bill (S. No. 525) supplementary to an act to prevent smuggling, and for other purposes, approved July 18, 1866, have directed me to report it back with a recommendation that the Senate concur in the amendment of the House, and I ask for immediate action upon it if there be no objection.

There being no objection, the Senate proceeded to consider the amendment of the House, which was to add to the bill the following additional sections:

And be it further enacted, That section twenty-six of the act aforesaid be so amended that the Secretary of the Treasury be, and he is hereby, authorized in his discretion to make such regulations as shall enable vessels engaged in the coasting trade between ports and places upon Lake Michigan exclusively, and laden with American productions and free merchandise only, to unload their cargoes without previously obtaining a permit to unload.

And be it further enacted, That section twenty-five of said act be hereby amended by inserting the word "March" in the place of "July" in said section.

Mr. FESSENDEN. Has that been to the Committee on Commerce?

The PRESIDENT *pro tempore*. It is now reported from that committee.

Mr. FESSENDEN. Do they recommend a concurrence?

Mr. CHANDLER. Certainly; that is the report of the committee.

The amendment was concurred in.

#### PRINTING OF A REPORT.

On motion of Mr. CHANDLER, it was

Ordered, That the letter of the Secretary of War addressed to the chairman of the Committee on Commerce, transmitting an extract from the preliminary report of Brevet Major General G. K. Warren on the survey of the Upper Mississippi, &c., relative to the improvement of the Fox and Wisconsin rivers, be printed for the use of the Senate.

#### BILL RECOMMENDED.

On motion of Mr. GRIMES, it was

Ordered, That the bill (S. No. 509) to amend certain acts in relation to the Navy be recommended to the Committee on Naval Affairs.

#### BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 575) to encourage commerce and internal trade by facilitating direct importations; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 576) relating to appeals and writs of error to the Supreme Court; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 574) to incorporate the Metropolitan Gas-Light Company, in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

#### MINISTER AT STOCKHOLM.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if in his opinion not incompatible with the public interest, a copy of any recent correspondence between the Department of State and the minister of the United States at Stockholm in relation to the reported transfer of this minister from Stockholm to Bogota.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1003) for the relief of the members of the twenty-first New York cavalry;

A bill (H. R. No. 1137) for the relief of Oliver Lumphrey;

A bill (H. R. No. 1138) to amend an act entitled "An act to provide for the payment of horses and other property lost in the military service of the United States," approved March 3, 1849;

A bill (H. R. No. 1049) to amend an act entitled "An act making appropriations," &c., approved July 28, 1866, giving additional bounties to discharged soldiers in certain cases;

A bill (H. R. No. 1139) for the relief of Captain David Beaty's company of independent scouts;

A bill (H. R. No. 1140) to repeal the twelfth section of an act approved July 17, 1862, entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes;"

A bill (H. R. No. 1141) to authorize the purchase of certain lots of ground adjoining the Alleghany Arsenal at Pittsburg, Pennsylvania;

A joint resolution (H. R. No. 226) extending the provisions of section two of an act entitled "An act to extend the jurisdiction of the Court of Claims and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States, approved July 4, 1864;

A joint resolution (H. R. No. 266) granting certain public property to the State of Ohio;

A joint resolution (H. R. No. 267) for the reduction of the military reservation at Fort Riley, and to grant land for bridge purposes to the State of Kansas;

A joint resolution (H. R. No. 268) to pay Lieutenant John H. Hamlin for military services;

A joint resolution (H. R. No. 270) for the relief of J. H. Riley;

A joint resolution (H. R. No. 271) authorizing the Secretary of War to adjust and settle the claim of D. Randolph Martin, assignee of the Washington, Alexandria, and Georgetown Railroad Company;

A joint resolution (H. R. No. 272) fixing the pay of the clerks at the Springfield armory;

A joint resolution (H. R. No. 273) for the relief of Walter C. Whitaker; and

A joint resolution (H. R. No. 274) for the relief of Charles B. Wilder.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker had signed the enrolled bill (H. R. No. 874) to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House, and for other purposes; and the enrolled bill (H. R. No. 902) to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished the Army of the Uni-

ted States; and they were thereupon signed by the President *pro tempore* of the Senate.

#### COMPENSATION OF CIVIL EMPLOYÉS.

On motion of Mr. WILLIAMS, the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 224) giving additional compensation to certain employés in the civil service of the Government at Washington, the pending question being on the motion of Mr. DOOLITTLE to amend the amendment proposed by Mr. WILLIAMS, by inserting before "State," in line nine, the words "Executive Mansion."

Mr. FESSENDEN. I should like to have some reason given for that.

Mr. DOOLITTLE. I will simply state that one of the watchmen employed in the Executive Mansion called on me and stated that the resolution as it stood made a distinction between them and the watchmen employed in the Departments. That is all the information I had on the subject. I supposed the same rule should apply to watchmen there as elsewhere.

Mr. FESSENDEN. The difference is that the watchmen at the Executive Mansion get \$900 apiece, while the watchmen in the Departments get only \$720. The whole matter was revised in regard to the Executive Mansion last year and the compensation of all the employés there fixed. I think the watchmen there were then put on the same footing with watchmen at the Capitol, who get more than watchmen in the Departments. I am not convinced that this amendment ought to be made. The proposition in the shape it is now put by the honorable Senator from Oregon is predicated upon the idea that these salaries were fixed at a recent period, and therefore ought not to be increased.

Mr. DOOLITTLE. I have already stated that the only information I have received was—

Mr. FESSENDEN. Allow me to call the Senator's attention to this clause in the appropriation bill, which I propose to take up to-day: "For compensation of two watchmen at the President's House, \$1,440." We propose to correct that by making the amount \$1,800, under a law passed in 1866 fixing their salaries at \$900. The watchmen in the Departments get \$720.

Mr. DOOLITTLE. That being the state of the case, of course I shall not insist on my amendment. I withdraw it.

Mr. STEWART. I propose an amendment to the amendment by inserting in the eighteenth line, after the word "meters," the words "and the crier and messengers of the Supreme Court of the United States." These persons receive by a law passed some years ago three dollars a day during the session of the court, and no more. I spoke to the chairman of the Finance Committee the other day in regard to them, and he was under the impression that their pay was fixed by some arrangement allowed by the court. That is not the fact; it is fixed by law at three dollars a day, and they are only paid during the days they are actually in service, so that it amounts to a very small compensation. Twenty per cent. on that makes but a small amount.

Mr. FESSENDEN. They are at liberty to attend to other business at other times. They are paid out of the judiciary fund. There are several cases where men are paid out of a fund that is placed at the discretion of particular officers. I think that these officers are of that class, and the law does not fix their compensation.

Mr. STEWART. Yes, it does; a statute fixes it at three dollars a day, and it is the only compensation allowed to them.

Mr. FESSENDEN. That is while they are actually employed during the session of the court, and they are at perfect liberty to attend to other business during all the rest of the year, and indeed can carry on other business all the time. There is no reason why we should go out of the Departments into the Supreme Court. We might just as well extend

it to the courts of the District of Columbia. There is no end if we begin to extend this provision beyond the Departments for which we are professing to legislate, and bring in everybody else. I am opposed to the first step, because if the door is once opened there is no end to it. Why should we extend this twenty per cent., which it is proposed to give to certain persons in the Departments for reasons applicable to them, to others having no connection with the Departments?

Mr. STEWART. I will simply remark that this resolution is pretty general already. It includes everybody about the Capitol here, I believe, pretty much; and this amendment is to provide for a very small number of persons who receive a small compensation.

Mr. FESSENDEN. The only person about the Capitol who is included in the resolution is the superintendent of meters, who gets about six hundred dollars a year.

Mr. HENDRICKS. It seems to me this amendment ought to be adopted. From what I understand about it, these persons are about the least paid of any employes almost.

Mr. MORRILL. I inquire whether this amendment proposed by the Senator from Nevada can be amended?

The PRESIDENT *pro tempore*. The Chair thinks not. It is an amendment to an amendment. A further amendment would be an amendment in the third degree.

Mr. MORRILL. Then perhaps I shall accomplish my object by stating that the bailiffs and criers in the supreme court of the District of Columbia have only two dollars a day. I do not oppose this amendment; I am rather inclined to think it should be adopted; but I desire to say that if the committee think it allowable to extend the resolution beyond its present limits it should, in my opinion, embrace the parties to whom I have referred.

Mr. FESSENDEN. I hope we shall not go beyond the Departments. If we do there is no knowing where we shall stop. Everybody comes in who is in the public employment in any capacity, no matter where, all over this District, at the arsenal, the navy-yard, and the printing office, everywhere, men who are as well paid as others doing the same work in private employment, and many of whom get the money the Government pays them without interfering with their ordinary business.

The question being put upon the amendment to the amendment, there were, on a division—ayes 13, noes 15; and it was declared to be rejected.

Mr. STEWART. I ask for the yeas and nays.

Mr. FESSENDEN. I should like to know if the yeas and nays can be called for after the result of the vote has been declared?

The PRESIDENT *pro tempore*. Strictly not in the opinion of the Chair. The yeas and nays, however, were called for in this case while the Chair was announcing the result. The Chair thinks that after the announcement is fairly made it is too late to call for the yeas and nays. The Chair is inclined, however, to entertain the call, because it is in the power of the Senate always to refuse the yeas and nays, for they can only be ordered by one fifth of the Senators present.

Mr. STEWART. I withdraw the call.

The PRESIDENT *pro tempore*. The amendment to the amendment is disagreed to. The question is on the amendment of the Senator from Oregon.

Mr. RAMSEY. I wish to move an amendment to the amendment, to provide for what I think must be a case of omission. The case to which I call attention is clearly contemplated by the general character of this resolution; but there is no provision made for it. I refer to the case of the employes at the arsenal. They are in some way connected with the War Office, for a large number of the employes of which provision is made. Their services are certainly very indifferently compensated, and are often very perilous. I think of all

classes they ought to be included. It is a clear case of omission, as I have no doubt the committee will think when they come to reflect upon it.

Mr. FESSENDEN. We have reflected on it; we had it before us.

Mr. RAMSEY. I move to insert the word "arsenal" after the word "navy-yard" in the thirteenth line, so as to include the employes of the arsenal.

Mr. WILLIAMS. I hope no Senator will suppose that any omission in this resolution resulted from oversight, for if there ever was a measure that was carefully considered upon the representations of all parties concerned this is one. I have been overwhelmed with applications from all the employes of the Government in this District of every description in reference to its provisions. I will say that applications have been made by the employes at the arsenal, the navy-yard, Government Printing Office, and other places where persons are employed, and by the laborers upon the Capitol extension and the Treasury extension, for a provision in this resolution to embrace them. And if the employes of the arsenal be now embraced, then all the employes at the navy-yard, on the Capitol and Treasury extensions, and in the Government Printing Office ought to be embraced, for there is no reason for making any discrimination; and it is a question for the Senate to determine whether these mechanics and laborers and others who are employed at these different places shall or shall not be embraced within the provisions of this resolution.

There are about twelve hundred persons employed at the navy-yard, some three or four hundred at the arsenal, some five or six hundred in the Government Printing Office, and several hundred upon the Capitol and Treasury extensions. Twenty per cent. upon the wages paid to all these employes, as nearly as I can estimate it—of course I have not obtained any very great accuracy—would amount to between three and four hundred thousand dollars. I desire to have the Senate determine the question. If the motion of the honorable Senator from Minnesota prevails I shall then insist that the resolution shall embrace all the persons employed in these different places, for there is no reason in the world why they should not be included.

There is a large number of poor women employed in the Government Printing Office, some one hundred and sixty, who only receive from twenty-five to fifty dollars per month for their services. They have made most pathetic appeals to me to include them in this resolution, as though I had entire control of the matter, and it was not in any way the action of the committee; but it was the decision of the majority of the committee that these persons ought not to be included.

Mr. FESSENDEN. The unanimous decision?

Mr. WILLIAMS. It was the decision of the committee as to these persons employed by the day that they should not be included in this resolution. Those who have the superintendence of these different offices can raise their wages, if they see proper to do so, whenever in their judgment they earn more than they now receive. For these reasons, and as they receive a larger compensation than is received by mechanics from employers anywhere, and as the Government is punctual in the payment of their wages, it was not thought advisable to include them. I know that it is difficult to find any stopping place in such a bill as this; but there must be some limit somewhere to this appropriation. As the resolution now stands, in my opinion, as near as I can judge, the appropriation will not fall short of a million of dollars; and if it be extended from one class of persons to another there will no end to it.

I submit these considerations for the action of the Senate. I say that if the employes in the arsenal are included, all these others ought to be included also.

Mr. WADE. I do not see any principle in

the limitation which the committee have made in restricting the provisions in this resolution to the particular employes named in it. Are they more worthy of the enhancement of their wages than others who now apply, in the arsenal, navy-yard, and printing office? Indeed, the Senator from Oregon himself tells us that their compensation is a very meager one, and that they are as much under the necessity of an increase as those for whom he has provided. Although it is somewhat burdensome to extend the provision to all these persons, I really cannot see why, if you begin to make this kind of appropriation, you should stop short of carrying out the principle by extending it to all who come within the reason of the case. I am persuaded that many of these employes, whether they get as much wages as persons do in other places or not, have a very hard time to get along with what they do receive, and I believe that the Government is able to pay its employes in such sort that they shall be comfortably provided for with prudence on their part. I do not believe that is the case now.

I hope the resolution will be extended to all the classes that were mentioned by the Senator from Oregon. They are as meritorious and as much under the necessity for this relief as those already provided for in the resolution. I do not believe any Government was ever put to serious disadvantage because of the compensation it paid to its actual laboring employes. It is infinitely more burdened by great salaries to those who do nothing; but those who do the actual labor generally fare pretty hard. I believe the Government is able to give them a compensation that with prudence and industry on their part will make them comfortably off. I think it ought to do so, and I do not believe that it will be a detriment to the Government to do so. It is an act of justice, nothing more. I believe that Governments may be burdened by sinecures, but I never heard of any difficulty because of the compensation which was paid to actual laborers. You do not best give them enough to burden the Government at all. I hope the provision will be extended to all these classes.

Mr. SHERMAN. Mr. President—

Mr. FESSENDEN. If my friend will give way, I will now move to take up the legislative, executive, and judicial appropriation bill.

Mr. SHERMAN. Certainly, I yield for that purpose.

Mr. FESSENDEN. I move that all prior orders be postponed, and that the Senate proceed to the consideration of House bill No. 896.

Mr. CHANDLER. I gave notice a few days ago that I should press the Niagara canal bill the moment the bankrupt bill was disposed of. It is useless, I know, to antagonize anything with an appropriation bill; but I wish to give notice that the moment this bill is through I shall endeavor to get up the Niagara ship-canal bill and to obtain a vote upon it. I would thank the Senator from Maine if he would allow me to take it up now, and let his bill lie over informally.

Mr. FESSENDEN. I can hardly consent to make provisions for other bills. I must insist upon my motion.

The motion was agreed to.

#### HOUSE BILLS REFERRED.

The PRESIDENT *pro tempore*. Prior to taking up the legislative appropriation bill, the Chair, with the permission of the Senate, will lay before the Senate certain House bills for reference.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred to the Committee on Military Affairs and the Militia:

A bill (H. R. No. 1003) for the relief of the members of the twenty-first New York cavalry;

A bill (H. R. No. 1137) for the relief of Oliver Humphrey;

A bill (H. R. No. 1138) to amend an act entitled "An act to provide for the payment



of horses and other property lost in the military service of the United States," approved March 3, 1849;

A bill (H. R. No. 1049) to amend an act entitled "An act making appropriations," &c., approved July 28, 1866, giving additional bounties to discharged soldiers in certain cases;

A bill (H. R. No. 1139) for the relief of Captain David Beatty's company of independent scouts;

A bill (H. R. No. 1140) to repeal the twelfth section of an act approved July 17, 1864, entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes,"

A bill (H. R. No. 1141) to authorize the purchase of certain lots of grounds adjoining the Alleghany arsenal at Pittsburgh, Pennsylvania;

A joint resolution (H. R. No. 226) extending the provisions of section two of an act entitled "An act to extend the jurisdiction of the Court of Claims and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States," approved July 4, 1864;

A joint resolution (H. R. No. 266) granting certain public property to the State of Ohio;

A joint resolution (H. R. No. 267) for the reduction of the military reservation of Fort Riley, and to grant land for bridge purposes to the State of Kansas;

A joint resolution (H. R. No. 268) to pay Lieutenant John H. Hamlin for military services;

A joint resolution (H. R. No. 270) for the relief of J. H. Riley;

A joint resolution (H. R. No. 271) authorizing the Secretary of War to adjust and settle the claim of D. Randolph Martin, assignee of the Washington, Alexandria, and Georgetown Railroad Company;

A joint resolution (H. R. No. 272) fixing the pay of the clerks at the Springfield armory;

A joint resolution (H. R. No. 273) for the relief of Walter C. Whitaker; and

A joint resolution (H. R. No. 274) for the relief of Charles B. Wilder.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1144) making appropriations to supply deficiencies in the appropriations for contingent expenses of the House of Representatives of the United States for the fiscal year ending June 30, 1867;

A bill (H. R. No. 1146) for the relief of Mrs. Elizabeth Fletcher; and

A joint resolution (H. R. No. 275) to extend the time for the use of certain vessels for quarantine purposes at the port of New York.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. No. 525) supplementary to an act to prevent smuggling, and for other purposes, approved July 18, 1866; and it was thereupon signed by the President *pro tempore* of the Senate.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 896) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867, which had been reported from the Committee on Finance with various amendments.

The PRESIDENT *pro tempore*. The Chair will suggest that the sense of the Senate be taken upon the amendments reported by the committee as they are reached in the reading of the bill. It will expedite business, and, if there be no objection, that course will be pursued. The Chair hears no objection.

The Secretary proceeded to read the bill.

The first amendment reported by the Committee on Finance was on pages 6 and 7, lines one hundred and thirty-nine, one hundred and forty, and one hundred and forty-one, in the clause making an appropriation for the Capitol police, to strike out the words "amounting to \$50,000, one half of which is to be paid by the Senate."

The amendment was agreed to.

Mr. FESSENDEN. I desire to move an amendment on page 12, after line two hundred and eighty-five, under the heading of "For the general purposes of the building occupied by the State Department." I move to insert:

For rent of said building, \$15,000.

For alterations and improvements of the building and for means of protection against its destruction by fire, \$15,000.

This was necessary according to the recommendation of a letter received from the Secretary of State.

The amendment was agreed to.

The next amendment was on page 14, line three hundred and twenty-four, in the clause making an appropriation for compensation of the Auditor of the Treasury for the Post Office Department and the clerks in his office, to insert the words "chief clerk" after the word "Department."

The amendment was agreed to.

The next amendment was on page 15, line three hundred and thirty-nine, in the clause providing for the office of the Solicitor of the Treasury, to insert the word "laborer" after the word "clerks."

The amendment was agreed to.

The next amendment was on page 16, line three hundred and sixty-two, to strike out the final "s" in the words "records" and "journals."

The PRESIDING OFFICER (Mr. ANTHONY in the Chair). That amendment being a mere verbal alteration will be considered as agreed to, if there be no objection.

The next amendment was on page 16, under the head of "Contingent Expenses of the Treasury Department," after line three hundred and eighty-two, to insert:

For temporary clerks in the Treasury Department, \$50,000: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to classify the clerks authorized according to the character of their services.

Mr. SUMNER. I wish to ask the Senator from Maine if that does not leave a certain discretion to the Secretary of the Treasury which, at this time, it is hardly advisable to leave to him? And I may state a case. What assurance is there that the Secretary of the Treasury, in the exercise of this discretion, "to classify the clerks authorized according to the character of their services," will not classify them according to his political or personal preferences? I have heard that he has done that at the Treasury Department; that on former occasions, in the exercise of this discretion, he has allowed himself to be controlled by those considerations rather than by the merits of the individual. I should not make this inquiry if I had not heard that circumstances had occurred at the Department which justified it.

Mr. FESSENDEN. I have no belief that that is true. It is necessary if you make the appropriation—and the appropriation is unquestionably necessary—that the Secretary should have some discretion about it. This is not like the provision that was inserted in the appropriation bill last year. That appropriated \$160,000, the balance remaining in his hands for temporary clerks and to make extra compensation to clerks and other officers. It appropriated about two hundred thousand dollars in the whole. All that is struck out at this session. This item is confined simply to the appointment of temporary clerks, which he must have, which he has now and must continue to have in greater or less numbers. This amendment was reported by the Committee on Appropriations, which certainly was not

disposed to allow the Secretary too much power or discretion, in the original bill in the House of Representatives; but a good deal of inquiry took place and considerable disturbance was made about it, and it was struck out rather by the consent of the chairman with a view, I suppose, that it should be taken up in the Senate. It is unquestionably necessary that this sum should be appropriated for the purpose of employing temporary clerks. The business of the Department has required it for years, and will continue to require it. The sum is a small one. If the Secretary has the power to employ temporary clerks he will want to employ clerks of different grades unquestionably. He will need some men whom he cannot get for \$1,200, the lowest salary. The amendment has no reference to the regular clerks in the Department, but to the temporary clerks who are employed.

As to this story about the Secretary's advancing men according to his political and personal preferences and all that, I do not believe a word of it. Such complaints exist always. It is always the case where there are so many men employed that those who are not advanced think they are superior to others who are advanced. We cannot always see ourselves as others see us; and that applies to the Departments as well as to other places. Mistakes may have been made. Men may have been advanced where better men might have been found. That depends in a very great degree upon the heads of the bureaus and the heads of the divisions. They know who the men are, and they make the recommendations. I do not believe myself that the Secretary has made any appointments of that description unless on the recommendation of those who were at the heads of bureaus and the heads of divisions, and they are almost universally men that you could not complain of on account of their politics; there may be a few exceptions. But the power must exist. The idea of having a Secretary of the Treasury and allowing him no discretion at all in his own office with regard to these things is a perfect absurdity. You must trust him unless you mean to abolish the office or abolish the individual. It must be done as long as there is a Secretary of the Treasury. For myself, I have no idea that there is anything in this story more than in the complaints that come always from disappointed men who think their claims are superior to those of others, and that their capacity is superior to that of others. It is always the case everywhere. All cannot have the places, and those who do not get them are disappointed.

Mr. SUMNER. I wish I could see the Secretary of the Treasury as the Senator from Maine paints him. I think the Senator paints entirely an imaginary character. The Secretary of the Treasury, as I see him, is a very different person. However, I will for the moment content myself merely with expressing my dissent from the beautiful picture presented by the Senator.

Mr. FESSENDEN. I presented no picture. I merely stated my belief.

Mr. SUMNER. The Senator simply stated his belief; but his belief really is a picture, and he must allow me to say a picture which seems to me to be drawn from his imagination.

Mr. FESSENDEN. I leave all matters of imagination to the honorable Senator from Massachusetts.

Mr. SUMNER. When the Senator, as he rarely attempts it, does draw upon his imagination, we all know how effective he is. On this occasion the Senator has drawn upon his imagination.

Now, I have in my hand certain papers with relation simply to one bureau of the Treasury; that is the Sixth Auditor's office. It seems that by the act of last year there was certain extra compensation which was to be apportioned in the Treasury Department according to certain principles. In the Sixth Auditor's office that extra compensation was distributed, as the papers will show, according to political

partialities. I do not know the persons, but I have in my hand a list of names with a proper characterization, and from this list it will appear that there was the most offensive exercise of power on that occasion. I presume that the Secretary of the Treasury must be responsible for it. Is he not?

Mr. TRUMBULL. Of course.

Mr. SUMNER. The Senator from Illinois says, "of course." It was in the bureau of the Sixth Auditor. In that bureau it seems there were eleven persons, of whom a majority were Republicans, who received the extra compensation. These were the chief clerk, the principal of the pay division, the principal register, the principal of the money-order division, the principal book-keeper, the principal of the examining division, the principal of the foreign mail, and the solicitor, and also one third-class clerk and a second-class clerk; being eleven persons; but all these, as I understand, were so high in service that they came naturally within the sphere of this extra compensation.

Mr. HOWE. And came within the order of the Secretary himself.

Mr. SUMNER. And they came, as my friend reminds me, within the order of the Secretary himself. But when we get beyond this list, when we get among the general clerks, if I may so say, what do we find? We find that all this money is given to persons who are members of what is known as the Johnson Departmental Club. I have in my hands the following list, which I will read:

"Political status of those selected by the Auditor who do not perform what are called analogous duties: C. A. Tavenor, Johnson Departmental Club; J. O. Wilson, also of that club; W. H. Sullivan, also of that club; J. P. Maguire, also of that club; Joseph Bulloch, also of that club; F. M. Lator, also of that club; C. G. McEran, also of that club; W. W. Cox, secessionist, and also of that club; W. C. Lipscomb, Jr., secessionist, and also of that club; J. A. Jewell, Democrat, appointed from Mississippi by Jefferson Davis; F. B. Lilley, a Johnson man at the election time; G. H. Thomas, doubtful."

Then I am told that the remaining six on the Auditor's list are believed to be Republicans; but it is doubtful how some of them would have voted at the election. Now, the Republicans in that bureau number ninety, the Johnson men thirty, doubtful six; and yet where there is that relative proportion of Republicans and of Johnson men and of doubtful men, you have this lion's share of the compensation given to men whose chief recommendation is, that they were members of the Johnson Departmental Club, or secessionists, or appointees of Jefferson Davis.

That is in one of the bureaus of the Treasury Department. Senators about me say that of course the Secretary of the Treasury is responsible for it. I should suppose he must be held responsible for it. The question now is, whether we can commit that discretion to him. I agree with the Senator from Maine that as a general thing discretion must be lodged somewhere, and that it would seem with regard to the Treasury Department that we must either abolish the office or abolish the man. And yet if we can take any precaution suggested by the experience of the past should we not do it? Are you willing to allow the \$50,000 that you are about to appropriate to be distributed in this unequal way and according to the unhappy political proclivities of the Secretary of the Treasury? I think that we ought to take some precaution against it. I do not wish, however, to prevent this allowance of money. I wish to secure it for the benefit of these men and the business of the Department. I am contented with the statement of the Senator from Maine that the Department needs this additional service; but then I ask the Senator to give us some provision by which we shall prevent its being prostituted as there is reason to believe a similar allowance on another occasion has been prostituted by the head of that Department.

Mr. FESSENDEN. Will the Senator allow me to ask what his authority is for the statement he has made?

Mr. SUMNER. I have a statement here from—

Mr. FESSENDEN. Who signs it?

Mr. SUMNER. It is from a gentleman who is known to Senators on this floor.

Mr. FESSENDEN. What is his name?

Mr. SUMNER. I understand the Senator from Wisconsin [Mr. Howe] knows him personally.

Mr. FESSENDEN. What is his name?

Mr. SUMNER. I would rather not give his name.

Mr. FESSENDEN. That is the way the Senator attempts to influence the Senate by reading a letter from a man who does not want his name given. He is probably a clerk in the office who did not get the money.

Mr. SUMNER. The Senator from Wisconsin knows him personally; I do not; but I had reason to believe that his statement was as much to be relied upon as that of any Senator.

Mr. FESSENDEN. What reason had the Senator to believe so?

Mr. SUMNER. From what I was told.

Mr. FESSENDEN. By whom?

Mr. SUMNER. That I do not remember.

The letter I received now a month ago.

Mr. FESSENDEN. Very well; I should like to know what authority the Senator has to say he was so told. Who told him this man was to be relied upon? Is he a clerk in that bureau?

Mr. SUMNER. The Senator from Maine has dealings enough with persons here to know very well that one cannot remember day by day all the conversations he has with people.

Mr. FESSENDEN. I never make a statement in this Senate on the authority of a man whose name I am not ready to give. I do not get up on loose statements, anonymous letters, or letters which are equivalent to anonymous letters, because the writer will not suffer his name to be used, and attack officers of the Government. I think the practice is entirely unjustifiable.

Mr. SUMNER. As to anonymous letters I agree with the Senator.

Mr. FESSENDEN. Very well; but the man who makes a statement affecting the character and conduct of the Department in which he is, and is unwilling his name should be used, is nothing else but an anonymous writer. I want to know who the man is. Does the Senator from Wisconsin know anything about it?

Mr. HOWE. If it is from the man I suppose it is, I know the man. That letter is not addressed to me and I have no authority to communicate his name. He was a clerk in the Sixth Auditor's office, at the head of a division, and received his regular share of that money. He never found a word of complaint as to the treatment that was bestowed upon him, but did think he had two grounds for complaint. One was, I believe, that not a dollar of it was given to any clerk in his division, and he was not consulted in reference to the clerks in his division. Another reason is the reason presented in the letter itself, that a large proportion of the money was given to those who are classed politically as Democrats or as Johnson men to the exclusion of the large majority of those clerks who are known as Republicans. Those are the only two complaints I ever heard him make. As to the personal character of the man I have no doubt he is as truthful a man as any on this floor.

Mr. FESSENDEN. The statement itself shows that the Secretary of the Treasury has done what was his duty about this matter. He gave his orders as to the principle upon which this extra compensation should be distributed.

Mr. HOWE. If the Senator will allow me, I understand the order of the Secretary went no further than this: that those who were at the head of divisions should receive a share of the extra compensation, and those filling analogous positions should receive a share of the extra compensation; and the number of clerks in the Sixth Auditor's office who under that rule received extra compensation was eleven; but outside of that, as the Senator

from Massachusetts has read, there were a large number of clerks—

Mr. FESSENDEN. How large? I should like to know what number.

Mr. HOWE. The Senator from Massachusetts has read the names.

Mr. FESSENDEN. Some half a dozen.

Mr. SUMNER. Much more than that.

Mr. FESSENDEN. Not much more.

Mr. SUMNER. Twelve persons who were members of the Johnson Departmental Club or secessionists.

Mr. FESSENDEN. How does this man know that they were secessionists?

Mr. SUMNER. That I do not know.

Mr. FESSENDEN. Now, I know the man's name.

Mr. HOWE. Perhaps you will state it, then.

Mr. FESSENDEN. I cannot state it. He has not written that letter to me. He has written another similar to it to me, and I examined the whole of his statement and inquired about it and became satisfied that the man was writing in temper and from bad feeling. Now, how in the world can the Secretary of the Treasury distribute this money to each clerk and overlook each clerk and inquire as to each clerk's politics? The Secretary of the Treasury makes a general order; in distributing this money he gives it to the heads of divisions and the chief clerks and the leading officers of the Department, and he leaves the balance to whom? To the Auditor himself. The Auditor sends up the names and gets the money. Probably it does not go to the Secretary of the Treasury at all after the Auditor has designated the names. I cannot say how that is.

Mr. HOWE. It must under the law.

Mr. FESSENDEN. It must in a certain form, but he is not obliged to put his name to everything of that sort. He approves generally. He cannot go over the details of all these things in the Department. I know something on the subject from experience. It must be left to the principal men in the Department who do the labor. The Secretary cannot look over everything. He gives a general order, and then when the matter is made up he directs. He cannot look over everything. But as far as he did go in this matter he went right.

Now, with regard to the Sixth Auditor, why did not Senators oppose his confirmation?

Mr. SUMNER. When was he nominated?

Mr. FESSENDEN. At this session. He was confirmed in the place of a gentleman from Chicago, Mr. Arnold. Mr. Arnold resigned and he was appointed.

Mr. SUMNER. When was he confirmed?

Mr. FESSENDEN. A fortnight or three weeks ago. He is from my State, and a Democrat. My colleague and I did not see fit to oppose him. We knew he was a very excellent officer, and we did not suppose a better one would be got if he was rejected, and we made no opposition to him. His nomination did not go to my committee. I believe it went to the Committee on Post Offices and Post Roads, and was recommended by the committee on the ground of his being a very excellent officer and a very competent man, who had had considerable experience heretofore.

Mr. RAMSEY. His nomination was reported favorably on the ground that the Senators from Maine had no objection to him.

Mr. FESSENDEN. And I believe if he made such a distribution as has been stated he was imposed upon.

Mr. HOWE. I guess that was the ground of his confirmation.

Mr. FESSENDEN. What?

Mr. HOWE. On the ground that the Senator from Maine recommended him.

Mr. FESSENDEN. I did not recommend him.

Mr. HOWE. You recommended his confirmation.

Mr. FESSENDEN. No, sir, I did not recommend his confirmation. I never was inquired of about it one way or the other.

Mr. RAMSEY. I inquired of the colleague

of the Senator and he approved of his confirmation, and having consulted the Senator now on the floor he said he would make no opposition.

Mr. FESSENDEN. I said I would make no opposition. I so told my colleague, and he said he should make no opposition; not because he was from Maine. I would not have appointed him. If he had come to me for a recommendation for it I should have refused him. I would not have thought of appointing him, because I know what his politics are, and I would not think of appointing a Democrat to one of these offices; but he was appointed and the Senate confirmed him. The case went before the Post Office Committee. It should have gone to the Committee on Finance, as he was an officer in the Treasury Department; but it was not sent there for some reason or other, I do not know what, probably by accident. Now I say that he is a good officer and a very capable man. That I know.

So far as the action of that bureau in this matter is concerned I know nothing about it; but so far as the Secretary of the Treasury is concerned it appears all he has done with reference to it has been proper. He knew nothing about this, could know nothing about it. You do not suppose the Secretary of the Treasury, with all he has to do, is inquiring about the politics of every man in his Department?

Mr. SUMNER. He is inquiring about the politics of men in distant parts of the country.

Mr. FESSENDEN. I doubt very much whether he is doing that.

Mr. SUMNER. There is evidence of it.

Mr. FESSENDEN. I know the Senator does not very much like the Secretary of the Treasury; but I beg him to do him justice. He may do some things that the Senator does not like and other Senators do not like. I do not like his support of Mr. Johnson's policy, because I do not support that policy myself; but that the Secretary of the Treasury is an upright man and means to discharge the duties of his office faithfully and to the best of his ability I have no manner of doubt. Whatever his politics may be, and however Senators may like his course politically, I say that, because it is due to him to say it. I believe it firmly.

Now, then, with reference to this particular thing, what does the Senator or any Senator propose? The Secretary must have this amount of money, in my judgment and in the judgment of the committee, appropriated for this purpose. This appropriation is not going as far as the one alluded to went. There is nothing here to raise anybody's salary. All that is struck out. It is for the mere appointment of temporary clerks. The other appropriation referred to the permanent clerks in the Department who were to receive pay under it. This appropriation covers no such thing. It is the mere ordinary appropriation which he must have to appoint temporary clerks, persons now out of the Department, not permanent officers. Then he must classify them; that is, he must have different kinds of men; he must give some more and some less. If he is not to decide, who is? What does the Senator propose in place of it? Would he have the assignment made by Mr. Anderson, the Sixth Auditor, that this man complains of? And his is the only case in the whole Department where the head of a bureau has been changed and a Democrat appointed; that is, of any of the regular bureaus, all the rest are of a different political character.

But what I say with reference to this matter is this: here is an appropriation that, in my judgment and in the judgment of the committee, must be made; here is a discretion that must be exercised with regard to the use of this money, that is, the classification of these clerks. Now, if the Secretary of the Treasury is not to decide that question, who is? What does the Senator propose? If he merely proposes to raise this question and make this complaint, let him make it against the Auditor; the Secretary has nothing to do with it in the world; that is to say, nothing consciously. I will ven-

ture to say, because I know from my acquaintance with the business there, that he could not look over the politics of all these men one way or the other. If it has been so in that particular bureau, I do not believe it has been in others; and from all that appears, although they were members of the Johnson Departmental Club, they might have been the very ones who should receive it. They do not give the money on account of politics.

But with regard to this informant, I took pains to inform myself from good authority with regard to him, and I was satisfied that he was influenced by anything but a desire for the public good. He wanted to defeat Mr. Anderson's confirmation and get him rejected by the Senate. That is the reason of his supplying that information; but in that he did not succeed.

Mr. SUMNER. The Senator from Maine forgot in his remarks how I introduced this matter. I stated that I was in favor of giving to the Treasury Department all that it needed in the conduct of its business, but I asked the Senator to allow me to put to him a question, whether it was not possible in some way to limit the discretion of the Secretary in the exercise of this power? I put the question, and I said that I was moved to put it because there was something in the history of that Secretary that at least made me hesitate about conferring upon him any additional discretion. That was the way I opened this question.

I have not yet said that I should vote against this amendment, nor have I moved any limitation. I wished to make a statement of facts, and to invite from the Senator from Maine such explanations as he might feel disposed to make with regard to the Secretary of the Treasury and the degree of confidence which the Senate might repose in him. He has made the statement, and in making this statement he has undertaken to throw from the Secretary the responsibility of the transaction to which I referred and to cast it upon the Sixth Auditor. I cannot agree with him. I think if that thing has been done according to the statement which I have made, the responsibility belongs to the head of the Department; and I do not doubt that the Sixth Auditor in doing it understood well that he was carrying out the views of his chief. I have no idea that the Secretary gave to the Sixth Auditor a list of names, but he gave him something that was equally potential. He whispered in his ear or let him well understand that members of the Johnson Departmental Club were the men to be preferred in securing this extra compensation. I believe that, because it is according to the nature of things, and it is according to what I may call the prevailing testimony with regard to the Secretary of the Treasury. He is notoriously an intense partisan. Whether he is upright or not I will not at this moment say. I am not on this incidental question going to be carried further into a general discussion of the merits of the Secretary of the Treasury. There will be perhaps an occasion for that, and if it comes I shall state my conclusions fearlessly. Meanwhile, let him have the credit which the Senator from Maine gives him. It is important in his favor. I think he needs it.

Mr. FESSENDEN. I will ask the Senator if he has any proof that the Secretary of the Treasury is a man who goes about whispering these things into the ears of others?

Mr. SUMNER. I have ample proof that he is what I called him, an intense partisan.

Mr. FESSENDEN. So is the Senator an intense partisan. Does the Senator judge the Secretary of the Treasury of his own heart, that he would do such things?

Mr. SUMNER. When the Senator addresses me a personal remark I prefer not to answer it.

Mr. FESSENDEN. I will not address the Senator. Now I disclaim for the Senator anything of that kind. I know that he would not; I know that he could not; I know that it is contrary to his whole nature, I know him so well; but I hint to my friend that where things

of that sort are suggested with regard to others without proof, they may lead those who do not know the Senator to infer that he judges of the acts of others by what he would do himself. Therefore I think we should be careful how, without evidence, without proof, we attack a man at the head of a Department, because he is a partisan simply and opposed to us, and make suggestions derogatory to his personal honor, and suggestions that he would do things that are mean and unworthy of a man of honor. That is not the way to speak of men without proof. If you have proof, so be it. If you have not, it ought not to be said. Everybody knows that no one differs more widely with the Secretary of the Treasury with regard to his notions of reconstruction than I do; but I have watched him carefully, and I do not believe any of these statements with regard to his hunting up men and punishing them for their political opinions or anything of the sort, one way or the other.

Mr. SUMNER. I do.

Mr. FESSENDEN. The Senator does. I do not. I am at liberty to express my opinion. As I said before, I regard the Secretary of the Treasury as an able and upright officer. That he has made appointments or recommended appointments that do not suit us, and perhaps for political purposes, may be, and very probably is in some cases. But Senators must reflect that although these recommendations come from the head of a Department—I know nothing about it in this case—the head of the Department cannot always command the appointments themselves; that when he recommends an officer, it is not unfrequent that he recommends an officer because he is ordered to recommend an officer by the appointing power. That was the case over and over again in many cases in the War Department during the Presidency of Mr. Lincoln. How many recommendations were sent in here of nominations—"by direction of the President, I nominate such a man or recommend such a man to be appointed a brigadier general," or something of that sort. I know very well, I have had experience enough to know, that the head of the nation, who is the appointing power, very frequently assumes to direct whom he shall appoint; and it is the habit of members of Congress when the Secretary of the Treasury, or any other Secretary, will not come to their views with regard to an appointment, to go over his head to the President.

Mr. CONNESS. What else can they do in such cases?

Mr. FESSENDEN. Nothing. That is their own way to accomplish their purpose undoubtedly.

Mr. CONNESS. It is the only way to be heard by the appointing power.

Mr. FESSENDEN. Undoubtedly. I am not complaining of it. They go to the Secretary of the Treasury or the Secretary of War. They ask him to make an appointment; to recommend a certain man for appointment. He says, "I will not do it." They go then to the President and request him to do it. I am not disputing the right; but is the Secretary responsible for what the President does? That is what I am talking about. He is not to be held responsible for what is done over his head under the solicitation of a member of Congress.

What I object to, therefore, is the statement of the Senator from Massachusetts, expressing his belief with regard to these things without anything but his belief, and substantially accusing a man, whom I believe to be an honorable man, who holds a high and honorable position, of a meanness, of doing indirectly and meanly what he had not the courage to do directly in the first place. The Senator is not justified, in my judgment, in making any such accusations. They are unworthy of the officer, and I know that the Senator would not do any such thing himself under any circumstances.

Mr. SUMNER. The Senator from Maine insists upon saying that the Secretary of the Treasury is an upright man. I have not said



that he was not. The Senator from Maine insists that the Secretary of the Treasury is not a mean man. I have not said that he was a mean man.

Mr. FESSENDEN. But you believed he would do a mean thing; and that is substantially the same thing.

Mr. SUMNER. Not at all. I have not said that I believed he would do a mean thing. I have said he was an intense partisan, and I could not give him my confidence.

Mr. FESSENDEN. Did not the Senator say he believed that he whispered into the ear of the Sixth Auditor how he wanted this fund to be distributed?

Mr. SUMNER. Yes.

Mr. FESSENDEN. Very well. That I call meanness.

Mr. SUMNER. Then that is the characterization of the Senator; it is not mine. I have not said that it was mean. I have not said that the Secretary does a meanness. I have said, and I do not doubt it, that he intimates to the heads of bureaus the character of appointments they should make.

Mr. FESSENDEN. I do not believe a word of it.

Mr. SUMNER. The Senator does not believe it. Very well. He is entitled to his belief. I do believe it. I may be mistaken; but according to my acquaintance with the Secretary and such knowledge as I have obtained from others I must adhere to my belief. I think that he does; and I think that his whispering extends wherever the telegraph can go; it runs on wires. I do not believe it is confined to one building or to one room. I believe that he is an intense partisan, and that to carry out his partisan views he is willing to do what I should be unwilling to sanction. I forbear now to characterize him. I am not going to follow the Senator from Maine at this moment into the question of the character of the Secretary of the Treasury. I have confined myself to the precise facts before us and to what he has done in his Department with regard to his clerks. I have not traveled outside of that. I have not said whether there is anything in his conduct that should make him unworthy of the position that he occupies. I have not said or raised the question whether he is a man of veracity or not. I leave all those questions to the future. I reserve my judgment upon them. I know there is evidence bearing on them; but I do not mean now to be led into that greater controversy. I am now on the simple question as to the exercise of his discretion with regard to the people immediately about him. There, according to what I have seen with my own eyes, what I have listened to from his own lips, what I know of him personally, what I have heard others say, I am led to the conclusion that he is so intense a partisan that we ought not to intrust him with any discretion that can be avoided.

Mr. WILLIAMS. I have been charged with the care of a bill which to some extent involves this controversy, and I have taken some pains to investigate the subject. Representations were made to me that the funds that were placed in the hands of the Secretary of the Treasury were disbursed, not with respect to the merits of the clerks and employés in the Treasury Department, but on account of political favoritism. I went to the Secretary of the Treasury and told him very plainly that such statements had been made to me, and I desired to know whether the statements were true or false. I was informed by the Secretary of the Treasury that when this fund was placed at his disposal he made an order that the heads of the respective bureaus and divisions should report to him those persons under their charge who were most meritorious, most deserving of this compensation, and that this fund was distributed altogether according to the reports made to him by these chiefs of bureaus and heads of divisions, and that a great proportion of the money was paid to men with whom he had no personal acquaintance, and of whom he had no personal knowledge except by the

reports that were made to him by these persons who were required to report.

I then went to persons in the Treasury Department of whose politics I have personal knowledge—I know them to be radicals—and I inquired of them if they knew as to whether or not this fund had been distributed according to political preferences or prejudices on the part of the Secretary of the Treasury, and so far as my examination went they told me that they did not believe any such consideration entered into the distribution of this fund. I know, and the report which has been made by the Secretary of the Treasury will show, that some of the men in that Department who were known to Senators to be radical men have received the largest portion of the fund that was distributed by the Secretary of the Treasury.

Mr. FESSENDEN. Very much the largest.

Mr. WILLIAMS. Now, so far as the Sixth Auditor's office is concerned, I am not able to make any particular statement, as I have made no inquiries with reference to that particular office; but I find that the fund was distributed there among twenty-eight persons, and they are the heads of divisions or are discharging duties analogous thereto. Every man in the Sixth Auditor's office who has received any portion of this fund is either the head of a division or is discharging duties analogous thereto.

Mr. HOWE. In the Sixth Auditor's office?

Mr. WILLIAMS. Yes, sir.

Mr. HOWE. Oh, no.

Mr. WILLIAMS. Then this report of the Secretary of the Treasury is not to be depended upon.

Mr. SUMNER. Is it to be depended upon?

Mr. WILLIAMS. That is a question, of course, on which I do not profess to make any statement. This report, which is an official report of the Secretary of the Treasury "in answer to a resolution of December 10, relative to the disbursement of the funds appropriated as extra compensation to clerks in that Department," gives the names of the persons and the amounts they have received. One of them, the chief clerk, J. M. McGrew, received \$625. There are nine others who receive \$300 apiece; one received \$200; two received \$150; one received \$100; and then there are twelve others who received fifty dollars apiece; and I find in this list the names of the persons mentioned by the Senator from Massachusetts.

Mr. FESSENDEN. Those who received fifty dollars apiece are not heads of divisions, are they?

Mr. WILLIAMS. They are heads of divisions or discharging duties analogous thereto.

Mr. FESSENDEN. I presume that was for a quarter.

Mr. WILLIAMS. Yes, sir; they received fifty dollars for the last quarter. There are only twenty-eight clerks in that bureau, according to this report, who have received any portion of this extra compensation. It has all been distributed to those who were heads of divisions or discharging duties analogous thereto.

Everybody knows in what light I view the political action and principles of the Secretary; but I think it is due to the Secretary, as I have taken some pains to look into this matter, to make this statement. I do not know but that he is governed by political favoritism in the distribution of this fund; but according to the examination I have made I do not believe he is.

Mr. HOWE. Mr. President, I did not inaugurate this discussion, and did not know any such discussion was impending. I have been drawn into it a little way, and I feel it necessary to go a little further into it. I did not know such a letter was in the possession of the Senator from Massachusetts. I did not know it was to be produced here. I know the writer of the letter.

Mr. FESSENDEN. Did the Senator have one similar?

Mr. HOWE. No, sir; not on this occasion. The facts stated in that letter were communicated to me by this same gentleman some

weeks since. They were communicated to me, as the Senator from Maine has said, as presenting reasons why the Sixth Auditor should not be confirmed in the nomination of the office that had been tendered to him. The Senator from Maine asks, with considerable emphasis, why we did not oppose his confirmation. I will tell him very frankly why I did not. It was not because I doubted the truth of the statements contained in this communication; I have no manner of doubt of their truth; but I did not oppose his confirmation for these reasons: first, I advised the gentleman to communicate those facts to the Senator from Maine and also to his colleague on the other side of the Chamber. I advised him to do so in order that he might ascertain what would be the influence of those facts upon their judgment; and I told him that if they, in spite of those facts, still recommended the confirmation of this gentleman he would undoubtedly be confirmed by the Senate; at all events, I should not feel at liberty to offer any opposition.

I had another reason for not opposing him, and I stated that to him, and I will state it now to the Senate. It was that I did not feel at liberty to censure the Sixth Auditor of the Treasury Department very much for the conduct disclosed in that communication—not that I did not believe he had discriminated in favor of his political friends; but we placed the power in his hands to do that. I was opposed to doing it. I never believed that appropriation ought to be made to the Treasury Department. I opposed it as far as I could oppose it; but the Senate and the House voted that money into the hands of the Secretary to be distributed as he judged proper. It was very proper for him to take the advice of the Sixth Auditor. The Sixth Auditor, I understood, to be politically a Democrat. Now, when the question came up before the Sixth Auditor between two clerks equally competent and equally faithful as to which should have \$200, when it was impossible that both should have it, I did not think it a very surprising thing that he should have given it to the Democrat and not to the Republican. If I had been in his place I am extremely afraid I should have given it to the Republican and not to the Democrat, and I should not have felt very guilty in doing so, and I am not disposed to impute any great guilt to the Sixth Auditor for doing the same thing. He never ought to have had that power in his hands, but we gave it to him; we put it there; and I am willing to take my full share of the responsibility of doing it. For these reasons I did not offer any opposition to the confirmation of the Sixth Auditor.

Now, sir, that all has reference to a question which is not before the Senate. The question before the Senate is, whether we shall appropriate a certain sum of money, not to be distributed arbitrarily among the clerks in the Treasury Department, but whether we shall appropriate a certain sum of money to enable the Secretary of the Treasury to employ temporary clerks, additional help—not extra compensation to regular officers, but an additional sum of money to employ extra help from time to time. I do not see why that ought not to be done, why it must not be done. I am sorry that that power is in the hands of an officer of whom I have the opinion that I have of the Secretary of the Treasury. I differ, as the Senator from Massachusetts differs, from the Senator from Maine in my estimate of the administration of the present Secretary of the Treasury. That he is corrupt, of course I do not say; but that he gives to the country a bad administration of the affairs of that Department I think I know. Of course I do not hold myself responsible for his political opinions. Of course he is not responsible for mine. Of course I do not stand here to attack the honesty or sincerity of the opinions that he avows; and if he sincerely believes them he has just the same right to maintain them that I have to maintain mine. The Senator from Maine, however, tes-

tifies to the country that his political opinions do not influence his administration of the affairs of that Department. There are certain facts within my knowledge that lead me to exactly the opposite conclusion, and I feel bound to state them.

The State of Wisconsin is entitled by the Constitution to six Representatives on the floor of the other House and two on this floor. It became known to us during the last session of this Congress that there was a difference of opinion upon certain political questions between the Secretary of the Treasury and a majority of the Representatives from Wisconsin in this Congress; and we were given to distinctly understand, those of us representing that State who differed from the Secretary of the Treasury, that our advice was not wanted, and our wishes were not to be consulted in reference to appointments to be made through that Department. I do not find any especial fault with the Secretary of the Treasury for shutting his ears against our advice in reference to an appointment. I should not take his advice, and I suppose for the same reason. But why would he not take our advice? Because we held to one theory of reconstruction, as it is called, and he held to another.

There was a large body of people in the United States who held to precisely the theory of reconstruction that he did, and in that large body of men he might have found men of personal character and personal integrity to fill the employments in the gift of that Department, and those employments are very numerous and very responsible. Those employments are charged with the labor of collecting from three hundred to three hundred and fifty million dollars of internal revenue. He is called upon to select men to go right into every man's house, right into every business man's counting-room, right on to their farms, right into their banks, and know the business of every man as well as the man knows it himself. It is the most delicate and the most responsible duty that ever was devolved upon any official in the United States; and it is a duty that should only be confided to the most prudent, the most honest, and the most incorruptible men we have in the country. Now, I do not say that the Secretary of the Treasury might not have gone into the ranks of those men who held to his theory of reconstruction and found men of just as much personal integrity as he could have found on the other side; but it did not suit the purposes of the Secretary of the Treasury to do that. The Secretary of the Treasury seemed to think there was some necessity for employing, not men who held to his theory of reconstruction, but men who could be selected out of the ranks of the Republican party and who would subscribe to that theory of reconstruction.

Now, then, that being the case, the patronage in his hands operated precisely as a bribe. Every dollar of it had the same effect as if so much money had been placed in his hands with which to buy up Republicans to support the opposition theory. If it was essential to have a man in any public employment who held to his peculiar opinions it was of no importance to the Secretary of the Treasury whether he was a man who held them two years before or whether he was a man who attained to those opinions during the last summer; but the Secretary thought differently. Now, what the effect of that rule of appointment was in other States I cannot say, but I know, and I say here upon my official responsibility, that in the State of Wisconsin it lowered the character of that branch of the service and lowered it immensely. There were some men in our State, I am bound to say that, of good personal character who subscribed to the theory of reconstruction advocated by the Secretary of the Treasury; but while there was one man of that character who from conviction subscribed to it there were a great many men in different parts of the State who were willing to subscribe to it for the pay that was offered. And the consequence was that a large number of these employments

were put into the hands of men who sacrificed their own personal character, if they ever had any, in order to get them. I do not believe that that was treating the public service right. I do not believe that it was treating it fairly. I believe it was abusing the public service, and I feel bound to state these facts and state this conclusion.

Mr. HENDRICKS. Mr. President, it was with a great deal of reluctance at the last session that I voted to place in the hands of the Secretary of the Treasury \$160,000, to be distributed among the employés of his Department at his discretion, and I believe I was influenced in voting for it nearly altogether by the fact that his predecessor had had a similar fund placed in his hands, had disposed of it in like manner, and I thought that a rejection of the measure at the incoming of the present Secretary might be regarded as a reflection upon him and a question by Congress of his fidelity in the disposal of that fund; therefore I felt constrained to support it. And, sir, it will take a good deal more evidence than can be contained in an anonymous communication to make me believe that the Secretary of the Treasury, or any other important officer of the Government, has executed a trust of that sort unfairly. A letter has been read, but the name has been withheld. My opinion of the impeachment of any public officer, or of any citizen, of this country by letters when the name is withheld from the Senate, I can illustrate by a circumstance in my own history. When I was the Commissioner of the General Land Office, the President of the United States handed to the Secretary of the Interior an anonymous communication making a charge against one of the clerks in the land office, a clerk that did not agree with me in politics, but I knew he was an honest, faithful clerk. The Secretary of the Interior handed that to me with instructions to make an investigation. As soon as I opened it and found that there was no responsible signature to it I handed it back to the Secretary of the Interior, and said that while I was the Commissioner of the Land Office no clerk should be put upon his trial upon any anonymous communication; and that message was carried back with the document to the President and the charge was never presented against that clerk, and he never was put upon his trial and was never turned out; and I am glad to say, at this session, he has been confirmed by this Senate to a very important and responsible position connected with the land service.

That is my opinion, practically illustrated, of this thing of charging anything upon anybody or any set of people by an anonymous communication or a letter when the author of that letter is not made known to the Senate. The man who reads a letter and withholds the name makes it an anonymous communication as far as the Senate is concerned.

I shall vote for this amendment if it is desired by the head of the Finance Committee, for the reason that I do not think it vests in the Secretary the same sort of power that was vested in him by the provision at the last session. It authorizes him to employ temporary clerks because the business of the Department is now supposed to be pressing and large.

Mr. SHERMAN. Appropriations for temporary clerks are always made.

Mr. HENDRICKS. I presume so; and I suppose the last clause of the proviso means—I ask the Senator from Ohio, who is familiar with such matters, whether that will not be the construction—that the Secretary will be required to classify them according to the classifications already known in the Department as first, second, third, and fourth class clerks. If so, there can be no objection to it; it will secure good and competent men to discharge important duties.

Mr. JOHNSON. I do not exactly know whether there is any question before the Senate except that which is presented by the amendment itself which the committee pro-

posed. The honorable member from Massachusetts has made no motion that I have heard to strike that amendment out in whole or in part. He has made an attack, as he supposed of course he had a right to make, upon the administration of the Secretary of the Treasury. It is therefore, I suppose, conceded that that appropriation is necessary, that extra clerks must be employed, and as they can only be employed upon providing compensation for them, the compensation must be voted. Now, how are the clerks to be employed? For what are they to be employed? Are they all to do the same duty? Does the honorable member from Massachusetts suppose that that is the condition of the Treasury Department? They must be assigned, if employed, to relatively separate duties; they must therefore be classed. The intelligence and ability which are required for the higher class are not required for a lower class; that which is required for the lower class is incompetent to discharge the duties of the higher class. Well, if you strike out the proviso which authorizes the Secretary of the Treasury to classify them in the manner all clerks are now classified in the Department, and that is to be considered as taking from him the authority to classify them, are all to be paid alike without any reference to the service that they render?

Mr. President, these assaults upon the higher officers of the Government, unless they are founded upon well ascertained facts, serve no purpose whatever, attain no result whatever but to injure the good name of the country. The idea that a Secretary of the Treasury would abuse his office, as he is supposed to have done in what to us is the anonymous letter which the gentleman from Massachusetts has read, is to suppose that he is wholly unfit, and the sooner he is displaced the better. Now, without any intimate personal acquaintance with the Secretary, and judging of the manner in which he has discharged the duties of that office, I take pleasure in stating that as far as I know him and know the manner in which he has discharged the duties of his office, he is not justly subject to the slightest reproach. If appointments of a political character have been made such as the member from Massachusetts supposes, he has not made them himself by dismissing from employment those who were competent to discharge the duties. I have reason to know, and I think the Senate, if they have read the papers of the day, would know, that he has been urged from time to time to make changes in the higher officers of his Department, and has sternly refused and has succeeded in retaining them.

Such was said to be the case. I believe it to be true with regard to the Assistant Secretary of the Treasury and the Commissioner of Internal Revenue. An amount of influence was brought to bear upon him which it was supposed he could not resist, but standing firmly to what he believed to be his duty he owed to his office and owed to the country he sternly refused, and the men are now in office. Why did he refuse? Not because he agreed in one particular politically with the Assistant Secretary of the Treasury, as I understand that gentleman to be politically, or with the Commissioner of Internal Revenue, but because he was satisfied that they were both good officers. The men who were urged upon him as their successors were subject to no just exception on account of character or ability; but he said, and as I think properly said, and, in my judgment, no office can be properly administered upon any other ground, that he would not turn a competent officer out upon political grounds. The vice, not beginning with this Administration, but going ages back almost, years back certainly, has been to dismiss on that account the subordinate officers of the several Departments, the result of which has been in many cases to bring into office men who were almost entirely incompetent to discharge their duties, who had nothing to recommend them but mere party services in some ward controversy or some county controversy, wholly unfit to dis-

charge properly, and many of them without the integrity to discharge, the duties of the high trusts conferred upon them.

But I do not see that the Secretary's character is involved in this discussion. I should not have said a word upon the subject but for the remarks which fell from the honorable member from Massachusetts and from the honorable member from Wisconsin. In private life, before he came into the service of the country, he was above reproach. He administered all the affairs of the banking institution of which he was president with a rare ability; carried it successfully through the financial storms to which the whole country was subjected, and at the end of the existence of that bank, after dividing some ten or twelve per cent. annually, returned more than dollar for dollar of the capital, and no man breathed a suspicion of his integrity.

Mr. TRUMBULL. Mr. President, I shall not enter into the personal controversy which has arisen here between the Senators from Maine and Massachusetts, nor shall I attempt to follow the Senators from Maine and Maryland in their high eulogiums upon the Secretary of the Treasury, or the Senators from Wisconsin and Massachusetts in what they have said that might be construed in any way as reflecting upon that officer. What I have to say relates, as I conceive, to the public interest.

I think it is an evil and a very great evil that we are vesting in the heads of Departments the extraordinary discretion which of late years we are conferring upon them; and I am glad to see upon the present occasion that even the chairman of the Committee on Finance is abandoning in some respects that vast discretion which he a few years ago advocated here with such ability and carried through the Senate. In 1865 we appropriated \$250,000 to be placed in the hands of the Secretary of the Treasury, to be disbursed by him among the clerks in his Department without any check whatever. I opposed that measure as strenuously as I could upon the ground that it was demoralizing, that no Secretary of the Treasury ought to want to have placed in his hands such a fund, that it must be embarrassing to him and would create heart-burning and ill feeling among the clerks in his Department, for those who did not receive a portion of it would think that they were unjustly treated. But, sir, all that I could say and all that those who agreed with me could say was overborne by the statement of the Senator from Maine that this was necessary, that a quarter of a million of money was to be placed in the hands of the Secretary of the Treasury to be disbursed as he thought proper.

Now, sir, we see the results of it. I see that Senators are under some misapprehension as to the disbursements of the \$160,000 which we appropriated last year. We learned something in 1866 which we did not know in 1865; for, instead of leaving \$250,000 to be disbursed entirely at the discretion of the Secretary of the Treasury, as was done in 1865, in 1866 the law defined who should receive a good portion of this money. It provided:

"That so much of the appropriation of \$250,000 granted by act approved March 2, 1865, for compensation of temporary clerks in the Treasury Department, and for additional compensation to clerks in the same Department as remains unexpended shall be divided as follows, namely: \$100 each shall be paid to the clerks in said Department of the first and second classes who have not received any additional compensation out of said appropriation, and who shall have served in said capacity for one year previous to July 1, 1866. And \$100 shall be paid to each person employed in said Department appointed by the Secretary, at an annual salary amounting to less than \$1,200, and who shall have served under such appointment for one year previous to July 1, 1866."

So that the law itself took away from the Secretary a great portion of that discretion which had, unwisely as Congress thought, been conferred upon him the year previous, because if it had not been unwisely done Congress would not have thought it expedient to limit the distribution a year ago. Now, we find the Finance Committee striking out en-

tirely this appropriation of one hundred and fifty or two hundred thousand dollars, to be disbursed at the pleasure of the Secretary of the Treasury among the clerks in his Department, whether his favorites or not. It is all stricken out.

Mr. FESSENDEN. The Finance Committee did not strike it out. It was struck out in the House.

Mr. TRUMBULL. The Finance Committee have not recommended that it be restored, and I trust the head of the Finance Committee is not going to make such a recommendation. I hope not.

Mr. FESSENDEN. I would if I thought I could carry it.

Mr. TRUMBULL. I am sorry that the Senator from Maine is in favor of placing discretionary power in the hands of any officer of the Government when there is no necessity for it and when the matter can be regulated by law. Now, sir, the only appropriation which is asked by the Finance Committee is in the amendment before us, and that item is not in the House bill. I should like to inquire, and I hope the Senator from Maine will inform us, how it happened that this was not inserted in the bill as it passed the House?

Mr. FESSENDEN. I informed the Senate before, and if the Senator had been in his seat and listened to what I said he would have known the reason, and saved me the trouble of stating it again. The Secretary of the Treasury asked for \$210,000, I think, precisely on the same terms that the appropriation was granted last year. The Committee on Appropriations of the House refused to make that appropriation, but they did recommend this appropriation of \$50,000 in this way precisely, in the terms that we have moved it. A debate sprang up in the House, and as I remember it, the chairman of the Committee on Appropriations, for the sake of getting the bill through, abandoned this item, consented that it might be stricken out if the House chose to strike it out; did not urge it. But it was the deliberate opinion of the Committee on Appropriations that this appropriation should be made. When the bill came to the Committee on Finance of the Senate we restored it, being of opinion unanimously that it was necessary that it should be restored, and I presume that it was the understanding of the Committee on Appropriations of the House of Representatives that we should do so.

Mr. TRUMBULL. That being the opinion of the committee, I do not know but that we shall have to appropriate this sum and have to agree to this amendment that the Secretary of the Treasury shall have placed in his hands \$50,000 for the purpose of employing temporary clerks. I regret that it is so. I wish that the Treasury Department could be so organized that there should be no necessity for such an appropriation; but it seems it is not, and those who are charged particularly with this branch of the public service tell us that there is a necessity for such an appropriation. It will have to go, I suppose, if that be so: but I think that the Senate and the country will feel under obligations to the Senator from Massachusetts for having brought this subject to their notice, that we may see, and all may see, how this money, placed in the hands of the Secretary of the Treasury for disbursement in his discretion, has been disbursed. It may at least have this good effect: it may make him cautious in the disbursement of this sum which will now be left to his discretion.

As I said, my object in saying anything was to call the attention of the Senate to the vast discretionary power which we of late years, not in former times, have got in the habit of conferring upon heads of Departments. There is laid on my table this morning a statement of the public debt of the United States, and in that statement I see it stated that there are now in the Treasury of the United States more than one hundred and forty-two million dollars. The Government owes \$2,500,000,000; and yet there is in its Treasury more than one

hundred and forty-two million dollars to-day. I think the official reports will show that there has hardly been less than \$142,000,000 in the Treasury at any time within a year, and I presume there has often been more than one hundred and forty-two millions in the hands of the Secretary of the Treasury. I have not looked at the tables, but that is the statement to-day; and my recollection of previous statements is that a sum equally large in amount has often before been reported as being in the hands of the Secretary, and I presume that something like this has been in his hands the whole time during the last twelve months.

Now, sir, what I wish to say is, in the first place, that this is the most miserable economy, to be paying interest upon money that we owe by the thousands of millions, and have nearly one hundred and fifty million dollars in the Treasury lying idle. It is taxing the people of this country some eight or nine millions every year unnecessarily, because we are paying interest when we have the money in our Treasury with which to pay so much of our debt. But, sir, beyond that it is dangerous to the liberties of this people to have such an amount of money in the hands of any man. Why, sir, it is within the recollection of many of us that the best men in this land were alarmed at the creation of a national bank with a capital of \$15,000,000. They believed it would be dangerous to the liberties of the people to charter such an institution with a capital of \$15,000,000. Now, you place in the hands of the Secretary of the Treasury \$142,000,000, and make no provision to take it out—leave it at his discretion to do what he pleases with it.

He may put up and put down prices at his will: he may make men rich and make them poor at his will.

I said that I rose to make no accusations upon the Secretary of the Treasury. I do not say, I have not the facts that would warrant me in saying, that he has exercised the vast authority with which he is clothed so as to put money into the pockets of favorites, but he has had it in his power to do it. I am opposed to all this species of legislation which vests such vast discretionary power in the hands of any man. I know that in the management of the finances of this country, in the vast collections and disbursements we are making, there must be some money in the Treasury. Of course there would have to be a fund to some extent—

Mr. DIXON. Will the Senator allow me to ask him a single question?

Mr. TRUMBULL. Certainly.

Mr. DIXON. I wish merely to understand the Senator and to know whether he holds the Secretary of the Treasury responsible for the amount of money in the Treasury.

Mr. TRUMBULL. If the Senator from Connecticut had listened to what I said he would have understood me in the outset to say that I had no eulogies to pronounce upon the Secretary of the Treasury, and no attacks to make upon him; that I spoke in reference to facts open to the public; that the public good and the liberties of this people, and motives of economy, and every consideration forbade that we should leave such a vast amount of money in the hands of any man. Is that a charge on the Secretary of the Treasury? Have I said anything about his being responsible for having it?

Mr. DIXON. I did not intend to intimate that the Senator had made a charge; I merely wished to understand his remarks. I was listening to what he said with interest and desired to be instructed; and I therefore asked the Senator whether he meant to say that the fact that we have to-day \$140,000,000 in the Treasury is at all to be attributed to the Secretary of the Treasury, whether he blames him for it, whether it is a thing which he could help in any manner whatever, whether he is responsible for it morally or any other way. I did not say the Senator made a charge: I asked for information.

Mr. TRUMBULL. I know not why the Senator from Connecticut should have risen to



ask me whether the Secretary of the Treasury was responsible for it or not when he did not mean to suggest that I had intimated that he was. It will be time for him to inquire whether I think the Secretary of the Treasury is responsible or not when I undertake to hold him responsible, or to say that he is or is not. I took particular pains when I rose, that I might not be misunderstood, to say that I should not enter into this controversy between the Senators from Massachusetts and Maine, and should make no attack upon individuals. It is against this species of legislation which vests such vast discretionary power in the hands of the heads of Departments that I protest; my remarks are directed to that.

I was about to say, when interrupted by the Senator from Connecticut, that I supposed it was necessary that there should be a considerable sum of money, amounting I suppose to millions, all the time in the hands of the Secretary of the Treasury. I am sorry that it has to be so, but that is a discretion, I take it, which is unavoidable; but will the Senator from Maine tell me or anybody else that there is any necessity for having, for a year at a time, one hundred and forty millions of money in the hands of the Secretary of the Treasury?

Mr. FESSENDEN. How does the Senator know there has been that much for a year?

Mr. TRUMBULL. The statement on our tables shows that there is a balance of \$142,000,000 now in the Treasury. I recollect that when we were in session last summer the reports showed at several times more than one hundred million dollars.

Mr. FESSENDEN. Of the present balance over ninety-seven million dollars are in gold.

Mr. TRUMBULL. Over ninety-seven million dollars of this is in gold, the value of which to-day in legal currency would be, I suppose, \$125,000,000 at least, so that in reality you have in your Treasury at this time something like \$170,000,000, or what is equal to it in legal currency.

Now, in reference to this particular amendment, I shall not object to it further than what I have stated. I regret the necessity of it. I suppose it will be adopted, but I am very glad that the attention which was called two years ago to this class of legislation has led, first, to the striking out of the \$250,000 appropriation, and then of the \$160,000 appropriation, and has brought it down to this sum of \$50,000. I hope that going on improving in this way the Senator from Maine, at the next session of Congress, will strike out altogether this appropriation even of \$50,000 to be disbursed by the Secretary of the Treasury in employing clerks at his pleasure, and paying them such sums as he shall deem proper.

Mr. FESSENDEN. I am sorry, Mr. President, that I feel under the necessity of replying to some of the remarks of the honorable Senator from Illinois, because I think his speech is calculated to do injury and mislead the public mind. It is a very good *ad captandum* speech, but unfortunately a good part of it is founded on a misapprehension, and so far as the last part of it is concerned, when you come to examine it according to the facts, I think it will be found that it is built up upon a false supposition, or rather upon an ignorance of the true state of the fact.

I made no attempt at eulogizing the honorable Secretary of the Treasury. It is not my habit here to eulogize anybody. His honor being impugned and his administration of his office being impugned, I but felt it my duty, being the chairman of the Committee on Finance, to state that in my belief the Secretary of the Treasury had conducted himself in his high office with integrity and with ability. I repeat it now. It is my opinion, and the opinion will go for what it is worth.

With regard to this particular thing, when the honorable Senator did not find here the appropriation which two years ago he so much objected to, what necessity was there that he should make a long speech in order to prove that we had been wrong heretofore, and that

he had been right, as he always is, and that now the Finance Committee had come at last to his opinion and to his conclusion? What object the Senator had in making such a speech when he did not find here the appropriation to which he objected, except to recall to the memory of the Senate the wise words that he uttered on a former occasion, I cannot imagine. I cannot think of any other reason, because the question did not present itself to the Senate.

I stated last year with reference to this large fund to be placed in the hands of the Secretary of the Treasury for a certain purpose, that if anybody was responsible for it I was. I first recommended it. I urged it upon the Senate, and I will state briefly the reasons that operated upon me in doing so.

I thought that in these times there was an absolute necessity to increase the pay of some of the officers of the Department in order to retain their services. I hoped that these hard times would not continue, that we should soon get back to specie basis, and when we did return the present salaries would be sufficient. I was opposed, therefore, to making a permanent increase of salaries which it is almost always impossible to reduce, and preferred that in order to carry on the Department the temporary power should be given to the Secretary of the Treasury for a year or two—I did not know how long it would last—to increase the pay of those officers who could not afford to serve and would not serve for the pay they received, and whose services were absolutely essential. In other words, I preferred to lodge a temporary discretion with the Secretary of the Treasury rather than to make a general increase of salaries, which would be too high by and by, and which we could not get rid of. That was the simple ground upon which I put it. I recommended an appropriation of \$250,000 with this view while I held the office of Secretary of the Treasury, and recommended it, not to be disbursed by myself, because I did not intend to remain in the office, but to be disbursed by my successor, whoever he might be. I was of the opinion that that was the best thing to do. I consulted the chairman of the Committee on Finance on the part of the Senate, now a member of the committee, as he will remember, on that subject, and I consulted the chairman of the Committee of Ways and Means of the House, and explained my reasons. They agreed with me, and the appropriation was made. A reason for a similar appropriation, though of a smaller amount, seemed to present itself last year because there had been no increase of salaries, and it was made after considerable discussion.

It is my habit to think that a man placed in a high office, a man of character, who has been found true to integrity and honor during a long life or for many years, may be trusted with the disbursement of a sum of money for ordinary purposes. You must trust somebody. Why not trust him who has risen to such eminence as to fit him for a high place? In principle, as a general practice, I agree, and I stated that I agreed, with the honorable Senator from Illinois; but under the circumstances I deemed it wise to vary from it; and I believe that he is rather a poor statesman who always is bound by the same rules under widely differing circumstances, because he sees a principle in it, not a moral principle, but a political principle if you please. I think that ability is shown in the power to suit yourself to circumstances and do that which varying conditions may require, and not always to be bound down by one iron rule and not to move from it. Sir, these have been remarkable times, and they have required some variation from the ordinary course of things.

It seems the Senate agreed with me. I have not abandoned the idea. I think now that it would be wise to do the same thing rather than to be paying twenty per cent. increase of salaries all round to every officer. It would not take one quarter as much money. We appropriated only \$160,000 last year in this way and got along well enough; but your twenty per cent. increase will take a million. I did it on

the score of economy. I thought it was better. I think so still. But unfortunately such a state of feeling exists in Congress with reference to political affairs at the present day and the political opinions of the Secretary of the Treasury and other men, that they would rather spend a million according to rule, according to the law they passed, than spend \$150,000 through the exercise of the discretion of an officer whose honor is not impugned and cannot be impugned in my judgment.

That is the simple fact; and when I say that the Committee on Finance did not attempt to propose such an appropriation this year I mean to suggest that it was because it was understood that such was the state of feeling that it was impossible to pass it, and therefore they might as well not try it; but I remain of precisely the same opinion that I did then, and I would rather trust \$150,000 to the Secretary of the Treasury to be disbursed in that way than to spend \$1,000,000 in a general increase of salaries when the great majority of them in my judgment ought not to be increased at all.

So far as that goes I am responsible for these opinions and for having acted upon them; and I do believe—I know that while in disbursing the fund he may have made some mistakes, the Secretary disbursed it throughout upon the principles upon which the appropriation was obtained, according to the reasons which I gave for it in the first place, and to accomplish the very purpose that I wished to carry out. I did not mean that it should be given to all the under clerks, who receive enough, but for a special purpose, to keep that kind of aid in the Department that was needed by the Department. That was the object and the only object.

But it is abandoned, and the question comes back simply to an appropriation of \$50,000; for what? To pay temporary clerks. As I said before, these are times when you cannot tell precisely what you want. In ordinary times, before the war, we knew exactly what force was needed; we knew how much business was to be done in the Department; we could fix the number of clerks in each bureau and say "there is enough," and fix their compensation. We cannot do it now, for such is the sudden increase of business in the different bureaus of the Department from month to month that the Secretary of the Treasury must have power to employ temporary clerks more than the ordinary force at different times or he cannot get along.

Mr. SHERMAN. An appropriation for the same purpose was made regularly before the war.

Mr. FESSENDEN. But not to the same amount; this is rather larger than was appropriated then. There has always been a small appropriation to be used at the discretion of the Secretary for temporary clerks. Then there would seem to be no objection to this, and all the terrible shaking ague fit of my friend from Illinois upon that subject is really without any occasion in the atmosphere.

But, sir, it seems there is a wonderful difficulty about the sum of money which there is in the Treasury. Does the honorable Senator know that the Secretary of the Treasury cannot draw from the Treasury a dollar on his own signature at any time except after the warrant on which it is drawn has gone through all the formalities required and has gone through the hands of all the accounting officers of the Treasury? The Secretary of the Treasury cannot take out a sixpence in any way. The ordinary business of the Treasury, I should think, must be pretty well understood here. A claim comes in, a disbursement, something to be done according to a law of Congress. That claim goes through the hands of the auditors and comptrollers, is thoroughly examined, and then a warrant is drawn, certified by all to be correct, and on that warrant thus drawn and these certificates the Secretary of the Treasury can draw the money for that specific purpose, to pay that specific debt, to meet that specific

affair, and in no other way. The Secretary of the Treasury cannot sit down and make his draft and take a sixpence out of the Treasury any more than any Senator can; and no Treasurer would pay such a draft; if he did, he would be responsible on his bond. The Secretary has no more power over the money in the Treasury, excepting in the way I speak of, that everything must have his signature before it is drawn, than we have or any one of us has, not a particle.

It seems this money has swelled up to \$140,000,000. It has been varying. Did not the Senator from Illinois help to pass the laws which brought this money into the Treasury? Did he not vote for the internal revenue act? Did he not vote for the tariff bills passed before the last one we had up? Is he not in favor of raising internal revenue? Is he not in favor of raising customs revenue to meet the wants of the Government? If he is, and if he has voted for these bills, he is responsible, and not the Secretary of the Treasury or the President of the United States. Congress is responsible for that. How is the Secretary of the Treasury to dispose of the money he gets in? All he can do is to pay debts, pay the interest, pay the expenses of the Government; and if there is a balance in the Treasury that is not called for at a particular moment he cannot help it. What does the Senator want him to do with it? He has no power to lend it. He cannot pay off the public with it until the public debt becomes payable. He cannot pay the compound-interest notes until their time is out and they are presented. He cannot pay bonds because the bonds are on time and are not yet due. All he can do is to pay the interest and pay the ordinary expenses of the Government. Is he responsible for the money? What does the Senator wish him to do? Does he wish him to put the gold up at auction and sell what gold there is in the Treasury? Of course he cannot sell the bills. Why, sir, the Senator or his friends from that section of the country particularly are absolutely protesting against taking up all that the Secretary has power to take up, namely, the greenbacks. They are protesting against him paying them off and retaining them in the Treasury. They say he must put them out again, except the \$4,000,000 a month which the law authorizes him to retire; and the vote even of the other House calls for the repeal of that provision, and they say he shall not do even that. How can he help the accumulation of money in the Treasury? It will all be needed. If it is not needed at this particular moment, it will be.

What remedy does the Senator propose? It is not enough to get up here and say, "This is all wrong; this is a vast power; this is a tremendous discretion; the liberties of this people are in danger." Why not find some way in which to protect the liberties of this people? Why not propose a remedy? It is very easy to complain, but it requires a different power to provide a remedy. I should like to have the Senator put his ingenuity to work upon that, and see what he would do.

Now, sir, I am unwilling to stand under this kind of imputation, because I conceive that it attacks me as well as others. I have reported bills to raise revenue, internal revenue bills and tariff bills and other bills, and I have done what I could to pass them. In that course I have been sustained by the Senate almost unanimously, and have ordinarily had the support on those bills of the honorable Senator from Illinois, he voting for them. The country required them. The necessities of the day made it absolutely essential that we should pass them. We had vast responsibilities to meet; we must keep the public faith firm; we must sustain the Government. And, sir, because in doing this it happens that on an occasion there are rather a few more millions in the Treasury than at another time, and perhaps more than can be used at the present hour, and yet all of which will be needed to meet our obligations, are we to be told that this is an immense danger against which the

country is to be warned? The money must be somewhere, under the control of somebody; and our institutions are such as require that there should be a head of the Finance Department of the United States, and that in his hands in one sense—that is, under his control—should be the money that happens to be on hand in order to meet the exigencies of the Government. Now, sir, I do not see the danger. I do not think that the Senator can find anything particularly alarming about it. I see nothing of that kind. I am very glad that we have so much power to meet our obligations; I hope it will continue, but I fear that too soon the Senator will find that the Government will need all its resources.

Mr. TRUMBULL. Mr. President, I am sorry that we cannot discuss a matter of this kind without allusions to the personal views of Senators any further than as they are connected with the public service. In what I said when up before I endeavored to confine my remarks entirely to what I conceived to be public matters, and to avoid making any unkind reflection upon any member of the Senate, any allusion to him as possessing all the wisdom of the body or not possessing it. I spoke of what I regarded to be an evil, which was the vesting of unnecessary discretionary authority in the heads of Departments. I spoke of it as an evil, very bad economy, and a thing which was dangerous to the liberties of the people, that such a vast amount of money should be left in the hands of anybody.

Now, sir, if I am asked whether I did not vote to raise revenue, I answer most certainly. If I am inquired whether I am in favor of raising revenue, I answer most assuredly. I am asked to devise a way to deplete the Treasury, and I am told that there is a clamor from the western country against curtailment. If times are hard, if money is scarce, if people are pinched, why not disburse some of these millions that have lain in the Treasury for the last year?

Mr. FESSENDEN. How? In what way?

Mr. TRUMBULL. I look to the Senator at the head of the Finance Committee, who has charge of these matters, to devise the way. I have expressed my opinion that it ought to be done, and I shall be most happy to follow him, as he says I did in voting for the bills to raise revenue, when he brings in a practical measure, as I have no doubt he will when he moves in it, to deplete the Treasury of this unnecessary amount of money there. I have called his attention and the attention of the Senate to it.

Mr. FESSENDEN. I will inform the Senator that there is no way of doing it that I know of except two. One is to pay off the public debt as it becomes due, and you cannot pay it any faster than it becomes due, and meet the ordinary expenses of the Government. The other one I suppose which the Senator would advise, perhaps, would be to deposit it among the States as we did the surplus revenue some twenty or thirty years ago; divide it around.

Mr. TRUMBULL. I do not know why the Senator has a right to assume that I would wish to deposit it with the States.

Mr. FESSENDEN. I do not assume any such thing. I am merely stating the only two ways I know of to do what the Senator wants.

Mr. TRUMBULL. Well, it seems to me that the Senator from Maine, if he was owing \$2,500,000,000, and had in his vaults in his house \$142,000,000, could find some way by which he could get rid of his \$142,000,000 and lessen his indebtedness to that extent, and cease paying interest upon it.

I was told that I was mistaken as to the amount of money in the Treasury. I had not looked into the tables recently; I had only general recollection; but since I was up before I have sent for the report of the Secretary of the Treasury on the finances, and I find that he reports as cash in the Treasury on the 30th day of June last \$132,000,000, and on the 31st of October last \$130,000,000. So I was not far out of the way. There has been more than one hundred million dollars in the Treasury

since the 30th of June last, and I think during the whole twelve months last past.

Now, sir, I do think that some measure should be taken on this subject before we adjourn. I look to the Senator from Maine, the chairman of the Finance Committee, charged particularly with this business, to bring forward a measure by which a portion of this money shall be taken out of the Treasury, and we shall cease to pay interest on that much of our indebtedness.

Mr. President, I recollect the time, and it will appear by the official reports, that we were giving certificates of deposit for money deposited in the Treasury, and paying interest upon it when we had tens of millions in the Treasury. I think the relief to the country which it wants is to be found in disbursing this money. You have \$142,000,000 in the Treasury. Throw out \$100,000,000 of it, pay off some of your indebtedness, instead of issuing new indebtedness for it.

Mr. FESSENDEN. I will ask how we can pay it before it becomes payable?

Mr. TRUMBULL. Does not the Senator know that millions of it have been paid into the Treasury the last year, and that you have issued new indebtedness for it?

Mr. FESSENDEN. That is only changing one form of indebtedness for another.

Mr. TRUMBULL. I know it is; but instead of changing one form of indebtedness for another why not pay money for it?

Mr. FESSENDEN. Because those who hold it had a right by law to exchange it and preferred to do so. That is the reason. Our law gave them the privilege of exchanging those securities for others, and they preferred to do it.

Mr. TRUMBULL. We are devising means, and I presume we shall have a bill this session to exchange one kind of indebtedness for another that is becoming due. I have seen it stated—I do not know that the committee have taken any action here, and I do not know that they propose any—but I have seen it stated within a few days somewhere that the compound-interest notes which are to fall due the coming year are to be replaced with another species of indebtedness that is to bear interest. Why not pay them off whenever they become due and scatter the money among the people?

The Senator from Maine smiles at this. I think some way can be found. It is a very strange state of things to me that there is no possible way to relieve the Treasury of money that is in its vaults. The House of Representatives has passed a bill this very session for selling the gold, and the Senator from Maine—I did not mean to say a word about the Senator from Maine, and I will not now say it—but the Finance Committee has reported here against that bill, as I understand. It seems that the House of Representatives was for taking some step in that direction. I do not know that that is a proper bill.

Mr. FESSENDEN. Allow me to ask the Senator a question?

Mr. TRUMBULL. Certainly.

Mr. FESSENDEN. If the gold were sold what would it be sold for? Sold for money, of course. Then what would you do with the money? Would not that go into the Treasury and be in the Treasury in the same way?

Mr. TRUMBULL. Pay off your compound-interest notes as they fall due.

Mr. FESSENDEN. They are not payable yet.

Mr. TRUMBULL. Pay then when due.

Mr. FESSENDEN. But we must keep the money for that purpose when they are due. The Senator wants to scatter it before that.

Mr. TRUMBULL. They fall due very soon.

Mr. FESSENDEN. But we must keep money to pay them with.

Mr. TRUMBULL. There have been debts falling due. We have paid off hundreds of millions of debts that were due within the last two years.

Mr. FESSENDEN. Of course they were due.

Mr. TRUMBULL. You could pay them off with the money you had; but instead of paying them with money, you issued other indebtedness for them. Does not the Senator know it? You were not bound to do that.

Mr. FESSENDEN. It was because we could not help it. They had a right to demand other indebtedness.

Mr. TRUMBULL. They had no right to demand it. I take issue, as a matter of fact, with the Senator from Maine. We have paid hundreds of millions of money deposited in the Treasury on certificates for which they had no right to demand bonds.

Mr. FESSENDEN. There were no bonds given for certificates.

Mr. TRUMBULL. Very well; then I am right that there was an indebtedness which we could pay.

Mr. FESSENDEN. Exactly; and I say to the Senator that we have paid all our indebtedness just as it became due, but we cannot pay what is not due.

Mr. TRUMBULL. I say to the Senator from Maine that we have paid indebtedness that was due, and that we had a right to pay, by issuing bonds for it.

Mr. SUMNER. Let me remind my friend from Illinois that the bill for the sale of gold to which he refers, which has passed the other House, provides that compound-interest notes may be received in payment for the gold.

Mr. BROWN. Or bonds either.

Mr. TRUMBULL. Or bonds either. That would certainly provide a way.

Mr. FESSENDEN. But they would not be obliged to pay for the gold with compound-interest notes; and what then? The holders of the compound-interest notes are not obliged to bring them in till they become due, and even then they need not do it if they choose to hold them without drawing interest.

Mr. TRUMBULL. We do not care how much indebtedness they hold that draws no interest. I reckon creditors will not hold that very long, and we can afford then to keep money in our Treasury, but we cannot afford to do it when we are paying interest on it. It is a mistake if the Senator from Maine means to say to the country, and I should like to know if he means the statement to go out to the country upon his responsibility as a Senator and the head of the Finance Committee, that no species of indebtedness has matured against the Government which we had a right to pay off at maturity, if we had the money to pay it, and for which the holders of the indebtedness had no right to demand other securities.

Mr. FESSENDEN. If the Senator is aware of any I should like to have him state it.

Mr. TRUMBULL. I understand that there has been such indebtedness.

Mr. FESSENDEN. I should like to know what it is.

Mr. TRUMBULL. I think certificates of deposit.

Mr. FESSENDEN. They have been paid. There have not been any bonds issued for them.

Mr. TRUMBULL. For none of them?

Mr. FESSENDEN. No, sir.

Mr. TRUMBULL. If the Senator says no bonds were issued for these certificates of deposit that were taken up, I hope he is correct. I will not say that he is not, because I have not examined it; but my understanding is that we have taken up millions of compound-interest notes during the past year; and I do not understand that the holders of compound-interest notes have a right to demand bonds for them. Am I wrong?

Mr. FESSENDEN. If they have been taken up they have been paid. I do not think any bonds have been issued for compound-interest notes.

Mr. TRUMBULL. Then there is an indebtedness which has been falling due, which is maturing now, and which we have a right to pay off as soon as it matures.

Mr. FESSENDEN. What is that?

Mr. TRUMBULL. The compound-interest notes.

Mr. FESSENDEN. Very well. I say to the Senator we shall have that right when they become due, but that time has not arrived.

Mr. TRUMBULL. Has none of that indebtedness matured?

Mr. FESSENDEN. None of it yet to my knowledge.

Mr. TRUMBULL. Much of it has come in: the Secretary's report shows that he has received millions.

Mr. FESSENDEN. Some of it has been taken up by consent, I suppose. I do not know that any of it is really payable yet.

Mr. TRUMBULL. It is soon to mature, whether it has matured or not; and that will afford a means of paying out the money in the Treasury Department when it does fall due, and it certainly falls due within the coming year, some of it, if it is not already due. I thought some of it had already matured.

Mr. FESSENDEN. It is true that indebtedness becomes due, most of it, in the course of the following year; but there is a loud call throughout the country everywhere, more especially from the Senator's own region, not to pay that off, but to substitute something in its place in order that the banks may hold it, and not make a severe, and what it is apprehended may be, a very disastrous contraction of the currency. These notes can be paid and will be paid by the Treasury as they become payable, but not if you take all the money out and distribute it as the honorable Senator wants, because then there would be nothing to pay with.

Mr. TRUMBULL. I have not proposed to take the money out.

Mr. FESSENDEN. If it is kept in the Treasury that course will be taken up. But Congress is protesting, and the people of the country, more especially in the Senator's region, are protesting that it will not do to contract the currency by paying these notes off; that you must substitute something for them in order to keep up the circulation. That is a question that the Senator will be called to act upon, and when the question comes before him we shall see how he decides it.

Mr. TRUMBULL. I do not wish a contraction that is to paralyze the interests of the country. I do not understand that philosophy. I know but little about finance, I admit; but I cannot see for the life of me how it contracts the currency if the holder of a thousand-dollar compound-interest note brings it up to the Treasury and takes out a thousand dollars that is locked up there, and scatters it among the people.

Mr. FESSENDEN. I will tell the Senator there are \$100,000,000 of these notes held by the banks to form the basis of their credit. Now, if they are deprived of these notes, and they are taken in, it contracts the currency just as much as if you took so many greenbacks out of circulation. The question is simple enough and every body understands it.

Mr. TRUMBULL. How it contracts the currency when you pay out greenbacks for them I cannot see. You have got \$45,000,000 of greenbacks in the Treasury to-day, have you not? They have been lying there for a year.

Mr. FESSENDEN. Suppose these compound-interest notes are paid off, as they will be when the time comes; they must be replaced with something. If you provide nothing more to replace them, they will be replaced with greenbacks. That is all they can be replaced with, and so many greenbacks will be taken out of circulation and held by the banks.

Mr. TRUMBULL. Will it contract the currency any more to have the banks hold them than it does to have the Treasury hold them? The Treasury has held them for a year.

Mr. FESSENDEN. They will not be in circulation.

Mr. TRUMBULL. They are not much in circulation when they are in the Treasury. You have had \$180,000,000 there for a year. Who

has seen that money? Has it helped the commerce of the country? Who is benefited by having ninety odd millions of gold lying in the Treasury, and forty or fifty millions of greenbacks? That is what makes the contraction, because you are hoarding up this money in the Treasury and keeping it there. I do not see how it produces any contraction when you take up a compound-interest note, which does not circulate as money, and pay out for it something that will circulate among the people as money. I do not understand the philosophy of it I confess.

I had no intention of being betrayed into a discussion in regard to these compound-interest notes and the various kinds of indebtedness; I had a general knowledge of them. The Senator from Maine undertook to impute to me the possession of all the wisdom of the Senate, and from the manner in which he said it the impression was that he disputed the facts which I had stated. Since I have been speaking there has been handed to me a statement, which I presume to be correct, that we have issued \$266,000,000 of compound-interest notes, and we have already redeemed \$123,000,000 of them.

Mr. CONNESS. Was it not a good thing to do?

Mr. TRUMBULL. Yes, excellent; and I want to redeem the others and pay out the money.

Mr. CATTELL. Those redeemed have fallen due and been presented for payment.

Mr. TRUMBULL. I am very glad to know that, because that meets the precise point made upon me by the Senator from Maine.

Mr. FESSENDEN. What was that?

Mr. TRUMBULL. The compound-interest notes have fallen due, the Senator from New Jersey says, \$123,000,000 of them, and been presented for payment. Then there was a way.

Mr. CATTELL. My answer is, that all that have fallen due have been presented and paid. The compound-interest notes were issued at different dates, some payable in two years, some in a longer time; \$140,000,000 of them are not yet due.

Mr. TRUMBULL. But there is a portion already due.

Mr. CATTELL. And that portion has been paid.

Mr. TRUMBULL. That is the precise fact which I am glad to know, and I am very much obliged to the Senator from New Jersey for communicating it. Then it seems I was quite correct in the statement that I made.

But, sir, I do not desire to prolong this discussion. I hope that before we adjourn some measure will be devised, and one that will not unnecessarily contract the currency. I wish certainly not to do anything that will embarrass the commercial interests of the country; but I do wish such legislation as will prevent hereafter such an accumulation of money in the Treasury. I think that may be done safely to the country and to its commercial interests, and that will be an economical measure if we could devise some mode to accomplish it.

Mr. SHERMAN. This is rather a singular debate to grow out of an amendment which everybody will vote for. I presume there is not a member in the Senate who does not see the necessity of adopting the amendment reported by the committee. The amount appropriated here for temporary clerks is less than has been appropriated during the whole war. I have before me the first appropriation made for this purpose during the war. The amount then appropriated was \$110,000, and the appropriation was almost in the very language contained in the pending amendment. It read as follows:

"For temporary clerks in the Treasury Department for the year ending June 30, 1863, \$110,000: *Provided*, That the Secretary be, and he is hereby, authorized in his discretion to classify the temporary clerks so authorized according to the character of their services, and assign to such of them as he shall see fit any compensation not exceeding that of clerks of the first class."



This appropriation was made May 20, 1862, and has been continued every year from that time. Why it was omitted in the House during the present session I cannot answer; but I am told that it grew out of a misunderstanding as to the purpose of the appropriation. Appropriations in the same language for much larger amounts have been made during the war. Before the war an appropriation was always made for extra clerk hire. The last one made during a year when the expenses of the Government was very closely scrutinized, 1860, was \$12,000. This is an item of appropriation that has been continued for years.

Mr. President, one or two statements were made by the Senator from Illinois which rather astonished me. He seems to think that the amount in the Treasury is so large as to justify a suspicion that it is held for improper purposes, or at least that it is so large as to excite comment. Now, let us see. The amount of currency held in the Treasury Department, according to the statement laid on our tables, is \$45,069,187. Of that there is to-day liable to be called upon at any moment \$15,791,454, making the actual amount of currency in the Treasury now \$29,277,733. That is the total amount of the money in the Treasury subject to order. That is about one month's receipts of the Internal Revenue Bureau, or one twelfth of the annual income of the Treasury from internal revenue.

I presume that it would be very unwise to hold a less balance than \$30,000,000 at any one time. I do not believe the ordinary operations of the Treasury could be carried on with less than one month's receipts of internal revenue. This money is deposited in various places all over the country, from Boston to San Francisco, in the course of collecting the internal revenue, and I believe that an amount equal to this is found to be necessary to carry on the operations of the Treasury. The drafts of the Treasury Department on the banks go through various bureaus of the Treasury, and it requires at least one month in some cases to make the necessary returns, so that it seems to me the balance of currency on hand is not too large.

In regard to the balance of gold, I may say that at the last session we passed an act on my own motion fixing the limit of gold at \$60,000,000. The amount of gold in the Treasury is \$77,000,000. The Senator said \$97,000,000, but he will find from this same statement that near twenty million dollars of that amount is held for individuals, which does not belong to the Government. That is now deposited in the sub-Treasury at New York for the use of individuals. For that money so deposited gold certificates are issued. It is not the money of the Government; but to facilitate transactions in gold that money is deposited there and certificates are issued, and they are counted as gold. It does not belong to the Treasury, because it belongs to private individuals, and is liable to be called for at any moment. The balance of gold in the Treasury is only \$77,361,623.

The Senator from Maine made a remark which I thought probably might mislead, although unintentionally so on his part, and that is, that this money could not be applied in the ordinary course of business of the Treasury Department to the payment of the debt. Under the law the Secretary of the Treasury has the undoubted power, and he has been exercising that power for months, to buy up and buy in the compound-interest notes, and the most of those notes that have been bought in before they were due were bought under the authority given by law. During the recent stringency in the money market in New York some twenty million dollars, if I remember the amount correctly, at any rate many millions, of compound-interest notes were taken up at par and the accrued interest, because currency was suddenly demanded; there was a pressure for currency, and the bankers and other persons who held compound-interest notes called for the money, and in pursuance of an order of the Secretary of the Treasury I think about twenty

million dollars were paid out to the holders of compound-interest notes. This could be done now.

But the question arises, whether it would be wise in the present condition of our money affairs to reduce the balance of gold in the Treasury. That is a rather serious question. I doubt myself whether it would be wise to reduce the volume of gold in the Treasury. I have shown already that the amount of currency is not very large, not more than one month's income from internal revenue, and that that balance is necessary to carry on the operations of the Treasury. No bank would be considered safe that did not keep at least about one third of its aggregate indebtedness in currency. The national banks are required by the law creating them to keep two fifths and in some cases one half of the full amount of their deposits and circulation on hand all the time in legal-tender currency. The Government of the United States is paying out annually \$300,000,000, collected from internal revenue, and the balance now on hand subject to these calls is less than \$30,000,000. Certainly that is not too large a balance. Senators ought not to use language which may lead the public at large to think the Secretary of the Treasury is for some improper purpose holding large sums of money, when the actual balance in hand is probably not more than enough to carry on the operations of the Treasury.

As to whether he ought to sell the gold and pay off the compound-interest notes before they become due, that is a very doubtful question, indeed. It is necessary to keep a very large balance of gold on hand in anticipation of a falling off of the revenue. Every commercial man anticipates that, during the next six or eight months, there will be a considerable falling off in the gold revenue on account of the large importations which have been heretofore made, and he has got to provide for the contingency of a falling off of the gold revenue. Perhaps \$77,000,000 is too much. We at the last session provided that \$60,000,000 of gold should be kept on hand, and all above that should be sold. If the Senator then was of the opinion that the balance could be reduced to less than \$60,000,000 he certainly ought to have made his opinion known, but we heard no complaint at that time. It was then believed to be necessary always to keep on hand a half year's supply of gold in order to pay the interest on the public debt, and I believe that is little enough to be kept on hand. It is true the Government loses the interest on the gold, but it must lose that in order to avoid a possible contingency of the falling off of the gold revenue, so as to be prepared, at all events, to pay the interest on the public debt.

In regard to the gold bill which passed the other day in the House of Representatives, I was perfectly willing, as my friend from Maine knows, to vote for that bill, not because I thought it had any virtue, or that it could do any good, but simply because it could do no harm, and it might satisfy the public mind. The committee thought best to report against it, and I have no complaint to make. But what was that bill? That bill did not require the selling of a dollar of gold. If that bill had required the sale of a portion of this gold it would have had some operation. That bill simply provided that in case the Secretary of the Treasury did sell gold he should sell it in a particular way; that he should advertise six days and give public notice in the newspapers in New York that on a certain day he intended to sell some millions of dollars in gold. It did not compel him to sell gold or to apply gold in the payment or purchase of the debt, but simply provided that in case he did sell the gold he should sell it by public auction.

The objection to that bill was that when he gave six days' notice that at a certain time he would sell a million or two million dollars of gold the result would be that a combination would be made among the gold brokers suddenly to reduce the price, and then the very

moment it was sold they would raise the price until he was compelled to sell again.

Another objection that was urged very strongly to the House bill, about the defeat of which the Senator complains, is that it did not provide for the sale of this gold—did not contemplate its sale. On the contrary, the House voted down a proposition which required the Secretary of the Treasury to sell the gold. The House refused to take upon itself the responsibility of compelling the sale of gold.

It seems to me that under these circumstances there is no just ground of complaint; but this matter has been lugged into the debate and the public mind is peculiarly sensitive to everything that affects our finances, because there is a stringency in the money market and times are somewhat hard all over the country.

The Senator has drawn in a proposition which is not yet pending before the Senate, and which, I think, he ought not to have anticipated the discussion of, and that is the proposition, which has been mentioned in the papers, to give authority to issue \$100,000,000 of four per cent. certificates. Let me ask the Senator from Illinois how the Secretary of the Treasury can pay the compound-interest notes which mature from May till December? How would you do it? Would you borrow money at six per cent. interest in gold to do it? The Senator perhaps will say that he would take the money on hand. I have shown that the currency on hand is not available for that purpose, because to carry on the operations of the Treasury the Secretary must have at least the amount of one month's ordinary receipts and expenditures on hand.

Would you sell gold in order to pay the compound-interest notes, and if so to what extent? You could not sell more than twenty or thirty millions; nobody proposes such a thing, because according to the judgment of all men you must keep four or five or six months supply on hand in order to meet the contingency of a falling off of gold revenue. How would you pay the compound-interest notes as they mature? You have got to provide for them. There is only one way of providing for them, either by the issue of greenbacks, which is an inflation of the currency to a large extent, or by the issue of a five-twenty gold-bearing interest bond, or by the issue of some other form of security. You have not got the money to pay them in any other way. It is a simple proposition, that you have got to resort to some mode of that kind unless you have got the money on hand to pay them. You must borrow the money, and borrow it on the most favorable terms possible.

I think I have said enough to prevent the remarks of the Senator from Illinois making an undue impression upon the public mind, to the effect that a large amount of money is held here idle uselessly while we are borrowing and paying large sums in the way of interest for money. It seems to me that complaint cannot fairly be made, that at all events the exigencies of the Treasury will require at least the present amount of currency to be kept always on hand. The amount, I believe, is as low as it has been for a long time, I cannot say how long, because I do not like to speak positively without the figures before me; but at least a month's income and expenditure should be kept on hand in currency subject to order at any moment; and it must be remembered, too, that the Treasury is now paying out a very large sum for bounties, an unforeseen and extraordinary expenditure. Some money must be kept on hand to meet the bounties. All these payments are made by drafts; and it is often the case that the amount on hand, as shown by the tables, is larger than the real balance, because of outstanding drafts not yet presented for payment and not deducted from the cash on hand.

There are many reasons, then, why the currency balance cannot be materially lessened, and I have already stated why the gold balance cannot be materially lessened, and why it is necessary to keep at least fifty or sixty million

dollars of gold on hand. From the statement laid upon our table, it is impossible to meet the compound-interest notes which are maturing from May until December to the amount of \$140,000,000 unless either we issue greenbacks, which the Senator does not advocate, and which, I suppose, no one would advocate, or unless you issue five-twenty bonds and sell them, or unless you issue some other form of security or resort to some other mode of raising money. I will not anticipate the discussion of the proposition that may come from the Committee on Finance on that point. I only make these remarks to prevent what I conceived an erroneous impression in regard to the present condition of the Treasury.

Mr. FESSENDEN. I simply wish to state to my friend that he misapprehended my remark. I was aware of the power of the Secretary of the Treasury, but there is no power to compel the holders of the compound-interest notes to bring them in for redemption.

Mr. SHERMAN. Certainly not.

Mr. FESSENDEN. They may hold them to the end. What I said was, when they became payable and were presented they could be paid, but the holder is not obliged to present them before.

Mr. SHERMAN. The Secretary of the Treasury can go into the open market and buy them.

Mr. FESSENDEN. Certainly.

Mr. TRUMBULL. I do not desire to prolong this discussion, but I think the statement made by the Senator from Ohio may have the same effect which he supposed some remarks I made might have; that is, to mislead the public. He says, and truly says, that it is necessary to have on hand a considerable amount of money; he thinks an amount equal to one month's revenue and disbursement, which he estimates, I believe, at about thirty millions. Why is it necessary to have a fund on hand? It is to meet outstanding indebtedness. If there is no indebtedness to come, there is no necessity to have this fund on hand; and this statement shows that we have \$45,000,000 of currency on hand; and it shows also, as the Senator truly says, that there is an indebtedness which has matured equal to some \$15,000,000. The reason we have to have a large surplus on hand is to meet contingencies of that kind, but this shows an amount—

Mr. SHERMAN. The Senator will see that the debt matured to the amount of \$15,791,000, not presented for payment, is debt that may be called for at any moment. Perhaps drafts are out now which have passed all the accounting officers and may be at any moment presented to the Treasury.

Mr. TRUMBULL. So I stated, and that will be the case at the end of the next month, and the end of the next month after that, and so on. It will always be so that there will be checks drawn which will not be presented at the moment the statement is made up. I suppose that is always so. Now, let me ask the Senator from Ohio whether that is not the very reason why it is necessary to have a surplus to some extent all the time to meet just that class of cases?

Mr. SHERMAN. In cases of sudden panic these balances are at one reduced. I have no doubt that an exact statement would show that during the recent trouble in New York all those outstanding drafts, &c., which were available were presented and paid. The Senator is aware probably a voucher or draft on the Treasury is held by an individual in the form of a convenient deposit. It may be held for a month or two months, but the moment money is greatly in demand all those things are thrown upon the Treasury Department and demanded at once just like the deposits of a bank.

Mr. TRUMBULL. So I understand. We are perfectly agreed about that. They will be presented when there is a panic, and hence the necessity of having a fund on hand to meet them when they come in that way, and we have got \$45,000,000 just for that purpose. It is \$45,000,000, then, shown to be on hand, and when you have brought in every cent that has

been drawn on the Treasury you have got nearly thirty million dollars left that there can be no demand upon. The reason we have to have a fund is to meet that class of cases; so that the statement, as I think, that the Senator makes, that we really must have a fund of \$29,000,000 on hand when we do not owe anything and there is no liability whatever, I think is not correct. I think that is calculated to mislead. But the reason we must have a surplus on hand is to meet the very state of things which he says, and we have got that surplus of \$45,000,000. Of course if there can be no indebtedness come the Senator from Ohio does not want to hold \$29,000,000.

Mr. SHERMAN. I have already stated that fifteen or sixteen millions of this balance is already held not subject to draft because it is already drawn against. The balance of thirty millions is held always to draw against. Let me take the case that is actually occurring this day. The payments of the Treasury now are largely in excess of the receipts. That is shown by comparison of the two statements. Why? Simply because now they are meeting extraordinary demands made upon the Treasury Department, and the receipts have fallen off; so that, in the present state of affairs, in two or three months this balance would all be gone. Why? The receipts, as you see by the daily papers, of internal revenue have fallen off, and probably will not increase again until the income tax comes in. Then there are extraordinary demands made by payment of bounties, by the expenditures of Congress, by the civil list, and by many other causes. Thus this balance is fluctuating backward and forward; but by the ordinary operation of the Treasury Department the balance will disappear in two or three months, simply because at certain seasons of the year there are greater demands than receipts, and it would be an idle thing for the Treasury of the United States always to run so close that it could not pay its ordinary expenditures, that it must borrow money in order to meet ordinary expenditure. It must have a working balance, as bankers call it, sufficient at least, according to the usual estimate, to one month's expenditure. That has been shown by the custom of the Department and the habit of the Government.

Mr. TRUMBULL. I agree with the Senator, there must be a working balance; but what I insist is, that \$45,000,000 is not necessary, and I insist that the statement shows that much to be there, and that the object of that balance is to meet these outstanding obligations, that may come in at any moment; and if there were no outstanding obligations and could not be any, then you would not want any balance at all. The very object of this balance is to meet just that state of things.

Now, as to the gold: no contingency of this kind arises as to the gold. You know exactly how much gold you have got to pay out and when you have got to pay it. You know that precisely. There can be no extraordinary demand on your gold deposit. Why then keep in your Treasury, as I stated it, \$97,000,000, or as the Senator has it, by subtracting nineteen or twenty million dollars that is on deposit, some seventy-seven or seventy-eight million dollars? You know exactly how much gold you have got to pay; but the Senator says you must keep on hand all the time at least half the amount of gold you have got to pay out in a year, when you know exactly what it is. I cannot give my consent to any such proposition as that. You have got in your Treasury to-day more gold than can be called for in the next nine months, I do not know but twelve; certainly more than there can be any call for in nine months.

Mr. SHERMAN. The Senator is entirely mistaken, he does not wish to deceive. There are \$77,000,000 on hand, according to this statement. Then there are \$15,779,000 of maturing bonds that will mature this year, most of them, or early next year. That is within the year. Then, beside that, the annual amount of gold

required to pay the interest on the public debt is now something like \$90,000,000, and will be as soon as the seven-thirties are funded, \$131,000,000. I showed that the other day. Then there are the foreign expenditures of the Government which are paid in gold, and money to fulfill treaty stipulations and other things paid in gold, which must be provided for out of this fund. The whole sum, including the maturing debt, that will be required in gold for one year from this date will not be less than \$155,000,000.

Mr. TRUMBULL. I have not gone into the statement of which the Senator speaks, of the amount required for the year. I spoke of what was required for nine months, and said that I thought we had more gold on hand now than would be required for the next nine months. The Senator meets that by saying we shall require \$155,000,000 for the next year. I looked over the Senator's remarks the other day casually, not as carefully as I ought to have done, and I thought he estimated the amount required for the next year at \$140,000,000. Am I mistaken?

Mr. SHERMAN. Without counting the \$15,000,000 of maturing bonds.

Mr. TRUMBULL. Is that not embraced in that statement?

Mr. SHERMAN. I said that that amount would have to be paid out of the balance on hand.

Mr. TRUMBULL. I do not give my assent to any such statement, that it is necessary to have on hand one half the amount of interest that we shall owe during the year. We did not do that in olden times, when we owed a debt formerly.

Mr. HENDRICKS. Allow me to make an inquiry of the Senator. He is now discussing a question of a good deal of interest to the country, and one upon which I have bestowed some thought. I should like to have the benefit of his investigations upon it. It seems that there has accumulated in the Treasury, according to his statement, \$97,000,000, according to the statement of the Senator from Ohio \$77,000,000 of gold. What does he propose that the Secretary of the Treasury shall do with that accumulation? I think it is too large. Now, what does the Senator from Illinois say that under existing laws the Secretary of the Treasury ought to do with that precise sum of money?

Mr. TRUMBULL. That is a question that I have not yet bestowed sufficient attention upon to answer satisfactorily to myself.

Mr. HENDRICKS. Then I regret that I asked the question. Inasmuch as the Senator felt himself authorized now for two hours to criticize the Secretary of the Treasury in regard to the management of the money on hand, I thought of course he would relieve my judgment of the embarrassment under which I have been laboring.

Mr. TRUMBULL. I am sorry that the Senator from Indiana has so imperfectly understood me as to say, and repeat in the Senate what I believe has been stated by some before, that I have been assailing the Secretary of the Treasury. I call upon the Senator from Indiana to repeat one word I have said censuring the Secretary of the Treasury.

Mr. HENDRICKS. The Senate was considering the question whether we should give to the Secretary of the Treasury the discretionary disposal of \$50,000 in the payment of clerk hire. While we were considering that question the Senator felt it to be his duty, in very emphatic terms, to call the attention of the Senate and of the country to the fact that there was an accumulation of money in the Treasury dangerous to the liberty of the people, \$97,000,000 of which was in gold and \$45,000,000 in paper; and he went so far as to estimate the gold in the paper currency and to make it in all about one hundred and seventy million dollars, which he said had accumulated in the Treasury. Now, I want to know of the Senator for what purpose he introduced that argument before the Senate? The Senate was

considering just one question, and that question was made mainly upon the argument of the Senator from Massachusetts, based upon an anonymous letter, that the Secretary of the Treasury was not to be trusted with the discretionary control of \$50,000 of money. That was the question. In connection with that question the Senator from Illinois went into a discussion of the condition of the Treasury, especially with regard to the accumulation of money in the Treasury. Now, if it had no connection with the Secretary of the Treasury's management of the affairs of his Department, what logical connection had it with the business before the Senate?

Mr. TRUMBULL. Mr. President, I suppose it will be no part of my business to undertake to furnish to the Senator from Indiana the understanding of my remarks; but I regret that that astute Senator does not see the difference between the discussion of a general principle and its application to a particular individual. If I were to rise in the Senate to-day and denounce despotism, do I thereby charge despotism upon every officer in this Government? Suppose I say in my place, as I did to-day, that it is dangerous to have such a large amount of money in the hands of any man—that was my language; I did not say of the present Secretary particularly; I said of any man; and I wish to ask the Senator from Indiana if he will have the candor to answer it, if he does not regard it as dangerous to the liberties of any people to have placed in any man's hands \$170,000,000 of money or \$140,000,000 of money to remain there permanently where he has the power to dispose of it?

Mr. HENDRICKS. Does the Senator wish a reply now?

Mr. TRUMBULL. The Senator may reply now or at any other time, as he pleases.

Mr. HENDRICKS. Mr. President, if existing laws will allow the Secretary of the Treasury to use the money for any improper purpose, then I should say that the locking up of that amount of money in the Treasury under his control would be dangerous to the liberties of the country; but when I consider the fact that the Secretary of the Treasury cannot take from the Treasury one single dollar except in pursuance of law, that he has no more control of it than any one Senator, as has been stated by the distinguished chairman of the Committee on Finance, I am not able to see that the Secretary's control of that money is dangerous to the country.

In the discussion upon the tariff bill I felt it to be my duty to call the attention of the Senate to the fact that there had accumulated, as I then stated, \$93,000,000 of gold in the Treasury, and therefore I objected to legislation which was likely to increase the amount in the Treasury from foreign importations. That was the argument I presented. I thought the fact that there had been such an accumulation was for the consideration of the legislative department of the Government. The Senator, when that bill was up, did not feel it to be his duty to make use of this fact with a view to influence legislation. But this morning, when we are considering the conduct of the Secretary of the Treasury in the management of a fund at his discretion, the distinguished Senator brings this subject up.

Now, I do not believe myself that even the Congress is so very responsible about this matter. It seems to me to be very difficult for the wisest men of the country to anticipate the amount of money that will be brought into the Treasury by a particular law. Under the present law year before last the receipts of gold were \$84,000,000, and this last year \$170,000,000. I will not say that the distinguished gentlemen connected with the Finance Committee are responsible for this. A law that one year brings into the Treasury but \$84,000,000 and another year brings in \$170,000,000 produces a result that could not be anticipated; and I will not say that those Senators who were instrumental in securing the

passage of that law are in fault that the law brings in too much. But now, that we do know it, there are two questions: first, what is the duty of Congress? I think the duty of Congress is to change the law so as to reduce the amount that shall be brought into the Treasury; and if the Senator can answer the question which I suggested to him a little bit ago, what does he want, under existing laws, the Secretary of the Treasury to do with the \$97,000,000 of gold, it will be a satisfaction to the business community.

Mr. TRUMBULL. I do not quite agree with the Senator from Indiana that it is safe to lodge unnecessary power in any man's hands, even though you have a law to regulate it. I believe it to be dangerous to the liberties of any people to put their whole keeping and the power over them in the hands of any man or set of men, though there may be a law to regulate his or their conduct. Men may be found who will disregard the law. Most despotisms have been established because there has been power in the hands of the men who established them, vested legally there at the commencement, which they have used illegally for the purpose of establishing the despotism.

But the Senator from Indiana can see no sort of danger in vesting any amount of money and all power in the hands of a single person, provided you have a law that declares he shall not use that power except in a given way. Sir, I do not agree with him, and he rises in his place here and rebukes me, administers to me a rebuke in the Senate because I object to vesting discretionary power unnecessarily in the hands of any man, though you regulate it by law. He rebukes me for making that objection unless I am prepared with a financial scheme to enlighten him and the country as to how the finances of the country are to be regulated hereafter.

When he rebuked me, as he attempted to do, I said to him that I was not prepared to lay down the precise scheme by which the Treasury should be depleted; but am I not to be permitted in my place here to object to a measure as an improper one, and to call the attention of the Senate to it unless (when it is not a matter with which I am specially charged) I can point out to the Senator from Indiana the precise remedy? Can I not speak of an evil and show that it is an evil, and call the attention of the Senate and of the country to it, in order that we may have the benefit of the action of the committee charged with that branch of the public service, and have the benefit of the thought of the country in ascertaining what is best to be done?

Sir I do not understand my duties here as the Senator from Indiana does. I think it was perfectly proper for me to object to the keeping of this large amount of money in the Treasury, and to call the attention of the Senate to it, although I might not be prepared in a debate which has sprung up here at this time to lay down the precise means of depleting the Treasury. I had stated, and if the Senator from Indiana had thought proper to listen to me he could not but have heard that I stated long ago, that I would use this money to pay the debt we owed. I see no difficulty in using the money to pay the debt. The Senator from Ohio has shown you that more than one hundred million dollars of the compound-interest notes fall due during the current year. The Senator from New Jersey has told you that we have already taken up more than a hundred million dollars that have already fallen due.

What is the difficulty in taking the money you have got and paying these notes as far as the surplus will go? I see none. That is one way. Another way by reducing the taxes. I think we are collecting too much. I hope to see the internal revenue taxes reduced and burdens taken off from the people. That will be one way of preventing accumulation hereafter; but as we have got the accumulation, I think there are ways enough by which we can get rid of it, although I do not feel myself called upon to devise a plan, nor do I consider myself

subject to the censure of the Senator from Indiana or anybody else when I object to this accumulation and do not at the same time present a plan by which to get rid of the accumulation.

So much for the Senator from Indiana. I have no disposition to prolong this debate. I have been led into saying much more than I intended to say. The few remarks which I made in reference to the amendment which is under consideration, were directed to this one point: the impropriety of vesting discretionary power in public officers. I know that to some extent this is unavoidable; but I think it unwise legislation to vest discretion where it can be avoided; hence I made the remarks I did in regard to this proposition. I do not expect, as at present advised, to vote against it, because I understand from those who have this particular matter in charge that this is necessary and unavoidable.

Mr. HENDRICKS. Mr. President, as an Indianan the result of this debate is very gratifying to me. The distinguished Secretary of the Treasury is a citizen of the State of Indiana. He and I have never been of the same political party; but allow me to say that he did not come to the Secretaryship of the Treasury without a well-established reputation; a reputation very well known to my colleague and myself, and I think I may say known to the whole country. At the head of the State banking system of our State he so conducted its affairs as to promote the prosperity of the people, to promote their commerce, and to secure to them all the while a most reliable currency. He did not come to that Department upon any political reputation that is oftentimes obtained without very high merit, but he came there as a representative in some sense of the business men of this country, and I believe to-day that he is entitled to the confidence of the business men and the people of this country.

Mr. President, the Senator from Illinois has spoken of the rebuke that I gave him. What rebuke, sir? For two hours he has been arraigning somebody, as I thought, about the accumulations in the Treasury; exactly who we could not tell. Now he says that he felt it to be his duty to call the attention of the Senate to the fact that there had been so much money accumulated in the Treasury. Is it a rebuke that when the Senator was discussing that question I asked him a very plain one, that if he found fault with this condition of affairs how he could get away from it, that I asked him the straight question what it was the duty of the Secretary of the Treasury to do with this \$97,000,000 of gold? He did not bring it into the Treasury; he did not enact the law which brings it there.

All that he can do is to expend money according to law; and expending money according to law this day, under existing laws, we find in the Treasury \$97,000,000 of gold—too much, as I think. There would have been some great value in the Senator's criticism if he had told us what to do with that gold. I am not much in favor of going into the New York market every month or two and selling fifteen or twenty millions of gold, disturbing the prices of all the property of the country, thereby stimulating prices for a few days—a stimulation which is to be followed by a depression a few days afterward.

What shall we do, I ask the Senator, with the gold in the Treasury? What shall the Secretary do? We are discussing him, the discretion that we shall allow him, and upon that question the Senator brings to the attention of the country the present condition of the Treasury; and I ask him under existing law what the Secretary of the Treasury shall do with that money? He speaks of the danger to the liberty of the country because there is so much money in the Treasury. How are we to avoid that? I will ask the Senator. Shall we not collect through a tariff and through the internal taxes enough money to meet the public obligations? The Secretary of the Treasury



is to have, to some extent, under his control during the course of the year above \$400,000,000. If you had told the people a few years ago that there ever was to pass through the Treasury in the course of a year \$400,000,000 they would have been astonished. Perhaps persons of more sensitive nerves than the Senator from Illinois would have been frightened at the prospect for the liberty of the country. But we must have it; it must be collected; it must be paid out; and we must trust somebody.

Who is the responsible man? In some sense the Secretary of the Treasury is a responsible man; but, Mr. President, directly and personally he does not control a dollar. The money that is in the Treasury is in the custody of the law. It comes there according to law, and is to be paid out according to law. It is in the custody of the agents of the Government appointed according to our will. Does the Secretary hold the money? Does he have the key of a single safe? Does he control the expenditure of a dollar? Not one. He is more powerless to-day over the money in the Treasury than the Senator from Illinois. As a Senator, the Senator from Illinois can say, as far as his voice and vote shall go, what shall be done with the gold; the Secretary of the Treasury can but look to the law to see what shall be done with it. I confess my inability to solve the difficulty very satisfactorily.

The Senator has again spoken of a censure. I made no censure upon the Senator; intended none. That will not quite do, Mr. President: that will hardly answer the Senator's purpose. I say that directly in connection with the question whether it was safe to trust the Secretary of the Treasury with the discretionary control of \$50,000, the Senator brought this matter before the Senate, and bringing it before the Senate for the purpose of argument and for the purpose of criticism, I have asked him where is the wrong with the Secretary. He has not yet answered it, and he cannot answer it.

I know he spoke about not being able to make me understand him. I heard that about twenty years ago in the justice of the peace court. I heard one lawyer say to the other, "I am not responsible if that gentleman cannot understand my argument." It is neither wit nor originality thus to answer me. I asked the Senator in what respect the Secretary of the Treasury was in fault in regard to this accumulation in the Treasury, and if he makes a criticism he holds himself responsible to the Senate to make his criticism complete. If the Secretary of the Treasury has refused to pay out money when a demand was made according to law, let us know the case. The Secretary tells us in this document, from which the Senator has read, that there is now due of the public debt not presented for payment \$15,791,456 31. That is the showing; that there is a debt due and not paid of over fifteen million dollars. It is not presented, and can the Secretary of the Treasury pay it if it be not presented? Can he anticipate debts not due, and pay them according to his own pleasure and not according to law?

Mr. President, I do not say that in every respect I have agreed with the opinions expressed by the Secretary of the Treasury, but I know him to be a man of unquestionable integrity, of high ability, and entitled to the confidence of the Senate and of the country. Unless the Senator can show that the Secretary should have used this money in some way according to law no criticism based merely on the fact that the money has accumulated in the Treasury will hurt that distinguished gentleman's good name in the country.

Mr. TRUMBULL. The Senator from Indiana alluded to his justice-of-the-peace experience, and I presume it was on that court that he learned to talk about something else than the case before the justice of the peace. He talks now about a criticism on the Secretary of the Treasury. Who has made any? I suppose that Senator had just as much confidence in Jake Thompson when he was Secretary of

the Interior, and stole the money belonging to the Indians that was in the Interior Department. It was there according to law. Did he steal it according to law? The danger is in having power unnecessarily placed in the hands of persons. I suppose the Senator had just as much confidence at that time in Jake Thompson as he has now in his friend, the present Secretary of the Treasury.

Mr. HENDRICKS. I want to ask the Senator whether he makes the comparison between Secretary Thompson as Secretary of the Interior and Secretary McCulloch as Secretary of the Treasury?

Mr. TRUMBULL. Mr. President, I have said what I have said, and I have already said (which the gentleman understands to be a justice-of-the-peace proceeding) that it is not my business to make him understand what I say.

Now, sir, I do not agree with the Senator that the Secretary of the Treasury has got no power over the money. I am not criticising the Secretary of the Treasury, but I am talking of the law. Does not the Senator know that the Secretary of the Treasury has authority under existing laws to sell more than \$90,000,000 of gold to-morrow? Has he not got the power? I think it dangerous to trust such a power unnecessarily in the hands of any man.

That is not an attack upon the Secretary of the Treasury. It is the lodging of such vast powers anywhere that I regard as objectionable, and I say to the Senate that it is not safe, although you may have a law defining the duties of the officer with whom you intrust these unnecessary powers.

Why, sir, there would have been no devils in hell if they had not violated law. There would have been no rebellion and no treason if the men engaged in rebellion and treason had not violated law; and it is because we gave power into the hands of men which they abused, not because we do it particularly in this country, but because mankind the world over have placed power in the hands of others which they have abused, that the liberties of the people have been trodden down from the beginning of time.

Now, sir, there is no safety in having a law telling the person whom you clothe with extraordinary powers that he shall not abuse those powers. By and by you will find some one who is disposed to abuse them if he has the power to do it, and my point is that you should not unnecessarily confer power.

The amendment was agreed to.

The Secretary continued the reading of the bill.

Mr. FESSENDEN. There is an amendment to come in after line three hundred and ninety-one, on page 17:

For janitors for the Treasury Department, \$15,000.

The amendment was agreed to.

Mr. WILSON. I move that the Senate take a recess until seven o'clock.

Mr. FESSENDEN. Let the next item be read.

Mr. WILSON. I withdraw the motion for that purpose.

The Secretary read the next item.

Mr. WILSON. I now move that the Senate take a recess until seven o'clock.

Mr. FESSENDEN. I wish to say—

Mr. HENDRICKS. Does the chairman of the committee desire this?

Mr. FESSENDEN. I desired and supposed I could get through with this bill to-day, and probably should but for this unexpected and long debate that has sprung up. We are getting to be so near the close of the session, and there is so much more business behind, that I should like to have this bill disposed of, and am therefore perfectly willing myself to have a recess and come here and finish it this evening.

Mr. CONNESS and others. Then let us finish it.

The motion was agreed to; there being on a division—ayes 16, noes 15; and the Senate accordingly took a recess until seven o'clock p. m.

## EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

## HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 1144) making appropriations to supply deficiencies in the appropriations for contingent expenses of the House of Representatives for the fiscal year ending June 30, 1867—to the Committee on Finance.

A bill (H. R. No. 1146) for the relief of Mrs. Elizabeth Fletcher—to the Committee on Pensions.

A joint resolution (H. R. No. 275) to extend the time for the use of certain vessels for quarantine purposes at the port of New York—to the Committee on Commerce.

## BILL INTRODUCED.

Mr. CRESWELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 577) to regulate the disposition of the proceeds of fines, penalties, and forfeitures incurred under the laws relating to the customs; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

## WASHINGTON AND NEW YORK RAILROAD.

On motion of Mr. WILSON, the bill (H. R. No. 632) to authorize the building of a military and postal railroad from Washington, District of Columbia, to the city of New York, was taken from the table, and referred to the Committee on Commerce.

## LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 896) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867.

The PRESIDENT *pro tempore*. The reading of the bill will now be proceeded with, commencing where the reading was interrupted when the recess was taken.

The Secretary resumed the reading of the bill.

The next amendment of the Committee on Finance was on page 19, after line four hundred and thirty-seven, to insert:

## Bureau of Statistics:

For contingent expenses, namely: laborers, office furniture, carpets, fitting up files, and miscellaneous items, \$4,000.

The amendment was agreed to.

Mr. FESSENDEN. On page 32, line seven hundred and eighty, I move to strike out "five" and to insert "nine;" and in lines seven hundred and eighty-one and seven hundred and eighty-two to strike out "\$4,752, and to insert "\$7,632;" so that the clause will read:

For compensation of nine watchmen and two laborers of the southwest executive building, \$7,632.

It will be observed that this adds four watchmen to the number now authorized in the Navy Department building, and it is done at the request of the Secretary of the Navy, whose letter I have here, in which he states that owing to the very great enlargement of the building the five watchmen are entirely insufficient for the safety of the building. The committee were satisfied that it was so, and therefore agreed to report this amendment.

The amendment was agreed to.

The next amendment was on page 34, lines eight hundred and twenty-nine, eight hundred and thirty, and eight hundred and thirty-one, to strike out the following words:

That a sum not exceeding \$10,000 be appropriated for the purchase of the Glover Museum: And provided further.

The amendment was agreed to.

The next amendment was on page 35, after line eight hundred and thirty-four, to insert:

For the purchase of the Glover Museum, \$10,000.

Mr. TRUMBULL. I see that that was just stricken out on the other page, and it is put in another place.

Mr. FESSENDEN. We have merely changed the place in which it is to come in.

Mr. TRUMBULL. I should like to know what that is, and what it means.

Mr. FESSENDEN. It is the museum that has been collected here for a considerable number of years past by Mr. Glover, which is very valuable and interesting, and the Committee on Finance thought it was well to purchase it.

Mr. TRUMBULL. What is it a museum of?

Mr. FESSENDEN. It is a collection of all sorts of agricultural specimens of different kinds, which has been prepared with great care and skill by Mr. Glover, who has devoted his life to it, and is an enthusiast in the matter, and it is very valuable.

Mr. RAMSEY. I trust this appropriation will be made. This collection contains some of the finest specimens in the world. There will be found in it every variety of apple, pear, and peach produced in the United States.

Mr. TRUMBULL. A museum used to be in the Patent Office, but that has been transferred over to the Smithsonian Institution.

Mr. FESSENDEN. These are agricultural specimens.

Mr. TRUMBULL. It seems to me we ought not to appropriate for two museums.

Mr. FESSENDEN. They are entirely different things. These are agricultural specimens, and the other is miscellaneous, of all sorts.

Mr. TRUMBULL. That is true; but it seems to me there should be but one museum. If the Government is to have a museum it is a great undertaking. I believe some of the foreign Governments appropriate \$60,000 a year to their museums.

Mr. FESSENDEN. Congress can order it transferred hereafter if they see fit.

Mr. TRUMBULL. It seems to me a strange idea to have a museum in the Agricultural Department and another one in the Smithsonian, that Congress appropriates, I suppose, to take care of, I do not know how much. It has to be attended by somebody. It used to be in the Patent Office, but we transferred it to the Smithsonian.

Mr. FESSENDEN. Mr. Glover is connected with the Agricultural Department, one of the officers of it, and has been there for several years. He is an enthusiast in this matter.

Mr. TRUMBULL. It has no other connection with the Agricultural Department than that this person happens to be engaged there.

Mr. FESSENDEN. And the fact that it is of an agricultural character exclusively. This is a question as to the purchase of the museum; not where it shall be kept. It can be transferred hereafter if Congress think proper to do so.

Mr. RAMSEY. I really hope that this appropriation will be made. I think it is the most proper appropriation in the bill.

Mr. TRUMBULL. I know nothing about this museum, and I am not prepared to say that the appropriation should be made. It certainly does not strike me favorably. I have not examined this museum belonging to the Agricultural Department; but it is to me a little singular that we should be making such an appropriation.

Mr. CRESWELL. I will state that this very subject was under consideration in the Committee on Agriculture last year, and I believe the recommendation was unanimous that the Government should purchase this museum and preserve it in some appropriate building. It certainly forms the nucleus of a very valuable collection.

Mr. CATTELL. As I happen to be a member of the Committee on Agriculture I desire to say that this museum is peculiarly appropriate to the Agricultural Department. It contains specimens of the fruits suited to the different latitudes of our country and all the facts pertaining to them. There is also in it a collection of insectivorous birds, such birds as ought to be destroyed and such as ought to be preserved, all bearing on the subject of agriculture, and making this an exceedingly interesting museum. Mr. Glover has been offered for it from foreign Governments very much

more money than we propose to give him here. He takes very great pride in it as having gotten it up here. I think it a very valuable museum, and I hope this appropriation will be made.

Mr. TRUMBULL. So far as birds are concerned, we have another collection of them at the Smithsonian.

Mr. FESSENDEN. These are specimens of the birds of foreign countries, brought here by the exploring expedition. These are the birds of this country.

Mr. CATTELL. These are specimens of our own birds, numbered and marked with their different characteristics, whether they are advantageous to agriculture as destructive of insects, or the contrary; whether they are such as ought to be destroyed or not, and a great many very interesting facts which are directly connected with our own country, and particularly applicable to the Agricultural Department.

Mr. TRUMBULL. If the Senator will wade through the thirteen quarto volumes of the Pacific railroad surveys he will find there a collection of all the birds and reptiles of this country, what they are good for, and for what purposes of evil they seem to exist, and he will find pictures of them; and then if he will go into the museum that we have got already established he will find the birds themselves, or their feathers and skins stuffed, and a very minute description. But I do not wish to say anything more in regard to this purchase. I shall not vote for it myself.

The amendment was agreed to.

The Secretary continued the reading of the bill.

Mr. FESSENDEN. On page 45, after line one thousand and ninety-one, I move to insert the following:

For the purchase of reports of the Supreme Court of the United States for the use of the Department of State, \$1,000.

The amendment was agreed to.

The Secretary continued the reading of the bill down to the following clause:

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, \$2,000,000: *Provided*, That no further expenditures shall be made for the experimental system of hydrostatic printing by the Treasury Department until such experiments shall have been definitely authorized by law and a distinct appropriation made therefor.

Mr. FESSENDEN. That proviso escaped my notice. I think it ought not to remain in. I do not see the members of the committee here. That system of printing is no longer an experiment; it has been tried and is carried out, and that is the printing that is now going on. I am afraid that as the proviso is now worded it would interfere seriously with the business of the Department. I move to strike out the proviso. If there is anything wrong about it it can be set right on conference with the members of the House.

The amendment was agreed to.

The next amendment of the committee was on page 46, after line eleven hundred and two, to insert the following:

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, \$40,000.

Mr. POMEROY. I should like to have an explanation of precisely what is intended by "facilitating communication between the Atlantic and Pacific States by electrical telegraph."

Mr. FESSENDEN. That is under a contract to pay the company \$40,000 a year. It was rejected at the last session, because there was some doubt whether they had not broken their contract. The committee examined it and came to the conclusion that on the whole it might as well be put in, whether they had broken their contract or not, of which we were not exactly satisfied, because we are obliged to have that amount, and more probably, of telegraphing. If we throw the contract aside we place ourselves perhaps more in the power of the company than the contract now places us. It would seem, therefore, not to be advis-

able to do that. This telegraphing must be paid for in some way. If we do not pay for it under the contract we shall have to pay what they see fit to charge for the telegraphing that is actually done. Therefore the committee came to the conclusion that it was best to insert this appropriation.

Mr. POMEROY. The language used, "facilitating communication between the Atlantic and Pacific States," does not look as if it was an appropriation to pay on a contract, but rather as if we were going to build a new line.

Mr. CONNESS. That is the old language.

Mr. FESSENDEN. That is the language of all the appropriations on the subject.

The amendment was agreed to.

Mr. CONNESS. At this time I will ask the chairman of the Finance Committee if he has any especial information in regard to the provision on page 44, beginning at line one thousand and seventy-four, reading thus:

For legal assistance and other necessary special and extraordinary expenditures in the disposal of private land claims in California, \$5,000.

I should like to ask the chairman if he has any information as to the necessity for the appropriation.

Mr. FESSENDEN. It is an appropriation which has been made several times before. They are obliged to employ extra counsel in those cases. I found it in the bill and also in the estimates that were made.

Mr. CONNESS. It will appear in the estimates and in the appropriation bills until the crack of doom unless it is stricken out.

Mr. POMEROY. When is that?

Mr. CONNESS. A very distant period I believe. [Laughter.] I move to strike out the clause I have read. My impression and my opinion is that it is simply an unnecessary appropriation of public money. The nature of the services consist in the prosecution in the Supreme Court of the United States of claims arising under the treaty with Mexico and grants made by the Mexican Government of lands in California. The public money has been used to the extent of hundreds of thousands of dollars in the prosecution of those claims with great injury to the State of California and with terrible severity upon honest claimants, while—

Mr. FESSENDEN. This appropriation is for contesting the claims, is it not?

Mr. CONNESS. Yes, sir; this is a continuation of it. Now those questions are nearly all at an end; they ought to have been ended long ago. Under these annual appropriations cases are kept in court the principles of which have been determined again and again for years past; and it is in vain that the parties ask a dismissal of cases that are pending here, and that are eventually decided as if dismissed by the court, as long as appropriations are made from the Treasury to employ legal assistance for the contesting of them. I move to strike out this clause.

Mr. FESSENDEN. I do not know enough about it to make any comment on what the honorable Senator says. He is better acquainted with it than I am.

Mr. CONNESS. I have no doubt on the subject at all.

Mr. HOWARD. I shall vote to strike out this item. The reports of the Supreme Court are literally crammed with the decisions in litigations upon the California land titles which arose under the treaty with Mexico, and if it be possible to settle any leading principle of law with reference to those claims, or any series of principles, that settlement has already taken place, I should think, long ago; for you will find scores of decisions already made by the Supreme Court of the United States in the California land claims, one of which is but a precedent for another, involving the same principle from case to case and from year to year. I really think the Senator from California is correct when he says this appropriation is only an invitation to a continuance of the litigation respecting those claims.

Mr. CONNESS. That is it, when we want peace and quiet.

Mr. HOWARD. I think it is encouraging unnecessary lawsuits.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from California.

The amendment was agreed to.

The Secretary continued the reading of the bill, as follows:

For expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, and other securities of the United States, as well as the coins of the United States, \$150,000.

Mr. HOWARD. I should like to inquire of the chairman of the Committee on Finance as to the necessity of appropriating \$150,000 to pay detectives for their services in detecting counterfeiters of the currency of the United States. Is not that sum rather large? It would pay a swarm of detectives in every part of the country and encourage their employment.

Mr. FESSENDEN. It is a very expensive and a very important service. I do not know of any more important item or money better spent than that.

Mr. HOWARD. Very likely. I see the necessity of having some such appropriation; but I wish to inquire of the Senator whether that is the appropriation that has been made heretofore.

Mr. FESSENDEN. I cannot tell just now, but I think the same appropriation was made last year. We made quite an appropriation for the current year, and it was struck down, and we afterward increased it on consultation.

Mr. HOWARD. Was the appropriation the same or nearly so?

Mr. FESSENDEN. I presume it was.

Mr. HOWARD. I merely inquired for information. It struck me as rather a large sum.

Mr. FESSENDEN. I did not make any inquiry about it. I found it in the bill as it came to us; but it is a pretty expensive business. Agents have to be employed and they have to be paid extra for peculiar services.

Mr. WILSON. And it is rather a useless business, too, for I find that almost all the men convicted are pardoned immediately. Still, I shall vote for the appropriation if the Senator wants it.

Mr. FESSENDEN. That is not a matter that depends on the appropriation at all.

The Secretary continued the reading of the bill.

The next amendment of the committee was on page 46, line eleven hundred and twenty-one, to strike out "four" and insert "five;" so as to read:

For compensation to the laborer in charge of the water-closets in the Capitol, \$538.

The amendment was agreed to.

Mr. FESSENDEN. In line eleven hundred and twenty-three, page 49, the word "the" should be inserted before "Capitol."

The PRESIDENT *pro tempore*. That is a clerical correction which will be made.

Mr. FESSENDEN. On page 47, line eleven hundred and thirty-three, I move to strike out "\$1,200" and to insert "\$1,800;" so as to read:

For compensation of two day watchmen employed in the Capitol square, \$1,800.

They are entitled to \$900 each by law.

The amendment was agreed to.

Mr. FESSENDEN. On page 47, lines eleven hundred and thirty-five and eleven hundred and thirty-six, I move to strike out "\$2,640" and to insert "\$3,168;" so as to read:

To enable the Commissioner of Public Buildings to pay two policemen at the President's House, \$3,168.

They are entitled by law to the same pay as the police of the Capitol.

The amendment was agreed to.

The next amendment of the committee was on page 47, after line eleven hundred and thirty-eight, to insert:

For compensation of two watchmen at the President's house, \$1,440.

Mr. FESSENDEN. I move to amend the amendment by striking out "\$1,440" and inserting "\$1,800." They get \$900 apiece.

The amendment to the amendment was agreed to.

The next amendment was on page 47, after line eleven hundred and forty, to insert:

For compensation for three watchmen on the dome, \$2,700.

The amendment was agreed to.

The next amendment was on page 47, after line eleven hundred and forty-two, to insert:

For compensation to a person to take care of the heating apparatus of the Library of Congress, \$1,000.

Mr. CRESWELL. May I ask the object of that clause? Under the present arrangement the heating apparatus of the Library is in the charge, I think, of the Sergeant-at-Arms of the Senate and the Doorkeeper of the House, and if another person is appointed to take charge of the same engines—

Mr. FESSENDEN. This is not for the engines. This is the heating apparatus of the Library. The amendment is offered in accordance with the recommendation of the Commissioner of Public Buildings, who says that it is necessary.

The amendment was agreed to.

The next amendment of the committee was on page 47, after line eleven hundred and forty-five to strike out the following clause:

For compensation of assistant doorkeeper at the President's House, \$600.

Mr. FESSENDEN. That clause the committee struck out. I have since been informed, however, and I will state to the Senate, that although that is asked for as a new officer, there being only one doorkeeper authorized by law, we are all aware that the President's House has been refurnished, and very well furnished, and it is a very handsome sort of a place, and it is thought to be very necessary and economical to have some person there all the time to accompany visitors about the House. We know that formerly when it was fixed up it was very much injured; pieces were cut out of the furniture and a good deal of injury was done by visitors, and it is represented that it is advisable to have some person who shall be in constant attendance upon visitors there and accompany them to the different parts of the House where they go, and see that no damage is done. The appropriation is only \$600, and I have come to the conclusion that it would be well to make the appropriation, and I think the committee would have come to the same conclusion had the same facts been stated to them. I leave it to the Senate therefore to decide. I doubt very much whether it is advisable to strike out that appropriation.

Mr. HOWARD. The bill has already given to the President two watchmen and some other servants.

Mr. FESSENDEN. Those two watchmen were there before, and the appropriation for their pay was accidentally left out by the House and is now put in. There are two watchmen there constantly, and must be necessarily, and two policemen and a doorkeeper. This is for an assistant doorkeeper inside the house to accompany visitors. My own opinion is that it is advisable to make the appropriation.

Mr. HOWARD. Very well; I make no objection. I will ask the chairman what "dome" is referred to in line eleven hundred and forty-one, "for compensation of three watchmen on the dome"—the dome of the Capitol?

Mr. FESSENDEN. There is but one dome, and that is the dome of the Capitol. I do not know of any other.

Mr. HOWARD. I thought it might perhaps apply to some other dome in the country. Perhaps you had better say "dome of the Capitol."

Mr. FESSENDEN. I have no objection if the Senator has any doubt about it. I think the dome of the Capitol is "the dome."

Mr. HOWARD. Others might think differently.

The PRESIDENT *pro tempore*. Is the Sen-

ate ready for the question on the amendment proposed by the committee?

Mr. HENDRICKS. I could not hear from the chairman whether he recommended that this clause be stricken out.

Mr. FESSENDEN. The committee recommended that it should be struck out, not being informed of the facts and supposing we had provided last year all the officers that were necessary; but since that time I have been informed by the Commissioner of Public Buildings that it is very desirable to have this person in order to protect the property, to be there all the time to attend to visitors, which the doorkeeper cannot do. There must be one man at the door constantly. I think this appropriation advisable therefore, and have taken the liberty myself to suggest that I do not think it wise to conform to the recommendation of the committee in striking out the clause. That is all. The Senate of course will do as it pleases about it. We all know how much injury was done to the house, and it may be done again unless it is watched.

Mr. HOWARD. I think it is right.

Mr. CONNESS. It is useful; it shows that the committee are capable of making a mistake, that is all.

Mr. FESSENDEN. I am painfully aware of that.

The amendment was rejected.

The Secretary continued the reading of the bill to the following clause, lines eleven hundred and sixty-six to eleven hundred and seventy-two:

For additional compensation of \$100 each to six watchmen, at \$900, and of twenty per cent. of five laborers in the Capitol, one foreman and twenty-one laborers on public grounds, one gatekeeper, two day and two night watchmen, and two furnace-keepers, \$4,762 80.

Mr. CONNESS. I should like to inquire of the chairman of the Committee on Finance whether the three watchmen employed in the square near the Smithsonian Institution are included in this paragraph? There was such a provision in the bill originally, but my impression is that, while it was pending in the House, that was struck out. I should like to inquire whether that has been restored, and whether those watchmen are included in those named in this paragraph.

Mr. FESSENDEN. This is only making provision for the additional pay provided by law to certain specified persons. It does not include them.

Mr. CONNESS. I propose, then, in a moment, to offer an amendment to provide for them; and I will state that there are, I think, three watchmen employed in this square to which I have referred. They have been employed there for a year, and have performed some very valuable service there. It is a place where bad characters in the city had been in the habit of frequenting, and there was no part of the city that required watchmen more than it did. The Commissioner of Public Buildings appointed three soldiers, some of whom were maimed and one I believe honorably discharged; but the House, in a spasm of economy, struck out the appropriation.

Mr. FESSENDEN. The Senator will find a provision for those watchmen at the top of page 48, lines eleven hundred and fifty-one and eleven hundred and fifty-two:

For the compensation of five watchmen in reservation No. 2, \$4,500.

Reservation No. 2 is the ground on which is the Smithsonian Institution.

Mr. CONNESS. Then it is all right.

The next item of the bill was read, providing for the Metropolitan police, as follows:

Metropolitan police:

For salaries and other necessary expenses of the Metropolitan police for the District of Columbia, \$208,850. And the compensation of said Metropolitan police force, officers, and clerks, be, and the same is hereby, increased twenty per cent. upon the amount hereby appropriated, commencing on the 1st day of November, 1868, said increase to be borne by the cities of Washington and Georgetown, and the county of Washington, in the District of Columbia, in the proportion equal to the number of patrolmen allotted severally to the city of Washington, to the city of Georgetown, and the county of Washington;



and the levy court of said county be, and they are hereby, authorized and empowered to levy a special tax not exceeding one quarter of one per cent. for the purpose aforesaid: *Provided*, That hereafter no person shall be appointed as policeman or watchman who has not served in the Army or Navy of the United States, and received an honorable discharge.

Mr. FESSENDEN. In line eleven hundred and seventy-nine I move to strike out "twenty per cent." and insert "fifty per cent." The House of Representatives were evidently laboring under a misapprehension about this matter. They supposed the provision which was inserted in the estimates in regard to this matter was for giving an additional twenty per cent. The fact is that we gave last year an additional fifty per cent., and instead of its being terminated now they have it by law up to the 1st day of next July, and this should be an appropriation to continue it. It is not an appropriation out of the Treasury, but it is requiring the corporations of Washington city and Georgetown and Washington county to appropriate the fifty per cent. increase, and assess a tax to meet it, which was agreed to last year all round. Evidently the House misapprehended the effect and intention of this provision from its not being aware of what was done last year. I move to amend the clause by striking out in line eleven hundred and seventy-nine "twenty" and inserting "fifty;" by striking out in line eleven hundred and eighty "November" and inserting "July;" by striking out "six" in line eleven hundred and eighty-one and inserting "seven;" so as to read "fifty per cent. upon the amount hereby appropriated, commencing on the 1st day of July, 1867;" and then, after "county of Washington," in line eleven hundred and eighty-three, I move to insert "beyond the limits of said cities;" and in line eleven hundred and eighty-seven to strike out "empowered" and insert "required."

The amendments were agreed to.

The Secretary read the second section of the bill, as follows:

Sec. 2. *And be it further enacted*, That to enable the Clerk of the House of Representatives to pay the increased compensation voted by the House during the Thirty-Ninth Congress to its employees, clerks, and others, and to pay the increased rate of compensation thereby authorized, a sum sufficient therefor is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The Committee on Finance reported an amendment to strike out the section.

The amendment was agreed to.

The next section was read as follows:

Sec. 3. *And be it further enacted*, That the proviso contained in the third section of chapter two hundred and ten of the act of July 2, 1864, shall be construed to embrace all suits to which the United States shall be a party in the Court of Claims, either plaintiff or defendant.

Mr. TRUMBULL. That section repeals a clause in an appropriation act of 1864, a proviso which reads in these words:

"That in the courts of the United States there shall be no exclusion of any witness on account of color, nor in civil actions because he is a party to or interested in the issue tried."

At a subsequent period Congress amended this proviso which I have just read by declaring—

"That in any action by or against executors, administrators, or guardians, in which judgment may be rendered for or against them, neither party shall be allowed to testify against the other as to any transaction with, or any statement of, the testator, intestate, or ward, unless called to testify thereto by the opposite party, or required to testify thereto by the court."

The reason of this amendment was that it was supposed there was no mutuality where a party was permitted to testify in a suit by an administrator or guardian; the guardian or administrator would not know about the transaction and hence it was improper, although the law was extended so as to allow parties to testify in court in cases in which they were interested as a general rule, to extend that to cases where one of the parties acted in a fiduciary capacity. Now it is very questionable, I think, whether this law should be extended to the Court of Claims, so as to allow parties to testify. The United States has no

one to testify for it, and the claimant who presents his claim swears to his petition now. The effect of this section of this bill is to allow the claimant to come in there as a witness as against the United States.

Mr. FESSENDEN. I think the section ought to be struck out.

Mr. TRUMBULL. There is no mutuality in it. I do not think the provision ought to be extended to the Court of Claims. I understand that this section got into the appropriation bill under an impression that the Court of Claims excluded a person of color from testifying. That is not so. I have been furnished with a decision of the court on that subject, and I will read a sentence or two from it:

"It has been suggested that if parties cannot testify, persons of color cannot, as both are rendered eligible by the same act. There was never a law of Congress which excluded witnesses on account of color, and this court has always recognized the rules of the common law which make no such distinction."

So that in that court they admit persons of color to testify, and the only effect of retaining this third section in this bill is to allow a party to be a witness in the Court of Claims in a case where there is no mutuality.

Mr. FESSENDEN. Will the Senator move to strike out the section?

Mr. TRUMBULL. I think it had better be stricken out.

Mr. FESSENDEN. I make no objection. Mr. TRUMBULL. I move that it be stricken out.

Mr. POLAND. I hardly have the heart to say anything in favor of this provision if the chairman of the Finance Committee consents to have it stricken out; but it seems to me there is very little reason for striking it out. It is very proper, as I think, where one party to a transaction is dead, and a suit is prosecuted by the administrator who, of course, has no personal knowledge in relation to the matter, that the other party should not be allowed to testify because the party who really know about it on the other side is dead and cannot appear to testify. The case of the Government is likened to that. It seems to me there is no analogy between the two. All contracts and dealings of the Government are done by some agent or officer of the Government.

Mr. TRUMBULL. And he is a witness for both parties.

Mr. POLAND. Not always. I think that wherever an officer or an agent has made a contract on the part of the Government, and there comes up a litigation about it, and that officer or agent is a witness for the Government, he is not any more to be trusted as a witness than a man who comes into court and testifies for himself. The United States never was a witness, never was alive so that it could testify against the opposite party, but the person with whom the dealing was made, the officer or agent who transacted the business or made the contract on the part of the Government is alive, so that the Government has his testimony, the testimony of one party who really made the contract, and it seems to me entirely just and fair that the party on the other side should be a witness if we want to keep up this mutual right under the system of allowing parties to testify in their own cases. It seems to me it ought to be extended to cases where the Government is a party.

Mr. BUCKALEW. I proposed the provision of law which has been referred to, allowing parties to be witnesses in their own behalf. Certainly I never intended to apply that provision of law to cases in which the United States was a party to claims against the Government, which are subject, of course, to such peculiar rules as the Government may prescribe.

At a subsequent session, after the adoption of that provision on my motion, suits in which the representatives of estates were parties were excluded from the operation of that law, and with my concurrence.

Now, sir, the same reason which applies in the case of estates will apply to a case of claims against the Government of the United States.

There is no mutuality of privilege either in the case of estates or in the case of the Government: there is no party which may confront the plaintiff by representing the opposite side of the case. I think, therefore, that the proposed provision of this bill is imprudent, that that innovation upon the law which was established upon my motion at a former session ought to be confined to cases between private parties, where both are competent to testify and both enjoy the privilege provided by the law. For that reason I shall be in favor of striking out this section in the bill from the House.

Mr. HENDRICKS. I do not agree with the Senator from Pennsylvania upon this question. I do not think there is an analogy between the two cases. Two men make a contract; one of them dies; it is not right that the survivor of them should testify against the estate of the other, because there is no balancing testimony, if I may so express it. But a man who brings a suit against the Government of the United States in the Court of Claims, or who is sued by the Government in any of the United States courts, sues or is sued upon some contract or arrangement between him and some agent or officer of the Government, and this officer or agent is always a competent witness, and I have observed that the testimony given on behalf of the Government in such cases has an undue weight. I have seen what I think to be wrong, because of the official weight that is thrown into a case when the testimony is given by an officer in addition to the weight that the testimony would have coming merely from an ordinary witness.

Before the vote is taken on striking out the section, I move to insert after the word "all" in the fourth line the word "civil," and to strike out in the fifth line the words "in the Court of Claims;" so as to make the section read:

That the proviso contained in the third section of chapter two hundred and ten of the act of July 2, 1864, shall be construed to embrace all civil suits to which the United States shall be a party, either plaintiff or defendant.

I am not sure that this will change the rule that obtains in the courts now. I rather think that under the law as it stands the United States courts allow parties to suits to testify, but that there may be no question about it, I move this amendment.

Mr. BUCKALEW. If I recollect aright, the original provision to which reference is made applied only to civil suits. Criminal proceedings were excluded from that law.

Mr. HENDRICKS. I am a little afraid that by the use of this general language, without inserting the word "civil," the section might be construed to include criminal cases. If you say by this section that the law of 1864 shall be construed to embrace all suits to which the United States are a party, that will be extending the operation of the rule, and may be construed to include criminal cases, which it ought not to do.

Mr. TRUMBULL. I trust the amendment will not be adopted. It is only enlarging the thing still further.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question occurs on the motion of the Senator from Illinois to strike out the section.

Mr. FESSENDEN. I think it ought to be struck out. I think it would be very dangerous to admit parties to testify where there is nobody in fact interested on the other side. It is contrary to the theory on which the testimony of parties is admitted. There is no knowing where the Government agents, whoever they may be, may be when the testimony is wanted. They may be scattered in various parts of the country; it may be difficult to find them, while the party is always to be found if he is living and becomes a party to a suit against the United States.

The motion to strike out was agreed to.

The Secretary read the last amendment reported by the Committee on Finance, which was to insert as a new section:

Sec. 4. *And be it further enacted*, That each night

watchman at the Treasury Department shall, from the 1st day of July, 1867, receive a compensation of \$900 per annum; and an amount sufficient to pay said increased compensation for the fiscal year ending June 30, 1868, is hereby appropriated.

The amendment was agreed to.

Mr. FESSENDEN. I am instructed by the Committee on Finance to offer the following amendment as an additional section:

*And be it further enacted,* That the Secretary of the Interior is hereby authorized to appoint in the office of the Commissioner of Pensions, in addition to the clerks now authorized in said office, twenty-eight clerks of class one, twenty-four clerks of class two, sixteen of class three, and ten of class four; said clerks to expire at the end of two years; and a sum sufficient to pay the salaries of said clerks from the date of their appointment to the 30th of June, 1867, and for the fiscal year ending June 30, 1868, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

If any explanation is needed, I will say that this amendment provides for nearly eighty more clerks in the Pension Office; and I have a letter from the Secretary of the Interior, transmitting a letter from the Commissioner of Pensions, in which that officer states that it will be impossible for him to get along, so great is the increase of business there, unless he has these additional clerks. The committee were satisfied of the truth of the statement. I will have the letters read if any Senator desires to hear them. ["No!" "No!"]

The amendment was agreed to.

Mr. TRUMBULL. On page 45, line one thousand and ninety-one, after the word "dollars," I move to insert:

*And in case said court shall in any year direct said reporter to publish a second volume of its decisions, \$1,500 in addition thereto, to be paid on the delivery by said reporter to the Secretary of the Interior for distribution, according to existing laws, of three hundred copies of such second volume."*

The appropriation of \$2,500 as a salary for the reporter of the Supreme Court contemplates the publication of one volume of the reports of decisions, and the delivery of three hundred copies to the Secretary of the Interior for distribution. It has sometimes happened in former years that the court has directed two volumes to be published, and in such cases an additional appropriation has always been made. This year it is in contemplation to publish two volumes. The reporter addressed the Secretary of the Interior upon the subject, and that officer sent us a communication, recommending an appropriation of \$2,500; but the Committee on the Judiciary, which considered this subject, thought \$1,500 would be sufficient. The \$2,500 is paid to the reporter for three hundred copies of its reports. That is more than the three hundred copies are worth in the market, but it is intended as a sort of salary to the reporter, and to make up to him a sufficient compensation for getting out the reports, there being no very large sales of the reports, and there being a necessity that they should be published; but the committee thought if a second volume was to be published in any year, \$1,500 should be enough for three hundred copies of that volume, which is about the market price, five dollars a volume, and they report this amendment.

The amendment was agreed to.

Mr. STEWART. In line one thousand and eighty-two I move to strike out "tenth" and insert "ninth," so as to read: "for traveling expenses of the judge assigned to the ninth circuit;" &c., and then to add to the clause:

*And where an allowance has been made or shall hereafter be made for traveling or other expenses of any justice allotted to a circuit embracing particular districts, such allowance shall not be affected by any change in the number of the circuits, but shall be made to the justice within whose circuit such districts are included.*

Mr. TRUMBULL. When we make the appropriation we can always designate the proper circuit.

Mr. STEWART. It might as well be provided for in this general language. There is a difficulty about the appropriation of last year because of the number of the circuit having been changed. This is to cover that.

Mr. FESSENDEN. I should like to have

the question put separately. The first part of the amendment I have no objection to; the second I object to.

Mr. STEWART. Very well, I withdraw the last part, and move simply to strike out "tenth" and insert "ninth."

The amendment was agreed to.

Mr. POLAND. I am instructed by the Committee on the Judiciary to propose the following amendment, to come in after line one thousand and eighty-five, on page 45:

*And be it further enacted,* That the salaries of the district judge of the district of California shall be \$5,000; and the salaries of the district judges of the districts of Massachusetts, southern and eastern districts of New York, eastern district of Pennsylvania, Maryland, northern district of Illinois, Louisiana, Oregon, and Nevada shall be \$4,500 each; and the salary of every other district shall be \$4,000; and such salaries shall be in full compensation for all official services performed by such judges, and no other allowance or payment shall be made to them for traveling expenses or otherwise.

Mr. FESSENDEN. The Senator had better propose that as an additional section at the end of the bill. He cannot interpose an enacting clause in that way in the middle of a section.

Mr. POLAND. I have no objection to having it come in as an additional section.

The PRESIDING OFFICER, (Mr. POMEROY.) The amendment will be put in that form.

Mr. FESSENDEN. I have no doubt that there ought to be an increase of the salaries of some of the judges; but I think from hearing the amendment read that it puts some of them too high, more than I should be willing to agree to. I should like to know on what principle the amendment is predicated? It doubles the salaries of the district judges in New England, or most of them. It doubles the salaries of the district judges in Vermont, Maine, New Hampshire, and Rhode Island, who now receive but \$2,000 each.

Mr. TRUMBULL. But it cuts off what they now receive for going into other districts.

Mr. FESSENDEN. They do not get much in that way.

Mr. TRUMBULL. The district judge of Vermont goes very often to New York to hold court there.

Mr. POLAND. This subject was brought before the Judiciary Committee at the last session, and very considerable examination was made with a view to get at the proper sums which should be fixed as the salaries of the district judges, and to equalize as well as we could the salaries among them. They were quite unequal as we found them, and generally insufficient. The very highest salary named in this amendment is for the judge in the California district. That is not raised by this amendment. It was fixed at \$5,000 when that district was established, and it has so remained since.

Mr. FESSENDEN. I thought that had been increased to \$6,000.

Mr. POLAND. No; it stands at \$5,000 now.

Mr. CONNESS. It has not been increased.

Mr. POLAND. We selected some seven or eight of the important districts, the heavier districts, and put them in the \$4,500 class. This class includes the district of Massachusetts, which embraces the whole of the State, with the large commercial city of Boston; the New York city districts, the eastern district of Pennsylvania, which includes the city of Philadelphia; the Maryland district, which includes the city of Baltimore; and the district of Louisiana, including New Orleans; and we leave in this class the districts of Nevada and Oregon, where the judges now get \$4,500. In New England, as the Senator from Maine has said, the salary of each of the district judges is \$2,000, except in the Massachusetts district, where it is \$3,000. The salaries were fixed at this sum many years ago, at a time when \$2,000 was really a better salary, furnished more of the means of living, than the salary of \$4,000 that we now propose. The Senator from Maine knows very well, as every body knows, that the expenses of living since the day when

those salaries were fixed at \$2,000 have more than doubled and especially where a man's duties, like those of a judge, call him from home, where he is subjected to traveling and hotel expenses, the necessary expenditures have very much more than doubled in that period of time.

More than this, the business in the district courts has very largely increased everywhere. Since the adoption of the system of internal taxation all cases which arise under it go into the district courts. The very large increase in the duties on imports has caused a great many cases to arise under our laws in relation to importations. All that class of cases go into the district courts. Then there are a great many cases growing out of the operations of the late war, all of which go into the district courts. The business of those courts has very largely increased. I know in reference to my own State that the business of the district judge is more than ten times as much as it was ten years ago.

There is a very considerable difference in the size of the districts and in the amount of business in the districts; but a law which has been in force for a considerable number of years provides that the judge of one district may be called upon to go into another district where the business is too heavy for the single judge of the district, and hold there a district court and a circuit court; and it is well known to members of the legal profession, at least in my section of the country, that until the establishment of the eastern or Long Island district, in New York, and the creation of a new judge there, which was really intended to help the business in New York city, a large portion of the business of the district and circuit courts in New York city was done by the district judge of Vermont and the district judge of Connecticut. It was also provided in connection with that law that these judges should be paid their expenses for attending court there in that way. I believe that by this amendment we shall not add very much to the pay that the Vermont and Connecticut judges receive, with their present salaries and their expenses while holding court in New York which are allowed under the present law. We intended to fix the salaries at a sum that shall be sufficient without having any provision made for the payment of expenses, and we have therefore added a clause that no other compensation shall be made to them except that made as a salary.

Without taking any more time on the subject I will simply say that I believe we have approached as near a just equalization of these salaries among the judges as can be made, and that the sums we have fixed are not more than the judges ought to receive.

Mr. SHERMAN. If this amendment is to be adopted, I desire to amend it by inserting "the southern district of Ohio" after "the northern district of Illinois." The judgeship of that district is, I am told, the most laborious office of the West. The court is held at Cincinnati, the largest city in the West, and having the largest commercial transactions. If the increase is to be made, I desire that the \$4,500 class shall include the southern district of Ohio, and I move so to amend the amendment.

Mr. POLAND. I apprehend that if we vary from the sums that the committee has fixed upon as proper there will be no end to it. My friend from New Jersey has been laboring with the committee with great earnestness and with great sincerity, I have no doubt, to have this highest class of salary reach the district judge in New Jersey. He says it is no more than right and just that he should have it, that he is a very industrious man, and works the entire year through. Precisely the same thing has been said to me by at least half a dozen gentlemen in the Senate in reference to the district judges in their own States. I think that there is very great danger if we undertake to depart from what the committee have settled upon after a good deal of deliberation and examination. If we vary this we shall have a very considerable job before us, and I think

the salaries as we have proposed them are certainly low enough in all cases, perhaps too low in some; but if any of them are to be raised from what we propose very many more of them must be raised in order to make an equality.

Mr. SHERMAN. I did not make this motion upon any arbitrary reasons, but simply because that I know the United States judge at Cincinnati is constantly employed. Cincinnati being the largest city of the western States, the amount of business that is thrown into that court is very great. Judge Leavitt, who is now a man somewhat aged, is occupied all his time, so that he has no leisure or recreation. If the judge of the northern district of Illinois should have \$4,500, certainly the judge of the southern district of Ohio should have it. The amount of commercial business at Cincinnati, the amount of our internal commerce on the rivers, and the amount of internal revenue collected there are very great. The population of the district is very large. The revenue collected from whisky at Cincinnati alone is probably as much as in all the rest of the State of Ohio. The case of the judge at Cincinnati is as strong as any other that can be presented. I do not make the motion in regard to the northern district, because it is not so populous and the business is not so great.

Mr. TRUMBULL. The amount of business in the district courts does not entirely depend upon population. The committee, as has been remarked by the Senator from Vermont, had a good deal of consultation and a good deal of difficulty in arranging these salaries as to how many classes we should make. There has been a pressure from all parts of the United States for an increase of the salaries of the district judges for several years. There have been referred to the Judiciary Committee for the last four or five years numerous petitions from nearly every district in the Union. The committee have resisted this, and this is the first time we have reported from that committee an increase of salary. There have been one or two salaries raised in the Senate, without the report of the committee, on the motion of Senators, and the House of Representatives, at this session, has passed a bill increasing the salary of the judge in one of the districts; it has not yet passed this body. But the pressure was so great, and the reasonableness of it was so manifest, that the committee thought the time had now come when we should increase the salaries of these judges. I think every body sees that it ought to be done. A judge of the United States court can do no other business.

Then the question arose, how many classes of them shall we make? Manifestly those who were occupied all the time, and had very responsible and heavy duties to perform ought to be paid something more than those in smaller districts, where the expenses of living perhaps were less, and there was less to do. We made two classes, or rather three classes, because the salary of the judge in California was fixed at \$5,000 some years ago, and under the Constitution it cannot be reduced, but he is the only one at that. Then there are several whose salaries are now \$4,500.

Mr. FESSENDEN. What are those?

Mr. TRUMBULL. The judges on the Pacific, in Nevada and Oregon. There are several whose salaries are now \$3,750, and some \$3,500. We selected a few and placed them at \$4,500, and they are in those districts in which the committee knew the judges were occupied the whole time. The southern district of Ohio is not one that we have put in this class. The Senator from Ohio tells us that Cincinnati is the largest city in the West. Well, its population is hardly so large as St. Louis. Cincinnati is not quite as large as St. Louis, according to the official returns of the last census.

Mr. SHERMAN. Larger.

Mr. TRUMBULL. I think the returns show St. Louis to be a little larger; but we have not embraced the judge at St. Louis in this class. The judge at Chicago is embraced.

The population of Chicago is now upward of two hundred thousand, and at Chicago, as every body knows, there is a great deal of admiralty business. The shipping is very large and the judge is occupied constantly. There is doubtless a good deal of business at Cincinnati. We had before us the returns from a number of these districts showing the number of cases and we made this classification on the evidence that was before us.

If you embrace the Cincinnati district the Senators from Missouri will ask that the judge presiding at St. Louis shall have \$4,500; and my friend from Wisconsin [Mr. Howe] is about to move that the judge who presides at Milwaukee, a large city on the lake, shall have \$4,500; and my friend from Michigan [Mr. Howard] will insist upon it for the judge in his district.

Mr. HOWE. What is the authority for the Senator's statement in regard to me.

Mr. TRUMBULL. I understood my friend in his quiet way to say that if this was adopted he should go for it in another district.

Mr. HOWE. I certainly did.

Mr. TRUMBULL. At any rate the Senator from Michigan, as I understand him, said that if the judge of the southern district of Ohio was put in the \$4,500 class he would move to insert in it the judge for the eastern district of Michigan.

Mr. SHERMAN. I understand there is not as much business in the two districts of Michigan as in the northern district of Ohio, the court for which is held at Cleveland, but I do not propose to raise the salary of that judge. The amount of business in the district court for the southern district of Ohio, as the returns show, is, I think, fully as large as in any district west of the mountains.

Mr. HOWARD. Allow me a word?

Mr. TRUMBULL. Certainly.

Mr. HOWARD. I think upon a comparison of the statistics of the amount of business done in the court to which the Senator from Ohio refers, the southern district of Ohio, with that done in the eastern district of Michigan, it will turn out that the business in the latter district is larger. I have very little fear of the result of such a comparison.

Mr. TRUMBULL. I do not design to take up the time of the Senate in regard to this question, or to argue it. I only wish to say to the Senate about what the Senator from Vermont has said, that if you depart from the recommendation of the committee you will have the matter up here upon almost every district.

Mr. WILSON. We had better vote it all down.

Mr. TRUMBULL. I think not. I think the Senator from Massachusetts is mistaken in what public duty and good policy require. If he thinks we should keep the salaries at the sums that are now paid, be it so. He may say that they may resign; but when men have been judges for some years, are out of other business, and are good judges, it is difficult for them to get into practice again. We must have judges of these courts. I think the public service would suffer by the resignation of these judges. I do not believe we should act upon any impulse growing out of a feeling toward the Supreme Court on account of any decision that has been made. This law will apply to all the judges of all the districts and of all politics. I think it is eminently just that the salaries should be raised. I should be glad to vote to raise the salary of the judge in the southern district of Ohio and put it at \$4,500. I think he ought to have it from the little knowledge I have of the amount of business there. Still I will not vote for it now, because we have arranged this amendment upon an examination of all these salaries, and the committee unanimously I think agreed to report the amendment as the Senator from Vermont has proposed it as the best thing, considering the whole matter, we could agree upon. I trust the Senate will adopt it.

Mr. HOWARD. I have no disposition to take up the time of the Senate in discussing this amendment. I shall vote for it with a

great deal of pleasure. I have no doubt that the Committee on the Judiciary have considered this subject very fairly and have come to a very correct result: that they have allowed a small increase of the salaries of the district judges—a necessity which has existed in their cases for several years to my own personal knowledge. I give, as a single instance, the condition of the judge of the eastern district of Michigan, where I reside, and in whose court I have been in the habit of practicing. It is undoubtedly no exception to the general state of things that exists among the judges. It is undoubtedly true that the compensation of that class of Federal judges has been and still is quite too small. It has been in many cases \$2,500 a year, in some cases \$2,000 a year; in a few cases it has been raised from \$2,500 to \$3,000; but it is impossible, as we all know, for a gentleman who has no other business from which to support his family to subsist respectably upon this small salary, and some of the judges have been almost in a state of starvation. I have been told by certainly two of them that they find it next to impossible to make their ends meet at the close of the year out of their salaries. I hope, therefore, that the Senate will adopt the amendment suggested by the Committee on the Judiciary. I think it is reasonable and by no means too high. I trust that we shall not interfere with it in any way, but adopt it as they have reported it.

Mr. FRELINGHUYSEN. This salary was fixed doubtless when the office was a mere sinecure, when little was done in it. Since the revenue business has grown up the district court has charge of all that business. I know that in New Jersey there is more business done now in one term, and the records will show it, than used to be done in twenty years. The salary then was \$2,000: it is proposed now to make it \$4,000. I know that there are a hundred indictments tried a year in that court. While New Jersey is but the fourteenth State in the Union in population, it is the sixth in point of revenue, which brings an immense amount of business before this court. Judge Field, once a member of this Senate, an able lawyer, gives his time exclusively to the discharge of the duties of that office, and the Government of the United States pays him \$2,000, while the State of New Jersey, which is frugal at least in its expenditures, pays her circuit judges \$4,800, more than as much again. My opinion of it is that the Government cannot afford not to raise the salaries of these judges: it is economy to raise them. If not, the offices will be filled by persons not competent to discharge the duties. They now protect the revenue and enforce the laws of Government. The Government owes it to itself to raise these salaries.

Mr. DIXON. The judges of the district courts whose salaries are proposed to be raised by this amendment are by their occupation excluded from every species of employment except that of a judge. A statute of the United States prohibits their practicing law in the State courts; they cannot even act as counsel. I believe they cannot even draw a paper, a conveyance; I think that is forbidden, but I am not quite sure. At any rate they are prohibited from advising or acting as counsel; they have no occupation therefore to which they can resort as a general rule. They are acknowledged to be highly competent men. They cannot, as is acknowledged everywhere, live upon the salaries which they now receive. Is it desirable, is it for the public interest, that men in that position should be compelled to perform the duties they perform on inadequate salaries which are not sufficient to support them? I care nothing for the clamor about raising salaries. I am willing to vote for what is right. Why, sir, what has Congress done? We have raised our own pay. Five thousand dollars a year is not thought to be too much for Senators and Representatives. I do not say it is; but certainly if it is not too much, what is proposed to be given is not too much for a man who devotes all the energies of his



mind and his whole time, so far as needed, as far as the business requires, to the duties of a judge. I think the amendment ought to be adopted. I wish it were in order for me to add to the list of those who are to receive \$4,500 the judge of the district of Connecticut, whose time is wholly occupied, an extremely able lawyer, not inferior to any man in the State. I should be glad to move to raise his salary to \$4,500, but it is not in order to do so, and I will rest contented with \$4,000, which it is proposed to give him. I shall vote for it most cheerfully.

Mr. CONNESS. I hope we shall get to a vote on this proposition at some time. I know when lawyers get clients they squeeze them, and I am afraid the Treasury will come out squeezed, and I am anxious to get through with it. [Laughter.]

Mr. HOWE. I was obliged to correct the statement of the Senator from Illinois to the effect that I had given notice of a purpose to move to raise the salary of the district judge in Wisconsin—to correct it because he misunderstood me. The remark I made was made aside to the Senator from Michigan and had reference to a different district; but while I did not give notice of any such purpose, I must not be understood as intimating that I do not appreciate the services of the district judge for the district of Wisconsin. There is but one district in that State, and the State has one very large commercial port, the city of Milwaukee. He is obliged to hold court not only there but at the capital of the State, involving the necessity of some considerable travel.

I should not feel called upon, however, to move to increase his salary beyond that proposed by the committee even if the amendment proposed by the Senator from Ohio were adopted. I am inclined to think the judge of that court would think the salary recommended by the committee satisfactory. It is as high and really higher than we pay the judges of the State. Nevertheless there is a very large amount of business transacted in that court, and the judge I am bound to say devotes himself to the business of the court most assiduously, industriously, and is a very able lawyer. I do not know that the business of the southern district of Ohio is not greater than that of the whole State of Wisconsin; it would surprise me, however, to be informed that it was as great as that embraced in the district of Wisconsin. There have been before the Senate the records establishing what is the relative amount of business done in the different districts, and my recollection is that the southern district of Ohio did not rank as high as the district of Wisconsin, but I will not undertake to speak positively on that point.

Mr. SHERMAN. I had a memorandum which was furnished me by the district attorney of the number of cases, and my impression is that the number of cases on the docket was over six hundred; but I would not speak positively. I know the judge is constantly employed.

Mr. HOWE. I have only a very general recollection as to what was the relative amount of business.

Mr. SHERMAN. And I will state to my friend that the district contains over a million and a half of people, which although not a precise indication is one indication of the amount of business. It includes all the State of Ohio south of a certain line.

Mr. HOWE. It is a very uncertain indication, as the Senator will admit, of the amount of business done in the court. The commerce down the Ohio river I suppose is not as great as that on the lakes by any manner of means, but that furnishes a large amount of the business. Probably the business connected with the collection of the internal revenue in the southern district of Ohio would equal that of the district of Wisconsin. If it should be conceded by the Senate that \$4,500 is not too much for the judge of the southern district of Ohio, and if the proof shall show that the business transacted in that court is not greater than

that in the district of Wisconsin, of course, as a matter of justice, I shall be compelled to ask that the salary there be equalized.

Mr. WADE. I do not exactly understand why these salaries should be graduated upon the principle of the amount of business a judge has to do. The judges are placed in their positions to do all the business that is to be done, and the smallest district I presume will take all the time the judge has. He can engage in no other business. I suppose that if a judge is what he ought to be, industrious, he will not think it any hardship that he has to decide a greater or less number of cases. He is a Government agent to perform all the business that comes before him. If you are to graduate the salaries of judges upon the number of cases they decide, why not bring in their dockets and see how much each of them has to do? I do not think it is a reasonable principle. A man's entire time must be occupied when he takes upon himself the office of a judge. Everybody knows that he can do nothing else. He will want as much to eat and drink and wear if he has but few cases before him as though he had ever so many. I think that is not a criterion for us to be guided by, and hence we should not be inquiring and endeavoring to find out whether one judge has a case or two more or less than another in order to ascertain whether you will increase his salary or not. If in general the judges' salaries are not enough, increase them and make them right; but let us not spend much time in ascertaining which judge has the most or which the least business to do. We do not graduate our own salaries on that consideration. Some of us do a great deal more business than others, and some a great deal less than others, but the latter class would hardly consent to take any less for their services.

Mr. HENDRICKS. I was not at the meeting of the committee at the time this was decided upon, or I think I should have insisted upon the southern district of Ohio being included within the \$4,500 class. I know something about the business of that court, and I think that if it is proper to increase the salary at Chicago and some other points to \$4,500 the judge of the southern district of Ohio ought to be included within the list. Cincinnati is a city of very large commerce. A great deal of business is done upon the rivers coming from Kentucky, Indiana, and Ohio, and the class of business that is likely to go into the United States courts is very large at that point.

I do not agree with the Senator from Ohio who has just addressed the Senate, [Mr. WADE,] that there is no difference between the case of a man who holds court for ten days every six months and one who is constantly occupied in the investigation of very weighty causes the whole year round. I think the service done to the public in the two cases is very different. To be sure both have to live; but men are compensated according to the responsibility of their position. We pay some of the heads of bureaus in this city \$6,000—I believe the Treasurer gets that much—some others \$5,500, while others get but \$3,500. The reason is because of the enormous labor and responsibility thrown upon some as compared with others.

Judge Leavitt at Cincinnati is called upon to try very important causes indeed. I was at Cincinnati upon legal business just before I came to the Senate, and he then was engaged in a cause which had occupied four weeks; the very ablest counsel of the city were employed in it. That is but one of a great many causes, and it was most complicated, requiring great care and labor. I know that he has many causes of that sort. It is not like the districts that are altogether agricultural. In agricultural districts there is very little business naturally going into the United States courts. Business goes into those courts at points where there are commercial relations with other States and where the contracts are between men of different States. There is a great deal of that sort of business at Cincinnati. I do not know that it is equal to that at Chicago

entirely, but I should think very nearly so, because Chicago has a business reaching into Iowa and Wisconsin, while the commerce of Cincinnati extends into Indiana, Kentucky, and Tennessee, in addition to her business connection with the eastern States and cities. It is certainly right, if we increase any of these salaries to \$4,500, then the judge at Cincinnati should be included, and if I had been at the meeting of the committee when this question was decided I think I should have insisted on putting him in that class.

Mr. FESSENDEN. I have long been of opinion that the salaries of the district judges ought to be increased. I have been of that opinion from my own observation in New England and from what I have heard from others. When I was a student at law in the city of Portland, where I reside, the judge of the United States for the district of Maine received a salary of \$1,000 a year. That was the salary then fixed by law. He went on so for several years. After some years his salary was increased to \$1,800. He was a gentleman of a great deal of learning and a great deal of humor. I remember that the year when his salary was thus increased somebody was saying that Congress had done nothing that was worthy of note, and he remarked that it was the best Congress he had known anything about for a great many years, because they had passed one admirable law, and that was the one increasing his salary. Afterward, when I was a member of Congress, I found that the salaries of judges in different places were being increased, and I moved an addition of \$200 to the salary of the judge of the district of Maine and it was placed at \$2,000, and that I believe was then done throughout New England. He was a man of admirable habits, of the highest character, and the highest learning. His admiralty decisions are a text-book throughout the Union and are well known in Europe. Judge Story said of him that he was the best admiralty lawyer in the world. He held the office until last year, when he resigned it. He had been talking of resigning for several years. I remarked that he was a man of simple habits, an economical man; and he had not a large family—only two or three children. But he held the office for several years after he wished to resign; he was eighty-two and quite deaf, though he retained his intellect remarkably well, and he told me that he felt it to be his duty to the country to resign, and the only reason why he did not was that he did not know how he should live after he did resign, for he had not been able to save enough income to pay the expenses of his family. A sense of duty to the public in his advanced age at last compelled him to resign.

I thought of taking the office myself when he resigned, but nobody seemed to recommend me for it; nobody in the State seemed to think I was the man for that place. I thought that, with what I had, I could get on with \$2,000 salary; but as nobody spoke of me or thought of appointing me to the place I said nothing about it, and a gentleman was appointed whose income from his profession was certainly not less than \$10,000 a year, who had the highest rank in the profession, but who thought he would like to retire from the care of a large practice. He has held the office something less than a year, and he sent me word the other day by a friend who was writing to me that if I was ready to take his office I was welcome to it at any time, for he could not live on it, and anybody might have it from him.

It is true the salaries ought to be raised. I thought, however, when this amendment was read that the salaries proposed were put too high. I should not have struck so high a figure as the Judiciary Committee have; but I would not undertake to interpose my opinion in many cases against theirs. It may be, as has been intimated, that instead of being too high they are not high enough in some cases. It does strike me that a man who is fit to be a judge of the district court of the United States and to do all the business that is done in that

court, who must devote all his time to it, who cannot do anything else, is not overpaid, as things are now in this country, if he gets \$4,000 a year.

Perhaps my impressions with regard to the pay are derived from the habit of my own State and other States in my locality. My friend from Vermont was for many years the able and excellent chief justice of that State, but I presume his salary was not over \$1,500 a year. I do not see the Senators from Rhode Island in their seats, but I believe the chief justice of that State gets about ten or twelve hundred dollars, and I think they pay their Governor about six hundred dollars.

Mr. WILSON. They give their judges \$3,500.

Mr. FESSENDEN. Then they have raised it. In my own State the salaries of the judges of the supreme court for many years were \$1,800; but a few years ago it was carried up to \$2,250, I think on the representation of the judges that they could not live unless they had something of their own besides their salary. At the present session of the Legislature there is a dispute whether they shall have \$2,500 or \$3,000. Our Governor has always had but \$1,500, and I believe it has now been raised to \$3,000. Undoubtedly the salaries of our State judges will be raised. At the last accounts, the Legislature were hesitating between \$2,500 and \$3,000 a year. Probably they will fix upon \$2,500. The Legislatures are mostly composed of farmers, who cannot imagine why people cannot live on less salaries than these. If I have any objection to the sum of \$4,000 for the district judges it is rather because of the prevailing sentiment in my State with reference to salaries than from any other reason. I had fixed in my own mind for the general class about \$3,500, which I think is what the district judge in Boston now receives. I do not know, however, that it is enough for Boston.

I simply state these facts for the information of the Senate. I do not feel disposed to contest the matter with a committee that has examined the question carefully and closely and taken into consideration everything that ought to be considered with relation to it; but I should have been better satisfied if they had fixed the general rate at \$3,500 instead of \$4,000. However, if we fix it at \$4,000, the House of Representatives can reduce it if they see fit. If the Senate deem that rate proper, I shall make no strenuous objection.

Mr. STEWART. I do not believe from what I have seen of judicial proceedings that it is economy on the part of the Government to make those salaries less than men who are economical and simple in their habits can live upon with ordinary families. I do not believe that a salary of \$4,000 will more than support a family in the style that a lawyer with plain and simple habits going upon the bench should live in. A man who has acquired sufficient reputation to become a judge should be treated properly. Of course he does not expect to get as a judge on the bench as much as he did from his practice, but lawyers are not generally rich, and when they get upon the bench they ought to have enough to make them independent. A dependent judge is a miserable thing. A judge who must necessarily be in debt and dependent upon his friends is not independent as we want the judiciary of the United States to be.

The committee examined this question very thoroughly and made allowance in different localities for the different expenses of living and the different amount of business done, and we equalized the salaries as well as we could. We placed them at what we thought would support an economical family. We did not suppose anybody was going on the bench for the purpose of getting rich, but we desired to place the judiciary in a position where they would be independent provided they were economical and honest. They are the most responsible part of the whole Government, and unless you pay them properly you cannot expect an independent execution of the laws.

I believe it is bad economy to pay too small salaries to those judges, especially when so much business is thrown into the courts by your internal revenue system. The business is so much that these salaries should be raised, and the committee fixed the standard as low as they thought it ought to be.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio [Mr. SHERMAN] to the amendment of the Senator from Vermont, [Mr. POLAND.]

The amendment to the amendment was rejected.

Mr. FESSENDEN. I move to amend the amendment of the Senator from Vermont by adding:

And the amount necessary to pay the increased compensation herein provided shall be paid out of any money in the Treasury not otherwise appropriated.

Mr. POLAND. I see no objection to that modification. I accept it.

Mr. FESSENDEN. It must be put in order to appropriate the increase provided.

Mr. ANTHONY. Is it intended to prevent an allowance of traveling expenses to the judge of one district who is sent to another district on account of the sickness or inability of the judge of that district?

Mr. TRUMBULL. It is intended to cut off all those allowances.

Mr. ANTHONY. I do not know that that is proper; but I shall raise no question about it.

The amendment, as modified, was agreed to.

Mr. POLAND. I am instructed by the Committee on the Judiciary to offer this amendment as an additional section:

And be it further enacted, That the salary of each of the judges of the Court of Claims shall be \$5,000.

Mr. FESSENDEN. How much is it now?

Mr. TRUMBULL. Four thousand dollars.

Mr. HENDRICKS. I am opposed to that.

Mr. FESSENDEN. It ought not to be higher than the salary of the judges in this District.

Mr. CHANDLER. I move to include the judges of the District of Columbia.

Mr. TRUMBULL. They are already provided for.

Mr. CHANDLER. Do they get over \$3,500?

Mr. TRUMBULL. Yes, \$4,500 I think. We raised it last year.

Mr. WADE. The chief justice gets \$4,500, and the associates \$4,000.

Mr. FESSENDEN. We made the compensation of the judges in this District satisfactory to them last year; they have not asked any more now; and the judges of the Court of Claims ought not to receive any more than they do.

Mr. CHANDLER. I withdraw my amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont.

Mr. TRUMBULL. The judges of the Court of Claims hold their court a great part of the year. They used to meet in October. We altered the law last year, and they meet regularly in December. I do not know how long the term is, but I suppose a good portion of the year. They have to reside here, and the business of the court is very much increased by devolving on it new jurisdiction growing out of the war. I regard the court as a very important one to the Government, and one that makes a great saving to the Government.

I have never myself believed in the investigation of claims against the Government by Congress. I think a bad claim is almost as likely to pass through Congress as a good one. We are not so constituted, these bodies are not so organized, that we can examine and properly pass upon complicated claims. By referring them to this court they undergo judicial investigation; and unless a claim is sustained by evidence and is proper to be allowed there is no probability of its passing the court. The judges are able men; they have to reside here; it occupies all their time; they do nothing else and can do nothing else. It seems to

me their salaries ought to be at least \$5,000. Their salaries are now what they were fixed at many years ago, \$4,000. We considered this subject in connection with the other salaries we were fixing, and were of opinion that it was proper, right, and necessary, to enable these judges to live here in the city of Washington and hold this court, that they should have \$5,000 a year. I think it is little enough.

The amendment was rejected.

Mr. CONNESS. After having voted so much money, it will perhaps be acceptable to the Senate to receive an amendment that calls for none. I offer the following as an additional section:

And be it further enacted, That the Secretary of War is hereby authorized to direct a geological and topographical exploration of the territory between the Rocky mountains and the Sierra Nevada mountains, including the route or routes of the Pacific railroad: *Provided*, The same can be done without additional appropriation.

If it be necessary I will explain this amendment, ["Oh, no!"] but I suppose it will not be, and therefore I will spare the Senate.

The amendment was agreed to.

Mr. CONNESS. The Committee on Mines and Mining instructed me to offer the following amendment, to come in on page 19, after line four hundred and forty-one:

To continue the collection of statistics of mines and mining, \$15,000.

This is to continue the collection of statistics of mines and mining. An estimate came from the Department for \$25,000 to continue this work. The other House concluded to strike it all out, with I think an unwise economy. However, the report made by the agent selected by the Secretary of the Treasury to do this work was not then spread before the House; its value was not ascertained. No branch of the public service, in my opinion, will interest so many citizens, and none do so much good in proportion to the amount of money expended, as to continue the collection of reliable statistics on this subject. It is useless to make an appropriation for the purpose of getting a single report and let that be the end of it; but it must be continued so that we can lay before the people and before the Congress of the United States assembled here on the eastern frontier some reliable data concerning the resources of the great western country. I do not propose at this time to engage in any lengthy discussion. I hope the Senate will accept the amendment. The committee were unanimous in their recommendation.

Mr. FESSENDEN. When an appropriation of \$10,000 was asked for last year it was understood, according to my recollection, that that was all that would be necessary; there was no idea of its continuation; one appropriation was to end the matter.

Mr. CONNESS. I beg the Senator's pardon.

Mr. FESSENDEN. I so understood at the time, and it was so stated and not denied in the House. Now, let us see how my friend stands. The Department which has the thing in charge only asked for \$5,000.

Mr. CONNESS. Twenty-five thousand dollars.

Mr. FESSENDEN. The House committee reported \$5,000.

Mr. CONNESS. The committee in the other House reported \$10,000, and the House refused to accept that.

Mr. FESSENDEN. I have the impression on my mind very strongly that the report was \$5,000.

Mr. CONNESS. The Senator is entirely in error. It was only in view of the decision of the House that the committee, in considering it, determined to ask for but \$15,000 this year. As to the matter of collecting statistics for one year and then stopping, that idea never entered anybody's head, I suppose; certainly not mine.

Mr. FESSENDEN. I could not see last year what the necessity was of appointing an agent to go about and collect statistics in the mining country, and how he could do it better there than by the returns that were made on the subject to the different Departments here.

It looked to me very much like creating a place for somebody to do something. I confess I do not understand the matter so well as my honorable friend from California, because he is there upon the spot; but it did not impress itself upon my mind with very much force as a good way to get at it to have a traveling agent to collect statistics, at an expense of \$10,000 a year, and constantly growing; \$10,000 last year, \$25,000 next. How many agents does the honorable Senator propose to have? How many men are to be employed in this business of collecting statistics? Is \$25,000 to pay for one, or is he to have a corps of assistants? Is this to grow up into a bureau? It seems to be constantly growing. The appropriation is more than double what was proposed last year. I should like to know a little more about it. I confess it does not strike me favorably.

Mr. CONNESS. Mr. President, it is an unfortunate circumstance that a statesman of the character, reputation, and ability of the honorable Senator from Maine should so regard a question affecting one of the greatest interests of his country. I do not say this except in a literal sense; it is a matter of real regret with me. I have said to gentlemen on this side of the continent again and again that if they would go from this side to the other side of the continent and ascertain by personal experience how big a country they have, get a glimpse of its interests, its resources, catch the inspiration of its necessities, the effect would be to at least relieve us who come from that distant region, endeavoring to represent it and make known its wants here. I was much pleased this year at the beginning of our session to meet the honorable Senator from Ohio, [Mr. SHERMAN,] who is always exact, always thorough, always intelligent in his statesmanship, but from whom we of that distant region had met rather economical action, and to hear him say that he had gone out into the West since the last adjournment of Congress, gone to the Rocky mountains, to Denver, and that he came back with an impression widened beyond measure as compared with that with which he went there. If I could only prevail upon my honorable friend from Maine to come to our country during some of the vacations, there is nothing in the world that would please us so well as to give him a welcome there, to make him acquainted with that country, with its necessities, with its great facts. He would not after that ask me here to tell him whether one agent or two or ten should be employed in collecting statistics of mines and mining; but seeing would give him the whole case.

Now, Mr. President, he makes himself acquainted as he remains here at the center of the civilization of the continent with our productions as they come from the Mint with the stamp of the Government upon them. When they assume that shape he is very glad to hear of the millions; but his mind is hardly ever now carried to the thousands and hundreds of thousands who are delving to produce those millions. A knowledge of them, of the means by which the grand result is produced, is not spread abroad here. Who can oppose the collection and diffusion of such facts?

Sir, if I were seeking to get a grab at the Treasury here in behalf of the country I represent I should be ashamed of myself. In regard to this very proposition, it will be remembered that when the honorable Senator from Nevada [Mr. STEWART] and myself came here we at once stopped an appropriation that nobody took any notice of, that was being made annually, that had entered into the estimates to the extent of \$15,000 for the Interior Department, connected with investigations concerning mining, and which never profited the Government a copper. We saw that it was wasted and thrown away, and we caused the appropriation to be stricken out. Application after application has been made to me as a Senator from the Pacific coast, since I came here, to aid in the establishment of what is called a mining bureau at Washington. The newspapers in

my country have taken it up and they have demanded it year after year.

The honorable Senator from Nevada has once introduced a bill for the establishment of it, and that bill was referred to the Committee on Mines and Mining. I will say now, openly in the Senate, what I said to him connected with that bill and that proposition, no matter whence it came. As a Senator representing the Pacific coast, and feeling a deep and abiding interest in mining, I would favor the establishment of a mining bureau in Washington as much as I would a pest-house near my dwelling. To duplicate some of your bureaus in Washington and give it official charge of the business of mining, to be controlled by men who know nothing about it, who perhaps never saw a mine, and who should have official authority to speak for mines and mining and miners, always, in my opinion, threatened the mines and mining with the greatest possible danger. Besides, as was suggested by the honorable Senator from Maine, once established it would grow into an institution remarkable for the worthless and voluminous publications that would go out from it and the amount of money that would be spent in giving them publicity, and in the payment of chiefs and clerks and various other dependents. I never felt like spending the public money for the purpose of establishing an institution of that kind. And I beg the honorable Senator from Maine to believe that we only suggest what we know by our experience will tend to the public good, and that we make these recommendations in the public behalf. I now repeat publicly the invitation I have extended to the honorable Senator in private, to come out and see us—

Mr. FESSENDEN. I should like very much to do it.

Mr. CONNESS. His eyes will be filled with the wonders he shall see, and he will come back, I guaranty it, with a good appetite, having been able to gratify it, too, in the mean time; he will come back with health and strength, he will come back a friend to that portion of his country which in my opinion ought to invite his greatest affections and regard. I need not add the suggestion of my honorable friend near me [Mr. FRELINGHUYSEN] that it is a section which now admires him, for wherever the American name is known the name of the honorable Senator from Maine is known, understood, and appreciated.

Mr. BUCKALEW. Mr. President, from my examination of this subject in committee I am induced to vote for the amendment which has been offered. I am not at all disposed to waste the public money upon speculative projects; but from an examination of the report of the gentleman who was selected for the discharge of the duty contemplated by the appropriation of last year I am induced to think that this work is in proper hands. I consider his report to be not only elaborate but valuable, one of these few productions of an official character issued by this Government which possess a practical value as promotive of the interests of this country. Mr. J. Ross Browne, who was selected by the Secretary of the Treasury, devoted himself with great diligence to the performance of the duties assigned him; and the report which he has prepared, and which is now in print and accessible to members of Congress, is one of great value. It contains information of the first importance with reference to the mining interest of this country, a new interest. I think that a small amount of money devoted to the prosecution of investigations upon this subject and to their publication is much better devoted than duties such as we find in the tariff bill to protect domestic industry or any other outlays or burdens imposed upon the people contemplating the development of the resources of this country.

The appropriation was reduced by the committee very considerably below the amount which the proper officers of the Treasury thought appropriate to this object. We were all convinced that this work was in good hands. Now, sir, if it was to run a bureau at Washington,

if it was merely to accumulate certain figures here, if it was to give certain individuals a place and a salary, I should be the last member of this body to vote for it; but I believe that the gentleman who has charge of this work is competent to the duties which have been charged upon him, and that we shall get valuable results, and I speak with reference to the work which he has already accomplished. He has traveled extensively; he has organized this great work; he has assistants in different Territories and States of this country. The work is going on, and in my judgment it will be a public misfortune, a public calamity, to arrest it at this stage.

Why, sir, this mining interest is growing to be one of the leading interests of this country; it is magnificent in the present extent; it is still more magnificent in its promise of the future. So far as the increase of wealth in our country is concerned we must rely upon it to assist us in bearing the burdens of our public indebtedness. We must rely upon it in the future as one of those interests which the Government ought to have under its fostering care and its fostering protection.

This small appropriation, therefore, in my judgment is devoted to a most useful object; it will pass into proper hands; we shall get valuable results from it. It is not open to question or doubt such as attend many enterprises which are pressed upon our attention.

Mr. STEWART. With regard to this report, I have to say that although there are some little inaccuracies in the estimates—and they only pretend to be estimates where there are inaccuracies—take the work as a whole it contains more information upon the subject of our mining resources than has been obtained or exists in Washington from all other sources. More has been collected in the space of sixty days by an experienced man who had traveled and who availed himself of the researches of others than you had here before; and there is more demand for this information than anything else you print in Washington.

I think I have received at least one hundred letters inquiring for this report and desiring a copy of it. Those who will read it will see that he has commenced to collect the general information so much needed here. Now, there is very little said here and very little time occupied with regard to the mining interests of this country, an interest that is producing \$100,000,000 per annum; an interest that is extended over a thousand miles square of territory; an interest where there are to be some eight or ten large States eventually, comprising most of the territory of the United States that is now not inhabited; an interest which invites immigration from abroad more than any other; an interest which has sustained the credit of this country during the war—for I undertake to say that the credit of this country could not have been sustained but for this annual product of gold and silver; an interest which has in fact almost revolutionized the whole commercial system of the world, changed values, and is to change them further, and enable us to pay our public debt. We owe over three thousand millions in gold, or nearly that. If we make gold and silver abundant it is much easier for the people to pay it; and if you let the people of the East and of Europe know where the gold is they will come and dig it.

We have an efficient man who has done good service. We have the work to show you. It is worth ten times its cost. It will increase the products in such a manner as to benefit the country more than a hundred-fold the cost every year. It is here to show for itself. It is no great organization that is going to incumber the Government. It is in the hands of an intelligent gentleman who takes pride in it, who is peculiarly fitted for it, who is a great traveler and explorer, who is ready and willing to avail himself of the information that exists in that country. We ask the Senate to let this small appropriation continue to be made, and let this work go on and collect information with regard to that vast region, so that there may be some



intelligent knowledge upon the subject, some knowledge of the facts in the community and in Congress to guide legislation. We think this is but reasonable. On questions that affected the East, on questions that affected manufactures, I think the Pacific has been liberal, although she has no manufactures. My State has none. We vote your tariffs, and we vote in that way additional prices upon ourselves. We do it because we believe it is for the interest of the whole country, because we think the interests of the country will be thereby advanced. We ask you to aid us in carrying on explorations so as to learn what we have, because we believe that will benefit the whole country.

As was justly remarked by the Senator from California, when he and I came here and ascertained that \$15,000 annually was being appropriated for this purpose, and no information was being obtained, we asked you to stop it. If the person who is now engaged in this work, Mr. Brown, should fail to do his duty, we shall be the first to find it out; if good results are not produced, we shall be the first to ascertain that fact and ask that it be stopped. It is no job, no favoritism. We simply ask that this information be collected and laid before the country for the country's good. We think it a very small amount. We ought to have the amount recommended by the Secretary of the Treasury. He has examined the matter and recommends an appropriation of \$25,000.

The amendment was agreed to.

Mr. WILLIAMS. I offer the following amendment as an additional section to the bill: *And be it further enacted, That the salary of the Chief Clerk of the Senate shall be \$4,000, and that of the Sergeant-at-Arms \$3,500 per annum.*

Mr. FESSENDEN. I will ask whether that is from any committee?

Mr. WILLIAMS. I will state that it is offered as coming from the Committee on Contingent Expenses. I do not suppose it is necessary to say anything on this subject, because the Senate is entirely familiar with the duties discharged by each one of these officers, and I do not know that it is necessary to comment upon them in their presence. I have been fully persuaded—I was at the last session—that these salaries are too low and ought to be increased. Considering the responsibilities that devolve upon the Sergeant-at-Arms, who has the supervision of this entire portion of the building, and the great labor that is performed by the Chief Clerk of the Senate, it seems to me that these sums are little enough.

Mr. FESSENDEN. What does the Secretary receive?

Mr. WILLIAMS. Something over four thousand dollars a year.

Mr. FESSENDEN. Do I understand the Senator to say it is from a committee? I really wish to know whether this amendment is in order. If it comes from the Committee on Contingent Expenses it is in order.

Mr. WILLIAMS. Certainly it comes from the Committee on Contingent Expenses. All the members of the committee are here.

Mr. FESSENDEN. I do not doubt it if the Senator says so.

The amendment was agreed to.

Mr. WADE. I move to amend the bill on page 3, lines fifty-eight and fifty-nine, by striking out the words "in the Daily Globe;" so that the clause will read:

For reporting and printing the proceedings for the first session of the Fortieth Congress, \$21,250.

The object of the amendment is to prevent our being bound and tied up at this time to make the appropriation to the Globe. It is not necessary, as this is an appropriation for the Fortieth Congress. There is no objection to the amendment, I believe.

Mr. TRUMBULL. That is a very important amendment to be made, I think. We have a contract with the Globe under laws for the publication of our proceedings. I do not know whether it is proper that we should make different arrangements.

Mr. WADE. I do not think there is any

such contract with the Globe as binds us to have the congressional proceedings published in it, and if there is it need not be foreclosed that I know of so as to bind us entirely to it. We do not know; perhaps they would not be willing to carry on their contract.

Mr. TRUMBULL. I have not looked into it at all; I do not know.

Mr. WADE. I believe there is no objection to the amendment. I believe it is understood that we ought not to bind ourselves just now. We have agreed that the Fortieth Congress shall assemble immediately after this one expires, and it will be time enough then to fix this, and there may be some reasons why it should be done then. In the mean time the appropriation can stand, but it need not foreclose it. If we are bound by a contract to have it go to the Globe, then it must go there if the appropriation be made; but I do not think we are. It may be that we may want to make some different arrangement. It is not necessary that we should be bound in this way just now. I hope there will be no objection to the amendment.

Mr. TRUMBULL. I should certainly object to the amendment, if no one else does, until I have looked at it. If the Senator from Ohio has examined the laws and the contract with the Globe by which these publications are made—

Mr. WADE. The next Congress can do that.

Mr. TRUMBULL. The next Congress cannot do it. We meet on the 4th of March, and what arrangements have we got for publishing the proceedings of Congress?

Mr. BROWN. It will be done by somebody.

Mr. TRUMBULL. Who is to do it? If there is a contract with any party to do it that party is the one to do it.

Mr. BROWN. It does not follow that we must put it in an appropriation.

Mr. TRUMBULL. I think it does follow that it should be put in an appropriation.

Mr. FESSENDEN. I ask Senators to allow me to make a suggestion. It is understood, and we may as well speak out, that there is a difficulty between the reporters of the Senate and the Globe, and such is the difficulty that we may at any time be left without reporters. I am not satisfied where the right of that matter is. If we agree to this clause as it stands both for the Senate and the House we are concluded, because afterward that cannot be altered; and the appropriation is made throughout for the Globe. Now, it may be, very probably will be, on examination, that it may be advisable to make the appropriation precisely as we have made it heretofore; but I think myself, considering the position we are in, we ought not to agree with the House so as to tie our hands upon this bill at once until we have looked into it a little. It only requires a little delay.

I suggest, therefore, to my friend from Ohio, as I should like to take the bill out of committee to-night, that he withdraw the amendment and let us take the bill out of committee, and the same amendment can be moved to-morrow, if necessary, in the Senate after we have looked at it a little more, when the chairman of the Committee on Printing, the Senator from Rhode Island, [Mr. ANTHONY,] is here. He is not in good health, and is not here this evening. We can then ascertain more about it. At present, by striking this out, it does not follow that the House would concur, and in the mean time the proper inquiries could be made and the proper information obtained. If the Senator from Ohio—I am very glad he has brought the question up—will let us take the bill out of committee, and let this matter go over until the morning, when the bill is in the Senate he can make the same motion, and then, if we are not bound by any contract, it can be better considered than it would be to-night.

Mr. WADE. I have no objection to that. I will say to the Senator from Illinois that there is nothing binding in what I propose. I do not think, from the slight examination that I have given the subject of our arrangement with

the Globe, that we are in any way bound. I think it will be found that we are at liberty to make such arrangements about the printing of the debates as Congress shall think proper to make. I do not think we are bound; but if we were bound what I propose is no repudiation of our contract. I do nothing inconsistent with it. I only prevent that conclusion being fastened upon us if we are not bound. But I will bring up the question in the morning. I would just as lief bring it up in the Senate then as now.

The PRESIDING OFFICER. Does the Senator from Ohio withdraw his amendment?

Mr. WADE. Yes, sir.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. WILLIAMS. I will ask the consent of the Senate to add to the amendment proposed by me a few moments ago in regard to the salary of the Chief Clerk and Sergeant-at-Arms—

That the amount necessary to pay the additional salary be appropriated out of any money in the Treasury not otherwise appropriated.

The PRESIDING OFFICER. Those words will be added if there be no objection.

Mr. CRESWELL. On page 10, line two hundred and thirty-seven, I move to insert after the word "purchasing" the words "periodicals and;" so that the clause will read:

For purchasing periodicals and files of the leading newspapers for said Library, [Library of Congress.] \$1,500.

Mr. FESSENDEN. I have no objection to that.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. It would be well enough perhaps to let further proceedings on the bill go over until to-morrow morning, as it is now in the Senate.

Mr. CHANDLER. I move to take up House bill No. 344—the Niagara ship-canal bill. ["No! No!"] Let us take it up and then adjourn.

Mr. BROWN. I move that the Senate adjourn.

The motion was agreed to; and the Senate (at four minutes past ten o'clock p. m.) adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, February 7, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYSTON.

The Journal of yesterday was read and approved.

### ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 902) to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States;" and

An act (H. R. No. 874) to regulate the duties of the Clerk of the House of Representatives in preparing for the organization of the House, and for other purposes.

### UNITED STATES MINT AND COINAGE.

Mr. KASSON. I ask the unanimous consent of the House to offer the following resolution:

*Resolved, That the Committee on Coinage, Weights, and Measures be instructed to attend the annual assay at the United States Mint, and to examine the condition, management, and economy thereof, and report to the House what measures, if any, will tend to greater economy and efficiency of the system of United States mintage, or to the improvement of its coinage.*

I was instructed by the Committee on Coinage, Weights, and Measures to offer this resolution this morning, for the assay is to take place on Monday.

The resolution was agreed to.

Mr. KASSON moved to reconsider the vote

by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CONTINGENT EXPENSES OF THE HOUSE.

Mr. STEVENS, by unanimous consent, from the Committee on Appropriations, reported a bill making appropriations to supply deficiencies in the appropriations for the contingent expenses of the House of Representatives of the United States for the fiscal year ending June 30, 1867; which was read a first and second time.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ORGANIZATION OF THE MILITIA.

Mr. PAINE, by unanimous consent, reported from the Committee on the Militia a bill to provide for organizing, arming, and disciplining the militia, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted.

#### SEWERS, ETC., IN WASHINGTON.

On motion of Mr. SPALDING, the Committee on Appropriations were discharged from the further consideration of the claim of the city of Washington for \$181,387 for work performed upon the streets and sewers of the city; and the same was referred to the Committee of Claims.

#### MRS. ELIZABETH FLETCHER.

Mr. TAYLOR, of New York, by unanimous consent, reported a bill for the relief of Mrs. Elizabeth Fletcher; which was read a first and second time.

The bill was read at length. It directs the Secretary of the Interior to place the name of Mrs. Elizabeth Fletcher, widow of Captain L. W. Fletcher, late of company A, thirteenth regiment Tennessee cavalry, on the list of invalid pensioners, at the rate of twenty dollars per month, to commence from the date of the death of her late husband and to continue during her widowhood; and in the event of the death or remarriage of the said Mrs. Elizabeth Fletcher, then the pension is to be paid to the legally-appointed guardian of the orphan children of Captain L. W. Fletcher until they shall have respectively attained the age of sixteen years.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TAYLOR, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CENSUS MARSHALS IN CALIFORNIA, ETC.

Mr. BIDWELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Appropriations be instructed to inquire into the propriety of reporting an appropriation for paying to the census marshals for taking the eighth census in California the amount or balances remaining due, \$9,460 48; also for the payment of outstanding California war bonds, \$10,188 63.

#### OBSTRUCTIONS IN NEW YORK HARBOR.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War transmitting, in answer to a resolution of the House of February 1, 1867, a report of the chief of Engineers relative to the rocks sunk near the Sandy Hook light-house at the entrance of New York harbor; which was referred to the Committee on Commerce, and ordered to be printed.

#### LINE OF WATER COMMUNICATION.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report of the chief of Engineers on the subject of

certain lines of water communication, supplemental to General Warren's report of the 29th ultimo, called for by the resolution of the House of December 20, 1866; which was referred to the Committee on Commerce, and ordered to be printed.

#### COMMERCE WITH BRITISH PROVINCES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, in compliance with a resolution of the House of July 9, 1866, relative to the revenue of the trade and commerce of the United States with the British Provinces since the abrogation of the reciprocity treaty; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. HUMPHREY. I move that two thousand extra copies of this communication be printed.

The SPEAKER. That motion will be referred, under the law, to the Committee on Printing.

#### WITHDRAWAL OF PAPERS.

Mr. WARD, of New York, asked and obtained leave to withdraw from the files of the House papers relative to the claim of Mrs. Eliza Moorhead; also papers in relation to the claim of Alexander W. McConnell.

Mr. LATHAM asked and obtained leave to withdraw papers relative to the claim of J. F. Johnson.

#### ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 525) entitled "An act supplementary to an act to prevent smuggling, and for other purposes, approved July 18, 1866;" when the Speaker signed the same.

#### LEAVE OF ABSENCE

Mr. POMEROY asked and obtained leave of absence for Mr. CONKLING for ten days.

The SPEAKER asked and obtained leave of absence for Mr. PHELPS for two days.

#### QUARANTINE IN THE PORT OF NEW YORK.

Mr. DAVIS, by unanimous consent, submitted the following concurrent resolutions of the Legislature of New York, relative to quarantine at the port of New York:

"Whereas at the last session of the Legislature concurrent resolutions were passed by the Senate and Assembly asking the national authorities to place hulks and vessels gratuitously and temporarily at the disposal of the commissioners of quarantine of this State, to afford them means for protecting the country against the spread of the terrible scourge of cholera, which had then appeared in the midst of us; and whereas pursuant to said request and under the authority of a joint resolution of Congress, passed on the 24th of March, 1866, the Secretary of War placed the steamship Illinois, and the Secretary of the Navy placed the sloop-of-war Portsmouth and Saratoga, at the disposal of said commissioners, by means of which they were greatly aided during the past year in confining the ravages of the pestilence to the waters of the harbor, thus probably saving the lives of many of our citizens; and whereas our State is still destitute of any suitable place for the temporary detention of those arriving in our harbor who have been exposed to contagious diseases, but are not actually sick; and it is believed by many that another summer will bring with it another visitation of the cholera more severe and dangerous than that through which we have just passed; and whereas the said resolution of Congress is limited in its effect to the period of one year from the time of its passage: Therefore,

*Resolved*, That our Senators and Representatives in Congress be, and they are hereby, requested to use their best endeavors to secure the passage by that body of an act or resolution directing the Secretaries of War and the Navy to allow the commissioners of quarantine to continue the use of the vessels aforesaid for quarantine purposes during the present year, and also to place at their disposal such other hulks and vessels as they may require for that purpose, in addition to those above mentioned, and which may not be immediately required by the United States for other uses."

Mr. DAVIS, by unanimous consent, introduced a joint resolution respecting quarantine in the port of New York; which was read a first and second time.

The joint resolution, which was read at length, provides for continuing for two years the authority conferred by the joint resolution of March 24, 1866, upon the Secretary of War and the Secretary of the Navy respectively, to

place, in their discretion, gratuitously at the disposal of the commissioners of quarantine, or the proper authorities of any of the ports of the United States, to be used by them temporarily for quarantine purposes, such vessels or hulks belonging to the United States as are not required for other uses.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DAVIS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CLAIMS OF NEW MEXICO.

Mr. CHAVES, by unanimous consent, presented the following joint resolution of the Legislature of New Mexico, asking for the appointment of a commission to settle claims growing out of the Texas invasion of that Territory during the rebellion, and also asking an appropriation for the payment of the same; which were referred to the Committee on the Territories, and ordered to be printed:

*To the Honorable the Congress of the United States:*

Your memorialists, the Legislative Assembly of the Territory of New Mexico, would most respectfully represent that during the Texas invasion of this Territory many thousand dollars' worth of property was destroyed by the rebels, and our citizens have, in response to a proclamation of the late Governor, Henry Connelly, filed their claims in the office of the Secretary of the Territory.

Your memorialists would most respectfully ask your honorable body to appoint a commission to settle these claims and to make an appropriation sufficient to pay them.

And your memorialists, as in duty bound, will ever pray.

*Resolved*, That the Secretary of the Territory be and is hereby, directed to forward a copy of the foregoing to the President of the Senate and Speaker of the House of Representatives, with a request that they will lay them before their respective Houses, and also a copy to Hon. J. Francisco Chaves, our Delegate in Congress.

MTGUEL E. PINO,

President of the Council.

R. M. STEPHENS,

Speaker House of Representatives.

Approved, January 18, 1867.

W. F. M. ARMY,

Acting Governor.

#### UNITED STATES OF AMERICA. TERRITORY OF NEW MEXICO.

I, W. F. M. Army, Secretary and Acting Governor of New Mexico, do hereby certify that the foregoing is a true copy, which is on file in my office, as passed by the Legislative Assembly of the Territory of New Mexico at its present session.

In testimony whereof I have hereunto signed my name and affixed my official seal this 18th day of January, A. D. 1867.

W. F. M. ARMY,

Secretary and Acting Governor New Mexico.

#### LOANS OF GOLD.

Mr. SCHENCK. I ask unanimous consent to make a report from the Committee on Retrenchment.

Leave was granted.

Mr. SCHENCK. The joint and select Committee on Retrenchment, to which was referred a resolution directing an inquiry into alleged loans of gold by officers of the Government, have instructed me to make a report, accompanied with a mass of testimony. I may state for the information of the House the conclusion of the committee, which is, that "there is no foundation whatever for the statements, allegations, and charges contained in or implied by the House resolution of January 15." I move that the report and accompanying testimony be printed.

The motion was agreed to.

#### GOVERNMENT OF INSURRECTIONARY STATES.

The SPEAKER announced as the first business in order the bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States, on which Mr. STEVENS was entitled to the floor.

Mr. FINCK. I wish to inquire of the gentleman from Pennsylvania whether it is his purpose to press this bill to a vote to-day?

Mr. STEVENS. Well, sir, I have not come to any definite determination except to say that

I desire a vote as early as possible, and unless there are some circumstances which require longer delay I should desire to have the vote reached this evening.

Mr. FINCK. This is, in my judgment, the most important measure that has ever been presented to an American Congress; and I suggest to the gentleman and to the House that some time ought to be allowed, not merely for its discussion, but for its examination. I therefore propose that, if it meet the favor of the gentleman and the House, we postpone this bill, after the gentleman gets through with his speech, until Monday, so that a vote may be taken after something like deliberate discussion. We are not prepared to go into the discussion to-day.

Mr. STEVENS. All I can say with regard to that suggestion is that, considering the period of the session to which we have arrived, and the difficulty of passing a bill of this kind through the Senate, where there are no means of restricting debate, I do not feel justified in consenting to any postponement of this bill. I trust that when the bill is taken up we shall proceed without interruption to the end of the debate. I do not feel disposed to restrict debate or to prevent any gentleman from being heard. On our side, there is, I trust, no disposition to occupy much time in debate, but to yield the time, to a great extent, to gentlemen on the other side. I hope so, though I have had no understanding of that kind.

Mr. FINCK. I suggest to the gentleman that, in order to discuss this measure properly, there ought to be some time for its examination. We cannot this morning enter upon the discussion in such a manner as we would like to do.

Mr. WILSON, of Iowa. I merely wish to suggest, in connection with the proposition submitted by the gentleman from Ohio, [Mr. FINCK,] that I concur in the opinion expressed by him that this is a very important measure. At the same time, I appreciate the fact stated by the gentleman from Pennsylvania that we have arrived at that period of the session when a measure of this kind ought to be proceeded with, avoiding all unnecessary delay.

I would suggest, therefore, that to-day and to-night, if thought proper, be given to the discussion of this measure, and that the vote be taken to-morrow.

Mr. LE BLOND. I would like to make a suggestion to the gentleman from Iowa as well as to the gentleman from Pennsylvania. It has already been said, and I think it is conceded upon both sides of the House, this is, perhaps, the most important bill ever presented to the American Congress. If that be so, I am certain gentlemen on this, and I presume also on that side of the House, could not be expected suddenly to act on it, unless indeed the majority have in their outside Congress deliberated on this measure and come to some conclusion on it. A while ago the gentleman from Pennsylvania, speaking I suppose on behalf of the gentlemen on that side of the House, said none there were desirous of speaking on this proposition. I submit, on a bill of this magnitude, presented to members at twelve o'clock, to go into debate on it at this time is next to impossible.

It strikes, as the gentleman suggests, and as it must be conceded, at the civil governments in those States. It ignores State lines. It ignores those States in every particular. It destroys their civil governments. It breaks down the judicial system in those States.

Mr. SPALDING. I object to the discussion of this matter in this irregular way.

The SPEAKER. The Chair thinks it is in order. The Clerk will read the rule.

The Clerk read as follows:

"While a member is occupying the floor he may yield it to another for explanation of the pending measure as well as for personal explanation."

The SPEAKER. The pending motion is to recommit this bill, which opens up the discussion of its merits. The gentleman from Pennsylvania is entitled to the floor, and yields to the gentleman from Ohio.

Mr. GARFIELD. Would it not be sufficient to allow to-day and this evening for debate?

Mr. LE BLOND. That is what I am speaking about. I am trying to show the impossibility of our being urged to speak on this subject, one of such magnitude, as it is desired.

Mr. RAYMOND. The gentleman will allow me a moment. I would like to make a suggestion in regard to debate, on this subject, which possibly may meet the concurrence of both the gentleman from Ohio and the gentleman from Pennsylvania. It seems to be agreed on all sides that this is a question of so much importance it should not be acted on without a chance for debate; yet I think it is also agreed on both sides of the House debate should not be wholly without restriction of some kind. What is wanted is an opportunity to state views of individual members on the bill, not as I understand to make full and exhaustive speeches on the whole subject. I suggest the discussion begin in the Committee of the Whole on the state of the Union, or otherwise, restricting it to twenty minutes or a half an hour each.

A MEMBER. Fifteen minutes.

Mr. RAYMOND. Let me say on that point I think the question involves principle, and it is difficult to make a statement in ten minutes that will answer the purpose. Let the debate commence without restriction, without fixing when the final vote shall be taken, and when it becomes unimportant let the gentleman from Pennsylvania call the previous question. I think we can close it to-day, or reach a point when all will be willing to take the vote.

Mr. LE BLOND. I wish to say to gentlemen on the other side that we are not disposed to talk on this subject at unreasonable length. We do not ask it; but we do not feel like going into debate at this time without proper examination of the bill. Let us fix a day—as suggested by my colleague, next Monday—when the vote on this bill will be taken. Until then allow those who wish to speak on it. As to limiting each one to ten or twenty minutes on a bill of this magnitude for one I cannot consent; other gentlemen may do as they see proper. It does not comport with my idea of legislation. A decent respect to the people we represent, a decent respect to the Congress of the United States in the eyes of the civilized world, would require this bill should have more deliberation than even that proposed by the gentleman from New York. Sir, I have some desire that the civilized world shall come to the conclusion that we do at least deliberate upon bills of importance.

Mr. STEVENS. I suppose this talk comes out of my time.

The SPEAKER. It does.

Mr. RAYMOND. With the consent of the gentleman from Pennsylvania, I will reduce my suggestion to the form of a motion: I move that the debate now proceed, each speech being limited to twenty minutes.

Mr. ROGERS. I object.

Mr. WENTWORTH. I object unless we allow the gentleman from Kentucky [Mr. HISE] and the gentleman from Pennsylvania an hour each. [Laughter.]

Mr. FINCK. I desire to renew my proposition to the gentleman from Pennsylvania, that after he gets through with his speech the bill be postponed until Monday, and then let the discussion go on during Monday and Tuesday, and take the vote on Tuesday.

Mr. STEVENS. Mr. Speaker, do I understand that the objection to the proposition of the gentleman from New York comes from the other side of the House or from this side?

The SPEAKER. The gentleman from New Jersey [Mr. ROGERS] and the gentleman from Illinois [Mr. WENTWORTH] objected.

Mr. WENTWORTH. I only objected unless my friend from Kentucky [Mr. HISE] should have a chance to speak one hour. [Laughter.] I withdraw the objection.

Mr. ROGERS. I object to any arrangement of that sort.

Mr. HISE. Will the gentleman from Pennsylvania yield?

Mr. STEVENS. I must decline.

Mr. FINCK. Do I understand the gentleman to decline my proposition?

Mr. STEVENS. I cannot accept it.

Mr. MAYNARD. I make a suggestion to my friend from Pennsylvania, that we devote two night sessions to debating this subject—this evening and to-morrow evening.

Mr. STEVENS. I cannot agree that this should go over more than one night.

Mr. MAYNARD. Well, say to-night.

Mr. STEVENS. I have no objection to to-night.

The SPEAKER. The motion for a night session can be made at any time.

Mr. MAYNARD. I ask the gentlemen on the other side if that will be satisfactory to them?

Mr. LE BLOND. I can only speak for myself, and shall only speak for myself. I have already indicated to the gentleman that a proposition of that kind would not be accepted, for the reason that we have had no time to examine the bill and to prepare any remarks upon it. The proposition of my colleague [Mr. FINCK] does seem to me to be reasonable. I know the gentleman who introduced this bill makes this remark: that we are coming to the close of the session and—

Mr. STEVENS. I only gave way to my friend from Tennessee to make a motion.

#### EVENING SESSION.

Mr. MAYNARD. I make the motion that we take a recess to-day from half past four to half past seven o'clock; and I will simply remark that if there is anything we do understand it is the subject of reconstruction, and all we want to understand now is the special provisions of the bill before us.

The motion was agreed to.

Mr. STEVENS. I ask whether that motion includes "for debate only."

The SPEAKER. That motion would require unanimous consent. Is there objection to limiting the evening session to debate only?

Mr. GRINNELL. I object.

#### RESOLUTIONS OF PENNSYLVANIA LEGISLATURE.

Mr. SCOFIELD, by unanimous consent, presented joint resolutions of the Legislature of Pennsylvania, asking for a reduction of the tax on petroleum; which were referred to the Committee of Ways and Means.

#### PERSONAL EXPLANATION.

Mr. ASHLEY, of Ohio. Mr. Speaker, I rise to a personal matter that I intended to have noticed some days ago.

The SPEAKER. Does the gentleman from Pennsylvania yield?

Mr. STEVENS. To a personal matter? Yes, sir.

The SPEAKER. Is there objection to the gentleman from Ohio making a personal explanation? The Chair hears none.

Mr. ASHLEY, of Ohio. Mr. Speaker, in a service in this body for a period of some eight years I have never before asked the indulgence of the House to make a personal explanation. I do so this morning with reluctance, because as a rule the notice or the reading of such an article as I propose to notice is what sensational correspondents most desire. But for the fact that the distinguished gentleman from Pennsylvania [Mr. STEVENS] is charged with being in a conspiracy with General Butler and myself to stab General Grant I would not now call the attention of the House to the article which I send to the Clerk's desk to be read.

The Clerk read as follows:

"It will be remembered that about a month ago Mr. ASHLEY offered a resolution in the House of Representatives directing the Judiciary Committee to inquire if any officer of the United States had been guilty of high crimes or misdemeanors within the meaning of the Constitution, or had conspired to subvert the Constitution of the United States. This looked at the time, certainly to me, and I think to most others, rather like the evasion of a direct charge against the President than an attempt to make it more comprehensive, and to include others besides that unhappy gentleman. I know that most of those who referred to the subject in conversation at the time so regarded it. There was one gentleman, however, on the floor of the House of Representatives who, as if by inspiration, saw through it the instant



it was offered, and construed aright the poisonous malice it concealed under an apparently harmless coating of words. The presentation of such a resolution, whose coming had not been heralded by any previous announcement or intention, and was known but to half a dozen members, very naturally threw the House into a temporary confusion, and created quite a stir on the Republican side. What the public already knows on the subject is only what transpired in the way of regular business, but the by-play, that did not come under that head, is the important part that shows the animus of the movement.

"As soon as the resolution was read, Mr. BINGHAM jumped from his seat and went over to ASHLEY, to whom he addressed some very strong language, asking him what he meant by such a proposition as that, and why he did not frame it to apply to the President only, instead of making it a drag net to include every officer of the Government. ASHLEY hesitated a while, affected a knavish smile, and replied that he 'guessed it was all right.' 'No, it isn't all right,' said BINGHAM. 'It's a stab at General Grant, and no such malicious thing shall go through the House if I can help it.' 'Suppose it does include Grant,' said ASHLEY; 'can't we investigate his conduct too; and can't we impeach him if he has been guilty under the resolution?' BINGHAM looked at ASHLEY a moment, and replied in nervous wrath: 'ASHLEY, you're a fool. Don't you know that you can't impeach any but a civil officer of the Government under the Constitution?' By this time quite a group had collected where the colloquy was being held, and THAD. STEVENS, scenting a breeze, had come over to avert a storm. Addressing him, BINGHAM asked what was the meaning of this damnable assault upon General Grant. 'Oh, nothing,' said STEVENS, in his insidious way, 'only we want to investigate some charges recently made against him. I don't see why Grant should be free from investigation any more than Johnson. He's just as bad as Johnson.' BINGHAM again denounced what he termed very aptly 'a foul conspiracy against the chief officer of the Army of the Republic,' and he gave the few friends of the resolution who were around him fair warning that if they passed it, he should expose the cowardly proceeding as it deserved.

"By this time the resolution had 'gone over,' as the parliamentary phrase is, from a refusal of the House to suspend the rules. Quiet had been restored on the floor, and the business of the day was quietly proceeding. BINGHAM addressed ASHLEY, in presence of several members, in language like this: 'Tell the honest truth now, who instigated that resolution?' 'Why, what makes you think it wasn't my own?' inquired ASHLEY. 'Because,' said BINGHAM, 'I know there is too much cunning in it for you, and I'll bet you anything you dare that THAD. STEVENS and Ben. Butler either wrote it or dictated its spirit.' ASHLEY again protested against BINGHAM's right to question the authorship, and BINGHAM again repeated that there was too much craft and design about it for anybody but STEVENS or Butler. What from BINGHAM's earnestness and ASHLEY's faintly disguised equivocation, the dispute had become quite interesting, and a number of Radical members had collected around the disputants. After some further bantering and badgering on BINGHAM's part, ASHLEY confessed that 'STEVENS had a little to do with it, and Butler had a little to do with it, and that one of its principal objects was to give Butler an opportunity of making and proving certain charges against General Grant.'"

Mr. EGGLESTON. I would ask the gentleman from what paper this was read?

Mr. ASHLEY, of Ohio. It is from the National Intelligencer of Saturday last, and purports to be from the Washington correspondence of the Cincinnati Commercial, dated January 26, 1867.

Mr. EGGLESTON. Then I rise to a question of order and object to the gentleman proceeding.

The SPEAKER. Unanimous consent has been granted to the gentleman from Ohio to make a personal explanation, and he is entitled to one hour to make an explanation.

Mr. ASHLEY, of Ohio. Mr. Speaker, of all the stupid falsehoods manufactured and sent forth from this city by reckless, unscrupulous maligners, this story in which my name is made to figure is the most absurd.

If the House will indulge me for a moment I will state the history of that resolution. And here, sir, I will say that up to the hour when my attention was called to this article I had never, either directly or indirectly, in writing or otherwise, passed a word with General Butler on the subject of impeachment, nor had I with any one authorized or claiming to speak for him; indeed, I did not even know what his views were on the subject, except by newspaper report, until a week or two ago I read his celebrated speech at my desk here in the House.

Now, sir, upon this question of impeachment, I have had my own views since my first interview with the acting President, immediately after the assassination of President Lin-

coln. The conduct of the acting President since that time has only confirmed me in the impressions I then formed. I believe that he ought to be impeached for the usurpation of powers that belong under the Constitution to Congress.

Mr. RADFORD. I rise to a question of order. I submit that he is not making a personal explanation.

The SPEAKER. The gentleman from Ohio [Mr. ASHLEY] asked to have read a letter in regard to his resolution on impeachment in which his name was associated with those of General Butler and the gentleman from Pennsylvania, [Mr. STEVENS.] He is now exposing the facts of the case in his own manner.

Mr. RADFORD. I supposed that the gentleman was permitted to make a personal explanation, and not to make an attack upon the President.

The SPEAKER. The Chair does not see that he has as yet transgressed the rules of the House. He has confined his remarks thus far to the question of impeachment, in connection with which his personal explanation is made.

Mr. ASHLEY, of Ohio. I was saying when the gentleman made his point of order that I had formed my own views about this matter and why I had formed them. I was saying that I was for the impeachment of the acting President because he had usurped powers which under the Constitution belonged exclusively to Congress for his infidelity to his official oath, in that he had failed to execute the laws; for his treason to the nation, in that he had entered into a conspiracy to resuscitate the "lost cause" and establish the late rebels in power; thus rendering valueless the victories of the Union armies and revolutionizing the Government of the United States; and being in possession of information which satisfied me that he was guilty of other acts which in contemplation of the Constitution were high crimes and misdemeanors, I said to several gentlemen that unless some other member introduced a resolution inquiring into the conduct of the President before the holidays I should be compelled to do it.

I delayed until a few days before our adjournment for the holidays hoping some one would move in the matter. At that time I intended to offer a resolution substantially like the one which was finally adopted by the House naming the President.

On consultation with some gentlemen it was thought a resolution more general in its character and not naming the President would obtain a larger and more united vote. For that purpose, and for that purpose alone, I drew the resolution in the form in which it was offered. After I had drawn up the resolution the first gentleman to whom I read it was the distinguished gentleman from Illinois, now absent, [Mr. WASHBURNE.] I afterward read it to the gentleman from Pennsylvania [Mr. STEVENS] and to two or three others, in order to obtain their judgment upon it and learn whether they would vote for it, and to be satisfied that they were clearly of the opinion that under such a resolution we had the right to investigate the charges which I proposed to prefer against the President. Certainly nothing was farther from my thoughts, or the thoughts of any gentleman with whom I consulted, than to inflict a stab in the dark upon General Grant. If that had been my purpose I would hardly have read the resolution to the distinguished gentleman from Illinois, [Mr. WASHBURNE.]

Mr. ELDRIDGE. I would like to inquire of the gentleman from Ohio [Mr. ASHLEY] for information only—and it seems to me that it is more pertinent to the subject which is embraced in the article read from the Clerk's desk than anything else would be—whether he did or did not have a conversation, similar to the one narrated in the correspondence, with the gentleman from Ohio, [Mr. BINGHAM.] I think that subject would interest us more than the other.

Mr. ASHLEY of Ohio. I will come to that

directly; if I do not, the gentleman can catechize me after I get through.

Now, it is well known to every member of this House that neither General Grant nor any officer in the Army could be arraigned by this House on articles of impeachment and tried by the Senate under that resolution. If that be so, then the charge that such was my purpose, or the purpose of any gentleman with whom I consulted, is so stupid that I dismiss it with the contempt it deserves.

I consulted the gentleman from Pennsylvania [Mr. STEVENS] only in regard to the phraseology of the resolution which I had drawn up, and I made an interlineation or two in the resolution at his suggestion. After I came to my desk I tore up that resolution and wrote a new one, omitting what I thought was unimportant. That resolution, redrawn, and seen by no one but myself, was the one I sent to the Clerk's desk for action by the House. This is the history of that resolution. Now, Mr. Speaker, I have only to add that the language alleged to have been used by my colleague [Mr. BINGHAM] was never in my hearing, in this House or out of it, addressed to me. Nor did I hear the gentleman from Pennsylvania [Mr. STEVENS] use the remarks which are attributed to him in the article which I have caused to be read.

In making this explanation, Mr. Speaker, I have yielded my own personal objections to the wishes of others. I regret that I have taken up so much of the time of the House in correcting a publication which is so absurd that it seemed to me to carry upon its face its own refutation.

Mr. STEVENS. In connection with what has been said, as my name has been mentioned, I desire to say one word if there is no objection.

Mr. DAWSON. I object.

Mr. ASHLEY, of Ohio. Can I not yield the remainder of my time to the gentleman from Pennsylvania, [Mr. STEVENS?]

The SPEAKER. The gentleman from Ohio [Mr. ASHLEY] had resumed his seat, having ended his remarks. The gentleman from Pennsylvania [Mr. STEVENS] can make a personal explanation only by unanimous consent, and the gentleman on the right of the Chair, his colleague, [Mr. DAWSON,] objects.

Mr. SPALDING. I call for the regular order of business.

The SPEAKER. The regular order of business is the bill for the more efficient government of the insurrectionary States.

Mr. STEVENS. I suppose I can speak upon the regular order.

The SPEAKER. The gentleman is entitled to the floor upon the regular order.

Mr. ELDRIDGE. I hope unanimous consent will be given to the gentleman from Ohio [Mr. BINGHAM] to speak upon the subject referred to by his colleague, [Mr. ASHLEY.]

The SPEAKER. The gentleman from Ohio [Mr. BINGHAM] has not asked unanimous consent for that purpose.

Mr. ELDRIDGE. I ask it for him.

Mr. SPALDING. I object.

Mr. BINGHAM. I have no desire to say anything upon the subject. [Laughter.]

GOVERNMENT OF INSURRECTIONARY STATES.

The House resumed the consideration of the bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States.

Mr. STEVENS. Mr. Speaker, I thought that in the course of this debate I heard something said with regard to an alleged conversation between the gentleman from Ohio [Mr. ASHLEY] and myself. If I was right in my hearing of what was alleged to have been said by myself and other gentlemen—

Mr. ROGERS. I rise to a point of order. I submit that the remarks of the gentleman are not confined to the question before the House.

The SPEAKER. The Chair sustains the point of order. The gentleman must confine himself to the pending bill.

Mr. STEVENS. Yes, sir; I am confining myself to the bill; and finishing my sentence, as I should have finished it if I had not been called to order, I say that the statement referred to is wholly false. [Laughter.]

Now, sir, in order that gentlemen on the other side may not suppose that there is any intention on our part—I ought, perhaps, to say on my part, for I am not authorized to speak for anybody else—to do them injustice or to deny them the opportunity for a full discussion so far as the circumstances will allow, I will try to confine my own remarks to but a few moments. At this period of the session any unnecessary delay must be fatal to the bill, even if we have not already allowed so much time to go by that it will not be possible for the bill to become a law before the close of the session. Besides, this subject has been already discussed fully in almost every phase in which the question of reconstruction can be handled. I do not perceive what can be gained on our side—I simply make the suggestion; my friends must decide for themselves—I do not perceive what can be gained on our side by further discussion to any considerable extent; and I must take this occasion to say that, after the bill has been discussed through to-day and this evening, I shall feel myself justified, and indeed bound by my duty, to ask the House at one o'clock to-morrow to sustain the previous question.

Sir, this is a bill for the purpose of putting under governments ten States now without governments. They are States of the late so-called confederacy, as I have called them. Other gentlemen have contended that they were States nowhere. I have differed with these gentlemen in this respect. I have said that these were perfect States with perfect organizations under a foreign government. It is at any rate certain that those States now have no governments which are known to the Constitution or laws of the United States of America; that for nearly two years they have been lying in a disorganized condition. Nearly two years ago the armies of a government calling itself the confederate States of America were conquered and the government was dispersed. By the law of nations the conqueror after that had a right to say exactly what government should be administered over them or by them, keeping always within the law of nations. The conqueror had a right either to extend his own laws over those conquered States, or if no action was taken by the conqueror, then by the law of nations the old institutions were permitted to run on for the purpose of administering the local laws until such time as the conquering party should act. I have merely stated the condition of those States according to the well-known principles of the law of nations. There having been no action on the part of the conqueror, the law of nations gave the institutions then existing that kind of power for domestic administration which is exercised by every conquered province until the conqueror provides for a better government.

The reason why no governments have been provided, and they have been permitted to go on under the general law of nations, is because there has been difficulty in harmonizing the councils of the dominant party. The executive department has attempted to enact new laws, to establish new regulations, to authorize the conquered territory to be represented in Congress, without the action of the sovereign power of the nation; and that sovereign power has repudiated the authority which has attempted to place States within those conquered provinces, and has waited and waited patiently in the hope that some arrangement could be come to by which there should be harmony in our councils, and the kind of government necessary there might be agreed upon without collision. That hope has failed, and the longer Congress has waited the more pertinacious seems to be the determination of the Executive to maintain the usurpation which established those governments. And now at this late period it has become the duty of Congress

to assert its right and to do its duty in establishing some kind of government for this people.

For two years they have been in a state of anarchy; for two years the loyal people of those ten States have endured all the horrors of the worst anarchy of any country. Persecution, exile, murder have been the order of the day within all these Territories so far as loyal men were concerned, whether white or black, and more especially if they happened to be black. We have seen the best men, those who stood by the flag of the Union, driven from their homes and compelled to live on the cold charity of a cold North. We have seen their loyal men flitting about everywhere, through your cities, around your doors, melancholy, depressed, haggard, like the ghosts of the unburi dead on this side of the river Styx, and yet we have borne it with exemplary patience. We have been enjoying our "ease in our inns;" and while we were praising the rebel South and asking in piteous terms for mercy for that people, we have been deaf to the groans, the agony, the dying groans which have been borne to us by every southern breeze from dying and murdered victims.

And now we are told we must not hasten this matter. I am not for hastening it unduly; but I am for making one more effort to protect these loyal men, without regard to color, from the cruelties of anarchy, from persecutions by the malignant, from vengeance visited upon them on our account. If we fail to do it, and to do it effectually, we should be responsible to the civilized world for, I think, the grossest neglect of duty that ever a great nation was guilty of before to humanity.

Now, sir, with these few remarks I will say one word as to what the bill is. Then, in compliance with my determination, I will yield the floor to such gentlemen who may wish to occupy it.

This bill provides the ten disorganized States shall be divided into five military districts, and that the commander of the Army shall take charge of them through his lieutenants as governors, or you may call them commanders if you choose, not below the grade of brigadiers, who shall have the general supervision of the peace, quiet, and the protection of the people, loyal and disloyal, who reside within those precincts; and that to do so he may use, as the law of nations would authorize him to do, the legal tribunals wherever he may deem them competent; but they are to be considered of no validity *per se*, of no intrinsic force, no force in consequence of their origin, the question being wholly within the power of the conqueror, and to remain until that conqueror shall permanently supply their place with something else. I will say in brief that is the whole bill. It does not need much examination. One night's rest after its reading is enough to digest it.

Still, as there must be, and ought to be, on these matters full discussion, so that the people, the sovereign people of the United States, may hear and read and be able to decide upon the questions, we propose that in addition to the three weeks (I think it was) already spent in the discussion of reconstruction, a day or two of the short remnant of the session may be devoted to debate. I may remark that we have now perhaps less than fifteen days this side of a veto in which this bill must pass this House and pass the Senate and be acted upon, if it is to become a law. We are, therefore, not at liberty to indulge our friends on the other side—which I would very much like to do, for I would like to hear each one of them make a speech on this subject—we are not at liberty to indulge them by adjourning the action beyond the time of which I have given notice. Upon counting the days which we have left to act, I do not see that it will be possible for us to pass this bill with any hope of its becoming a law under all the circumstances if longer time is given.

Now, sir, I have said that I should not occupy much time. I hoped that gentlemen might

be limited to twenty minutes, so that more of them could speak. I still hope that will be done, and I again suggest, before I sit down, that that proposition be accepted.

Mr. ROGERS. Will the gentleman consent to let the debate go on to-day and to-morrow, and take the vote on Monday?

Mr. STEVENS. I have already, I think, three times refused that proposition.

Mr. ROGERS. I understand he intends to bring it to a vote to-morrow.

Mr. STEVENS. Yes, sir.

Mr. ROGERS. Say Saturday.

Mr. STEVENS. I have already said that to-morrow, God willing, I will demand the vote. I now yield fifteen minutes of the remainder of my time to the gentleman from Connecticut, [Mr. BRANDEGEE.]

Mr. BRANDEGEE. Mr. Speaker, I shall give my support to the bill now before the House, reported by the select Committee on Reconstruction, with all my heart.

Of all the various plans which have been discussed in this Hall for the past two years to my mind it seems the plainest, the most appropriate, the freest from constitutional objection, and the best calculated to accomplish those two master aims of reconstruction.

1. The garnering up of the fruits of our victories.

2. The restoration of peace and union upon the only stable basis upon which peace and union can be restored; liberty to all, rights for all, and protection to all.

It begins the work of reconstruction at the right end, and employs the right tools for its accomplishment. It begins at the point where Grant left off the work, at Appomattox Court-House, and it holds those revolted communities in the grasp of war until the rebellion shall have laid down its spirit, as two years ago it formally laid down its arms.

This bill is founded upon the indisputable law of nations as affirmed by every publicist from Vattel to Halleck, ancient or modern, and denied by none whose word is an authority—

"That the victorious belligerent may and should hold the vanquished belligerent in the grasp of war until he shall have secured all the issues which have been involved in the contest, obtained absolute protection to the allies who have aided him, and such added guarantees as shall forever secure him against the renewal of the contest."

Founded upon these principles which have passed into the axioms of national jurisprudence, the bill is justified by the fact—to which I challenge contradiction—that thus far not one single issue of the late colossal contest has been settled, not a solitary irrevocable guarantee has been obtained, and no protection other than a mere mockery and insult secured to those allies to whom, in the depth of your distress, you cried out in agony for assistance and succor.

Mr. Speaker, two years now in the coming month of April have elapsed since the great rebellion formally laid down its arms. What have you thus far obtained for the three hundred and fifty thousand of your first born who sleep in bloody shrouds in these cold blasts of the coming spring? What for the \$4,000,000,000 of debt, for the payment of which you are compelled to rob the earth, the air, and the sea? What one traitor has been punished for his crime of crimes? Where upon this broad continent has treason been made odious? What protection is there to-day to loyalty, black or white, from the Potomac to the Rio Grande? What indemnity have you for the past? What security even for the future? What guarantee against a new rebellion?

A new rebellion! Why, Mr. Speaker, the old rebellion has not yet been suppressed; it still lives; it dominates in every one of these reconstructed States; it has made loyalty odious and treason respectable by forcing traitors into the gubernatorial chairs of ten of the eleven of these revolted communities; in ten out of eleven it has sent traitors who audaciously demand seats upon this floor; it has clothed treason with the ermine on the bench of the ten revolted States; it has filled their

halls of local legislation; it has armed treason with the sword of the law in ten of the States; it holds to-day the pen of the press, that weapon mightier than the sword; it desecrates the word of the Most High from all their pulpits; it hisses out curses against the Union from the sibilant tongues of its women and the prattling lisp of its babes; it proscribes and hunts to their deaths that noble army of martyrs, the Union men of the South; and it scouts and throws back in your teeth the mild and merciful terms of reconstruction offered in the constitutional amendments of last session. It no longer creeps upon the ground as in the hundred days which followed Sherman's marvelous march to the sea, or the awful thundering of Grant's cannon in front of Richmond; but it stands erect, defiant, and audacious, demanding as a right to accomplish by legislation what it failed to achieve by the sword; and, countenanced by a weak, if not a wicked, Executive, and sustained by its copper supports at the North, it erects its brazen brow to the sunlight and beats at the doors of the Capitol—

*"Parca meto, primo, mox sese attollit in auras,  
Ingreditur que solo, et caput inter nubila condit."*

Mr. Speaker, something must be done. We must do it. The American people demand that we shall do something and quickly. Already fifteen hundred Union men have been massacred in cold blood—more than the entire population of some of the towns in my district—whose only crime has been loyalty to your flag, and in the single State of Texas alone, in all the revolted States, upon the testimony of your ablest generals, there is no safety to the property or lives of loyal men. Is this what the loyal North has been fighting for? Thousands of loyal white men driven like partridges over the mountain, homeless, houseless, penniless to-day through this capital. They fill the hotels, they crowd the avenue, they gather in these tessellated and marble corridors, they look down from these galleries and with supplicating eyes they ask protection from the flag which floats above the Speaker's chair; a flag which to them has thus far unfurled its stripes, but concealed the promise of its stars.

For myself, may my right hand forget her cunning and my tongue cleave to the roof of my mouth if I desert them. We must stand by them; we owe it to them, to ourselves, to our martyred dead, to the God of nations and of justice. This bill alone can preserve them; other schemes of civil reconstruction can come by and by. The duty of to-day and now, of this hour, is to stand by the men who stood by the flag, the noble Union men of the South, black and white. For one I mean to do it to the end of the chapter. Believing this bill justified by the undoubted law of nations, demanded by the necessities of the hour, recommended by all the highest military authorities, and necessary to the preservation of the true men of the South, I give it, Mr. Speaker, my cordial support. I see no other way out of our difficulties; and while I am ready to extend the olive branch of peace when it can be received in the spirit of peace, I now vote to unsheath the great sword of the Republic and place it in the hands of the greatest captain of the age, that he may demand once more, in the name of the God of justice, the "unconditional surrender of the rebellion."

Mr. LE BLOND. Mr. Speaker, Ohio has no nominating convention to come off on next Wednesday, as the gentleman [Mr. BRANDAGEE] has who has just taken his seat. Therefore, even though otherwise I might be so disposed, I shall not indulge in any high-sounding declamation; but simply present my views in a brief form, disconnected as they must be, in reference to this bill.

Sir, the bill was presented here at the close of the session yesterday; it has been printed and laid on our tables at noon to-day; and now the decree has gone forth from the gentleman from Pennsylvania, [Mr. STEVENS,] that to-morrow at one o'clock we are by a

solemn act to declare that all the results of the late war are for naught and that this Union is dismembered, forever dissolved. I feel, sir, that the passage of this bill is the death-knell of civil liberty, not only here but everywhere. Sad as the thought may be it is too true that almost the last hope of a once free people, that liberty is secure here, is fast passing away.

The bill under consideration proposes to establish nothing more and nothing less than a military despotism. That is not only the tendency but the probable object of much of our legislation.

What does the bill provide? The preamble declares:

Whereas the pretended State governments of the late so-called confederate States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were set up without the authority of Congress and without the sanction of the people; and whereas said pretended governments afford no adequate protection for life or property, but countenance and encourage lawlessness and crime; and whereas it is necessary that peace and good order should be enforced in said so-called States until loyal and republican State governments can be legally established: Therefore.

Sir, that rests, I suppose, upon the theory of the gentleman from Pennsylvania, that the power of this Government rests in the people, and that the Congress of the United States is the people, and therefore the Congress of the United States is all-powerful and can establish any form of government that it may deem proper though the Constitution expressly prohibits it. It is upon the theory of the gentleman from New York, [Mr. RAYMOND,] who edified not only this House but the American people a short time ago by the exhibition of a new constitution, a new fundamental law for this Government, a law fixed in the imagination of men alone. This is the law which he claims is higher than the written Constitution of the United States. Well, sir, this doctrine of a "higher law" is no new doctrine in this country. This doctrine is the root and foundation of all our troubles and is indirectly the cause of all the expenditure of treasure and blood to which we have been subjected.

The preamble of this bill does not embrace a single truth. Let us look for a moment at the status of these States, their relation to the Federal Government. And here permit me to say I differ with some gentlemen on this side of the House, as well as gentlemen on the other side. I maintain now, as I have ever maintained, that the State organizations of those States lately in rebellion never were broken up from the foundation of their State governments to the present time. All the "acts and declarations" of those who were engaged in the rebellion never destroyed a single State government. Their local governments were kept up during the rebellion. The executive, legislative, and judicial functions of each State continued in full operation during that period.

According to my recollection, not a single State changed her constitution during the rebellion; and the only change made since the close of the war is the one making their respective organic acts conform to the constitutional amendment submitted by Congress.

But suppose, sir, amendments had been made according to the rules prescribed by their constitutions, if the amendments were not in conflict with the Constitution of the United States, would be good and binding upon the people. The amendment would be just as binding as if made in time of peace.

No one, I apprehend, will contend that the adjudication of a claim between individuals during the rebellion and while the State was acting under the confederate government is void. To do so would make confusion worse confounded.

Sir, their State organizations were not broken up; their relations to the United States were only suspended. To assert, as the preamble does, that they have no real governments is to admit that the declaration of secession did carry them out of the Union and destroy their State governments. It is an admission of the right of secession, either reserved by the States or

expressed in the Constitution. It is an admission but few believe and a less number willing to admit. It has been repeatedly affirmed upon this floor and by all parties that a State once in the Union always in except she dissolves her relations by successful war.

Then, sir, I maintain that these States are States within the Union; that they have never been out of the Union; neither have they overthrown their State governments. When the war ceased they took their position in the Union which they occupied before they rebelled, with all their rights as States, leaving the citizens subject to the laws, punishing them for violations.

This, sir, is no new idea. Let me say here in this connection that Lieutenant General W. T. Sherman has exhibited more statesmanship and a better appreciation of our form of government than the majority of this Congress. He comprehended the whole subject in the articles of capitulation with the confederate General Johnston. He enunciated the true doctrine, and if it had been followed by the President and Congress we would to-day have peace and harmony. There would be no necessity for enabling acts or revolutionary schemes such as we now have under consideration. Peace, happiness, and prosperity would pervade all parts of this Union. It was all that was required, all that could be demanded under the Constitution and laws, all that was necessary to produce not only a unity of States but a unity of hearts.

But we are told by gentlemen here, whenever they rise for the purpose of speaking upon almost any subject, that the President of the United States is guilty of usurpation; that the President of the United States has exercised unwarrantable jurisdiction in the appointment of provisional governors for these southern States. Sir, I agree that that was wrong. I am not here for the purpose of vindicating the President of the United States in the exercise of a power which I believe he did not possess. I do not think he ever had that power; and I think it was a grave error on his part to exercise the power of appointing those provisional governors.

In exercising that power, however, he was only carrying out to some extent the plan adopted by his predecessor in appointing provisional governors. I say the President had no power to do it; but I am not prepared to say, and will not say, that the President did not act in good faith, and with the conviction that it was the best thing to be done, and that under existing circumstances it was necessary. I do not for one moment believe that he acted criminally or with corrupt motives; but that he acted with the very best motives possible, looking to the final restoration of the whole Union. But, sir, I nevertheless believe it to have been a grave error.

But, here sir, is the rock upon which we split. If these States were not out of the Union, and if they kept up their State organizations till the close of the war, then, sir, neither the President nor Congress had any power to interfere with them. The officers in position were placed there by the people, and none but the people who placed them there could remove them, and that only in pursuance of law. Again I affirm that their State governments were not broken up. Their Representatives should have been received upon this floor unless they were excluded by reason of some prohibition prescribed in the Constitution or laws of the United States.

But, sir, to the bill. The last provision of the preamble says:

And whereas said pretended governments afford no adequate protection for life or property, but countenance and encourage lawlessness and crime.

Now, sir, who could expect that perfect peace would prevail throughout those States as soon as the war ended? It was in the nature of things there would be lawless conduct on the part of many citizens. That certain gentlemen desire difficulties to exist in the South in order that they may base legislation



upon it, in order to carry out certain designs, I have no doubt. But that there is and has been less disturbance than could be expected under the circumstances is true. The civil authorities there have been using the power they have to keep down this lawlessness and to punish men for the commission of offenses. And if this Congress would only give them full power to exercise all of their functions we would have order and peace much sooner than by the plan now proposed to disturb and destroy their governments.

It must be remembered that four million slaves were set free who were before under the control of their masters. They knew no law except as it was given to them by their masters. Now they act for themselves, and too frequently act upon suggestions from the Freedmen's Bureau, with a view to furnish sensational articles that are so frequently read from the Clerk's desk.

The first section goes upon the supposition that they are not States. It divides these ten States into military departments.

The second section provides, not that the President of the United States, who is Commander-in-Chief of the Army and the Navy, and made so by the Constitution, should not appoint the military commandants, but that the general in command should take jurisdiction and appoint all these officers. I ask gentlemen what will you do with that provision in the Constitution which declares the President of the United States to be the Commander-in-Chief of the Army and Navy of the United States?

This is almost a precise copy of the bill introduced in the Senate by Mr. WILLIAMS. In that bill it was provided that the President of the United States should make these appointments. He had some regard in that bill for the constitutional power of the President. He was willing to carry out that provision of the Constitution. But this Committee on Reconstruction—this maelstrom committee, which swallows up everything that is good and gives out everything that is evil—reports this bill taking away all of the power from the President of the United States, and confers that power upon the commanding general, in defiance of the express provision of the Constitution to which I have referred.

And although this second section strikes down that provision of the Constitution, yet the magnanimity of the chairman of that committee could not extend further than to allow us a few hours of debate on a proposition so important and so vital. He would not agree to fix a day when this bill should come up, so that gentlemen could collect their thoughts on the subject.

I suppose on the other side they have adopted the higher law doctrine, so ably discussed by the gentleman from New York, and need no reflection. That simple change, sir, if there were no other reason, ought to destroy this bill, ought to prevent its passage.

But that is not the worst provision in the bill. After appointing these military commanders in the several districts, giving them complete and exclusive jurisdiction in all civil and criminal matters, the third section contains a provision unparalleled in legislation, that these military commanders may confer power upon the civil tribunals of the State to try certain offenses; that is, may confer upon a judge elected by the people or appointed by the President of the United States power to try a case of indebtedness between A and B if they think proper. Whoever heard of such a monstrosity as this? Whoever heard of such a stretch of power on the part of Congress? The Constitution provides that—

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

Instead of permitting the party to be tried by a jury selected within the district, to be tried by a judge appointed by the President and confirmed by the Senate, or a judge elected by the people, before he can be tried before a tribunal thus raised it is required he shall go before this military commander and ask him whether he will grant his permission. You deny him the right of jury. You deny that the accused shall be confronted with witnesses as the Constitution guarantees. This military commander is to call around him a court-martial, and call the person there for trial, with no power to employ an attorney to defend him.

This, sir, is the legislation you propose; this is the proposition you submit for the reconstruction of your disorganized States, as you term them. Sir, it is a blow at the very principles of civil liberty; it is striking down the right of trial by jury; it is establishing military tribunals to try cases in contravention of the provisions of the Constitution of the United States. Now, sir, I appeal to gentlemen to pause before they run into this kind of legislation, to look at the consequences, to reflect upon what is to be the final result upon this legislation.

Not content with doing all this, not content with denying to these people the right of trial by jury and of being represented by counsel, you propose to tie up the hands of the civil courts in all these States, and say they shall not issue a writ of *habeas corpus* where a party has a meritorious case unless he first gets the consent of your military tribunals. You thus strip a man of all possible remedy of redress; you deny to him the courts that have been created by yourself and in full operation.

I have thus briefly alluded to the provisions of this bill. I have said more than I intended to say when I rose. The time given for the examination of this bill is so limited that no man can, on the brief examination allowed, present his views as he would desire. But, sir, there is enough to be seen upon a mere glance at the bill to lead every man who is not actuated by political or party considerations to go against it and save the Constitution of his country.

The provisions of this bill strike down every important provision in your Constitution. You have already inaugurated enough here to destroy any Government that was ever founded. You have already prepared your articles of impeachment. The decree, I believe, has gone forth, and the impeachment must and will take place. If you have not yet issued the decree in formal caucus, you have caucused enough among yourselves to know what the result is to be. And yet the chairman of the Committee on the Judiciary refuses to give us any light on the question.

Now, sir, you impeach the President of the United States, paralyze the arm of the Supreme Court, and of the judiciary generally. You have been, and are now, declaring to yourselves that this Congress is all-powerful as the representative of the people. What have you left to the American people to vindicate their rights? You have left nothing to them but quiet submission to your usurpation of power; for it is nothing but usurpation on the part of Congress to take these powers upon itself in contravention of the Constitution. When you do that there is nothing left, I repeat, but quiet submission to your tyranny, or a resort to arms on the part of the American people to defend themselves.

Now, sir, I do not predict anything. I do not desire war; but as one American citizen I do prefer war to cowardly submission and total destruction of the fundamental principles of our Government. Sir, the unity of these States was attempted to be destroyed by war and failed; it is now sought to be destroyed by legislative usurpation; and in my honest conviction nothing but the strong arm of the American people, wielded upon the bloody battle-field, will ever restore civil liberty to the American people again. We are drift-

ing to monarchy. It will come unless the people take this matter in hand and stop this progress that is being made in that downward road, and restore this shattered Government upon the basis upon which it was originally founded.

I yield the remainder of my time to my colleague, [Mr. FINCK.]

Mr. FINCK. Mr. Speaker, I approach the examination of this measure with a saddened heart. I know of none which has been presented to the American people of so grave a character and magnitude as the questions involved in the bill now presented by the distinguished gentleman from Pennsylvania. I have been taught to revere the Constitution of my country and to love the Union of these States. I have been taught to believe that ours was a Government of law, in which the rights of the American people were protected by the Constitution of the Federal and State Governments. But, sir, I see an attempt in the passage of this measure to overthrow free government, and to establish on its ruins the principles of military despotism. I had hoped that the great issues before the American people would have been adjusted in the spirit of wisdom and moderation, and that all the States once more would be assembled here by their representatives, in accordance with the provisions of the Constitution, and again move along harmoniously in the legitimate legislation of the American people. In the presence of this measure I tremble at the thought that our hopes may perhaps be forever dissipated.

Certainly no member on this floor who understands the Constitution of the United States, and who is a friend of free government, will pretend to urge that we have any constitutional power to pass this bill. I understand the distinguished gentleman from Pennsylvania [Mr. STEVENS] does not argue that there is any authority under the Constitution of the United States to sanction this measure; where, I ask, does he obtain the authority to pass it? On what principle is this Congress and the people of the United States called upon to adopt it?

If I understood the gentleman correctly, he claims the power to pass this bill under the law of nations and upon the doctrine of the right of the conquerors to take possession of and control conquered territory and its inhabitants in such a manner as may suit the purposes of the conqueror. This is the ground upon which the measure is defended. Certainly no man will insult the intelligence of the American people by defending it upon any other principle. It is at war with the Constitution; it is at war with every principle of free government. And I submit, Mr. Speaker, that it cannot be successfully defended on the ground upon which it is placed by the chairman of the committee.

He places it upon the ground that we, as conquerors, have a right to dictate to the people of these ten States their governments and by the strong arm of military power hold and treat them as a conquered people. I deny most emphatically both the premises and conclusions of the learned gentleman.

I can understand very well how when two distinct and foreign nations are engaged in war, the result of that war may be a conquest of the territory and of the inhabitants of one of the belligerents. That result has been achieved more than once in the history of the nations of the earth. But, sir, that condition of things could not result from the late war for the suppression of the rebellion. What was that war, Mr. Speaker? It was not a war between distinct and separate nations. It was a war upon the part of the Federal Government, to do what? Not to make a conquest of territory. Not a war for subjugation. No, sir; it was a war on the part of the Federal Government to enforce its laws throughout the jurisdiction of the United States. It was a war on the part of the Federal Government to remove all armed opposition to the execution of the laws and maintain the supremacy of the Government; to preserve the union of these States and to suppress all opposition to

the just and rightful execution of the laws of the United States.

Need I say that in such a war as that, confined within the limits of the Republic, there could not be any conquest of territory or the people of any State belonging to the Union? I put the question to the distinguished gentleman from Pennsylvania, [Mr. STEVENS:] what did you conquer? You conquered a peace; but did you conquer a single inch of territory over which the United States did not exercise jurisdiction before the war commenced? Not a single inch, sir. Neither did you acquire by the results of the war jurisdiction over a single man, woman, or child over whom you would not have had jurisdiction if the war had not taken place? No, sir; you merely reestablished firmly the jurisdiction of the United States, not over any new territory, not over territory conquered from a foreign enemy, but we reestablished the jurisdiction of the United States over what had been and what continued to be during the war; a part of the territory comprised within the boundaries of the United States. We are not to-day exercising jurisdiction over these ten States rightfully by the laws of nations, and can only exercise over them the jurisdiction and authority which was authorized before the war commenced, and which is regulated by the Constitution of the United States.

Mr. Speaker, the only ground upon which the gentleman can possibly defend his bill is the ground which does not exist in the condition of our affairs. Is it possible, sir, that any gentleman will argue that the Federal Government could have made a conquest of its own territory? Such a result would have been impossible. I ask gentlemen upon the other side who sustain this bill to cite a single instance in the history of nations where a nation has made conquest of its own territory or its own people. There is no such instance in history. Nations have suppressed revolts within their own limits; nations have suppressed rebellions against their Governments; nations have maintained by war the integrity of their own territory; but never has any nation in suppressing a revolt of its citizens against its Government acquired title to its own territory by conquest or the rights of the conqueror over its own people.

The idea of defending this revolutionary scheme on the pretext that this Government is authorized to exercise toward the territory and people of these ten States the rights under the laws of nations of a conqueror and thus overthrow the Government, is one only to be conceived by the fertile genius of the gentleman from Pennsylvania, [Mr. STEVENS.] What is the territory of these States? Who are the people of these States who you now propose to put under this military despotism? Four of those States which are to be put under this military government, are four of the original thirteen States which formed your Constitution, and which is now to be subverted to enslave them. The people of those States who are to be subjected to this worse than despotism, are the sons and the daughters of the men who with your fathers and mine fought together in the revolutionary struggle, and by their patriotic devotion and their wisdom aided to achieve our independence and establish this free system of Government. Sir, I know these people have committed a great wrong in trying to break up this Union. I have always opposed their attempt to withdraw from the Union. I have always denounced secession. But, sir, they failed in their mad attempt to overthrow the Union of these States, and have they not suffered, Mr. Speaker, as no people have ever suffered before? I believe they are now sincere in their desire to continue in the Union and to share the blessings and burdens of a common Government with us. Sir, if we wish a real Union we must treat them as friends and not as enemies; we must have confidence in them; and as we and our children for generations to come are to live with them and their descendants, I submit, sir, that it is best for all of us and for the peace and prosperity of this great country, that we should live together as friends.

But such is not the policy of the gentleman from Pennsylvania. Can it be possible, Mr. Speaker, that we have gone back six centuries in the history of the world, and are willing to strike down the great principles of free government for which so many struggles and heroic sacrifices have been made by our ancestors? Is it possible that in this Congress we can find men bold enough and bad enough to conspire against the great right of trial by jury; the great privilege of *habeas corpus*; men who are willing to reverse the axiom that the military should be subordinate to the civil power, and to establish the abhorred doctrine resisted by the brave and free men of every age, that the military should be superior to the civil authority? Who would have believed that the sons of revolutionary fathers, bred under the influences and teachings of our system of free government, would to-day in an American Congress gravely discuss the question whether ten millions of their fellow-citizens should be placed under a military despotism?

Mr. Speaker, I speak earnestly upon this subject, but not more earnestly than I feel. I look upon this measure as a most dangerous and alarming proposition. Not only in the provisions of this bill to which my friend and colleague [Mr. LE BLOD] has referred, striking down the great rights of the American system of Government do I find most serious cause for objection, but also in the additional proposition that no judicial or legislative interference shall take place in reference to military commissions and military trials authorized under this bill. Let me read that portion of the bill. I refer to the latter clause of the third section:

And all legislative or judicial proceedings, or processes to prevent or control the proceedings of said military tribunals, and all interference by said pretended State governments with the exercise of military authority under this act shall be void and of no effect.

Can it be possible that the measure now before us, was deliberately prepared by any gentleman upon this floor? Is it possible that this measure has been seriously considered? Do gentlemen believe they have the least shadow of authority to thus attempt to close the doors of the judicial department of this Government, so that the Supreme Court of the United States cannot examine into a sentence or order made by one of these petty military tribunals which are to be set up over the lives, liberty, and property of the people of ten of these States? Are we slaves? Are the American people so engaged in the struggle for "the almighty dollar" that they have forgotten the sacred rights of a free people and decline the task to maintain a free Government? Is it possible that these military tribunals and commissions shall override your Constitution, and that an American Congress can be found who will say that their orders and decrees are not to be interfered with by the supreme judicial tribunal of the United States? If so, then all we have to do is to withdraw all our protestations in favor of free Government, and declare that we will quietly and ignominiously submit to the surrender of the priceless blessings of that system of government which has been transmitted to us by an illustrious ancestry.

Gentlemen well know that the Supreme Court of the United States has solemnly declared in the *Milligan* case, by a unanimous decision on the main point in the controversy, that there was no authority in these military tribunals either to try, convict, or punish any citizen who was not in the military or naval service of the United States. But in this bill, in opposition to that decision of the supreme judicial tribunal of the country, it is not only proposed that none of the orders or decisions which may be made by these military commissions shall be revised by the President of the United States, who is the Commander-in-Chief of the Army and Navy; but more than this, that these orders, findings, and decisions shall not be reviewed or interfered with by the judicial tribunals of the country.

And, sir, is this the end of the war? Is this, then, to be the result of the sacrifice of the lives

of so many thousands of our people and the expenditure of countless millions of treasure, that now, when the war has terminated, when peace reigns throughout the borders of the Republic, the Representatives of two thirds of the States shall gravely determine to put the people of the remaining ten States under a military despotism? Is this the free Government of which we so much boast? Are these the doctrines that were taught us by the men who established our system of government?

Sir, I declare it as my solemn conviction that no Government can long continue to be free where one third of its people and one third of its States are controlled by military power. You cannot, Mr. Speaker, hold one third of the people of this Union under military power, and at the same time preserve the freedom of the people of the other States. It is impossible.

I object, therefore, to this bill on the broad ground that it is a blow aimed at the overthrow of our system of government. I do not believe (and in this I mean no disrespect to any gentleman on this floor) that the men who support this bill, whatever may be the purity of their intentions, are the friends of the Union or of free government. I do not believe that the men who desire to impose this measure upon these States are willing that this Government shall be controlled and administered in accordance with the Constitution of our fathers. I believe, on the contrary, that it is an attempt to maintain party ascendancy by excluding from all voice in the Government, a large portion of the voters of this nation.

Have we, Mr. Speaker, forgotten the sermon of our divine Redeemer on the Mount? Are we to act as men who have no love or charity in their hearts? Are hatred, malice, and revenge to usurp the holy functions of Christian charity? Do we intend to perpetuate the Union of these States by the principles of hate? Do we expect to make the people of the South love the Union by trampling upon rights as sacred to them as they can be to us? Do we expect to perpetuate the principles of free government by blotting them out entirely in one third of the Republic? Is revenge to be perpetual? I trust not, Mr. Speaker. I trust, sir, we shall not enter upon any such unfortunate experiment as is proposed by this bill; and I pray the Almighty Ruler of nations that He may inspire the American people with such wisdom that they may understand the grave responsibilities of the hour; that they may be aroused to realize, and to realize at once, the volcano upon which we are standing; that they may appreciate the fact that their system of government is threatened, and that if they venerate the character of their revolutionary sires, if they love and cherish the institutions which have been transmitted to them by those patriotic ancestors, if they would perpetuate their republican form of government, they must remember that eternal vigilance is the price of liberty. Let us rise equal to the great occasion, and animated by no paltry considerations of mere party or sectional animosities, let us, I beseech you, Mr. Speaker, abandon these dangerous experiments and unwarranted usurpations of power, and labor with a patriotic devotion to unite again all these States and the people of all these States in the strong and enduring bonds of mutual friendship and interest, and together go forward in the achievement of that grand destiny which most certainly awaits this country as a united people, if we are but true to the Union of these States and the great principles of our Constitution.

Mr. PIKE, Mr. FARNSWORTH, and Mr. ROGERS addressed the House. [Their remarks will be published in the Appendix.]

Mr. BINGHAM. It was not my purpose to undertake any discussion of this important bill, and I only rise for the purpose of suggesting in a very few words to gentlemen of the House the importance of making haste slowly in the exercise of this highest possible power conferred by the Constitution upon the Congress of the United States. For myself, sir, I am

not going to yield to the proposition of the chairman of the committee for a single moment that one rood of the territory within the lines of the ten States enumerated in this bill is conquered territory. The Government does not conquer any Territory that is under the jurisdiction of the Constitution.

**THE SPEAKER.** The Chair interrupts the gentleman to state that the recess will take place in a few moments, unless by order of the House the session be extended until the gentleman closes his remarks.

**Mr. SPALDING.** I object.

**Mr. HILL.** I move to extend the session till five o'clock.

**Mr. BINGHAM.** I wish to make this suggestion before I yield.

**Mr. BRANDEGEE.** If the House adjourns will the gentleman not be entitled to the floor when we reassemble in the evening?

**THE SPEAKER.** He will.

**Mr. BINGHAM.** I desire to have my amendments printed. I will not submit to this gag; I know all about it.

**Mr. HILL.** If the gentleman will yield to me I will move to postpone the hour of taking recess to-day.

**Mr. BINGHAM.** I will yield for that purpose.

**Mr. HILL.** I move that the time for taking a recess to-day be postponed until five o'clock p. m.

The question was taken, and the Speaker announced that the ayes appeared to have it.

**Mr. SPALDING.** I call for a division.

The question was again taken; and upon a division there were—ayes sixty-three.

**THE SPEAKER.** There is evidently a large majority in the affirmative.

**Mr. ELDRIDGE.** I demand that those in the negative be counted.

The vote in the negative was taken; and there were—noes eighteen.

No quorum had voted.

The hour of half past four p. m. having arrived, the House, in pursuance of previous order, took a recess until half past seven p. m.

#### EVENING SESSION.

The House assembled at half past seven o'clock p. m., Mr. WILSON, of Iowa, Speaker *pro tempore*.

ARTHUR ORR ET AL.

**Mr. HILL,** by unanimous consent, introduced a bill for the relief of Arthur Orr, Bryant N. Lanham, and Samuel J. Smith; which was read a first and second time, and referred to the Committee of Claims.

#### GOVERNMENT OF INSURRECTIONARY STATES.

The House then resumed the consideration of House bill No. 1143, to provide for the more effectual government of the insurrectionary States, upon which Mr. BINGHAM was entitled to the floor.

**Mr. BINGHAM.** It was not my purpose to have asked the attention of the House to any discussion of this bill; nor should I have done so if the motion to recommit had not been made, by which I was prevented from proposing amendments which I think ought to be considered by the House. I do not believe that in regard to a bill of this magnitude either a member of the committee or a member of this House is under any sort of obligation to take the bill as it comes from the committee without amendment or discussion. All that can be asked of any member is to give the bill a respectful consideration, and accept or reject it with or without amendment as his sense of duty may dictate.

As I said, in the few words which I uttered before the recess this afternoon, this bill is the exercise of the highest possible power of legislation which, under the Constitution of the United States, can be exercised by the representatives of the people. This being so, I believe the House should make haste slowly. I think, at all events, it should allow amendments to be offered; and when they are offered

it should allow at least an opportunity for their consideration.

Now, my purpose is to make this bill, if it is to become a law, subject to as little objection as possible, without in any way impairing its efficiency. And I trust that before I shall have concluded the few remarks which I propose to make to-night I shall be able to persuade some of the Representatives here assembled that this bill may possibly be somewhat improved. At all events, I should consider myself false to my own sense of duty if I did not seek to amend this bill so that it would be in accord with the entire and continuous record of the great body of freemen represented upon this floor, who, under God, have enacted the laws through which and by which we have been saved as a nation. I challenge any man here to-night to point to any statute passed by the Congress of the United States, since the opening of this revolt on the part of the insurgent States to this hour, that by implication or otherwise, by direction or indirection, intimated the dogma of the chairman of the Committee of Reconstruction on the part of this House with which he opened this debate, that those ten insurrectionary States were a foreign and conquered country. I stand here to-night to assert that every act of legislation upon your statute-books, from the day this rebellion commenced to this hour, asserts the very contrary and excludes the conclusion of the gentleman.

How was it in 1861, when this conflict began, and you came to assess a direct tax and apportion it? You apportioned it among the citizens of the insurgent States as States; and you apportioned it among the people of the Territories as Territories. It is proposed to inaugurate a new theory, and to qualify, if not abrogate, your past legislation by incorporating in this bill, for the first time, the words the "so-called States." You did not insert in 1862, in your bill apportioning representation among the several States, the words, the several States except the "so-called States of Virginia," &c., shall be entitled to Representatives in Congress to the number of two hundred and forty-one. On the contrary, you did by that act provide for the whole number, to be apportioned among all the States; and accordingly the apportionment was made that South Carolina should be entitled to four Representatives, and the State of Georgia to seven, and so on. It is pretty well understood in this country that representation in Congress is only apportioned among States, and not among territories, whether acquired by purchase or conquest, nor among foreign States, but only among States within the Union. By this apportionment you did provide that all States within the Union, having constitutional State governments and sustaining practical constitutional relations to the Government of the United States, might elect Representatives in single districts. Surely, sir, if Virginia had resumed her constitutional relations in 1864 she would have been so entitled to elect Representatives to Congress. By the proclamation and message of our late lamented President this opinion was clearly and fully expressed by his words, "the resumption of the national authority within the States wherein that authority has been suspended." It did not occur to that statesman to say the so-called States of Mississippi, Alabama, North Carolina, and Georgia, &c., in which the national authority has been suspended. Clearly by proposing that upon laying down their arms and submitting to the laws and Constitution of the United States and taking the oath prescribed in his proclamation, and saying that if in any of the States named there shall, in the mode prescribed, be set up a State government, it shall be recognized and guaranteed by the United States. He recognized them as States in the Union without constitutional State governments.

By the Freedmen's Bureau bill of last session for the protection in the insurgent States of those who, by the action of the American people by a constitutional amendment, had

been released from bondage, you do not find incorporated the words "so-called States." On the contrary, sir, in that statute the very words may be found which I seek to insert by way of amendment in the preamble to this bill.

In this connection I wish to incorporate in my remarks the fourteenth section of the act to continue in force, and to amend "An act to establish a Bureau for the Relief of Freedmen and Refugees;" and which section is as follows:

SEC. 14. And be it further enacted, That in every State or district where the ordinary course of judicial proceedings has been interrupted by the rebellion, and until the same shall be fully restored, and in every State or district whose constitutional relations to the Government have been practically discontinued by the rebellion, and until such State shall have been restored in such relations, and shall be duly represented in the Congress of the United States, the right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings concerning personal liberty, personal security, and the acquisition, enjoyment, and disposition of estate, real and personal, including the constitutional right to bear arms, shall be secured to and enjoyed by all the citizens of such State or district, without respect to race or color, or previous condition of slavery. And whenever, in either of said States or districts, the ordinary course of judicial proceedings has been interrupted by the rebellion, and until the same shall be fully restored, and until such State shall have been restored in its constitutional relations to the Government, and shall be duly represented in the Congress of the United States, the President shall, through the Commissioner and the officers of the bureau, and under such rules and regulations as the President, through the Secretary of War, shall prescribe, extend military protection and have military jurisdiction over all cases and questions concerning the free enjoyment of such immunities and rights, and no penalty or punishment for any violation of law shall be imposed or permitted because of race or color, or previous condition of slavery, other or greater than the penalty or punishment to which white persons may be liable by law for the like offense. But the jurisdiction conferred by this section upon the officers of the bureau shall not exist in any State where the ordinary course of judicial proceedings has not been interrupted by the rebellion, and shall cease in every State when the courts of the State and the United States are not disturbed in the peaceable course of justice, and after such State shall be fully restored in its constitutional relations to the Government, and shall be duly represented in the Congress of the United States.

No man can read that statute and not come to the conclusion that every Representative in this House and every Senator who voted for the enactment of that law has, under his oath, averred two things. First, that those insurgent States are States of the Union, and next, that their population are citizens. They are declared States and the people thereof declared citizens of such States in the section just read.

What are we told now by this bill, in the face of all our past legislation, so often repeated? We are told, sir, that it ought to have been written in this section just read, "in the so-called States," and citizens of "the so-called States." Citizens of the so-called States are entitled to what? To the rights of citizens of the United States? No, sir; but to such rights, in the language of the gentleman who reported this bill, as the conqueror sees fit to give them. I stand here, sir, to repudiate that dogmatical assumption. There never was a moment, thank God, since rebellion fired the first gun at Fort Sumter that a State of this Union was foreign ground; and therefore it results that those States are not a conquered country, and that the loyal people of those States are no more conquered subjects and vassals than you are, or any other Representative upon this floor. And yet all that is embraced in the words "so-called States," in the light of the interpretation put upon them by the honorable chairman of the Committee on Reconstruction, [Mr. STEVENS.] If the gentleman wishes us to insert these words let him give us some intelligible reason for it. I suppose the gentleman gave us the best reason that could be given when he said they were a conquered people, subject to be governed by the conqueror, and subject also to the usages of war in such cases.

I respectfully submit, sir, that any loyal citizen of the United States in South Carolina or Georgia or Louisiana or in any other of the southern States is no more liable to the rule of the conqueror after the armies of the rebellion have been disbanded than are the representa-



tives of the people in this Hall. Why should they be? Men who never lifted up their hands in revolt against their Government and country; men who followed your flag in the hour of darkness and distrust; men who supported the shaking pillars of the Republic in the tempest of battle are not now to be told that they are captives of war, subject to the will of the conqueror. Sir, I repudiate the proposition, and without intending the slightest disrespect to any one, I will add that I repudiate it as unreasonable and unjust.

The rights of a citizen of the United States are in his own keeping; they are not to be forfeited by the crimes of others, whatever may be the dogmas of the continental writers, in which gentlemen are fond of indulging when they come to a discussion of this question. Is it not clear that under the Constitution and the laws of the United States no law-abiding citizen of this Republic can be deprived of his personal and civil rights by way of punishment on account of the crimes of others? Every man in every State of this Union is responsible only for his own crimes, and not for the crimes of others, in which he in nowise participated, and with whom he in nowise sympathizes. Surely it is not needful, even seemingly, to assert either in the preamble or body of this bill, that the insurrectionary States are foreign and conquered provinces, and the people thereof captives of war. It is because I entertain these views that I ask leave to move in this House that the preamble and bill may be amended. The preamble is as follows:

Whereas the pretended State governments of the late so-called confederate States of Virginia, North Carolina, South Carolina, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas was set up without the authority of Congress and without the sanction of the people; and whereas said pretended governments afford no adequate protection for life or property, but countenance and encourage lawlessness and crime; and whereas it is necessary that peace and good order should be enforced in said so-called States until loyal and republican State governments can be legally established: Therefore, &c.

If permitted I would move to strike out this preamble for the reasons which I have already intimated to the House. I move to strike it out, because it is interpreted by the gentleman who reported this bill as being intended—although it is no part of this bill and has no operative effect—as a solemn declaration on the part of this House that those States are foreign conquered territories, and that the people of those States, all the people therein, are alien enemies, captives of war, and subject to the conqueror's will. I ask that leave to propose such amendment be conceded by the House, because the preamble is not needful, because it adds no force to the bill, and because it gives no protection to any citizen, and if passed is but a declaration. Surely, sir, it is not needful to make such recital as is made in this preamble in order to show authority in the Congress of the United States to pass such laws as may be necessary, as may be wise and just and proper for the protection of persons and of property throughout all the insurrectionary States.

I have myself no doubt that under the Constitution of the United States, without going outside of its plain written letter, the Congress of the United States have full and exclusive jurisdiction to pass and enforce all needful laws for the protection of the person and the property of every citizen in those insurgent States, until that good time comes when those States shall be duly reorganized and readmitted to representation in Congress.

That being so, where is the necessity of this preamble? What force does it give to this bill? How does it strengthen this great cause of ours to make this manifest and palpable departure from all our preceding legislation? That is the question I want answered in the progress of this debate. What is not needful to the efficiency of this bill no man here should insist upon, especially if it be offensive to those of us who are desirous to maintain the national authority and to protect the lives and liberty and property of all alike, under such rules and

regulations as the law-making power of this nation may prescribe, until those States shall be fully restored to their proper constitutional relations.

With a view, then, to test the sense of the House on this subject, if the majority of this House, as I trust they will, will refuse to second the previous question and allow an amendment to be voted upon, and allow the question to go to the people, I will move to amend the preamble by striking out the first clause and to insert in its place the following:

Whereas it is necessary that peace and good order should be enforced in the several States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas, lately in rebellion, until said States respectively shall be fully restored to their constitutional relations to the United States: Therefore, be it enacted, &c.

I ask the House to consider the recital as it stands in the very words of your Freedmen's Bureau bill, the fourteenth section of which I have just read; and if it were fit and proper so to designate the States then, on the 22d of last July, it is equally fit and proper so to designate them now. If it is not, I wish to know the reason why.

I would also suggest that this bill be amended in the third line of the first section by striking out the phrase "so-called," so it will read "the said States," and stand with the text of the same section declaring that Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district. Why use the words "so-called State of Virginia," and thereby raise a doubt what are the boundaries of that territory? Why not use the words in the last clause of the first section as I have just read them, without limiting them by the terms "so-called"? Every gentleman knows you must, under this bill, recognize the boundaries of these States as originally fixed by the sovereignty of this Union; and that they stand as they were to this day. The territorial jurisdiction becomes a very important consideration, as my learned friend well knows, and the territorial jurisdiction of whatever tribunals you create, whether civil or military, must be ascertained precisely by law. Grave, difficult questions arise if this be not done. Hence it is I propose to strike out the terms "so-called" in the third section, and insert "said States."

And in the fourth section, Mr. Speaker, I propose to offer an amendment for the consideration of the House, and I think if gentlemen will give attention to it, if they will examine the authorities on the subject, they will come to the conclusion the amendment would give efficiency to the bill; at all events, will secure it against adverse decisions in the several courts of the United States whenever the same question may be raised within your borders; that is to insert in the third line of the fourth section, after the word "custody," so it will read:

Sec. 4. And be it further enacted, That courts and judicial officers of the United States shall not issue writs of *habeas corpus* in behalf of persons in military custody, except in cases in which the person is held to answer only for a crime or crimes exclusively within the jurisdiction of the courts of the United States within said military districts, and indictable therein, or unless some commissioned officer on duty in the district wherein the person is detained shall indorse upon said petition a statement, certifying, upon honor, that he has knowledge or information as to the cause and circumstances of the alleged detention, and that he believes the same to be wrongful; and further, that he believes that the indorsed petition is preferred in good faith and in furtherance of justice, and not to hinder or delay the punishment of crime. All persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted.

I think, Mr. Speaker, if there is anything well settled by the judicial decisions of the United States it is this: that where by positive law of the United States a person is authorized to be taken into custody and held to answer for a crime which by the laws of the United States is not indictable nor punishable in the Federal courts, the writ of *habeas corpus* will

not lie in said courts unless expressly provided for by statute. If there be a decision of the courts of the United States in conflict with that I have never heard of it, and I will be under great obligations to any gentleman of this House who will point it out.

Why, sir, that question has been ruled in manner and form as I have just stated, where it involved the dread issue of life and death, where the person was placed under arrest by the warrant of a commissioner appointed by authority of an act of Congress, where the person so arrested was committed by the order of the commissioner and by no other authority, to be handed over to answer for his life upon a charge of crime not committed within the jurisdiction of the United States nor indictable in any of the courts of the United States. Upon application for a writ of *habeas corpus* it was refused, exceptions were taken, the case was brought into the Supreme Court, where it was fully argued and considered, and the court, according to my recollection, without a dissenting voice, ruled that their jurisdiction, if any, in the premises was purely appellate; and inasmuch as it was expressly provided in the Constitution that the appellate jurisdiction of that court should be subject to such exceptions as the Congress of the United States might by law enact, and inasmuch as the Congress in the case had withheld from the court and refused to confer appellate jurisdiction in such a case, the writ was refused.

Such will be the effect of this bill if the House adopts it with the amendment. How will the question stand then? Why, that the writ shall only issue in the cases excepted by the express terms of the amendment. In the language of the proposed amendment the writ shall only issue in cases where the person is held only to answer for a crime committed within the military districts prescribed in the bill, and which crime is indictable in the courts of the United States by existing law.

Now, sir, every man here knows well that there are but few crimes of any sort committed within the organized or disorganized States of this Union that are cognizable and indictable in the courts of the United States. The general purpose of this bill meets my hearty approval. All I desire is to so shape this legislation as to add to its efficiency by removing any cause or seeming cause for conflict with the civil authorities of the United States, especially so as to allow cases that are indictable in the civil courts of the United States within said insurrectionary States to be tried in them. I would like to inquire of gentlemen who seem to smile at the statement that but few offenses committed within a State are indictable in the United States courts, where is the statute of the United States that ever allowed any man to be punished for murder of a private citizen within the jurisdiction of a State of the United States, North or South? There is no such statute. I would like to know when any court of the United States held any man to answer for crime save and except in those cases which were made expressly punishable by act of Congress in the courts of the United States. No common law crime as such without a statute expressly authorizing it is indictable in the courts of the United States. Therefore I say, for the burning of the property of a citizen, for the murder of a private citizen, for the robbery of a private citizen, or for any other crime whatever against the person or property of a private citizen, committed in any State of this Union, the party is not indictable now and never was indictable in any court of the United States.

The object of this bill, then, is, as explained by one of my colleagues on the committee, to furnish some protection against the destruction of property and of life where that protection is withheld or not adequately furnished by the existing organizations of the South. That being the object of the bill, this limitation which I propose to incorporate in the fourth section, instead of defeating the object, simply removes what might be ruled a very grave

objection to the validity of the bill. I do not care how much stronger gentlemen may express the amendment if they see fit, so that it will clearly and by express enactment declare that no appellate jurisdiction shall be taken by any of the courts or judges of the United States on the application of any person held by military authority within these States, except only where held for a crime indictable in the courts of the United States within said States under the existing laws.

Mr. ELDRIDGE. Will the gentleman yield?

Mr. BINGHAM. I will.

Mr. ELDRIDGE. I understand the gentleman to take the position that these are States in this Union, not conquered territories, and the people are not conquered subjects. I desire to know by what authority the gentleman entertaining that view would fasten upon these people a military government? And I would like to know further, what laws are to be administered in those States if this bill passed and became a law—whether it is the unlimited, undefined will of the conqueror that is to govern and control that people, or whether there are civil laws now in force which are to be administered by the military authority conferred by this bill?

Mr. BINGHAM. I will answer the gentleman, I hope, before I sit down, very fully. But I desire to place this amendment before the House, so that its legislation may be consistent with itself.

There is another reason why this amendment to this fourth section should be adopted; and in presenting it I trust the scope of my remarks will be an answer to what the gentleman has said. It is true, undoubtedly true, that these States remained disorganized States in the Union. It is also undoubtedly true that those who were the conquerors upon the field of battle reduced those in rebellion to subjection. It is also undoubtedly true that the Government of the United States by its own election extended to those insurgents the rights of belligerents; and it is also true that by their rebellion those insurgents failed to place themselves in a position to put those States out of the Union or in the condition of foreign territory, or beyond the jurisdiction of the United States. They fully succeeded by their rebellion in overturning their previously existing State governments; and that being the case, the gentleman will find an answer to his question in this: that it follows from the premises that the legislative power of the Government of the United States is exclusive within those States, and so will continue until the people thereof reorganize constitutional State governments, and the same shall be recognized by Congress.

Mr. SPALDING. I desire to ask the gentleman a question for the purpose of information alone. I understand it to be the objection of my colleague [Mr. BINGHAM] that the courts of the United States shall not be permitted to issue writs of *habeas corpus* in cases punishable under the congressional enactment. Now, I ask if it would not have the same effect if the phraseology were so altered as to say that the courts and judicial officers of the said States shall not issue writs of *habeas corpus*?

Mr. BINGHAM. Not quite, in my opinion.

Mr. SPALDING. I would ask the gentleman if he supposes that the State courts have the same jurisdiction in these States that our courts have?

Mr. BINGHAM. They have not.

Mr. ELDRIDGE. I hope the gentleman will not pass from the subject until he thinks he has answered my question. He has not yet done so.

Mr. BINGHAM. I do not propose to evade the gentleman's inquiry.

Mr. ELDRIDGE. I hope he will give a fair answer to my question.

Mr. BINGHAM. I was proceeding with the answer when I was interrupted. This exception which I propose has relation only to the courts of the United States, and not to the courts of the States. But, sir, I was proceed-

ing to say, those insurgent States, having by rebellion destroyed and disorganized their State governments, ceased to be represented or to be entitled to be represented from that day in the Congress of the United States, and in reference to that deprivation I was proceeding to tell the gentleman that which is written in the Constitution of the United States, and which no member upon the floor can gainsay.

Mr. NEWELL. Will the gentleman allow me to ask him one question?

Mr. BINGHAM. I cannot yield.

Mr. WRIGHT. I would like to ask the gentleman if, in his opinion, the party to which he belongs has conformed to the Constitution?

Mr. BINGHAM. The whole nation has settled the question of the power of Congress to legislate over those insurgent States without their consent and against their consent. It must be so, or it follows that all the laws you have enacted during the last five years affecting those people are unconstitutional and void. This exclusive power being in Congress to legislate over the people of those disorganized States for the protection of persons and property, it follows that their temporary organizations are subject to such limitations and prohibitions as by law Congress may impose. This being so, this bill in its general provisions, touching those State governments, is justified if in the judgment of Congress the necessity for it exists. The power asserted in this bill is in perfect harmony with all the legislation of this Government since the breaking out of the rebellion over those States. It has been settled by the voice of the nation, as I before stated, that those States are subject under the limitations of the Constitution to such legislation as Congress may see fit to impose, and can exercise the functions of local government only by the sufferance of the nation.

Mr. BOUTWELL. Will the gentleman from Ohio allow me to make an inquiry?

Mr. BINGHAM. Yes, sir.

Mr. BOUTWELL. I understand that the gentleman from Ohio desires, by his amendment to the preamble, to declare that these "States," as they once were in the judgment of all, are now States. If he believes that they are now States, I ask him how he can reconcile it with his oath to support the Constitution if he does not accord to them all the rights of States under the Constitution, and to their citizens all the rights of citizens of the United States to the same extent that those rights are accorded to the people of his own State?

Mr. BINGHAM. I do not by the amendment say they are now States as they once were. I have said they are States disorganized. I ask the gentleman how he can reconcile with his oath the fact that he voted for the Freedmen's Bureau bill on the 22d of July last, which bill subjected every one of those States until they shall be restored to their constitutional relations to the provisions of that act, and to the enforcement of the law according to its provisions?

Mr. BOUTWELL. There is no distinct declaration in the Freedmen's Bureau bill.

Mr. BINGHAM. The gentleman will pardon me. There is a distinct declaration.

Mr. BOUTWELL. In that act we recognize "States and districts" as subject to the act.

Mr. BINGHAM. I understand; and we recognize also States separately.

Mr. LAWRENCE, of Ohio. Geographical States.

Mr. BINGHAM. Well, "geographical States," but the very phrase which I use is used in that act, and no such terms as geographical or so-called States are used in that act.

Mr. BOUTWELL. I wish to call the gentleman's attention to the question which I put to him. I would like him to answer it.

Mr. BINGHAM. I am answering it, and I am not to be diverted from my answer. The Freedmen's Bureau bill provided—

"That in every State or district where the ordinary course of judicial proceedings has been inter-

rupted by the rebellion, and until the same shall be fully restored, and in every State or district?"

Mr. BOUTWELL. "State or district."

Mr. BINGHAM.

"whose constitutional relations to the Government have been practically discontinued by the rebellion, and until such State—"

There is no "district" there.

"shall have been restored in such relations, and shall be duly represented in the Congress of the United States."

Every gentleman knows that the words "or district" were employed so as to give effect to that bill in States in which the relations of the Government were partially restored, but in which there were districts in which those relations were not restored. There is no difficulty in that question, and I want to know, while I am on this subject, whether the gentleman from Massachusetts has so much respect for his oath that he is going to say that Virginia, in which you have indicted Jeff. Davis for high treason, ceased to be a State by reason of his treason, so that under the provisions of the Constitution he can no longer be held to answer for his crime in that State. The Constitution provides for a—

"Trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law."

Virginia remains a State, though disorganized, in spite of Jeff. Davis's treason, and he can be tried and punished in that State for his treason; and this doctrine is in harmony with all our previous legislation.

"I understand exactly why this phrase so-called is inserted in the preamble of this bill now pending and in the bill itself. It gives no force or effect whatever to the bill." I have already anticipated and answered the gentleman's objection. No matter what declarations we may now make we have treated those States as States in all our legislation heretofore. When the gentleman from Massachusetts voted for the act apportioning Representatives among these States what became of his oath to support the Constitution, if, under the circumstances, they were not States.

Mr. BOUTWELL. I was not here at that time.

Mr. BINGHAM. Well, then, I put the inquiry to the gentleman who were here and who did vote for that act, and who now advocate this bill; and the gentleman [Mr. BOUTWELL] was here last session when we passed the Freedmen's Bureau, in which we called them States and legislated over them as States.

Mr. ELDRIDGE. I hope the gentleman will not forget to answer my question. He told me he would do so.

Mr. BINGHAM. The gentleman's question only involved the point whether those States can exercise the functions of a State or were subject to exclusive congressional legislation in the absence of a constitutional State government. I have been answering that question.

Mr. ELDRIDGE. I put to the gentleman this further question: if this bill should be enacted into a law what laws would then be in force over those people?

Mr. BINGHAM. That question I propose to answer, and with this I shall close what I have to say.

I have before replied to the gentleman that those States, having entered into rebellion, the unlimited power for the common defense throughout their limits was exercisable by Congress by virtue of the very terms and intentment of the Constitution, and this power may be exercised by Congress until the time when those people return to their loyalty and fealty in such a manner as shall satisfy the people of the United States, duly organized and represented in Congress, of their fitness to be restored to their full constitutional relations.

If this is not law then it results that the moment you break the battalion of armed rebellion in the field of open conflict, that moment all the sovereignty that originally pertained to

organized constitutional State governments immediately springs into being without the power of challenge on the part of the nation. I deny that such is the fact. It remains for those who have been in rebellion after they have surrendered upon the field of conflict to exercise their right of petition, being citizens of the United States, peaceably and quietly under the general operation of the Constitution, the general jurisdiction of which still extends over them, and present to the Congress of the United States a constitutional form of government, republican as required by the Constitution, and in all respects conformable to the laws of the United States, and thereby give some evidence of their disposition and fitness to return to that allegiance which they attempted to throw off by their treason, and which they always owed to the Government, and to be restored to the powers of organized States of the Union, which had protected them and theirs. When that day comes the Government by the sword ought to and must cease and determine, and the exclusive jurisdiction of the United States to govern therein must then also cease.

I desire to call the attention of the House to this proposition: that the effect of the amendment which I propose in the preamble is to make a solemn declaration to the country that this military authority is not to be exercised an hour after those States shall have been restored to their constitutional relations. What objection is there to this? I know that it is not necessary to do so; but is it not politic and wise to solemnly notify the world that you are going to exercise these extraordinary powers only so long as, in the word of the Constitution, it shall be necessary for the rightful enforcement of the Constitution and laws and the protection of life and property in the insurgent States? Incorporate this amendment in the preamble and thereby proclaim that this power is to be exercised only until those insurgent States shall have been fully restored to their constitutional relations to the Government of the United States. This being done every one will be under the protection of the civil law, and the occasion for military rule will happily have passed away, and those disorganized States be restored to their equal political power in the Union.

I desire to put this amendment into the preamble for the further reason that I wish thereby to notify in the most solemn form the men who constitute, perhaps, the majority of the people in those ten lately insurgent States, and who themselves were in open armed rebellion, that what they have to do, and all they have to do, in order to get rid of military rule and military government, is to present to the Congress of the United States a constitutional form of State government in accord with the letter and spirit of the Constitution and laws of the United States, together with a ratification of the pending constitutional amendment.

That being done, sir, this military rule ceases and determines. I am sure of this: that the American people will have rule, civil or military, in those insurgent States until they shall be fully restored to their constitutional relations. And in so far as they may be able under direction of law and the authority of law enacted by their Congress, they will protect all men in those States in life, liberty, and property until they can be fully protected under accepted constitutional State governments. When men in those States shall have fulfilled their obligations, and when the great people themselves shall have put, by their own rightful authority, into the fundamental law the sublime decree, the nation's will, that no State shall deny to any mortal man the equal protection of the laws—not of the laws of South Carolina alone, but of the laws national and State—and above all, sir, of that great law, the Constitution of our own country, which is the supreme law of the land from Georgia to Oregon and from Maine to Florida—then, sir, by assenting thereto those States may be restored at once. To that end, sir, I labor and for that I strive;

and in order there may be no hinderance in the way, no unnecessary catch-words inserted to get rid of that great amendment, I ask that this phrase "so-called States" be stricken from the bill and preamble, and that this limitation upon the exercise of this great power of Government be inserted plainly, declaring that military rule shall cease upon restoration.

Mr. MAYNARD. The gentleman will allow me to call his attention to this particular point: what effect will this bill have, if passed, upon the existing organizations of State governments?

Mr. BINGHAM. I attempted to state; it has this effect: they exercise their functions, if this bill shall pass, by sufferance of the nation, and to the extent the commanders may permit. I do not suppose the bill was intended to prohibit those informal governments from enforcing justice in their courts, or from deciding upon simple contracts. I do not suppose it was intended by this bill to enforce a collection of debts through courts-martial or military commissions, or to grant administration therein, or to prescribe the law for the solemnization of marriage, or for the distribution of estates, but to enforce such laws as will insure the safety and liberty of all the people of all those States.

Mr. MAYNARD. If we pass this bill will it permit us, so far as these organizations are concerned, if they embarrass us hereafter, to set them aside and provide others?

Mr. BINGHAM. If we are not satisfied that those organizations are republican and just and equal and constitutional, we may require them to go further and do something else.

Mr. LAWRENCE, of Ohio. In the present position of the bill under consideration an amendment I am aware is not in order. But I desire to submit for consideration some amendments, and if they shall be found practicable and desirable they can be offered if opportunity shall be given hereafter. I may remark the bill does not propose any plan of reorganizing State governments in the late rebel States. It emphatically asserts, what is not seriously denied anywhere now, that the existing State governments in ten of the rebel States were set up without authority and in violation of the Constitution, and are therefore of course illegal. It provides for the military protection of the people in these States. The experience of nearly two years, and the concurrent testimony of all who have the means of knowing, abundantly prove the necessity of this military protection.

Unless the loyal population of these States is to be left to the merciless rule of the rebels, who employ the color of authority they exercise under illegal but *de facto* State governments to oppress all who are loyal without furnishing them any protection against murder and all the wrongs that rebels can inflict on loyal men, we cannot, dare not refuse to pass this bill.

But this bill does not touch the question of reorganizing legal State governments. Such governments can be established in several modes, if Congress would ratify the existing State governments that would give them validity. But there are objections to this. It is always dangerous to approve what has been illegally done. These State governments are in the hands of rebels, and have signally failed to accomplish the purpose of all government—to protect life, liberty, and property; and beside they are not republican in form. Congress might pass an "enabling act" prescribing the mode of organizing State governments, authorizing the appointment of provisional governors, with a provisional or temporary government somewhat similar to a territorial government. The territorial laws enable the people to form State governments; but with the appointing power in the hands of such a President as Andrew Johnson, the provisional governors would all be men whose sympathies and powers would be exercised in the interest of rebels against loyal men, against a State government republican in form. We cannot trust the President. An enabling act is therefore not so practicable

as it would be if the President himself adhered to the principles which he professed when he was elected.

The people may voluntarily organize a State government in the exercise of the right of petition, and they may ask Congress to approve and ratify such government. This was done in the case of West Virginia and of Tennessee. But until such voluntary governments can be formed there ought to be, if practicable, a civil government in some form, with the administration of justice as well as that military jurisdiction which the condition of the rebel States demands, and which on constitutional grounds is justified by that condition and by the state of war which yet exists in those States—not flagrant war, but nevertheless a state of war—the period recognized by courts as *non flagrante, sed nondum cessante bello*.

This bill does not authorize any form of civil government, provisional or otherwise. It does indeed provide that the military authorities "may allow civil tribunals to take jurisdiction of and to try offenders." This, of course, permits the exercise of the jurisdiction not only of the national courts, but of those of the local illegal State governments. I will not say it is a recognition of the rightfulness of that exercise of jurisdiction, but it is open to the objection that it may be construed into a recognition of the right to exercise it.

For myself, I am ready to set aside by law all these illegal governments. They have rejected all fair terms of reconstruction; they have rejected the constitutional amendments we have tendered them; they are engines of oppression against all loyal men; they are not republican in form or in practice. Let them not only be ignored as legal governments but set aside because they are illegal. And inasmuch as the force of circumstances will not permit us to pass "enabling acts" that would be faithfully carried into effect, we may properly confer upon the national courts already existing in the rebel States the power to exercise all necessary jurisdiction in all cases where judicial authority may be requisite. This jurisdiction can be conferred on existing national courts just as fully as it is conferred on courts created in the Territories. This will give to all the people the protection of a judiciary under national authority. This bill provides that each district shall have assigned to it an officer of the regular Army who might be called, but is not, a military or provisional governor. He will be the executive authority, just as Andrew Johnson was military governor of Tennessee when its military necessities required such an officer there.

With this military and judicial authority in operation the people can by voluntary action, as in the case of Tennessee, form a State government in each State and submit it to Congress for its ratification and approval. And such governments, when properly organized and in loyal hands, and like Tennessee, accepting the proper terms of reconstruction, can by the action of Congress be ratified, and the States restored to their proper, practical relations in the Union. The amendments I have to suggest will complete this bill, and give that civil jurisdiction which this bill does not. All this is authorized by the Constitution in that clause which makes it the duty of Congress to guaranty to every State a republican form of Government. Congress is the sole judge of the means necessary to accomplish this end. The ten unreconstructed rebel States have no lawful State governments, and it is the duty of Congress now to take the steps necessary to create new State governments.

And now, Mr. Speaker, with a view to have the consideration of the House on certain modifications and additions to the bill, I suggest the amendments I send to the Clerk's desk:

The Clerk read as follows:

In section one, line three, strike out the words "so-called States," and insert the words "the several districts of country which, prior to the rebellion, composed the States of North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana,



Florida, Texas, Arkansas, and Virginia, (not including any part of the present State of West Virginia.) In section three, line six, after the word "allow," insert the words "the national."

Sec. 6. *And be it further enacted*, That the district courts of the United States in their respective districts, and the judges thereof severally in the several districts of country which, prior to the rebellion, composed the several States of Virginia, (not including the new State of West Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas, shall have power and jurisdiction by the rules, usages, and practice which prevail in said courts and with said judges, or that may be prescribed for that purpose, to hear and determine all causes, proceedings, and rights of action at law, in equity and otherwise, and all matters of probate and testamentary jurisdiction as fully as all such causes, proceedings, rights, and matters could have been heard and determined in the courts and by the judges exercising jurisdiction prior to the rebellion, under the State governments then and theretofore existing in said several districts of country, but subject to the laws of the United States so far as the same may not be locally inapplicable.

Sec. 7. *And be it further enacted*, That the laws which are, or may be, in force in the District of Columbia, defining and punishing crimes, offenses, and misdemeanors, so far as the same may not be locally inapplicable, shall be in force in the said several districts and the district courts of the United States, and the judges thereof, in their respective districts, shall have jurisdiction and authority, according to the practice and usages of said courts and judges, or such as may for that purpose be prescribed, to try and punish all persons hereafter guilty of any crime, offense, or misdemeanor, as defined by said laws.

Sec. 8. *And be it further enacted*, That said courts and judges shall have power and authority to issue and enforce all process writs, and adopt such practice and proceedings as may be necessary or proper to exercise the powers and jurisdiction herein conferred on said courts and judges, and to prohibit and punish the exercise of any such jurisdiction or power by any person, tribunal, court, or jurisdiction claiming a right to exercise, or in fact exercising the functions of any judge, court, tribunal, or authority under any of the illegal and unauthorized governments assuming to be State governments in any of said districts. And it shall be the duty of the military authorities to enforce the process, judgments, sentences, proceedings, and authority of the courts of the United States in said districts.

Sec. 9. *And be it further enacted*, That the district court of the United States may hold sessions at such times and places as said court or the judge thereof may from time to time determine, and as may be necessary for the administration of justice.

Sec. 10. *And be it further enacted*, That it shall be the duty of the military authorities herein authorized to protect the loyal citizens of any district of country heretofore embraced in any one of the States herein named in any and all voluntary meetings, conventions, and proceedings which they may peaceably hold or institute for the purpose of making a constitution and organizing a State government republican in form, to be submitted to Congress for ratification and approval, and to go into effect only when so ratified and approved.

Mr. HISE. Mr. Speaker, I rise for the purpose, as a member of the committee which reported this bill, to get the floor, in order to enter my protest against its adoption. I prefer, however, with the leave of the House, to defer my remarks till to-morrow, when the consideration of this subject is resumed. If it shall be the understanding that I can have the floor in the morning, I will give way to others who may wish to speak to-night.

Mr. SPALDING, Mr. LYNCH, and others objected.

Mr. HISE. Then I will, of course, proceed.

Mr. SPALDING. I do not wish to interfere with any rights that may have been extended to the gentleman from Kentucky by the chairman of the Committee on Reconstruction, and if it was his understanding that he was to go on to-morrow I withdraw my objection.

Mr. LYNCH. I also withdraw my objection, as I understand it will not affect the length of the debate whether the gentleman goes on now or to-morrow.

Mr. FARNSWORTH. I insist that the debate shall take its regular course, unless the gentleman is unwell and therefore appeals to the courtesy of the House for permission to postpone his remarks.

Mr. HISE. I will state that I am no further indisposed than that I am somewhat weary with the labors of the day, and on that account prefer to defer my remarks till to-morrow; but I will go on to-night if it is insisted upon.

The SPEAKER *pro tempore*. Is the objection withdrawn?

Mr. FARNSWORTH. It is not.

Mr. HISE addressed the House for one hour. [His speech will be published in the Appendix.]

Mr. INGERSOLL obtained the floor.

Mr. LYNCH. I ask the gentleman to yield to me for a moment, to enable me to offer an amendment which I desire to have printed.

Mr. INGERSOLL. I will yield for that purpose.

Mr. LYNCH. I offer the following amendment, and move that it be printed:

Sec. 6. *And be it further enacted*, That under the direction of the General of the Army all the loyal male inhabitants of said districts, respectively, fit for military duty, between the ages of sixteen and forty-five years, shall be organized into district militia, shall be armed and equipped at the expense of the United States, and shall be called out for discipline and drill not more than twelve days in each year; and shall be called out for service to preserve order and maintain peace and the authority of the United States in the several districts, at the discretion of the district commanders, subject to the order of the General of the Army, and for like service in any other district by his order. While on service, active or for discipline and drill, said militia, officers and enlisted men, shall have the same pay and allowances as the regular Army of the United States.

The motion was agreed to.

#### A PATENT CASE.

Mr. ECKLEY, by unanimous consent, introduced a bill granting jurisdiction to the Court of Claims in a case involving the rights of a patentee; which was read a first and second time, and referred to the Committee on Patents.

Mr. ALLISON moved to reconsider the vote by which the bill was so referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### RECONSTRUCTION—AGAIN.

Mr. INGERSOLL resumed the floor, and addressed the House. [His remarks will be published in the Appendix.]

Mr. SHANKLIN obtained the floor.

Mr. TRIMBLE. Will my colleague yield to me for a moment?

Mr. SHANKLIN. I will.

Mr. TRIMBLE. I desire to give notice that if opportunity offers I shall ask leave to move as an amendment to this bill what I send to the Clerk's desk to be read.

The Clerk read as follows:

*Provided*, That under the provisions of this act no person shall be held to answer for a capital or otherwise infamous crime unless on presentment or indictment of a grand jury. And in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed.

And then, on motion of Mr. TRIMBLE, (at ten o'clock and thirty minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. ALLEY: The petition of George Appold & Sons, and others, for a reduction of tax on leather.

By Mr. BALDWIN: A petition of citizens of Massachusetts, asking for such a change in the post office law as will allow books and pamphlets to be sent to public libraries and historical societies without prepayment of postage.

By Mr. BRADFORD: The petition of citizens of Denver, Colorado Territory, in opposition to a reduction of the national currency.

By Mr. CULLOM: Two petitions signed by a large number of citizens of Logan county, in the State of Illinois, asking Congress to prevent, by whatever legislation is necessary, the withdrawal of the national legal-tender currency from circulation.

By Mr. DAVISON: Joint resolutions of the Legislature of Pennsylvania, asking a reduction of the tax on petroleum.

By Mr. DENNY: The petition of mechanics, contractors, and persons furnishing building materials, for an amendment to the lien law of the District of Columbia.

By Mr. GOODYEAR: The petition of divers citizens of Albany city and county, New York, cigar manufacturers, praying for an amendment of the law imposing a tax on cigars.

By Mr. HOGAN: The petition of workmen of St. Louis, Missouri, praying for the legalization of eight hours as a legal day's work in the navy-yard and other work-shops of the Government.

By Mr. HOOPEK: The petition of Charles W. Dabney, United States consul at the Island of Fayal, for authority to the Secretary of the Treasury to issue a register for the bark Fredonia as a vessel of the United States.

By Mr. HOTCHKISS: The petition of cigar-makers of Binghamton, New York, for modification of tax law.

By Mr. HUNTER: The memorial of Hall, Bradley

& Co., asking that the duty on oxide of zinc may be left as it was before amended by the Senate.

By Mr. KELLEY: The memorial of the Board of Delegates of American Israelites, remonstrating against the manner and formality with which the test oath prescribed by the bill reinstating civil government in North Carolina is to be administered.

By Mr. KOONTZ: The petition of citizens of Middle Woodbury, in the county of Bedford, in the State of Pennsylvania, against the passage of any act authorizing the curtailment of the national currency and against the enactment of any law compelling all national banks to redeem their notes in New York, or prohibiting national banks from paying or receiving interest on bank balances.

By Mr. PERHAM: The petition of Isabella Fogg, of Maine.

By Mr. POMEROY: The remonstrance of numerous citizens of Palmyra, Wayne county New York, against: 1. Reduction of national currency; 2. New York redemption; 3. Restriction of interest on deposits.

Also, the petition of E. Munson, and 112 others, citizens of Seneca county, New York, for protection to the woolen interests of the county.

By Mr. RICE, of Massachusetts: The petition of E. R. Sawyer, for register for the bark Mary, found derelict at sea.

Also, the memorial of the Boston Board of Trade, for the passage of an act to encourage commerce, &c.

By Mr. ROLLINS: The memorial of Benjamin Balch, and 33 others, praying for the passage of a national revenue and insurance law of the United States.

By Mr. SCHENCK: Two petitions from citizens of Washington, District of Columbia, for the removal of the railroad depot nuisances from the streets and avenues around the Capitol.

#### IN SENATE.

FRIDAY, February 8, 1867.

Prayer by Rev. WHELOCK H. PARMLEY, D. D., of Jersey City, New Jersey.

The reading of the Journal was dispensed with by unanimous consent, at the suggestion of Mr. CONNESS.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislative Assembly of the Territory of New Mexico, praying that a commission may be appointed to settle the claims of citizens of that Territory for property destroyed by rebels during the late rebellion; which was referred to the Committee on Claims.

Mr. WILSON presented resolutions of the Board of Trade of Boston, remonstrating against any change in the existing laws in relation to the national currency; which were referred to the Committee on Finance.

Mr. DOOLITTLE presented a memorial of the Mobile Harbor and Railroad Company, praying to be authorized to purchase Sand Island, in the Gulf of Mexico; which was referred to the Committee on Military Affairs and the Militia.

He also presented the petition of Jesse O'Neal, praying the adoption of measures for the protection of the lumber on the public lands in the States of Alabama and Florida; which was referred to the Committee on Public Lands.

Mr. HOWE presented a petition of S. Calvert Ford and other citizens of the District of Columbia, praying an examination of the advantages which the District presents for the location of a naval depot for the building, repairing, and security of the iron-clad naval vessels of the Government; which was referred to the Committee on Naval Affairs.

He also presented a petition of citizens of Washington, District of Columbia, praying that a charter may be granted for the purpose of building a railroad from Washington city, through Virginia, to Cincinnati, Ohio; which was referred to the Committee on Commerce.

Mr. YATES presented resolutions of the Legislature of Illinois, in favor of an appropriation for the completion of the navy-yard at Mound City, in that State; which were referred to the Committee on Naval Affairs.

He also presented a memorial of citizens of Illinois, remonstrating against any curtailment of the national currency with the view of a return to specie payments within a limited time, and against the passage of any act requiring the national banks to redeem their circulation in New York, or prohibiting them from paying or receiving interest on bank bal-

ances; which was referred to the Committee on Finance.

Mr. CHANDLER presented a petition of owners of tugs and other vessels on the lakes and rivers of our northern frontier, praying that the provisions of the twenty-first section of the act entitled "An act to prevent smuggling, and for other purposes," approved July 18, 1866, may not be held to apply to any case where the towing therein described is done in whole or in part within or upon foreign waters; which was referred to the Committee on Commerce.

Mr. WILLEY presented the petition of Eliza Wells, widow of Henry Augustus Wells, praying an extension of the patent granted to her late husband for an improvement in the manufacture of fur hat bodies; which was referred to the Committee on Patents and the Patent Office.

Mr. MORGAN presented the petition of Pollak & Son, of New York praying for the repeal of the law imposing a duty on imported meerschaum and amber; which was referred to the Committee on Finance.

He also presented a petition of farmers and manufacturers engaged in the cultivation and manufacture of flax, praying an increase of the duty on imported flax and flaxseed; which was referred to the Committee on Finance.

Mr. SHERMAN presented the petition of Hubbard & Shoemaker, praying for the passage of the bill (H. R. No. 598) to establish a uniform system of bankruptcy throughout the United States; which was ordered to lie on the table.

Mr. POMEROY presented a petition of citizens of Leavenworth, Kansas, praying the donation of a strip of land one hundred feet in width along the southern boundary of the military reservation of Fort Leavenworth for a public road; which was referred to the Committee on Military Affairs and the Militia.

Mr. DOOLITTLE presented resolutions of the Legislature of Wisconsin, in favor of an increase of the duty on imported wool; which were ordered to lie on the table, and be printed.

He also presented resolutions of the Legislature of Wisconsin, in favor of a new treaty between the United States Government and the Stockbridge Indians, residing in that State, which shall provide for the removal of those Indians to a more genial climate and fertile soil; which were ordered to lie on the table, and be printed.

Mr. SUMNER presented the petition of William H. Maies, late acting volunteer lieutenant United States Navy, praying to be assigned to the Navy; which was referred to the Committee on Naval Affairs.

#### REPORTS OF COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred the bill (H. R. No. 840) for the relief of the sureties of James T. Pollock, late receiver at Crawfordsville, Indiana, reported it without amendment.

Mr. WILLEY, from the Committee on Patents and the Patent Office, to whom was referred the bill (S. No. 150) for the relief of George B. Simpson, reported it without amendment, and submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 760) for the relief of James C. Cook, reported it without amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 131) authorizing the Secretary of War to convey certain lots in Harper's Ferry, West Virginia, reported it without amendment, and asked that it be put on its passage.

Mr. JOHNSON. I prefer that that should lie over. There is some difficulty, I think, about the title, whether the United States have any authority to dispose of it. I would rather it should lie over.

The PRESIDENT *pro tempore*. Objection

being made, the bill cannot be considered the day it is reported.

Mr. HENDERSON, from the Committee on Indian Affairs, to whom were referred the amendments of the House of Representatives to the bill of the Senate (S. No. 204) to provide for an annual inspection into Indian affairs, and for other purposes, reported them, with a recommendation that the Senate do not agree to the amendments of the House of Representatives to the bill.

He also, from the same committee, to whom were referred the following bill and joint resolution, reported them with amendments:

A bill (H. R. No. 588) to provide for the relief of Richard Cheney; and

A joint resolution (H. R. No. 89) to provide for the payment of the claim of Martha A. Estill, administratrix of the estate of James M. Estill, deceased.

Mr. HENDERSON, from the Committee on the District of Columbia, to whom were referred the following bills, reported them with amendments:

A bill (S. No. 371) to incorporate the Metropolitan Hall and Market Company of Washington, District of Columbia; and

A bill (H. R. No. 571) to regulate proceedings before justices of the peace in the District of Columbia, and for other purposes.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the joint resolution (S. R. No. 163) to provide in certain cases for the removal of alcohol from bonded warehouse free from internal tax, reported it without amendment.

#### BILLS INTRODUCED.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 578) to extend the provisions of an act entitled "An act for the final adjustment of private land claims in the States of Florida, Louisiana, and Missouri, and for other purposes;" which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. DIXON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 579) to amend the post office laws; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. PATTERSON asked, and by unanimous consent obtained, leave to introduce a resolution (S. R. No. 166) providing for the payment of the Tennessee home guards, organized under the authority of Major General Burnside; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### DISTRIBUTION OF DOCUMENTS.

Mr. LANE submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That all documents ordered by the present Congress to be published, and which are actually printed prior to the first Monday of December next, shall be allotted as heretofore to the members of the present Congress, and transmitted to their residences as fast as printed, unless otherwise ordered by the members themselves.

#### COMPENSATION OF CIVIL EMPLOYÉES.

Mr. WILLIAMS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Senate meet on Monday, the 11th instant, at seven o'clock p. m., for the purpose of considering House joint resolution No. 224, providing extra compensation for civil employes at Washington.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPIERSON, announced that the House had passed a joint resolution (H. R. No. 276) directing the Secretary of War to furnish certain muster-rolls to the different States, in which it requested the concurrence of the Senate.

#### QUARTERMASTER SERGEANT OF ENGINEERS.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to

whom was referred the bill (H. R. No. 1127) to fix the pay of the quartermaster sergeant of the battalion of Engineers, to report it back and recommend its passage. I hope it will be acted on at once.

By unanimous consent the bill was considered as in Committee of the Whole.

It provides that hereafter the pay and allowances of the quartermaster sergeant of the battalion of Engineers of the Army of the United States shall be the same as those allowed by law to the sergeant major of that battalion.

The bill was reported to the Senate and ordered to a third reading.

Mr. TRUMBULL. I do not know that I have any objection to this bill, but I certainly do not understand it. I suppose it is one of those leveling up bills by which salaries are constantly raised. Somebody connected with the Army has had his salary increased, because he was supposed to be a particularly faithful officer, and then comes in a bill that somebody else shall have the same pay that he is receiving. I only call the attention of the Senate to it as an illustration of the way in which salaries are frequently increased. Some deserving person who is a favorite with Congress is suggested and a bill is introduced increasing his pay, and it is passed out of personal regard. Then at the next session a bill comes in to equalize somebody with him.

Mr. WILSON. This is a simple proposition which comes from the House of Representatives to increase the pay of this quartermaster sergeant of the Engineer corps, who has large responsibilities, to the amount received by another officer of less responsibilities. It is a small matter at any rate, but I hope the Senate will pass the bill promptly. Although it is leveling up pay I think it is hardly equal to the leveling up proposition we had yesterday from the committee of which the honorable Senator from Illinois is chairman, which was to raise the salary of a judge of the United States in the little State of Delaware, who has little or nothing to do, from \$2,000 up to \$4,000, because the salary of some other judges ought to be raised. This judge had time to issue a *habeas corpus* to take the murderers of Union soldiers of Maine out of Fort Delaware. This is the case of an officer with large responsibilities. This bill came from the Military Committee of the House of Representatives, and it is to correct a mistake made in the Army bill of last year.

Mr. SAULSBURY. Mr. President, I did not hear all the remarks of the Senator from Massachusetts in reference to the State of Delaware and the judge of the United States district court there; but I heard this expression fall from his lips: "the little petty judge in the little State of Delaware." Mr. President, from my infancy I have known this "little petty judge" in the State of Delaware; he had the confidence of my father and I bear his name; and I take occasion here to say, not only in reference to the allusion now made to that venerable man, but in reference to the flood-tide of abuse which has been hurled against him by the Radical press of the North, that there is no man within the limits of the United States of America who throughout life has maintained a more honorable fame than Willard Hall, of the State of Delaware, district judge of the United States. Appointed to that position by President Monroe before the Senator from Massachusetts was old enough to mingle in the counsels of men, he has lived until the frosts of age have whitened his head without stain and without reproach among his fellow-men. A Christian, if there be one within the limits of this entire country, who giveth charitable and religious objects every year he lives more than the amount of his salary, devoted heart and soul to every good word and work for the improvement of his fellow-men. Now when the grave is opening before him, he is assailed throughout the length and breadth of the United States because in fidelity to his oath of office and to the high trust committed to

him he fearlessly stands the defender of the Constitution of this country and vindicates it in his high office.

Sir, that distinguished judge does not belong and has not for many years belonged to the political party with which I act. If advocacy of the war after it commenced, if support of the war after it commenced, constituted loyalty, he was among the most loyal. He wished to avert the calamity of war, but when the country was engaged in war he was one of those who wished that success might attend your standard.

I take occasion too, sir, to say, in reference to that judge, that among all the district judges of the United States there are none abler. When appointed district judge for that State he was at the very head of the bar of that State. It was a pecuniary loss, a sacrifice to him to accept the position. It matters not to him whether you increased his salary or not, but when you increase the salary of one judge you cannot justly discriminate as against another. And in reference to the "petty State of Delaware" or the "little State of Delaware," I do not presume the honorable Senator from Massachusetts meant any reflection. It is true, sir, that she is not extensive as far as her territories are concerned; but there is one thing that can be said, she was the first to adopt the Constitution under which we formerly lived, the Federal Constitution, and under no circumstances has she through any department of her government done aught at any time in violation of that Constitution or in opposition to the Union for which that Constitution was formed.

It cannot be said of her that she has ever advised resistance even to Federal law. It is no fault of hers if wild and maddened schemes for the perpetuation of a political party in power have plunged this country into horrid civil war. It is no fault of hers if your Federal Union is this day destroyed. She has advocated none of the wild, unconstitutional doctrines which arrayed brother against brother, State against State, and section against section; but throughout her whole history, observing with fidelity the bond of union into which she entered with other States, she has trespassed upon no rights of others, and only claimed that she should be respected in her own. And throughout all her history she has shown a devotion to the Constitution of the country and to the union of the States which had it been followed by Massachusetts and other States, would have saved us from the calamities under which we now suffer; and instead of every household being this day clothed in mourning, instead of almost every eye in this country having been bathed with tears, there would be nothing but joy, happiness, and prosperity everywhere.

Mr. TRUMBULL. When I was up before I stated briefly the objection to this mode of legislation of raising the salary of one person so as to correspond with that of another without stating in the law the exact amount of salary. I think I am correct in this objection. The Senator from Massachusetts, before he got through with his remarks, placed this bill upon the very ground on which I objected to it. He said that the person holding the office of quartermaster sergeant was a faithful officer. Is that the principle upon which salaries are to be fixed? It may be in the view of the Senator from Massachusetts, because he has undertaken to denounce a measure which fixes the salaries of the district judges of the United States, on the ground, forsooth, that some incumbent of the office of district judge somewhere is not a man according to his views. Are the salaries of the officers of this country to be fixed upon any such principle as that? You might as well undertake to discriminate in this body, to give one Senator one salary and another a different salary.

The Senator says this is a very simple proposition. What is it? It is a proposition to allow to the quartermaster sergeant in the

battalion of Engineers the same pay allowed by law to the sergeant major of the battalion. How many Senators know what that is? I think this is an improper mode of legislation, and I have objected to such legislation on previous occasions.

Mr. WILSON. This is a bill passed by the House of Representatives to increase the pay of an officer from twenty-two to thirty-six dollars per month, on the recommendation of the chief Engineer, accompanied by a letter from the Secretary of War. To explain the matter more fully, I will read a portion of a letter from the head of the Engineer corps to the Secretary of War:

"I have the honor [says General Humphreys] to invite your attention to certain matters relating to the organization of the Engineer battalion, which, in my opinion, call for additional legislation; and to ask that they be brought to the favorable attention of Congress at its present session.

"1. The pay of the quartermaster sergeant of the battalion should be made the same as that of the sergeant major. As the laws now stand the sergeant major receives thirty-six dollars per month; a sergeant thirty-four dollars; a corporal twenty dollars; and the quartermaster sergeant, who is the second in rank among the non-commissioned officers of the battalion, only twenty-two dollars. His duties, involving the care of much engineer property in addition to that belonging to the quartermaster's department, are of an important and responsible character, and it is but just that his pay should be made to correspond, instead of being as it now is, twelve dollars per month less than the company sergeants, who rank below him. The present rate of pay is clearly our inadvertence, which Congress would no doubt promptly correct on its being brought to its notice.

Mr. TRUMBULL. Now, in my judgment we should have understood this bill better if it had provided that the salary of this officer should be increased from twenty-two to thirty-six dollars per month, which the Senator from Massachusetts says is the effect of it. It is not framed in that way, but provides that one officer shall have the pay and allowances now given to another officer.

Mr. WILSON. If the Senator had asked me what change was made in the law by this bill as it came to us from the House of Representatives I could very readily have told him. I did not draw the bill; it comes from the House in this shape. I had the letters of the Secretary of War and of the chief Engineer at my desk and could readily have answered any question in regard to it, and should have been glad to do so.

Mr. CONNESS. Time is very precious at this period of the session, and I hope it will not be wasted on this little matter. When a measure comes from one of the standing committees of this body it is always entitled to consideration. I am sure this bill need not occupy much time. I trust we shall have the vote upon it.

Mr. DAVIS. I think the exception taken by the Senator from Illinois to the insidious manner in which this bill is worded is very proper and very just. That, however, is a favorite mode in which legislation for the purpose of an increase of salaries is introduced into the two Houses of Congress. I think it ought to be so distinctly reprobated that it shall not be repeated for the future. It is insidious, and it does not inform explicitly the two Houses of the nature or extent of the increase of salary that is proposed. I think the just and the true mode of raising salaries is by a distinct expression of the amount to which they are to be raised. I myself have often seen the Senator from Illinois interpose to prevent this and other improper legislation, as I conceive, and I think he ought to be sustained by the Senate, and receive its support and respect for doing so. My only regret is that that Senator, with his strong sense and his correct statesmanship, does not more frequently interpose in such matters than is his habit. I trust that in the future we shall have his interposition much more frequently in this line.

The bill was read the third time, and passed.

#### PUBLICATION OF DEBATES.

Mr. ROSS presented a concurrent resolution directing the Secretary of the Senate and Clerk of the House of Representatives to contract

with D. C. Forney for the publication of the debates of the two Houses in the Daily and Congressional Chronicle, and asked that it be referred to the Committee on Printing.

The PRESIDENT *pro tempore*. This is a concurrent resolution. Is there any objection to its introduction?

Mr. McDUGALL. I object.

The PRESIDENT *pro tempore*. Objection being made, it lies over.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. RAMSEY. I move to take up Senate bill No. 527, to amend the postal laws.

Mr. FESSENDEN. The hour has come for the order of the day.

The PRESIDENT *pro tempore*. The unfinished business of yesterday must now be taken up, which is the bill (H. R. No. 896) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1868.

Mr. FESSENDEN. Before proceeding to take the vote on the adoption of the amendments made as in Committee of the Whole, I wish to suggest to the honorable Senator from Vermont, [Mr. POLAND,] who moved the amendment with reference to the salaries of the district judges, that a slight alteration should be made in it which I suppose can be done by unanimous consent, so as to make these salaries commence from and after the 30th of June, 1867, the beginning of the fiscal year.

Mr. POLAND. So far as I am concerned I consent to that modification of the amendment.

Mr. FESSENDEN. I think it will be better to begin the fiscal year with the new salaries.

The PRESIDENT *pro tempore*. That modification will be made by unanimous consent, if no objection be interposed.

The question is on concurring in the amendments made as in the Committee of the Whole. The Chair will put the question on the amendments collectively, saving and excepting all such amendments as Senators may name, which will be excepted from the general vote of concurrence.

Mr. SHERMAN. I ask for a separate vote on the amendment in regard to the salaries of the district judges.

Mr. WILLIAMS. I ask for a separate vote on the amendment proposed by me increasing the salary of the Chief Clerk and of the Sergeant-at-Arms of the Senate.

Mr. CONNESS. I ask for a separate vote on the additional section I moved to the bill last night I wish to change a few words in it.

The PRESIDENT *pro tempore*. Are there any other exceptions to be made? If not the Chair will take the question on the residue of the amendments which have not been especially named.

The amendments not excepted were concurred in.

The PRESIDENT *pro tempore*. The excepted amendments will now be read in their order.

The Secretary read the first excepted amendment, which was to insert as an additional section:

*And be it further enacted, That the salary of the district judge of California shall be \$5,000; the salaries of the district judges of the districts of Massachusetts, southern and eastern districts of New York, eastern district of Pennsylvania, Maryland, northern district of Illinois, Louisiana, Oregon, and Nevada, shall be \$4,500 each; and the salary of the district judge of every other district shall be \$4,000 each; and such salaries shall be in full compensation for all official services performed by such judges, and no other allowance or payment shall be made to them for traveling expenses or otherwise; and the amount necessary to pay the increased compensation herein provided for shall be paid out of any money in the Treasury not otherwise appropriated.*

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in the amendment just read?

Mr. SHERMAN. Upon that question I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 30, nays 6; as follows:

YEAS—Messrs. Anthony, Buckalew, Cattell, Chandler, Conness, Creswell, Davis, Doolittle, Fes-



senden, Fogg, Foster, Frelinghuysen, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Morgan, Morrill, Nesmith, Poland, Pomeroy, Ross, Sprague, Stewart, Sumner, Van Winkle, Wiley, and Williams—30.

NAYS—Messrs. Grimes, McDougall, Sherman, Wade, Wilson, and Yates—6.

ABSENT—Messrs. Brown, Cowan, Cragin, Dixon, Edmunds, Fowler, Guthrie, Kirkwood, Lane, Norton, Nye, Patterson, Ramsey, Riddle, Saulsbury, and Trumbull—16.

So the amendment was concurred in.

The Secretary read the next excepted amendment, which was to insert as an additional section the following:

*And be it further enacted, That the Secretary of War is hereby authorized to direct a geological and topographical exploration of the territory between the Rocky mountains and the Sierra Nevada mountains, including the route or routes of the Pacific railroad: Provided the same can be done without additional appropriation.*

Mr. CONNESS. I desire to substitute in place of the words "without additional appropriation" the words "out of existing appropriations." It is a mere clerical correction.

The amendment to the amendment was agreed to.

The amendment, as amended, was concurred in.

The Secretary read the next excepted amendment, which was to insert as an additional section the following:

*And be it further enacted, That the salary of the Chief Clerk of the Senate shall be \$4,000, and that of the Sergeant-at-Arms \$3,500 per annum; and that the sum necessary to pay the increased compensation herein provided for the current and ensuing fiscal year be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.*

Mr. WILLIAMS. I move to amend the amendment by inserting after "\$3,500" in the fifth line the following:

*And that of the assistant doorkeeper shall be \$2,500: Provided, That section eighteen of an act allowing twenty per cent. on the pay of the officers and employes of the Senate shall not apply to the salaries hereby fixed.*

The amendment to the amendment was agreed to.

The amendment, as amended, was concurred in.

The PRESIDENT *pro tempore*. That completes the amendments made as in Committee of the Whole that were excepted.

Mr. POLAND. I desire to move an amendment by direction of the Judiciary Committee. It is to insert as an additional section the following:

*And be it further enacted, That from and after the 30th day of June next the annual salary of each of the judges of the Court of Claims shall be \$5,000.*

Mr. FESSENDEN. I hope that amendment will not be adopted. The judges of the Court of Claims now get precisely the same that the district judges in this District get, with the exception of the chief justice. He gets \$4,500, and the other judges get \$4,000. They were increased last year to that amount, and it was perfectly satisfactory to them. I think the salaries now allowed to the judges of the Court of Claims ought not to exceed the salaries allowed to the district judges and the United States district judges throughout the country. They do not render any more services; they do not sit all the year; whereas the district judges are here continually all the year round. I think there is no reason why this increase should be given to the Court of Claims.

Mr. TRUMBULL. I stated last evening why the committee moved this amendment, and should not now repeat it but that there are several Senators present who were not here last evening.

The Court of Claims is now a very important court as connected with the Government. It is required to hold its sessions here at the seat of Government. The judges of that court necessarily have to live here. They are here, have to be here most of the year; and I really know no reason why their salaries should not be as great as those of the justices of the Supreme Court of the United States. I think they ought to be. The justices of the Supreme Court have

\$6,000, and the Chief Justice \$6,500—little enough, in my judgment. Now we are paying the judges of the Court of Claims but \$4,000. They are required to reside here; it is an important tribunal; Congress is at every session devolving additional duties upon it. I believe that it is a court which saves to the Government of the United States annually very large sums of money by the investigation of claims against the Government, subjecting them to a critical examination, where we have attorneys employed to see that they are just and are proved before they are allowed. In my judgment, no gentleman fit to be a judge of the Court of Claims can live in Washington upon \$4,000 a year. I think the salary fixed by the committee is little enough, and I hope that the Senate will agree to it.

Mr. WADE. Mr. President, I am satisfied that if we increase the salaries of these judges, we shall have to raise the salaries of the judges of the courts of this District. At the last session of Congress we deliberately fixed the salaries of the judges of the supreme court of the District. The judges of that court are just as much engaged in their business as the Court of Claims; they sit all the year round with scarcely any vacation. They are satisfied now probably with the amount that we gave them, but who does not know that if we give this additional salary to the judges of the Court of Claims we shall have to make the judges of the district court even with them, and we can give no reason why it should not be done. Let us make them all alike.

Mr. TRUMBULL. Is the Senator from Ohio aware that the chief justice of the District already has had his salary fixed at \$4,500, \$500 more than the chief justice of the Court of Claims?

Mr. WADE. Very well. You propose to give the chief justice of the Court of Claims \$5,000.

Mr. TRUMBULL. But he has less now.

Mr. WADE. I propose to give him just the same as the other. I have no objection to that. Can you give any reason why they should not be precisely the same? If you do not do it you give general dissatisfaction, and they will be after you to make it even, and you cannot help yourself; you will have to make it so. Your sense of justice will compel you to do it. Let us put it the same as the others, and then it will stay where it is. If we do not it will not lay still until the next session.

Mr. DOOLITTLE. I should like to ask the Senator from Ohio before he takes his seat, if, in his opinion, it is not just to give that salary to the judges of the District, and also to the judges of the Court of Claims?

Mr. WADE. Well, sir, I am never in favor of very high salaries. I think the District judges are contented with their present salary. I think it is enough. I do not think the Government should give any more than will satisfy the incumbents of these offices. They make no complaint; but we know how human nature works. They will think it is an impeachment of their dignity and standing if a court right by the side of them receives a higher salary than they do, and they will not be satisfied with it, and they ought not to be. Therefore I say let us give this court the same, graduate it in the same way, and I am content with it.

Mr. FESSENDEN. I do not think that the reasoning of the honorable Senator from Illinois is sound. These judges of course have an important court and do important business; all courts have important business; but is it of any more importance than the business that is done by other judges? Wherever a judge may be he can but do his duty and give his time to the Government. So far as the duties of these judges are concerned they are not so very hard in point of fact as those of the district judges; because, as I stated, the district judges must be in session all the year round to attend to their duties, whereas everybody knows that the judges of the Court of Claims take a recess in the summer, do not sit here during the hot weather; and I see no reason, there-

fore, because they have claims against the United States before them, why they should receive more than those who try causes in courts and give all their time to it.

I do not think they should receive the same as the judges of the Supreme Court of the United States. The judges of the Supreme Court of the United States occupy the highest bench in the land, and there ought to be a distinction between them and other courts. Moreover, there ought to be a distinction for another reason. They are obliged not only to come here and live in lodgings during the session of the court, for several months, but when they go home they are obliged to travel all over their respective circuits and work incessantly there, with hardly any time whatever for recreation. To say that there should be no distinction between them and the judges of the Court of Claims is to my mind rather—well, I do not know exactly what word to use, but it is rather strong. I cannot agree to it at all.

If we last year placed the salary of the judges of the district court, who must reside here and do reside here, on a foundation which was satisfactory to them, and of which they make no complaint, I think it is fairly inferable that it is fixed about right; and the judges of the Court of Claims have the same amount.

Mr. TRUMBULL. Oh, no.

Mr. FESSENDEN. Certainly; all except the chief justice. The chief justice gets \$4,500 and the rest \$4,000.

Mr. SUMNER. What is the salary of the chief justice of the District of Columbia?

Mr. FESSENDEN. Forty-five hundred dollars, and the other judges get \$4,000, and the judges of the Court of Claims all get \$4,000. I have not understood that there is a question of precedence at the Presidential Mansion or at court anywhere between the chief justice of the Court of Claims and the chief justice of the District of Columbia. If there is, perhaps we had better settle that somehow or other. We must give one \$4,500 because the other has it, if that is any reason; but does not the same logic apply to other officers? There are no men in this city who work more hours or harder or have more important business before them than the heads of the several bureaus, and they only get \$3,500; some of them \$3,000 only to this day. The same remark is true of the Comptrollers and the Auditors. The First Auditor gets but \$3,000, and he has accounts for hundreds of millions passing through his hands. He must work all the time. Why should we not put them up to \$5,000 in the same way? They hold office but a short time and must live in the city while they hold it; the office is not a permanent one. The general idea is in fixing the salaries of men appointed for life, not to fix them so high as you do the salaries of those who hold only for a short period and must be at greater expense.

There is no force, as it strikes me, in the argument of the honorable Senator from Illinois, and I cannot understand why this matter is urged unless you are going into a general increase of salaries. I think we have gone far enough. The fact is, it seems to me, we are rather in advance of the men themselves in a great many instances; we get disturbed and distressed because officers do not receive more when the officers themselves make no complaints about it, and if one man is put up with the public money. I think there must be some end to this thing, and I hope the Senate will not adopt this amendment.

Mr. JOHNSON. I am by no means certain that the judges of the district court here are satisfied with the amounts which they receive. I have some reason to believe they are not satisfied. However that may be, the question before the Senate is, whether the sum proposed by the Judiciary Committee is too high to pay the judges of the Court of Claims? No one who is acquainted with the cost of living in the city of Washington can doubt for a moment

that it is almost impossible to reside here with a family upon a salary of \$4,000 in such a way as a judge should be able to live. It is true that it may be said, as has been said by my friend from Maine, that they are not residents here in one sense; that is to say, they take occasionally a recess of one or two months, but nearly the whole of their time is spent here. The winter is spent here, and if they take any recess it is for one or two months in the summer, and I am satisfied from what I have heard from them that they are obliged to deny themselves things which are necessary I think to every gentleman who is upon the bench of any extensive jurisdiction, and which implies for the discharge of its duties judicial ability.

The questions before the Court of Claims are very different from the questions which are brought before the supreme court of the District. They deal in criminal cases and with every species of offense, small and great. Their jurisdiction in civil matters is comparatively unimportant to the public at large, except so far as the public is interested in seeing the rights of suitors carefully attended to. But the jurisdiction of the Court of Claims, as we have now given it, is very extensive and involves in its exercise the interests of the Treasury to a large amount. I do not know what may be the amount actually in controversy in the several cases in the Court of Claims, but the number of the cases in that court is very great; and from the character of the claims themselves, the nature of the questions which they present, it requires much more labor in each case to decide it than it does require to decide an ordinary case where the court have the assistance of a jury. These judges have to try the facts as well as the law. The questions of law which are brought before them are often very intricate, very doubtful to any man who is not well acquainted with the general jurisprudence of the nation; and I should be exceedingly unwilling to see upon the Court of Claims any gentleman who was not able to fill the highest judicial office in the country.

I agree with my friend from Maine that there ought to be a distinction between the judges of the Court of Claims and the judges of the Supreme Court of the United States, for the reasons which he states; but the judges of the Supreme Court do not get enough. I do not like to refer to individual cases, but the late Chief Justice, who gave his whole life for twenty-four years in the discharge of his duty, and to the satisfaction of all the suitors and the satisfaction of the country, except in a particular instance, who might have earned at the bar, if his health had permitted him, a great deal more, although he lived in the most economical way possible, left the world with a family almost wholly dependent upon others. If he had had a salary at all equal to the salaries which are paid in England to abilities of no greater extent he could have entertained the members of the bar who came here from time to time, the eminent men who belong to the courts abroad, many of whom are from time to time here; but, as it was, so far as I am advised, he never was able to have a single person at his table, either in the morning or in the evening.

Now, these judges, all of them, have families, and they are here the whole year, with the exception of some one or two months; and they are away then because they are exhausted by the labors of the antecedent months, and because the heat of the weather is such that they are unable to discharge the very laborious duties which are upon them in the other months of the year.

Mr. President, what have we done? Upon an average the long session never exceeds six months and the short session three months, making nine months in two years; and for our duties here we get \$10,000—\$10,000 for nine months of actual service. When we go home those of us who have professions or other employment apply ourselves to such professions or employment and receive whatever additional compensation we may be able to earn. But

it is not so with these judges. When they, for the purpose of relaxation, leave their labors here and for a month or two go elsewhere, they have to spend the money, live upon the money which we give. They have no resources at all of acquiring anything else.

I do not think it is an argument against the propriety of this allowance that the officers of the several bureaus, many of whom are highly intelligent men, worthy in all respects, are getting less than the judges of the Court of Claims are. They do not require the same kind of ability as a general rule. They are accounting officers. It is more the ability of the clerk than the ability of the jurist; and the questions which they are called upon to decide are questions very different in general from those which the Court of Claims are called upon to decide; and when they are in doubt they have a right to appeal to the Secretary of the Treasury and ask him to take the opinion of the Attorney General, so as to save themselves the trouble of coming to any conclusion for themselves, if they felt themselves even competent to that task. It seems to me, therefore, looking to the character of the court, the nature of its jurisdiction, and the almost impossibility of living upon the salary, that it is due to the country as well as to the judges that they should be paid at least the sum proposed by the Judiciary Committee.

Mr. HENDRICKS. While I am not able to agree with the Committee on the Judiciary, I am not going to say anything derogatory of the dignity and importance of the Court of Claims. My opinion is, that \$4,000 a year for a life office such as this is very good pay, and I know that very many of the best lawyers of the country are willing to take the office at that pay.

The distinguished Senator from Maryland refers to the compensation of members of Congress. Comparisons are never very agreeable; but I will ask the Senator to answer his own argument by replying to this question. He says that for nine months of service members of Congress get \$10,000. Does he say that the judges of the Court of Claims for nine months' service ought to be paid out of the Treasury \$10,000, they holding a life office?

Mr. JOHNSON. No.

Mr. HENDRICKS. The Senator says no. Then what is his argument? I am not going to speak of the class of men that a fair compensation is supposed to invite into the halls of legislation. The legislative department ought to be filled with the very highest ability that the country can command.

I do not think the duties of either of these judges are equal to the duties required of the First or Second Comptroller. I may be mistaken, but I think their compensation is \$3,500. They pass upon hundreds of millions of dollars, not all of them disputed questions or cases, but very many of them are. On behalf of some of my constituents I had occasion the other day to inquire of the Comptroller in regard to his views about a steamer that was lost while in the employment of the Government; and I say to the distinguished Senator from Maryland that that case involved as troublesome questions of law and evidence as ordinarily arise in the courts; more troublesome questions: the question of the liability of the owner of the vessel, in view of the terms of the charter-party and in view of all the facts of the case; how far the facts relieved from a strict performance of the contract on the part of the owners; \$20,000 involved; and yet the Comptroller had to take his time at night, I suppose, to examine that question and decide it, and his decision was conclusive—final upon the questions of law and the questions of fact. I suppose he decides a hundred million dollars where this court decides one, not all contested cases, I am free to say, but very many of them contested cases. I suppose the contested cases before the Second Comptroller are ten to one for all the contested cases in the Court of Claims, and he not only represents the party that comes before him, but he has to stand up

for the Government, and he has to seek his evidence in defense of the Government's rights wherever he can find it. He has to institute necessary and proper inquiries.

If a comparison were proper at all, my opinion is that the labors of one of these judges are not to be compared, so far as the interests of the people are concerned, with the labors performed either by the First or Second Comptroller. They are very high and very responsible officers indeed, and yet we think that \$3,500 is enough for them. I doubt it, so far as they are concerned; but Congress has so fixed it by law. I have not spoken of the Auditors who first pass upon these cases, because their decision is not final. They are not the highest court in the Executive Departments upon these questions. I have spoken only of the Comptrollers.

There has to be some arbitrary limit to this matter, and I believe that a man who gets \$4,000 for sitting in the Court of Claims is very well paid in view of the fact that he has a life office. I never heard that they stayed here near all the year. I did not know that was the fact. Two or three years ago I was brought somewhat in contact with some of these judges, and my impression was that about 1868 the labors of the court were very trifling indeed. Very few decisions were made. Perhaps the cases have increased. My impression is that they do not sit here half the year. I may be mistaken about it, but that is my impression. Whether they do or not, they have a life estate; this is a life office, to examine cases. It is not like the Supreme Court of the United States. They discharge just such duties as the Auditors do, with the aid of counsel for the Government who hunt up the evidence. The case is brief; the facts printed; they have to read the printed brief, the printed facts, and they decide upon them, while the Auditors and Comptrollers are to represent the Government and secure the evidence as best they may, and examine the manuscripts. There are not very many questions of law arising in the court, I apprehend. The jurisdiction extends to cases arising under law, contracts, and the regulations of the Department. These cases very soon classify themselves, and the decision of one case I suppose will decide a class, especially if they arise under the regulations of a Department, or if they arise under a law.

Mr. JOHNSON. That is the case with the Comptroller, is it not?

Mr. HENDRICKS. Yes, sir, the same fact would apply to the case of the Comptroller. But a judge of a district court of the United States or of a circuit court of the United States, holding the court for the circuit or for the district, has to decide all questions of law and fact; he is a chancellor in his court, holds a court of chancery, and the most difficult questions that can arise in courts of chancery come before those judges. Questions in the courts of common law are as complicated as the business of this great country can bring before them. I think myself there is no comparison in the dignity and responsibility of the two.

It would be very pleasant for me to vote this money; I would be glad to do it if I thought it was right; but I do not. There has got to be some end to this business of raising salaries. At the last session we fixed \$4,000 for the judges of the supreme court of this District, judges whose jurisdiction corresponds with the jurisdiction of the circuit courts of the United States, and, going beyond that also, a local jurisdiction in the District of Columbia. Now, if \$4,000 was right there, why shall these other judges have more? The simple question is whether we shall raise both, for if we raise these we have got to go back and undo what we have done and raise the salaries of the judges of the supreme court of the District of Columbia. Although it is disagreeable to say no on a question of this kind, I am going to do it, for I do not think it is right. The people of this country that make their money by hard work do not make any such compensation as the lawyers; and the great body of the lawyers

of this country, working all the year with very little relaxation, do not make more money than that. Some men who attain great eminence in their profession can make ten, twenty, and thirty thousand dollars; but they are rare exceptions. As I believe, the labor of the profession is much greater than that performed by these judges. I think the salary is enough.

The PRESIDING OFFICER (Mr. ANTHONY in the chair) put the question on the amendment, and declared that the Chair was unable to decide.

Mr. TRUMBULL. Let us have the yeas and nays. That will settle it.

The yeas and nays were ordered.

Mr. PATTERSON. I ask for the reading of the amendment.

The Secretary read as follows:

*And be it further enacted,* That from and after the 30th day of June next the annual salary of each of the judges of the Court of Claims shall be \$5,000.

The question being taken by yeas and nays, resulted—yeas 15, nays 18; as follows:

YEAS—Messrs. Anthony, Creswell, Dixon, Doolittle, Foster, Frothinghams, Harris, Howard, Johnson, Norton, Patterson, Poland, Pomeroy, Trumbull, and Van Winkle—15.

NAYS—Messrs. Buckalew, Conness, Cragin, Davis, Fessenden, Henderson, Hendricks, Kirkwood, Lane, Morgan, Morrill, Ross, Sherman, Sprague, Sumner, Wade, Wiley, and Wilson—18.

ABSENT—Messrs. Brown, Cattell, Chandler, Cowan, Edmunds, Egan, Fowler, Grimes, Guthrie, Howe, McDougall, Nesmith, Nye, Ramsey, Riddle, Saulsbury, Stewart, Williams and Yates—19.

So the amendment was rejected.

Mr. WADE. I move to amend the bill on page 3, lines fifty-eight and fifty-nine, by striking out the words "in the Daily Globe."

Mr. FESSENDEN. I suggest to the Senator, if he is going to make a motion to strike out those words, that he had better insert the words "of the Senate daily;" so as to read:

For reporting and printing the proceedings of the Senate daily for the first session of the Fortieth Congress.

Mr. WADE. Very well.

Mr. FESSENDEN. That will present the question.

Mr. WADE. My object in making this amendment is barely to save a conclusion. If we permit this clause to remain as it stands and as agreed on by the House, we may be concluded by it. It is very probable that a good deal of money may be saved by transferring this whole business to the Government printer. I do not know that that ought to be done, but it is a subject worthy of consideration. I hope we shall not conclude ourselves now by settling the matter, because, if we wish to have it as it is here it will be very easy to do it on any other bill, as there will be several appropriation bills come up hereafter; but I believe on consideration it will be found that we shall save money if we take this matter into our hands, and perhaps make other amendments.

The PRESIDING OFFICER. The Senator from Ohio proposes to amend the bill on page 3, lines fifty-eight and fifty-nine, by striking out the words, "in the Daily Globe" and inserting "of the Senate daily;" so that the clause will read:

For reporting and printing the proceedings of the Senate daily, for the first session of the Fortieth Congress, \$21,250.

Mr. TRUMBULL. I do not know, as the Senator from Ohio says, but that it would be better to have the proceedings of Congress published at the Government Printing Office. It may be so. I have not investigated that matter at all, and he has not laid before us any facts. But we know this: that our proceedings for many years have been officially published in what is known as the Globe. The next Congress meets in about three weeks, and when it meets we shall want its proceedings published somewhere; and I suggest to the Senator from Ohio that if we strike out the Daily Globe here we shall have no arrangement with anybody. Now, ought we not to have some arrangement with some one to print the proceedings when Congress meets? It is a very short time to make these arrangements.

I am not very familiar with printing, but I suppose it would take a very considerable establishment, and would occasion a very considerable outlay of money, to make preparation to publish the proceedings of Congress.

Mr. SUMNER. An immense outlay.

Mr. TRUMBULL. It is only three weeks from now to the next session, and if you leave the thing loose who is to do it?

I am not sure but that it would be best to have it done in some other way; but it seems to me that when we dispense with our present arrangements for printing our proceedings we ought to substitute some other arrangement. The Senator from Ohio, if I understand him, proposes to have no arrangement with anybody, but to leave to the future to make an arrangement with some one. Who is to do it? There is nobody charged with that duty. We are within a little more than three weeks of the close of the session. The Senator from Massachusetts says it would take an immense outlay of money and a very large establishment to publish our proceedings. You cannot make these arrangements in a day.

I do not pretend to know whether the publication as we now have it is the most economical or best. I only know one thing: our proceedings are very faithfully reported. I think, so far as the Globe is concerned, it contains a very faithful report of our proceedings; and I think you cannot make an arrangement to have it done elsewhere in a moment. What I suggest, therefore, to the Senator from Ohio is, that before we dispense with the Globe we see what we can do elsewhere. I have not looked into the laws; I have not read them; I do not know what our arrangements with the Globe are. I presume the Senator from Ohio has examined the subject and thinks we are under no obligation to continue the publication there. I have not looked into it. If that be so, of course we can dispense with it; but I suggest to him and to the Senate whether we had better dispense with our present arrangements without having anything else?

Mr. SHERMAN. I had occasion to examine the relations of the Government with the printer of the Congressional Globe a number of times when I was a member of the House, and I think it is perfectly clear that there is no contract between the United States and the publishers of the Globe which they cannot at any time annul and which we cannot at any time abrogate. Mr. John C. Rives in his lifetime took that position, and it has always been acquiesced in. He, by a public letter, which I think was presented by the chairman of the Committee on Printing, at one time said he would have to discontinue the publication of the Globe unless Congress would do so and so, and we complied with his terms on the ground that he had a right to discontinue the work, and he could have done it. The whole arrangement has sprung up from various resolutions passed from time to time extending the operations of the Congressional Globe. The whole contract rests upon those resolutions which are like a contract from year to year; but I presume myself that if we make now an appropriation for the next year for the Daily Globe, it would designate and make a contract which in law would be binding upon the United States, because it would be your offer continuing the present arrangement and it would be accepted by them; the appropriations would be made and be beyond our power to recall. I think such an appropriation might be a contract.

Mr. JOHNSON. It would make a contract.

Mr. SHERMAN. My friend from Maryland says it would make a contract, and I think it would; but that would be the only contract. Now, to avoid such a conclusion, I think it would be well to adopt this amendment so that if we choose we may select some other mode of publishing the Congressional Globe. There has been a great deal of controversy about it, and my own judgment has been in favor of publishing it by the Public Printer, where it may be executed as cheaply as possible, in a

building we now have the possession of, by officers under the control of the Government, where the paper is purchased in pursuance of bids invited, and where most of the work is done by the day's work; where we can control it at all times and regulate it. That is my present judgment; but at the same time I am not prepared to give any decisive opinion upon that until we have the report of the Committee on Printing. My colleague's amendment, I think, ought to be adopted to prevent the making of a contract by this appropriation, and if it is adopted I shall offer a proposition, which I have written hastily, to provide—

That the joint Committee on Public Printing be directed, by public advertisements, to invite proposals for the execution of the work now done in the publication of the Daily and Congressional Globe, and that they report whether the same may be done with greater economy by the public Printing Office or by accepting one of the bids so offered.

I think that will lay the foundation at least of a fair investigation of the whole matter.

One word more. By the custom which has grown up in the publication of the Globe the proceedings of the called session of the Senate are always made a part of the previous session; so that there need be no trouble about the short session of Congress that will meet immediately following the present session.

Mr. FESSENDEN. That will not be a called session; it will be a regular session.

Mr. SHERMAN. The appropriation for the current fiscal year is probably amply sufficient to cover that. If not, it can be very easily done. This is an appropriation for the next fiscal year, commencing on the 1st of July, and it will give us all the time between the close of the first session of the next Congress and the regular session of the next Congress; so that there is no difficulty.

Mr. TRUMBULL. Allow me to ask the Senator if there is no danger of having nobody to do the work. It will require, as I understand, considerable preparation to do this work, and unless it is understood that somebody is to do it can you be sure that you can get a person at the moment? Congress meets in three or four weeks again.

Mr. SHERMAN. The amendment of my colleague does not prevent a continuation of the work for the current fiscal year. Here is an appropriation for the next fiscal year.

Mr. TRUMBULL. Who is to continue it?

Mr. SHERMAN. The present publishers of the Globe. Their appropriation continues until the 1st of July next, and consequently all the proceedings of Congress until then would be covered by the past appropriation. There is no doubt about that. This appropriation commences from the 1st of July next.

Mr. FESSENDEN. The last appropriation covered only the present Congress, I suppose.

Mr. SHERMAN. By custom—this is all a custom—or rather by resolutions, the proceedings of the called session of the Senate, although it may be of a different Congress, have been included in the debates of the previous Congress, and I have no doubt that some such arrangement will be continued with regard to the short session we may have at the beginning of the next Congress.

Mr. TRUMBULL. If the Senator will look at the clause proposed to be amended he will see that it provides for the first session of the Fortieth Congress, and that will be the session commencing on the 4th of March.

Mr. FESSENDEN. That makes this more important.

Mr. TRUMBULL. That makes this specific for that time.

Mr. SHERMAN. That would be wrong. If that would be the construction put upon it the whole thing is wrong, and it ought to be stricken out. There is no necessity for such an appropriation as that for the first session of the next Congress, and perhaps the language ought to be changed. I ask the chairman to look at that. The proposition which I shall make, if my colleague's amendment shall prevail, will provide for that by referring the whole matter to the Committee on Public



Printing to make a new arrangement or continue the present one.

Mr. DAVIS. Mr. President, in relation to the printing of the Congressional Globe there is certainly some very strange misrepresentation. There has been placed upon the tables of some of the members of the Senate some publications, without the authority of a name, which states:

"The second section is intended to remunerate Mr. Rives for his real or alleged losses on the publication of the Congressional Globe and Appendix at the prices theretofore agreed upon, namely, \$7 50 per column for reporting and publishing the number subscribed for."

The publishers of the Globe cipher out this statement with the following result:

"Three columns to a page, at \$7 50 a column, is \$22 50 a page.  
Four thousand nine hundred and eight pages at \$22 50 a page is \$110,430 a copy.  
Eleven thousand copies at \$110,430 a copy is \$1,214,730,000."

I am informed by the publishers of the Congressional Globe that they do not receive \$22 50 per page, nor more nor less than two mills per page. There is such a vast difference between these two statements that there must be something very essentially erroneous in the one or the other. I suppose that the proper course for this matter to take would be a fair and true investigation of it by the Committee on Printing. I think it ought to take that course. The subject ought to be investigated and reported upon by that committee before the Senate ceases to take its proper and usual action on the subject.

Mr. FESSENDEN. Mr. President, I think it would be as well to understand this question definitely. I confess my mind is in a state of some confusion with reference to it. I believe on looking back that when this appropriation was first made it was not in the form of an appropriation for the Congressional Globe as it is now, but simply an appropriation of so much for publishing the proceedings of the two Houses.

Mr. WADE. That was it.

Mr. FESSENDEN. That was the language, Subsequently, as I am informed, the Senate passed two resolutions in different years directing that these publications might be made by Mr. Rives in the Globe. I think since then there has been no particular resolution passed, but we have gone on making the appropriations. The House passed no resolution specifically, but provided in the appropriation bills in this form, "for the Congressional Globe" and "to be published in the Daily Globe," &c., and made their appropriations. Ours were different until within a very few years, when the same phraseology has been adopted in making the appropriations of the Senate. I think it was not adopted until after the present Secretary of the Senate became Secretary.

Now, if we make this appropriation in this form for the Congressional Globe and publishing the proceedings in the Daily Globe it ties us down to them and the appropriations cannot be used in any other way, or for any other purpose, whatever may be the condition of affairs. On the contrary, if we strike out these words and substitute others, and simply make the appropriation for the year for the publication of our proceedings, if there is a contract with anybody for publishing the proceedings that contract will be carried out under the appropriation and the money will be ready. If there is no contract, we may still go on with the publishers of the Globe if we see fit, and if it is ascertained that it is best to do so on an examination, the money being appropriated, they may be employed as usual by a resolution of either or both Houses passed afterward to that effect.

The only effect, therefore, of striking out the words proposed to be stricken out by my friend from Ohio, and other words in different parts of the bill to make it conform to that, would be that the appropriations would stand made to pay for reporting the proceedings, and if we choose and if the publishers choose, also, to go

on as usual, if that is considered best on an examination of the whole subject, the appropriations being made they could be used for the purpose. On the contrary, if we think it best to have the reports made by a corps of reporters of our own and printed at the Government Printing Office that can be done. We can do just as we see fit in relation to that matter unless there is an existing contract. The appropriations will all be made in either form.

The simple question is, whether we shall nail ourselves down by naming the Globe in such a way that we cannot, whatever may be the circumstances, dispose of the appropriations thus made in any other manner. That is the only question at issue really. If we adopt these appropriations as they came from the House, we cannot amend them afterward; we cannot change whatever may be the condition of affairs. If we strike them out, it opens the whole matter for the consideration of the House itself, and for the consideration of a committee of conference, if there should be one upon this matter after more information has been obtained with reference to the subject.

I see, therefore, no difficulty that can arise at all from striking out these words and making the other necessary changes, because if we do so the appropriations are made to pay for the reports of the proceedings and everything necessary to be paid for, and those appropriations may be used according to the circumstances as they arise. Of course the gentlemen who publish the Globe would not contract with us to continue it for less than one Congress probably; and if they would not there is time enough to look around and see what can be done with reference to publishing the proceedings in the Government Printing Office. I know that the late Superintendent, Mr. De-frees, stated to me on several occasions that it could be done at the Government Printing Office without any difficulty, and in his judgment by so doing a very considerable sum of money would be saved. I am told—I do not know how true it is—that the present Superintendent is of the same opinion. I know nothing of his opinions, however. I am also told that a large addition has been made to the Printing Office lately by which the force has been much increased, and that this work could be done there. How that is I do not know. The Committee on Printing has more information on the subject than I have.

I have deemed it my duty to explain this proposition thus far to the Senate in order that the Senate may understand what my view of the consequences will be if they choose to strike out these words, and what they must necessarily be if they choose to leave them in. Of course the Senate will do with it as it thinks wise on the subject.

Mr. ANTHONY. By the original contract, or at least the contract that existed when I first became connected with the public printing, the publishers of the Globe were entitled to deliver to each new member of Congress the back numbers of the Globe from the beginning of the publication, and they were also entitled to the allowance of one cent for every five pages exceeding three thousand pages for the long session and fifteen hundred pages for the short session, including the indexes and laws in the Globe. Congress, however, failed to make the necessary appropriations to carry out these two provisions, and at the same time the expense of the publication increased enormously, and the publisher of the Globe stated to me and to many other Senators that it was impossible for him to continue the publication at the price which Congress paid, although he was willing to go on with it at what he always held to be the contract price. He held that these two provisions for the supplying of the back numbers of the Globe and the additional compensation when the whole volume exceeded three thousand pages for the long session and fifteen hundred for the short, were part of the original contract; and he also said that Congress was equitably bound to pay

him the money for the time it had refused to make the appropriation.

By the act approved July 4, 1864, these two provisions were restored. I thought at the time that the publishers of the Globe were entitled to additional compensation. Certainly if anything like a fair price had been paid in the beginning they were entitled to a very considerable addition, because there was an enormous increase in the expenses of publication. Paper was more than double, and has been three times the original price, and everything else was at least double. But I did not like that provision of paying one cent for every five pages, for no one knew how much it came to. It was a good deal like the sum we used to have in Daboll's Arithmetic about buying a horse and paying one cent for the first nail in his shoe, two for the second, and going on in arithmetical or geometrical progression.

Mr. JOHNSON. Does the honorable Senator know how much that has amounted to in the past?

Mr. ANTHONY. I think about forty thousand dollars; I am not sure. I think it amounts to about that. But this act to which I refer contains in the fourth section this provision:

*Provided, however, That the above provisions are made upon the express condition that they may be abrogated by either Congress or the publishers of the Congressional Globe and Appendix at any time after giving two years' notice for that purpose.*

I am by no means prepared to say that I think a more economical arrangement could be made for the publication of the debates of Congress than now exists. It was the opinion of the late, and it is the opinion of the present Superintendent of Printing that it might be done more profitably to the Government at the Government Printing Office. I do not know whether it could be done more profitably there. I state that merely upon their judgment, not upon mine. Their judgment is better than mine. I have not given the subject any examination. I do not think it is wise for Congress to be bound by this contract to give two years' notice; and I notice in the bill under consideration that there is a proviso for giving the notice. It is on page 9, beginning at line one hundred and sixty-three:

*Provided, That notice is hereby given that at the close of the Fortieth Congress the United States will terminate the purchase of one complete set of the Congressional Globe and Appendix for each Senator, Representative, and Delegate, provided for by the act of July 4, 1864.*

That only gives notice for the abrogation of one of the provisions of this act. I do not know that the act authorizes the abrogation of one or the other, and I suppose that whatever object there is to give notice of the abrogation of one provision applies equally to the other. Therefore the notice had better be general if it is to be given.

Mr. SHERMAN. If they do not get the proceedings and reports as a matter of course that will fall to the ground; they cannot deliver a copy for each member. That would follow as a matter of course.

Mr. ANTHONY. But this is for the delivery of the back numbers. They have them already printed and on hand. There is also a provision that requires two years' notice of the abrogation of the additional compensation of one cent for every five pages over three thousand.

Mr. SHERMAN. I know; but we may abrogate the whole arrangement by which they report and publish the proceedings daily, and as a matter of course there would never be any volumes published.

Mr. ANTHONY. Have we a right to do that without giving them two years' notice?

Mr. SHERMAN. Certainly; there is no contract. I think the Senator will agree with me, if he examines the subject, that there is no contract except continuing the appropriations, as they have been from year to year, simply by common consent.

Mr. ANTHONY. It would be simply a question of good faith whether we are not obliged to do it.

Mr. SHERMAN. I know; but after that goes, there never would be any publication of more than three thousand pages. As a matter of course that would fall with the abrogation of the original contract, the main contract.

Mr. ANTHONY. If the Government is not bound by the contract there is no need of giving the notice at all; but if any notice is to be given, I think it had better be given generally.

Mr. SHERMAN. The Senator does not yet understand me. If we continue the publication of the books and if they exceed three thousand pages then undoubtedly we shall have to give them notice if we wish to get rid of the payment of the excess to them; but, as a matter of course, if we do not allow them to report the proceedings and they do not publish a volume they cannot publish more than three thousand pages; neither can they give the extra copies. If we dispense with the old contract—the original contract—it is not necessary to dispense with the particular clause which depends upon the main contract.

Mr. ANTHONY. I can see no objection to the amendments proposed to this appropriation; and here I will say that I wish the appropriations for publishing the debates of Congress were all in one clause, and not scattered over seven or eight pages. The effect of the amendment is, I understand, to leave it optional how the money shall be spent, but subject, of course, to any contracts we may have made, if we have made any, to publish the proceedings in the Globe. When I say this I do not mean to say I would advise it to be taken from the Globe by any means; but I do not think that Congress ought to be bound, or that anything should imply that the faith of Congress was bound, to give two years' notice before the arrangement should be terminated. I think we ought to be free from that on both sides. After this motion is disposed of, if it is thought advisable to have any proviso at all, I would suggest that it should be in this language:

That the notice required by the fourth section of the act entitled "An act to pay, in part, for publishing the debates of Congress, and for other purposes," approved July 4, 1864, is hereby given that Congress will in two years abrogate the provisions of said act.

But if in the opinion of legal gentlemen there is no contract to be abrogated, I do not know that it is necessary to put in that.

Mr. FESSENDEN. I think you had better substitute that for the other proviso; but this other motion is pending now.

Mr. ANTHONY. I have mentioned it that I shall offer this when the present amendment is disposed of.

Mr. HENDRICKS. I am opposed to the amendment, because I am a friend of the Globe. For a great number of years the proceedings of Congress have been very satisfactorily published. No man, I believe, has ever complained of the manner in which the proceedings of Congress have been published there. The contract under which this publication has taken place, or rather the arrangement, was made many years ago, as I understand. The price was fixed a great number of years ago, and has not been increased except as the legislation of 1864 has had an effect upon that. Now, when a work is well done and at a reasonable rate, a rate that has been agreed to for so many years, I do not see the necessity of disturbing it.

In 1864 it was found to be impossible for the publishers of the Globe to go on with the work. Congress had declined to take the full sets of the Globe, as had been the custom when the arrangement was first made, and for a great number of years thereafter; and the pay did not compensate in view of the greatly increased cost of the publication. Paper and labor had both gone up in price so much that in 1864 the Globe was losing large sums of money. Congress felt the propriety of giving relief to the establishment, and it was done in the act of July 4, 1864. That act provided that thereafter the members of Congress coming in should

receive full sets of the Globe. That was the first provision, and it was a very important provision, for their relief.

The next was that if at the short session the Congressional Globe should exceed fifteen hundred pages, or at the long session should exceed three thousand pages, then the pay for that increased amount of printed matter should be the same as for the three thousand or fifteen hundred pages, to wit: one cent for five pages. Then in the last section of the act it was provided:

"That the above provisions are made upon the express condition that they may be abrogated by either Congress or the publishers of the Congressional Globe and Appendix at any time after giving two years' notice for that purpose."

I understand the Senator from Ohio to express the opinion that we can discontinue the publication by the Globe office without notice. I am not able to see how he comes to that opinion. He says we can discontinue everything except the pay provided for in the second section and the back numbers of the Globe, and if we discontinue that, of course they cannot publish more than fifteen hundred pages at the short, or more than three thousand at the long session, and therefore you do indirectly that which you cannot do directly.

I do not think that will quite do. I will ask the Senator, or any other Senator, whether the publishers of the Globe can discontinue the publication without giving Congress two years' notice?

Mr. SHERMAN. My friend from Indiana is a lawyer, and I will put to him a question which I think will settle it. Suppose I am his tenant from year to year; tenancies that are made from year to year by the custom of the country expire on the 1st of April; suppose while the tenancy is going on I make a bargain with him that I shall have firewood in his woods, and that he shall not deprive me of that firewood unless he gives me six months' notice; suppose the tenancy should terminate and the whole of the subsequent arrangement was made on the basis of the existing tenancy; I ask whether the right to get firewood would be continued, or whether he would have to give notice? That is precisely this case reduced to an ordinary case in court.

Mr. HENDRICKS. If the contract in regard to the wood entered into and became a part of the contract under which the man held his term you could not discontinue the term for the purpose of disturbing his rights under the subsequent contract. But I will ask the Senator a question which I think is more analogous. Suppose the term is held at a fixed rent, and then the parties agree for an additional rent, and it is agreed that that rent shall not be disturbed except there be a notice of two years by either party: can you affect that increased rent by putting an end to the term otherwise than by the notice required in the subsequent contract?

Mr. SHERMAN. That is not this case. Mr. Rives himself in his very claim admitted, and always claimed, that this was only a provision from time to time; and it was modified and changed to suit his convenience; and his claim was made at the time on the ground that he was not bound to publish the Globe; and he gave us fair notice that he would discontinue the publication of the Globe, he himself claiming the right to discontinue, and he said the only way he could continue it was by the Government giving him additional compensation. That did not vary the original contract by which each party had a right to discontinue it; nor do I think Mr. Rives ever claimed it.

Mr. HENDRICKS. I do not know what was the original understanding, for I have not examined all the statutes on the subject, nor any correspondence, nor is it important for the purpose of my present argument to go back of the act of 1864. This is the case: Congress paid a fixed price, but that price was limited by the number of pages. It only paid for three thousand pages at the long session and fifteen hundred pages at the short session. Then Congress said, "That compensation shall

be changed thus: the pay shall extend to all the pages; it shall not be limited to three thousand; it shall not be limited to fifteen hundred; but Congress will pay for all the pages printed at that rate," and in that very act Congress said it should not be discontinued except upon two years' notice.

As a question of law, in my judgment, there is no question about it, because this change of compensation changed the whole contract; it entered into the whole. The Riveses could not continue the Globe; Congress said to them, "Continue it and we will pay you, not for three thousand pages alone, not for fifteen hundred pages alone, but we will pay you for all the pages you publish, and the compensation shall be at this fixed rate." In other words, Congress said in 1864 to the publishers of the Globe, "Go on and publish it and we will pay you at the rate of one cent for every five pages exceeding three thousand." The effect of it was to say, "We will pay you one cent for every five pages that you may publish of the proceedings of Congress."

Mr. SHERMAN. Exceeding three thousand and fifteen hundred pages.

Mr. HENDRICKS. Certainly; that is what it is; but that is the same rate; that is the old rate; that is no change of rates. It said, "Go on, and you shall have pay for all." Here is the compensation fixed in 1864, one cent for five pages for all the pages published.

Mr. SHERMAN. The Senator is mistaken. For the first three thousand pages, they do not get any pay at all in that way. They are paid in a different way.

Mr. HENDRICKS. I was not aware of that.

Mr. SHERMAN. The first three thousand pages are paid for by the subscriptions to the Globe. Formerly the Globe did not exceed three thousand pages; but finally it became more bulky, and then this additional compensation was given some years ago. Sometimes Congress discontinued it, and sometimes continued it, according to the exigencies of the case.

Mr. HENDRICKS. So I understand. Prior to the passage of this law of 1864 I do not claim there was any notice to be given, and I suppose none was requisite, except that good faith that ought to be kept with a large establishment, where money is invested with a view of carrying on a work, where type is purchased, paper purchased, hands hired, and all that. There is good faith that we should not arbitrarily stop the arrangement to the loss of the men who are engaged in the business.

But, sir, when this law of 1864 was passed, the Government, as I think, became bound by the arrangement being a change of compensation, became bound for two years. I have no doubt about it. That was the purpose of it. Can the publishers discontinue it short of two years? Can they say, "We will not publish it" unless they give Congress two years' notice? Clearly not, under this proviso. I suppose it became binding as a contract upon them as soon as they published anything and received any compensation under the law. It became a contract binding upon them if they accepted it by any act of theirs. Then they cannot discontinue the publication except they give us two years' notice. Can we then say, under the same proviso, that we will discontinue it arbitrarily without giving them this notice? What is the object of the notice? That they shall not be going on upon uncertainties, but that they shall know when they purchase type and paper and employ hands that this thing will continue as much as two years at least.

I do not know what are the influences that bring about this proposed change. I am not going to discuss that. I have heard a great deal about it. This is a work that is done for this Government honestly. It is one of the establishments that has acted honestly with this Government. John C. Rives, in my judgment—I knew him well—never took a dollar from this Government that was not clearly according to the law and the arrangement with

Congress. Since his death I have never heard a word from any man that it was not honestly done in quality of work, in quality of binding, and that the accounts were not fairly rendered. I have never heard the breath of suspicion of the integrity of this one establishment. It is the one that is to be stricken down. Why, sir? This Globe publication is a credit to the Government; it is a credit to our people. I understand that the proceedings of no legislative body in the world are more satisfactorily published than ours are in the Globe. I admit some interest because of my attachment to Mr. Rives. I knew him when I was quite a young man, and I admired him for his integrity and for his rare sagacity. I have admired the work because it is a credit to Congress and to the country. I should regret to see a personal matter brought into a question of this sort.

I think the Government is committed for two years. We said we would give two years' notice. We had better live up to it. As we would insist that the Globe office should not discontinue without giving us the two years' notice, it is common, plain, straightforward honesty that we should not except upon giving the same notice. We had that agreement. It was so understood. I never doubted that we would give that notice. Giving that notice there is no loss to anybody. If, then, it is the pleasure of the Senate to give the notice, that is square and fair and right, too; but to stop it short of the two years, in my judgment, is not complying with the contract.

Mr. CONNESS. I have only a few words to say on this subject. I appreciate a great deal of what has been said by the Senator from Indiana; but, sir, there are probably two sides to this question. For one I am willing to investigate it, and then go according to the burden of facts.

It has been stated by the Senator that the expenses of the proprietors of the Globe have largely increased with the general advance that has been made in the cost of material and labor in the country. That is undoubtedly so; but I apprehend it will be found that they have not been quite generous enough in considering that important fact in their relations to those who do the actual labor of reporting. Now, sir, I am disposed before I act in the case to ascertain the exact facts upon this point. The men who sit here and record our proceedings so faultlessly, and then who sit until not the small hours of the morning but until the gray dawn comes preparing them for print ought to be remembered when the question of the increase of expenses is considered. Sir, if we will not consider that aspect of the case I think we shall fall short of performing our duty in the premises.

I am in favor of the amendment proposed by the Senator from Ohio. It does not discharge the Globe, nor interfere with the contract, but it does not conclude us in the premises. If there be a contract and we are legally and morally bound to execute it, we can, when we ascertain all the facts in the case, execute the contract. On the other hand, if we find that they are a mammoth establishment grown rich by the favors of the Government—I will not impute to them that they have not performed their part of the contract at all and done it well—but if they take advantage in their rich position to oppress and impose upon those who perform the actual labor, those who bring the real genius and industry and application to the work, I am in favor of interfering by any power that is in my possession for that purpose.

I apprehend, sir, that a thorough investigation of the case will leave perhaps no quarrel or cause of difference as between the proprietors of the Globe and Congress; but that it will lead to a measure of justice being done to the worthy class of whom I have spoken. I hope the amendment will be adopted, so that the case shall be acted upon that we may see that justice is done to all.

Mr. YATES. Mr. President, a remark that

fell from the honorable Senator from Indiana induces me to say a word. He said that he could not understand the underground of this proposition. If I understand the motion, it is the motion of the honorable Senator from Ohio to strike out the words "in the Daily Globe" in regard to the printing for the Fortieth Congress. If these words are stricken out it will not preclude us hereafter, as has been remarked by the honorable Senator from California, from still having this printing done at the Globe office.

But, sir, that is not the point on which I rose to say a few words. For a long time I have fought the doctrine that the spoils belong to the victors. I was a Henry Clay Whig, a Webster Whig, and I fought with all my might the doctrine that the spoils belonged to the victors. I did not believe it was the best doctrine for the Government. I believed in the principle to which the honorable Senator from Wisconsin referred the other day, that in the employment of public officers, the question should be, Is he honest? Is he capable? Is he faithful to the Constitution?—the Jeffersonian doctrine. We fought this other doctrine with a zeal that was worthy of patriots, as I supposed at the time; but, sir, we failed, we went down. The glorious and dominant Democratic party succeeded, and they established the doctrine that the spoils belong to the victors—a doctrine to which we submitted per force. But, sir, having been conquered and having yielded, like lambs to the slaughter, to this doctrine as we did, now, the principle having been established against our patriotic wishes, having the power, I propose that the spoils shall belong to the victors. That is my doctrine now. I am now for carrying out this great principle that you have fastened upon the country contrary to the Jeffersonian doctrine.

Now, sir, while I admit that the Congressional Globe is published well, and I accord all praise to the publishers, I am here to-day to say that if the Republican Union party of this country cannot have a printer and cannot have a man that is devoted in his very heart and soul and radically to the Republican party to do its printing, then they do not act as I believe the honorable Senator from Indiana would act were he in the ascendant and had the power. Therefore I am in favor of striking out the proposition that this printing shall be done by the Congressional Globe. Under my modern notions of political parties, I would not give a cent for a party that would not take care of its own children and stand by them, and give the crumbs of patronage to the men who stand by the country, who stood by it in the war, who are radical in their notions in favor of human rights and human liberty.

Sir, we ought to strike this out and give the printing to a man who is on our side, and about whom there should be no question. It will not do to say to me that he is neutral, that he is not political. The President does not act upon that principle. The Senator from Indiana does not act upon that principle with regard to appointments now. It will not do to say that to me; but say to me that the printer of the proceedings of the Congress of the United States of America is a Radical Union Republican, that he has supported the war through all its scenes and all its trials.

I hope, sir, that the Republican Union members of Congress will stand by this proposition. It is right. It is returning to the Senator from Indiana and his friends on the other side of the Chamber the pill which they administered to us after so many elections, and through so many hard fights that we had throughout this country.

Mr. WADE. I did not suppose when I moved this amendment that I should cause so earnest and so long a debate over it, because really there was nothing conclusive about it. I wanted to prevent a conclusion being prematurely made. I have been told that the Government Printer could do this business so as to save sixty or seventy thousand dollars

per year to the Government. I knew there had been some dispute about this Globe, and I thought we ought not for the Fortieth Congress to conclude ourselves absolutely from looking into it. I did not expect on this occasion to do anything more than prevent a final conclusion being, as I thought, without deliberation and prematurely made. Hence it was that I offered this amendment, with no design to repudiate any contract, if we have any that ought to bind us. That was the furthest possible thing from my thoughts. I have not had time since the thought occurred to me to investigate it so as to pronounce upon that important subject with authority. I cannot say but that we are bound to the Globe so that without giving two years' notice we cannot stir hand or foot, whether we like it or not. If we are, I am the very last man that will flinch from the contract that we have honestly made.

But I hardly think, from the superficial examination that I have given the subject, that we are so bound. From all that I can see we are only bound by a series of resolutions passed from time to time giving the Globe so much for doing the printing, and without any such obligation as has been alluded to. It may be, however, that on more mature and thorough examination we shall find that we have done something to bind us and tie our hands. All I ask is that these words shall be stricken out, which will save the appropriation being fixed there so that we can hardly get rid of it, and leaving the appropriation made which may be carried to a point by a simple resolution any day, when we shall have investigated far enough to know what we really wish to do with it. That is the extent and all there is in the amendment that I propose.

I agree in a great deal that the Senator from Illinois has just said. If I am here where expenses are to be incurred, and even if profitable jobs are to be given out, like him I would prefer to give them to those who support the principles that I believed to be right and indispensable for the administration of this Government rather than to one who holds principles diametrically opposite to me, and that I considered to be destructive of the Government. Of course, if favors are to be given, so far as my voice and my vote can go they shall be given to those who support the principles that I maintain here. Being serious and honest in those principles, I am equally so in using all means that honorably can be used to make them triumphant; and therefore when agencies are to be employed by the Government—not that I would rob the Treasury to support a party; I would not do any such thing—but if we are to make expenditures that are to inure to the advantage of any party, I do not deny that I prefer that they should go to the support of the party to which I belong rather than to those who hold principles as I believe not as good as our own.

In saying that, I do not impeach the principles of any party, nor those who are opposed to me; but I feel compelled always to maintain by all honorable means those principles that I believe to be just. Another man has just as good a right to his opinions, but I know that the party in opposition to us have for many years acted upon the same principle, with which I find no fault.

But to come back to this question: it involves nothing; no apprehensions need be entertained; but if an investigation should be made and a definite proposition presented, then it will be time enough for gentlemen to ascertain whether it will be right or wrong. I only want to save the Government for the present; that is all there is in the proposition.

Mr. HENDRICKS. It is a little difficult to see upon what ground the friends of this proposition do stand. The Senator from California [Mr. CONNESS] wants to provide for the reporters of the Senate; the Senator from Illinois [Mr. YATES] wants to provide for some partisan; the Senator from Ohio [Mr. WADE] seems to want this printing done at the Government



Printing Office, if possible. These are the three authoritative views expressed in support of this measure. I knew there was something in it. I knew as soon as the Senator from Illinois got up that we should have just what it was, so far as he chose to speak at all. I intend now to speak very briefly of these three propositions.

First, the Senator from California intimates that the Globe office is not doing exactly fair by the reporters of this body. There is no Senator who would be more earnest in demanding that full justice should be done to the two young gentlemen that report the proceedings of this body than myself. They are very expert and able in their profession; they are very laborious in the discharge of their duties; and no compliment could be paid to them in too extravagant terms. But, sir, are we to decide that we will not continue a publication which has been approved for so many years because of a temporary disagreement, if such a disagreement does exist, between the Globe office and some of its employés?

I suppose when the thing comes to be investigated it will be found that the reporters in the Senate have been very well paid. I do not intend to discuss it now at any length; but I understand that three reporters in the Senate get the same compensation that is paid to five in the House. They are paid in the same way, \$4 50 per column, and this is paid to three reporters in the Senate and five in the House, at one session six in the House; it being so very difficult to report in so large a body as the House, a larger corps seems to be necessary in that body than in this. A statement that I have in my hand shows that for the second session of the Thirty-Seventh Congress the proprietors of the Globe paid the reporters of the Senate \$12,048 20, and Congress paid them \$4,000. For the third session of the Thirty-Seventh Congress they received from the proprietors of the Globe \$5,464 92, and \$4,000 from Congress. For the first session of the Thirty-Eighth Congress they received from the proprietors of the Globe \$11,450 72, and \$4,000 from Congress. For the first session of the Thirty-Ninth Congress they received from the proprietors of the Globe \$12,784 61, and \$4,000 from Congress. In all for these five sessions they received \$66,589 03; and at one session, as I understand, they received the twenty per cent. voted to the employés of Congress, twenty per cent. not only upon what was paid by Congress, but upon what was paid by the proprietors of the Globe.

I am not prepared to say whether that was a full compensation or not, or whether the employment of these reporters during the vacation on courts-martial and otherwise did not make up a very handsome compensation. I do not choose to discuss that. I suppose that the Senate will hardly abandon a policy that has been approved by so many years merely because of a temporary disagreement between the employés of the Globe and that office. That is all I have to say in reply to the Senator from California.

Now, sir, I come to the argument of the Senator from Illinois. He fairly stated it so as not to be misunderstood. How far does he claim that the principle which he now indorses shall go, that to the victors belong the spoils? I supposed that applied to the public offices, and that it was made consistent to the moral sense of the country, because the President of the United States, being charged by his oath of office with the execution of the laws, it was due to him that he should have around him in important official positions men that sympathized with him in his views and policy.

The Democratic party claimed that for the President, and I think the Whig party claimed the same for its President when it came into power. But does the Senator say that the money paid by the tax-payers of this country into the coffers of the Government is public spoils to be plundered upon by the party in power? Here is a question of work to be done, of contracts to be complied with, as I think.

Is that arbitrarily to be given to some partisan that he shall make money out of it? When a house is to be built by the Government, when the mails are to be carried over some route for the benefit of the people, does the Senator from Illinois claim that that house shall be built by a partisan without a competition allowed to all the mechanics of the country? When the mails are to be carried and paid for, does the Senator claim that the public Treasury may be plundered upon to enrich a partisan?

I know very well that the Senator's party has indorsed the doctrine that to the victors belong the spoils, and illustrated it in a way never known to a free country before. He speaks of the crumbs of office. For five years past it has not been crumbs, it has been whole loaves, whole car-loads and ship-loads of spoils to the men in office and to the favorites of men in office. A few have grown wonderfully rich. Men who before your party came into power were poor and scarcely able to make the ends of the year meet are now living in gorgeous palaces and rolling in wealth. This is known; it is seen in every locality; it is seen in every city and village of the country that men, because of their party attachments, have grown rich out of the money that the people sweated that they might pay it into the public Treasury. Is that the illustration of the doctrine which the Senator from Illinois to-day approves?

I do not, as a Democrat I never held to any such doctrine. I say that the money which goes from the pockets of the people into the public Treasury must only be paid out according to law, and when a contract is made it must be made fairly, without a view to giving to a partisan more than it is worth. The Senator does not say that the pay which has been given to Mr. Rives for the publication of the Globe has been more than was a fair return. He has not said that. He has admitted that the work has been well done, but he simply wants to take it away from these people, the present owners of the Globe office, that the work may be given to a partisan.

Mr. President, if a contract has been made to carry the mails between the Atlantic and the Pacific coasts will he claim that that contract ought to be set aside that some partisan may have the benefit of it? I understand the force of his appeal, that the men ought to have the benefit of the crumbs who have stood by the war, as he says. Why, sir, I believe one of the sons of Mr. Rives occupies a soldier's grave. Mr. Rives himself could not go to the war, but I never heard that his purse-strings remained tight when an appeal was made to his generosity on behalf of any soldier. He was liberal, generous, kind to all—a model in all these respects.

Is this Globe to become a partisan paper? Are the reports of our proceedings to be made up for partisan purposes, as is the case in the partisan papers of the country and to some extent on the part of the Associated Press, that the views expressed upon one side of the Chamber shall be fully represented and that the views which are expressed in reply on the other side of the Chamber shall be suppressed? Why is it that this shall become a matter of partisan strife? It never has been so. When the great party that the Senator speaks of was in power I never heard that work which was to be done for the Government and to be paid for at a fair price was regarded as the spoils of office or the spoils belonging to a party triumph.

But I do not intend to discuss this question further. I believe we are committed by the bill of 1864 to give two years' notice. That is the fair, plain reading of the law, and I think we ought to live up to it.

Mr. YATES. Mr. President, the Senator from Indiana seems to manifest a modest and maiden sort of surprise at the doctrine which I have advanced. He wanted to know what was the motive principle with Senators in introducing this amendment. I did not know what the sentiment of the honorable Senator from Ohio was in introducing the amendment,

but I had a right to speak for myself, as I am in the habit of doing, and I spoke for myself. I said that when I occupied the position relatively that the honorable Senator from Indiana now occupies, when I was in the minority, I resisted the position that the spoils belonged to the victors; I believed that doctrine then demoralizing and unpatriotic; but, sir, like every good American citizen, when fairly overcome by the voice of the majority I yielded, and said *vox populi vox dei*. Sir, the principle which I propose is that which is now acted upon by both parties throughout this country. There is no Legislature in the United States of America where the dominant party does not employ its own agents in carrying out its principles, whether it be in public printing or whether it be in the dispensation of patronage in any shape whatever. There is no State in the United States of America where this principle is so rigidly adhered to as in the State of Indiana.

If the party to which the honorable Senator belongs in the State of Indiana were in the ascendant to-day, that honorable Senator will not stand up before the Senate and say that the public printer of the State of Indiana should not be a Democrat true from his head to his heels. He contends for no such principle. When he pretends to say that we propose to "plunder" upon the Treasury, what does he mean? My object is to place the patronage of the Government in the hands of a party which is not distinguished for plunder; whose record is clear and pure upon the subject of public plunder. I propose to place it in the hands of the Republican Union party, that is not so much distinguished for plunder and spoils as for exalted devotion to the country during the trying scenes which have tested the patriotism of the various parties of this country.

Mr. McDOUGALL. I desire to ask the Senator from Illinois a question. Are the publications as we have them now partisan publications, or do you propose that they shall be partisan publications?

Mr. YATES. If the gentleman wishes a distinct answer (though the term "partisan" seems to be employed by the honorable Senator from Indiana as an odious term) I respond affirmatively. I propose that the public printing of the United States of America shall be under the control of and shall be carried on by men who are true to the Union, who are true to the party, who are radical Republicans; and I propose that not one dollar, not one cent of public patronage shall be given to a party who sympathized with treason during the rebellion through which we have passed. These are my individual sentiments. These are the sentiments for which I have contended for years past and for which I shall contend until the last day in the evening of my life.

Now, Mr. President, of course in this matter I have not pretended to refer to what may be the obligation of the Government by way of contract. If there is a contract by which we are bound to give the printing to the Congressional Globe, then I stand by the contract; but if the road is clear, I am for conferring this printing upon a man or upon a firm that are true and have been true and will be true to the Republican Union party of the Government. I repeat what I said before, that after the trials we have passed through, after the contests we have had, I would not give a cent for a dominant party which would not thus confer its patronage. Upon the subject of "plunder" it is true that in the millions which composed the Republican Union party of this country we have not men who can honestly discharge the duties of public printer or any other office? The country will expect of us that we shall be true to this principle and that we will carry it out, especially since it has been established and forced upon us by that party of which the honorable Senator from Indiana is a very distinguished and worthy member.

Mr. McDOUGALL. I never did agree to the observation made many years since, "to the

victor belong the spoils." I think it as false a maxim as ever was incorporated into political policy. It has been well laid down that in republican States virtue is the true foundation, and not partisanship, not art, not management, not fraud, not the results that may be culminated by these forces. Upon virtue the foundations of this Government must rest.

I care not to embark in this particular argument, but I think the Senator from Illinois is wrong; I do not care to discuss the matter with him, because I am afraid that he would be angered—if that is a good word—if I should do it. The philosophy of the discussion can be better read in Butler's *Hudibras*, and there I will leave it.

Mr. FESSENDEN. I thought, Mr. President, at the time this amendment was first offered, that this matter was open; but I have since examined with some care the act referred to by the honorable Senator from Rhode Island, and the conclusion to which I have come is that, for two years at any rate we are bound, impliedly bound, to give this printing to the Globe.

Mr. HOWARD. Bound in law?

Mr. FESSENDEN. We are impliedly bound. The enactment is this:

"That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, directed to purchase from the publishers of the Congressional Globe and Appendix, for each Senator, Representative, and Delegate in the present and each succeeding Congress, who has not heretofore received the same, one complete set of the Congressional Globe and Appendix.

"Sec. 2. And be it further enacted, That there shall be paid to the publishers of the Congressional Globe and Appendix, by the Secretary of the Senate and the Clerk of the House of Representatives, out of the contingent funds of the two Houses, according to the number of copies of the Congressional Globe and Appendix taken by each, one cent for every five pages exceeding three thousand pages for a long session or fifteen hundred pages for a short session, including the indexes and the laws of the United States for this and each future Congress."

That is specific; and then the third section makes an appropriation for the Congress at which the act was passed. Then the fourth section provides:

"Sec. 4. And be it further enacted, That all acts and parts of acts inconsistent herewith be, and the same are hereby, repealed: *Provided, however*, That the above provisions are made upon the express condition that they may be abrogated by either Congress or the publishers of the Congressional Globe and the Appendix at any time after giving two years' notice for that purpose."

By the first section we agreed to take a set of the Congressional Globe and Appendix for each new member. By the next section we agreed to pay them so much for the additional printing over three thousand pages at a long session. Then we say that either party may abrogate the arrangement by giving two years' notice.

Mr. HOWARD. And that notice has not been given.

Mr. FESSENDEN. Notice has not been given. Mr. Rives, therefore, if he is the publisher, must publish for us for two years. We must pay him that amount of money extra. It assumes that they are necessarily to do this printing for Congress. It does not mean that they are bound to furnish this additional printing whether they do the other or not, and that we are bound to take it of them if they do. It imposes upon us an obligation to continue them; an implied obligation, not directly. It assumes that they are to publish the debates and imposes upon us an implied obligation to continue them as publishers and to pay them so much until we give the notice specified. That is my construction of the act; and that being so I do not think we can very readily vary it; but I think the notice ought to be given and given at once in this bill.

Mr. JOHNSON. I have no doubt the honorable member from Maine has correctly stated the law to which he has referred. At the time that the law was passed, 4th July, 1864, Mr. Rives was the publisher of the Globe, and he had been for some time before. The object of that bill was not to change the mode of publishing the proceedings of Congress, but to con-

tinue as it was going on, with certain changes, changes for his benefit and changes for our benefit; and the latter part of the law, the provision as to notice, to be found in the last section, was intended to apply to the whole of the antecedent portions of the law. It is therefore to be read, as I think, in this way: that this law is to stand as the agreement between the publisher of the Globe and the United States until either party shall give notice of two years that it is to terminate. The language of the clause is that it may be abrogated upon the giving of two years' notice, the meaning of which necessarily is that it is not to be abrogated without giving that notice. It is to me, therefore, a very clear question. The true interpretation of the law is that the United States are bound until the prescribed notice is given to go on and discharge what they undertook to do by this law. It is purely a question of law, and the political question which the honorable Senator from Illinois stated does not arise. But I cannot help saying before I sit down that I should think it exceedingly unfortunate to connect the publication of the Globe with any party newspaper. I know what would necessarily be the result of such connection. If the paper happened to differ (as of course it would, for we are always divided into parties and will continue to be so) with either side of the Senate or of the House, the editor could not avoid indulging in strictures to the prejudice of the party with whom he differed, and the proceedings of the Senate, which are supposed to go to the country to speak for themselves, would go with such remarks as a partisan editor, whoever he might be, might think it due to his party to make. The Globe, as it has been published in the past, as it is now published, is entirely free from any party bias. There is nothing of a party character to be found in the paper of its publishers. Whatever of party is in it is in the speeches which are made by the several members.

Mr. ANTHONY. I wish to correct a mistake which I made a little while ago. One Senator asked me what the cost of this "one cent for five pages" item was, and I stated a much larger sum than it really amounts to. I must have got my impression from taking a whole Congress, a long and a short session together. I see the amount appropriated in this bill is \$15,000.

Mr. CRESWELL. For each House.

Mr. ANTHONY. I merely wish to make the correction. I thought, when the law of 1864 was passed, it bound us for two years, and that is the reason why I did not vote for it. I thought the proprietors of the Globe ought to have a larger compensation than they then received, but I did not think we ought to bind ourselves for any specified time. I am not lawyer enough to decide how the law should be construed, but it seems to me the faith of the Government is pledged to it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio, [Mr. WADE.]

The amendment was not agreed to.

Mr. FESSENDEN. I suggest now that in line fifty-nine we strike out the words "for the first session of the Fortieth Congress," as I do not see any necessity for having those words in; so as to make the clause read:

For reporting and printing the proceedings in the Daily Globe, \$21,250.

There is no use in these words, and I move to strike them out.

The motion was agreed to.

Mr. FESSENDEN. In lines sixty-three and sixty-four I move the same amendment, to strike out the words "for the first session of the Fortieth Congress."

The amendment was agreed to.

Mr. FESSENDEN. Then on page 7, line one hundred and fifty, I move to strike out the words "the first regular session of."

The PRESIDENT *pro tempore*. Those words will be stricken out to make the bill uniform.

Mr. FESSENDEN. Then on page 9, lines one hundred and ninety-four and one hundred and ninety-five, I move to strike out "for the first regular session of the Fortieth Congress."

The PRESIDENT *pro tempore*. That amendment will be made to make the bill conform to the previous amendment.

Mr. FESSENDEN. Now I move to change the proviso at the bottom of page 7, which reads:

*Provided*, That notice is hereby given that at the close of the Fortieth Congress the United States will terminate the purchase of one complete set of the Congressional Globe and the Appendix for each Senator, Representative, and Delegate provided for by the act approved July 4, 1864.

I move to strike out all after the word "provided," and to insert:

That the notice required by the fourth section of the act entitled "An act to pay in part for publishing the debates of Congress, and for other purposes," approved July 4, 1864, is hereby given that Congress will in two years from the close of the present Congress abrogate the provisions of the first and second sections of said act.

The amendment was agreed to.

Mr. MORRILL. By request I move a reconsideration of the vote whereby the amendment of the Senator from Ohio [Mr. WADE] was rejected. I refer to the amendment striking out in lines fifty-eight and fifty-nine, on page 8, the words "in the Daily Globe."

Mr. FESSENDEN. He moved also to insert in their place the words "the proceedings of the Senate daily."

Mr. WADE. And to make the same change in the other places of the bill where it is necessary.

Mr. FESSENDEN. There are half a dozen changes which should be made to conform to this amendment if it is to be made; and when the vote is taken, if it shall be adopted, I shall suggest them.

Mr. WADE. Very well.

Mr. SHERMAN. On this motion to reconsider I wish to say a word. The Senator from Maine a while ago said it was his impression that under the act of July 4, 1864, Congress could not without a breach of faith stop the publication of the Globe. If I thought so, if such was the effect of the law, as a matter of course it would end the argument, for I take it no Senator would violate a contract made by Congress with the publishers of the Globe. There would be no occasion to do it, and I certainly would not do it. I would even resolve a doubt in their favor, if I thought there was a doubt about it. I remember the circumstances under which that law was passed.

Mr. FESSENDEN. The Senator will excuse me for saying that I did not wish to be understood as suggesting that the making of this amendment would be a violation of the contract. If they have a contract we can just as well fulfill it with this amendment as without it.

Mr. SHERMAN. But still, if we are bound to take the Globe at the next Congress we may as well appropriate in the ordinary way, and the amendment would be idle, to say the least of it, if the Senator's view of the law is correct; but I do not so see it.

I remember that the bill of 1864 was introduced at the close of the session by the Senator from Rhode Island merely to provide against a temporary exigency. It was then claimed by the Senator from Rhode Island, representing the Committee on Printing, that Mr. Rives could not continue the publication of the Globe in the then condition of affairs on account of the high price of paper and the high price of labor. That bill was intended to give him relief. It was not to provide for the publication of the Globe, but to give him relief first on account of the large size of the Congressional Globe, it having extended beyond three thousand pages at a long session; and next, because on account of the absence of members from the southern States the number of Globes taken had fallen off. The old custom of giving to every new member of Congress a set of certain documents had been discontinued. In this condition of affairs he

was not receiving what he had formerly received under more favorable circumstances.

The equity of the claim seemed to be so strong as to carry it through without a division, I think.

It seems to me that the notice required by the fourth section of that law simply relates to the additional price provided for by it. For instance, suppose the Globe was going on in the ordinary way, reaching its three thousand pages, if we intended to discontinue that we ought to give Mr. Rives reasonable notice, so that he might condense, if possible, the Globe within three thousand pages, because up to three thousand pages he is paid in a different way, by the subscription of Congress to the publication of the Globe. The provision in the second section of the act of 1864 was simply intended to pay him for the additional expense caused by the swelling of the Globe beyond three thousand pages; and the other provision requiring a full set of the Globe to be given to new members was to compensate for the condition of affairs in which we were then placed, by which he was not required to supply so great a number of Globes to members as before.

It seems to me that the fourth section of that act does not require any notice for a change of the original contract. The original contract for the publication of the Globe is in certain resolutions passed from time to time by the two Houses of Congress directing the manner of publishing the Globe. If I remember aright, when I examined the question, there were eight or ten of them, perhaps more. They have been varied from time to time. Many of the appropriation bills varied them. That contract was simply a continuing contract at the pleasure of either party, the one to publish the Globe and the other to pay a certain rate for reporting and a certain rate for the volumes that were published. The fourth section did not affect that contract at all; it did not change the right of either party to discontinue that contract at any moment. It simply provided that this extra compensation should be paid as long as the work was continued, and if we thought the extra compensation should not be paid we should give two years' notice so that Mr. Rives might exercise his right under the original contract to discontinue the work.

It seems to me that is the meaning of the law, taking into view all the facts connected with it. Full force can be given to the fourth section by confining it to the construction I give to it; and it seems to me that is the entire force of it. The original contract for the publication of the Globe depended upon the pleasure of both parties. The stipulation about extra pay for the increased size of the volume, and also about the back volumes to the new members was a new contract, not for years embraced in the appropriations. The appropriation for the additional sets was discontinued in 1860, if I remember aright, and for years Mr. Rives did not get this extra compensation. The fourth section was intended simply to give him this extra compensation for a period of time without changing the original contract, or the terms of the original contract, except as to the extra compensation, and that this extra compensation should be paid until two years' notice was given for its discontinuance.

It seems to me that notice applies only to the extra compensation and does not extend to the original contract. Either party is at liberty to abandon the original contract, and as a matter of course the furnishing of additional volumes and the extra pay for the additional size of the volumes would fall with the falling of the original contract. So it seems to me, and I think also from the statements which have been made, that a change ought to occur in regard to the publication of the Globe. Since the Globe was organized we have established a Public Printing Bureau. In consequence of the struggles for political patronage and political power, the distribution of the printing of Congress became a disgusting spectacle. Those who remember the contest for it during the three years from 1857 to 1860 will

remember that there was the most disgusting spectacle presented in the action of Congress. The public printing was a matter of barter and sale; the profits arising from the public printing were distributed for political purposes and political objects. To put an end to this both parties, under the lead of one of our colleagues from Ohio, now dead, thought it wise at a time when the Senate was one way politically and the House the other, to adopt the system of severing Congress from the public printing, throwing the whole matter into a bureau organized under the control of Congress and in the power of Congress, but in such a way that no part of the public money could go to the Superintendent of Public Printing. A colleague of mine in the House, who took great interest in the matter in connection with the chairman of the Committee on Printing of the Senate, framed the bill organizing this bureau with a view to separate entirely from politics the printing of Congress and the Departments. It was not carried out as far as the Globe was concerned, though the transfer of the Globe to the Public Printing Office was then talked about, and the reason was this: it was said that the buildings were not large enough; but it was even then contemplated that the whole printing of Congress, including the printing of the Globe, should be done at the Government Printing Office.

Under present circumstances it seems to me we ought to carry out that design. Since then the returns of the Superintendent of Public Printing show that something near three or four hundred thousand dollars a year are saved in the publication of the matter ordered by Congress. We ought to carry out the original design in this respect unless we are prevented from doing so by some contract. In the view I take of this law I do not think it is a case of contract. If it is a contract, Mr. Rives will be entitled to damages. If the proper court should hold that this was in the nature of a contract he would have a fair claim for damages, and if I believed he had a contract which was binding on us I would certainly be the last man to violate it to save two or three hundred thousand dollars a year.

Mr. JOHNSON. I think with the honorable member from Ohio, [Mr. SHERMAN,] that the printing of the Globe ought to be transferred as soon as we can do it to the public printing establishment; and if I thought there was no difficulty in the way of attaining that end now I would vote in support of the amendment of the honorable member from Ohio, [Mr. WADE.] But in my opinion there is a very clear contract between the United States and the present publishers of the Globe that they are to continue to be the publishers until the notice prescribed in the law shall be given. The honorable member from Ohio [Mr. SHERMAN] construes the meaning of that law by facts outside of the law altogether. The true mode of interpreting a law is to interpret it by itself, without any reference to facts *abundant*; and so interpreted by itself I think the honorable member would say that if the Globe never had been published before that law was passed the publishers would be entitled to the benefit of the notice before their publication under that law should be terminated. Now, does it make any difference that they were at the time that law was passed, and had been for some time before, the publishers of the Globe? I think not. Upon what rule of construction can my friend from Ohio maintain that the last section of that law is to be applied only to one of the antecedent sections?

Mr. SHERMAN. I said it applied to both those sections, but not to any contract pre-existing.

Mr. JOHNSON. My friend says there was no antecedent contract except from year to year, as we agreed that they should go on to publish the Globe. They were publishing the Globe at the time we passed that law. We say what is to be done there; that is to say, they are to publish the Globe and we are to pay them something extra for publishing the Globe;

and we say that shall not be put an end to without giving two years' notice. I read that section as applying to the entire law, as covering every thing which the law implies, if it does not in words direct, that the publishers of the Globe shall do. So construed, I cannot vote for the amendment.

Mr. STEWART. I am in favor of this amendment, not because I propose to disturb any contract if such exists, but I do not feel disposed to commit myself. I do not think it right for the Senate to commit itself on a question not under consideration. The question whether we shall continue this contract, if one exists, is not involved. I understand that every object desired by the appropriation will be answered by passing it in the form in which this amendment will put it. The effect of this amendment is simply to leave the Senate in a position to investigate the question. I am free to confess that I have not enough of the facts before me, I have not sufficiently examined the law, to be prepared to pass upon that question, and I say it is not before us. I do not believe in determining such a question indirectly. But as the bill now stands the money must necessarily go to the Globe, and it commits us for the next two years. That may be proper or it may not. If there is a contract in existence which binds us to that the party holding the contract will get the benefit of this appropriation if it is put in this form. I think the amendment had better be adopted, so that we may investigate that question.

Mr. HOWE. When this question was first put to the Senate I had not had an opportunity of examining the law on the subject, and listened only to the statement of the Senator from Maine commenting upon the act of 1864. Consulting the same authority from which he read, it seems to me that when the act of 1864 was passed there was no obligation of law requiring either the Senate or the House of Representatives, or any individual in either the Senate or the House, to take a single copy of the Globe except as that obligation was conferred by resolutions from session to session. Then laying out of view the act of 1864, where is the obligation on the part of anybody to order a single copy of the Globe? Where is the law which says that Congress shall pay for one copy or one million copies? I do not find it.

What, then, is the act of 1864? What obligation did that impose upon Congress? First, the obligation to purchase at every succeeding Congress a full set of the Globe for new members; second, an obligation to pay one cent for every five pages above a certain amount—three thousand pages for a long session and fifteen hundred for a short session—one cent for each five pages upon so many volumes as Congress might take, but not settling at all the question how many copies Congress should take. Congress was still at liberty to take few or many or none.

The fourth section provides in the language which has been read that these provisions—the provision which requires Congress at each succeeding session to supply new members with full sets of the Globe, and the provision which requires Congress to pay one cent for every five pages above the given amount on so many copies as are taken—these particular provisions shall not be repealed without two years' notice. What, then, if we do not give the two years' notice, but do not take a single copy of the Globe? Who can find fault? What law is violated? What contract is impaired? I do not see, and therefore I shall vote for this amendment.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine, [Mr. MORRILL,] to reconsider the vote by which the Senate refused to agree to the amendment of the Senator from Ohio, [Mr. WADE.]

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment to strike out in lines fifty-eight and fifty-nine, on page 3, the



words "in the Daily Globe," and to insert "of the Senate, daily."

Mr. JOHNSON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 14; as follows:

YEAS—Messrs. Buckalew, Cattell, Chandler, Creswell, Fowler, Frelinghuysen, Grimes, Harris, Howe, Kirkwood, Lane, Morgan, Morrill, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Sumner, Wade, Williams, Wilson, and Yates—24.

NAYS—Messrs. Anthony, Cragin, Davis, Doolittle, Foster, Hendricks, Howard, Johnson, McDougall, Norton, Patterson, Poland, Trumbull, and Van Winkle—14.

ABSENT—Messrs. Brown, Conness, Cowan, Dixon, Edmunds, Fessenden, Fogg, Guthrie, Henderson, Nesmith, Nye, Riddle, Saulsbury, and Willey—14.

So the amendment was agreed to.

Mr. FESSENDEN. Regarding that as settled, it will be necessary to make several other amendments which I will suggest. In the same page, in line fifty-six, the words "Congressional Globe" should be struck out, and "the reports and debates of the proceedings of the Senate in book form" inserted. I move that amendment.

The amendment was agreed to.

Mr. FESSENDEN. In line sixty-two, on the same page, the words "for the Congressional Globe" should be stricken out.

The PRESIDENT *pro tempore*. Those words will be stricken out to conform to the previous amendment.

Mr. FESSENDEN. In line one hundred and forty-nine, on page 7, the words "Congressional Globe and Appendix" should be stricken out, and "debates and proceedings of the House" inserted.

The PRESIDENT *pro tempore*. That correction will be made to make the bill uniform.

Mr. FESSENDEN. In lines one hundred and fifty-five and one hundred and fifty-six, on page 7, I move to strike out "Congressional Globe and Appendix" and to insert "debates and proceedings of the House;" in line one hundred and eighty-nine, on page 9, I move to strike out "in the Daily Globe" and to insert "of the House, daily;" and in line one hundred and ninety-three to strike out "for the Congressional Globe."

The PRESIDENT *pro tempore*. These alterations will be made to make the bill uniform.

Mr. SHERMAN. I now offer an additional section to complete this matter:

And be it further enacted, That the joint Committee on Public Printing be directed to invite proposals for the execution of the work now done in the publication of the Daily and Congressional Globe, and that the committee report whether the same may be done with greater accuracy by the Public Printer or by continuing the present arrangement, or by accepting some other proposal; and the committee is hereby authorized to contract with the publishers of the Globe for the publication of the debates of the first session of the next Congress at rates not exceeding those now paid.

Mr. FESSENDEN. I hope that will not be adopted because that assumes that there is no contract existing. I think that matter can be arranged hereafter without putting it on this appropriation bill. We are not ready for that yet. Some part of the provision I might be in favor of. I have no objection to an inquiry, but I do not wish it put in this form. I hope the Senator will withdraw it and offer it separately.

Mr. SHERMAN. I have no objection to offering it as a resolution; but I submitted it to the chairman of the Committee on Printing and he thought it ought to be done.

Mr. FESSENDEN. It would be better to offer it as a resolution and let it go to the Committee on Printing.

Mr. SHERMAN. Very well; I withdraw the amendment.

Mr. POLAND. I desire to offer an amendment which is varied from one on the same subject formerly presented:

And be it further enacted, That from and after the 30th day of June next the salaries of each of the judges of the Court of Claims shall be \$4,500.

I desire to say a word or two in reference to this amendment. Since the vote was taken on the amendment I offered before, giving a salary of \$5,000, I have looked into the statutes in reference to the Court of Claims. This court

was established in 1855, and the salary then given was the same as it now stands, \$4,000 a year. Every body understands that the expenses of living have doubled in that time.

In 1855, when this Court of Claims was established, members of this and of the other House of Congress received eight dollars a day during the session. Our pay was not raised to \$3,000 a year till a year or two after that time. The Court of Claims at that time, and for some years, were simply a committee of Congress; their judgments were not final; they merely examined all cases that came before them and reported to Congress. There was no finality about their judgments, and no effectual responsibility about them, more than upon an ordinary master in chancery who reports a case to the court.

Since that time the law has been altered, so that the judgments of this court are conclusive, binding between the Government and the claimant; their jurisdiction has been very much enlarged; their duties are altogether more arduous than they were at that time. While the pay of the members of Congress at that time was eight dollars a day during the session, it has been raised to \$5,000 a year—more than double what the members received at the time the salary of \$4,000 was fixed for the judges of the Court of Claims. Their expenses have doubled in that time, their duties have doubled; and it seems to me that it is not asking too much to ask that \$500 should be added to their pay when ours has been more than doubled in that time.

Mr. FESSENDEN. The whole argument adduced with reference to the former amendment applies to this: it is raising salaries in another form. I think the Senate substantially decided that these salaries were about right as they are now: we had one debate upon it. I do not accede to the strength of the argument that because men have to work in a position you must therefore pay them more. If the salary of these judges was \$4,000 some years ago, according to the Senator's statement, it was a great deal more than it ought to have been at that time. The question is whether it is not enough now in comparison with the salaries paid to other persons who perform duties which take their time as much as these. I hope this amendment will be voted down as decidedly as the other was.

Mr. FRELINGHUYSEN. The argument which was adduced before against \$5,000 was that it was making a salary higher than that of the chief justice of the district. This places it at the same sum. It seems to me that the character of the service rendered by these judges is such that they should receive good, liberal compensation. Vast claims in which the Government is interested come before them to the amount of millions. There is no doubt that these judges will be a better character of men and will discharge their duties better receiving a proper compensation. There is something in the way a person is paid as to the manner in which he discharges his duties and the diligence with which he does it. I think the Government can well afford to pay judges who are competent to discharge such duties as those that are imposed upon this court \$4,500. This subject was before the committee; it was considered carefully, and I hope the committee will be sustained in their report.

Mr. FESSENDEN. If we have men who do not discharge their duties well because they do not get as much money as they would like to have, if that is the argument, it is high time that we abolished the court and got rid of them, or got judges who would do their duty without regard to the amount of money they are paid.

Mr. FRELINGHUYSEN. That was not the argument. The suggestion I made was that the degree of diligence, the amount of wear and tear upon one's health that one will submit to, does depend something upon the obligations that receiving full compensation imposes on a person.

Mr. POLAND called for the yeas and nays, and they were ordered.

Mr. ANTHONY. I understand this amendment comes from the Committee on the Judiciary.

Mr. TRUMBULL. Yes, sir.

Mr. ANTHONY. I think the compensation is very moderate.

Mr. FESSENDEN. The Senate votes down a good many amendments that come from the Committee on Finance, and that is considered no great imputation on them. I take it we have a right to differ from the Committee on the Judiciary.

The question being taken by yeas and nays, resulted—yeas 16, nays 20; as follows:

YEAS—Messrs. Anthony, Chandler, Creswell, Doolittle, Fogg, Foster, Fowler, Frelinghuysen, Johnson, Patterson, Poland, Pomeroy, Stewart, Trumbull, Van Winkle, and Yates—16.

NAYS—Messrs. Buckalew, Cragin, Davis, Fessenden, Grimes, Henderson, Hendricks, Howe, Kirkwood, Morgan, Morrill, Ross, Saulsbury, Sherman, Sprague, Sumner, Wade, Willey, Williams, and Wilson—20.

ABSENT—Messrs. Brown, Cattell, Conness, Cowan, Dixon, Edmunds, Guthrie, Harris, Howard, Lane, McDougall, Nesmith, Norton, Nye, Ramsey, and Riddle—16.

So the amendment was rejected.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

Mr. FESSENDEN. The title of the printed bill reads "1867" instead of "1868." I move to correct that; and to amend the title by adding "and for other purposes."

The motion was agreed to.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 276) directing the Secretary of War to furnish certain muster-rolls to the different States, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### ADMISSION OF NEBRASKA—VETO.

Mr. WADE. I move to take up the bill for the admission of Nebraska with the veto message accompanying it.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 456) for the admission of the State of Nebraska into the Union, which had been returned by the President of the United States with his objections.

The PRESIDENT *pro tempore*. The question is, Shall the bill pass, the objections of the President to the contrary notwithstanding? It is a question that under the Constitution must be taken by the yeas and nays.

The question being taken by yeas and nays, resulted—yeas 31, nays 9; as follows:

YEAS—Messrs. Anthony, Brown, Chandler, Cragin, Creswell, Fogg, Fowler, Frelinghuysen, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane, Morrill, Poland, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—30.

NAYS—Messrs. Buckalew, Davis, Doolittle, Foster, Hendricks, Morgan, Norton, Patterson, and Saulsbury—9.

ABSENT—Messrs. Cattell, Conness, Cowan, Dixon, Edmunds, Fessenden, Guthrie, Johnson, McDougall, Nesmith, Nye, and Riddle—12.

The PRESIDENT *pro tempore*. Upon this question the yeas are 31 and the nays 9. Two thirds of the Senators present having voted for the bill, it is passed, notwithstanding the objections of the President, and will be sent to the House with the message of the President.

#### ADMISSION OF COLORADO—VETO.

Mr. WADE. I now move to take up the bill for the admission of Colorado. ["No, no."]

Mr. HENDRICKS. I understood that the Senator from Ohio was not going to call up that bill until we knew that it was coming up. He told me he would call up the Nebraska bill.

Mr. WADE. Very well; I will not insist upon the motion against the Senator's wishes. He has lived up to his contract; and if he thinks this is not embraced in it I will withdraw the motion.

Mr. HENDRICKS. It was my understanding that the Nebraska bill would be called for, but not the Colorado bill.

Mr. WADE. I withdraw the motion, be-

cause I made an arrangement with the other side that they do not understand exactly as I did; but I want perfect fairness. I withdraw the motion.

#### LEAGUE ISLAND.

Mr. GRIMES. I move that the Senate take up for consideration the bill (H. R. No. 452) to authorize the Secretary of the Navy to accept League Island, in the Delaware river, for naval purposes and to dispense with and dispose of the existing yard at Philadelphia.

The motion was agreed to.

Mr. SHERMAN. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, February 8, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### MUSTER-ROLLS FOR STATES.

Mr. BLAINE, by unanimous consent, reported from the Committee on Military Affairs a joint resolution directing the Secretary of War to furnish certain muster-rolls to the different States; which was read a first and second time.

The joint resolution was read at length. It directs the Secretary of War to furnish, on the application of the adjutant general of any State, certified copies of the muster-in and muster-out rolls of any organization of volunteers from such State, serving in the late war for the suppression of the rebellion, on the representation of such adjutant general that said rolls have not been returned to his department by United States mustering officers.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BLAINE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PACIFIC RAILROAD BONDS.

Mr. WENTWORTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be requested to communicate to this House the amount of bonds issued to the Central Pacific Railroad Company, and also to the Union Pacific Railroad Company, with the date of their issue, and also the number of miles of road completed.

Mr. WENTWORTH moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### FOREIGN CONVICTS.

Mr. RAYMOND, by unanimous consent, introduced a bill to prohibit the transportation from foreign countries to the United States of persons convicted of or charged with crime, and prescribing punishment therefor; which was read a first and second time, and referred to the Committee on the Judiciary.

#### RAILROADS IN INSURRECTIONARY STATES.

Mr. SPALDING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be requested to report to this House what railroad companies in the rebellious States have purchased rolling stock and other property of the United States Government after the surrender of the rebel army, the amount thus purchased in each individual case, the amount remaining unpaid, with the nature of the security held for the same; and that he further report what set-off, if any, the said companies or any of them profess to have against the United States Government, and its said claims, arising upon the sale of said railroad stock, &c.

#### ASSAY OF GOLD AND SILVER.

Mr. KASSON, by unanimous consent, introduced a bill to establish certain offices for the assay of gold and silver; which was read a first and second time, and referred to the Committee on Coinage, Weights, and Measures.

#### MEXICAN CATTLE DISEASE.

Mr. CLARKE, of Kansas, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Agriculture be instructed to inquire into the expediency of providing for the appointment of a commission to investigate the nature, causes, and results of what is commonly known as Spanish fever or Texas cattle disease, and to report by bill or otherwise.

#### MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. MOORE, one of his Secretaries.

#### AMENDMENT OF THE RULES.

Mr. BALDWIN. I ask unanimous consent to submit the following resolution for consideration at this time:

*Resolved*, That the Committee on Rules be directed to consider the expediency of amending the rules of the House so as to provide that when, on a call of the House after eight o'clock in the evening, it is found that a quorum is not present, the House shall immediately adjourn to meet on the next day at ten o'clock a. m.

Mr. RADFORD. I object.

#### GOVERNMENT OF INSURRECTIONARY STATES.

The House then resumed the consideration of House bill No. 1143, to provide for the more effectual government of the insurrectionary States, upon which Mr. SHANKLIN was entitled to the floor.

Mr. SHANKLIN addressed the House for an hour. [His remarks will be published in the Appendix.]

Mr. THAYER. Mr. Speaker—

Mr. GARFIELD. Will the gentleman allow me to make a motion that speeches be limited to twenty minutes for the remaining discussion of this bill?

Mr. THAYER. I must decline in view of the engagements I have made in regard to my time.

Mr. Speaker, it is not my intention to enter into any labored discussion of the particular details of this bill. Neither do I intend to debate the legal questions involved in its consideration. They have been already fully discussed on this and on other occasions. I wish to indicate, however, in as brief and concise a manner as I may, the views which operate upon my own mind in bringing me to the conclusion at which I have arrived, that it is my duty to vote for the measure now before the House.

Mr. Speaker, when the ship is among shoals and shallows a brisk breeze is preferable to a calm. I fear very much that in the present situation of public affairs we are drifting we know not whither upon that lifeless calm which has been created by the unfortunate dead-lock between the President and Congress.

Sir, I hail this measure as interrupting this baleful calm which, if not disturbed by a proper exercise of legislative power upon this subject, may be succeeded by disaster and collision. It furnishes at least an initial point from which we can start in the consideration and adjustment of the great question of reconstruction. I regard this as a measure which lays the grasp of Congress upon this great question, a grasp which is to hold on to it until it shall be finally settled. I regard it as a measure which is to take that great question out of that sea of embarrassment and sluggish inactivity in which, through the course which the President has thought proper to pursue, it now rests. Sir, the terms and conditions upon which this question is to be settled, belong, in my judgment, as I have had occasion to say on this floor, to the people who triumphed in the great struggle through which we have passed, and the only organ of the people in the making of that settlement, and in the enunciation of these terms

and conditions, is the body composed of their Senators and Representatives in Congress assembled. I deny that it is just or expedient that the attitude which is now maintained on the part of the several parties to that recent struggle should continue any longer. I deny that it is either politic or just that the attitude of the United States toward the revolted communities which were lately engaged in the rebellion should any longer remain of that doubtful character which now and for some months past it has worn.

Sir, the people of the United States who were triumphant in this great struggle will not submit to be placed upon terms of equality with their late enemies in negotiating and settling the terms upon which rebel States may be restored to power and authority in the Union. They will in some way or other vindicate and establish their own right to settle those terms and conditions in spite of the hostility of those who were lately in organized rebellion against the Government, and in spite also of the machinations and conspiracies of the public agents who have betrayed them.

It was conceded everywhere at the termination of the armed struggle between the rebellious States and the United States that the settlement of the terms and conditions upon which the people of those States should be restored to power and participation in the Government must of necessity rest with the people of the loyal States who had stood faithfully and resolutely by the Government of the United States, and who had carried it triumphantly to victory through seas of blood and under mountains of debt.

The President of the United States himself, it is a matter of public notoriety, conceded this position. He publicly announced in his proclamations and his official communications upon this subject that whatever might be done by executive authority, under the pressure of existing necessity, for the restoration of order in the rebellious States, must be subject to the revision and ratification of Congress. He did not then pretend to arrogate to himself the exclusive control of this great question, or the power which belongs, under the Constitution of this country, to the representatives of the people. He had not then the temerity to set up any such claim of power. The subject was remitted by him to Congress to approve or to disapprove the temporary governments which he had undertaken to establish in the rebellious States. But the attitude of the President of the United States has undergone a most tremendous and startling change. The President now denies that power to Congress which he once distinctly and specifically conceded. The President now claims, it would seem, the power to enter into negotiations with the Governors of those States, and to settle with them the terms upon which the people of those States are to be restored to their political relations.

Sir, a most extraordinary spectacle is now presented to the country; it is the spectacle of the President of the United States, who has by the Constitution no authority whatever on this question, undertaking, in conference with persons from the rebel States, who lately were active participants in the rebellion itself, to arrange terms of accommodation between the people of those States and the people of the loyal States. He is, if we are to credit public statements which are not contradicted now, engaged in consultations with leading men from the revolted section who influence the public mind and control the political movements of that region; not for the purpose of carrying out the demands of the people, which were made through their representatives in Congress at its last session, and which were ratified by overwhelming majorities in the loyal States at the recent elections; but in order to frame some new plan, to contrive some new scheme, not in accordance with the scheme presented by Congress and indorsed by the people, but such as will square with his own wishes, his own prejudices, his own intentions—I will not say his own pledges.

The President of the United States in his annual message recommends that "Congress should hasten to bring legislation within the boundaries prescribed by the Constitution." He grossly charges the Congress of the United States with unconstitutional legislation. The people of this country have passed upon that slandered legislation; they have given it their sanction, and have announced at the ballot-box their determination to abide by and enforce it. That is the answer, the sufficient and conclusive answer by Congress to the charge of unconstitutional legislation.

But how does the matter stand with regard to the accuser? How does the matter stand with regard to the President himself, who makes against Congress this charge of unconstitutional legislation? Let him show where he gets the authority to enter into conferences, secret or public, with the late leaders of the rebellion, to arrange terms for the settlement of this question. Let him put his finger upon that part of the Constitution which authorizes his intermeddling with it at all, except merely to express his approval or disapproval of the acts which may be passed by Congress. Yet, sir, the extraordinary condition of affairs to which I have alluded exists, in which, notwithstanding the people have decided upon and ratified the plan of Congress, namely, the adoption of the constitutional amendment proposed at the last session as a prerequisite to restoration, the President persists in his negotiations with those who were lately the public and armed enemies of the country.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?

Mr. THAYER. I cannot yield now; my time is brief, and I have promised to give a portion of it to other gentlemen who desire to speak.

Mr. ELDRIDGE. Only a question.

Mr. THAYER. The gentleman must excuse me. I must insist upon being allowed to proceed without any interruption.

Now, Mr. Speaker, I am in favor of this measure, because I believe it is calculated to lift this great question out of that sluggish slough into which it has fallen by reason of the conduct of the President of the United States in setting himself up in opposition to the will of the people upon this subject. We proposed one measure of reconstruction. The President opposed it, although he had no constitutional authority or power to interfere. The question, therefore, remains not only unsettled, but apparently as far removed from settlement as it was at the adjournment of the last session. The President continues his machinations and his consultations; the rebellious States continue obdurate and defiant; Congress remains passive and inactive, and the country is as far as ever from the security and repose which it demands.

We have adopted no measures which furnish even an initial point from which to start afresh in the settlement of the question at issue, which, if it ever be settled, must be settled here, for only here can laws be made for the Government of the United States. The measure under consideration proposes to grasp the control of this great question, and to hold on to it, until it is finally determined and settled upon such terms as shall be agreeable to the people of the United States, acting by their chosen Representatives in Congress. We will not submit to enter into treaty as equals with those who brought on the war, with those who initiated and brought upon the country the endless and innumerable calamities which follow in the train of the war.

Without regard to any question of political casuistry, turning upon the question of States in the Union or States out of the Union, one thing let gentlemen depend upon, that the people, who do not appreciate these fine metaphysical distinctions, will and do insist that this question shall be settled, not by the rebellious States, not by the President of the United States, but by their own immediate Representatives, and upon such terms as they the people

may through those Representatives dictate to a subdued and beaten enemy.

Sir, nobody I suppose regards this bill as a reconstruction bill. It is not a reconstruction bill; but it is a bill the effect of which will be to assert within the rebel States the authority and supremacy of the United States. It is a bill which will convince those people that they must submit to such terms as the loyal people of the United States through their Representatives in this body may choose to propound, and not to such terms as they may beg or buy from the President of the United States. It is of no consequence to this body what the President of the United States thinks upon this subject. This question is removed from his jurisdiction by the Constitution. It is a question above and beyond him. He has nothing to do with it. It belongs here. It is the people's question, and belongs to us as the agents and immediate Representatives of the people.

The bill under consideration proposes to assert the presence and the living power of the United States in the region which was lately the scene of the rebellion. It does not propose, as I understand it, to do away with the local governments, to abolish the courts, (whether they have been established lawfully or unlawfully,) to reduce the people of that section, as has been said, to subjection to military despotism; but it proposes to erect there an appellate power, strong and irresistible, to which the down-trodden and persecuted Union men of the South may appeal from the injustice and the outrage of their enemies and persecutors. It proposes to enforce everywhere in the southern States the authority of the United States. It proposes to protect all men there in the enjoyment of their inalienable rights, and it proposes to do this by this means only until such laws can be made and such arrangements consummated as will place the future safety and peace of the country upon immovable foundations, and secure permanent protection and immunity from wrong to the loyal men in that region, who are now subjected to persecutions and wrongs for which they have no redress and against which they have no shield. No one contemplates that this shall be a permanent measure. It is of a temporary character and is demanded by present exigencies. Its object and aim is to guaranty present protection and equal justice to the Union men of the South. It is to prevent assassination, murder, robbery, arson, banishment, and all that long catalogue of cruelties to which the Union men and the freedmen of the South are, as is shown by overwhelming evidence adduced before the committee which reported this bill, subjected, without remedy and without redress. It is impossible that we shall abandon them any longer to the cruel fate to which they have been subjected. This bill proposes to extend to them the only protection which we can at present give them. It proposes to protect them by the strong arm of power until they shall be protected by equal laws and just and impartial tribunals.

Beyond this, the bill proposes no "oppression." If it be "oppression" to guaranty universal liberty and equality under the law, and to afford protection to those who have for their true allegiance been driven from their homes and many of whom have shed their blood in the cause of the Union, then this is oppressive. It is not oppressive in any other sense.

Sir, when the authority of the United States is once firmly established in that region, and when it is understood throughout the length and breadth of that country that the United States will protect from outrage all its citizens there, and that this question of reconstruction is to be determined and settled by the body to whom it belongs—by the Congress of the United States, and when that is acquiesced in, as it must be acquiesced in before any reconstruction can take place, the way to reconstruction will be swift and sure. But it is a point from which we can begin. The question is as it

were, through the course being pursued by the President, floating away from us. We must reclaim it. We must lay hands upon it; and we must, in the name and on behalf of the loyal people of this country, hold on to it until it is settled upon our terms and at our dictation.

Sir, this measure will be of brief duration and will be followed, as I am informed, by other measures, which will secure the permanent and peaceful restoration of these States to their proper and just position in the Union, upon their acceptance of such terms as are necessary for the future security of the country. When that is done, and when order is restored and permanent protection is guarantied to all citizens in that section of the country, this measure will be abrogated and abandoned. In the reconstruction which is to ensue it is not intended to ask them to accept anything which we will not accept ourselves. The same law, the same rights, the same powers, which belong to us will belong to them. We shall not seek to make one law for them and another law for ourselves. But we intend, at the proper time, when the authority of Congress to settle this question is once recognized, and when equal justice and equal protection is secured to all, to propose such terms as will insure uniform liberty, uniform justice, and uniform protection throughout the length and breadth of the whole land.

Mr. Speaker, I yield for ten minutes to the gentleman from Illinois, [Mr. HARDING.]

Mr. HARDING, of Illinois. Mr. Speaker, I cordially accord with those gentlemen who have expressed their approval of the purposes and objects of the bill now before the House. I represent a constituency who are second to no constituency in this Union in their devotion to the cause of the Union and the cause of freedom, and in their firm determination that, cost whatever it may of treasure or of blood, they will maintain the rights of the citizens of the United States against lawlessness and crime. Those are the declared objects of this bill.

I do not deem it necessary—I regard it as worse than useless—to discuss the issue of fact upon which depends the conclusion that there is a necessity for the passage of this bill. From all quarters the evidence is satisfactory to my mind that during the last two years this Congress has been derelict in respect to measures which should give protection to the faithful men of the late rebellious States, the men who struggled along with us, and who suffered more than us for the preservation of the Union.

The practical effect of this measure, if adopted without the least amendment, places us, in my opinion, where we were at that period, since the death of the lamented Lincoln, when the policy of protecting the Union men of the South was departed from. For more than a year, if my recollection is correct, and I think for a year and a half, after the termination of hostilities before Richmond and the surrender of all the martial forces of the enemy, we held jurisdiction and authority over the entire South by military power. It is true, sir, whether we were conquerors or not, we had control to assert the jurisdiction, the constitutional authority of the United States in the exercise of the war power. This bill proposes nothing more, nothing less.

If it were proper to maintain the power of the President over those States for so long a period, how is this measure so fatal to liberty now? If there is an officer in the service, the civil service so called, if there is a court there exercising jurisdiction relative to the rights of the people, it is all done under the authority, express or implied, of this Congress. As the conqueror by sufferance we have recognized the acts of these courts. However illegally constituted as civil government, still by sufferance we have recognized them; and whenever the conqueror chooses their municipal regulations can be wiped out and the local institutions removed. These local governments can be removed and ought to be removed. They ought to have been removed long ago. Out of regard to proper protection to loyal citizens



they ought to have been in the grasp of the military power long ago.

For our neglect to exert the military power of the Government we are responsible for the blood and suffering which disgrace this Republic. I think this is the best measure that has been offered for the relief of the loyal people who have been and are still suffering so much in the South. I will vote any amount of men and money. I will strain the ship of state till all her timbers crack rather than give up the loyal people of the South to the murderous fury of their enemies. I have no fear but we have constitutional power to direct the commanding general to perform this duty. He is an executive officer of the law. I know we have the power, and I am in favor of exerting it.

The gentleman from Kentucky [Mr. TRIMBLE] thinks, although the general in command has the power to appoint all these officers, the President can pervert this bill from the purposes intended. No, sir, he cannot. It is intended to protect the liberty and property of the loyal citizens. He cannot put a man at the head of any department to pervert the object of this measure. If he attempted it the thing would be as great treason as anything we have heard of. But I have no fear but when you give explicit directions to him or to any subaltern the laws will be executed.

We have arrived on this bill, sir, at the point from which we diverged. We establish the necessary supervising power over the people recently subdued. Let us go back, then, or rather let us come up to where we were before, and exercise jurisdiction over the territory conquered from the rebels, which jurisdiction the President has given up to those rebels, to the great suffering and injury of the Government and of loyal people.

[Here the hammer fell.]

Mr. THAYER. I now yield the residue of my time to the gentleman from Ohio, [Mr. SHELLABARGER.]

Mr. SHELLABARGER. Mr. Speaker, I am glad of the opportunity to explain the reasons for the vote I shall give on this important measure, and in what I have to say I shall not go much beyond that.

Now, if I agreed with the other side of this House in regard to the state of fact and the resulting state of law that is now upon our country, I would most heartily and thoroughly agree with them that it would not only be incompetent but monstrous for us to pass this bill into law on the state of facts assumed by my friends on the other side of the House: that we are in a state of profound peace, that there is peace in every sense of the word all over the Republic in the civil administration of the law; that the courts are open everywhere, and redress for violence and wrong can be obtained. I say if that is the state of the Republic we must not pass this bill.

Your Constitution, with that strange wisdom that amounts to inspiration, which, as we go along in these turbulent times, only excites more and more the admiration of every right-thinking man, has foreseen and provided for the exact state of the country which is now, alas! upon us. In that provision of your Constitution to which I now allude, and which is the one touching the suspension of the *habeas corpus*, the framers of the instrument provided for and have indicated what the duties of the hour are. Whenever in time of rebellion or of invasion the public safety requires that the privileges of that writ shall be suspended, it becomes not only the right, but the duty of the Government of the United States, either Congress or the Executive—and for the purposes of this inquiry it makes no difference whether the power be lodged in the President or in Congress—to suspend the writ of *habeas corpus*. That is this bill in all its scope and effect, and nothing beyond that. The bill assumes that the Republic is in a condition of rebellion when the public safety requires that the privileges of the writ of *habeas corpus* shall be suspended, because the courts are unable to administer the

law. Now, if we are mistaken in that fact, then this bill must be wrong, as indeed must every other conceivable method of reconstruction.

Now, let me remind learned gentlemen—for there are learned gentlemen on the other side of this House and as patriotic as those on this side—that every work on international law contemplates, recognizes, and provides for two states of war, namely: one in which it is flagrant and the other in which it is *cessante*, in the technical language of the books. The latter condition of things (I simply state the fact to be so, without, of course, stopping now to argue and prove it) is now upon the country, in which a rebellion is simply crushed by war, by the arms of the Republic, but is still sufficiently strong to overthrow and defy the courts in nearly half the territories of the Republic. That is state of war *cessante*; that is a state of things contemplated by your Constitution, and, thank God, the wise men who framed the Constitution provided for the case. The duties of the hour require that we should see to it that this mighty reserved force of your Government, lodged in the ultimate powers of war, shall be brought into play for the preservation of the life of your Republic. That is all there is of it. If I mistake the fact, then my law goes. If that is not the condition of the country, then we must abandon the bill.

Now, in the few minutes that have kindly been accorded to me I want to make a suggestion or two in regard to the detailed objections that are made to the provisions of this bill. They are every one of them worthy of consideration, and I desire to give to them that careful and kind attention that their value entitles them to in the twenty minutes that are allowed to me.

First, it is said that this is an assumption of the powers of the President as Commander-in-Chief of the Army, and that it is incompetent for Congress to indicate to any portion of the military forces of the Government a particular or specific duty that the Congress shall require to be done. Let me suggest to the gentlemen on the other side that if they will analyze that idea they will abandon it in the frankness that is due to so great discussions as we are now upon. Let me remind them now of some examples in the history of our own legislation where in principle the identical thing has been done by law that this bill proposes.

Take, for instance, this;—and I have hunted up these examples only this morning, taking them at random; thousands of others like them might be selected. The act of February 11, 1807, orders that vessels of war in actual service shall go into a specified service of the Government of the United States, namely, the coast survey. Now, I ask the gentlemen on the other side is that interfering with the prerogative of the President of the United States as Commander-in-Chief of the Navy? Every gentleman says no instantly. Well, why not? The President is the Commander-in-Chief; why is it that he cannot disregard a requirement of Congress that commands him to detail or send forth a portion of the Navy into a particular service?

Take another example. In the act of 1832 relating to the same service, it is expressly provided that such proportion of the land and naval forces of the United States as may be requisite for the execution of that service shall be detailed for that purpose. Now, suppose the President of the United States should say: "I am the Commander-in-Chief of the Navy: you are assuming my powers, and I will not execute that law." I would like to know whether the President would not be liable to impeachment; and whether there is any gentleman on this floor who denies that liability?

Another example. The act of May 14, 1836, provides that the President shall send a sloop-of-war, for purposes of exploration, into the South sea, into the Pacific ocean; what is commonly known as the Wilkes' exploring expedition. Suppose the President had disregarded that requirement of law, would that not

have clearly been a violation of his duties as the Commander-in-Chief of the Army and Navy?

I will now refer to another and a more striking example, because it is a case exactly like the one now before the House. It is a case where Congress, by act and operation of law, undertook to detail a portion of the Army of the United States to a particular territory for the purpose of enforcing the laws of Congress. I allude to various acts of Congress, one of which is as old as 1797, May 19, and which have been running through our legislation ever since. In every one of those acts it is provided that within the Indian Territories the President of the United States shall be authorized and required to use the armies of the United States for the purpose of executing the laws of Congress.

Now, I have alluded to these examples for the purpose of bringing to the minds of gentlemen this great fact: that the President of the United States is indeed the commander of the armies and navies of the United States. But in your desire to follow the Constitution of the United States you must not stop there; but you must also remember that the armies and navies of the United States are made the instruments of the Government for the execution of its laws. It is the business of the Government, of the political powers of the country, to make those laws; and then the Constitution has provided armies and navies for their execution. And the President in command of those armies and navies must command them so as to secure the execution of the laws.

But gentlemen say that after you have sent your military officers into those insurrectionary States for the purposes of government and protection, the President, as Commander-in-Chief of the Army and Navy, may take them all away again and thus defeat your laws. So he might have taken away the naval officers from the exploring expedition; so he may take away any portion of your naval forces which you may order to clean out your harbors and the mouths of your rivers. But suppose he does it; then comes in that other reserved force and power of your Constitution, by which, if it is done wantonly and for the purpose of defeating the provisions of the acts of Congress, your President is impeachable.

Now, it does seem to me that if gentlemen will only bear in mind these leading ideas, then all the fogs which surround this subject will disappear. Let it be remembered all the time that your country has a right to its life, and that the powers of your Government are given for its preservation. Let it be remembered that one portion of your Republic has fallen into a state of rebellion, and is still in a state of war against your Government, and that the powers of the Government are to be exercised for the purposes of the protection and the defense of the loyal and the disloyal too, in that part of the Republic; and that for the purpose of that defense you are authorized to suspend the privilege of the writ of *habeas corpus*, and to exercise such extraordinary powers as are necessary to the preservation of the great life of the nation. Let these things be remembered; and then let it also be remembered that the law-making power of the Government not only controls the President but controls the purposes and the ends and the objects of war, and, of course, the movements of the armies that are to be employed in war. Let these things be remembered; and it seems to me that all the difficulties with which it is sought to surround this measure will at once disappear.

Now, the only other suggestion which I desire to make, and it is one which I wish to make, is that this measure taken alone is one which I could not support unaccompanied by provisions for the rapid and immediate establishment of civil governments, based upon the suffrages of the loyal people of the South. I could not support a military measure like this, that was to be regarded at all as permanent in its character.

It is because it is only the initiative, because

it is only the employment of the armies of the United States as a mere police force to preserve order until we can establish civil governments. based upon the loyal suffrages of the people there, that I can support this measure at all. If it stood by itself and were designed to be permanent I could not, with my notions of the possibility and the practicability of establishing civil governments in the South based upon loyal suffrages, vote for this bill.

Mr. DAWES. With the permission of the gentleman from Ohio, I desire to get his views upon a single point. I agree with the gentleman that the President of the United States is, under the Constitution, the commander of the Army and the Navy, but that the law-making power is here; and I understand this bill to be proposed because this Congress has confidence in the officers of the Army. Without such confidence I suppose we never would contemplate for a moment putting into the hands of the General of the Army the vast powers proposed to be intrusted to him by the bill.

Now, the question which I wish to put to the gentleman from Ohio is an inquiry practical in its application to this bill. The second section of the bill provides—

That it shall be the duty of the General of the Army to assign to the command of each of said districts an officer of the regular Army, not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

Now, I concur with the framers of this bill in the confidence they repose in the General of the Army that he will appoint to this duty men in whom we shall have confidence. In the hands of one man the powers to be exercised under this bill might be an engine of terrible evil; while under the control of another man the exercise of these powers might be productive of most beneficent results. But, Mr. Speaker, the inquiry I desire to have answered is this: the moment the General of the Army has under this bill assigned a competent and trustworthy officer to the duties prescribed in the bill, what is to hinder the President of the United States, in virtue of his power as Commander-in-Chief, from removing that officer and putting in his place another of an opposite character, thus making the very instrumentality we provide one of terrible evil?

Mr. SHELLABARGER. Mr. Speaker, I am very glad that my friend from Massachusetts has suggested to my mind a difficulty to which I had intended to allude, but which I omitted to notice in my haste to get through and give a portion of my time to my friend from New York, [Mr. HOTCHKISS.] The gentleman inquires whether the President, in virtue of his constitutional power as Commander-in-Chief, would not be able to remove any officer who might, under this bill, be assigned to a particular district by the General of the Army. Answering that question according to my own convictions now, I say "yes." But then I remind my intelligent friend from Massachusetts that Congress has again and again done the identical thing which we propose to do by this bill. We have assigned officers of the Army to particular duties.

Mr. DAWES. I do not doubt the power, Mr. Speaker; I agree with my friend on that point.

Mr. SHELLABARGER. Take the act of August, 1852, to be found in Brightley's Digest, page 151. That law provides that lieutenants in the Army, graduates of West Point, shall be sent to the coast survey. Now, the President could command that those lieutenants should not go there. If he did so in pursuance of duty, to meet the exigencies of the public service in a time of war, he would be justified as well by the Constitution as by the fact. But suppose that in time of peace he should disregard and wantonly refuse to execute that provision of the law, then he would render himself liable to impeachment, just as, according to Mr. Madison, the wanton exercise by the President of the power of removal from office which he believed the President to

possess, would be a good ground for an impeachment.

[Here the hammer fell.]

Mr. RAYMOND obtained the floor, and yielded ten minutes to

Mr. HOTCHKISS. Mr. Speaker, it is impossible in ten minutes to express my views on this bill. I cannot do myself justice in that time, and I will only say this: that Congress during the present session has taken no step in advance in relation to the protection of the loyal people of the southern States. And I would ask gentlemen on this side of the House whether we are to-day obeying the mandate of the people? What carried our elections overwhelmingly in the last campaign? It was the story of the southern refugees told to the people of the North and the West. They told us they demanded protection. They enlisted the sympathy of northern soldiers by telling that the very guerrillas who hung upon the skirts of our Army during the war were now murdering southern soldiers who fought on the Union side, and murdering peaceful citizens, murdering black men who were our allies. We promised the people if we were indorsed we would come back here and protect them, and yet not a step has been taken. When a proposition is introduced, a man jealous he did not bring it in himself says it is beginning at the wrong end, and when the other end is taken it is declared to be beginning at the wrong end again. And so we are prevented from taking a step in advance.

If we adjourn on the 4th of March next, as we will have to, without taking some such step, all hope is gone. The Fortieth Congress will not do anything until after another election, and gentlemen who were indorsed at the last election will find themselves receiving a different verdict from the people. The people will show their dissatisfaction that the measure which was promised had not been passed. There will be at the beginning of the Fortieth Congress sixteen States unrepresented and very little will be done in the absence of those States.

If I could be indulged, I would like to say something about the features of this bill. Let me say first this bill repudiates those pretended and bogus governments set up at the South; that is, the preamble repudiates them and that is always taken to give construction to the law; and in the second place the plain terms of the bill repudiate them:

And all legislative or judicial proceedings, or processes to prevent or control the proceedings of said military tribunals, and all interference by said pretended State governments with the exercise of military authority under this act, shall be void and of no effect.

Stronger language could not be used to effect the very object proclaimed time and again in this discussion; but it seems all the patriotism there has been exerted is the declaration, for when we come to act there is a shrinking. The loyal men of the South, if this does not pass, are to go on appealing to us in vain.

This bill places these Territories under military control, and there is where they ought to be. Let me ask what is the necessity of this bill placing these Territories under military control when it is alleged that the military now have sufficient authority? I grant it that the law is sufficient to-day were it not for the construction the President places upon it. The President himself recognizes these rebel States as having perfect powers like any loyal State represented here.

With that construction the military law at present is insufficient. We have got to get rid by our legislation of the effect given by the President to the decision of the Supreme Court. If these States have now these full powers and rights as he declares—and they have if the decision of the Supreme Court is applicable to them—it is very evident that we have no law now to reach their case, and the present military authority is insufficient.

Another objection that is made to this is, that we send the military there in advance of the civil governments. In my humble opinion

that is an absolute necessity. "Place the Army there, and then when we send our civil governments there the power will be there to protect them. The Army will pave the way. We might as well have sent civil governments there at the outset of the rebellion instead of the Army, as to send them there now. I need not appeal to facts to substantiate what I say. They are patent; every child that reads knows that what I say is true. We want the Army, the military power, there, and then civil authority can go there in safety.

You had a few days ago a bill to establish civil governments there. This House was asked to vote upon it, but a majority said, No, we will not vote for it, but will send it back to the Committee on Reconstruction. We sent it to that committee, and they have reported back a bill establishing military authority there as an absolute necessity under the circumstances of the case. Now, are we going to tell them, "You have not reported back the bill referred to you but another and a different measure, and we will defeat this and keep on defeating any measure you report until the time will arrive when we shall be defeated?"

Mr. Speaker, already the rebel leaders, as of old, are dictating terms to this Government upon which they will submit to the Constitution and the laws, and the President is reported as abandoning his own policy and like former Presidents yielding to their dictation. Mark you, the people will have something done. What the rebels propose is better than nothing, and if we adopt no practical plan we shall have to do as we have always done heretofore until the rebellion commenced and the spirit of the North was aroused, we shall have to accept terms at the hands of the rebel leaders. We have it now in our power to reject their terms and prescribe such as we have the right and the authority to do.

There is another objection made to this bill, that it recognizes the civil courts of these rebellious, bogus governments. That is a mistake; the bill only recognizes as civil tribunals the Federal courts, and it places them in subordination to military power. And let me say that in my opinion all authority in these States should be subordinate to the bayonet and the sword. They are the only effective weapons we can send there. We send our missionaries and teachers there and we allow these rebels to murder them. The best missionaries we can send there now are the sword and the bayonet. Suspend these over their heads and keep them in check until we can send civil authority there. Let us have that protection there first, and then let us discuss the question what kind of civil government we shall establish. Extend to the loyal people of the South such protection as we now have at our command. We can then deliberate without danger to the lives of our southern allies, and perfect measures of reconstruction unembarrassed by threats or fears of rebel insurrection or unrestrained violence.

Mr. RAYMOND. I now yield to my colleague [Mr. GRISWOLD] ten minutes of my time.

Mr. GRISWOLD. Mr. Speaker, if I should feel constrained to vote against this bill, I feel it my duty to state the reasons that occur to my mind for that action. I shall regret to feel compelled to vote against it, because in doing so I shall be at variance in opinion with those who I believe have at heart the best interest of the whole country. I fully sympathize with the object aimed at by this bill. I recognize fully the condition of things existing in these rebellious States, in which I am constrained to believe the rights and liberties of loyal men, both white and black, are totally ignored, and I am perfectly willing to concede the necessity for the interposition of the national Government toward the protection of that class of citizens there.

But, sir, while I could concede that necessity and appreciate that condition of things, it seems to me that the provisions of this bill will lead us into greater danger than is justifi-

fied by the evils we seek to correct. It is, Mr. Speaker, a tremendous stride that we propose to make by this bill to subject to military control ten million people who have once been partners of this common country, and who are to be united with us in its future trials and fortunes. This bill proposes to place all the rights of life, liberty, and happiness exclusively in the control of a mere military captain.

Sir, I regard that as a terrible danger to this country. Nothing but a state of war, absolute and unquestioned, can justify a preponderance of the military over the civil authorities of this country. And with all due deference to the learned gentlemen who have discussed this question, I say that the practical sense of the civilized world will not bear out the idea that we are to-day in a state of absolute war.

If that is not the case, then I submit to those gentlemen that we are making a very dangerous experiment when we subject to mere military authority those ten million people with all their rights and interests. If I understand the character of this bill it does nothing more nor less than to declare martial law over all this territory. If I read it aright, it does not recognize the civil tribunals of that portion of the country. It simply provides that the officer in charge may allow the civil authority to take jurisdiction of certain cases; but the action of that civil authority is to be entirely subject to the discretion of the military officer who chances at the time to be the officer commanding that department. I say, then, that all the civil tribunals of this country are unconditionally and unequivocally ignored and repudiated by this bill. Even the Chief Justice of the Supreme Court of the United States, acting plainly within the scope of his official authority, has no right to interfere except with the consent and approbation of a lieutenant, perhaps, of the Army.

Now, I appeal to my friends on the other side of the House, as well as to those upon this side, whether we ought not to be cautious before putting such a terrible power into hands that are so irresponsible. There is to be no appeal from the decision of the military authorities. The decision of the officer commanding the department is to be final. No civil tribunal can be appealed to to interfere; but a merely military officer is to have the final and irreversible decision of all cases, whether they grow out of the civil rights, the political rights, the rights of property, or any of the other rights or privileges of these ten million people.

I have another objection to this bill, and that is, that by it we are proceeding in the wrong direction. For more than two years we have been endeavoring to provide civil governments for that portion of our country, and yet by the provisions of this bill we turn our backs upon the policy of the past two years, and at one stride seek to place all that territory under an exclusively military instead of under a civil government. This bill contains no provisions for the establishment in the future of civil governments there. It simply provides that for an indefinite period in the future a purely military power shall have exclusive control and jurisdiction there. That is, therefore, to me another and a very serious objection to this bill.

I am ready to concede the integrity, wisdom, ability, and sense of justice of our officers of the Army. I yield to no one in my admiration of those men who by their valor and their bravery have carried this country through these years of terrible danger and strife. But I do not forget that Army officers are still but human; that they are subject to the same influences that other men are; and that the same appliances and considerations will have influence with officers of the Army that have influence with men in other positions of life. And when such power is to be conferred upon a mere lieutenant of the Army as I have indicated will be conferred by this bill, a power which I maintain should be conferred upon no man or class of men, it cannot be said that it

is any disparagement of our Army officers if I say it should not be committed to them; the mere fact of their being Army officers certainly is not sufficient to remove the objection on that point.

For one, I prefer for the present to stand by the overtures which we have made to those people as conditions of their again participating in the government of this country. We have placed before them the conditions which the civilized world has indorsed as liberal, magnanimous, and just. I regret exceedingly that those very liberal terms have not been accepted by them. But, Mr. Speaker, I prefer standing and waiting for the development of events to taking a step which I fear may be regarded as being in the wrong direction. I prefer giving those States further opportunity to exhibit a spirit of obedience and loyalty, hoping that in the event of their continued repudiation of the proffer which has been made to them we may devise some measure less dangerous, less liable to serious objection, than the bill now under consideration.

Mr. Speaker, regarding the question even from a party point of view I do not forget this one other consideration: so long as the party that now controls the political destinies of this country shall retain its power, so long as the people of this country shall have confidence in the integrity and patriotism of that party, so long, in spite of anything that may be done either at the North or the South, shall we be able to control for the right this question of reconstruction.

[Here the hammer fell.]

Mr. RAYMOND. Mr. Speaker, I do not propose to discuss this general subject in any formal manner, but merely to make a few remarks, which I fear will prove rather desultory, upon the necessity which has arisen for some action on our part, and upon the character of the action it is now proposed that we shall take.

There is, I think, no sentiment more deeply rooted in the public mind at the present moment than that of the necessity and the duty of extending full, ample, just protection to those men throughout the southern States who stood by the flag of the Union when it was imperiled, whatever may be their race or color. As my colleague [Mr. HORCKISS] has already stated, the public mind in the northern States was enlightened and excited upon this subject during the recent autumnal canvass. Many of those loyal men from the southern States came among us and related the story of their wrongs and their sufferings; and wherever they spoke they awoke a generous and hearty response to the demands which they made for sympathy and protection.

I fear, sir, it is also true, lamentably true, that there exists a necessity for some interposition on the part of the General Government to secure to those classes of our fellow-citizens the protection to which they have a just and a rightful claim. I cannot shut my eyes to the testimony which has been adduced on every side, the testimony not only of observers who were in the southern States in no official capacity, disinterested and interested observers alike, but the testimony also of those in official position, and therefore qualified to speak with special knowledge and impartiality upon this precise point. This testimony, I think, can leave no doubt in the public mind, as it certainly leaves none in mine, that there is a necessity for some measure of protection to the people of the southern States. I think it is clear that life, liberty, and property are not properly guarded by law, are not safe throughout those southern States. They are not properly protected by the courts and judicial tribunals of those States. They are not properly protected by the civil authorities that are in possession of political power in those States. I think it is also but just to say that much of this default is directly traceable to the prevalence in the South of a temper not friendly to the General Government of the United States which we represent. It is undoubtedly true that

there is a lingering rebellious temper in the southern States, and out of that temper arises the necessity for protection, which we are now called upon to consider.

Now, sir, admitting the necessity which thus exists, the next question that comes before us is, how can this protection which we owe to them be best afforded? Is this bill the proper measure for such an emergency? Does this bill provide the necessary means of protecting those classes in the southern States most in harmony with the spirit of our institutions best calculated to attain the objects sought? In a word, is it a measure which, on the whole, it is wise for us to adopt?

The character of the bill may be stated in a very few words. It is a simple abnegation of all attempts for the time to protect the people in the southern States by the ordinary exercise of civil authority. It hands over all authority in those States to officers of the Army of the United States, and clothes them as officers of the Army with complete, absolute, unrestricted power to administer the affairs of those States according to their sovereign will and pleasure. Gentlemen may say that those officers are there to enforce the laws and protect the rights of the people secured to them by law. What laws, what rights, what statutes, define the rights which these officers of the Army are to protect the people in enjoying? Not the laws of those States, for those States are discarded, and their authority to make law at all is expressly repudiated. Not the laws of the United States, for there is no law of the United States to punish larceny, felony, murder, or crime of any sort. There is no law of the United States to enforce contracts or to regulate the relations of individuals as members of the community, as citizens of the States in which they live, and those States are not allowed to make such laws. There are no laws to be enforced, there are no rights defined by law to be protected by the officers of the Army whom we send into those districts. They themselves make the laws, as well as enforce them. They and they alone define the rights they are to protect.

The third section of the bill is explicit and precise on that point. It says:

It shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals—according to their own judgment of rights and of laws. That is not in the bill, but that is the necessary inference, because no other provision is made. There is nothing to specify what is the peace they are to maintain; what are the crimes they are to punish; what are the contracts they are to enforce. We send a brigadier general into each one of the five military departments created by this bill to be absolute sovereign over all its people, to issue his decrees as their law, and to enforce his will as in all cases their rule of action.

Gentlemen will all admit that is an extreme measure, the most extreme measure which can possibly be enacted by this Congress or by any legislative body in the world. No legislative body can do more. Can there be any higher exercise of authority than to clothe a solitary individual with absolute power, authority, and control over millions of men; to give him power at once to prescribe the law and to enforce it?

Now, Mr. Speaker, is there a necessity which calls for this? Is the emergency so absolute that we must enact such a law as this? The able and learned gentleman from Ohio, [Mr. SHELLABARGER,] who spoke a few moments ago on this point, insisted that it was made the duty of Congress by the Constitution to suspend the writ of *habeas corpus* under certain contingencies, and that such action was all this law contemplated. I do not think that is all this bill contemplates. As I have already attempted to show, the law extends far beyond that when it clothes an individual Army officer with power to make laws for the people over whom he is placed in com-



mand. Is it the duty in an unqualified sense, is it the absolute duty of Congress to suspend the writ of *habeas corpus* even in such an emergency? The gentleman referred to the Constitution, reciting it as if it read "Congress shall suspend," the *habeas corpus* in certain contingencies or in case of war. It would be with the greatest hesitation that I should attempt to correct so able a lawyer as the gentleman from Ohio on a question of constitutional law, but where it is a matter of simple quotation from its terms I may venture to set him right.

The Constitution, sir, nowhere imposes upon Congress the duty of suspending the writ of *habeas corpus* under any contingency. It provides that the *habeas corpus* shall not be suspended except in a certain contingency. What is that contingency? The gentleman said it was when war prevailed, and he insisted that war prevails now in the southern States, not "flagrant" war, but war in the legal sense of the word. I suppose he intended to refer to the distinction which publicists and writers on the laws of war recognize in this respect, one of which is actual, raging war, and the state that follows such a war before peace has been legally restored, and which is described in technical phrase as *bello non flagrante sed nondum cessante*. But neither phrase describes the present condition of the southern States. War is not raging—it is not "flagrant," and it has ceased—ceased in fact and in the contemplation of law. The state of war has been ended and the state of peace has been restored by proclamation of the President, issued by authority of law. In no sense, therefore, does war exist in the South to-day. It is ended in every sense, in legal sense, in every international sense, in the sense of the Constitution, in the sense in which it is used by every writer on the subject that can be found.

It cannot be, therefore, on the ground that war prevails there that we have a right to suspend the writ of *habeas corpus*. The case is made specific by the language of the Constitution:

"The privilege of the writ of *habeas corpus* shall not be suspended except when in cases of invasion or rebellion the public safety may require it."

In that case the Government is clothed with the power to suspend the writ. Now, there is no invasion in the South and there is no rebellion in the South in any such sense as menaces the public safety—by which is meant, of course, the safety of the nation. The gentleman once or twice said in this connection that the life of the nation is at stake. Not certainly in any large or general sense is that true. By remote inference we may say when any single man is deprived of life or property, except by due process of law, that the life of the nation, that is the constitutional legal life of the nation, is to that extent impaired and endangered. But certainly that would not justify us in saying that the life, the existence of the nation is at stake. The public safety is not so endangered as to justify a suspension of the writ of *habeas corpus*. Private rights are undoubtedly jeopardized in the southern States to-day. The lives of individual citizens are not adequately protected; the liberty and property of individuals are insecure; but it can only be by a strange or forced construction that we can say that the public safety is therefore so far in danger as either to constitute a state of war, or to authorize the suspension of the privilege of *habeas corpus*.

But I do not intend to argue the legal points of the question. It is a large question, and it has already been fully canvassed. In my opinion there has not occurred an emergency which justifies a resort to this extreme remedy.

The gentleman from Pennsylvania [Mr. THAYER] says the people have decided that the southern States are to be regulated by their representatives; that the laws are to be enforced; that life and liberty are to be protected on behalf of the people themselves and by their representatives. I admit that; but are Army officers the true representatives of the

people in that sense? Is there no other way in which the people of this country, the sovereign people, represented here in these Halls of Congress, can enforce their will except by delegating absolute and unrestricted power to an officer of the Army? Certainly the Army has never been considered the rightful fountain and origin of civil authority in this Republic until quite recently in our history. It has always been considered the arm of the Government, its right hand to execute authority emanating from the civil power. Is there a necessity for reversing that state of things now? My colleague [Mr. HOTCHKISS] thinks it proper that the Army should lead the advance and clear the way for the civil government. An army should lead the advance when there is an obstacle in the way of the establishment of civil government too great to be otherwise overcome.

When the establishment in the South of civil government recognizing the authority of the United States was opposed by armed rebellion then the Army very properly led the way and cleared it thoroughly and effectually. But I know of no obstacle now to the establishment of civil government in the southern States on such basis as Congress may deem wise and just, which shall have all the authority that governments have everywhere, and which will be entitled, in case of resistance, to the aid of the Army in the execution of their decrees.

Mr. HOTCHKISS. Will the gentleman yield for a question?

Mr. RAYMOND. Yes, sir.

Mr. HOTCHKISS. I wish to ask if it is not the universal testimony of the loyal men of the South that if we should withdraw the armies we now have there their lives would be sacrificed; and if these loyal men are not as good witnesses as northern men who have not been there to observe the state of things for themselves?

Mr. RAYMOND. That question would be more pertinent if I had said one word in favor of withdrawing that portion of the Army that is now there. I am in favor of having the Army in the South to-day in a sufficient force in every southern State to enforce such laws as may be made by civil authority, and as may be necessary for the protection of the lives and property of the loyal citizens of the South. What I object to in this bill is not the presence of the Army; not the protection to be extended by the Army over loyal citizens, black as well as white. But I object to clothing the military officers of that Army with power to make just such laws as they please, to establish their own definitions of the rights of liberty and person and property, which are to be protected by them and the forces under their command.

Mr. HOTCHKISS. Will my colleague [Mr. RAYMOND] allow me to ask him one other question?

Mr. RAYMOND. Very well.

Mr. HOTCHKISS. I would ask my colleague if the loyal men of the South—those of them who are still permitted to remain there—do not say that the military protection afforded them at the present time is insufficient?

Mr. RAYMOND. That question is no more pertinent than was the other. If the present military protection is not sufficient, then increase it.

Mr. HOTCHKISS. That is what this bill proposes to do.

Mr. RAYMOND. This is not what the bill proposes to do. It proposes much more than this. It proposes not only to increase the military force in those States, but to enlarge the scope of its authority; to make it supreme over the civil power; to make it absolute and sovereign in all that part of this Republic.

Mr. SHELLABARGER. Will the gentleman from New York [Mr. RAYMOND] permit me to correct what I conceive to be an error into which the gentleman has fallen in reference to my position?

Mr. RAYMOND. Certainly.

Mr. SHELLABARGER. I think the gentleman is under some misapprehension of what

I meant to say, if I did not say it; and I would not interrupt him but for that reason. I have reference to the condition of things contemplated by the Constitution, when it said that the writ of *habeas corpus* should be suspended if the public safety required it; and which condition of things I said was now upon us. The gentleman says that I misquoted the Constitution in that respect. Now, I desire to state my view of that subject, and then see if I am misapprehended. The Constitution of the United States, as the gentleman has rightly said, provides that—

"The privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require it."

According to my apprehension that is equivalent to saying that when the public safety does require a suspension of the writ of *habeas corpus* in cases of rebellion or invasion it is the duty of Congress to suspend it. And I take the converse as following as a matter of course.

Now, let me make one other suggestion to my friend. He says that the military are now in the South; they are therefore there for some purpose, and not for a vain purpose. They are there for the purpose of protecting the people there. Now, I ask him as an intelligent gentleman, if not a lawyer, what can the military do there; what useful purpose can they accomplish in the way of enforcing the safety of the citizens if they have no right to interfere? And if they have a right to interfere, how can it be done except under that provision of the Constitution which recognizes the right to enforce the public safety in cases of war?

Mr. RAYMOND. I need not say to a gentleman so well read both in law and in the history of the country, as the gentleman from Ohio [Mr. SHELLABARGER] is so well known to be, that the function of the Army has always been considered hitherto to be the execution of the decrees, the enforcement of the laws and statutes of the civil authority of the land. I hold, therefore, that the proper function of the military authority in the southern States is to execute the laws and the will of the civil authorities and of the civil government. And it is their function also to reinforce by their aid, when called upon in conformity with law, the tribunals and agencies created by this Government, such as the Freedmen's Bureau and the other agencies created under the civil rights bill. I believe that under those laws the military may be called upon to protect life, liberty, and property in the southern States.

But my answer to the gentleman will reach further than that. He would reply to me probably that the civil authorities in those States are not reliable; that they do not desire to protect the persons and the property of the loyal men and of the freedmen in those States, and that they will not make or apply laws for their protection. Admit that to be the fact; for as I have already said I am afraid there is too much reason to believe that it is the fact. Then I say that the proper remedy is for Congress to enact such laws, to create such governments as will protect those classes of citizens.

Now, my colleague [Mr. HOTCHKISS] says that the objection is made to any measure that may be proposed—that we are beginning at the wrong end; that if we begin at either end somebody will say that we have begun at the wrong end; and that he is for beginning at this end, with the military instead of the civil authority.

Objections will undoubtedly be made, Mr. Speaker, to any proposition that can be brought forward. But I take it that if this Congress has an intelligent conception of what it wishes to do, if it understands clearly the emergency to be met, and is agreed, or can agree, upon any proper means of meeting that emergency, there will be no further difficulty in taking such action as the case requires. Certainly we on this side of this House ought to be able to agree upon some measure which will establish in those southern States governments which the military may be called upon to aid

and support. My theory is that the military force ought to follow the civil authority and not lead it, not take its place, not supersede it. This has always been the theory of our Government. Recollect the case of the Territory of Kansas. I remind gentlemen here, many of whom were at that time more prominently connected with public affairs than myself, that during the disturbances in that Territory, when life, liberty, and property were not worth a pin's purchase, when every thing was in chaos, when anarchy prevailed from one end of the Territory to the other, martial law was never proclaimed, the privilege of the writ of *habeas corpus* was never suspended. The military were sent there; a government was recognized as entitled to make laws for the Territory, and the Army was called on to support it. Now, sir, I say that the same principle precisely applies in this case.

Mr. HOTCHKISS. Mr. Speaker, if the gentleman will allow me—

Mr. RAYMOND. I do not wish to be interrupted. I cannot consent to fritter away my limited time in colloquies. After I get through the gentleman can have an opportunity, if the House consents, to answer anything I may say. I know how eager gentlemen often feel to answer on the spot; but I submit to my colleague that it is not a violation of courtesy if I decline to permit him thus to interrupt me.

Now, I say that the proper course for this Congress to take is to establish in the southern States some government which will meet its ideas of justice and of right, and then send just as many troops as may be necessary to maintain the authority of that government and to enforce the laws it may enact. What form of government that shall be I will not now attempt to decide. I can imagine a great many forms that would be far preferable to the resource now proposed. I would prefer greatly the bill introduced the other day by the honorable member from Pennsylvania, [Mr. STEVENS,] which proposes that the people of each of those States shall organize new governments for themselves. When Congress has decided upon such a course as that, then I say send the Army there if necessary to support that government. I would greatly prefer to this bill the organization of territorial governments for those southern States, because then we would have at least an organized civil authority from which laws and regulations might emanate.

I do not enter upon any of the disputed questions which the institution of such governments might raise. Upon some points I should have doubts as to our power and as to the propriety of the specific measures proposed. But I say that either of those measures is far preferable to the one which we are now called upon to adopt. I would even prefer that this Congress, if it be deemed necessary, should appoint civil commissioners for each State. Name them in the bill if you are not willing to trust the naming of them to the chief Executive. Let those commissioners organize tribunals of some sort, and then let the Army support their decrees. What I insist upon as fundamental, unless we are to abandon all pretense of self-government and republican institutions, is that we shall not clothe subaltern officers of the Army with the unrestricted power of life and death, with absolute authority over the liberties and the property of our fellow-citizens.

It is not in harmony with our institutions. It is not a precedent that we should be willing to establish. It is not such a precedent as will secure respect for this nation and for this Government anywhere on the face of the earth. Will it aid the cause of democratic Government to exhibit this great Republic—this model, as we have sought to make it, of what every republic should be—abandoning all the functions of civil government, abrogating every thing like civil authority over one third of our domain and one third of our people, and for very imbecility and inability to agree upon any measure handing over the control of this section and these people to the absolute and sovereign will of a brigadier general in the reg-

ular Army? Will that aid the cause of free republican government anywhere on the face of the earth? It is the last resort of a decayed and dying republic. If we have no better resource than this, we may as well do at once what this would seem to be a preliminary step for doing: invite the regular Army to take control of the whole country, install itself here in the capital as the central, sovereign power, and make such laws and issue such decrees as it may see fit.

Now, sir, these are the leading objections which occur to me to the bill now proposed. I could mention many others if I were to trace in detail what I think will be the operation of such a system as that now attempted to be inaugurated. I could point out many respects in which I think the bill would do far more evil than good. I see in it nothing which tends in the slightest degree to the restoration of peace and harmony in the Union or to strengthen confidence among the people or a hope that we shall ever again have a free republican Government, emanating from the people and protecting the rights of the people upon this continent. The enactment of such a bill as this, the establishment of such a rule as that which is here proposed, will disturb business confidence everywhere. It will hold back men who are now looking forward to engaging in their usual avocations of life. It will keep capital from the southern States; it will check the flow of emigration thither. Men will not seek homes and cast their fortunes where the absolute will of a brigadier general is the only security they have for either.

My colleague [Mr. HOTCHKISS] says a bill was introduced the other day by the gentleman from Pennsylvania, which was referred to the Committee on Reconstruction, and he drew the conclusion that it was so referred in order that nothing might be done on the subject. On the contrary, it was so referred that it might be digested and put into shape so as to command greater support than it was likely to do as it stood. It was the intention of the House in sending it to that committee to perfect it and not to suppress it. If that committee cannot agree upon the details of any bill of reconstruction it is time we had a committee that can. We seem to sit down helpless and hopeless under the inability of that committee to do what it was created for the express purpose of doing; and because they can devise nothing of a civil nature adequate to the emergency it is urged we must fly to the most violent measure the ingenuity of man could devise.

Let me remind gentlemen that this has been the history of popular Governments everywhere, the reason of their downfall, their decadence and death. Difficulties occur in carrying out the principles of justice and liberty embodied in their constitution. Factions arise, each of which is more intent upon carrying out its own purposes than it is upon promoting the common good. Instead of trying to agree they try only to thwart and defeat each other, and finally in sheer desperation, and in order that neither may achieve a triumph over the other, by a common impulse they call in the Army and hand over to a commanding general the power they have found themselves unable to wield.

Now, sir, before sitting down I wish to make a single remark in reply to the gentleman from Pennsylvania, [Mr. THAYER,] who charged the President with usurpation in the southern States and with having entered into secret negotiation with the leaders of the rebellion as to a basis of reconstruction. I confess I have seen no evidence of an attempt at such negotiation. I have seen a plan presented in one branch of Congress with the suggestion in the public prints that the southern States might be inclined upon that basis to accede to the amendment to the Constitution adopted at the last session of Congress as a basis of reconstruction. I do not know what connection the President may have had with this programme. I am quite sure he could not have attempted

anything in the form of a negotiation or beyond using his personal influence with the men in the southern States with whom he may be supposed to have influence in its support. The programme put before the country proposes in substance that the southern States shall adopt the constitutional amendment striking out the disability clause, but as an offset to that putting in their State constitutions a provision for impartial suffrage.

I am not prepared to say that this plan shall be adopted, but I have no hesitation in saying that it is one worthy of more consideration from those who really desire impartial suffrage than some of them seem inclined to give it. It is too important, too grave in its character, too promising in the prospect it holds out to be dismissed with a sneer at its origin, real or assumed. I see no reason why we may not secure by law, by a law which we may enact, all the real good which the disabling clause of the proposed constitutional amendment contains, and if then we can secure so great a boon as impartial suffrage in the southern States, I have yet to hear of any valid ground on which such a proposition can be opposed.

Mr. THAYER. Will the gentleman before he takes his seat permit a question?

Mr. RAYMOND. I will.

Mr. THAYER. I ask the gentleman whether in his opinion the President has any constitutional authority to interpose the weight of his official influence to prevent the effective operation of the legislation of Congress or to dissuade the southern States from accepting the proposition made by Congress.

Mr. RAYMOND. His official influence; certainly not.

Mr. THAYER. Then he must agree with me that in so doing the President has violated his official duty.

Mr. RAYMOND. Mr. Speaker, I should wish before I pronounced an assent or dissent upon that judgment to have some satisfactory proof of the fact that he has done so. I do not know that he has, and I certainly see nothing in the paragraphs lately published in the papers—to which I suppose the gentleman alludes—which connects him with such action in any other way than possibly this: that he may have expressed his personal opinion that it would not be just for the southern States to accept the constitutional amendment. Is that an impeachable offense? I take it he is not deprived by the Constitution of his right to express his opinions as an individual citizen on any and all subjects that may come before him. As to the exercise of any power he has by virtue of his office to defeat the action of Congress that is entirely another matter. I am not aware that he has done anything of the kind. But I am looking to the future rather than the past, and if we can now see any prospect of securing, through the President's aid or otherwise, the assent of the southern States to the terms we have laid before them, with the addition of impartial suffrage, our duty to ourselves and our country demands that we shall not lightly throw it away. But I will not pursue the discussion any further as I have promised to yield to the gentleman from Ohio [Mr. GARFIELD] a portion of my time.

Mr. GARFIELD. Mr. Speaker, in the short time allowed me I can say but very little. But I want to call the attention of the House to two or three points which, in my judgment, stand out prominently, and which should control our action upon this measure.

And first, I call attention to the fact that from the collapse of the rebellion to the present hour the Congress of the United States has undertaken to restore the States lately in rebellion by coöperation with their people, and that our efforts in that direction have proved a complete and disastrous failure. We commenced, sir, by waiving nine tenths of all the powers we had over these people under the influence of mercy. It was clearly the right of the victorious Government to indict, try, convict, and hang every rebel traitor in the South for their bloody conspiracy against the Republic.

In accordance with a law passed by the First Congress that met under the Constitution, and approved by Washington, we might have punished with death by hanging every rebel of the South. We might have confiscated the last dollar of the last rebel to aid in paying the cost of the war. Or adopting a more merciful policy, we might have declared that no man who voluntarily went into the rebellion should ever again enjoy the rights of a citizen of the United States. They had forfeited every right of citizenship by becoming traitors and public enemies. What the conquering sovereign would do with them was for Congress to declare.

Now, with all these powers in its hands Congress declared that it would do nothing for vengeance, but everything for liberty and safety. The representatives of the nation said to the people of the South, join with us in giving liberty and justice to that race which you have so long outraged, make it safe for free loyal men to live among you, bow to the authority of our common country, and we will forgive the carnage, the desolation, the losses, and the unutterable woes you have brought upon the nation, and you shall come back to your places in the Union with no other personal disability than this: that your leaders shall not again rule us except by the consent of two thirds of both Houses of Congress. That was the proposition which this Congress submitted during its last session; and I am here to affirm to-day that so magnanimous, so merciful a proposition has never been submitted by a sovereignty to rebels since the day when God offered forgiveness to the fallen sons of men.

The constitutional amendment did not come up to the full height of the great occasion; it did not meet all that I desired in the way of guarantees to liberty; but if the rebel States had adopted it as Tennessee did, I should have felt bound to let them in on the same terms prescribed for Tennessee. I have also been in favor of waiting, to give them full time to deliberate and act. They have deliberated; they have acted. The last one of the sinful ten has at last, with contempt and scorn, flung back into our teeth the magnanimous offer of a generous nation. It is now our turn to act. They would not cooperate with us in rebuilding what they destroyed. We must remove the rubbish and rebuild from the bottom. Whether they are willing or not we must compel obedience to the Union, and demand protection for its humblest citizen wherever the flag floats. We must so exert the power of the nation that it shall be deemed both safe and honorable to have been loyal in the midst of treason. We must see to it that the frightful carnival of blood now raging in the South shall continue no longer. We must make it possible for the humblest citizen of the United States—from whatever State he may come—to travel in safety from the Ohio river to the Gulf. In short, we must plant liberty on the ruins of slavery and establish law and peace where anarchy and violence now reign. I believe, sir, the time has come when we must lay the heavy hand of military authority upon these rebel communities, and hold them in its grasp till their madness is past, and until "clothed and in their right minds" they come bowing to the authority of the Union, and taking their places loyally in the family circle of the States.

Now, Mr. Speaker, I am aware that this is a severe and stringent measure. I do not hesitate to say that I give my assent to its main features with many misgivings. I am not unmindful of the grave suggestions of the gentleman from New York [Mr. RAYMOND] in reference to the history of such legislation in other countries and other ages. I remember, too, that upon the walls of Imperial Rome, a Prætorian guard announced that the world was for sale to the highest bidder, and that the legions knocked down the imperial purple to Nero, the highest bidder. I beg to remind the gentleman that this is not a proposition to commit the liberties of the Republic into the hands of the military. It is a new article of

war commanding the Army to return to its work of putting down the rebellion—by maintaining the honor and keeping the peace of the nation. If the officers of our Army should need such a suggestion, let them remember that no people on the face of the earth have shown themselves so able to pull down their idols as the American people. However much honored and beloved a man may be, if the day ever comes when he shows himself untrue to liberty they will pluck him out of their very hearts and trample him indignantly under their feet. We have seen this in the military history of the last five years, and in the political history of the last campaign.

Now, we propose for a short time to assign our Army to this duty for specific and beneficent purposes, namely, to keep the peace until we can exercise the high functions enjoined upon us in the Constitution, of giving to these States republican governments based upon the will of the whole loyal people. The generals of our Army enjoy in a wonderful degree the confidence of the nation, but if for any cause the most honored among them should lay his hands unlawfully upon the liberty of the humblest citizen he would be trampled under the feet of millions of indignant freemen. We are not, as some gentlemen seem to suppose, stretching out helpless hands to the Army for aid, but we are commanding them, as public servants, to do this work in the interest of liberty.

I have spoken only of the general purpose of this bill. I now desire to say that I am not satisfied with the manner in which it is proposed to pass it through this House. I demand that it be opened for amendment as well as discussion. I will not consent that any one man or committee in this House shall frame a bill of this importance and compel me to vote for or against it without an opportunity to suggest amendments to its provisions. However unimportant my own opinions may be, other men shall not do my thinking for me. There are some words which I want stricken out of this bill and some limitations I want added. I at least shall ask that they be considered. I trust the gentleman who has the bill in charge will allow a full trial of proposals for change, and that the bill, properly guarded, may become a law.

**THE SPEAKER.** The gentleman from Pennsylvania [Mr. STEVENS] gave notice that he would call the previous question at one o'clock.

**MR. STEVENS.** Mr. Speaker, I have allowed the hour which I indicated for the close of this debate to pass because there were several gentlemen who wished to speak. It is now so late that unless the House orders the previous question now it will be impossible to reach a vote to-day. We have but eight days this side of a veto in which to pass this bill. I feel it, therefore, to be my duty to call the previous question now, and then there will be an additional hour for debate.

**MR. BINGHAM.** I hope the previous question will not be seconded.

**MR. BANKS.** Will the gentleman from Pennsylvania allow me to make a remark?

**MR. STEVENS.** Certainly.

**MR. BANKS.** I would not oppose a vote upon this question now if I did not think that there is an opportunity to do more toward a settlement of the difficulties in which the country is involved at this time. I believe that a day or two devoted to a discussion of this subject of the reconstruction of the Government will bring us to a solution, in which the two Houses of Congress will agree, in which the people of this country will sustain us, and in which the President of the United States will give us his support. And if we should agree to a measure satisfactory to ourselves, and in which we should be sustained by the people, and the President should resist it, then we shall be justified in dropping the subject of reconstruction and considering the condition of the country in a different sense. I ask the gentleman from Pennsylvania to devote a day or two to the discussion of this question of the

reconstruction and existence of the Government so as to bring this subject to this issue before the people of the country, whether we can act with the President in the measures necessary for the peace and prosperity of the country, or be compelled to consider the condition of the country in a different sense and in a different way. I hope he will allow that or else that the House will not sustain the previous question.

**MR. ELDRIDGE.** I desire to make an appeal to the gentleman from Pennsylvania on another ground than that of the gentleman from Massachusetts. There are several gentlemen upon this side of the House who desire to put themselves upon the record upon this great and important measure. They expect, however, that the decree has gone forth that this bill is to pass the House; and it is for that reason, because this is the only opportunity they can have to place themselves before the country in the attitude in which they desire to be placed, that they ask but little time for the discussion of this measure. They know that it is to be forced upon the country by the immense power of the majority here, and they ask but the poor privilege of entering their protest on the record. I hope the gentleman from Pennsylvania will not refuse this small boon, but will give the gentlemen upon this side of the House an opportunity of expressing their opinions.

**MR. STEVENS.** I have not the advantage of the secret negotiations which the distinguished gentleman from Massachusetts [Mr. BANKS] has, and from which he seems to expect such perfect harmony between the President and the Congress of the United States within a few days. If I had that advantage I do not know what effect it might have upon me. Not having it, I cannot of course act upon it.

I should be very glad to give more time for discussion to the gentleman from Wisconsin [Mr. ELDRIDGE] and others, but I believe that we have already occupied three or four weeks in discussing this question.

The gentleman says the decree has gone forth that this bill is to pass. I do not know that.

**MR. ELDRIDGE.** I only supposed so.

**MR. STEVENS.** I have seen enough in this House, and have heretofore noted its demoralization, to doubt if there is enough of the spirit of the party that sent us here to carry out the will of the people and perfect the legislation they expected from us. I have, therefore, no sanguine hope that this bill is to be forced upon the country or upon the gentleman. There are words and letters in this bill from the first letter of the alphabet to the final one to which some of my friends object and carp at.

I am quite sure, as I was when the last bill upon reconstruction was before this House, that its recommitment to the committee would be to send it to its grave. That was a civil bill, proposing civil governments. It was objectionable, I know not why, for no amendments were proposed, except those of the gentleman from Ohio, which were withdrawn; but the bill itself was objectionable to a very large number of gentlemen, and it was sent to the tomb of the Capulets. We have attempted now to provide something that will give protection to the people of the southern States and prevent the murders, robberies, and slavery there, until we can have time to frame civil government more in conformity with the genius of our institutions.

I know not whether it is the desire of this House to pass any such bill or whether they prefer to disperse and go home and leave the President triumphant. I am quite sure that much of the opposition on both sides of this House comes from a modification of views coinciding with the President, and that his arguments have convinced many gentlemen that his theory is the true one. I have yet to learn to what extent this has prevailed, and after the previous question has been voted upon I shall be more satisfied whether it is worth while to proceed further in this attempt by Congress to resist the power of the Presi-



dent, or whether it is our duty, like humble Christians, to submit to the powers which have conquered us and allow the southern States to remain in their present condition. I trust the previous question will be sustained.

Mr. BANKS. Will the gentleman yield to me a moment further?

Mr. STEVENS. I will.

Mr. BANKS. Mr. Speaker, in the remarks which I made I had no allusion to any negotiations with the President. The gentleman from Pennsylvania knows more of his opinions than I know, and will yield to his policy much sooner than I shall.

I spoke in good faith to the House, asking for time to debate this question. My reason for so doing is based upon a simple fact, an idea which every member of this House can comprehend: that the measures which we propose, and one of which is now before the House, depend for their efficacy upon being enacted by two thirds of each House of Congress against the executive branch of the Government.

Now, my opinion is that we cannot long carry on the Government in that way; that we must have laws in which the Executive will cooperate, in order to make those laws effective. And if, after we, the Representatives of the people, have agreed as to what laws are necessary to secure the peace of the country and to maintain the existence of the Government, and after the people have sustained our action in passing such laws, the President then refuses cooperation, it is our duty to the country to lay aside the question of reconstruction for a time and proceed to the consideration of the position and purposes of the President himself.

Now, upon that idea, and stating again my belief that we can before this session closes come to such conclusion as will compel the President of the United States to sustain us in our action, or will justify us in another course if he refuses, I ask the gentleman from Pennsylvania, [Mr. STEVENS,] and if I fail there I ask the members of this House, to allow a day or two at least for the consideration and decision of this question of the existence of the Government.

I have had no negotiations with the President of the United States, nor do I know his opinions, and in the vote which I shall give upon this question neither the gentleman from Pennsylvania [Mr. STEVENS] nor any other man has the right to assume that I accept the policy of the Executive in the smallest particular. I hope for a change of his position; I think that is not impossible. At all events, I think it is something which is worth our while to try for.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] is entitled to the floor, unless he yields to some member.

Mr. SCHENCK. Will the gentleman yield to me to make a suggestion for a verbal alteration which I think should be made in this bill?

Mr. STEVENS. I will hear the suggestion of the gentleman.

Mr. SCHENCK. In the second section of the bill reference is made to officers of "the regular Army." Now, we have but one Army of the United States, and it seems to me to be keeping up an unnecessary and invidious distinction to use the term "regular Army" in this bill.

Mr. STEVENS. I agree with the gentleman that that is a mistake, and I hope that by general consent the word "regular" will be stricken out of the clause referred to.

The SPEAKER. That requires unanimous consent, the motion to recommit being now pending.

The question was submitted to the House, and the Speaker announced that there was no objection.

Mr. LE BLOND. I object to any amendment being made in this bill.

The SPEAKER. The gentleman did not rise in his place and state his objection.

Mr. LE BLOND. I had not arisen to my feet when the Chair announced that there was no objection.

The SPEAKER. Then the objection of the gentleman was made too late.

Mr. ELDRIDGE. I arose in my place the moment I heard unanimous consent was asked for some purpose, in order to ascertain what was the nature of the proposition.

The SPEAKER. That may possibly be. The gentleman can state whether he made objection in time.

Mr. ELDRIDGE. I cannot state what the Chair would regard as being in time. But I arose instantly for the purpose of ascertaining what the object was for which unanimous consent was asked.

The SPEAKER. The recollection of the Chair is that the gentleman arose just as the Chair stated there was no objection. The gentleman was therefore too late to make an objection if he desired to make any.

The bill was amended accordingly.

Mr. STEVENS. I now call for the vote upon my call for the previous question.

The question was taken, and upon a division there were—ayes 62, noes 82.

Before the result of the vote was announced, Mr. GRINNELL called for tellers.

Tellers were ordered; and Messrs. GRINNELL and LE BLOND were appointed.

The House again divided; and the tellers reported that there were—ayes 61, noes 98.

So the previous question was not seconded.

The question recurred upon the motion to recommit the bill.

The SPEAKER. The gentleman from Massachusetts [Mr. BANKS] having spoken against the previous question will be recognized as entitled to the floor.

Mr. KASSON. Will the gentleman from Massachusetts [Mr. BANKS] allow me a few moments to explain a substitute which I desire to propose for the bill now before the House whenever an opportunity shall be offered me to move it?

Mr. BANKS. I will yield to the gentleman for ten minutes.

Mr. KASSON. While, as I apprehend, there is no difference of opinion on this side of the House touching alike our right and our duty to protect the rights of all those who have been the allies of the United States in the States lately in rebellion, and to protect them if necessary by the establishment of martial laws, still there are, as has been stated, certain misgivings as to the best mode by which we can accomplish that result.

Now, sir, this bill proceeds upon the theory that not only in some of the southern States, but in all of the southern States and in all parts of them, a condition of insurrection still exists. But, sir, the gentleman from Ohio [Mr. SHERLABARGER] has stated the true ground, and the only ground upon which this bill or any bill seeking to accomplish the like object can stand. He has stated distinctly that in order to stand at all in the eye of the law or in the presence of the Constitution the bill must rest upon the fact that an insurrectionary condition exists in the South to-day. I accept that position. As I said on a former occasion, when I offered a resolution directing the Committee on the Judiciary to inquire into our right to establish martial law in the South, and on a subsequent occasion when I was discussing the thirteenth amendment of the Constitution, I believe that in some parts of the South the insurrection still exists.

This bill, however, instead of meeting alike the provisions of the Constitution and the facts of the case, assumes an inherent right in the Congress of the United States to establish a military government over people who have been in insurrection. I deny the existence of such a right. But if those people are now in insurrection the right exists to-day. The question, therefore, presents itself in two lights: first, as a constitutional question; and secondly, as a question of fact.

Now, sir, the Constitution in its enumeration

of the powers conferred upon Congress contains this clause:

"To make rules for the government and regulation of the land and naval forces."

There is no dispute that the Congress of the United States has the right to prescribe articles of war. Articles of war, when prescribed, bind alike the President, the lowest lieutenant of the Army, and the private soldier in the service of the United States. When, therefore, we proceed to establish any regulation of martial law, we have the constitutional right to do it by making "rules for the government and regulation of the land and naval forces." I entirely concur in the statement of the gentleman from Ohio, that we have the right to govern by the administration of martial law wherever there is a condition of rebellion or insurrection against the United States. Now, sir, all that remains for Congress to do to accomplish the object we have in view on this side, if not on the other side of the House, is to prescribe an article of war that shall apply to an insurrectionary condition within those communities and districts where it shall be found to exist. Instead of erecting this great military power over people in some parts of the South who are in fact at peace and observing law and order, our rule should be so flexible that we may apply martial law wherever peace, law, and order do not prevail, without imposing it upon people whose subordination to the laws renders military rules unnecessary.

The assumption of power involved in this bill is objectionable mainly because it goes too far, and not because it is inherently wrong in its application to the insurrectionists of the South. The bill, if I understand its principles, assumes the right of Congress to take an unorganized territory of the United States, to take any unorganized people of the United States, and because they have neither a territorial government recognized by Congress, nor a State government recognized by Congress, govern them by military power and martial law. I deny the existence of such a right on the part of Congress. I affirm that only to the extent of the existence of actual hostilities or insurrection against the United States have we the right under any circumstances to establish martial law.

Hence, in my view this bill extends too far and is dangerous because of its great breadth. To obviate this to me objectionable feature of the bill I propose to submit to the House a proposition framed, as I conceive, in accordance with the principles I have stated—principles in reference to which I believe the gentleman from Ohio and myself concur, differing only on the question of fact as to the extent of an insurrectionary condition in the South. I ask the Clerk to read the proposition which I design on a suitable opportunity to offer as an amendment.

The Clerk read as follows:

A bill to establish an additional article of war for the more complete suppression of the insurrection against the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That the following shall be, and is hereby declared an additional article of war governing all the land forces of the United States:

1. The States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

2. It shall be the duty of the General of the Army to assign to the command of each of said districts an officer of the Army, not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

3. It shall be the duty of each officer assigned as aforesaid, whenever any outrage to life, liberty, or property is committed in his district, and the officers in fact appointed to administer civil law are either unwilling or unable to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and crim-

inals, to declare and establish martial law in and over said districts, or any subdivision thereof, as he shall find necessary for the complete suppression of violence and disorder; and he shall have power to organize military commissions or tribunals for that purpose, so far as the same are recognized by martial law, anything in the local constitution and laws to the contrary notwithstanding; and may levy fines upon insurrectionary communities to compensate parties injured by their disorders; and all legislative or judicial proceedings or processes to prevent or control the proceedings of said military officers or tribunals, and all interference by other authorities than those of the United States with the exercise of military authority under this article shall be void and of no effect.

4. Courts and judicial officers of the United States, within said districts, shall not issue writs of *habeas corpus* in behalf of persons in military custody, unless some commissioned officer on duty in the district wherein the person is detained shall indorse upon said petition a statement certifying, upon honor, that he has knowledge or information as to the cause and circumstances of the alleged detention, and that he believes the same to be wrongful; and further, that he believes that the indorsed petition is preferred in good faith, and in furtherance of justice, and not to hinder or delay the punishment of crime. All persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted.

5. No sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the Army shall not be affected by this act, except in so far as they conflict with its provisions.

6. Whenever martial law shall have been declared in any of said districts under the third clause of this article the order establishing the same shall not be rescinded or revoked, except upon the order of the General of the Army, approved by the President.

7. This article shall cease to have force and effect as soon as Congress shall declare the insurrection completely suppressed in any State by admitting its representatives in Congress, or otherwise.

Mr. KASSON. Mr. Speaker, that embraces the proposition I propose to bring before the House. When there is disorder in any district amounting to violence the military officer is to declare martial law over part of the district, or over the whole of the district if necessary, to continue until order is restored.

There is another provision for the payment of damages for losses occasioned by any disorder.

I move that the bill be printed while the debate is going on.

The motion was agreed to.

Mr. ASHLEY, of Ohio. I move the following amendment:

*And be it enacted*, That the commanders of the military departments herein named shall cause all property now in existence belonging to loyal citizens of the United States, which during the rebellion was seized or confiscated, either by confederate or rebel State governments, to be summarily restored to said loyal owners.

*And be it further enacted*, That whenever the people of any State named in this act shall adopt a constitution of State government which shall secure to all citizens of the United States within said State, irrespective of race or color, the equal protection of the laws, including the right of the elective franchise, and shall ratify the proposed amendment to the Constitution of the United States, then the provisions of this act shall cease to have force and effect in such State.

The SPEAKER. If there be no objection, all amendments proposed to be offered to the bill will be ordered to be printed.

There was no objection, and it was ordered accordingly.

Mr. BANKS. After what I have said in the presence of the House, it will be expected that I should suggest some plan of reconstruction which accords with my own ideas and which would lead to the conclusion I have suggested. Nothing was further from my mind than to enter upon the discussion at this time; but if the debate should go over till tomorrow I should be glad to be accorded such privileges as are allowed to other members in expressing my views upon this question. And I beg leave to say to the gentleman from Pennsylvania, and to some of my colleagues who have spoken to me, that they cannot name a condition necessary for the protection of the Union men of the South, black or white, to which I should object or which would be excluded from any plan that I might suggest. All I desire in any plan of reconstruction submitted to the House is that it shall embody all the measures necessary for the protection of the loyal people and the preservation of the Government, and exclude all extraneous personal and hostile considerations. In a word, I

want the proposition that shall be adopted by the House, and upon which an appeal shall be made to the people, to be a business matter, and not a personal or hostile one.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title: "An act (H. R. No. 1127) to fix the pay of the quartermaster sergeant of the battalion of Engineers;" when the Speaker signed the same.

#### HOT SPRINGS RESERVATION, ARKANSAS.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States; which, with the accompanying documents, was laid on the table, and ordered to be printed:

#### To the House of Representatives:

I herewith communicate a report of the Secretary of the Interior, in answer to a resolution of the House of Representatives of the 22d ultimo, requesting information relative to the condition, occupancy, and area of the Hot Springs reservation, in the State of Arkansas.

ANDREW JOHNSON.

WASHINGTON, February 7, 1867.

#### RESOLUTIONS OF INDIANA.

The SPEAKER also laid before the House a communication from the lieutenant and acting Governor of Indiana, transmitting a copy of the joint resolution of the Legislature of that State ratifying certain amendments to the Constitution proposed by Congress; which were laid upon the table, and ordered to be printed.

#### MAIL CONTRACTORS IN TENNESSEE.

The SPEAKER also laid before the House a letter of the Postmaster General, in answer to a resolution of the House in reference to certain mail contractors in the State of Tennessee; which was laid upon the table, and ordered to be printed.

#### COMMERCIAL RELATIONS.

The SPEAKER also laid before the House a letter from the Secretary of State, transmitting, in compliance with law, a report of the commercial relations of the United States with foreign nations for the year ending September 30, 1866; which was laid upon the table, and ordered to be printed.

#### EVENING SESSION.

Mr. SPALDING. I move a recess be taken to day from half past four till half past seven o'clock this evening.

Mr. LE BLOND. Barely for discussion?

Mr. SPALDING. That is all I intend.

Mr. STEVENS. I suggest whether it is necessary. There is unlimited time for debate, and we had better go on till daylight.

The question was put; and there were—ayes 67, noes 53.

Mr. ANCONA demanded tellers.

Tellers were ordered; and the Chair appointed Messrs. ANCONA and SPALDING.

Mr. DAVIS. I wish to know whether the proposition is to devote the evening to debate alone.

The SPEAKER. If the motion is adopted the House will proceed with the regular order, which is the bill now under consideration. To order a session for debate alone requires unanimous consent.

The House divided; and the tellers reported—ayes 51, noes 73.

So the motion was disagreed to.

Mr. BANKS resumed the floor, but gave way to

Mr. STEVENS, who moved that the House adjourn.

The motion was agreed to, and thereupon (at four o'clock and fifteen minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees: By the SPEAKER: The petition of Thomas De

Graffenreid, of Chester, South Carolina, asking protection from all acts, jurisdiction, &c., of the so-called State of South Carolina.

By Mr. ECKLEY: The petition of 175 citizens of Columbiana county, Ohio, asking the impeachment of the President of the United States.

By Mr. ELIOT: The petition of Matthew Crosby, and others, citizens of Massachusetts, praying for certain legislation for protection of life at sea.

By Mr. GARFIELD: The petition of citizens of Warren, Ohio, against any further curtailment of the currency.

Also, the petition of citizens of Ravenna, Ohio, against any curtailment of the currency.

By Mr. HAYES: The petition of Wilson Carey, M. Hollingshead, W. G. White, J. P. Sautmyer, and 50 others, clerks in the Cincinnati post office, asking that they may be placed on the same footing in regard to taxation on incomes as other citizens.

By Mr. HUNTER: The memorial of Frederick Bredt, asking that sugar of lead may be exempt from taxation under the internal revenue law.

By Mr. LONGYEAR: The petition of manufacturers, and others, citizens of Lansing, Michigan, praying that all manufactures may be exempted from internal revenue tax.

By Mr. PAINE: A memorial of the Legislature of Wisconsin, praying for the establishment of a certain mail route.

By Mr. SCHENCK: The petition of hospital stewards of the Army, for extra duty pay.

Also, the petition of citizens of Dayton, Ohio, against any further curtailment of the currency.

Also, a petition of loyal citizens of Arkansas, calling attention to a law recently passed by the Legislature of that State appropriating money for the support of rebel soldiers and for the purchase of artificial limbs for such as were maimed in the rebellion.

Also, a petition of disabled soldiers in Government employ, praying for the passage of a law to prevent their removal from office except for proper cause.

By Mr. SPALDING: The remonstrance of E. N. Till, and 6 others, citizens of Cuyahoga Falls, Ohio, against the passage of Messrs. Hooper and Randall's bills.

By Mr. VAN HORN, of New York: The petition of Hopedill Bigelow, of New Market, New Jersey, asking increased pensions for the soldiers of 1812.

#### IN SENATE.

SATURDAY, February 9, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.

The reading of the Journal of yesterday was dispensed with, by unanimous consent, on the motion of Mr. CONNESS.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a report from General Grant, in reply to the resolution of the Senate of the 12th instant, relative to the protection of trains on the overland route; which, on motion of Mr. HENDERSON, was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the thirteenth section of the act of July 17, 1862, a statement of the Quartermaster General, showing the contracts made by him during the month of January, 1867, and those not received in time to be included in previous reports; which was referred to the Committee on Military Affairs and the Militia.

#### CORRECTION OF A MISTAKE.

Mr. DIXON. I ask the consent of the Senate to correct a mistake made by the telegraph in reporting the resolutions which I had the honor to offer to the Senate the other day on the subject of amending the Constitution of the United States. Of the first section of the article of the amendment proposed by me there was given only the first sentence in the telegraphic report, as I see in all the newspapers. The second sentence, "No State shall pass any law or ordinance to secede or withdraw from the Union, and any such law or ordinance shall be null and void," was omitted. I merely desire to correct this error.

#### PETITIONS AND MEMORIALS.

Mr. WILLEY. I have a petition of five hundred and fifty-three citizens of Harper's Ferry and vicinity, asking speedy action on the bill for the sale of the Government interests at Harper's Ferry, in West Virginia. At the last session I had the honor to introduce a resolution making inquiry of the War Department whether it was the purpose of that Department

to continue the manufacture of arms any longer at Harper's Ferry. The Secretary of War referred the resolution to the ordnance department, who reported that it was not the intention of that department any longer to use the property and water-power there for the purposes of the Government, and recommended that a sale be made of the United States property at that place. A bill was prepared and referred to the Committee on Military Affairs, and by them reported, providing for the sale of the property at that place. It has not been acted upon, and I desire now to attract, if the chairman of that committee please, his attention to this petition, so numerous signed, asking speedy action on that bill. I move that the petition lie on the table.

The motion was agreed to.

Mr. MORGAN presented a memorial of the Chamber of Commerce of the State of New York, remonstrating against the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which was referred to the Committee on Finance.

He also presented a petition of ship-builders, ship-owners, merchants, and others, of New York, praying that the law be so amended as to allow the sale and employment of American vessels to friendly belligerents; which was referred to the Committee on Commerce.

Mr. CHANDLER presented the petition of Levi C. Casson, praying to be allowed a pension in consequence of a wound received while protecting the post office in Dexter, Michigan, from being robbed; which was referred to the Committee on Commerce.

Mr. YATES. I present the petition of Mary Loup, whose husband was killed by rebels in the New Orleans riot of July 30, 1866, praying for relief.

Mr. President, as this case in its application is somewhat peculiar I will make a statement of the facts in regard to it for the consideration of the Senate. The husband of the petitioner for three years had been in the United States Army. He was a southern man. He had raised a company under great difficulties without any United States bounty, and served faithfully, as I have stated, for three years, and was present at the convention in New Orleans on the 30th of July, 1866, as a mere spectator, taking no part whatever in the transactions of that convention. While there, and because he had been true and faithful to the Union as a southern man, he was attacked and most brutally and inhumanly murdered. The details of the tragedy in his case are unequalled by any in that horrible massacre which sent a shudder throughout the world. He left at his death a widow and two children in a most deplorable state of destitution and poverty, and yet of the very highest respectability.

Sir, I hope to see the time come when all men shall know, and especially when the rebels in the southern States, where murders are frequent, and where men for the mere expression of opinion are denounced and assassinated, shall understand, when from the highest officer in the Government down to the lowest it shall be understood, that the Government of the United States extends its protection over all the widows and orphans of the Union soldiers and all those who have died in the Union service. I hope when this question comes up, as this is a marked case, and as I believe every Union sufferer during that riot—

Mr. WILSON. Not riot, massacre.

Mr. YATES. Massacre, as the Senator more justly and properly characterizes it, should have the protection of the United States Government. It is therefore that I move to refer this memorial to the Committee on Pensions, and hope that the name of this lady may be placed upon the pension-list.

The motion was agreed to.

Mr. HOWARD presented the petition of Theodore J. Park, praying that the steam-tug T. F. Park may be enrolled and licensed as an American vessel; which was referred to the Committee on Commerce.

He also presented the petition of Thomas Neill, praying that the schooner Chieftain, a Canadian-built vessel, may be enrolled and licensed as an American vessel; which was referred to the Committee on Commerce.

Mr. HOWE presented a petition of citizens of Wisconsin, praying for the passage of House bill No. 718, to provide increased revenue from imports, and for other purposes; which was ordered to lie upon the table.

He also presented a petition of citizens of Chicago, Illinois, praying that a survey, plan, and estimates of the expense of suitable erections to make a safer harbor at the mouth of the Menomonee river be made by the engineer department; which was referred to the Committee on Commerce.

He also presented a petition of mill-owners, shippers, and business men connected with the lumbering and shipping interest, and residents of Illinois, Wisconsin, and Michigan, praying that a survey, plan, and estimates of the expense of suitable erections to make a safer harbor at the mouth of the Menomonee river may be made by the engineer department; which was referred to the Committee on Commerce.

He also presented a memorial of citizens of Wisconsin, remonstrating against the passage of any act authorizing the curtailment of the national currency or a return within a limited time to specie payments, and against compelling national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

He also presented a resolution of the Legislature of Wisconsin, in favor of an increase of the duty on imported wool; which was ordered to lie upon the table, and be printed.

He also presented a resolution of the Legislature of Wisconsin, in favor of a new treaty between the General Government and the Stockbridge Indians of that State, providing for their removal to a more genial climate and fertile soil; which was ordered to lie upon the table, and be printed.

Mr. PATTERSON presented the petition of Elias Beale, praying for compensation for services rendered as captain of company H, eighth Tennessee infantry, from the 25th of July, 1863, to the 30th of June, 1865; and that, in consequence of the loss of health and being crippled while in the service, he may be allowed a pension; which was referred to the Committee on Military Affairs and the Militia.

Mr. YATES presented the petition of Elizabeth J. Manning, praying that her name may be placed on the pension list; which was referred to the Committee on Pensions.

Mr. POMEROY presented a resolution of the Legislature of Kansas, in favor of a grant of lands in that State for the use and benefit of the Freedmen's University; which was ordered to lie upon the table, and be printed.

Mr. HARRIS presented the petition of Mary G. Harris, widow of Colonel John Harris, who died on the 12th of May, 1864, from disease contracted in the service, praying to be allowed an increase of pension; which was referred to the Committee on Pensions.

Mr. CRESWELL presented a memorial of J. Dean Smith and S. M. Shoemaker, stockholders in the Washington, Alexandria, and Georgetown Railroad Company, remonstrating against the passage of the joint resolution authorizing the Secretary of War to pay D. Randolph Martin, assignee, such amounts as may be found due by the United States to that company; which was referred to the Committee on Military Affairs and the Militia.

Mr. ANTHONY presented the memorial of John R. Bolles and others, remonstrating against the acceptance of League Island for a naval station; which was ordered to lie upon the table, and be printed.

#### PRINTING OF RESOLUTIONS.

Mr. YATES. I move that the joint resolution of the Legislature of the State of Illinois on the subject of the navy-yard at Mound City

in that State be printed. I presented them yesterday, but omitted to make a motion for their printing. I now submit that motion.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. LANE, from the Committee on Pensions, to whom was referred the petition of Charles N. Weiss, praying for a pension, submitted a report accompanied by a bill (S. No. 580) granting a pension to Charles N. Weiss. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1058) for the relief of the minor children of Solomon Long, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 556) for the relief of Caroline McGee, of Greene county, Tennessee, widow of Lemuel McGee, deceased, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Olivia W. Cannon, praying for a pension, submitted a report accompanied by a bill (S. No. 581) granting a pension to Olivia W. Cannon. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. VAN WINKLE, from the Committee on Post Offices and Post Roads, to whom was referred the petition of Jacob Shavor and Albert C. Corse, praying for compensation for past and future use of a patent upon post-marking of letters, &c., and for the cancellation of postage stamps, known as the Norton invention, submitted a report accompanied by a bill (S. No. 582) to provide for the payment of past and future use and purchase of the invention and patent upon "post-marking of letters, packets, &c., and for the cancellation of postage stamps thereon," made by and patented to Marcus P. Norton, of Troy, New York, April 14, 1863, and reissued August 23, 1864. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 489) to provide for giving the right of preemption to settlers on the Cherokee neutral lands in Kansas, and for other purposes, reported it with amendments.

Mr. HENDERSON, from the Committee on Indian Affairs, to whom was referred the joint resolution (H. R. No. 92) authorizing the Secretary of the Interior to pay certain claims out of the balance of an appropriation for the payment of necessary expenditures in the service of the United States for Indian affairs in the Territory of Utah, reported it without amendment.

#### DEFICIENCIES IN HOUSE CONTINGENT FUND.

Mr. FESSENDEN. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 1144) making appropriations to supply deficiencies in the appropriations for the contingent expenses of the House of Representatives of the United States for the fiscal year ending June 30, 1867, to report it back to the Senate without amendment. It contains but three items, about which there is no dispute, and the Clerk of the House is very anxious, as he is out of funds, that it should be passed to day. I therefore ask that it may be considered now. It will take but a moment, and it is a matter about which there is no dispute. By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

It proposes to appropriate for miscellaneous items, \$40,000; for folding documents, \$27,500; for fuel and lights, including pay of engineers, firemen, and laborers, repairs, and materials, \$7,000.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### FUNERAL EXPENSES OF MR. HICKNY.

Mr. WILLIAMS. The Committee to Audit



and Control the Contingent Expenses of the Senate, to whom was referred a resolution relative to the payment of the funeral expenses of the late William Hickey, Chief Clerk in the Senate, have instructed me to report it back and recommend its passage; and I ask for its present consideration.

By unanimous consent the Senate proceeded to consider the resolution, and it was agreed to, as follows:

*Resolved*, That the amount directed to be paid to the legal representatives of the late William Hickey, for funeral expenses, &c., by Senate resolution of July 9, 1866, be paid by the Secretary of the Senate out of the contingent fund of the Senate.

#### INTER-OCEANIC ROUTES.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution for the printing of one thousand copies of the report of Admiral Davis in regard to inter-oceanic routes, have instructed me to report it back with an amendment reducing the number to five hundred. I ask for the present consideration of the resolution.

By unanimous consent, the Senate proceeded to the consideration of the resolution.

The amendment was agreed to, and the resolution, as amended, was adopted, as follows:

*Resolved*, That five hundred additional copies of the report of Admiral Davis, of the Naval Observatory, on inter-oceanic canals and railroads, be printed for the use of the Observatory.

#### DEBATES OF CONGRESS.

Mr. SHERMAN. I offer the following resolution, and ask that it be considered now:

*Resolved*, That the Committee on Public Printing be authorized to invite proposals for printing the debates of Congress, and report whether the same should be published as heretofore or by the Public Printer, or by letting the contract to the lowest bidder, or by accepting any one of the proposals made.

Mr. CRESWELL. I think that had better lie over.

The PRESIDENT *pro tempore*. Objection being made to the present consideration of the resolution, it will lie over.

#### ROCK ISLAND IMPROVEMENTS.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to furnish the Senate a copy of the report of the commission of which Major General John M. Schofield was president, in relation to the improvements at Rock Island.

#### PROVISIONAL GOVERNORS.

Mr. CHANDLER. I offer the following resolution, and ask for its present consideration:

*Resolved*, That the Committee on the Judiciary be directed to inquire and report to the Senate whether Andrew Johnson, Vice President of the United States and acting President, had any authority of law or under the Constitution to appoint provisional governors for the States lately in rebellion against the Government.

Mr. BUCKALEW, Mr. JOHNSON, and others objecting to the present consideration of the resolution, it was laid over under the rules.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 583) to restore the jurisdiction of Indian affairs to the Department of War; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. PATTERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 584) for the relief of Elias Beale, late captain of company H, eighth regiment Tennessee volunteer infantry; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 585) to amend and simplify the acts relating to the Metropolitan police of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

#### COURTS IN RHODE ISLAND.

Mr. TRUMBULL. I move to take up

House bill No. 643, to change the place of holding the courts in Rhode Island. The district attorney has written me and desires to have it passed; the Senators from that State are in favor of it. It will take but a minute, and I am sure there can be no objection to it.

The motion was agreed to; and the bill (H. R. No. 643) to alter the places of holding the circuit courts of the United States for the Rhode Island district was considered as in Committee of the Whole.

It provides that from and after the 1st day of July, 1866, the circuit courts of the United States for the district of Rhode Island shall commence and be held at the United States court-room in the city of Providence on the 15th day of November and on the 15th day of June, annually, instead of the places heretofore established by law. But when either of the days named shall fall on Sunday the session of the court then next to be held is to commence on the Monday next following. All indictments, informations, suits, or actions, and proceedings of every kind, whether of a civil or criminal nature, pending in the circuit court on the 1st day of July, 1866, are hereafter to be proceeded in, heard, tried, and determined on the days and at the place herein appointed for holding the court in the same manner and with the same effect as if the court had been holden on the days and at the places heretofore directed by law.

Mr. TRUMBULL. This bill was passed by the House at the last session, and if I heard it read correctly it speaks of suits pending on the 1st day of July, 1866. That will have to be altered. I move to strike out "1866" and insert "1867."

The PRESIDENT *pro tempore*. That change will be made.

Mr. TRUMBULL. A similar change will have to be made in the first section as to the time when the change shall be made.

Mr. JOHNSON. Then the bill will have to go back to the House.

Mr. TRUMBULL. We cannot help that. The time named has passed.

The PRESIDENT *pro tempore*. These changes will be made in the bill, if there be no objection.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the bill be read a third time. The bill was read the third time, and passed.

#### TOWN SITES.

On motion of Mr. STEWART, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 582) for the relief of the inhabitants of cities and towns upon the public lands.

The bill as introduced provided that whenever any portion of the surveyed public lands has been or shall be settled upon and occupied as a town site, and therefore not subject to entry under the agricultural preemption laws, it shall be lawful, in case such town shall be incorporated, for the corporate authorities thereof, and if not incorporated for the judge of the county court for the county in which the town may be situated, to enter at the proper land office, and at the minimum price, the land so settled and occupied in trust, for the several use and benefit of the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of the lots in such town, and the proceeds of the sales thereof, to be conducted under such rules and regulations as may be prescribed by the legislative authority of the State or Territory in which it may be situated. But the entry of the land is to be made prior to the commencement of the public sale of the body of land in which it is included, and the entry is to include only such land as is actually occupied by the town, and to be made in conformity to the legal subdivisions of the public lands authorized by the act of 24th of April, 1820; and where the inhabitants are in number one hundred and less than two hundred is to embrace not exceeding

three hundred and twenty acres; and in cases where the inhabitants are more than two hundred and less than one thousand, not exceeding six hundred and forty acres; and where the number of inhabitants is one thousand and over one thousand, not exceeding twelve hundred and eighty acres.

Amendments were proposed to the bill by the Committee on Public Lands; the first of which was in line thirty, section one, to strike out the word "surveyed," and after "lands" to insert "of the States of California and Nevada;" so as to read:

That whenever any portion of the public lands of the States of California and Nevada has been or shall be settled upon and occupied town sites, &c.

Mr. JOHNSON. Why confine it to those States?

Mr. STEWART. This is a substantial revival of the law of 1841, allowing the town authorities to enter a certain quantity of land. In the western States some speculation arose in those town sites, which caused a law to be passed professedly to stop that, but it was really at the instance of the registers and receivers so that they would get a special fee for each lot. That was applied to the whole country, but in California and Nevada the people have gone on under the old law. Their towns were located with a view of complying with the provisions of the old law; and an attempt to enforce the new law there interferes with the entire property of the country. They cannot comply with it. The petitions from California and Nevada for a change of the law are very numerous. The Committee on Public Lands think it would be wise to limit the change to that part of the country from which the demand for it comes, and leave the question of changing the whole system generally for future consideration. From California and Nevada we have petitions and letters from almost every town asking that this change be made. For instance, in the town where I live, Virginia City, the sizes of the lots do not correspond with those fixed in the new law; the Gould & Curry mill there cost \$1,200,000; several parties have attempted to enter portions of the lot upon which it is located arbitrarily, whereas the town authorities, if they were allowed to go on under the old law, would give the company title to what they have in actual possession.

The bill is confined to those States from which this demand specially comes. Several Territories have applied to have the provision extend to them. Judge Goodwin, of Arizona, wishes it extended to that Territory, but until there is further investigation the committee think it safer to apply this bill only to the States from the inhabitants of which we had petitions on the subject.

Mr. JOHNSON. Is it not necessary in Oregon also?

Mr. STEWART. It may be equally necessary in Oregon, in Montana, in Idaho, and in Arizona. My opinion is that they will need it there, but my impression is that this bill had better go through now in this way, and at the next session we can attend to those other cases if on investigation it is deemed desirable to extend it to them. I think the new law was a very great mistake. The old law, as it stood, worked well. Certainly it places people in States which had been long settled in an awkward position, where they had not perfected their titles under the old law, to have the change made.

Mr. HENDRICKS. This is not the enactment of a law unknown to our system. For a great number of years this law as proposed now substantially applied to all the States and Territories. Under it it was found in the Territories of Nebraska and Kansas, and perhaps Minnesota and some other localities, that very gross and disgusting frauds were perpetrated. Men would secure proof of the establishment of a town, and plat it out in very magnificent style, and come to eastern States and cities and sell corner-lots and perpetrate very gross frauds upon the unwary. I suppose it was in view

of that fact that Congress changed the law so that each settler upon a particular lot should enter it for himself. That is the existing law now.

But we are informed by the Senators from the Pacific coast that their interests are peculiar and need the reenactment of this law, and therefore I did not object to it. I was unwilling, unless we should have the opinion of the General Land Office on the subject, to extend it to all the States and Territories. I can very well see why there could not be such frauds perpetrated on the Pacific coast as on this side. At any rate, if they are perpetrated they will be upon their own citizens. If a town is built up in California that is a mere sham and a fraud the people of California are likely to know it. There cannot likely be frauds under this law, and it is a matter of convenience to the people out there, and I therefore support the bill.

Mr. SHERMAN. I desire to offer an amendment. It may not be necessary, but it is a precaution to avoid the difficulty that arose under the old law.

Mr. CONNESS. There are amendments pending from the committee.

The PRESIDENT *pro tempore*. There are amendments reported by the committee still undisposed of.

Mr. SHERMAN. As I shall not occupy the attention of the Senate again, I desire now to except from the operations of this bill all military or other reservations made by the United States.

Mr. CONNESS. Certainly, there is no objection to that.

Mr. SHERMAN. Under the old law they attempted to cover the military reservation at Leavenworth, worth \$1,000,000, and they also endeavored to cover the Spring reservation in Arkansas, which was worth an immense amount.

Mr. HENDRICKS. But that effort was not a success. They cannot do that under the existing law.

Mr. SHERMAN. I know the effort failed, but it was made, and I think we should adopt this precaution.

Mr. HENDRICKS. The existing law is against it, and the uniform decisions of the office.

Mr. SHERMAN. There will be no harm in it.

Mr. WILLIAMS. My attention has not been directed to this bill. It is a bill that is called up this morning for the first time; but I should like to hear from the chairman of the committee, or some other member of it, the specific advantages that this law has over the old law. If the States of California and Nevada derive any particular benefit from this enactment I do not see why Oregon and the Territories on the Pacific coast should not be included, for they are very similar in many respects, particularly so far as their public lands are concerned. I should like to know from that statement as to whether or not it would be desirable to include Oregon in the bill, because I want the State of Oregon to enjoy all the advantages that the other States on the Pacific do.

Mr. STEWART. I have no doubt it would be an advantage to Oregon and to Idaho and Arizona to be included in this bill; but the committee felt disposed to confine it to those States where we had information from almost every town that could be built, and where there are now towns building for speculative purposes. This is intended to cover the cases of those actually and *bona fide* occupying the land at present. Probably the same condition of things exists in Oregon, in Arizona, and in Idaho. If the Senator will move an amendment to include Oregon I shall not oppose it.

Mr. CONNESS. I hope the amendments of the committee will be acted upon first.

The PRESIDENT *pro tempore*. As soon as the debate closes the Chair will put the question on the pending motion, which is the amendment of the committee just read.

Mr. WILLIAMS. I desire to have an explanation, if it is agreeable to the members of

the committee, as to the particular advantages of this bill over the old bill.

Mr. CONNESS. If the Senator will allow the vote to be taken on these amendments we will give that explanation in its proper order.

Mr. HOWARD. Why not give it before we vote?

Mr. CONNESS. These are amendments verbal in their character and should be made first.

Mr. WILLIAMS. I have no particular desire to have any explanation made at this time, unless by the adoption of the amendment here, confining the bill to the States of California and Nevada, we are concluded from including other States.

Mr. CONNESS. Not at all.

Mr. WILLIAMS. If that is not the case I do not care as to the time when I hear the explanation.

Mr. HENDRICKS. If the Senator wants Oregon included it can be done. I have no objection to that, and I presume no member of the committee would have any. The inconvenience under the existing law is that for many purposes a sufficient quantity of land cannot be entered. The law as it now stands limits the entry to a very small lot. It is inconvenient in carrying on manufacturing and mineral enterprises in that distant country.

Mr. CONNESS. I will make a brief statement for the information of the Senator from Oregon and of the Senate. I have in my hand a petition from the citizens of one of the towns in California. They have undertaken to enter the land of their town under the existing so-called town-lot law. The result is, that under that law, after two years of time, not more than half the people of the town have been able to get a title to their lots. Others own lots jointly, and the laws make no provision for joint entries. In addition to that they find that they cannot enter the streets nor the public squares in the town. The title to those is in the United States. The law, as it exists, is totally inapplicable to those towns. What we want is to enable the authorities of each town to enter at the minimum price of the public lands a given number of acres, graded according to the population of the town or locality, so that it may be entered in trust and then deeded according to the possessions to the people. If the Senator from Oregon desires the benefit of the law for his State—and I have no doubt it would be beneficial to his State—of course he will move to insert it. But there is nothing so necessary as the provisions of this act for our towns.

Mr. HOWARD. Does the Senator from California mean to be understood that this bill provides that the corporate authorities of the town may become the purchasers? Is that the scheme here?

Mr. CONNESS. No, sir.

Mr. HOWARD. I so understood him.

Mr. CONNESS. They simply enter the land as agents in trust for the occupants, those in possession.

Mr. HOWARD. Do they get a title?

Mr. CONNESS. A title for the occupants from the United States.

Mr. HOWARD. Then they become the owners in trust.

Mr. CONNESS. In trust. That is it exactly.

Mr. HOWARD. How much can they enter?

Mr. CONNESS. I will answer that in a moment. Where there is no corporate body for organization the judge of the county enters the land in trust. That is the old law. This is simply a revival of the old law, which is very much the better law. In the case of a town with a population of between one hundred and two hundred they are to enter three hundred and twenty acres. The amount to be entered is graduated according to the recommendation of the Commissioner of the General Land Office.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the proposed amendment?

Mr. HOWARD. I hope the amendment will be reported.

The Secretary read the amendment, which was in line three to strike out the word "surveyed" before "public," and after the word "lands" to insert "of the States of California and Nevada."

Mr. STEWART. It is proposed to include Oregon. Shall I put in Oregon?

Mr. WILLIAMS. Yes, sir; I think it would be better.

Mr. STEWART. I move to insert "Oregon" before "California."

Mr. HOWARD. I wish to inquire of some member of the Committee on Public Lands the reason they have for striking out the word "surveyed" before "public lands" in line three. Is it their purpose to allow any lands that have never been surveyed at all to be entered upon by the corporate authorities of the township and appropriated in the manner prescribed in the bill? Does not the law as it now stands confine such entries to lands which have been surveyed?

Mr. STEWART. The bill requires the entry to be made in conformity to the surveys. Of course we shall have to extend the surveying system; but it is not necessary that the town shall have been sectionized and surveyed. The latter portion of the bill, however, requires it in its exterior limits to conform to the general surveys, so that there will be no confusion about that. It is intended that they shall acquire title to the property before the ground is all surveyed. Otherwise, I am afraid there are a great many towns where they never will acquire a title. In the mining region it is not expected that all those deserts will ever be surveyed. You find there a town located probably fifty miles from any arable land, for mining purposes exclusively, and if you waited until the surveys were extended to that land they never could acquire title to the property at all, because it would cost so much to survey it. It is not the policy of the Government to survey all those deserts. In surveying under the mining law it is provided that they shall connect with the general system by running standing lines to make the general system conform; so that if the land is ever surveyed there shall be uniformity; but there are large portions of the public lands in the great desert there that will never be sectionized.

Mr. HOWARD. It comes to this, then, I suppose: that under this bill any person may enter upon public land, although it may be unsurveyed, and acquire it as a town plot in the future, and may hold it.

Mr. CONNESS. Oh, no.

Mr. HOWARD. That is the effect of the bill.

Mr. CONNESS. Only where they have settled and made a town.

Mr. HOWARD. The bill is prospective I suppose.

Mr. STEWART. There must be a certain number of inhabitants there.

Mr. HOWARD. I confess I have a little hesitation about granting this privilege to enter upon unsurveyed public land and convert it into town plots. It will open the door to great speculations, to great frauds, and great injustice to the public to grant this privilege with reference to unsurveyed land. There may be some reasons for it in Pacific States which are not applicable to other States.

Mr. CONNESS. It is not made applicable to any other States.

Mr. HOWARD. I say there may be reasons why this should be applied to the Pacific States and not applied to the other States, but I have not seen them very clearly.

Mr. WILLIAMS. I am satisfied that this amendment proposed by the committee is absolutely necessary to give this bill any practical value. Now, in the State where I live I doubt very much whether any town has ever been commenced upon the surveyed lands of the State; but wherever the advantages of a location seem to indicate that a town is desirable people congregate there and proceed at

once to make a town, and some of these localities are removed at a great distance from the surveyed portions of the country. Now, if the people of the State, before they can enter a town site under this law, are compelled to wait until the lands are surveyed, there will be no town sites as a general rule to which this law will apply, because generally the surveyed lands are taken as soon as they are surveyed and in many cases before they are surveyed by private individuals.

As has been suggested by the Senator from Nevada, there is no regular system of surveys in the State of Oregon, but the lands are surveyed in different localities according to the topography of the country. Some portions of the State are agricultural, and they are surveyed. Then there are other large portions of the State that are not surveyed because they are not agricultural lands but abound in mineral resources; and wherever a discovery is made of a mine in any particular locality hundreds of people will settle there at once and make a town, and that town may be a great distance from any of the regular surveys of the State. The object of this bill is to enable the citizens of that town to enter their land whenever the surveys are extended to that locality. When a town of that kind is made, when people settle upon unsurveyed public land in order to make a town, this bill provides that it shall be understood that the land upon which the town is located is not subject to private entry, but whenever the surveys are extended to that locality then it shall be entered for the advantage of private individuals.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment, to insert "Oregon."

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The next amendment was in line eighteen, after the word "entry" to strike out the words "of the land intended by this act be made prior to the commencement of the public sale of the body of land in which it is included, and that the entry;" so that the proviso will read:

*Provided*, That the entry shall include only such lands as are actually occupied by the town, &c.

The amendment was agreed to.

The next amendment was in line twenty-two, after the word "and" to insert the word "shall."

The amendment was agreed to.

The next amendment was in line thirty-two, after the word "provided" to strike out the word "further."

The amendment was agreed to.

The next amendment was to add at the end of the bill the following proviso:

*And provided further*, That this act shall be construed subject to the provisions of the act entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July 28, 1866; and nothing in this act shall be construed to grant any right in conflict with the rights of miners upon the public lands which they hold under any law of Congress or by virtue of the rules or customs of miners.

The amendment was agreed to.

Mr. STEWART. In line twenty-two, after the word "town," I move to insert the words "the title to which is in the United States;" so that it will read:

That the entry shall include only such lands as are actually occupied by the town, the title to which is in the United States.

The amendment was agreed to.

Mr. STEWART. After the word "shall," in the same line, I move to insert the words "in its exterior limits."

The amendment was agreed to.

Mr. STEWART. Now, I hope that the amendment offered by the Senator from Ohio will be adopted.

The PRESIDENT *pro tempore*. The following amendment is moved by the Senator from Ohio, to come in at the end of the bill:

*And provided further*, That the provisions of this act shall not apply to military or other reservations heretofore made by the United States.

The amendment was agreed to.

Mr. HENDRICKS. It is right, lest I might be misunderstood in what I said a few minutes ago, to say that this bill changes the act of 1841 in regard to the quantity of land that shall be entered. The act of 1841 was arbitrary, allowing a section of land to be entered in all cases, or a half section, I forget which. This bill regulates the amount that is to be entered according to the population of the town. It is right that I should also add, perhaps, that the existing law requires the occupant of a town lot, a small lot, to pay to the Government ten dollars for the entry. This bill will allow the land covered by the town to be entered at the Government price, whatever it may be, either \$1 25 or \$2 50 an acre. I think that feature of the bill is right, because if the town lots are worth ten dollars apiece that value is given them, not by the Government, but by the people in making their improvements.

Mr. CONNESS. In that connection I desire simply to say that the recommendation as to the quantity came from the Land Office, because it was found that special acts had to be passed for particular towns extending the quantity.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### LEAGUE ISLAND.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is House bill No. 452, being the League Island bill.

Mr. GRIMES. When I made the motion yesterday to call up that bill, I had forgotten that on a former day the Senator from Maine, the chairman of the Committee on the District of Columbia, had had to-day assigned for District of Columbia business. I consider it very important that this bill should be considered at an early day by the Senate, but I have no disposition to allow it to interfere with the business which at a previous day was assigned for consideration to-day. I therefore move that it be postponed to and made the special order of the day for Tuesday next at one o'clock. I understand that the chairman of the Committee on Finance has some business that he desires to transact on Monday.

Mr. HOWARD. Let us vote on it now and dispose of it.

Mr. GRIMES. We cannot do that, because the Senator from Maine [Mr. MORRILL] has had to-day assigned for the consideration of District of Columbia business.

Mr. CONNESS. Do you want to have the morning hour for it?

Mr. GRIMES. No; I move that it be made the special order for Tuesday next at one o'clock.

The motion was agreed to.

#### BANKRUPT BILL.

Mr. WILSON. With the consent of the Senator from Maine I desire to have a vote taken on the motion that I entered some days since, to reconsider the vote rejecting the bankrupt bill, and then after the reconsideration it can lie over for future consideration.

Mr. MORRILL. If it takes no time and leads to no discussion I shall not object.

Mr. WILSON. I do not wish to take up any time upon it except to have a vote taken on the motion to reconsider, and then if the bill is reconsidered it can lie over.

The PRESIDENT *pro tempore*. It is moved that the Senate now proceed to the consideration of the motion to reconsider the vote rejecting the bankrupt bill, which was acted upon by the Senate a few days ago.

The motion to take up the motion to reconsider was agreed to.

Mr. LANE. I ask for the yeas and nays on the motion to reconsider.

The yeas and nays were ordered.

Mr. POLAND. I think it is very apparent

that a majority of this body are in favor of the bankrupt law; but the friends of the measure were so unfortunate as not to agree in some of its details. I hope without any question that this motion to reconsider will be allowed to prevail, and then the matter can be brought under consideration again, to see if the views of the friends of the measure may not be harmonized. I hope that it will be reconsidered.

The Secretary proceeded to call the roll.

Mr. ANTHONY (when his name was called) said: I am paired off on this question with the Senator from Pennsylvania, [Mr. COWAN,] who is not in his seat; otherwise I would vote in the affirmative, and if he were here he would vote in the negative.

Mr. SHERMAN (after having voted in the negative) said: I inadvertently voted. I am paired off on this question with the Senator from Vermont, [Mr. EDMUNDS,] who has been called away by illness in his family. I therefore ask leave to withdraw my vote.

The PRESIDENT *pro tempore*. The vote will be withdrawn, no objection being made.

The result was then announced—yeas 22, nays 14; as follows:

YEAS—Messrs. Chandler, Conness, Creswell, Dixon, Doolittle, Fessenden, Foster, Harris, Howard, Johnson, Morgan, Norton, Patterson, Poland, Pomeroy, Ramsey, Ross, Stewart, Sumner, Van Winkle, Wilson, and Yates—22.

NAYS—Messrs. Buckalew, Cragin, Davis, Fogg, Grimes, Henderson, Hendricks, Kirkwood, Lane, Morrill, Nesmith, Saulsbury, Wade, and Williams—14.

ABSENT—Messrs. Anthony, Brown, Cattell, Cowan, Edmunds, Fowler, Frelinghuysen, Guthrie, Howe, McDougall, Nye, Riddle, Sherman, Sprague, Trumbull, and Willey—16.

So the motion to reconsider was agreed to.

Mr. WILSON. I now move that the further consideration of the bill be postponed to another day.

Mr. JOHNSON. When? Generally?

Mr. WILSON. Until to-morrow.

Mr. JOHNSON. Until Monday?

Several SENATORS. Say to-morrow.

Mr. WILSON. I will say to-morrow. I mean to-morrow legislatively. That means that we can take it up when we choose.

The motion was agreed to.

#### MILITARY BILLS.

Mr. WILSON. I desire to give notice that on Wednesday I shall ask the Senate to consider the bill for a temporary increase of the Army and some other Army bills. There were referred to us from the House of Representatives eighteen bills yesterday; we have nearly thirty military bills from that House unacted upon, and I desire a few hours to dispose of them one way or the other. I merely wish to say that at one o'clock on Wednesday I shall call them up.

#### JAIL IN THE DISTRICT.

Mr. MORRILL. I propose now to proceed with the District business. I move first to take up Senate bill No. 550.

The motion was agreed to; and the bill (S. No. 550) to amend an act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved June 25, 1866, was considered as in Committee of the Whole.

It proposes to repeal so much of the sixth section of the act approved June 25, 1866, as specifies the amounts to be raised and paid into the Treasury of the United States by the cities of Washington and Georgetown respectively, before the completion of the jail, and to make it the duty of the proper authorities of the city of Washington to raise, by tax or otherwise, and pay into the Treasury of the United States, at or before the time of the completion of the jail, \$78,000, and the duty of the proper authorities of the city of Georgetown to raise, by tax or otherwise, and pay into the Treasury of the United States, at or before the time of the completion of the jail, \$12,000.

Mr. MORRILL. Perhaps I ought to make a word of explanation as to the bill. On the 25th July, 1866, an act was approved entitled



"An act to authorize the construction of a jail in and for the District of Columbia," and it was provided in this act that a portion of the expense of the construction of the jail should be devolved upon the cities of Washington, Georgetown, and the county of Washington, and in these proportions: \$70,000 upon Washington city, \$10,000 upon Georgetown, and \$10,000 upon the country quarter of the District. A memorial was sent to the Senate at this session from the authorities of Georgetown saying that there was an inequality in this proportion, and they satisfied the committee that it was so. I understand that upon the basis of population, if it were allowable to base the proportion upon population, the proportion of Georgetown would be something less than eleven thousand dollars, about ten thousand dollars; but if based upon population and property combined, it would be eleven thousand nine hundred and some odd dollars. That is, comparing the population and property of Georgetown with those of the city of Washington and the country quarter; so that this bill proposes to change the act referred to and devolve \$78,000 upon the city of Washington, \$12,000 upon Georgetown, and \$10,000 upon the country quarter of the District.

Mr. JOHNSON. Is the aggregate the same?

Mr. MORRILL. The aggregate is the same; the only real change in the law is that it now devolves \$78,000 upon the city of Washington instead of \$70,000, and \$12,000 instead of \$20,000 upon Georgetown, which the committee find to be in accordance with the fair proportions estimating both population and property. There is no new obligation.

Mr. JOHNSON. I inquire of the honorable chairman what is the estimated cost of the jail?

Mr. MORRILL. Two hundred thousand dollars was appropriated. The Secretary of the Interior was authorized to incur an expense not exceeding that, and half of that amount was to be supplied by the District.

The bill was reported to the Senate, ordered to be engrossed for a third reading, and was read the third time, and passed.

#### HOWARD UNIVERSITY.

Mr. MORRILL. I now move to take up Senate bill No. 529.

The motion was agreed to; and the bill (S. No. 529) to incorporate the Howard University in the District of Columbia was considered as in Committee of the Whole.

The Committee on the District of Columbia reported an amendment to the bill, to strike out all after the enacting clause, and insert:

That there be established, and is hereby established in the District of Columbia, a university for the education of youth in the liberal arts and sciences, under the name, style, and title of the Howard University.

Sec. 2. *And be it further enacted*, That Samuel C. Pomeroy, Charles B. Boynton, Oliver O. Howard, Burton C. Cook, Charles H. Howard, James B. Hutchinson, Henry A. Brewster, Benjamin F. Morris, Danforth B. Nichols, William G. Finney, Roswell H. Stevens, E. M. Cushman, Hiram Barbour, E. W. Robinson, W. F. Bascom, J. B. Johnson, and Silas L. Loomis, be, and they are hereby, declared to be a body politic and corporate, with perpetual succession in deed or in law to all intents and purposes whatsoever, by the name, style, and title of "the Howard University," by which name and title they and their successors shall be competent, at law and in equity, to take to themselves and their successors, for the use of said university, any estate whatsoever in any messuage, lands, tenements, hereditaments, goods, chattels, moneys, and other effects, by gift, devise, grant, donation, bargain, sale, conveyance, assurance, or will; and the same to grant, bargain, sell, transfer, assign, convey, assure, demise, declare to use and farm lot, and to place out on interest, for the use of said university, in such manner as to them, or a majority of them, shall be deemed most beneficial to said institution; and to receive the same, their rents, issues, and profits, income and interest, and to apply the same for the proper use and benefit of said university; and by the same name to sue and be sued, to plead and be pleaded, in any courts of law and equity, in all manner of suits, actions, and proceedings whatsoever, and generally by and in the same name to do and transact all and every the business touching or concerning the premises: *Provided*, That the same do not exceed the value of \$50,000 net annual income, over and above and exclusive of the receipts for the education and support of the students of said university.

Sec. 3. *And be it further enacted*, That the first meeting of said corporators shall be held at the time and

place at which a majority of the persons herein above named shall assemble for that purpose; and six days' notice shall be given each of said corporators, at which meeting said corporators may enact by-laws regulating the government of the corporation.

Sec. 4. *And be it further enacted*, That the government of the university shall be vested in a board of trustees, of not less than thirteen members, who shall be elected by the corporators at their first meeting. Said board of trustees shall have perpetual succession in deed or in law, and in them shall be vested the power heretofore granted to the corporation. They shall adopt a common seal, which they may alter at pleasure, under and by which all deeds, diplomas, and acts of the university shall pass and be authenticated. They shall elect a president, a secretary, and a treasurer. The treasurer shall give such bonds as the board of trustees may direct. The said board shall also appoint the professors and tutors, prescribing the number, and determining the amount of their respective salaries. They shall also appoint such other officers, agents, or employees, as the wants of the university may from time to time demand, in all cases fixing their compensation. All meetings of said board may be called in such manner as the trustees shall prescribe, and nine of them so assembled shall constitute a quorum to do business, and a less number may adjourn from time to time.

Sec. 5. *And be it further enacted*, That the university shall consist of the following departments, and such others as the board of trustees may establish: first, normal; second, collegiate; third, theological; fourth, law; fifth, medicine; sixth, agriculture.

Sec. 6. *And be it further enacted*, That the immediate government of the several departments, subject to the control of the trustees, shall be intrusted to their respective faculties; but the trustees shall regulate the course of instruction, prescribe, with the advice of the professors, the necessary text-books, confer such degrees, and grant such diplomas as are usually conferred and granted in other universities.

Sec. 7. *And be it further enacted*, That the board of trustees shall have power to remove any professor or tutor or other officers connected with the institution whom, in their judgment, the interest of the university shall require it.

Sec. 8. *And be it further enacted*, That the board of trustees shall publish an annual report, making an exhibit of the affairs of the university.

Sec. 9. *And be it further enacted*, That no misnomer of the said corporation shall defeat or annul any donation, gift, grant, devise, or bequest to or from the said corporation.

Sec. 10. *And be it further enacted*, That the said corporation shall not employ its funds or income, or any part thereof, in banking operations, or for any purpose or object other than those expressed in the first section of this act; and that nothing in this act contained shall be so construed as to prevent Congress from altering, amending, or repealing the same.

Mr. MORRILL. I move to amend section three of the amendment by inserting after "by-laws," in line six, the words "not inconsistent with the laws of the United States."

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### FOUNDRY METHODIST CHURCH.

On motion of Mr. MORRILL, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 506) to authorize the trustees of the Foundry (Methodist Episcopal) Church to sell and convey square No. 235, in the city of Washington.

It proposes to authorize Presley Simpson, James W. Barker, Edward Owen, David A. Gardner, Nathaniel Mullikin, William J. Sibley, Daniel D. T. Leech, Edward F. Simpson, and Richard T. Morsell, trustees of the Foundry (Methodist Episcopal) Church, in the city of Washington, and their successors in office, to sell and convey a certain square of ground in that city known and distinguished on the ground plan thereof as square numbered two hundred and thirty-five, now held by the trustees in trust for that church, and lately used, in part, as a burial ground, free and discharged of and from any trust, express or implied, now existing, or which may hereafter, before the execution of a conveyance of the square, exist, in the trustees or their successors, whether by virtue of the deed originally conveying the same to the trustees of the church, or by virtue of any deed or deeds, certificate or certificates, or any writing or writings whatever, by the trustees or their predecessors, conveying any lot or lots, site or sites, in the part of the square used as a burial ground, and free and discharged of and from any and every right, title, and interest, legal and equitable, now existing in any lot-holder in the burial ground,

under any contract with the trustees or their predecessors; but the trustees or their successors are out of the proceeds of the sale to remove or cause to be removed the dead that are now interred in the ground, and to give them decent sepulture in some public cemetery outside the corporate limits of the city of Washington.

Mr. JOHNSON. I am not sure that I understand the bill from the reading of it: the honorable chairman will oblige me personally by stating where is the necessity, or whether we have the power to pass such a bill.

Mr. MORRILL. This bill is to relieve the trustees of a trust which was confided to them, and which is substantially recited in the bill itself. A portion of the property which was conveyed to the trustees for church purposes, in trust for the church named, they have used for a burial ground, and parties have been permitted by the church to bury there. It has gone into disuse now for that purpose; the fences are down about it; it is undesirable for that purpose; and not only is it undesirable, but undoubtedly the time has arrived when the city authorities might properly enough invoke the power of Congress to prevent burials there. It being no longer useful for that purpose, the trustees desire to convert it to other purposes, and they propose to dispose of it for other purposes, taking upon themselves by the provisions of this act the obligation and the expense of removing the dead that are now buried there, and give them decent sepulture elsewhere.

I did not know but that there might be some legal question about it, as the honorable Senator suggests at the first start. The Senator from West Virginia presented the bill and examined the question somewhat, and he saw no difficulty in it; but I sent for the deed of trust and for some of the parties whose interests were adverse, if there were any, to wit, those who had burial licenses there, and I came to the conclusion from the best examination I could make of it that there was no legal proposition involved in it; that these parties might be empowered to do what they propose to do without violating the individual rights of any other parties. That is about all there is in the bill.

Mr. JOHNSON. It suggested itself to me from hearing the bill read that we were about by act of Congress to change the contract made between the original donors or grantors and the person for whose benefit the trust was created. The deed is not before us. The honorable member from West Virginia perhaps can tell what the trust is. I suppose that under the trust as it exists by the deed the trustees would have no authority to dispose at all of the title which is in them legally, and purchase property elsewhere. It also suggested itself to me that if there was a power, notwithstanding the trust, in Congress to legislate as proposed, there might be some objection to legislating for the particular object that is in view. I am exceedingly unwilling, as we all are, to disturb the dead. It is rather revolting to the feelings of all humane men to have the bones of the dead dug up and transferred elsewhere, unless there be some commanding necessity looking to the health or the actual interest of the locality in which the burials may have taken place. I should like to know from my friend from West Virginia what is the trust which prevents the trustees themselves accomplishing the same end that is proposed to be accomplished by means of this legislation.

Mr. WILLEY. It is true that I introduced this bill originally and had it referred to the Committee on the District of Columbia. I did so upon no particular personal examination of my own, but from representations made to me by certain parties, who desired the action of Congress asked for in this bill. They made to me certain representations which satisfied me that if their representations were true it was a case proper for the interference of Congress, and for the passage of a bill of the char-

acter which they asked. It was represented to me that a long time ago a certain square or lot, at that time far outside of the city, was conveyed to the Methodist Episcopal Church for the general purposes of that church; and that since that time they gave authority for certain persons to bury their dead within the limits of that square. Many years ago certain persons did bury their dead there and the square was improved for a while; but in consequence of the approach of population and the city toward this square, indeed surrounding it and beyond it, as the lot itself being a small one, it became in their opinion a place improper for burial purposes, and many of the parties who had buried their dead there, seeing that the improvements on the lot were going into dilapidation, moved by respect for the dead, of their own free will took up the remains and transferred them to cemeteries outside of the city. Both on account of its being encroached upon by the population and from the abandonment of it for burial purposes by many of those who had the remains of their dead there, it seemed to me highly improper that it should be any longer retained for that purpose.

I made inquiry as to the character of the conveyance that had been made to the trustees of this church originally. I was assured that there was no special trust contained in the deed limiting the use of that lot to any definite or particular purpose; but I advised the parties to place in the possession of the chairman of the committee the original deed, or a copy of it, so that he might be advised upon that subject. Upon inquiry of him just now I learned that the deed was placed in his possession and that it did not contain any limitations of the character that I have referred to, making it obligatory to appropriate the lot to any specific purpose; but the deed has been withdrawn by the parties and is not now here. I understand from the chairman, however, that such is the character of the deed.

Mr. JOHNSON. I am satisfied.

Mr. WILLEY. I am certain the city will have to interfere before long, and as a police regulation take these remains away. The bill, I understand, makes ample provision for the removal of the remains and their decent sepulture elsewhere. It is a matter of necessity to the church to have this lot sold. The city will be benefited by it; the friends of the dead will be benefited by it, and the church will be benefited by it, in my estimation. I hope the bill will pass.

Mr. MORRILL. I wish to say a word in response to the remark of the Senator from Maryland, that the dead ought not to be disturbed. That question arose whether suitable provision ought to be made and whether this was an adversary proceeding. A letter was addressed to me by the parties interested saying that if provision should be made for the removal of the dead and their decent sepulture elsewhere all concerned were satisfied there would be no objection to the measure. I did not, therefore, regard the bill as in any sense an adversary proceeding.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### PHARMACEUTICAL ASSOCIATION.

Mr. YATES. I move to take up Senate bill No. 175.

The motion was agreed to; and the bill (S. No. 175) to incorporate the Pharmaceutical Association of the District of Columbia was considered as in Committee of the Whole. It proposes to constitute Valentine Harbaugh, John L. Kidwell, Joseph W. Nairn, Francis S. Walsh, John A. Milburn, Joseph B. Moore, James N. Callan, Samuel E. Tyson, and such other persons as are now members of the association in the District of Columbia known as the Pharmaceutical Association of the District of Columbia, or shall hereafter become members of the same, a corporation and body-politic, for the purpose of cultivating, improving, and making known a knowledge of pharmacy, its

collateral branches of science, and the best modes of preparing medicines and of giving instruction in the same.

Mr. JOHNSON. I am not sure that I understand the extent of the limitation as to the value of the property which this corporation is to hold. I think the bill says that the amount of real and personal property which they may hold is not to exceed \$20,000 in value. That limitation is too small to carry out the purposes of the corporation if that be the meaning of the limitation. They are to buy a lot and build a house, and I suppose the house and lot would cost at least \$20,000. Then they are to buy all the personal property absolutely necessary to the objects of the corporation. I suggest to my friend from Illinois that he had better look at the limitation to be found in the first section and see whether it is not too small a limitation, provided it applies to all the property they may hold.

Mr. YATES. This is an enterprise inaugurated by the young men in the apothecary stores, more particularly to have some means provided to secure the correct preparation of medicines according to physicians' prescriptions, and to promote medical sciences generally. I think the suggestion of the Senator from Maryland is very correct, and I move to amend the bill by striking out in the nineteenth line of the first section the word "twenty" and inserting "forty," so as to make \$40,000 the limit.

Mr. HENDERSON. I think it would be better to say \$50,000.

Mr. YATES. Very well; I move that amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. MORRILL. I call the attention of the Senator from Illinois to the phraseology of the bill in the twelfth line of the first section, where these words are used, "and as such to have continuance forever." I do not see any very great objection to this clause, as it is qualified by the succeeding words, "or until Congress shall direct this charter to cease and determine," but I think the language is a little unusual, and if there be no objection I move to strike out "to have continuance forever or until" and insert "shall have perpetual succession unless."

Mr. JOHNSON. That is better.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### VAGRANT CHILDREN.

On motion of Mr. MORRILL, the bill (S. No. 573) supplementary to the act incorporating the Newsboys' Home and providing for the relief of certain minor children in the District of Columbia, was read the second time, and considered as in Committee of the Whole.

It proposes to change the name of the "Newsboys' Home of Washington city" to that of the "Newsboys' Home and Children's Aid Society of the District of Columbia," and to enlarge the powers and duties of its president and board of managers as to embrace minor children committed to their care by the parents of such children, or by the persons charged with their maintenance, and also other minor children, being vagrant, destitute, or deserted by their parents or by the persons charged with their maintenance, and proceeds to make provision for the mode of committing such children.

Mr. JOHNSON. The purpose of the bill is evidently a proper one, and all I propose to do by way of amendment is to secure to the parents of vagrant children who are too poor to do anything for them, and who are members of a church, the privilege of having their children turned over to a society which may belong to that church and which may be capable of taking care of them in the way sug-

gested by the bill. I understand that there was at one time in New York a bill pretty much like the one upon the table, and the operation of it was found to be very injurious in the estimation of the Catholic church, particularly in what they supposed was the interest of that church. Children were taken up found wandering about the streets and sent to some Protestant association, and the parents never found out where their children were, and had no means of finding out. A society was afterward incorporated in New York authorized to take charge of children of that description, and it was made obligatory on the persons whose duty it was to take charge of vagrant children and children without parents to turn them over to the particular church of the parents if it had an association of the kind. We have in the city of Baltimore an institution of that sort, which operates, as I have reason to believe, very beneficially, and it is approved of, not only by members of the Catholic church, but by the members of the other religious societies. I propose, therefore, to amend this bill by inserting as a new section, after the third section, the following:

*And be it further enacted, That when the said courts or magistrates shall discover from competent testimony that the children brought before them belong to parents who are members of some particular religious denomination or society, these children shall be handed over by the action of the courts or magistrates or the agent or committee of their respective religious denomination: Provided, It be well ascertained that the latter have made sufficient provision for the care and protection of such children: And provided also, That the parents or guardians of the children be immediately notified of such proceedings.*

Mr. MORRILL. I do not think that ought to be allowed.

Mr. JOHNSON. Why not?

Mr. MORRILL. I do not think we ought to legislate for a sectarian affair. I do not think the courts of law ought to be charged with the duty of settling whether this child or that child belongs to a particular theology or a particular sect or a particular denomination. I should regret exceedingly to see the day when it should become the duty of the judicial tribunals of this country to settle whether the custody of a particular child should be given over to a particular sect or denomination. If the charity herein provided for is not broad enough, and if it is not safe to trust this authority in the hands of these persons, irrespective of the religious creeds of the parents, and we are to remand a child to custody according to the religious opinions of the parents, I think we had better abandon the whole thing.

That is the way it strikes me. It would be inevitable in the nature of the case, according to the provisions of this amendment, that if a child were brought before a magistrate the magistrate must inquire into the facts, the religious character of the parents; and further, whether the society of the church or denomination or sect to which such parent or child belonged, the parent particularly, is in a condition to make suitable provision for the child. I do not see but what you would have arrayed before that magistrate a war of sects inevitably, which, it strikes me, is very much to be deprecated.

Mr. JOHNSON. I do not see how there can be any war of sects if the amendment should be adopted and carried out in its true spirit according to its true meaning. We are about to incorporate now certain persons; I do not know to what religious sect they belong, either in whole or in part; but the practical operation, I understand, of a measure of this description, in the absence of some such amendment as I have suggested, is that all children who are taken up are sent to the particular religious society and brought up in the particular religion to which the corporators belong, and the result has been, as I am told, that hundreds and hundreds of children never find out who their parents are and the parents are never able to find out where their children are. The effect of an amendment of this description would be to enable the parent to find out, because he would go to the church to which

he belonged, and if there was an association attached to that church competent to carry out the object of the bill he would find in all probability that his child was there.

So far from its attempting to interfere with the religious notions people may entertain it would seem to me to be clearly right that a Methodist parent, who would naturally desire to have his child educated by some Methodist association, should be secured in bringing that result about, and so in relation to the other sects.

There is, for example, in Baltimore an institution established by the Catholic church which takes charge of the children belonging to that church who are not able to take care of themselves or whose parents are not able to take care of them, and who have no means left to them by others with which to educate themselves; and it has operated, as I am told by those in whom I place every reliance, most beneficially. There is also in the State of New York an institution like the one established now in Baltimore, and the operation of that institution has been very beneficial.

Now, although it is wrong for us to interfere in any religious controversy, yet I suppose it is perfectly right that we should not by legislation interfere antagonistically to what each religious persuasion may suppose to be the true interest of its flock. There is no difficulty in ascertaining to what religious society a parent belongs; and unless that is ascertained the child is to be taken entirely under the control of the corporation to whom we are about now to give this franchise. I say to my friend from Maine that I am perfectly satisfied that if the bill passes in its present shape it will cause very great dissatisfaction and will serve to annoy the ladies who are to manage this institution. They will be involved in all sorts of disputes if they take for example a Catholic child and insist upon educating that child against the wishes of the parents. All that this amendment provides is that when they find that a child is, for example, the child of Catholic parents, and that there is a Catholic institution capable of taking care of that child, he shall be sent to that institution, nothing more.

Mr. GRIMES. I beg leave to inquire of the chairman of the Committee on the District of Columbia whether there is an appeal from the decision of the magistrate, so that we can get the benefit of the construction of the supreme court of the District or the Supreme Court of the United States upon the theological questions that will be sure to arise under this proposition.

Mr. MORRILL. No, sir; there is no appeal provided for here.

Mr. GRIMES. I am afraid there will be a great diversity of construction put upon the theological dogmas of various religious societies by the several magistrates who may have the power to commit these waifs to the care of this corporation. I do not see how under the amendment it can be otherwise than that they must enter into the question as to what are the particular theological beliefs of the parents. I think, therefore, if the amendment of the Senator from Maryland is adopted there should be an allowance of an appeal, so that we can have the question finally and authoritatively settled what are the tenets of the various religious denominations.

Mr. JOHNSON. Without some such amendment as this the result will be that this corporation will have the right to take care of the children, irrespective entirely of what may be the religious faith of the parents. You cannot give an appeal to the Supreme Court of the United States; but when you authorize a magistrate to take up a child it would seem to be no great stretch of power to say that he is to send the child to the church to which its parents belong if he can find it out. If he cannot find it out, it goes to the institution that these corporators may establish.

Mr. MORRILL. The practical effect of this amendment, if I understand it, is this: the bill provides that destitute, vagrant, aban-

doned children may be taken before a magistrate with a view to examining into such vagrancy, destitution, or abandonment. If that fact is found to exist, then the judicial authorities are authorized to transfer the care and custody of such children to this public charity. That is the object of the bill. Now, the amendment provides that if upon such proceedings in the case of a destitute, vagrant, or abandoned child before the court, any party shall appear and suggest for sectarian considerations, or religious considerations if you please, that there is some other body that desires the custody of the child, and then satisfy the court that the party so interposing will take care of this child and provide for it, then the object of this law is to be thwarted, the whole proceedings are to be suspended, and the judge, instead of conferring the custody and care of the child on this charity or to these persons, is to confer it upon the parties who interpose. In this way the objects of this bill are frustrated. Clearly it is so when you put it in the power of anybody to interpose.

There is no propriety in this bill except upon the ground that vagrancy, destitution, or abandonment does exist; and if it does exist, and it is proper for the civil authorities to interpose and confide the care of such children to such an institution as this, then I submit that it is not proper that parties should have the right in this way to interpose to prevent it. This is a reason, in addition to those I suggested when I was up before, why I think this provision is not only incompatible with the objects of the bill, but highly inexpedient, and will render this whole bill, I should say, worse than useless.

Mr. SUMNER. When the Senator from Maryland made his proposition, it did not seem to me as much open to objection as it does now. I have listened to my friend, the chairman of the committee, and I feel that his argument cannot be answered. The proposition of the Senator from Maryland will call upon our courts to enter into an inquiry with regard to the religious belief or denomination of the parents of a child. I do not think it expedient to call upon our courts to do any such thing; I hope therefore that the Senator from Maryland will not press his amendment. I feel that if he does press it it may interfere with the bill. He knows very well that the object of the bill is a thoroughly correct one, and that this charity is in the hands of competent and benevolent persons.

There is another remark I will make. It seems to me that the children the Senator has in view and that would be provided for by his amendment would hardly be brought before the court for commitment to the custody of this society. If there are children of a denomination that has such a society as this, having such purposes, such objects, and competent to take care of the children, there will be no occasion then for the interference of this society. The children would not be brought before the court; they would already be provided for, because the object of this society is not to go forward and find children, to pick them up even, it is not to volunteer charity where charity is dispensed from other quarters or where there are parents who can take care of the children. It is to meet a positive want, where the parents are unable to provide for the children or where there are no other natural guardians to the children. It strikes me that a religious denomination, having such a society as is contemplated by the amendment of the Senator from Maryland, would be to a certain extent a guardian of these children, so that those children would be in a measure provided for. They would not be candidates for the charity of this society. I hope, therefore, the Senator will not press his amendment.

Mr. JOHNSON. I am sorry that I cannot yield to the request of the honorable member from Massachusetts, because I think there is a very clear and paramount principle involved. If the bill passes, and the corporators of this institution get possession of the child first,

before an institution belonging to the religious sect to which the parents of the child belongs can get possession of him, then they are to take him away from the instruction which that sect would give him. I cannot imagine what possible inconvenience it can be to this society, what possible injurious effect it can have upon the object for which we are asked to incorporate them, if it be made their duty, when they ascertain in such way as the amendment provides that the parents of the child belong to any particular sect, and that sect has an institution capable of taking care of the child, to refer the child to that institution. We shall have a controversy beyond all doubt, I think, if a different rule prevail. Suppose the parent is away or the child is wandering away from his home and he is taken possession of, as it is made the duty of these corporators to do; and the parent returns, or the parent finds out where his child is, where he has wandered, and he insists upon having possession of the child upon the ground that he has been taken from him without his knowledge or consent, and is being educated in a religious faith which he does not hold, and an application be made to the court, that will produce a religious contest which it will be impossible to avoid. In other words, without being intended, of course, (because I know the corporators mean to do what they think to be right,) it is really forcing out of the possession of the parent, who is not upon the spot to look over the interest of the child, his child, and to assume on the part of Congress the authority to educate the child as they think proper.

Let me illustrate it by referring to my friend from Maine. It may happen to him, as it happens to parents equally respectable, that his child wanders away and gets into the city of Washington without his knowledge; he does not know where he is, and there is a Catholic institution here endowed with the powers you are about to confer on this institution, and they take possession of the child in the city of Washington and place the child within their own control and insist upon educating him in their religious faith; what would he say if he found it out? He would insist on having possession of the child and having the child educated according to the faith which he holds. I think he would complain very much. I think I should complain if the case was mine.

Looking to the decision which we hold in relation to religious faith, what right have we to step in between the parent and the child and claim the power to educate the child in a religion according to our own notions, and not in accordance to the notions of him or of her who is more particularly interested in the welfare of the child?

I know, Mr. President, that this is a matter in which the Catholic church particularly take a deep interest. Nearly all the immigrants that come from Europe, especially from Ireland, belong to that faith. Although they are very industrious, a great many of them are comparatively careless; but they believe in the doctrine of their church, and in no other. It happens that sometimes their children are taken up and placed in charge of an institution of this description and brought up in a different belief, and often they are unable even to find out that they are in existence.

If I thought it would interfere with the humane purposes of the franchise I would not offer the amendment, but believing, as I do, that it will promote the object and at the same time secure the rights of all citizens I must ask for a vote upon the amendment.

Mr. MORRILL. The fallacy of the argument of the honorable Senator is that he assumes that we propose to take children who are not destitute.

Mr. JOHNSON. No; I do not.  
Mr. MORRILL. The argument assumes that that thing may occur. Now, there can be no such case as the honorable Senator supposes possibly happening. No jurisdiction at all attaches unless the child is destitute or vagrant or abandoned by the parent. If he has Cath-



olic parents who have the custody and care of him, the law does not attach; no jurisdiction whatever attaches. When a case of destitution or vagrancy or abandonment does occur, and the law has the child in custody, my objection is to the interposition of any person on a sectarian ground interfering with the charity which the law has established for such a child. And I maintain that the condition of the child, its health, its education, its physical comforts are a thousandfold above the consideration which may be attached to any sectarian view whatever, and I resist at the threshold any attempt to interpose a sectarian claim against the general supervision of the State over the health and the condition of the child. Nothing could be more pernicious than such an interference.

This is not a new question exactly. Here, upon a measure of general legislation that is independent of sect, which proposes to distribute the public charity for the general comfort and health of the entire community, without regard to sect, we have an attempt of a sect, I will not say for sectarian purposes—I do not pretend to say that these people are not sincere and sincerely desirous of doing everything, perhaps, for their own people that this bill proposes; but I should like to know whether it is a well-settled principle of this country that any sect has a right to interpose its sectarianism against the general policy of the law. If it is a general policy of the law to provide for destitute and abandoned children in this way, I object to the interposition of any church or any sect upon any such ground.

This is not a new question. It entered our schools in one section of the country. I think we had better keep it out of the schools. I thought so then, when that controversy went on, and I should regret to see it renewed here. It is a renewal of the old question: No sect in this country is privileged to interpose its authority for sectarian purposes against that policy which the law lays down to be sound for the public weal; and we are legislating now for the public weal. I do not wish to use any language which I should be sorry for afterward; but I was about to say that I think it particularly offensive that any sect should feel authorized to object against the establishment of such general policy on the ground that it would not be favorable to that particular sect. Sir, I deny that any sect or denomination in this country has the care especially of any portion of our population.

I would be liberal, and the legislation of this District, I think, so far as I have had any connection with it, will show that I have totally disregarded any sectarian considerations. I would as soon confer this upon one sect as another; still I hope I shall never fail to resist any attempt on the part of any particular sect to interpose its authority against general policy. And now I take occasion to remind my honorable friend from Maryland that those for whom he speaks here have not always been quite as disinterested I am afraid. I remember at their solicitation to have granted a charter which is absolutely exclusive in its character, which authorizes them to take within their jurisdiction children into an institution over which we have no power of visitation even, and there is no limitation in that authority to any particular sect; they may go anywhere, take any child that is destitute and without care. There was no suggestion then that they should be confined exclusively to those of their own particular religious faith; but the honorable Senator will find that by the provisions of that charter they are at liberty to go where they please, without regard to sect or denomination or the particular religious faith of the child, wherever they find destitution and want to relieve it; and we did not authorize any individual or sect to interpose against that authority. That is the principle which lies at the bottom of this public policy—relieve suffering, relieve destitution and want wherever you find it to exist really; but you must find it to exist; you must either get the

consent of the parent, or if you cannot get that, you must find destitution or want actually existing. In such a case relieve it, and allow nobody for any purpose to interfere. That is the principle upon which this bill proceeds.

Mr. JOHNSON. The honorable member from Maine rests his opposition to this amendment on grounds altogether fallacious. This is not an attempt suggested by me or by any persons from whom I got the suggestion to interpose any religious controversy in the administration of this charity. It is not designed to interfere with the charity at all. The charity is to provide for destitute children a means of maintenance and an education. Now, what says the amendment? That if these corporations find a destitute child and find that the parents of that child belong to any religious sect, not the Roman church, but any particular religious sect, and that sect has an institution of its own for the maintenance and education of its own children, they are to hand the child over to that institution. That is all. What possible interference is that which can be denominated a controversy such as the honorable member denounces as unjust?

He says that no religious sect has any right to interfere with the general jurisprudence of the country in taking care of the wants of the people. That is true; and this is not intended at all to interfere with it. We leave the duty precisely as we find it, but only say to these corporations, "If you are satisfied—not without—that the parents of the child belong to a particular religious association, and that association has a charity like this, competent to do all that the bill expects or wishes to be done, you are to hand the child over to that particular institution instead of taking charge of the child and educating it in a different religious faith." I am convinced, Mr. President, that so far from its impairing or weakening the object of the association it will very much strengthen it and increase the numbers who are to be benefited by the contemplated charity.

The PRESIDENT *pro tempore*. Is the Senate ready for the question on the proposed amendment?

Mr. JOHNSON. I must ask for the yeas and nays upon it.

Mr. MORRILL. That will break us up by disclosing the absence of a quorum.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on the District of Columbia, and the Senator from Maryland asks that the vote be taken by yeas and nays.

Mr. JOHNSON. I withdraw the call for the yeas and nays, and move to postpone the consideration of the bill.

Mr. MORRILL. With the Senator's permission, I will ask that the bill may be informally laid aside, so that we may proceed to the consideration of some other bills.

The PRESIDENT *pro tempore*. It can be done by common consent, no objection being made.

Mr. JOHNSON. I have no objection.

The PRESIDENT *pro tempore*. The bill is laid aside by common consent.

#### RIGHTS OF MARRIED WOMEN.

Mr. MORRILL. I now move that the Senate proceed to the consideration of Senate bill No. 492.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 492) to protect the rights of married women, and for other purposes, in the District of Columbia.

The PRESIDENT *pro tempore*. The Committee on the District of Columbia reported this bill with an amendment, to strike out all after the enacting clause and to insert a substitute, and the substitute only will be read unless some Senator asks for the reading of the original bill.

The Secretary read the matter proposed to be inserted, as follows:

That any married woman, of any age, may own in her own right real and personal estate acquired by descent, gift, or purchase, and may manage, sell, convey, and devise the same by will as if sole, and

without the joinder or assent of her husband; nor shall such property so held in her own right be liable for any debt, contract, or obligation of her husband contracted either before or after marriage; but real estate directly or indirectly conveyed to her by her husband, or paid for by him, or devised to her by his relatives, cannot be conveyed by her without the joinder of her husband in such conveyance. When payment was made for property conveyed to her from the property of her husband, or was conveyed by him to her without a valuable consideration paid therefor, it may be taken as the property of her husband to pay his debts contracted before such conveyance.

Sec. 2. And be it further enacted, That any married woman may release to her husband the right to control her property, or any part of it, and to dispose of the income thereof for their mutual benefit, and may in writing revoke the same.

Sec. 3. And be it further enacted, That any married woman may prosecute and defend suits at law or in equity for the preservation and protection of her property as if unmarried, or may do so jointly with her husband, but neither of them shall be arrested on such writ or execution, nor shall he alone be able to maintain an action respecting his wife's property. She may receive the wages of her own labor not performed for her own family, maintain an action therefor in her own name, and hold the said wages in her own right against her husband or any other person.

Sec. 4. And be it further enacted, That hereafter, when any man shall marry, his property shall be exempt from any and all liability for debts or contracts of his wife made or contracted before marriage; but an action to recover the same may be maintained against the said husband and wife, and the property of said wife held in her own right, if any, shall alone be subject to attachment, levy, or sale on execution, to satisfy all liabilities for such debts and contracts in the same manner as if she were unmarried.

Sec. 5. And be it further enacted, That when any married woman shall die intestate, seized or possessed of any property, real or personal, in her own right, the same shall descend to her heirs in like manner as if she were unmarried.

Sec. 6. And be it further enacted, That the husband and wife by a marriage settlement executed in the presence of two witnesses before marriage may determine what rights each shall have in the other's estate during the marriage and after its dissolution by death, and may bar each other of all rights in their respective estates not so secured to them.

Sec. 7. And be it further enacted, That when a husband abandons his wife and leaves the District of Columbia without making sufficient provision for her maintenance, or is confined in the penitentiary in execution of a sentence, the orphans' court of said District, on her application, may authorize his wife, during such absence or confinement, to make contracts, under seal or otherwise, and any person holding personal property to which her said husband is entitled, in her right may pay and deliver the same to her for her disposal, and her discharge therefor shall be valid. Such application shall be presented and notice given thereof in the same manner as is now provided by law in case of libel for divorce before such powers shall be granted.

Sec. 8. And be it further enacted, That all contracts lawfully made by virtue of such power shall be binding upon her and her husband, and during such absence or confinement she may sue or be sued thereon; and for all acts done by her an execution may be enforced against her as if unmarried; and no suit shall be abated by the return or release of her husband, but he may, on application, be admitted to prosecute or defend jointly with her.

Sec. 9. And be it further enacted, That when any married woman shall come into the District of Columbia from any State or county without her husband, he having never lived with her in said District, she may make contracts and commence and defend suits and dispose of property in her own name as if she were unmarried, and shall be liable to be sued on her contracts made before his arrival in said District; but if the husband of such woman shall afterward come into this District and claim his marital rights his arrival shall have the same effect as to contracts made by her, or suits pending in which she is a party, as if they had been first married at the time of his arrival in the District, and shall have no other.

Sec. 10. And be it further enacted, That whenever administration shall hereafter be granted on the estate of any married woman whose husband survives her, the judge of the orphans' court shall be authorized to allow to the husband, in the account of the administrator, all reasonable expenses paid by him on account of the last sickness of the deceased.

Sec. 11. And be it further enacted, That all laws inconsistent with the provisions of this act are hereby repealed.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. JOHNSON. I am not prepared to say that the provisions of this bill are not right. They strike me as such as the Senate ought very carefully to deliberate upon before we adopt them. The bill changes the whole law which now controls the rights of married women and their husbands. One of the sections, if I understand it aright, says that upon the death of the wife the husband shall inherit no property at all, and have no interest of any kind in the property which may have belonged to the wife. The law makes him, if

there are children, a tenant by courtesy. This bill abolishes that title in the District. It seems to me, looking to that provision, and to several of the other provisions of the bill, it almost destroys the relation of husband and wife as it now exists. I will ask my friend from Maine if this has been taken from any law to be found in any of the States or in England, either now existing or that ever did exist? I think it would be in accordance with the spirit of the bill to add another section, if the bill is right, to say that they might separate whenever they thought proper.

Mr. WILLIAMS. They do now. [Laughter.]

Mr. JOHNSON. No; they do not destroy the relation. What I mean is, that they may divorce themselves, a statutory divorce, so as to enable them to marry again. The principle of the common law, which has recommended itself to adoption almost universally, is to avoid, if possible, all causes of dispute between husband and wife, to make them in point of fact one. So they are regarded in point of law; and, generally speaking, I do not think the wife has suffered at all by force of the doctrine that they are to be considered as one. For generally she is that one [laughter] and controls everything, as she ought. But to deny the husband any right to the property at any time, and to make her a *femme sole* for all purposes during life and at the moment of death, so as to be able to dispose of her property, seems to me to be legislation of very doubtful expediency.

Mr. MORRILL. I was about to explain to the Senate the character of this bill when the honorable Senator from Maryland rose, and I am always so much edified and instructed by him that I was glad to see him take the floor before I was quite ready to explain it. But I am quite surprised that the Senator should think that the features of this bill are novel in the legislation of the country. They are novel in this District, it is true. If I supposed the honorable Senator meant to convey the idea that this legislation has escaped his attention for the last twenty-five years in the country at large it would be surprising to me.

That the bill is not in harmony, however, with the principles of the common law, I concede. The object of the bill is to relieve the wife from some of the principles of the common law. Now, in our portion of the country we have got over those principles a long time ago. The husband has no right to flog the wife in my country. It would be considered an indecorum and a public outrage, but the common law justifies it; and it may be done here in this District I suppose. We have established that right.

Mr. SHERMAN. "Reasonable correction."

Mr. MORRILL. Yes; such as may be inflicted by a broomstick or the like. Now, we have legislated against that principle of the common law as a barbarity, and a married woman has a right to be exempt in my country from such flagellations, from that authority of the lord of creation. We have established a right, a civil right, and she is independent of him. I know it is in contravention of the principle of the common law.

Following in that line somewhat we have just such provisions as these in our State and in most of the States of New England, and I believe in New York, which contravene some of the principles of the common law; that is, we have come to the conclusion in our region of the country that there is no reason in the world why the property of a woman should not be secured to her and her heirs against the profligacy or arbitrary control of her husband. That is just what the first section of this bill provides, that a woman who has property in her own right shall hold it in her own right and may convey it in her own right. If the husband has her confidence, and is a worthy man, and the property is secured, she may give him authority to convey it, to deal with it, occupy it, possess it, manage it. That is provided for in the second section of this bill. That is what

the first two sections of this bill mean, and nothing more.

The third section provides that in case she holds her property separate, as provided in the first section of the bill, she may defend it; she may bring a suit at law in her own name or jointly with her husband.

The fourth section provides that hereafter when any man shall marry his property shall be exempt from any and all liability for debts or contracts of his wife made or contracted before marriage. Thus you see that while we protect the rights of the wife, we do not really oppress the husband. The husband has his rights. He is not to be chargeable with the debts of his wife contracted before marriage. The principle of the common law saddles him, I believe, with all the debts of the wife. If he married her, he married her obligations, her liabilities, her debts, and all her incumbrances. This bill, therefore, is just to him. While it is just to the wife, it is just to the husband. That is all there is in the fourth section.

The next section is the one to which I understand the honorable Senator most to object, that the husband cannot inherit her property. Is that really a grievance? Why, sir, it is secured to her and her heirs.

Mr. JOHNSON. He is a tenant by courtesy, then.

Mr. MORRILL. The only difference there is in the world between this bill and the principles of the common law in this respect is, that by the principles of the common law he was a tenant by courtesy, and here there is no courtesy about it. The wife has the right, if she chooses, to confer upon him the management or the possession of the property; otherwise not. In our country the result has been just this: here are the rights of the wife—they are never resorted to except in an extreme case, except in the case of a profligate husband or something of that sort—but here is the right secured; and it has operated beneficially. I submit that although this section violates the principles of the common law, it is not in violation of right.

The sixth section provides that the husband and wife by a marriage settlement executed in the presence of two witnesses before marriage may determine what rights each shall have in the other's estate. My honorable friend will know better than I; but I believe that is in harmony with the principles of the common law. I believe, on certain terms, conditions, and limitations, and for certain considerations, a marriage settlement may be made which secures rights in property. This section is rather in affirmation, perhaps, than in derogation of the principles of the common law.

The seventh section provides that when the husband abandons his wife and leaves the District of Columbia, without making sufficient provision for her maintenance, or is confined in the penitentiary, then she may act as his legal agent and administrator upon property. In case of his disability by absence, or in case of disability, which more often occurs, by forfeiture of his civil rights for the time being for crime, the wife is to be his legal representative, and may administer the property till his return. That is not exactly in derogation of the principles of the common law; but I suggest that it does not occur to me that any injury can result from such a provision.

The eighth section provides that all contracts lawfully made by the wife in such cases shall be binding upon her and her husband. This is simply in continuation of the power given in the seventh section by which she is constituted his legal agent.

Now, Mr. President, those are the general features of the bill. To repeat, they provide, in the first place, that the rights of property which the married woman possesses in her own right, independent of her husband, shall remain to her. If she chooses to confer the possession of these rights or the management of them upon her husband, or convey them to

him absolutely outright, she may do it. Further, the bill provides that she may enter the courts for the defense and protection of her property; and then as regards limitation as to the descent of the property, I do not understand that it changes the principles of the common law on that subject. The property goes to her heirs by this bill; and so it would, I believe, by the principles of the common law. The only change in this respect is that under this bill the husband is not a tenant by courtesy.

These are the essential features of the bill. They are common to very many of the States; I cannot say how many. The bill as it was introduced originally I thought a little crude, and I presented it to the Senate in a new draft. I will say to the honorable Senator that the provisions of this bill I found in the statutes of my own State and those of Massachusetts.

Mr. DAVIS. I think this bill ought to go to the Committee on the Judiciary, and be carefully considered by that committee. If I understand the bill, the old rule that the husband is bound to support his wife is not interfered with by it, and yet against the consent of the husband, and in defiance of it, the bill, if I understand it, authorizes the wife to sell any or all property that she may own at the time, or during the coverture. Now, Mr. President, this feature of the bill, it strikes me, might lead to a great deal of domestic strife, and it might operate unjustly and oppressively upon the husband. If the wife has property, the avails of which may be appropriated to her support, and the husband is left with the legal obligation upon him to support his wife, it seems to me it would be very unjust and very impolitic to give her the absolute power to dispose of her own estate.

There is a great disposition, I think, in this Committee on the District of Columbia, and especially in the chairman, to transfer New England to the District of Columbia, and to adopt the institutions, laws, and customs of New England for the government of the people of this District, both white and black. Now, sir, that might in some respects be very well; but I think the honorable Senator, in this and in other bills, is bringing rather too much of New England to the District of Columbia. I think that in a thin Senate, when not more than one third or one fourth of the members are present, a bill of this importance, and which may have such results as the one under consideration ought not to be allowed to pass.

The amendment made as in Committee of the Whole was concurred in.

Mr. MORRILL. I do not know but I ought to say a word in reference to the remark of the honorable Senator from Kentucky, though I do not understand whether the honorable Senator intended it as a compliment or as a censure. He thinks there is a strong purpose on the part of the chairman of the Committee on the District of Columbia to incorporate New England into the District of Columbia. I hope the honorable Senator will do me the credit to believe that I would not wish to transfer New England here in any other sense than that in which I have so often heard the honorable Senator from Kentucky speak of it. Whatever is good in New England, in New England ideas or institutions, I should be extremely glad to see incorporated in the laws of the District of Columbia, and I know that the honorable Senator from Kentucky would second me in that effort as cheerfully as any other member of the Senate.

I am not conscious that I have any other purpose or have legislated with any other view than to what I believed to be the best interest of the District of Columbia. I certainly am not conscious of having exercised the position which has been confided to me by the Senate with any other view than to advance the general interests of the District, whether they were notions peculiar to New England or any other

section of the country. But, sir, I see that I shall hardly get on with the opposition that is made to this bill at the present moment, and if it is the purpose of the honorable Senator from Kentucky to divide the Senate on this question I shall be obliged to ask the indulgence of the Senate to lay it aside for a moment and proceed to the consideration of some other bill.

Mr. DAVIS. I will thank the honorable Senator to take that course.

Mr. MORRILL. I hope, then, the Senate will indulge me by laying this bill aside for the present.

The PRESIDING OFFICER, (Mr. HARRIS.) It will be laid aside if there be no objection.

#### NATHAN SARGENT DUSTIN.

Mr. MORRILL. I will ask the Senate now to proceed to the consideration of Senate bill No. 470.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 470) to authorize the change of a name. It authorizes Nathan Sargent Dustin to change his name by dropping therefrom the name of Dustin, and to bear that of Nathan Sargent, to take effect from the 1st of January, 1867.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

The following message was received from the House of Representatives by Mr. McPHERSON, its Clerk:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House of Representatives having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act for the admission of the State of Nebraska into the Union," returned to the Senate by the President of the United States with his objections, and sent by the Senate to the House of Representatives with the message of the President returning the said bill, have passed said bill, two thirds of the House having voted therefor.

#### ENROLLED BILL SIGNED.

The message further announced that the speaker of the House had signed the enrolled bill (H. R. No. 1127) to fix the salary of the quartermaster sergeant of the battalion of Engineers; and it was thereupon signed by the President *pro tempore* of the Senate.

#### BILLS BECOME LAWS.

A message from the President of the United States, by W. G. MOORE, his Secretary, announced that he had approved and signed on the 8th instant the following bill and joint resolution:

A bill (S. No. 433) for the relief of E. J. Curley; and a joint resolution (S. R. No. 94) providing for the payment of certain Kentucky militia forces.

#### MARYLAND DECLARATION OF RIGHTS.

Mr. MORRILL. I now ask the Senate to proceed to the consideration of the Senate bill No. 295 repealing thirty-fourth section of the declaration of rights of the State of Maryland so far as the same has been recognized or adopted in the District of Columbia.

The motion was agreed to.

Mr. MORRILL. Legislation on the subject-matter of this bill was had at the last session of Congress which renders this bill unimportant, and I therefore move its indefinite postponement.

The motion was agreed to.

#### SPECIAL JURIES IN THE DISTRICT.

Mr. MORRILL. I now ask the Senate to proceed to the consideration of Senate bill No. 449.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to

consider the bill (S. No. 449) authorizing special juries in the District of Columbia.

It provides that in any suit or action pending in the supreme court of the District of Columbia, and in any criminal prosecution pending in that court, either party to such suit, and the district attorney of such District, or the respondent in any criminal prosecution, may apply to any of the judges of the court for an order for a special jury for the trial of such suit or prosecution; and if it be made to appear to the satisfaction of such judges that an impartial trial of such suit or prosecution cannot be had by a jury selected within the District, the judges are to make an order that a special jury be drawn for the trial of the suit or prosecution, to be selected from such county without the District as the judges shall direct. The order is to direct the number of jurors to be drawn, and name two persons to select the jurors, and upon the return of a certificate by the persons appointed of the jurors selected the court is to issue a venire to the marshal of the District to summon the jurors so selected to attend upon a day named in such venire, and the court may specially assign a day for the trial of such suit or prosecution. From the persons so drawn and summoned a jury is to be selected by lot, and the same right of challenge may be exercised as by law is given in other cases. The marshal, for summoning such jurors, is to be entitled to the fees now provided by law, and such jurors are to be bound to obey such summons, and the court may compel their attendance as if they resided within the District. The jurors are to receive — dollars for each day's attendance, and — cents per mile for travel. The costs occasioned by the special jury may by the court be ordered to be paid in whole or in part by the party applying therefor, and may be taxed and recovered, as costs, in whole or part, as the court may direct.

The Committee on the District of Columbia reported the bill with an amendment, in line fourteen after the word "District" to insert the words "in an adjoining State;" so that the clause will read:

Such judges shall make an order that a special jury shall be drawn for the trial of such suit or prosecution, to be selected from such county without the District, in an adjoining State, as such judges shall direct.

Mr. JOHNSON. I hope my friend from Maine will not insist on a vote on this bill now. I have not considered the constitutional question, or the question of power rather, which I think is involved. If I understand the bill, it authorizes the court here to summon a jury from Maryland and Virginia to try cases, civil or criminal, in this District.

Mr. MORRILL. That is what it does.

Mr. JOHNSON. The power conferred upon Congress over the District is to legislate in all cases whatever for the District; and how they can under that power go out of the District and compel the people of Maryland to come in to aid them in the administration of justice in the District I am unable to perceive. Indeed, my present impression is very strong that Congress has no such authority. In the case of *Cohen vs. the State of Virginia*, which involved the right to sell lottery tickets, I think in a lottery authorized by Congress in this District, it was conceded by the Supreme Court that under the authority to legislate for the District there was no authority to make any tickets which might be authorized to be sold in a local lottery here salable outside of the District in any other State. This is worse than that.

We owe no allegiance at all to Congress except the allegiance which the Constitution creates. The power which Congress has over the District is neither more nor less than the power each State has over its own territory, its own legitimate concerns; and it seems to me it would be just as much in the power of Maryland to pass a law authorizing the summoning for the trial of cases in Maryland of citizens from the District as it is in the power of Congress to

summon persons from Maryland to try cases arising in the District. The whole effect of the constitutional clause in relation to the District is that the United States are made the State for the District, just as Maryland is a State for its own district of territory. Unless my friend, therefore, can satisfy me that the power exists, I hope he will permit the bill to lie upon the table for the present at any rate, more especially as there are not more than fifteen Senators present.

Mr. MORRILL. I suppose I shall have to ask that the bill be laid aside with the consent of the Senate.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The bill will be laid aside if there be no objection.

#### NATIONAL CAPITAL INSURANCE COMPANY.

Mr. MORRILL. I now ask the Senate to proceed to the consideration of House bill No. 234.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 234) to incorporate the National Capital Insurance Company. It proposes to create Green Adams, Erastus Poulson, Joseph J. Coombs, Robert Leech, John B. Clark, jr., J. P. Reznor, Fergus M. Blair, Robert L. Owen, and Joseph W. Parish, and others who may become members, a body politic and corporate, by the name and style of the "National Capital Insurance Company," for the purpose of carrying on the business of insurance at the city of Washington, in the District of Columbia, and elsewhere, with the usual powers of a corporation, authorizing them to effect all kinds of fire or life insurance, either on the cash or stock plan, with a capital of not less than \$20,000 nor more than \$1,000,000.

The Committee on the District of Columbia reported the bill with various amendments, the first of which was to strike out the ninth section of the bill after the enacting clause in the following words:

Sec. 9. *And be it further enacted*, That this company may effect all kinds of fire or life insurance, either on the cash or stock plan, without premium notes, or may require premium notes and a cash amount in addition, as hereinbefore provided for; but any person insuring on the premium-note plan shall be bound to pay his or her share of all losses and expenses incurred by the company, whether the same arise out of losses or expenses growing out of a cash, stock, or a premium-note insurance.

And to insert in lieu thereof:

That said company shall be conducted on the plan of mutual assurance, may open books to receive propositions and enter into arrangements for insurance, but shall not commence business until agreements have been entered into for assurance with at least one hundred applicants.

Mr. MORRILL. Perhaps I ought to explain this amendment in a word. It will be seen that by this section as it stood as passed by the House of Representatives all sorts of insurance were provided for. There was the ordinary insurance against fire, and marine, and life, and health. There is no instance that I know of where a company has been chartered with such large powers. I believe the principle of insurance is, that these should always be separate, and the law usually imposes very much larger obligations and greater securities on those companies that propose to insure upon life or health than upon ordinary companies. We propose to amend the bill so as to confine the corporation simply to fire and marine insurance.

The amendment was agreed to.

The next amendment was to insert as section thirteen the following:

Sec. 13. *And be it further enacted*, That it shall be the duty of the president or vice-president and secretary of said company annually, on or before the 1st day of January, to prepare under oath, and deposit in the office of the Secretary of the Interior, and shall also cause to be published, in some newspaper published in the District of Columbia, a statement exhibiting the total amount of premiums received and the total amount of losses paid and ascertained, including expenses during the year; also the amount of debts owing by said company at the date of the statement, and the amount of claims against the company for losses; also a statement of the funds of the



company and the gross amount of outstanding risks thereon.

The amendment was agreed to.

Mr. MORRILL. I move to amend the bill in the first section, line ten, by striking out the words "and elsewhere." As the bill now stands it would authorize them to insure in the District of Columbia and elsewhere.

Mr. JOHNSON. The power of Congress to authorize them, as against the States, to contract insurances out of the limits of the District is one question; but whether we should take from them the authority altogether, if the States do not deny it, is quite another question. There is no State in the Union that has any authority to charter a company to do business out of its own limits; but there is hardly an insurance company in any State that is not in the habit of insuring in other States than in the State where it is incorporated. If this amendment should be adopted, this company can insure only in this District, and it will be comparatively of little or no importance to the corporations or to anybody else. I think the companies now chartered here are authorized to perfect policies outside of the District. They can only do it with the consent of the States where they may undertake to do it. Some of the States require licenses to be taken out by foreign corporations.

I am not aware that there is any State which prohibits a corporation chartered by a sister State, or an English corporation, from effecting insurances outside of its limits. There are now in active operation numbers of such companies with a long line of risks taken by them. A corporation chartered by Parliament has its agency here, with the consent of Congress, and nobody doubts that whatever contracts they enter into will be binding upon the corporation at home, if there should be any contest on the subject. So in relation to State corporations of this description. If they are not prohibited by the law chartering them from effecting policies outside of the State and they effect such policies with the consent of the State where the risk is taken they are bound. I do not see any want of power involved in our not excluding from the authority to effect policies outside of the District.

Mr. HENDRICKS. I do not understand that the amendment proposes to prohibit them, but simply that we will not expressly authorize them.

Mr. JOHNSON. It does prohibit them.

Mr. MORRILL. My understanding was the same as that of the Senator from Indiana. The bill proposes to authorize them to go elsewhere.

Mr. JOHNSON. We cannot authorize them to do so. I will ask for the reading of the amendment again.

The Secretary read the amendment.

Mr. MORRILL. My notion about that was that if they were incorporated a body-politic, &c., with these powers to transact business in the city of Washington, they would have the same power to transact business anywhere else that a company chartered by one of the States would. What is that power? Simply by the consent of the authorities of the several States. They must take their chances. We make them a body-politic and corporate. We make them a person in law, and they must take their chances about establishing business anywhere else. We authorize them to establish business here. I think that the use of the words "and elsewhere" in the first section would seem to imply that we authorized them to set up business elsewhere. It does not occur to me that the amendment is open to the criticism of the Senator from Maryland.

Mr. JOHNSON. It may be very right to strike out the words "and elsewhere;" but then striking out those words and authorizing them to effect insurances here will place them in the situation that if they insure upon a risk that will occur elsewhere it will not bind the party to the risk he assumes.

Mr. HENDRICKS. I thought the argument of the Senator from Maryland a little while ago was very conclusive that we could

not go outside of the District of Columbia to select a jury for this District, because the right to make laws is only for this District. So I think in regard to the organization of a corporation. We can simply, to make a corporation, give it life and existence in this District, and if it is the pleasure of the States to allow that corporation thus created to exercise their privileges in those States, I presume it will be all right.

Mr. JOHNSON. If that is the understanding I have no objection to it.

Mr. HENDRICKS. That is the way I think it ought to be.

Mr. DAVIS. The principle suggested by the honorable Senator from Indiana is certainly correct. By the comity of States the corporation of one State is allowed to do business in another State unless in the latter State it be expressly prohibited. Certainly one State, the State of Indiana for instance, could not by legislation authorize these corporations to do business in any other State; and as the power of Congress over the District of Columbia is restricted territorially to the District, Congress cannot have any more power in relation to the matter than one State would have in relation to legislating for a corporation to transact business in another State. I think that is a very plain proposition, and I hope the honorable chairman of the committee will make his bill conform to what I think is the plain power of Congress.

Mr. MORRILL. I propose that amendment. The amendment was agreed to.

Mr. MORRILL. I move further to amend the bill on page 2, line fourteen, by striking out the words "or elsewhere," so as to make it conform to the amendment just adopted.

The amendment was agreed to.

Mr. MORRILL. I now move to strike out the tenth section of the bill. It is rendered unnecessary by the amendments that have been made.

Mr. JOHNSON. What is it about?

Mr. MORRILL. It is providing for the capital stock of the company. As it is now changed to the character of a mutual insurance company the section is unnecessary.

The PRESIDING OFFICER. The section proposed to be stricken out will be read. The Secretary read it, as follows:

SEC. 10. And be it further enacted, That the capital stock of the company shall not be less than \$20,000 nor more than \$1,000,000, which first-named amount of \$20,000 shall be paid in previous to effecting insurances; and the residue may consist of cash premiums and premium notes received upon risks taken by the company, or such other capital, in shares of fifty dollars each, as may by the by-laws be added.

Mr. HENDRICKS. I am sorry that the bill is changed so as to make this a mutual insurance company instead of an ordinary company. I do not think in their very nature the mutual companies are very safe companies. To meet losses calls have to be made upon the stockholders, or rather the persons who are insured. It is a very unreliable fund, and the most unsatisfactory sort of insurance company. While I do not oppose the bill seriously I do not want by my silence to acquiesce in that principle.

Mr. MORRILL. I am very much of the honorable Senator's opinion myself; but I saw no option. The bill, as it passed the House of Representatives, provided in the ninth section that this company might effect all kinds of fire or life insurance, either on the cash or stock plan. That certainly was a novel feature. We have endeavored to guard against abuse or fraud by inserting a provision directing the officers of the company annually to make a return of the exact condition of the affairs of the company, which is to be filed with the Secretary of the Interior, and also to be published in a newspaper in this city.

Mr. HENDRICKS. Some companies, I know, that are based on this mutual principle have been great evils to the country. Perhaps some have been successful; but they can only be successful by requiring a reasonable amount of money to be kept on hand to meet losses.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in, and ordered to be engrossed, and the bill to be read a third time. It was read a third time, and passed.

#### ADMISSION OF NEBRASKA—VETO.

Mr. WADE. I will ask the Senator from Maine to permit me to offer a resolution that is necessary to complete some legislation, and which will take but a moment:

*Resolved*, That the Secretary of the Senate be directed to present to the Secretary of State the bill entitled "An act for the admission of the State of Nebraska into the Union," together with the certificates of the Secretary of the Senate and Clerk of the House of Representatives, showing that the said act was passed by a vote of two thirds of both Houses of Congress after the same had been returned to the Senate by the President with his objections, and after the reconsideration of said act by both Houses of Congress in accordance with the Constitution.

The resolution was considered by unanimous consent, and agreed to.

#### REPEAL OF DISTRICT LAWS.

Mr. MORRILL. I now move to take up Senate bill No. 15.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 15) to repeal certain laws and ordinances in the District of Columbia, and for other purposes, which had been reported adversely by the Committee on the District of Columbia.

Mr. HENDRICKS. I do not think it is necessary to read that bill, as I observe that the committee report it adversely. I move its indefinite postponement.

The motion was agreed to.

#### WASHINGTON FIRE DEPARTMENT.

Mr. MORRILL. I now move that the Senate proceed to the consideration of House bill No. 183.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 183) concerning the fire department of Washington city. It proposes to grant the right to have, use, and occupy all the several buildings, with their appurtenances, known as the Union, Franklin, Columbia, and Anacostia engine-houses to the city of Washington, in the District of Columbia, the possession and occupation to continue so long as used for the purposes of the fire department and the pleasure of the Congress of the United States; but the use and occupancy of the Columbia engine-house is not in any way to interfere with the possession and occupancy by the Columbia fire company of the rooms now used as library rooms in that building.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### DISTRICT BUSINESS.

Mr. MORRILL. I think we are not in a condition to proceed to-day with the legislation of the District in matters that are controverted. I therefore send to the Secretary's table the following resolution and ask for its present consideration:

*Resolved*, That Tuesday evening next, at half past seven o'clock, be assigned for the consideration of legislation for the District of Columbia.

The resolution was considered by unanimous consent, and agreed to.

#### BILLS RECOMMITTED.

Mr. WILSON. I desire to recommit two or three bills, if the Senator from Maine will allow me to do so.

Mr. MORRILL. Certainly; I am pretty much wound up.

Mr. WILSON. There are some bills here which I think can be put together and thus save time, and therefore I desire to have them recommitted. They are the bill for the national cemeteries, the bill in relation to the National Soldiers' and Sailors' Orphan Home, and the bill temporarily to increase the pay of the Army.

The PRESIDING OFFICER. The Chair is informed that the bill (H. R. No. 848) to

amend an act entitled "An act to incorporate the National Soldiers' and Sailors' Orphan Home" was passed on the 30th of January, and the next day a motion to reconsider was entered by the Senator from Illinois, [Mr. TRUMBULL,] and that motion must first be disposed of by the Senate before it can be re-committed.

Mr. WILSON. Then I should like to have the motion to reconsider acted upon now. The motion was made with a view to amend the bill.

The PRESIDING OFFICER. The Chair then will put the question on the reconsideration, if there be no objection.

The motion to reconsider was agreed to.

Mr. WILSON. I now move to recommit the bill to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. WILSON. Now, I hope the other two bills I have mentioned will be taken up and re-committed.

Mr. HENDRICKS. I move that the Senate adjourn.

Mr. WILSON. The committee meet on Monday, and as I desire to have these bills before them, I hope the Senator will allow these motions to be made.

Mr. HENDRICKS. We cannot consider any bill of importance to-night.

Mr. WILSON. My motion simply is to recommit the bills to the committee, which meets on Monday morning, with a view to their amendment.

Mr. HENDRICKS. I have no objection to that.

Mr. WILSON. I move that the bill (S. No. 568) to provide for a temporary increase of the pay of the officers of the Army of the United States, and for other purposes, be re-committed to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. WILSON. I now move that the bill (H. R. No. 788) to establish and protect national cemeteries be re-committed to the same committee.

The motion was agreed to.

#### EXECUTIVE SESSION.

Mr. SHERMAN. Before the question of adjournment is put I desire to have a short executive session. ["Oh, no."] It will take but a moment.

Mr. HENDRICKS. Very well; I withdraw the motion to adjourn.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened.

#### POSTAL LAWS.

Mr. RAMSEY. I move to take up Senate bill No. 527.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 527) to amend the postal laws, and for other purposes.

It proposes to modify the schedule of charges or fees for issuing postal money-orders established by the third section of the act approved June 12, 1866, so that the charge or fee for an order not exceeding ten dollars is to be ten cents; for an order of more than ten, but not exceeding thirty dollars, the charge is to be fifteen cents, and for an order exceeding thirty dollars a fee of twenty-five cents is to be charged; and the compensation of deputy postmasters for the payment of money-orders is to be increased from one eighth to one fourth of one per cent. on the gross amount of orders paid at their respective offices. In case of the loss of a money-order a duplicate is to be issued by the superintendent of the money-order office, without charge, on the application of the remitter or payee of the original, provided the applicant furnish a certificate from the postmaster on whom it was drawn that it had not been and would not thereafter be paid,

and a similar certificate from the postmaster by whom it was issued that it had not been and would not be repaid to the purchaser; and a second fee is not to be charged for a duplicate money-order issued to replace an order that has been rendered invalid because of non-presentation for payment within one year after its date or because of illegal indorsements.

If any person shall falsely forge or counterfeit, or willingly aid, assist, or abet in falsely forging or counterfeiting, or shall procure, directly or indirectly, to be falsely forged or counterfeited any postal money-order, or any material signature or indorsement to any postal money-order issued by the Post Office Department or any of its agents, for the purpose and with the intent of obtaining or receiving, directly or indirectly, or of procuring or enabling others to obtain or receive, directly or indirectly, any sum or sums of money, and thereby to defraud either the United States or any person of such sum or sums of money, or any part thereof, or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any such forged or counterfeited postal money-order, with intent to defraud either the United States or any person of any sum or sums of money, knowing such postal money-order or any signature or indorsement thereon to be so falsely forged or counterfeited, every such person is to be deemed guilty of felony, and being duly convicted is to be sentenced to be imprisoned and kept at hard labor for a period of not less than two years nor more than five years, and to be fined in a sum not exceeding \$5,000.

The Postmaster General is authorized to appoint in his Department a superintendent of foreign mails at an annual salary of \$3,000, and one additional clerk of class four for that branch of the postal service.

The Postmaster General is also authorized to appoint in the office of the Third Assistant Postmaster General a superintendent of dead letters, at an annual salary of \$2,000.

The Postmaster General is also authorized to appoint in the bureau of the Second Assistant Postmaster General a superintendent of domestic mails and a superintendent of inspection, who, with the chief clerks of the three bureaus and the topographer of the Post Office Department, are each to receive a salary of \$2,500 per annum; also, to appoint an additional clerk, to be in charge of mail bags, locks, and keys, at a salary of \$2,000 per annum, and an assistant topographer at a salary of \$1,800 per annum.

Mr. HENDRICKS. The purpose of that bill seems to be to create offices.

Mr. RAMSEY. No, sir; it diminishes them rather.

Mr. HENDRICKS. Then I cannot understand tolerably plain reading. I think there are two or three additional officers created by it.

Mr. RAMSEY. It merely elevates the character of some of the clerks, putting them in the position of heads of bureaus.

Mr. HENDRICKS. How much does it increase their pay?

Mr. RAMSEY. It does increase their pay some, but not very much.

Mr. HENDRICKS. Does it not create two officers unknown before, one to have the superintendency of dead letters?

Mr. RAMSEY. No, sir; the officer was there before, but not by that name. There has always been some one clerk in the dead-letter office assigned to the superintendency. It has grown to be a very important branch of the Post Office Department. There are some eighty clerks employed in that particular branch, and it is thought well to appoint some one of sufficient capacity to manage that branch of the business.

Mr. HENDRICKS. Then I was right in saying the office was created.

Mr. RAMSEY. No; the person who now superintends it will probably be appointed superintendent unless some one better be found.

Mr. HENDRICKS. I suppose the place will probably be filled by the same man. I

thought the Senator said the object was to get somebody of considerable capacity. I want to ask the Senator if it will probably improve the capacity of the gentleman who has charge of this business if we give him more money and call him by another name? I think this bill increases offices and salaries, and that we had better not pass it now. I move to postpone the consideration of it.

Mr. RAMSEY. I hope the Senator will allow the Senate to pass at any rate upon the amendments reported by the committee.

Mr. HENDRICKS. I have objection to that.

Mr. CONNESS. I will say that this is a bill which is very much desired by the Postmaster General, and has been very fully considered by the Committee on Post Offices and Post Roads, and unanimously recommended by them. There is no doubt in the world as to the necessity of passing it. Besides, the Senator well knows that it is very difficult to get the floor here in the Senate for the passage of these measures, and this bill may as well be acted upon now as at any other time.

Mr. RAMSEY. I hope the Senate will act on the amendments at least before we adjourn.

The PRESIDENT *pro tempore*. The first amendment reported by the Committee on Post Offices and Post Roads will be read.

The first amendment was in section three, line twenty, to strike out the words "a period of not less than two years nor," and to insert the word "not;" so as to read:

Shall be sentenced to be imprisoned and kept at hard labor for not more than five years, &c.

The amendment was agreed to.

The next amendment was in section four, lines two and three, to strike out the words "his department" and to insert "the bureau of the First Assistant Postmaster General," and at the end of the section to add "and that the superintendent of the money-order system shall receive an annual salary of \$3,000;" so that the section will read:

SEC. 4. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to appoint in the bureau of the First Assistant Postmaster General a superintendent of foreign mails, at an annual salary of \$3,000, and one additional clerk of class four for that branch of the postal service, and that the superintendent of the money-order system shall receive an annual salary of \$3,000.

The amendment was agreed to.

The next amendment was in section five, line three, to strike out the word "office" and to insert the word "bureau."

The amendment was agreed to.

The next amendment was in section six, line seven, to strike out the word "a" and to insert "an annual;" in line eight to strike out the words "per annum;" in line nine to strike out the word "a" and insert "an annual," and in line ten to strike out the words "per annum."

The amendment was agreed to.

Mr. RAMSEY. I offer this amendment under instructions of the Committee on Post Offices and Post Roads, to be called section seven:

*And be it further enacted*, That the Postmaster General be, and he is hereby, authorized, whenever he may deem it necessary or expedient, to consolidate the three blank agencies of the Post Office Department into one blank agency, to be located in the city of Washington, District of Columbia, and to appoint one superintendent, at an annual salary of \$1,800, and one third class clerk, and one second class clerk, and two porters or laborers, at an annual salary of \$900 each.

The amendment was agreed to.

Mr. RAMSEY. I offer another amendment to come in as section eight:

*And be it further enacted*, That letter-carriers employed under the direction of the Postmaster General shall severally receive a salary to be prescribed by him not exceeding \$1,200 per year: *Provided*, That nothing herein contained shall be construed to repeal the joint resolution approved June 6, 1866.

The amendment was agreed to.

Mr. CONNESS. I am authorized by the committee to offer the following as an additional section:

*And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to adjust and settle the accounts of postmasters accruing prior to

the establishment of the system of salaries for deputy postmasters upon the basis of equity and justice: *Provided*, That such settlements shall not include any case of official delinquency by any deputy postmaster.

I will simply say that the Postmaster General desires this authority, and it is very essential that it should be extended to him.

The amendment was agreed to.

Mr. RAMSEY. I have one further amendment to offer. At present the law requires that a letter on which the postage is not prepaid shall be passed through the dead-letter office, which seems to be unnecessary. This amendment prescribes that a letter shall be returned to the writer when he can be ascertained by the name upon the back of the letter.

The PRESIDENT *pro tempore*. The amendment will be read.

Mr. MORGAN. I really think the Senate is too thin to act on so important a bill as this making so many changes. There are not a dozen Senators present.

Mr. RAMSEY. The changes are not very numerous.

Mr. MORGAN. There are not a dozen Senators present; and I know that Senators left the Chamber because it was understood that the business of the District of Columbia alone was to be transacted to-day.

Mr. RAMSEY. I think the Senator is mistaken in his conception of the bill. The changes are not very numerous. No new office is created by the bill. It simply makes new divisions for officers who already perform duties in the Departments.

Mr. MORGAN. Salaries are changed in several instances.

Mr. RAMSEY. Some salaries are raised, but not very much.

Mr. CONNESS. I desire to say to the Senator from New York, as this question is raised again, that every point and proposition in this bill have been thoroughly considered as between the whole Committee on Post Offices and Post Roads and the Postmaster General, and is recommended by the unanimous report of the committee.

The change in salaries is a very slight one. The changes made by this bill will bring about reforms that will save vast sums. In paper and twine and all that goes to the stores of the Post Office Department the changes proposed will make very great reforms and great savings. The investigation of this subject has been very thorough and complete. The Senator will also understand that it has been exceedingly difficult to get this bill for the last two weeks before the Senate by reason of a press of business, and the same thing will occur again on Monday. There was no division of opinion in regard to the necessity of this bill in the committee.

The PRESIDENT *pro tempore*. The amendment proposed by the Senator from Minnesota will be read.

The Secretary read the amendment, which was to insert as an additional section the following:

*And be it further enacted*, That when any letter held for postage shall bear upon the face of the envelope the name and address of the writer or sender of the same, it shall be the duty of the postmaster at the office wherein such letter shall have been dropped to return said letter immediately to said writer or sender, charging thereupon ordinary postage; but if any such letter so inscribed shall for any cause come to the dead letter office, it shall be returned unopened to the name and address of the writer or sender under envelope, charging thereupon ordinary postage.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### NIAGARA SHIP-CANAL.

Mr. CHANDLER. I move that the Senate proceed to the consideration of House bill No. 344, to incorporate the Niagara Ship-Canal Company.

Mr. CRESWELL. I hope that bill will not be taken up now.

Mr. CHANDLER. I move to proceed to its consideration.

Mr. MORGAN. For the same reason that I objected to the passage of the Post Office bill, which I think was entirely wrong, with only a dozen Senators present, I shall object to taking up so important a bill as this, appropriating \$6,000,000 from the Treasury to a private corporation.

Mr. CHANDLER. I ask the Senate to take it up for consideration, not to consider it this evening.

The motion was not agreed to.

Mr. CHANDLER. I move that the Senate adjourn.

Mr. DAVIS. I hope the Senator will withdraw that motion. We are expecting an announcement from the House of Representatives in a few moments of the death of a colleague of mine.

Mr. CHANDLER. Certainly; I withdraw it if that is the case.

#### GREATHOUSE AND KELLY.

Mr. VAN WINKLE. I ask the Senate to proceed to the consideration of Senate bill No. 338.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 338) for the relief of Henry Greathouse and Samuel Kelly.

Mr. VAN WINKLE. This bill was fully considered by the Senate at the last session, and I believe the Senate were satisfied on the subject, except that it was thought there ought to be some limitation on the amount which the Postmaster General could disburse in this way; and while we were preparing an amendment which, I believe, would have brought it within the views of the Senate, the morning hour expired, and the bill never got another chance. I am now instructed by the Committee on Post Offices and Post Roads to move to amend the bill by adding to it the following:

*Provided*, That the amount to be so allowed shall not exceed \$12,000.

That amount is just about one half of what the ordinary compensation would have been for this service if there had been a contract.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### CODIFICATION OF CUSTOMS LAWS.

Mr. CRESWELL. The Committee on Commerce, to whom was referred the joint resolution (H. R. No. 251) further to extend the time for codifying the laws relative to the customs, have instructed me to report it back with an amendment, and to recommend its passage. I ask for its immediate consideration.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to consider the joint resolution on the day it is reported.

Mr. POMEROY. Let it be read for the information of the Senate so that we may know what it is.

Mr. CRESWELL. I will state that it is a joint resolution to extend the time for the action of a commission appointed during this Congress with a view to the codification of the revenue laws.

Mr. POMEROY. I have no objection to it. The PRESIDENT *pro tempore*. The Chair will receive a message from the House of Representatives.

#### DEATH OF HON. HENRY GRIDER.

Mr. McPHERSON, the Clerk of the House of Representatives, appeared below the bar and said:

Mr. President, I am directed to communicate to the Senate the proceedings of the House of Representatives on the announcement of the death of Hon. HENRY GRIDER, of Kentucky.

The proceedings of the House were read.

Mr. DAVIS. Mr. President, my late colleague of the House of Representatives, HENRY

GRIDER, died in the recess of Congress, and in concurrence with the action of the body of which he was a member, and in conformity to the usage of the Senate, I rise to move an appropriate recognition of the solemn and admonitory fact that death has struck with his shaft another member of the National Legislature.

The father of Colonel GRIDER was a revolutionary soldier, and in an early day of the settlement of Kentucky removed from North Carolina, his native State, and settled in Garrard county, where his son was born July 16, 1796; and from thence the family removed in 1801 to the neighborhood of Bowling Green, Warren county. He was there taught the rudiments of the common branches of education that were then the whole course of our frontier settlements; but even this was suspended when he was but seventeen years of age by his exchanging the log-cabin school-house for the armed but tentless field in the war of 1812. His father and an older brother, John, were in the same service, and they all shared in the dangers and glory of the battle of the Thames. Thus in his boyhood the fires of his patriotism were lighted from the altar of 1776, and a soldier father from those sacred fields again followed its glorious light, as it led his two youthful sons to strike for their country in her second war of Independence. At the end of his term of service he resumed his school studies, and prosecuted them with such assiduity and success that before he had reached man's estate his neighbors required him to become a teacher, in which vocation he continued for several years. His leisure hours he diligently employed in the study of the Latin language and the lower branches of mathematics, in which by his own efforts he attained to a respectable proficiency.

He relaxed not after those acquisitions, but while yet teaching read very carefully some of the elementary books of the law, and in 1821 obtained his license to practice from the office and under the instruction of Frank Johnson, one of the eminent lawyers of Kentucky. Crittenden, Sharp, Breathel, and Underwood had been for several years practitioners at the Warren bar, and even then their ability and fame had begun to assume the grand proportions to which they afterward grew; and the late brilliant Senator Moorhead and the clear and accurate Judge Graham commenced their professional career with him. Those were the men whom he encountered in the same lists in honorable competition for business, eminence, and fame.

Colonel GRIDER was not a great man, nor did he ever claim to rival those forensic champions of the Green river region of Kentucky. But he strove diligently and manfully to mate himself to their might; and by this hard discipline he slowly but steadily evolved a growing strength, continued to approximate their stature, and in their contests sturdy blows were reciprocally dealt—his with the added force of the highest character for honesty and sincerity.

In Kentucky every lawyer of any ability is also a politician, and Colonel GRIDER was drawn into that vortex. He was first elected a member of her Legislature, to the House, in 1827, and was annually reelected for a period of several years, when he declined to stand further for the place. In 1833 he was elected to the Senate of the General Assembly of Kentucky for a full term of four years. I was then first chosen a member of the House, and at the ensuing session made his acquaintance and gained his friendship and confidence, which it was my happiness steadily to hold throughout the residue of his life. At the end of his term he again voluntarily retired from office and diligently resumed the practice of his profession.

In 1843 he was elected to the House of Congress, and was reelected in 1845, and for both terms it was my fortune to be his colleague. He then voluntarily sought the third time the quiet of private life, the society of professional companions, and the moderate emoluments of



the practice of the law in rural districts; and this mode of life, so congenial to his tastes, he continued until the breaking out of the great insurrection. He then at once publicly and decidedly pronounced for "the Union, the Constitution, and the enforcement of the laws," gave his whole influence and effort to uphold the proper and constitutional authority of the Government, and urged and aided a gallant son to raise one of the noblest regiments that served in the Union Army. In 1861 his countrymen once more summoned him to the civil service by electing him for the third term to the House of Congress; and they reelected him in 1863, and again in 1865. He served through the most of the last session, but near its close, admonished by the grasp of mortal disease, he quitted this city and the discharge of his public duties forever, and hurried home to die.

He was even then apparently possessed of an uncommon amount of physical strength for one of his age, and his colleagues were deluded into and expressed confidently to him their belief that he would soon be well; but he spoke his dissent in a few solemn words that showed his unerring conviction that his time had come. He reached his home; his disease continued to march quietly but steadily upon him until the 7th of September, when with undisturbed reason and a serene spirit, surrounded by his friends, he sunk beneath its force to his eternal rest. He was a ripe sheaf, and was fully ready for the Great Harvest. Religious sentiment was the most prominent feature in the character of Colonel GRIDER. In his early youth he became a professing Christian and attached himself to the Methodist Episcopal church, in which connection he continued until his death. In his religious life he combined the simplicity, truth, purity, and steadiness of the primitive Christians with the spirit of charity, forgiveness, and peace which its sinless author preached, and which could emanate only from Divinity. For more than fifty years his walk of life was serenely lit up by the brightness of his faith and works, mellowed by true Christian humility.

He possessed great physical strength and dauntless courage, and a warm and impetuous spirit; and though his strong sense of justice ever restrained him from being an aggressor, every assailant of his rights found him prompt and effective in their defense. But distance never failed to appease him, and any manifestation of regret or purpose to make atonement always won his prompt and full forgiveness; and when convinced of having done wrong to any one he never rested until he had made the amplest reparation. Envy, malice, cruelty, or revenge found no resting-place with him. The genius, endowments, honor, fame, and fortune of others were appropriated by his unselfish and noble heart as the sources of his own personal happiness; and he rejoiced in their existence everywhere as the common riches of his countrymen and of mankind.

In all the relations of life he was without reproach. His system of ethics taught him that the essential nature of public and private villainy, of public and private virtue, were the same; and he equally revered and supported the one and abhorred and contested the other. In politics he was too pure, too enlightened and patriotic to be a partisan; in religion too charitable and humble, too deeply imbued with the spirit of his Divine Master to be a bigot. Even rivalry and enmity always pronounced upon him the most concise, most comprehensive, and the noblest of all eulogies, "HENRY GRIDER is an honest man and a Christian." To his congressional associates he gave from day to day an unobtrusive but noble pattern of virtue and patriotism. His death filled with general sorrow the community in which he lived, and his name will live there among the most cherished.

Mr. President, I move that the Senate adopt the following resolutions:

*Resolved*, That the Senate has received with deep sensibility the announcement of the death of Hon. HENRY GRIDER, late a member of the House of Representatives, from the State of Kentucky.

*Resolved*, That the members of the Senate, as a mark of respect for the memory of the deceased, will go into mourning by wearing crape on the left arm for the residue of the session.

*Resolved*, That, as a further mark of respect for the memory of the deceased, the Senate do now adjourn.

The resolutions were unanimously adopted, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, February 9, 1867.

The House met at twelve o'clock m. Prayer by Rev. WILLIAM PATON, D. D.

The Journal of yesterday was read and approved.

### MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. McDONALD, its Chief Clerk, notifying the House that that body had passed, without amendment, House bill No. 1127, to fix the pay of the quartermaster sergeant of the battalion of Engineers.

The message further announced that the Senate had passed House bill No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867, with amendments, in which he was directed to ask the concurrence of the House.

The message further announced that the President having returned to the Senate, in which it originated, the bill (S. No. 456) to admit the State of Nebraska into the Union, with his objections thereto, the Senate had proceeded to reconsider the same, had resolved that the said bill do pass, (two thirds of the Senate agreeing thereto,) and had directed the message of the President and the bill, with the proceedings of the Senate thereon, to be communicated to the House of Representatives.

### CHANGE OF NAME OF A YACHT.

Mr. O'NEILL. I ask unanimous consent to take from the Speaker's table for the purpose of reference Senate joint resolution No. 159, authorizing the Secretary of the Treasury to permit the owner of the yacht Mayflower to change the name to Sylvie.

No objection being made, the joint resolution was taken up, read a first and second time, and referred to the Committee on Commerce.

### BOSTON CUSTOM-HOUSE.

Mr. HULBURD. I ask unanimous consent to report from the Committee on Public Expenditures a part of the investigation in regard to the officers of the Boston custom-house.

Mr. PLANTS. As a member of the committee I ask to have the report deferred a day or two.

Mr. HULBURD. The report has been submitted to the sub-committee, and all of them concur in desiring the chairman to report it at this time.

Mr. PLANTS. I was not aware of that fact, but I still object.

### CALIFORNIA LAND-GRANT.

Mr. DAVIS. I ask the unanimous consent of the House to take from the Speaker's table bill of the Senate No. 461, an act for a grant of lands to the State of California to aid in the construction of certain railroads in said State, for the purpose of reference to the Committee on the Pacific Railroad.

Mr. COBB. I object.

### INDIAN APPROPRIATION BILL.

Mr. KASSON. I ask to report back from the Committee on Appropriations the Indian appropriation bill; and as I do not propose to go into any debate upon it myself, I will ask its consideration in the House in order that it may go to the Senate.

Mr. THAYER. I object and insist on the regular order.

Mr. KASSON. I will say that under the circumstances, as general debate on the special order is going on, it is really important that this bill should be disposed of. The bill can be disposed of in ten or fifteen minutes.

Mr. THAYER. I would not object if the committee could give me any guarantee that this bill would not occupy more than half an hour.

Mr. KASSON. I do not propose to debate it.

Mr. THAYER. I must insist on the regular order.

The SPEAKER. The Chair will give notice to the House, that at half past three o'clock the Kentucky delegation will announce the death of the late Mr. GRIDER.

### LEAVE OF ABSENCE.

The SPEAKER. The Chair asks leave of absence for one week for Mr. BERGEN.

No objection was made, and the leave of absence was granted.

### GOVERNMENT OF INSURRECTIONARY STATES.

The House then resumed the consideration of House bill No. 1143, to provide for the more effectual government of the insurrectionary States, upon which Mr. BANKS was entitled to the floor.

Mr. BANKS addressed the House. [His remarks will be published in the Appendix.]

At the conclusion of his remarks,

Mr. BANKS gave notice of a substitute that, at the proper time, he would submit for the bill under consideration.

On motion of Mr. BINGHAM, the proposed substitute was ordered to be printed.

### MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. MOORE, one of his Secretaries.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had passed without amendment House bill No. 1144, making appropriations to supply deficiencies in the appropriations for the contingent expenses of the House of Representatives of the United States for the fiscal year ending June 30, 1867; also, House bill No. 643, to alter the place of holding the circuit courts of the United States for the Rhode Island district, with an amendment, in which the concurrence of the House was requested.

Also, without amendment, House bill No. 506, to authorize the trustees of the Foundry (Methodist Episcopal) church to sell and convey square No. 235 of the city of Washington;

Also, Senate bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 550) entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved June 25, 1866; and

An act (S. No. 532) for the relief of the inhabitants of cities and towns upon the public lands.

### ADMISSION OF NEBRASKA.

Mr. ASHLEY, of Ohio. I move that the House now take up from the Speaker's table Senate bill No. 456, for the admission of the State of Nebraska into the Union, for the purpose of putting it on its passage.

The SPEAKER. That is a privileged question, and the bill is now before the House. The Clerk will read the message from the Senate.

The message from the Senate was read, as follows:

*Ordered*, That the Secretary communicate the bill for the admission of the State of Nebraska into the Union, with the message of the President returning the same with his objections, and the proceedings of the Senate thereon, to the House of Representatives.

The Clerk read the bill, as follows:

Whereas, on the 21st day of March, A. D. 1864, Congress passed an act to enable the people of Nebraska to form a constitution and State government, and offered to admit said State, when so formed, into the Union upon compliance with certain conditions therein specified; and whereas it appears that the said people have adopted a constitution which, upon due examination, is found to conform to the provisions and comply with the conditions of said act, and to be republican in its form of government, and that they now ask for admission into the Union: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the constitution and State government

N. Hubbell, Humphrey, Hunter, Kerr, Kuykendall, Le Blond, Leftwich, Marshall, McCullough, Niblack, Nicholson, Neill, Radford, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Stillwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Andrew H. Ward and Winfield—43.

**NOT VOTING.**—Messrs. Alley, Ames, Ancona, Arnett, Delos R. Ashley, Baker, Baldwin, Benjamin, Bergen, Bingham, Boyer, Bundy, Conkling, Cooper, Culver, Deftrees, Hale, Hogan, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Jones, Latham, Lynch, Phelps, John L. Thomas, Elihu B. Washburne, and Wright—28.

During the roll-call the following announcements were made:

Mr. HOOPER, of Massachusetts. My colleagues, Mr. AMES and Mr. ALLEY, have been called away from the city on business. If they had been present they would have voted for the bill.

Mr. GLOSSBRENNER. My colleague, Mr. ANCONA, is absent on account of indisposition. Mr. TROWBRIDGE. I desire to state that Mr. HUBBARD, of New York, has been called home on account of the death of his father.

Mr. GRINNELL. I desire to state that my colleague, Mr. HUBBARD, is still detained from his seat by illness. If he were present he would vote for the bill.

When the call of the roll had been concluded, The SPEAKER said: The Clerk will call my name as a member of the House.

The clerk called the name of SCHUYLER COLFAX, and Mr. COLFAX voted "ay."

The SPEAKER. On the question: "Shall this bill pass notwithstanding the objections of the President?" the yeas are 120 and the nays 44. Two-thirds of the House having upon this reconsideration agreed to the passage of the bill, and it being certified officially that a similar majority of the Senate, in which the bill originated, have also agreed to its passage, I do therefore, by the authority of the Constitution of the United States, declare that this bill, entitled "An act for the admission of the State of Nebraska into the Union," has become a law.

[The announcement of the result of the vote was received with applause both on the floor and in the galleries.]

#### ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title, when the Speaker signed the same, namely: An act (H. R. No. 1144) making appropriations to supply deficiencies in the appropriations for the contingent expenses of the House of Representatives of the United States for the fiscal year ending June 30, 1867.

#### LEAVE OF ABSENCE.

The SPEAKER. The Chair asks indefinite leave of absence for his colleague, [Mr. WASHBURN.]

No objection was made and leave was granted.

#### GOVERNMENT OF INSURRECTIONARY STATES.

The House then resumed the consideration of House bill No. 1143, to provide for the more effectual government of the insurrectionary States; upon which Mr. NIBLACK was entitled to the floor.

Mr. NIBLACK. I will yield for five minutes to the gentleman from New York, [Mr. RAYMOND.]

Mr. RAYMOND. I have asked the gentleman from Indiana to yield to me for a few minutes, not for the purpose of making any further remarks on the subject now before the House, but for the purpose of making a suggestion to the House, and especially to the gentleman most directly concerned in the passage of the bill now before it.

I think it is very clear to every one here that there is not that unanimity of sentiment in support of this bill which is desirable with a view to its ultimate effectiveness as a law, if it should become a law. I think it very doubtful whether any of the propositions now before the House are in such form as to command such unanimity. I think, moreover, that all

will agree that the time has arrived when we should devote ourselves carefully and conscientiously to the presentation of some measure which will meet the unanimous, or nearly unanimous, support of those who have the responsibility of public action here, and which, if possible, shall also command the support of the other departments of the Government.

Now, sir, I have a suggestion to make and I will put it in the form of a proposition. It is this: that for the purpose of reaching this result this whole subject, the bill with the amendments now before the House, be referred to a select committee of five or seven members, of which committee I should think it extremely desirable; and should, indeed, insist, that the venerable and distinguished gentleman from Pennsylvania [Mr. SREVEENS] should be chairman; that this committee should have leave to sit during the sessions of the House; and that it should be instructed to report as early as Wednesday morning next, immediately after the reading of the Journal, a bill which should provide temporarily for the protection of rights and the preservation of the peace in the States lately in rebellion, and also for the speedy admission of those States to their relations in the Union upon the basis of the constitutional amendment adopted at the last session of Congress, with such additional provisions as that committee might deem expedient.

I believe, sir, that with a discreet and judicious committee, whose paramount object and motive should be to unite upon some practical measure for the attainment of these ends, we could reach a result which would command the support of Congress and of the country, and the approval or at least the assent of the Executive. I do not pretend to have any other grounds for such a belief than those which are accessible to every member of the House equally with myself; but I have such grounds for that belief as render it, in my judgment, incumbent upon me at least to submit to the House the proposition I have indicated. I have put it in the form of a resolution which, at the proper time, I shall ask consent to offer.

Mr. THAYER. Will the gentleman allow me to ask him a question?

Mr. RAYMOND. Certainly.

Mr. THAYER. I wish to ask the gentleman whether he has any reason to believe that the President of the United States will approve of and cooperate with any plan embracing the constitutional amendment?

Mr. RAYMOND. Well, Mr. Speaker, the gentleman is pressing me perhaps a little further than I care to be pressed on such a point as that. [Laughter.]

Mr. THAYER. I do not wish to press the gentleman if he cannot answer.

Mr. RAYMOND. I do not know whether the gentleman insists upon my setting before him and the House all the reasons which lead me to such a belief as I have expressed; but I have no hesitation in saying to him and to the House that, in my judgment, a bill embracing the provisions I have indicated, if it should be passed by this House and the Senate in a proper spirit and with a sufficient approach to unanimity, would obtain the assent of the President. That is my personal belief.

Mr. SPALDING. I desire to ask the gentleman from New York whether he has become thoroughly satisfied that the pending bill cannot pass.

Mr. RAYMOND. I have become satisfied, Mr. Speaker, that the pending bill, even if it should pass, will not pass with such a degree of unanimity as will make it acceptable to the country and effective as a law.

Mr. SPALDING. I mean by a constitutional vote of two thirds.

Mr. RAYMOND. I have my doubts whether it could; but even if it did that would not alter the case.

Mr. SPALDING. I would suggest that it might be well to hear some other gentlemen on that subject.

Mr. RAYMOND. I merely throw out my suggestion with the notification that if allowed

the opportunity I shall offer the motion I have indicated.

Mr. BOUTWELL. Will the gentleman from New York yield to me a moment?

Mr. RAYMOND. I would do so with pleasure, but I have been trespassing upon the courtesy of the gentleman from Indiana, [Mr. NIBLACK,] who yielded me a few moments to state the proposition I desire to submit.

The SPEAKER. If there be no objection, the Chair will regard the gentleman from New York as holding the floor in his own right, and the gentleman from Indiana will be entitled to his hour without deduction.

There was no objection.

Mr. RAYMOND. I yield, then, with pleasure to the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. BOUTWELL. Mr. Speaker, only a few days since a bill of a different sort from that now pending was before this House, and a majority of the House—I believe the gentleman from New York [Mr. RAYMOND] was of that majority—desired to refer the whole subject to the Committee on Reconstruction. The various propositions were so referred. They have been considered by that committee, and I believe I am guilty of no breach of confidence when I say that never has any report been made from that committee which was so unanimously supported by its different members as the one now under consideration by the House; nor has any bill submitted by that committee ever been so carefully considered as this.

We have now spent two days and more in the discussion of the present measure. We have but eight or ten days in which, as a legislative body, we can act. I hold that it would be the greatest of public calamities if this Congress should adjourn without an expression, both on the part of the House and of the Senate, of the opinions entertained by the representatives of the country in reference to this measure. It is now to be seen plainly that if this measure be recommitted there can be no new consideration of this great subject by a new committee, no conclusion reached, no report made, much less any action had even by this branch of the Government within the period to which we are limited by the Constitution of the country for the consideration of this subject.

To-day there are eight millions and more of people, occupying six hundred and thirty thousand square miles of the territory of this country, who are writhing under cruelties nameless in their character—injustice such as has not been permitted to exist in any other country in modern times; and all this because in this capital there sits enthroned a man who, so far as the executive department is concerned, guides the destinies of the Republic in the interest of rebels; and because, also, in those ten former States rebellion itself, inspired by the executive department of this Government, wields all authority, and is the embodiment of law and power everywhere. Until in the South this obstacle to reconstruction is removed there can be no effectual step taken toward the reorganization of the Government; and argue as gentlemen may, no way can be devised for the removal of this obstacle in the South except to convoke the work to Grant and Sherman and Sheridan—the men who overthrew the rebellion when it was flagrant in the field and not organized in the Government. They will crush out these despotisms which have been set over the people and prepare a way for the inauguration of civil government. You might as well expect to build a fire in the depths of the ocean as expect to reconstruct loyal civil governments in the South until you have broken down the rebel despotism which everywhere holds sway in that vast region of country.

Therefore, sir, after all this debate, considering the magnitude of this question, the peril in which the country is involved, I for my part feel it my duty to insist that we shall hold this business in our hands as the Representatives of the people and take the judgment of this

House upon the question whether all power shall be surrendered to the rebels of the South or whether we shall exert the constitutional authority we possess over the Army (which is our servant to-day and will be our servant through all this contest) in the interest of loyalty, and thus break down the governments in the South, lay a basis on which we may be able to build civil institutions, and, as soon as we have the opportunity, prepare a way for their establishment. But it is the vainest delusion, the wildest of hopes, the most dangerous of aspirations to contemplate or even to hope for the reconstruction of civil government until the rebel despotisms enthroned in power in those ten States shall be broken up.

Mr. RAYMOND. Mr. Speaker, I am quite willing to concede for the sake of the present argument the correctness of everything the gentleman from Massachusetts [Mr. BOWWELL] has said; and my reply to it is that not one solitary thing which he has proposed can be done under the state of things now existing or under any state of things which the proposition now before the House will bring about.

Mr. WILSON, of Iowa. Permit me to ask the gentleman—

Mr. RAYMOND. I cannot yield now; the gentleman must excuse me.

Mr. WILSON, of Iowa. I was merely going to ask why nothing which the gentleman from Massachusetts has proposed can be done.

Mr. RAYMOND. I am going to tell the gentleman why. There was no need for him to ask me the question.

Sir, there is not a single suggestion which the gentleman from Massachusetts has made, there is not a single proposition he has put forward as necessary to be adopted by this Government that does not involve the exercise of doubtful powers. He has said that it is absolutely necessary to remove the rebel despotism at the South; and he intimated it was equally necessary to remove the obstacles to our action which exists elsewhere.

Mr. BOWWELL. The gentleman has misunderstood me. I made no such intimation.

Mr. RAYMOND. Very well. Then I did misunderstand the gentleman, but the same objection applies to the other point. If we are obliged to remove these "despotisms" at the South it must be done by some act, by some law which the country will accept as legitimate, as constitutional, as appropriate to the occasion. Now, sir, I do not say positively that the bill now before the House will not be accepted in that sense and for that purpose; but I do say, if I may judge from the expressions of opinion which I hear all round me on this floor, expressions of individual opinion of members themselves, it will not command that hearty approval which will lead to those great results, against the action of the other departments of the Government, which are expected from it.

I do not wish to make any argument now against the present bill. I have already said all I desire to say on that point. But I do say that if we pass it by a two-thirds majority it will not have, and cannot be expected to have, that support from other quarters it ought to have to accomplish the objects it is designed to reach.

Gentlemen may say if the President declines or refuses to enforce it he will subject himself to impeachment. Very possibly. That depends entirely on the manner in which he may do it. There are many ways of making a law inoperative without subjecting himself to such construction and such punishment as that. But I agree entirely with the gentleman from Massachusetts [Mr. BANKS] that it is for our interest, it is for the interest of the country, for the welfare of the whole Union, and especially for the welfare of the loyal part of the Union, that in what we propose to do, looking to the reconstruction of the rebel States, looking to the destruction of rebel despotism there, it is important to the last degree that we should have the cooperation of all the branches of the Government.

I think gentlemen on this floor will not dispute the desirableness of that, however they may doubt its feasibility. Now, sir, unless this proposition can command that cooperation it will be of little value. Standing by itself simply as a law upon the statute-book it will amount to nothing. Unless gentlemen upon this floor are satisfied that this bill is a proper remedy for the evils which exist in the southern States; unless they are satisfied that it is so certain to be operative and effective, and to obtain the result desired as to make all other propositions needless, I think they would do well to consider the possibility of presenting something that will cover the ground more completely than this bill does, and thus secure a more general assent from the country at large.

I acknowledge the necessity of doing something, and the necessity of something effective. I would be glad to see something done which the President would approve, or in default of that something which he could not oppose without rendering himself liable to impeachment. It is doubtful whether the country would sustain the impeachment of the President upon anything now before it. I believe it would not. When we propose the impeachment of the President we must consider that we have to deal with facts, and not vague declaration. We cannot assert that because the country is disturbed and because the country holds the President responsible for that disturbance therefore the country demands his impeachment and removal.

What has he done? You say he has violated his oath and refused to execute the law. But you must point to the instances where he has refused to enforce the law. What specific instance can you put your finger upon in which he has been called upon to protect the rights of citizens in the southern States and has refused to do so? It is not enough to deal in vague accusation; you have to frame a bill of specific and definite charges, embracing details of his refusal to perform specific functions imposed upon him by law. We may frame a bill, possibly we may devise a law, which if he refuses to execute it may enable us to hold him to his proper responsibility; but this bill will not do it, because it imposes upon him no duty whatever.

I desire, moreover, to see some bill introduced which, while providing for the proper exercise of military authority for the preservation of peace, shall also contain some provision for the organization of civil governments in these southern States. This bill does nothing of the sort. It does not even shadow any such provision.

The gentleman from Ohio said the other day that he would not support this bill if he did not regard it as merely preliminary to others which would provide civil authority for those States. Where are those other bills, and what are they? How do we know what civil rights will be provided by those bills, which this bill is to protect, unless we have the whole programme before us?

Mr. SHELLABARGER. The gentleman has inquired where that bill is. I take pleasure in answering that so far as one of the States is concerned one committee of the House has had charge of that subject-matter, and if permitted by the House will report on Monday a bill that will provide for that other civil organization of a government based on loyal suffrage.

Mr. RAYMOND. I am delighted to hear it. It is the first streak of light I have seen, the first intimation that we have had of anything in the form of civil government to go with this bill which devolves such extraordinary powers upon subaltern officers of the Army. I shall wait for that bill with great interest, and shall be glad to see what provisions it contains. But I suggest that we should not adopt this bill until we know what the provisions of that will be.

Mr. NIBLACK addressed the House for an hour. [His remarks will be published in the Appendix.]

Mr. HAWKINS. I ask to have read for the information of the House and ordered to be printed an amendment which, if an opportunity be afforded me, I propose to offer as a substitute for the pending preamble and bill.

The Clerk read as follows:

Whereas a large number of the people of the States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas did declare their independence of the United States, and did form a pretended government under the title of the confederate States of America; and whereas their Senators and Representatives did withdraw from their places in the Congress of the United States and gave their allegiance to the so-called government of the confederate States of America; and whereas said pretended government did wage a cruel and destructive war on the Government and people of the United States, seized the public property, and destroyed the commerce of the United States; and whereas the said rebellion has been suppressed at a great loss of blood and treasure of the United States, it becomes the duty of the Congress of the United States to provide for the restoration of said States to their former relations to the Federal Government, and to secure to all the citizens of the same complete protection in the full enjoyment of all their rights and privileges under the Constitution; and whereas the Congress of the United States does declare that said States shall not resume their relations to the Federal Government until a number of the people of said States sufficient to control the same, shall maintain true faith and allegiance to the United States: Therefore,

*Be it enacted, &c.* That the Speaker of the House of Representatives and the President of the Senate shall appoint three commissioners for each State, citizens of the State for which they shall be appointed, who shall have been throughout the rebellion Union men, and who never aided or sympathized with the rebellion, whose duty it shall be to call a convention of the people of said States, for the purpose of reforming their constitutions to suit the changed condition of the times. Said convention shall consist of as many delegates as the most numerous branch of the Legislature on the 1st of January, 1860. No person who voluntarily bore arms against the United States or gave voluntary aid to the rebellion shall ever be eligible to a seat in said convention.

*Sec. 2. And be it further enacted,* That said commissioners shall on or by the 1st day of May, 1867, or as soon thereafter as practicable, appoint two commissioners of registration for each county, parish, or district in each of said States, whose duty it shall be to register in an appropriate book for that purpose all of the legal voters of said county, parish, or district. In order to ascertain whether any citizen who may apply for registration is entitled to vote, said registers shall have power to administer oaths and compel the attendance of witnesses.

*Sec. 3. And be it further enacted,* That every male person of the age of twenty-one years, who is a citizen of the United States, who has resided one year in the State, and who has been a resident of the county six months next preceding the election, who has never borne arms against the United States or given voluntary aid or comfort to the enemy in the late rebellion, shall be entitled to registration as a voter.

*Sec. 4. And be it further enacted,* That it shall be the duty of the commissioners of registration to appoint three judges of election and one clerk, registered voters, to hold elections on the day ordered by the State commissioners in the several precincts or places for holding elections in said counties, districts, or parishes, or at any other convenient place: *Provided, however,* That in case any other than the usual place for holding elections shall be selected, proper notice shall be given by advertising the same in at least three public places. The polls shall be kept open from ten o'clock a. m. until four o'clock p. m. of said day. After the polls have been closed, the judges shall proceed to count the same, and shall make a fair list of the votes cast and for whom cast, and shall at once transmit by the hands of the clerk said list, signed by the judges and certified by the clerk, to the commissioners of registration, who shall transmit the same to the State commissioners. After the State commissioners shall have ascertained the successful candidates, they shall transmit to each a certificate of his election, which certificate shall entitle him to his seat in the convention.

*Sec. 5. And be it further enacted,* That the election for members of the convention shall take place on the first Monday in July, 1867, and the convention shall assemble on the first Monday in August, 1867, at the capitals of the respective States.

*Sec. 6. And be it further enacted,* That when said convention shall have formed a constitution and shall have submitted the same to the people for ratification, and which shall have been declared republican in form by the Congress of the United States, then said State shall be entitled to representation in the Congress of the United States.

*Sec. 7. And be it further enacted,* That the three commissioners appointed as provided for by this act, as soon as they shall have been qualified, shall proceed to appoint judges, justices of the peace, sheriffs, and constables for said State, conformable to the respective districts as organized in said State the year 1860; and such officers shall have the same jurisdiction and perform the same duties as required of them by the laws of said State on the 1st day of January, 1860, except where said laws have become contrary to the laws of the United States and in conflict with the provisions of this act.

*Sec. 8. And be it further enacted,* That the State commissioners shall be duly qualified before any judge



of a Federal court by taking and subscribing to the following oath:

That I, A. B., have never borne arms against the United States, or counseled or given voluntary aid to the rebellion, or been engaged in any plot or conspiracy to overthrow the authority of the United States in any State or Territory thereof; that I will faithfully and honestly discharge all the duties imposed on me by this act without favor or partiality: So help me God.

All officers that shall be appointed to perform any duties under this act shall take and subscribe the above oath before entering upon the duties of their respective offices. And any person who shall swear falsely to anything required to be sworn to under this act shall be deemed guilty of perjury, and upon conviction shall be confined to hard labor in the penitentiary of the State for a period of not less than two nor more than three years.

Sec. 9. *And be it further enacted*, That the State commissioners are hereby authorized to call upon the President or any officer in command of the United States forces in said State for troops to enable them to execute the provisions of this act or the laws of the State; and upon such requisition it shall be the duty of the President, or any of the officers so called upon, to furnish the troops demanded.

Sec. 10. *And be it further enacted*, That no person shall be competent to sit as a juror in the district or circuit courts of the United States, or the courts organized by the commissioners, who is not a legal voter according to the provisions of this act.

Sec. 11. *And be it further enacted*, That State commissioners shall hold their said position until the respective States shall elect a Governor and provide for filling all the official positions in the State; and they shall receive as a compensation for their services the sum of \$3,000 per annum, which shall be paid out of any money in the Treasury of the United States not otherwise appropriated, and the same shall be refunded to the Treasurer of the United States by the respective States. The commissioners of registration for the counties, parishes, and districts shall receive as a compensation for their services the sum of — dollars, which said sum shall be paid out of any money in the Treasury of the United States not otherwise appropriated, upon the certificate of the commissioners for the State, certifying that they have well and truly performed their duty, which sums shall be refunded to the Treasury by the said State where the services were performed.

The SPEAKER. If there be no objection, this proposed amendment will be printed.

There was no objection.

Mr. KELLEY obtained the floor, and said: I understand the delegation from Kentucky desire to announce the death of their late colleague, Mr. GRIDER, and as I am not desirous of proceeding to-day I will yield the floor for that purpose.

#### DEATH OF HON. HENRY GRIDER.

Mr. HISE. Mr. Speaker, I have the sad duty to perform of announcing the death of another member of this House, and the melancholy satisfaction which the occasion presents of paying a just tribute to the memory of the departed, Hon. HENRY GRIDER, representing at the time the third congressional district of Kentucky in this House, who departed this life on the 7th day of September last. He died at his home, in Bowling Green, Kentucky, after a somewhat lingering illness, in the midst of his family and friends, at the age of seventy years. I learn that during his service in the first session of the Thirty-Ninth Congress, toward its close, he appeared to be depressed in spirits and enfeebled in body and mind, occasioned apparently not so much by impaired health or any distinctive physical illness as by sad and despondent feelings, arising perhaps from disheartening presentiments of the fearful consequences to the country foreshadowed by the gloomy present and the ominous future. He loved his country; he was an unswerving advocate and friend of our free institutions of government, of the Union of the States, of the liberty of the people, civil and religious, as regulated by law and insured by the maintenance of governments free in substance and republican in form; and from his earliest youth until his death he was an active, zealous, and efficient co-worker with others of his own political faith to maintain his principles and secure the ascendancy of his party in the councils of the Federal and State governments, and exercised a very considerable, if not a commanding influence in his county, district, and State in creating public opinion and in giving solidity and strength to the party to which he was attached. When quite a youth he entered in the military service of his country during the war of 1812, and performed his duty faithfully and gallantly as a soldier in the field.

After the war terminated, and his scholastic education had been completed, he very rapidly qualified himself for the legal profession, soon entered upon the practice of the law, and continued it reputably and successfully for a period of near forty years. During this time I have often had occasion to witness and encounter his great power as an advocate and his profound learning as a jurist. And during his whole professional career, protracted as it was and unusually brilliant, I do not believe that any complaint was ever heard from any client of his of any deficiency in learning, skill, or fidelity in the management of his cause. He was a learned, skillful, and able lawyer, an eloquent and powerful advocate, and always true and faithful to his client. I have practiced law with him in the same courts for many years, and I, speaking from personal knowledge, can say so much with truth.

He was engaged in the civil service of the country in various public stations. He was a leading and useful member of the Kentucky Legislature, both in the Senate and lower House, and those high moral and intellectual qualities by which he was so eminently distinguished as a jurist and advocate gave him prominence, character, and influence as a law-giver and statesman. He has served his district in the Twenty-Eighth, Twenty-Ninth, Thirty-Seventh, and Thirty-Eighth, and first session of the Thirty-Ninth Congress; and that he possessed the qualities and attributes which I have ascribed to him was doubtless made manifest to many of the members of this House with whom he served by his course pursued here under their own observation. He was a man of mental endowments far above mediocrity, endowments highly improved and cultivated, a sound lawyer, able and eloquent speaker, discreet statesman, and of unsullied reputation for integrity of conduct and purity of motive. He was always in his private, professional, and political action and conduct actuated by honest and patriotic motives, and he was especially remarkable for the zeal, earnestness, and sincerity with which he supported a cause which he believed to be just, and labored to attain an object or purpose which commended itself to his judgment as right in itself and as useful to the public. A lofty integrity marked and distinguished his whole course of life, both public and private. In his private life he pursued the even tenor of his way without reproach, having at all times the esteem and confidence of the community in which he lived and of the society in which he moved. He was exemplary, upright, and true in all the relations of human life. He was a good citizen, just and honest in all his dealings and transactions, a devoted and exemplary professor of the Christian religion, a humane master, an affectionate husband, a tender and provident parent, a kind relation, and a true and generous friend. His death to his family and the community is an irreparable loss, and will be regretted and lamented by all who knew him well. Mr. Speaker, it seems that deaths of members of the two Houses of Congress, when we consider the limited number of the representatives in both, are of very frequent occurrence. Perhaps they exceed the usual average. We, the survivors, are thus warned of our own impending and inevitable doom, and admonished most impressively of the dread and solemn responsibility incurred and to be met by us all before an eternal and infallible tribunal for all our intentions and deeds, both private and official—a tribunal where the record is fully made up, the proofs complete, and the judgment unerring, which takes cognizance of corrupt, unexecuted intentions as well as of criminal acts committed and visits commensurate punishment upon both. How deep the obligation and important the duty, then, that we diligently examine ourselves and so discipline and regulate our minds as that we may be always actuated by motives that are pure and by purposes benevolent and patriotic, so that what we shall do and the measures we may devise shall be just, wise, lawful,

and effectual for the promotion of the welfare and happiness of the whole country and for the maintenance of the rights and liberties of the inhabitants of all sections thereof. The deceased member, whose whole life furnished a bright example of a devotion ardent and disinterested to the best interests of his country, and whose whole country, has by his death spoken to us from his sepulcher, and conjures us to imitate his virtues and to be impelled in our public conduct by the same elevated motives by which his was ever inspired, so that our end and our reward may be like his: unsullied fame on earth, and eternal rest in heaven.

I now offer the following resolutions:

*Resolved*, That by the death of HENRY GRIDER, late Representative in Congress from the third district, in the State of Kentucky, this House has lost a worthy and useful member, the country a most estimable citizen, and his family, relations, and intimate associates, a steadfast and valued friend.

*Resolved*, That to give expression to their due appreciation of the talents, attainments, and patriotism of the deceased, and to indicate their regret and sorrow for his lamented death, the members of this House will assume and wear the usual badge of mourning for the period of thirty days.

*Resolved*, That these resolutions be spread upon the Journal of the House of Representatives, and that a copy thereof be sent by its Clerk to the family of the deceased.

*Resolved*, That in respect to the memory of the deceased, this House do now adjourn.

Mr. FINCK. Mr. Speaker, I rise to second the resolutions which have been offered by the gentleman from Kentucky. My first acquaintance with HENRY GRIDER commenced with the Thirty-Eighth Congress, and as that acquaintance progressed I came to respect and love him. He was a pure and honest man and a faithful public servant. He belonged to that generation of statesmen who are fast passing away, a generation which closely links our history with the names of Jackson and Webster and Clay and Calhoun. He was the devoted friend and admirer of Henry Clay, and embraced the principles advocated by him, and like that great statesman, had a heart large enough and patriotic enough to cherish every section of the Republic. HENRY GRIDER was simple and unostentatious in his habits and manners, most affable and genial in social life, always treating with deference the opinions of others, yet with becoming firmness and ability maintaining his own convictions of duty.

He seldom, during the period I served with him in this House, engaged in its exciting debates. I remember, however, that he spoke on two or three occasions with much force and ability, and his speeches were always marked with great sincerity and earnestness.

Mr. Speaker, I am not sufficiently familiar with the early history and the many public services in the career of our departed friend to enter upon his eulogy. This has been done ably and most affectionately by the gentleman who succeeds him in this House. But I have felt it a melancholy pleasure to second the resolutions, and have deemed it appropriate that the great State which I in part represent on this floor, and which is linked to Kentucky by so many cherished memories in the past and by so many hopes in the future, should mingle her voice with the sorrowing voice of a sister State in the loss of one of her most devoted sons, and unite with her in paying this last tribute of respect to the memory of one of the purest and most patriotic of our departed public men.

Mr. HARDING, of Kentucky. Mr. Speaker, I desire very briefly, and in few words, to present my heart-felt tribute of respect to the memory of my late friend and colleague, Hon. HENRY GRIDER. I became acquainted with him many years ago; but during a later period, beginning with the extra session of Congress, in July, 1861, I served with him as a member of this House, on down to the close of the last session, when in consequence of declining health, he returned to his home. During this last period of five years my relations with Mr. GRIDER were of the most intimate and friendly character—daily associating with

him, boarding most of the time at the same house, I knew him well; and from my knowledge of his character, I entertained for him the highest respect, and had the utmost confidence in him as a high-minded, honorable gentleman, as a conscientious, honest, and just man, and as a sincere and devoted Christian. I remember no event in the past year that oppressed me so sadly and painfully as the news of his death.

He was born in Kentucky, on the 16th day of July, 1796, and was a little past seventy years of age at the time of his death. Mr. GRIDER was in the war of 1812, and though then quite a youth, he served as a private soldier in what was known as Shelby's campaign. He afterward studied law, and when not engaged in the public service of his country devoted himself industriously and successfully to the practice of his profession. He was elected in 1827, and served as a member of the House of Representatives in the Kentucky Legislature. He was again elected to the same position in 1831. He was afterward elected in 1833, and served four years in the Senate of Kentucky. Mr. GRIDER was elected a member of Congress first in 1843. He was reelected in 1845, and after serving two consecutive terms in Congress he retired for a few years to private life. But in 1861 the people who knew him so well, with whom he had so long lived, and whom he had so faithfully served, called him from his retirement, and elected him a member of the Thirty-Seventh Congress. He was re-elected to the Thirty-Eighth Congress; and again elected a member of the Thirty-Ninth Congress.

Mr. GRIDER was thus, while living in the same community and among the same people, twice elected to the House of Representatives of the State Legislature, once elected to the State Senate, and five times elected to Congress—ample proof that he enjoyed to a high degree the respect and confidence of the people who knew him best. And never did Representative more richly deserve the respect and confidence of constituents. He never misled or deceived them; no promise or pledge made by him to his constituents was ever violated; he always served them honestly and faithfully. His acts as a Representative were governed by one uniform rule—an earnest and conscientious conviction that he was doing right. His whole history as a public man was marked by a high order of patriotism, always zealously laboring and striving to advance what he believed to be the highest and best interest of his constituents and of the whole country. In all the relations of life, whether public or private, his integrity was above suspicion, and he passed through a long, active, and useful life without leaving a solitary stain or shade upon the purity of his character.

Mr. GRIDER was a man of noble generosity and large benevolence; the voice of necessity never appealed to him in vain. Benevolence was a marked and prominent trait in his character; to him it was a luxury to minister to the wants of others; he felt that it was "more blessed to give than to receive," and his generous heart always responded to every charitable appeal.

Mr. GRIDER made a public profession of religion in early life; he soon afterward became an active and zealous member of the Methodist church, and continued through life one of its brightest ornaments. His walk was moral and upright, his life was rich in deeds of charity, and abounded in good works; yet he trusted in none of these things. He felt and knew that all his best performances were mixed with sin and imperfection; and turning away from all his own works he fixed his hope and rested with strong faith and confidence on the atoning merits and perfect righteousness of Him who came "to seek and to save the lost." And when this venerable man drew near to the close of his long, eventful life, that religion which had cheered him in health and borne him up in every dark hour of sorrow and affliction was

doubtless more precious to him than ever before. In his last days he often spoke of death, always calmly and hopefully, and sometimes joyfully; and thus it was, on the 7th day of September, 1866, at his own home, in the bosom of his tender and affectionate family, surrounded by kind neighbors and friends, and sustained by the Christian's faith and hope, that he calmly and quietly breathed his last. His course is finished, his warfare is ended, and he is gone—but gone, there is good reason to hope, to that land where the weary find rest, and where the frail child of mortality forgets to weep and lives forever.

Mr. MAYNARD. Mr. Speaker, I venture to seek the floor in order to add a few words attesting my appreciation of the deceased. My acquaintance with him was comparatively recent. I met him for the first time at the first regular session of the Thirty-Seventh Congress. The circumstances that brought us together were such that our intercourse soon became intimate. It was in the early part of the war. His district was within the theater of active hostilities. Many of my own constituents had taken refuge in Kentucky, and were engaged in the service of the country on that field. He had a soldier son, under whose command were many men of Tennessee as well as of his own State. I also had a son who served in the same field with him. The incidents which interested him also interested me. The subjects brought before Congress for action were interesting alike to us both, for our constituents were affected very much alike by the measures here adopted. I learned to appreciate his native good sense, his mental endowments, and his judgment of public questions. He seemed to me to belong to a class of men from which the people of that district so long as I have known them have selected their Representatives in this House—a class of men especially distinguished for their general excellence of character—sober, discreet, considerate, decided.

As a member of this body he seldom spoke, rarely obtruding himself upon the attention of the House. I saw him, however, upon more occasions. I think than one, one certainly, when he exhibited powers of oratory which satisfied me that in his younger and more enthusiastic days he had not neglected that magnificent art in which Kentucky, if not excelling all other States, certainly has not been inferior to any. I have not forgotten, I suppose none of us have forgotten, the few words pronounced by him at the last session on the death of Senator Collamer, and the touching allusion he made to the fact that years before in their service in this House they had attended the worship of God together in the congressional prayer meetings; words that to a Christian heart give full assurance of all that has just been so well said by his colleague of his piety and religious faith.

Unostentatious in his manners, unobtrusive, patient, benignant, kind, gentle, he has left a record during his service here showing that in times which tried so many of our citizens he never swerved in his patriotism or in his devotion to his country. However we might differ in regard to particular public measures, however much we might regret the consequences of some particular policy which others of us deemed wise as well as necessary and just, no man would question for a single moment he felt an abiding interest in the prosperity and perpetuity of this Government. Though in the afternoon of life, he was not stricken in years. Few could have anticipated his demise. When we parted last summer none of us, I am sure, deemed him so near the edge of the silent river, nor thought that so soon he would join the beckoning hosts who had already crossed and awaited his coming upon the other shore. In such an hour as we think not the summons comes. This much I desired to say. More I would be glad to have said, but more I do not feel at liberty to say on the present occasion.

Mr. RICE, of Maine. Mr. Speaker, I was unaware until a moment ago these resolutions were to be brought before the House, but I cannot forbear offering a passing tribute to the memory of one of the purest and best men it was ever my good fortune to know. His uniform courtesy, his gentlemanly deportment, his genial manner, and his warm expressions of sympathy for all persons and classes in want and trouble come back upon my memory with vivid distinctness and impel me to add a few words to what has been so well said by others on this occasion. I do this, sir, not in any studied or formal manner, but simply and alone from the sense of duty which I feel to speak kindly and sadly of the clear intellect, the warm heart, and the open hand now cold and forever closed in the embrace of death. Let us all who knew him in life imitate his purity and his goodness, so that like him we may at any moment be prepared for the great change which must so soon come to us all with the assurance that we shall enter into a better life.

When I commenced my service in the Thirty-Seventh Congress I was upon a committee with him, and there I came to know him well; I might say intimately. I conversed with him freely on all the great subjects that were then agitated and dividing the country. No man ever felt more keenly than he the distraction and trouble that were upon the country or labored with a purer purpose to avert them.

In the Thirty-Eighth Congress, and again in this, it was my privilege to be associated with him on a committee, and there our intimacy and friendship were continued and confirmed. And during all that time I never heard him utter an unkind word of any man. He was a man of the utmost purity of character. He was a Christian gentleman and an honest man. Although I differed with him politically still I desire to say, and I say it with the full consciousness of what I utter, that no man ever occupied a seat in this House who had a more true or loyal heart than HENRY GRIDER. His whole soul, all his sympathies were enlisted for the good of his country. His prayer, I have no doubt, night and morning, was for the deliverance of his country from the trouble that weighed down upon her, and that the Union which he loved so well might be preserved.

Coming as I do from a State far distant from the one which he so well in part represented, it is with great pleasure that I recall the acquaintance I formed with him thus early and the continued friendship that so strongly knit us together. I think he was the first gentleman from the State of Kentucky whose acquaintance I had then formed, and entertaining some of the prejudices which have so unfortunately divided the people of sections remote from each other I was most happy to have them dissipated by the genial kindness and the gentle, Christian character of our deceased associate. I never knew him or met him save in these Halls and in this city, but from what I learned of his character here I know full well that what has been said of him by his colleagues to-day in the walks of private life and in the retirement of home must all be true. He could not be otherwise than a kind husband, father, and friend. I can give them my sympathy in their great bereavement even without personal acquaintance. In the examination of all questions pending in committee or before the House he calmly and dispassionately considered and weighed all the facts and arguments pertinent to the issue, and analyzed them with remarkable clearness and precision. In argument he was always considerate and courteous, but firm and decided. He always stated his opinions and conclusions with clearness, elegance, and force, and always submitted to defeat with gentlemanly resignation and dignity.

It is a sad duty and privilege here to-day to add these few words, inadequate as they are, as my last tribute to the memory of a deceased friend.

The question was taken on the resolutions, and they were unanimously adopted.

Thereupon (at four o'clock and twenty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. DARLING: The petition of members of the bar, practicing in the United States courts in southern and eastern districts of New York, asking for increased compensation for stipends and criers of said courts.

By Mr. DAVIS: The memorial of the Chamber of Commerce of New York, against the passage of the bill to provide increased revenues from imports.

By Mr. DRIGGS: The petition of A. R. Bradbury, and 30 others, citizens of Menomonee, Green Bay, Michigan, for surveys and estimates for the improvement of the harbor at the mouth of the Menomonee river.

By Mr. FARQUHAR: The petition of J. F. Welder, and others, of Greensburg, Indiana, against the passage of either the Hooper or Randall bills, now pending in the House of Representatives, and in favor of carrying out in good faith the obligations of the Government with the present national banks.

Also, the petition of Messrs. Scooby & Donnell, and others, of Greensburg, Indiana, against the further contraction of the currency, the redemption of national currency at New York, and the prohibition of national banks from paying or receiving interest on bank balances.

By Mr. HUNTER: The memorial of J. North, and others, praying that bonnets and millinery may be placed upon the free list.

By Mr. JULIAN: The petition of Edward M. Davis, praying Congress for certain relief.

By Mr. LAWRENCE, of Ohio: The petition of J. M. Reed, and others, of Dawn, Darke county, Ohio, for a law authorizing the sale of stamps by additional officers, so that every locality may be more conveniently supplied.

Also, the petition of Samuel Silver, for pay as a wagon-master.

By Mr. MILLER: The memorial of citizens of the United States, for impeachment of the President.

By Mr. MYERS: The petition of the Library Company of Philadelphia, asking that books and maps imported for public libraries and colleges be placed on the free list.

By Mr. F. THOMAS: The petition of citizens of Carroll county, Maryland, remonstrating against the tax on cigars.

By Mr. UPSON: The petition of O. R. Johnson, F. B. Wallin, and 28 others, citizens of Allegan county, Michigan, praying Congress for the survey and improvement of the harbor at the mouth of the Kalamazoo river, Michigan.

#### HOUSE OF REPRESENTATIVES.

MONDAY, February 11, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

#### BILLS AND JOINT RESOLUTIONS.

The SPEAKER stated as the first business in order the calling of the States and Territories for bills and joint resolutions, to be referred to the appropriate committees, and not to be brought back on a motion to reconsider, commencing with the State of Maine.

#### AMERICAN COMMERCE.

Mr. BLAINE introduced a bill to promote the interest of American commerce and ship-building; which was read a first and second time, and referred to the Committee on Commerce.

ROBERT ISHERWOOD.

Mr. RICE, of Maine, introduced a bill authorizing the purchase by the United States of the farm of the late Robert Isherwood; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

#### BREAK-WATER ON BLOCK ISLAND.

Mr. DIXON submitted joint resolutions of the Legislature of the State of Rhode Island, relative to a break-water on Block Island; which were ordered to be printed, and referred to the Committee on Commerce.

#### NORTHERN PACIFIC RAILROAD.

Mr. WARD, of New York, presented concurrent resolutions of the Legislature of the State of New York, in favor of granting Government aid to the Northern Pacific railroad; which were referred to the Committee on the Pacific Railroad, and ordered to be printed.

HENRY E. PECK.

Mr. WELKER introduced a joint resolution

for the relief of Henry E. Peck, minister-resident and consul general in Hayti; which was read a first and second time, and referred to the Committee on Foreign Affairs.

MRS. RACHEL M'CLELLAND.

Mr. WELKER also introduced a bill for the relief of Mrs. Rachel McClelland; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### FOURTEENTH ARTICLE OF THE CONSTITUTION.

Mr. ECKLEY presented the joint resolutions of the Legislature of the State of Ohio, ratifying the fourteenth article of the Constitution of the United States, proposed by the first session of the Thirty-Ninth Congress; which were referred to the Committee on the Judiciary, and ordered to be printed.

Mr. DELANO introduced a bill declaring the ratification of the fourteenth article of the Constitution of the United States, proposed by the first session of the Thirty-Ninth Congress; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. DELANO. I ask that the committee have leave to report at any time.

Messrs. FINCK and ANCONA objected.

Mr. DELANO. Then I give notice that I shall move to suspend the rules for that purpose as soon as it is in order for me to do so.

#### RIVER AND HARBOR IMPROVEMENTS.

Mr. EGGLESTON introduced a bill making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

#### MISS SUE MURPHY.

Mr. MAYNARD. A bill from the Senate, for the relief of Miss Sue Murphy, of Decatur, Alabama, was indefinitely postponed on the 14th of December last by a vote of this House. I ask consent of the House to take up the bill and have it referred to the Committee of the Whole and placed upon the Private Calendar.

The SPEAKER. Under the rule the Chair cannot ask unanimous consent during the morning hour on Monday.

Mr. MAYNARD. Then I give notice that at the proper time I shall move a suspension of the rules for the purpose I have indicated.

#### LAWS OF UTAH.

Mr. JULIAN introduced a joint resolution requiring the Legislature of the Territory of Utah to transmit a copy of their laws to Congress; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

#### RATIONS FOR SOLDIERS DYING IN PRISON.

Mr. GRINNELL introduced a joint resolution giving rations to the legal representatives of Union soldiers dying in prison, amendatory of a joint resolution approved July 25, 1866; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. GRINNELL. I ask unanimous consent that the committee have leave to report on this subject at any time.

No objection was made, and leave was accordingly granted.

#### DUTY ON WOOL.

Mr. PAINE presented a joint resolution of the Legislature of the State of Wisconsin, in favor of an increased duty on wool; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### FOX RIVER IMPROVEMENT.

Mr. SAWYER presented joint resolutions of the Legislature of the State of Wisconsin, asking further appropriations to improve the entrance into Fox river from Green bay; which were referred to the Committee on Commerce, and ordered to be printed.

#### REMOVAL OF INDIANS FROM WISCONSIN.

Mr. PAINE presented joint resolutions of the Legislature of the State of Wisconsin, ask-

ing for the removal of certain Indian tribes now in that State; which were referred to the Committee on Indian Affairs, and ordered to be printed.

#### CALIFORNIA RAILROAD GRANTS.

Mr. BIDWELL introduced a bill for a grant of land to the State of California to aid in the construction of certain railroads in such State; which was read a first and second time.

Mr. BIDWELL. I move that the bill be referred to the Committee on the Pacific Railroad.

Mr. JULIAN. I move to amend that motion so that the bill may be referred to the Committee on Public Lands.

Mr. BIDWELL. I would inquire of the gentleman from Indiana [Mr. JULIAN] if that committee will be able to report upon this subject should it be referred to them?

Mr. JULIAN. I suppose we can.

Mr. BIDWELL. Then I will not object.

The SPEAKER. The Chair would state that in his opinion it is very doubtful whether either committee will again be reached in the regular call of committees.

Mr. BIDWELL. If the committee will act upon it I am willing it should be referred to the Committee on Public Lands.

Mr. JULIAN. It is our duty to act upon it. The bill was accordingly referred to the Committee on Public Lands.

#### TOWNS ON PUBLIC LANDS.

Mr. BIDWELL introduced a bill for the relief of the inhabitants of cities and towns upon the public lands; which was read a first and second time, and referred to the Committee on Public Lands.

#### POST ROUTE IN WEST VIRGINIA.

Mr. WHALEY introduced a bill to establish a mail route in the State of West Virginia; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### PRIVATE LAND CLAIMS IN NEW MEXICO.

Mr. CHAVES introduced a bill for ascertaining and settling private land claims in the Territory of New Mexico; which was read a first and second time, referred to the Committee on Private Land Claims, and ordered to be printed.

#### PUBLIC LANDS.

Mr. GOODWIN introduced a bill for the relief of inhabitants of cities and towns upon the public lands; which was read a first and second time, and referred to the Committee on Public Lands.

#### ORDER OF BUSINESS.

The SPEAKER. The call of States and Territories for bills and joint resolutions being concluded, the next business during the remainder of the morning hour is the call of States for resolutions, commencing with the State of Iowa, where the call was arrested on the expiration of the morning hour last Monday.

#### PURCHASE OF A PICTURE.

Mr. HIGBY submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Library be instructed to inquire into the expediency of purchasing the picture of Francis B. Carpenter, of New York, representing the first reading of the emancipation proclamation, and that they report by bill or otherwise.

#### CLAIMS FROM INSURRECTIONARY STATES.

Mr. HIGBY. I ask unanimous consent to submit another resolution, which I have been requested to present by the gentleman from Ohio, [Mr. LAWRENCE.]

There being no objection, leave was granted; and

Mr. HIGBY submitted the following resolution, on which he demanded the previous question:

Whereas it is alleged that a claims commission of the War Department is now in session in Washington which has allowed to citizens of States lately in rebellion claims growing out of the destruction or appropriation of or damages to property by the Army of the United States while engaged in suppressing the rebellion, some of which claims have



been paid—all of which, according to the uniform understanding previously in this Congress, is without authority of law: Therefore,

*Resolved*, That the Committee of Claims be, and are, instructed to ascertain whether such claims commission exists, the authority therefor; whether said commission has allowed any claim or claims without authority of law; whether, if so, they have been paid, and by what authority; whether any appropriation has been made therefor, and what law, if any, may be necessary or proper, and that said committee report by bill or otherwise.

Mr. LAWRENCE, of Ohio. I desire to submit to the House a statement—

The SPEAKER. The gentleman from California [Mr. HIGBY] has called the previous question.

Mr. McKEE. The proper place to go to ascertain the facts on this subject is the quartermaster's department. The Quartermaster General can furnish the House all the information that may be desired.

Mr. LAWRENCE, of Ohio. I have a statement which I send to the Clerk's desk to be read. It is from a responsible source, and will show the necessity—

The SPEAKER. If the resolution gives rise to debate, it must go over under the rule.

Mr. McKEE. I rise to debate the question.

Mr. LAWRENCE, of Ohio. Let the statement be read.

The SPEAKER. Is there objection to the statement being read?

There was no objection.

The Clerk read as follows:

"One Dr. William P. Jones, of Nashville, presented a claim before a 'claims' commission of the War Department for use of and damages to property taken by our Army in 1862, for fortifications, &c. A fort or forts were erected, and it was occupied, as claimed, until November 27, 1866. This claims commission allowed him a percentage for use of the property, estimated upon its supposed value of \$45,000 at the time of its appropriation..... \$5,921 51 And estimating the depreciation of the property at \$35,000, they allowed him two thirds as damages..... 23,333 33

Total..... \$29,254 84

"They also found that he should be reimbursed all United States, State, and municipal taxes, but the amount is not fixed. This was approved and confirmed by L. H. Pelouze, assistant adjutant general, and referred to the engineer department and paid by James Everleth, one of its agents.

The question whether the payment could be credited by the accounting officers to Mr. Everleth was sent by the Third Auditor to the Second Comptroller's office of the Treasury Department. A report was made that it was the established public policy of Government not to recognize and settle this class of cases, at least for the present, and that the only tribunal, the Court of Claims, had been deprived of jurisdiction, and no appropriations had been made, &c., and that the whole question being with Congress, &c., and that Everleth could not be credited, &c. This has been adopted by the Second Comptroller, but this does not remedy the evil. The money has been paid, and possibly can never be restored. And how much more has been and will be paid in the same way there is no telling. Precisely similar claims, and one even from Nashville, have been presented to the accounting officers, and payment invariably refused."

Before the Clerk had concluded the reading of the foregoing statement,

Mr. McKEE said: I rise to a point of order. I submit that the reading of this document is in the nature of debate on the resolution and is not in order.

The SPEAKER. The Chair overrules the point of order. The House, by unanimous consent, granted leave that the statement might be read. The gentleman from Kentucky [Mr. McKEE] probably had his attention drawn away at the moment.

The Clerk concluded the reading of the statement.

On seconding the call for the previous question there were—ayes 26, noes 31; no quorum voting.

The SPEAKER, under the rule, ordered tellers, and appointed Mr. LAWRENCE, of Ohio, and Mr. SPALDING.

Mr. ASHLEY, of Ohio. I ask my colleague [Mr. LAWRENCE] to yield to me that I may offer an amendment.

The SPEAKER. The House is now dividing, no quorum having voted.

The House divided; and the tellers reported—ayes seventy-three, noes not counted.

So the previous question was seconded.

The main question was ordered; and under the operation thereof the resolution was adopted.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the resolution was adopted, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### WITHDRAWAL OF PAPERS.

Mr. DEMING asked and obtained leave to withdraw from the files of the House the papers in relation to the claim of Mrs. Almira Thompson, provided copies be left.

#### PRINTING REPORT MAIL CONTRACTS, ETC.

Mr. BOUTWELL submitted the following resolution, on which he demanded the previous question:

*Resolved*, That the Committee on Printing be instructed to report the propriety and probable cost of printing the annual report of contracts and mail service of the Post Office Department for the year ending June 30, 1866; also the same to December 31, 1866.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. BIDWELL moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### STATIONERY, ETC., FOR MEMBERS.

Mr. BIDWELL also submitted the following resolution, on which he demanded the previous question:

*Resolved*, That the Clerk be authorized to pay the members of this House from the State of Tennessee the usual newspaper and stationery allowance for the first session of the present Congress.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. BIDWELL moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CLAIMS AGAINST GREAT BRITAIN.

Mr. McRUER submitted the following resolution, on which he demanded the previous question:

*Resolved*, That in the opinion of this House the Government of the United States should be guided in the prosecution of the claims of its citizens against the Government of Great Britain for depredations of the Alabama and other Anglo-rebel cruisers by the same dispatch and emphasis that characterized the Government of Great Britain in the settlement of their demand upon this Government arising from the capture of Mason and Slidell from the Trent.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. McRUER moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ASSISTANT STENOGRAPHER.

Mr. WINDOM submitted the following resolution, on which he demanded the previous question:

*Resolved*, That the assistant stenographer appointed under resolution of the House of July 16, 1866, be continued in office during the next Congress and until otherwise ordered.

The House divided; and there were—ayes 14, noes 20; no quorum voting.

The SPEAKER, under the rules, ordered tellers; and appointed Messrs. WINDOM and SCOTFIELD.

Mr. SCOTFIELD. Have we the right to select officers for the next Congress? If we can do this, why not select a Speaker and a Clerk for the next House?

Mr. FARNSWORTH. Is this the stenographer for committees?

The SPEAKER. It is.

The question was again taken; and the tellers reported no votes in the affirmative.

So the previous question was not seconded.

Mr. ANCONA rose to debate the resolution, and it went over under the rules.

#### RECONSTRUCTION.

Mr. HENDERSON submitted the following resolutions, on which he demanded the previous question.

1. *Resolved*, That when the people of any State or States of this Union renounce the authority of the Constitution and laws thereof, and make war upon the same, they thereby forfeit all rights and privileges they enjoyed under such Constitution and laws.

2. *Resolved*, That all authority to govern and control men and things within the boundaries of such State or States thereafter rightfully and properly reverts to the Government of the United States.

3. *Resolved*, The Union primarily consists in the existence of one paramount Government over all States and Territories within the boundaries of the United States.

4. *Resolved*, That the war lately waged against traitors was not to uphold and sustain State authority in State organizations, but to uphold and maintain national authority in all its territory.

5. *Resolved*, That the Union has not been divided, and that it is not divisible.

Mr. LE BLOND. I make the point of order that these resolutions under the rules go to the joint Committee on Reconstruction.

The SPEAKER. The Chair sustains the point of order, as the first resolution declares "they thereby forfeit all rights and privileges they enjoyed under such Constitution and laws," one of which rights was representation, and subjects relating to the representation of the so-called confederate States are to be referred without debate. The resolutions therefore are referred to the joint select Committee on Reconstruction.

#### REMOVALS FROM OFFICE.

The next business in order was the consideration of the following resolutions offered by Mr. DRIGGS, and which laid over under the rules:

*Resolved*, That the Secretary of the Interior be, and he is hereby, requested to communicate to this House the following information, namely:

1. The number and names in each of the States and Territories of all registers and receivers of land offices, Indian agents, commissioners, and other persons employed in his Department who have been removed since the adjournment of the last session of Congress, together with the names of their successors, and the causes and reasons in each case for such removals and appointments.

2. Whether the salaries or emoluments of persons so appointed have been increased from those of their predecessors; and if so, to what extent in each case and in the aggregate.

The resolutions were adopted.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 527) to amend the postal laws, and for other purposes;

An act (S. No. 338) for the relief of Henry Greathouse and Samuel Kelley;

An act (S. No. 470) to authorize the change of a name;

An act (S. No. 529) to incorporate the Howard University in the District of Columbia; and

An act (S. No. 175) to incorporate the Pharmaceutical Association of the District.

The message further announced that the Senate had passed an act (H. R. No. 234) to incorporate the National Capital Insurance Company, with amendments, in which the concurrence of the House was requested.

Also, without amendment, an act (H. R. No. 183) concerning the fire department of Washington city.

#### EQUALITY OF SUFFRAGE.

The next resolutions lying over under the rules were the following, offered by Mr. NOBLE on the 4th of February:

*Resolved*, That Governments were made for the people, and not the people for the Government; that every adult citizen of sound mind in any State or Territory has the right to a voice in the formation of the constitution of said State, and in the representation and laws of said State, and that any State which disfranchises any class of its citizens on account of sex is not republican in form and should be overturned by Congress.

*Resolved*, That the Committee for the District of Columbia is hereby instructed to report to this House, without delay, a bill so amending an act entitled "An act to regulate the elective franchise in the District of Columbia," which passed Congress January 8, 1867, as to abolish the disfranchisement of persons from voting on account of sex.

*Resolved*, That the Committee on the Judiciary are instructed to report a bill calling a convention and

authorizing every adult citizen of sound mind in the State of Massachusetts to vote for delegates to said convention for the purpose of making a constitution for said State republican in form.

The SPEAKER. The mover of the resolutions not being present, the Chair recognizes the gentleman from Wisconsin.

Mr. ELDRIDGE. Mr. Speaker, I do not desire to make a speech on this question, and I will only ask to have read a memorial which I have in my hand in lieu of any remarks which I might make, provided I wanted to make a speech.

The Clerk read as follows:

Memorial of the American Equal Rights Association to the Congress of the United States.

The undersigned, officers and representatives of the American Equal Rights Association, respectfully but earnestly protest against any change in the Constitution of the United States, or legislation by Congress which shall longer violate the principle of republican government by proscriptive distinctions in rights of suffrage and citizenship on account of color or sex.

Your memorialists would respectfully represent that neither the colored man's loyalty, bravery on the battle-field, and general good conduct, nor woman's heroic devotion to liberty and her country, in peace and war, have yet availed to admit them to equal citizenship, even in this enlightened and republican nation.

We believe that humanity is one in all those intellectual, moral, and spiritual attributes out of which grow human responsibilities. The Scripture declaration is, "so God created man in his own image; male and female created he them." And all divine legislation throughout the realm of nature recognizes the perfect equality of the two conditions. For male and female are but different conditions.

Neither color nor sex is ever discharged from obedience to law, natural or moral, written or unwritten. The commands, thou shalt not steal, nor kill, nor commit adultery, know nothing of sex in their demands; nothing in their penalty. And hence we believe that all human legislation which is at variance with the divine code is essentially unrighteous and unjust.

Woman and the colored man are taxed to support many literary and humane institutions, into which they never come, except in the poorly paid capacity of menial servants. Woman has been fined, whipped, branded with red hot irons, imprisoned, and hung; but when was woman ever tried by a jury of her peers?

Though the nation declared from the beginning that "all just governments derive their powers from the consent of the governed," the consent of woman was never asked to a single statute, however nearly it affected her dearest womanly interests or happiness. In the despotisms of the Old World, of ancient and modern times, woman, profligate, prostitute, weak, cruel, tyrannical or otherwise, from Semiramis and Mes-salina to Catharine of Russia and Margaret of Anjou, have swayed, unchallenged, imperial scepters; while in this republican and Christian land, in the nineteenth century woman, intelligent, refined in every ennobling gift and grace, may not even vote on the appropriation of her own property, or the disposal and destiny of her own children. Literally she has no rights which man is bound to respect; and her civil privileges she holds only by sufferance. For the power that gave can take away, and of that power she is no part. In most of the States these unjust distinctions apply to woman and to the colored man alike.

Your memorialists fully believe that the time has come when such injustice should cease.

Woman and the colored man are loyal, patriotic, property-holding, tax-paying, liberty-loving citizens, and we cannot believe that sex or complexion should be any ground for civil or political degradation.

In our Government one half the citizens are disfranchised by their sex, and about one eighth by the color of their skin; and thus a large majority have no voice in enacting or executing the laws they are taxed to support and compelled to obey with the same fidelity as the more favored class, whose usurped prerogative it is to rule.

Against such outrages on the very name of republican freedom your memorialists do and must ever protest. And is not our protest preëminently as just against the tyranny of "taxation without representation" as was that thundered from Bunker Hill when our revolutionary fathers fired the shot that shook the world?

And your memorialists especially remember, at this time, that our country is still reeling under the shock of a terrible civil war, the legitimate result and righteous retribution of the vilest slave system ever suffered among men. And in restoring the foundations of our nationality your memorialists most respectfully and earnestly pray that all discriminations on account of sex or race may be removed, and that our Government may be republican in fact as well as form; a Government by the people, and the whole people; for the people, and the whole people.

In behalf of the American Equal Rights Association,

LUCRETIA MOTT,

President.

THEODORE TILTON,

FREDERICK DOUGLASS,

ELIZABETH CADY STANTON,

Vice Presidents.

SUSAN B. ANTHONY,

Secretary.

Before the Clerk had concluded the reading of the above,

Mr. SPALDING moved that the gentleman from Wisconsin have leave to print the remainder. [Laughter.]

The SPEAKER. The gentleman from Wisconsin is entitled to the floor for one hour.

Mr. SPALDING. Then I insist that he shall read the paper himself. [Laughter.]

Mr. ELDRIDGE. The gentleman shall not dictate to me about reading a speech. [Laughter.] The Clerk has read the greater portion of the memorial, and all I wanted to have read. My object in presenting it was that the distinguished ladies who sent it might have a hearing in this House, as no advocate of their rights was present at the time the resolutions came up. I am not their advocate, but as I see the gentleman from Missouri [Mr. NOELL] is now present I will yield to one who will advocate their course, as he has always done by his acts and words. [Laughter.]

Mr. NOELL then addressed the House, but before concluding the morning hour expired, and the resolutions went over till Monday next in the morning hour.

#### TAX BILL.

Mr. MORRILL, from the Committee of Ways and Means, reported a bill to amend existing laws relating to internal revenue; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. MORRILL. I move that this bill be made a special order for Wednesday evening next at seven o'clock, and from day to day until disposed of.

Mr. SCHENCK. I object.

Mr. MORRILL. I desire to say, in connection with the motion I have submitted, that if we expect to act on this bill and the tariff bill at this session it is indispensably necessary that we shall now order evening sessions.

Mr. SCHENCK. I desire to say that the bill for the equalization of bounties has been shoved aside week after week. I intend that its consideration shall not be further postponed in this way if I can prevent it by objecting to the making of additional special orders.

The SPEAKER. The Chair will state to the gentleman from Ohio that this bill if made a special order will be a special order in the Committee of the Whole; and as it cannot be considered unless a majority decide to go into the Committee of the Whole it cannot interfere with the bounty bill, which would be considered in the House.

Mr. SCHENCK. But a member of the Committee of Ways and Means can at any time move to go into the Committee of the Whole. If the bill now reported is not made a special order in Committee of the Whole, the motion cannot be made to go into the Committee of the Whole for its consideration.

Mr. MORRILL. I move to suspend the rules so as to make the bill a special order for Wednesday evening next at seven o'clock, and from day to day until disposed of.

On the motion there were—ayes 84, noes 40. So (two thirds voting in favor thereof) the rules were suspended; and the motion of Mr. MORRILL was agreed to.

#### BOSTON CUSTOM-HOUSE.

Mr. HULBURD, by unanimous consent, submitted from the Committee on Public Expenditures a report, with accompanying testimony, relative to the Boston custom-house; which was ordered to be printed.

Mr. PLANTS, by unanimous consent, submitted the views of a minority of the same committee on the same subject; which were ordered to be printed.

Mr. ROLLINS. I move that two thousand extra copies of both reports be printed for the use of the House, and five hundred copies of the evidence.

The SPEAKER. That motion goes to the Committee on Printing under the law.

#### CYPRESS HILL CEMETERY, NEW YORK.

Mr. TAYLOR, of New York, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Appropriations be requested to inquire into the propriety of appropriating a sum sufficient to enable the trustees of the Cypress Hill Cemetery, Long Island, New York, to place head-stones to the graves of soldiers buried in said cemetery during the war, inclosing the grounds, and erecting a suitable and appropriate monument on the same.

#### PRINTING TAX BILL.

Mr. ANCONA, by unanimous consent, submitted the following resolution; which was referred under the law to the Committee on Printing:

*Resolved*, That there be printed for the use of the House one thousand copies extra of the bill amending the internal revenue laws, reported from the Committee on Ways and Means this day.

#### EXPENSES OF JUDICIARY COMMITTEE.

Mr. WILSON, of Iowa. I ask unanimous consent to offer the following resolution, which I have been instructed by the Committee on the Judiciary to present:

*Resolved*, That the Clerk of the House of Representatives be, and is hereby, directed to pay out of the contingent fund of the House, upon the order of the Committee on the Judiciary, such sum or sums of money, not exceeding \$10,000 in the aggregate, as may be necessary to enable the said committee to prosecute the several investigations committed to its charge.

Mr. ROSS. I object.

Mr. WILSON, of Iowa. I move to suspend the rules.

The SPEAKER. That cannot be done at this time, as the House is now acting under a suspension of the rules, if there be any objection.

There was no objection.

Mr. ROSS. I make the point of order, that under the rules it must go to the Committee of the Whole on the state of the Union.

The SPEAKER. That can be suspended as well as other rules.

The resolution was adopted.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NEW ORLEANS RIOT.

Mr. ELIOT. I move that the rules be suspended in order to permit me to submit a report from the select Committee on the New Orleans Riots, accompanied by a bill, on which I shall ask action at this time.

The motion was agreed to.

Mr. ELIOT then, from the select Committee on the New Orleans Riot, submitted the evidence taken by the authority of the House, together with the report of the majority thereon; and moved that they be laid on the table and ordered to be printed.

The motion was agreed to.

Mr. BOYER, by unanimous consent, from the same committee, submitted the views of the minority; and moved that they be laid on the table, and ordered to be printed with the majority report.

The motion was agreed to.

Mr. ELIOT, by unanimous consent, submitted the following resolution; which, under the law, was referred to the joint Committee on Printing:

*Resolved*, That twenty thousand extra copies of the reports, and ten thousand of the evidence taken by the Committee on the New Orleans Riot be printed for the use of the members of the House of Representatives.

#### CIVIL GOVERNMENT IN LOUISIANA.

Mr. ELIOT, from the same committee, reported a bill for the reëstablishment of civil government in the State of Louisiana. It was read a first and second time, and ordered to be printed.

The bill was read *in extenso*, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States

shall nominate, and by and with the advice and consent of the Senate appoint, a Governor for the State of Louisiana, who shall hold his office for one year unless sooner removed by the President, by and with the advice and consent of the Senate, or unless sooner superseded by a successor elected under the provisions of this act. Such Governor so appointed shall have attained the age of thirty years, shall be a citizen of the United States and of the State of Louisiana. He shall not have held any office whatever under the government of the so-called confederate States nor of any State which recognized the authority of such pretended government. He shall not have signed, voted for, or by speech or otherwise favored the act of secession of any State; nor shall he be any person who has ever held any office in the Army or Navy of the United States and who afterward took an oath to support the said pretended government; nor shall he be a person who was a member of either House of the Congress of the United States after the first Monday in December, A. D. 1860, and who afterward took an oath to support the said pretended government, nor shall he be one who has borne arms against the Government of the United States, or who has in any way given aid, counsel, countenance, or encouragement to the late rebellion; but shall be one who has at all times borne true faith and allegiance to the Government of the United States. And before such nomination shall be acted upon by the Senate such nominee shall make the same oath (which shall be signed and filed with the Secretary of the Senate) prescribed by first section of the act of 2d July, A. D. 1862, and which oath shall also contain a declaration that the nominee has done no act which would work a disqualification for holding such office under the provisions of this act.

Sec. 2. *Be it further enacted*, That the President shall forthwith nominate, and by and with the advice and consent of the Senate appoint, a provisional council, consisting of nine persons, who shall have the same qualifications as are herein prescribed for the office of Governor, and who, before being confirmed by the Senate, shall on oath make, sign, and file with said Secretary the same oath as is prescribed for the Governor. Such councilors shall continue to hold their office, unless sooner removed by the President, by and with the advice and consent of the Senate, until a Legislature shall be duly elected and qualified under the provisions of this act. Such provisional council shall, with the Governor, have all legislative power in such State. But in no event shall the Governor or any councilor enter upon the duties of their respective offices until after confirmation by the Senate. A majority of such council shall be a quorum; and the same shall continue in permanent session, with power, however, to order such adjournments as may be deemed proper, but no adjournment shall be for more than thirty days at one time.

Sec. 3. *Be it further enacted*, That the Governor shall forthwith take possession and charge of all archives and other property belonging to the State; and it shall be his duty to see that all laws of the State and of the United States shall be duly executed within said State. Until all officers shall become elective by the people as herein provided the Governor shall nominate, and by and with the advice and consent of the provisional council, shall appoint and commission all the officers now provided for by the existing government of said State, or which may hereafter be created by law. Such officers shall hold their offices, unless sooner removed by the Governor, with the advice and consent of the provisional council, until successors shall be elected and qualified as herein provided. And all councilors, legislators, and other members and officers of the provisional government hereby established, and also all the members of the constitutional convention hereafter provided for, shall be selected from such only as can truthfully take the oath aforesaid, prescribed by the act of 2d July, A. D. 1862, and before entering upon the duties of such office shall take and subscribe such oath, which oath shall be filed with and preserved by the chief justice of the State.

Sec. 4. *Be it further enacted*, That unless otherwise hereafter provided by Congress, the persons duly qualified as electors, according to the provisions of this act, in the State of Louisiana, shall, upon the first Tuesday of June, A. D. 1867, proceed to elect a Governor, Lieutenant Governor, a Senate, and House of Representatives, and all the other officers herein provided to be appointed; which Senate and House of Representatives shall be composed of the same number of members, and be elected from the same districts, as is provided under the present government of such State; and the Governor, Lieutenant Governor, Senators, Representatives, and all the other officers of such provisional government shall respectively hold their offices for one year and until their successors are duly qualified, unless such officers are sooner removed or superseded, in pursuance of the other provisions of this act. All such officers so elected shall have the same qualifications and shall take, subscribe, and file the same oath as is herein required in the case of the appointment of such officers. And the powers, duties, fees, and compensation of all such officers shall be the same as now by law appertain to such offices respectively, in so far as such laws are not inconsistent with the provisions of this act.

Sec. 5. *Be it further enacted*, That the following persons, and no others, shall be electors and entitled to vote at all elections held under the provisions of this act, namely: every male citizen of the United States, without distinction of race or color, who has attained the age of twenty-one years and who has resided in Louisiana one year, and who has never borne arms against the United States since he was a citizen thereof, and who can truthfully take the oath prescribed by aforesaid act of July 2, A. D. 1862: *Provided*, That any person otherwise qualified as an elector, as herein provided, and who never voluntarily gave aid, countenance, encouragement, or sup-

port to any rebellion against the United States, nor any such aid, countenance, encouragement, or support to any government inimical to the United States in any other manner, capacity, or rank than as a private soldier in open and civilized warfare, may be admitted to the rights of an elector by an order of any court of record of the United States upon establishing to the satisfaction of the court, by the testimony of persons who have at all times borne true allegiance to the United States that he is one coming within the description of persons designated in this proviso, and upon establishing, as aforesaid, that such person after the 4th day of March, A. D. 1864, never gave any voluntary aid, countenance, support, or encouragement to such rebellion nor to any government inimical to the United States. Upon such proof being made and upon taking and subscribing upon the records of the court an oath that all the things are true which bring the applicant within the exceptions of this proviso, and also that such person will at all times bear true allegiance to the Government of the United States and to the perpetual union of the States thereunder, such person shall receive a certificate which shall entitle him to the rights of an elector.

Sec. 6. *And be it further enacted*, That whenever any person's right to hold office, or to vote under the provisions of this act, shall be challenged or called in question, and it shall be made to appear to the officers of election or others having the matter to decide, either by the oath of the person challenged, or by other evidence, that the person challenged, in fact, did any act, the voluntary doing of which works a disqualification to vote, to hold office, to be admitted by order of the court to the rights of an election, or to be registered as such under the provisions of this act, then in all such cases such acts shall *prima facie* be deemed to have been done voluntarily; and it shall devolve upon the person challenged to prove to the satisfaction of the tribunal having the matter to decide, and by the evidence of persons who have always borne true allegiance to the United States, such facts as shall satisfy such tribunal that such acts of disloyalty were involuntary.

Sec. 7. *Be it further enacted*, That the Secretary of War is hereby required to make and publish rules providing for—

1. A just and true registration prior to each general election of the names of all persons who under the provisions of this act are entitled to vote at any election named in this act, and he shall designate persons having the qualifications of electors by whom such registration shall be made, which registration shall be completed and made accessible to all the electors of the State at least one week before each general election.

2. For the times of holding all elections, the time for holding which is not fixed by this act, and also for the places and manner of holding and conducting all the elections contemplated by this act, including rules for receiving, counting, certifying, and returning the votes cast, the granting certificates of election, the appointment and compensation of all judges and other officers of election, and for every other thing which shall be necessary to the holding of a free election by the people. But all officers and agents appointed to make such registrations and to conduct, make returns of, certify to, or do any act touching any election shall be persons entitled to the rights of an elector under the provisions of this act, and all such persons shall, before entering upon such duties, take and subscribe the oath aforesaid, prescribed by the act of 2d July, 1862; and also to faithfully and impartially discharge the duties of their office. Said constitution shall provide that no debt, demand, or liability contracted or incurred in the name of the State or otherwise in support of the recent rebellion shall be assumed or paid, and that no pension, compensation, gift, or gratuity, shall be bestowed upon or paid by the State to any person by reason of any thing done or suffered in support of the rebellion; and such constitution shall provide that the aforesaid provisions shall be irreversible and incapable of abrogation by amendment thereof.

Sec. 8. *Be it further enacted*, That upon the third Tuesday of October, A. D. 1867, unless the Congress of the United States should by law otherwise provide, an election shall be held by all the persons qualified to vote under the provisions of this act for the choice of members to a convention to adopt a permanent constitution and frame of government for the State of Louisiana. No person shall be eligible to a seat in such convention who has not attained the age of twenty-five years, and who has not all the other qualifications prescribed by this act for Governor; and such convention shall be composed of the same number of members, and shall be elected from the same districts, as is now provided by law for the House of Representatives; and no person shall take a seat in such convention who has not first taken, and upon the Journals of the convention subscribed, the oath prescribed by the act of July 2, 1862. The constitution framed by such convention shall not permit any distinction in the rights of men on account of race or color, and shall recognize the power and duty of the Government of the United States to protect and enforce the perpetual union of the States under such Government upon such terms as may be by them prescribed. Such constitution shall be submitted for approval by the convention at such time as it may fix to the electors of the State qualified to vote under the provisions of this act, the election to be held under rules prescribed as aforesaid by the Secretary of War; and if approved by a majority of such electors it may be presented to Congress for the admission of the State to representation in Congress thereunder.

Sec. 9. *Be it further enacted*, That it shall be the duty of the President of the United States to designate forthwith an officer of the Army of the United States, who is of rank not below brigadier general,

who shall be stationed in the State of Louisiana, and shall be the military commander within the State; it shall moreover be the duty of the President to place in such State under the command of such officer such military force as shall be requisite to execute the duties herein assigned to such commander. It shall be the duty of such commander, whenever the civil authorities in such State shall be unable to, or shall from any cause neglect, omit, or refuse to see that all the laws are speedily enforced for the punishment or prevention of crimes or offenses against the rights of any person whomsoever, to at once arrest and hold such offenders until the civil authorities shall cause such offenses to be duly prosecuted. And it shall moreover be the duty of such commander to render such support to the civil authorities in the preservation of order and in the enforcement of the laws and rules regulating elections, and also all other laws, both of the United States and of the State, as shall insure the full, speedy, and impartial enforcement of all such laws and of equal justice, and this without regard to race or color.

Sec. 10. *And be it further enacted*, That the militia of the State shall consist of all the citizens of the State qualified as electors under this act, who shall be as soon as practicable duly organized and equipped, and during the existence of the provisional government hereby created such militia shall act under the direction of the aforesaid military commander within the State.

Sec. 11. *And be it further enacted*, That all laws passed by the provisional council or by the Legislature herein provided for shall as speedily as possible after their enactment be duly certified and transmitted to the Secretary of the Senate of the United States for the approval of Congress. And should the same be disapproved by Congress, the fact shall be at once duly certified and transmitted to the chief justice of Louisiana, and the date of the receipt thereof shall be indorsed thereon, and the same shall be filed and preserved in the records of the Supreme Court. And all laws so disapproved shall be void from and after the date of such indorsement.

Sec. 12. *Be it further enacted*, That until the people of Louisiana shall be admitted to representation in the Congress of the United States under such loyal and republican government as the United States shall recognize and assume to guaranty, such people shall be entitled to one Delegate in the House of Representatives, to be elected at the first general election provided for in this act by the qualified electors of the State as provided in this act. Such delegate must be a person who has the qualifications for and could hold the office of Governor under the provisions of this act. And he shall have the same powers and rights now had by Delegates from the Territories of the United States.

Sec. 13. *Be it further enacted*, That all laws now in force in Louisiana, consistent with the Constitution and laws of the United States and with the provisions of this act, shall remain in force until repealed or modified: *Provided*, That no person shall be competent to act as a juror who is not an elector under the provisions of this act: *And provided also*, That all the expenses of and incident to the administration of the provisional governments herein provided for shall be collected and paid as is now done for the support of the present government of Louisiana.

Mr. LE BLOND. Mr. Speaker, I was not in my seat when this bill was introduced. I understand the rules were suspended to allow its introduction.

The SPEAKER. They were.

Mr. LE BLOND. Then I raise the question that this House cannot suspend a joint rule of the two Houses. I understand the resolution establishing this committee is a joint resolution, and that it requires the concurrence of the Senate to suspend the rule by which these matters are referred to the committee.

The SPEAKER. The Chair will state that the fact is otherwise; it is a rule of the House only. The Chair will state the history of the case. On the first day of the first session of this Congress the gentleman from Pennsylvania [Mr. STREVEN] offered a resolution for the appointment of a joint Committee on Reconstruction. That resolution provided, among other things, that all matters relating to representation of the so-called confederate States, when presented, should be referred by both branches of Congress to that committee without debate. When the resolution came to the Senate that body refused to concur in that part of it. The Senate has never referred these matters to the joint committee there, but has laid them on the table. Afterward, on motion of the gentleman from Iowa, [Mr. WILSON,] it was resolved that all papers relating to representation in the so-called confederate States of America should be referred to the joint Committee on Reconstruction without debate. It is therefore a rule of the House alone, and not a joint rule.

Mr. LE BLOND. Since the Chair speaks of it I now remember it. I wish now to inquire of the gentleman from Massachusetts [Mr.



ELIOT] whether this bill comes into the House for action at this time.

Mr. ELIOT. In reply to that inquiry I will state that it is not the desire of the committee to do that if the bill can be retained in such a way as to secure the action of the House upon it in the course of to-morrow. We desire to have debate upon it sufficient to satisfy the gentleman in regard to its merits and have the bill seasonably passed. I do not want to run the risk of not having the bill acted upon and passed in time to become a law. It is of course undesirable that a bill of this nature should be even discussed before it has been put in such a shape that gentlemen can make themselves acquainted with its provisions, and I hope there will be no objection from any quarter that such delay can be had, and such resumption of it made as to enable gentlemen to become familiar with the details of the bill, and yet enable us to pass it in season to go to the other branch and be acted on there.

Mr. BINGHAM. I beg leave to suggest to the gentleman to put his proposition in this way: that his bill be taken up and considered by general consent after the pending business before the House from the Committee on Reconstruction shall have been disposed of.

Mr. ELIOT. If I should agree to that I will inquire of the Chair what would be the effect so far as the business of the House is concerned?

The SPEAKER. The Chair will state the condition of the business of the House. It is nominally engaged at present in the consideration of the bill reported last December by the gentleman from Pennsylvania [Mr. WILLIAMS] in regard to the tenure of office, which the House resolved to debate under the five-minute rule. While that was pending the House authorized the joint Committee on Retrenchment to report a bill in regard to the civil service. The gentleman from Ohio [Mr. SCHENCK] was also authorized by unanimous consent to report a bounty bill, which comes up when the civil service bill is disposed of unless interfered with by other business which has priority. The Committee on the Judiciary was also authorized to report an indemnity bill, which was ordered to come up as soon as the other pending matters were disposed of. While they were all pending the joint Committee on Reconstruction, which is authorized to report at any time, reported a bill which is also pending. With all these bills pending, the gentleman from Massachusetts [Mr. ELIOT] has reported this bill this morning, and it is now before the House. So the House has a variety of business before it, and it is as much as the Speaker can do to keep the run of it.

Mr. ELIOT. Then, Mr. Speaker—

Mr. BOYER. Will the gentleman from Massachusetts [Mr. ELIOT] allow me to make a suggestion?

Mr. ELIOT. Certainly I will.

Mr. BOYER. It seems to me, Mr. Speaker, that there is an evident impropriety in the House acting upon this bill either to-day or to-morrow. This House sent a special committee of investigation to the city of New Orleans, who were engaged there for a considerable time in taking the testimony of witnesses. Since their return to this city they have been engaged during several weeks in the same occupation. It is only to-day that the majority of the committee have submitted to this House their report, which it is to be presumed none of the other members of this House as yet have seen. Although upon the committee, I have not as yet had an opportunity of being enlightened by the views of my colleagues upon that committee as expressed in their report to this House.

The testimony which has been taken by this committee is very voluminous. If it was to answer any good purpose to send this committee forth to make this investigation and report to this House the testimony taken by them, then, why should we be called to act upon a measure directly affecting the State of Louisiana, and intended to abrogate the Government

which is in successful and peaceful operation there at this time? Why should this be done before members of this House have had an opportunity of even reading the evidence which has been taken by this committee, and which has a bearing upon this subject? It seems to me that that testimony should be printed, that we should have the reports printed, in order that we may have all the light upon this subject which is accessible to us. We should make use of all the means which this House has ordered to be provided for us in order that we may properly judge of the question here involved.

I would therefore suggest to my colleague upon the committee, and its chairman, [Mr. ELIOT,] by whose courtesy I am allowed now to occupy the floor, that it would be manifestly improper, and it would be so regarded, it seems to me, by the whole country, for this House, without making any use of these opportunities, of forming an enlightened judgment, to rush at once to its passage this bill which is intended to sweep away the constitutional government of the State of Louisiana, which government, as I have already remarked, is now in peaceful and successful operation. If that government is not now in peaceful and successful operation there perhaps the testimony taken by this committee will show it. I should like at least to have an opportunity of showing the facts in this case. If that opportunity could be afforded me I think I should be able to render a good reason to this House and to the country why the government of Louisiana as it now exists should be allowed to remain undisturbed and to go on in the course in which it has been proceeding for some time past.

I do not desire unnecessarily to trespass upon the time of my colleague [Mr. ELIOT,] therefore I do not feel warranted in any further remarks to the House upon this subject. I rose simply to make the suggestion which I have made, and I had not intended to occupy so much time in giving my reasons for it.

Mr. ELIOT. It is perfectly manifest that if the wishes of the gentleman from Pennsylvania [Mr. BOYER] should be complied with, or his suggestion adopted, this bill would go over indefinitely and beyond the present Congress. We understand very well that that gentleman does prefer that matters in Louisiana should remain as they are. I was in hopes that some suggestion would be made to relieve the committee from the difficulty in which they were placed.

Mr. BINGHAM. Will the gentleman allow me to make another suggestion?

Mr. ELIOT. Will the gentleman allow me first to reply to the suggestion of the gentleman from Pennsylvania, [Mr. BOYER?]

Mr. BINGHAM. I desire to make a suggestion to relieve the gentleman from the difficulty to which he has referred.

Mr. ELIOT. Very well; I will hear it.

Mr. BINGHAM. I will make this suggestion to the gentleman, that he move to recommit this bill to the committee whence it came, and then enter a motion to reconsider the recommitment. And I would inquire of the Chair if that motion would not be a privileged motion that could be called up at any time?

The SPEAKER. There are now pending some twelve or fourteen motions to reconsider; they are all privileged, but they cannot be called up while any other business is before the House for consideration.

Mr. BINGHAM. Then by unanimous consent give the committee leave to report at any time.

The SPEAKER. That would be no better for the accomplishment of the object which the Chair supposes the gentleman has in view. The highest privilege which the House can confer upon any subject is by giving unanimous consent to its consideration. There are already pending three subjects having that privilege. This bill being now immediately pending is before the House for consideration and action at this time.

Mr. ELIOT. Then I do not see that there

is any course of action open to the committee except to ask the House to consider and pass upon this bill now.

The SPEAKER. The only course the Chair can suggest is for the House to unanimously reconsider the unanimous consent given in relation to the other subjects, and make this bill anterior to them.

Mr. ELIOT. Then I suggest that that be done.

Mr. SCHENCK. I object.

Mr. SCOTFIELD. I think the gentleman from Massachusetts [Mr. ELIOT] better call the previous question on this bill and put it upon its passage this morning; it is his only chance. Let him show his pluck, and call the previous question on it at once.

Mr. ELIOT. If any gentleman can make a suggestion to relieve the committee I will gladly yield to him for that purpose.

Mr. BOYER. I desire to inquire whether, if this bill were referred to the Committee on Reconstruction that committee could not, under the rules of the House, report at any time and so give priority to the bill before the House.

The SPEAKER. As the Chair has already stated, the House has involved itself in this dilemma. Some time ago the House, by unanimous consent, authorized the Committee on Military Affairs to report at any time the bounty bill. That bill is now pending, to be considered whenever it shall be reached. The House also, by unanimous consent, granted to the gentleman from Iowa [Mr. WILSON] leave to report from the Committee on the Judiciary at any time what is known as the indemnity bill. That bill has been reported and is now pending, to come up after the bounty bill. If the House should now grant unanimous consent for the reporting of this bill at any time it would come in after the bounty bill and the indemnity bill. The Chair does not know any method by which the House can relieve itself.

Mr. THAYER. Why cannot this bill be postponed to a day certain?

The SPEAKER. It can be.

Mr. THAYER. Then let me suggest to the gentleman from Massachusetts, [Mr. ELIOT,] who has charge of this bill—

The SPEAKER. If it should be postponed it would probably never be reached, because other matters would have priority, which has been given to them by unanimous consent.

Mr. THAYER. The House ought not to be asked to vote on the bill at this time, when it has not been printed and no opportunity has been afforded to examine it.

Mr. BOYER. I would ask whether it is not better that the bill should fail rather than that it should be passed when the House has no sufficient means of forming an intelligent judgment upon it?

Mr. SCHENCK. It seems to me, Mr. Speaker, that if we had not your clear head to guide us we should be in such a muddle that no one could extricate the House from it. We have had an explanation of the condition of business; and I wish to add a single remark in relation to the present status of this bill and the manner in which it is presented for the action of the House.

At the very commencement of this session we revived the Reconstruction Committee, and agreed that everything relating to the representation of the insurrectionary States and their reorganization should be referred to that committee. For reasons best known to the committee it had, I believe, no meeting; and various side attempts were made to dispose of the question of reconstruction, until the whole subject, as it was presented by a bill from the gentleman at the head of that committee, was referred to the committee. We then obtained a report in the shape of the bill which has been under discussion for several days. We see on all sides of this House—I think I am not mistaken in saying this—a disposition to come speedily to an agreement so to amend that bill as to make it agreeable to a large majority here and to pass it. If it be passed it will cover the

whole question of reconstruction for all the rebel States.

Now, in this condition of things, when we are approaching probably a solution of the whole difficulty, there comes in from another committee by a side-wind a proposition for reconstruction applicable to one particular State, and that in the shape of a bill whose provisions occupy probably nearly a quire of paper; and upon this we are called upon to act, and at once, because if we do not act upon it at once it will lie over with no prospect of our being able to reach it. In this condition of things what would be the sensible course for the House to take? To take up and go on with the whole subject of reconstruction presented in the bill now under consideration, what is called the military bill, coming from the proper committee, the Committee on Reconstruction. Commit this bill to that committee at once. They will have an opportunity, for it is a privileged committee, to report it back at any time, and if it prevails it will cover the whole ground.

It seems to me in all this matter we resemble more what I have seen in boys hunting rabbits. After going a little distance on one track we come to another which crosses it, and we follow the new track till another crosses it, take that, and so continue; and nothing is accomplished. I propose that we put this out of the way, as a new track or a new line crossing our path, by sending it to the Committee on Reconstruction and going on with the reconstruction bill and disposing of it, as I think we can, in the next twenty-four hours.

I will (I know the gentleman holds the floor against me, and I cannot do it now) at the first opportunity, if I can vote down the previous question, in order to move to recommit this to the Committee on Reconstruction and go on with the reconstruction bill.

Mr. FARNSWORTH. I ask the gentleman from Massachusetts to yield to me.

Mr. ELIOT. Certainly, if the gentleman wishes to make a suggestion.

Mr. FARNSWORTH. As this is germane to the subject the House was considering when it adjourned on Saturday, and as that will come up I suppose the next business in order, why cannot this bill, if the gentleman desires a vote on it, be moved as an amendment to the other one?

The SPEAKER. Further amendment is not in order, as there is an amendment to an amendment pending, and gentlemen have given notice of others they intend offering.

Mr. FARNSWORTH. The majority can vote down all the other amendments and adopt this one in their stead. There is nothing to interfere with the gentleman from Massachusetts offering his bill as a substitute.

Mr. ELIOT. In reply to one suggestion made by the gentleman from Ohio, I wish to say the bill now before the House from the Reconstruction Committee does not interfere with the provisions of the other bill also pending, nor will action on this prevent action on that. The bill from the Reconstruction Committee is a pure military bill, and if it passes to-day would not interfere at all with this, except I am desirous not to have any collision, either of fact or feeling, between this bill and the other one.

I do not see but the committee is constrained to go on with the discussion on this bill unless the House will adopt the suggestion I have made just now, that the bill shall be ordered to be printed and we shall have leave to call it up to-morrow in precedence of all other orders.

Mr. RAYMOND. Let me ask a question. Mr. ELIOT. Yes, if it will throw any light on the subject.

Mr. RAYMOND. Mr. Speaker, I desire to know what action on the part of the House is necessary in order to carry out the suggestion of the gentleman from Ohio, to have the general bill on reconstruction come in and take the place of this now before the House?

The SPEAKER. By the passage of this bill, by laying it on the table, by referring it, by postponing it to a day certain, or indefinitely,

or any other disposition of this bill, will then bring up the bill on reconstruction.

Mr. RAYMOND. Are we now in the morning hour?

The SPEAKER. The morning hour has expired. You cannot suspend the rules in the morning hour, but only after it has expired.

Mr. SCHENCK. I suggest that the gentleman yield the floor to me to make the motion to refer the bill to the Committee on Reconstruction, and at once to take a vote on it.

Mr. ELIOT. And that existing orders be so far suspended as to take the action first on this bill. [Cries of "No!"] I am contented to yield to any suggestion with the understanding I have stated.

Mr. SCHENCK. I want the gentleman to understand me. I am willing, for one, if we recommit to his committee, they shall have leave to report at any time; but he asks more than that; he asks all the other business of the House be set aside for this, and that I cannot consent to.

Mr. MORRILL. Mr. Speaker, I desire to suggest that if the gentleman obtains the best terms possible that is all that can be done. It must be evident, in the present temper of the House, that if he should go on and consume an hour this morning, at the expiration of the hour it may be immediately referred either to the Committee on Reconstruction or to his own committee. Hence, if he accepts the suggestion of the gentleman from New York, to recommit the bill with power to report at any time, it certainly seems to me it is the best proposition he can get.

Mr. ELDRIDGE. Mr. Speaker, will it be in order to move to adjourn, so that gentlemen may have a caucus on this subject? [Laughter.]

The SPEAKER. Not while the gentleman from Massachusetts is on the floor.

Mr. ELIOT. If I can be allowed to report this bill at any time, in accordance with the suggestion of the gentleman from Vermont, upon the understanding that that means just what it says, then I shall give notice that I will report it to-morrow morning after the reading of the Journal.

Mr. BINGHAM. I object.

The SPEAKER. The Chair will state that if any gentleman demands the regular order of business he can prevent the gentleman from reporting it to-morrow morning.

Mr. ELIOT. It must be perfectly obvious, then, that this bill must take its chance now with the House.

Mr. CHANLER. I rise to a point of order, that the gentleman must proceed or surrender the floor.

The SPEAKER. The Chair sustains the point of order.

Mr. FARNSWORTH. Will the gentleman from Massachusetts allow me to make an inquiry of the Chair?

Mr. ELIOT. Yes, sir.

Mr. FARNSWORTH. I desire to know if this should go to the joint Committee on Reconstruction, and a motion should be entered to reconsider, whether a majority of the House cannot at any time postpone all prior orders and take this up?

The SPEAKER. If any gentleman demands the regular order, that brings the pending business before the House. If any gentleman had demanded the regular order to-day at the expiration of the morning hour, that would have brought up the reconstruction bill, which was made the special order by the unanimous order of the House, and the gentleman from Pennsylvania [Mr. KELLEY] would have been entitled to the floor.

Mr. ELIOT. I understand if the motion to recommit is made and a motion to reconsider the recommitment is entered it would then be within the power of the chairman of the committee to call the bill up for consideration at any time, unless some gentleman called for the regular order.

The SPEAKER. That is so.

Mr. ELIOT. Now, if there could be an understanding that advantage should not be taken of me—[Laughter.] Mr. Speaker, allow me to say that the committee has reported the best bill that has yet come before the House. [Laughter.] It has been drawn by more than a dozen gentlemen. [Laughter.] There is no one person who can be considered responsible for it, because the brain, the heart, the judgment of every gentleman on this floor whose efforts have been directed in this channel have been invoked and are incarnated in this bill. [Laughter.] I am perfectly sure when we come to discuss it we shall agree upon a vote. I desire it shall be adopted, and to have the House in good nature when it is done. [Laughter.]

Mr. BOYER. Will the gentleman allow a question?

Mr. ELIOT. A very short one.

Mr. BOYER. I desire him to inform the House whether or not his colleague on the committee representing the minority was consulted with reference to the draft of this bill?

Mr. ELIOT. I take it upon myself to say that he was not. [Laughter.]

Mr. ELDRIDGE. Will the gentleman allow me to ask a question?

Mr. ELIOT. If it will take but an instant.

Mr. ELDRIDGE. I wish to know how it is that a majority of this House have been able to give an opinion upon this bill before it was reported? I presume the gentleman had not disclosed it to a majority of the House.

Mr. ELIOT. The gentleman misunderstood me. I said that this bill embodied the heart and brain of every gentleman in the House who had directed his efforts in this channel. There are bills before the House presented by different gentlemen; they have been carefully examined and compared, and what is good has been taken from each one of them.

Mr. Speaker, how much time have I left?

The SPEAKER. Five minutes.

Mr. ELIOT. It is manifest that I must let the House judge in this matter. I have tried all the ways I know and there is but one left to me, and that is to place the matter before the House. I shall have to call the previous question. It may be voted down; if so, I shall have discharged my duty. I now call the previous question.

Mr. MAYNARD. May I ask the Chair what will be the effect of the operation of the previous question?

The SPEAKER. It will be to arrest all debate except one hour, to which the gentleman from Massachusetts will be entitled.

Mr. WENTWORTH. Mr. Speaker, if this bill does not pass, what will become of the loyal men of Louisiana? [Laughter.]

The SPEAKER. The Chair cannot answer that question.

The question being put on seconding the previous question, there were—ayes 66, noes 68.

Before the result of the vote was announced,

Mr. ELIOT called for tellers.

Tellers were ordered; and Messrs. ELIOT and BOYER were appointed.

The House again divided; and the tellers reported that there were—ayes 79, noes 70.

So the previous question was seconded.

The question was upon ordering the main question to be now put.

Mr. BINGHAM. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. MAYNARD. I would inquire of the Chair what would be the effect upon this bill should the House refuse to order the main question to be now put?

The SPEAKER. The effect would be to divest this bill of the operation of the previous question, the same as if the call for the previous question had not been seconded.

Mr. BINGHAM. And in that case would it not be in order to move to commit this bill to the joint Committee on Reconstruction?

The SPEAKER. That motion would then be in order.

Mr. PIKE. Yes; and it would then be in order to kill the bill.

Mr. SPALDING. And should the main question be ordered it would be in order to pass the bill.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate had indefinitely postponed House bills and joint resolutions of the following titles:

A bill (H. R. No. 811) for the relief of certain drafted men;

A bill (H. R. No. 1136) to amend the act establishing a national asylum for disabled soldiers;

A joint resolution (H. R. No. 269) for the relief of certain volunteer officers; and

A joint resolution (H. R. No. 272) fixing the pay of the clerks at the Springfield armory.

The message further informed the House that the Senate requested the return of Senate bill No. 527, to amend the postal laws, and for other purposes, which bill had been passed by the Senate and been sent to the House for its concurrence.

#### AMENDMENT OF POSTAL LAWS.

The SPEAKER, by unanimous consent, laid before the House the following message from the Senate:

IN THE SENATE OF THE UNITED STATES,  
February 11, 1867.

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate a bill (S. No. 527) to amend the postal laws, and for other purposes, passed by the Senate and sent to the House for its concurrence.

Attest:

J. W. FORNEY,

Secretary.

By W. J. McDONALD,  
Chief Clerk.

By unanimous consent, the Clerk was ordered to return the bill.

#### CIVIL GOVERNMENT IN LOUISIANA—AGAIN.

The House resumed the consideration of the bill for the reestablishment of civil government in Louisiana.

The pending question was upon ordering the main question, upon which the yeas and nays had been ordered.

Mr. ELDRIDGE. I move that the House adjourn; and upon that motion I call for the yeas and nays.

Mr. SPALDING. I call for tellers upon ordering the yeas and nays.

Tellers were ordered.

Mr. RANDALL, of Pennsylvania. I move that when the House adjourn to-day it adjourn to meet on Friday next; and on that motion I call for the yeas and nays.

Mr. LE BLOND. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Mr. ECKLEY and Mr. RANDALL, of Pennsylvania, were appointed.

Mr. MAYNARD. I would inquire of the Chair what would be the condition of business to-morrow should the House agree to adjourn at this time?

The SPEAKER. Should the House adjourn now this bill will be the first business in order to-morrow after the reading of the Journal.

The House divided; and the tellers reported that there were—yeas thirty-two; noes not counted.

The SPEAKER. More than one fifth have voted in the affirmative. The Chair will state, however, that he cannot put to the House the question upon the motion of the gentleman from Pennsylvania, [Mr. RANDALL,] that when the House adjourn to-day it be to meet on Friday next. The Clerk will read the clause of the Constitution relating to this subject. The Clerk read as follows:

"Neither House during the session of Congress shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting."

Mr. RANDALL, of Pennsylvania. I modify my motion so as to make it Thursday next. I will merely remark that if the Speaker had come to the knowledge of that fact a little sooner it would have saved a great deal of trouble.

The SPEAKER. The Chair had knowledge of it, and stated it as soon as the time came for submitting the question to the House.

Mr. RANDALL, of Pennsylvania. I will withdraw my motion.

Mr. FARQUHAR. I move that the House now adjourn.

The SPEAKER. A motion to adjourn, made by the gentleman from Wisconsin, [Mr. ELDRIDGE,] is now pending. Upon that question the yeas and nays were called for and tellers have been ordered upon ordering the yeas and nays. The Chair appoints the gentleman from Ohio, Mr. SPALDING, and the gentleman from Vermont, Mr. BAXTER, to act as tellers.

The House divided; and the tellers reported that there were—yeas thirty; noes not counted.

So (the affirmative being one fifth of the last vote) the yeas and nays were ordered.

The question was upon the motion to adjourn.

Mr. ELIOT. I would inquire of the Chair what would be the effect of an adjournment now?

The SPEAKER. This bill will be the first business in order to-morrow morning after the reading of the Journal.

Mr. ELIOT. I believe the bill has already been ordered to be printed.

The SPEAKER. It has.

Mr. ELDRIDGE. Will it be printed and laid upon our desks to-morrow morning by the time the House meets?

The SPEAKER. In all probability it will.

Mr. ELDRIDGE. That was my object in moving to adjourn.

The question was taken; and it was decided in the negative—yeas 30, nays 127, not voting 38; as follows:

YEAS—Messrs. Ancona, Boyer, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Finck, Gloss, Brenner, Goodyear, Aaron Harding, Hise, Edwin N. Hubbard, Humphrey, Kerr, Latham, Le Blond, Loftwich, Niblack, Nicholson, Noell, Samuel J. Randall, Ritter, Shanklin, Sitgreaves, Strouse, Taber, Thornton, and Andrew II. Ward—30.

NAYS—Messrs. Alley, Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Banks, Barker, Beaman, Bidwell, Bingham, Blaine, Blow, Boutwell, Brownell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Davis, Dawes, DeFrees, Delano, Deming, Dixon, Dodge, Dumont, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hawkins, Hayes, Henderson, Higby, Hill, Hogan, Holmes, Hooper, Hotchkiss, John H. Hubbard, James R. Hubbard, Hubburd, Hunter, Jenckes, Julian, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, Melndoe, McKee, McRuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Radford, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rogers, Rollins, Ross, Rousseau, Sawyer, Schenck, Seofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stilwell, Stokes, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—127.

NOT VOTING—Messrs. Ames, Baldwin, Baxter, Benjamin, Bergen, Brandegee, Bundy, Conkling, Culver, Donnelly, Driggs, Eliot, Griswold, Hale, Harris, Hart, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Ingersoll, Jones, Kasson, Marshall, McCullough, Phelps, Pomeroy, John L. Thomas, Trimble, Elihu B. Washburne, Henry D. Washburn, Wentworth, Winfield, and Wright—33.

So the motion to adjourn was not agreed to.

During the roll-call the following announcements were made:

Mr. MERCUR. I desire to state that the gentleman from Iowa, Mr. KASSON, is absent by leave of the House on business relating to the committee of which he is a member.

Mr. DEMING. I desire to say on behalf of my colleague, Mr. BRANDEGEE, that he is paired with the gentleman from New York, Mr. BERGEN, upon all questions relating to the subject of reconstruction. I desire also to say on behalf of the gentleman from New York, Mr. GRISWOLD, that he is called away by imperative business.

The result of the vote was announced as above recorded.

The question recurred upon ordering the main question to be now put.

Mr. LE BLOND. I wish to make a sugges-

tion for the consideration of gentlemen on the other side of the House. We are not disposed on this side to delay unnecessarily; we only desire an opportunity to be heard upon this bill, and that it shall not be passed with indecent haste at least; we wish an opportunity of reading the bill.

Now, I would suggest to gentlemen on the other side that this bill be allowed to lie over till to-morrow morning, with universal consent; that it shall then take precedence of all other matters, and then come up for debate. Of course the bill will be printed by that time, and we can see the bill and the report upon which the bill is based. That will give us all an opportunity to read it. I believe that all of us upon this side are willing that this bill shall take precedence of the other bills that were made special orders, and that it be taken up then and receive the usual consideration. It is for the other side to say whether they will or will not agree to that proposition.

Mr. ELIOT. Before I reply to the gentleman from Ohio [Mr. LE BLOND] I desire to know whether the proposition is to have the bill acted on to-morrow?

Mr. LE BLOND. No, sir; my proposition is that the bill shall come up for debate in precedence of all other special orders; that can be done by unanimous consent. I do not propose that it shall be acted on to-morrow.

Mr. ELIOT. I suppose that action on the bill to-morrow will be under the control of the House.

The SPEAKER. The Chair will state the proposition of the gentleman from Ohio [Mr. LE BLOND] to the House, and will then ask if there be any objection. The proposition is that this bill shall remain pending before the House; that the debate to-day shall progress upon the bill reported from the joint Committee on Reconstruction; but that to-morrow debate shall commence upon the bill reported from the select Committee on the New Orleans Riot. Is there any objection to that proposition?

Mr. WARD, of New York. I would inquire whether the debate upon this bill is to be unlimited?

Mr. SHELLABARGER. That matter will be under the control of the House.

Mr. WARD, of New York. They can filibuster to-morrow as well as now.

Mr. STEVENS. If I understand the proposition, it is that this bill shall come up for debate to-morrow. I would inquire if the previous question has not been seconded?

The SPEAKER. It has; but if this proposition is agreed to by unanimous consent the operation of the previous question will be dispensed with.

Mr. STEVENS. Then I must object to that part of the proposition.

Mr. ELIOT. I hope the gentleman will not object. It is very hard to ask gentlemen to vote upon this bill without any opportunity for discussion.

Mr. STEVENS. It is very hard to be incubating here for a week or two and then find everything added. [Laughter.]

The SPEAKER. The Chair will state that if the proposition of the gentleman from Ohio [Mr. LE BLOND] shall be agreed to, and the gentleman from Massachusetts [Mr. ELIOT] shall signify to the Chair to-morrow or any other day that he desires to obtain the floor in order to move the previous question on this bill, the Chair according to usage will recognize the gentleman, he having reported the bill, as entitled to take the floor for the purpose of closing debate.

Mr. STEVENS. I cannot agree to that.

The SPEAKER. Then the question recurs upon ordering the main question to be now put.

Mr. FARNSWORTH. I move to reconsider the vote by which the previous question was seconded.

Mr. ALLISON. I move to lay the motion to reconsider on the table.

Mr. ELDRIDGE. On that motion I call for the yeas and nays.



The SPEAKER. The yeas and nays cannot be ordered on the reconsideration of a motion which cannot be decided by yeas and nays.

Mr. ELIOT. If the seconding of the previous question be reconsidered will that have any effect in bringing about what the gentleman from Ohio [Mr. LE BLOND] proposes, and what I myself desire to have done?

The SPEAKER. If the motion to reconsider shall prevail, the bill will then be before the House for debate and action.

Mr. ELIOT. I hope the gentleman from Illinois [Mr. FARNSWORTH] will not press his motion to reconsider.

Mr. FARNSWORTH. I must insist upon my motion.

The question was then taken upon laying on the table the motion to reconsider the vote by which the previous question was seconded; and upon a division, there were—ayes 50, noes 58.

Mr. ALLISON called for tellers.

Tellers were ordered; and Messrs. ALLISON and FARNSWORTH were appointed.

The House divided; and the tellers reported—ayes 65, noes 66.

So the motion to reconsider was not laid on the table.

The question then recurred on reconsidering the vote by which the previous question had been seconded.

Mr. ALLISON called for tellers.

Tellers were ordered; and Messrs. SHELLBARGER and LE BLOND were appointed.

The House divided; and the tellers reported—ayes 64, noes 66.

So the motion to reconsider was not agreed to.

The SPEAKER. The question now recurs, "Shall the main question be now put?" on which the yeas and nays have been ordered.

Mr. ELIOT. Before the roll-call is proceeded with I desire to inquire whether I understand the proposition of the gentleman from Ohio, [Mr. LE BLOND.] I am very desirous that the House should have an opportunity to discuss this subject, but—

Mr. ALLISON. I object to debate.

The SPEAKER. Debate is not in order pending the operation of the previous question.

The question was taken on ordering the main question; and it was decided in the affirmative—ayes 84, nays 59, not voting 47; as follows:

YEAS—Messrs. Alley, Allison, Arnell, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Blaine, Blow, Boutwell, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Deuing, Dixon, Donnelly, Dumont, Eckley, Eggleston, Eliot, Farnham, Ferry, Grinnell, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, John H. Hubbard, Hulburt, Ingersoll, Julian, Kelley, Koontz, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Maynard, McClurg, McIndoe, McRuer, Mercier, Miller, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Price, Alexander H. Rice, Rollins, Sawyer, Scofield, Shellbarger, Sloan, Spalding, Starr, Stevens, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, William B. Washburn, Wentworth, James F. Wilson, Stephen F. Wilson, and Woodbridge—84.

NAYS—Messrs. Ancona, Baker, Bingham, Boyer, Campbell, Chanler, Cooper, Davis, Dawes, Denison, Dodge, Eldridge, Farnsworth, Finck, Glossbrenner, Goodyear, Aaron Harding, Hawkins, Hise, Hogan, Edwin N. Hubbard, James H. Hubbard, Humphrey, Hunter, Kerr, Kuykendall, Laffin, Latham, Le Blond, Lettwith, Marvin, McKee, Niblack, Nicholson, Noell, Phelps, Plants, Radford, William H. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Schenck, Shanklin, Sitgreaves, Stilwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, Thornton, Robert T. Van Horn, Andrew H. Ward, Whitley, and Windom—59.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, Benjamin, Bergen, Bidwell, Brandegee, Bromwell, Buckland, Bundy, Conkling, Culver, Darling, Dawson, Deftrees, Delano, Briggs, Garfield, Griswold, Hale, Abner C. Harding, Harris, Hart, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Jenckes, Jones, Kasson, Kelso, Ketcham, Marshall, Marston, McCullough, Moorhead, Morrill, Pomroy, Samuel J. Randall, John H. Rice, John L. Thomas, Trimble, Elihu B. Washburne, Henry D. Washburn, Welker, Williams, Winfield, and Wright—47.

So the main question was ordered.

Mr. ELIOT. I move to reconsider the vote

just taken; and also move that the motion to reconsider be laid on the table.

Mr. FINCK. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. FINCK. Is it in order to move to lay the bill on the table?

The SPEAKER. It is.

Mr. FINCK. I make that motion.

Mr. ELDRIDGE. On that motion I call for the yeas and nays.

Mr. ELIOT. I desire an opportunity to say one word before the roll is called.

Mr. ELDRIDGE. I object.

Mr. BROOMALL. Is it in order to call for the reading of the bill at this time?

The SPEAKER. It is. A motion to lay on the table having been made the bill is in a different stage.

Mr. BROOMALL. I call for the reading of the bill.

Mr. ELIOT. Before the Clerk reads the bill I desire to announce that it is my purpose before the vote is taken to move an adjournment so that gentlemen may have an opportunity to read the bill.

Mr. ELDRIDGE. Why cannot the gentleman move to adjourn now, leaving the bill in its present position?

The SPEAKER. A motion to adjourn would be in order, having priority of the motion to lay the bill on the table.

Mr. ELIOT. Mr. Speaker, it is very obvious that we cannot profitably continue our session to-day. It is very desirable that gentlemen shall have an opportunity to read the bill before they are called upon to vote on it. In order that this opportunity may be afforded, and that we may dispense with needless motions and roll-calls, I move that the House now adjourn.

#### ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bill No. 183, concerning the fire department of Washington city; when the Speaker signed the same.

#### PROFESSOR AGASSIZ'S VISIT TO BRAZIL.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, transmitting, in compliance with a resolution of the House asking "for any official correspondence which may have taken place in regard to the visit of Professor Agassiz to Brazil," a report from the Secretary of State; which were referred to the Committee on Foreign Affairs, and ordered to be printed.

#### MAIL CONTRACT FINES, ETC.

The SPEAKER, by unanimous consent, also laid before the House, in compliance with law, a report of the fines and deductions from the pay of contractors during the year ending June 30, 1866; which was laid upon the table, the law providing that such reports shall not be ordered to be printed.

#### QUARTERMASTER GENERAL'S CONTRACTS.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting, in compliance with law, a statement of the Quartermaster General of all contracts made during the month of January, 1867, and those not previously sent in other reports; which were laid upon the table, and ordered to be printed.

#### PACIFIC RAILROAD BONDS.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Treasury, in answer to a resolution of the House relative to the amount of bonds issued to the Central Pacific railroad and also the Union Pacific railroad companies, miles of road completed, &c.; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

#### LAWS OF ARIZONA.

The SPEAKER, by unanimous consent, also

laid before the House laws of the Territory of Arizona; which were referred to the Committee on the Territories.

#### AMENDMENTS ORDERED TO BE PRINTED.

Mr. BINGHAM, by unanimous consent, moved that an amendment which he proposed to offer to the pending bill, touching the establishment of military divisions in the southern States, be printed.

The motion was agreed to.

By unanimous consent, the House also ordered to be printed an amendment which Mr. BLAINE proposed to offer to Mr. BINGHAM's amendment.

#### CONGRESSIONAL TEMPERANCE SOCIETY.

Mr. PRICE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas a society has been formed by the members of the Thirty-Ninth Congress called the "Congressional Temperance Society;" and whereas it is contemplated by said society to hold a public meeting on Sunday, the 17th instant, at seven and a half o'clock p. m.: Therefore,

Resolved, That the Hall of the House of Representatives be granted for that purpose, to enable members of the House to take part in the ceremonies on that occasion.

Mr. LE BLOND. We make no objection, for it may be such temperance society is needed.

Mr. ELDRIDGE. The restaurant ought to be closed on that occasion. [Laughter.]

Mr. PRICE. I agree to that.

The SPEAKER. There is no liquor sold in the restaurant.

Mr. LAFLIN asked leave to submit some reports from the Committee on Printing.

Mr. RANDALL, of Pennsylvania, objected. The question then recurred on Mr. ELIOT's motion to adjourn.

The House divided; and there were—ayes 72; noes 38.

Mr. WARD, of New York, demanded the yeas and nays.

The yeas and nays were not ordered.

So the motion was agreed to; and thereupon (at three o'clock and thirty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of 11 soldiers and 92 citizens of Lee and Scott counties, Virginia, and War Gap, Tennessee, and vicinity, asking protection against the judicial power of that part of Virginia which they declare is used against Union men and Union soldiers.

By Mr. ASHLEY, of Ohio: The petition and accompanying papers of Daniel Woodhouse, president of the United States, European, and West Virginia Land and Mining Company, concerning his contract with and obligation of the republic of Mexico and for the enforcement of the same.

By Mr. CLARKE, of Kansas: A memorial from the Legislature of the State of Kansas, asking Congress to grant increased pensions to soldiers of the war of 1862.

Also, a memorial from the Legislature of the State of Kansas, praying Congress to grant for the use and benefit of the "freedmen's university, sections of land in the State of Kansas, from any public lands not otherwise disposed of."

Also, a memorial from the Legislature of the State of Kansas, asking that the benefit of the homestead law be extended to the settlers on lands recently purchased of the Osage Indians.

Also, a memorial from the Legislature of the State of Kansas, praying for the passage of Senate bill No. 489, entitled "A bill to provide for giving the right of preemption to settlers on the Cherokee neutral lands in Kansas, and for other purposes."

Also, a memorial from the Legislature of the State of Kansas, praying that the same aid be granted to the Union Pacific railway, southern branch, as is now granted by law to the Union Pacific railway.

Also, a memorial from the Legislature of the State of Kansas, praying Congress to pass the bill to refund certain bounties withheld either by negligence or fraud from veteran volunteers of company G, eighth regiment, first Army corps.

Also, a memorial from the Legislature of the State of Kansas, praying Congress to make an appropriation to enable the Department of Agriculture to make a scientific investigation of the nature, causes, and results of the cattle disorder, known as the Spanish fever or Texas cattle disease.

By Mr. DONNELLY: The petition of William A. Jackson, and 52 others, citizens of Hennepin county, Minnesota, asking for the impeachment of Andrew Johnson, President of the United States and his removal from office.

By Mr. ECKLEY: The petition of 35 citizens of Smithfield, Jefferson county, Ohio, against the cur-

tailment of the currency, and against requiring national banks to redeem their circulation in the city of New York.

By Mr. ELDRIDGE: The petition of citizens of Wisconsin, Illinois, and Michigan, for a survey and estimate of the cost of making a suitable harbor at the mouth of Menomonee river.

By Mr. FERRY: The petition of Maleom Campbell, Albert Nuart, Joseph Heald, M. Fannan, Duane Thompson, E. C. Dicey, and 113 others, citizens of White River, Michigan, protesting against the curtailment of national currency and the redemption of notes in New York.

By Mr. FINCK: The petition of Wiley H. Beckett, and others, praying for the establishment of a mail route from Columbus, Ohio, to Beckett's Store, in Pickaway county, in the same State.

By Mr. GARFIELD: The memorial of Jesse Baldwin, of Youngstown, Ohio, praying for the repeal of the law which makes paper money a legal tender in payment of debts.

By Mr. HARDING, of Illinois: The petition for mail route from Rock Island to Sterling, Illinois.

By Mr. KETCHAM: The petition of R. C. Jones, for additional pay.

By Mr. LONGYEAR: The memorial of J. Owen, and others, citizens of Detroit, Michigan, asking that some proper expression on the part of Congress be made in behalf of Captain McKay, and his comrades of the steamboat City of Cleveland, for meritorious services in saving the lives of the crew of revenue steam-tug Winslow, on the night of October 7, 1864; and for compensation for losses incurred in such service.

By Mr. LYNCH: The petition of William C. Howe, and others, asking an equalization of tax on incomes.

By Mr. MORRIS: Concurrent resolutions passed by the Legislature of the State of New York requesting the Senators and Representatives of said State to sustain the passage of such a law as shall aid in the construction and completion of the Northern Pacific railway.

By Mr. RAYMOND: Three several memorials from John C. Green, William H. Aspinwall, Oliver Charlick, Thurlow Weed, Phelps, Dodge & Co., John J. Cisco, and others, citizens of New York, remonstrating against any action looking toward the impeachment of the President, and praying for the adoption of measures that will promote the peace and prosperity of the Union.

By Mr. RICE, of Massachusetts: The memorial and resolves of the Boston Board of Trade, against any change in the laws regulating the currency and national banks.

By Mr. SCHENCK: The memorial of Vice Admiral Curtiss, praying that Congress will afford relief to the widow and children of D. C. Heap, late paymaster United States Army.

By Mr. SCOTFIELD: The petition of citizens of Farmington, Pennsylvania, praying for the impeachment of the President.

Also, the petition of citizens of Farmington, Pennsylvania, in favor of universal suffrage.

By Mr. WELKER: The petition of Daniel E. Foote, and 125 others, citizens of La Fayette township, Medina county, Ohio, asking for the passage of the tariff bill of last session of Congress.

Also, the petition of O. S. Bart, and 120 others, citizens of Granger township, in Medina county, Ohio, on the same subject.

## IN SENATE.

MONDAY, February 11, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.

The reading of the Journal of Saturday last was dispensed with, by unanimous consent, at the suggestion of Mr. CHANDLER.

## THE CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore* laid before the Senate an attested copy of the resolutions of the Legislature of Ohio ratifying the amendment to the Constitution of the United States, proposing an additional article to be known as article fourteen; which were ordered to lie upon the table.

## PETITIONS AND MEMORIALS.

Mr. POLAND presented the petition of A. P. Childs and others, temporary clerks in the Quartermaster General's office, praying that their pay be increased to equal that of first-class clerks; which was referred to the Committee on Finance.

He also presented a memorial of citizens of Vermont, remonstrating against the passage of any act authorizing the curtailment of the national currency, or having in view the return within a limited time to specie payments, and against compelling all national banks to redeem their notes in New York, or prohibiting them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

Mr. WILLEY presented the memorial of Joseph Nock, praying for the restoration of the sixth section of the act entitled "An act in addition to an act to promote the progress of

the useful arts, and to repeal acts and parts of acts heretofore made for that purpose," approved August 29, 1842, which requires all patentees and assignees of patents to stamp, engrave, or cause to be stamped or engraved on each article vended or offered for sale the date of the patent repealed by act of March 2, 1861; which was referred to the Committee on Patents and the Patent Office.

Mr. SHERMAN presented resolutions of the Legislature of Ohio, ratifying the amendment to the Constitution of the United States proposed to the several States by a joint resolution of the two Houses of Congress passed on the 18th day of June, 1866, to be denominated article fourteen of amendments to the Constitution of the United States; which were ordered to lie upon the table.

Mr. JOHNSON presented the petition of Henry Horne, praying for compensation for money advanced for the purchase of supplies for the use of the Union prisoners at Andersonville, Georgia; which was referred to the Committee on Claims.

Mr. CATTELL presented the memorial of Joshua H. Butterworth, praying for an extension for seven years of his patent for a bank and safe lock; which was referred to the Committee on Patents and the Patent Office.

He also presented a petition, numerously signed by operatives and employés in the manufacturing establishments of Philadelphia, praying for a removal of the five per cent. tax on goods and a drawback of three cents per pound on cotton to be refunded to the manufacturer, and a tax on all articles of luxury not produced in the United States; which was referred to the Committee on Finance.

Mr. POMEROY presented seven petitions of citizens of Kansas, praying for the establishment of a daily mail route from Troy to Leavenworth, in that State, via Doniphan and Atchison; which were referred to the Committee on Post Offices and Post Roads.

Mr. FOWLER presented the petition of Robert Ford, praying for compensation for services as a teamster in the United States Army, and for services to Union prisoners in Libby prison; which was referred to the Committee on Claims.

## REPORTS OF COMMITTEES.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (H. R. No. 269) for the relief of certain officers of volunteers, to submit an adverse report. The resolution provides that officers who were ordered to report to New York for the purpose of being mustered as officers into the brigade of General Ullman shall receive certain pay. The committee report against the resolution on the ground that at the last session a general law was passed that would cover the case. I move that the joint resolution be indefinitely postponed.

The motion was agreed to.

Mr. WILSON. I am directed by the same committee to report back the bill (H. R. No. 1136) to amend the act establishing the National Asylum for Disabled Volunteers. This bill provides that any director, a member of the board, who shall be elected to Congress may serve out his term. The committee thought it best not to change the general law to meet a special case. They directed me, therefore, to report adversely to this bill. I move its indefinite postponement.

The motion was agreed to.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom were referred the following bills and joint resolution, reported them without amendment:

A bill (H. R. No. 942) donating a portion of the Fort Leavenworth military reservation for the exclusive use of a public road;

A bill (H. R. No. 1003) for the relief of the members of the twenty-first New York cavalry;

A bill (H. R. No. 1141) to authorize the purchase of certain lots of ground adjoining

the Allegheny arsenal, at Pittsburg, Pennsylvania;

A bill (H. R. No. 1137) for the relief of Oliver Lumphrey; and

A joint resolution (H. R. No. 263) for the purchase of David's Island, New York harbor.

He also from the same committee, to whom was referred the petition of William T. Connell, John Keplinger, and Isaac Conrad, private soldiers who were enlisted into Captain Shail's company of seventh West Virginia volunteers, August 17, 1861, and were captured prior to muster and held as prisoners till January 9, 1863, praying to be allowed the pay of privates from August 17, 1861 until January 9, 1863, reported a joint resolution (S. R. No. 167) for the relief of certain enlisted men of the seventh regiment of West Virginia volunteers; which was read and passed to a second reading.

Mr. WILLEY. A few days since the bill (S. No. 491) amendatory of the several acts respecting copyrights, which came back from the House of Representatives with a slight amendment, was, inadvertently I suppose, referred to the Committee on Patents and the Patent Office. The bill originally came from the joint Committee on the Library. I am now directed by the Committee on Patents and the Patent Office to ask to be discharged from its further consideration, and I move its reference to the joint Committee on the Library.

The motion was agreed to.

Mr. SPRAGUE. I am instructed by the Committee on Military Affairs and the Militia, to report adversely upon the joint resolution (H. R. No. 272) fixing the pay of the clerks at the Springfield armory, and I move its indefinite postponement.

The motion was agreed to.

Mr. SPRAGUE. I am also directed by the same committee to report adversely upon the bill (H. R. No. 811) for the relief of certain drafted men. I move that this bill be indefinitely postponed.

The motion was agreed to.

Mr. HOWARD, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 161) for the relief of Captain A. B. Dyer, submitted an adverse report, which was ordered to be printed.

Mr. FOGG, from the Committee on Claims, to whom was referred the petition of O. E. Dreutzer, praying for compensation for services rendered as consul at Bergen, in Norway, reported a bill (S. No. 586) for the relief of Orlaf E. Dreutzer, late consul of the United States to the Kingdom of Norway; which was read and passed to a second reading.

Mr. KIRKWOOD, from the Committee on Public Lands, to whom was referred the joint resolution (S. R. No. 150) extending the time for the completion of improvement of Fox and Wisconsin rivers, reported it with an amendment.

Mr. CRESWELL, from the Committee on the Library, to whom was referred the petition of Harriet G. Peale, Rosalba P. Underwood, and John H. Griscom, executors of the estate of the late Rembrandt Peale, artist, praying for an appropriation for the purchase of Peale's painting, now in the rotunda, entitled Washington before Yorktown, submitted an adverse report, and asked to be discharged from its further consideration; which was agreed to.

## BILLS INTRODUCED.

Mr. FOWLER asked, and by general consent obtained, leave to introduce a joint resolution (S. R. No. 168) for the relief of Robert Ford; which was read twice by its title, and referred to the Committee on Claims.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 587) to incorporate the Atlantic and Island Wrecking Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No.

588) for the relief of William H. Webb; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 589) to amend an act entitled "An act to incorporate the National Theological Institute," and to define and extend the powers of the same; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 590) granting jurisdiction to the Court of Claims in a certain cause involving the right to the use of a patent; which was read twice by its title, and referred to the Committee on the Judiciary.

#### AMENDMENT OF THE CIVIL RIGHTS ACT.

Mr. SUMNER. I offer the following resolution; and ask for its present consideration:

*Resolved*, That the Committee on the Judiciary be directed to consider the expediency of an amendment to the civil rights act extending its operations so that where the residents of any State, being citizens of the United States, are debarred from any of the privileges of citizens of such State, then all cases arising out of any offense against any such resident, and also all cases between any such resident on the one part, and any citizen of such State not debarred from any of the privileges thereof on the other part also shall be heard and determined by the courts of the United States, and not by the courts of the State.

Mr. SAULSBURY. I object to the consideration of the resolution.

The PRESIDENT *pro tempore*. Objection being made, the resolution will lie over.

#### PROVISIONAL GOVERNORS.

Mr. CHANDLER. I move that the Senate proceed to the consideration of the resolution offered by me on Saturday.

The PRESIDENT *pro tempore*. The resolution will be read for the information of the Senate.

The Secretary read it, as follows:

*Resolved*, That the Committee on the Judiciary be directed to inquire and report to the Senate whether Andrew Johnson, Vice President of the United States, and acting President, had any authority of law or under the Constitution to appoint provisional governors for the States lately in rebellion against the Government.

The PRESIDENT *pro tempore*. The question is, Will the Senate proceed to the consideration of this resolution?

Mr. CHANDLER. Mr. President, I look upon this resolution as very important at this time. If the President of the United States had no authority of law or under the Constitution to appoint provisional governors for the States lately in rebellion, then all action under those governors falls. There have been no governments established over those States if their inception itself was illegal. I desire that the Committee on the Judiciary should make an early report upon this point. It is due to the President and it is due to the country that it shall be settled, and settled at an early day. I am not a lawyer, and am hardly competent to decide for myself whether there was any such authority.

We know, sir, that when Andrew Johnson, through the bullet of J. Wilkes Booth, became President of the United States, the rebels had laid down their arms; that all the rebel States were held by military power; and under this military power Andrew Johnson had a right to appoint military governors, not only for every one of the States lately in rebellion, but for every city, had he seen fit so to do. The laws of war are as well understood as written constitutions or the laws of peace. They regulate and govern and control all civilized nations. When Mr. Lincoln desired to create a government in Tennessee he appointed Andrew Johnson a brigadier general in the Army of the United States, and as Brigadier General Andrew Johnson, of the Army of the United States, he appointed him military governor of the State of Tennessee. That he had a right to do as Commander-in-Chief of the Army.

But, sir, it is another and a different thing to appoint a provisional governor. I believe that is an office unknown to the Constitution

or to the laws of our Government, an office which, in my judgment, he had no authority to create. Those governors were not sent before us for confirmation; nor would it have made them any more governors if we had confirmed them, because the Senate and Andrew Johnson together could not have created an office. If there was no authority of law for it, then it required the House of Representatives and the Senate and Andrew Johnson united, having first enacted a law creating the office, before the officer could be thus appointed.

Under the laws of war, as I have said, he had a right to hold these States by military power and force. Those laws of war have been changed from age to age. They are arbitrary. They are simply the will of the conqueror. Under the laws of war in ancient times prisoners of war were remorselessly put to death, but those laws from age to age became modified. But, sir, as late as the year 1866, and as late as the month of July in the year 1866, the laws of war empowered the conqueror to levy all the expenses of the war upon the conquered. When Prussia conquered Austria she not only took from Austria what Provinces she desired, but she actually compelled Austria to pay thirty million florins for the expenses of the war. When Prussia annexed Frankfort-on-the-Main she made Frankfort pay for the expense of conquering her, in *edim*. Under the laws of war the conquered must submit to the will of the conqueror; and the United States had a perfect right to make these rebels pay the whole expense incurred by this Government in putting down the rebellion under the laws of war.

If Andrew Johnson, in violation of law, in violation of the Constitution, and without authority under the laws of war, has assumed willfully a power that did not belong to him but which belonged to Congress, then I do not hesitate to say—and I say it with all deliberation—that for that one act, and that alone, Andrew Johnson should be impeached. I say it as one of his judges. If he is guilty—I say it understanding the force of what I say—for this one act of usurpation, if it was without authority of law, or under the Constitution, or under the laws of war; then, sir, he should be impeached. A judge on the bench has a right to say, "If that man is guilty of murder he ought to be hanged; if the other man is guilty of horse stealing he should be sent to the State's prison." A judge has a right to say that; and I have a right to say that if Andrew Johnson is guilty of this high usurpation of which he has been charged, he ought to be impeached for that one act, and that alone.

But, Mr. President, there are other high allegations made against Andrew Johnson, acting President of the United States. It is alleged—I know not whether the allegation be true or false, but it is alleged—that Andrew Johnson delivered over property seized from rebels, the railroad rolling-stock throughout the South, without authority of law, to those rebel railroad organizations. It is alleged again that the railroad rolling-stock that was sent from the North to the South, amounting to many million dollars, was, without authority of law and in violation of law, and by the express orders of Andrew Johnson, sold on a credit to those rebel railroad organizations. If this allegation be true, then I say Andrew Johnson had as much right to put his hand into the Treasury of the United States and take out so many million dollars as he had to sell that rolling-stock to those rebel railroads on a credit, and for that act of usurpation, I say, if he be guilty, he should be impeached and removed.

Sir, this is a Government of law, and the President is the mere Executive to carry out the law. It is his sworn duty to obey and execute the law, and if he fails in that duty he is amenable to the law the same as any other individual in the United States.

It is alleged again, I know not whether the allegation be true or false, but it is alleged that Andrew Johnson, without authority of

law, and in violation of law ordered the collection of the direct tax levied upon the rebel States to be stopped. I know not whether this be true or false. The allegation is made, and if it be true that in violation of law and against law he ordered this thing done, then for that act Andrew Johnson should be impeached and removed.

It is likewise alleged that Andrew Johnson has acted in direct violation of the provision of the Constitution which says:

"[To [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

The Constitution has appointed his advisers. The Senate of the United States must advise as well as consent. The Constitution so declares. It is alleged that in direct violation of this clause of the Constitution he not only has not advised with the Senate, but he has appointed men deliberately who have been rejected by the Senate. I know it will be claimed that this has been done before, and that for it he has a precedent. It is true that in two or three instances General Jackson did reappoint men who had once been rejected by the Senate, and I do not hesitate to say that for that act of usurpation General Jackson should have been impeached by the Congress of the United States.

But, sir, I will pass that over and come to another allegation that is yet more startling. It is alleged—I know not whether it be true or false—but it is alleged that Andrew Johnson made appointments during the recess of the Senate by removing the incumbents, and during the late long session of Congress did not send their names to the Senate at all, but on the adjournment of the Senate, without consulting the Senate, and in direct violation of the Constitution and of his oath of office, reappointed those men, never having sent their names to the Senate at all. I know not whether that allegation be true or false; but if it be true I say Andrew Johnson should be impeached for that one act and that alone. Sir, if the Congress of the United States permit such a violation of the Constitution as that to go unpunished the Congress of the United States should never meet again. The English Parliament for hundreds of years has watched with zealous and jealous care all encroachment of the kingly power upon the Constitution of England. Had any British minister been guilty of any one of the acts which are alleged to have been committed by Andrew Johnson he would have been impeached for any one of them.

Mr. President, much has been said both in this body and before the people of the country about the plan of the President. I should like to ask any member of this body what right the President has to have a plan outside of the laws of Congress. The President has a right to advise Congress what plan it shall adopt; so has every individual in the United States the same right. If Congress sees fit to adopt the plan of the President, well and good; it becomes the plan of the nation; and if Congress sees fit to adopt the plan of John Jones, who by petition advises Congress to adopt it, then John Jones's plan becomes the plan of the Government. But, sir, if Congress declines to accept the plan of John Jones or of Andrew Johnson, (it is perfectly immaterial which,) then the plan falls to the ground; and John Jones has the same right to proclaim to the nation that his plan is to be carried out as Andrew Johnson has that his plan is to be carried out: they have been both rejected by the law-making power. Sir, I have heard enough of this presidential plan. What right has Andrew Johnson to a plan that has been rejected by Congress? He has no more right than my horse. The plan has been rejected; it is ended, and I want to hear no more of the President's plan.



Let the President of the United States obey the laws. If he do not obey the laws let him do it at his peril.

But, sir, there is a kind of timidity and dread that we, in executing our constitutional powers, shall bring some dreadful calamity upon this great nation. Mr. President, this nation has come victorious out of the most terrible rebellion that the world has ever seen. It has fought Jeff. Davis for four years, sustained by the inhabitants of the rebel States; it has conquered the rebellion; and now, sir, what fearful calamity could be brought upon this nation by our exercising our constitutional rights? Mr. President, the removal by impeachment of a man who has violated the Constitution and who ought to be removed—I care not whether he be President of the United States, or occupies the chair which you so ably fill, or what position he occupies—would produce about the same amount of excitement in the country that the removal of the custom-house officer in the city of New York would occasion, and not any more.

This people has decreed, and that decree has been registered on high, that this nation shall stand; and no man, and no set and no combination of men, I care not whether it be headed by Jefferson Davis or Andrew Johnson or any other living man, can overthrow it. It has withstood every assault, and it will stand against every assault that will ever be made upon it. I hope, Mr. President, that the resolution will be adopted.

Mr. DIXON. Is the resolution before the Senate?

The PRESIDENT *pro tempore*. Not yet.

Mr. DIXON. When it shall be before the Senate I desire to propose an amendment to it.

Mr. CHANDLER. Mr. President, I ask for a vote.

The PRESIDENT *pro tempore*. The Chair will take the vote as soon as debate ceases upon the question whether the resolution shall be taken up.

Mr. DIXON. The Senator from Michigan has said with truth that it is important to know whether the President of the United States exceeded his authority in appointing provisional governors. So far I agree with him. Perhaps I should not agree with him as to the propriety of a Senator rising here in his place and calling on the House of Representatives to impeach the President; but in not agreeing with him perhaps I may be wrong. The Senator of course knows what it is proper for him to say; but it struck me while I was listening to the remarks of the Senator that he was not adding very much to the credit for impartiality as a judge which he will desire to have if an impeachment ever comes before this body, and he shall sit here with his ermine on as one of the judges to try the case. It strikes me that what he has said will not add much to that credit for impartiality which the Senator already has. But, sir, whether his remarks are proper at this time is not for me to decide: that is a question for himself.

The Senator says that it is very desirable to know whether President Johnson had a right to appoint provisional governors. I agree that it is important, more especially if that is to be the basis of an impeachment, as I take it for granted it is from the remarks which have fallen from the Senator from Michigan. It is also important to know what have been the precedents on this subject; it is important to know what other Presidents have done under like circumstances; and therefore I shall ask the Senator to consent, and if he does not consent I shall ask the Senate to vote, to insert in the resolution an amendment to this effect, that the committee be instructed to inquire whether Abraham Lincoln, late President of the United States, and Andrew Johnson who have both performed these acts had authority to do them. I shall propose when the resolution is before the Senate something in these words, to insert before the words "Andrew Johnson" the words "Abraham Lincoln, late President of the United States," and then to continue,

"and Andrew Johnson, acting President," according to the Senator's expression, so as to inquire whether they had this authority. I presume there will be no objection to this amendment, more especially as the Senator is mistaken in saying that President Lincoln only appointed Andrew Johnson military governor of Tennessee and made him a brigadier general. The gentleman is mistaken in point of fact in regard to that. Andrew Johnson was appointed military governor expressly without reference to his commission.

But aside from that, take the case of Edward Stanly. Edward Stanly was not a brigadier general of the United States when he was appointed provisional governor of North Carolina. I presume the Senate will consent to this amendment.

The PRESIDENT *pro tempore*. The resolution is not yet before the Senate; the question is on the motion to take it up for consideration.

The motion was agreed to.

The PRESIDENT *pro tempore*. The resolution is before the Senate.

Mr. CONNESS. I offer the following amendment to the resolution: in line four of the resolution strike out the word "Vice," and in lines five and six strike out the words "and acting President;" so as to read "whether Andrew Johnson, President of the United States, at any time," &c.

Mr. CHANDLER. I am informed that as the resolution was originally drawn it gives the true title by which he should be addressed, and I believe it to be so; still it is perfectly immaterial.

Mr. CONNESS. I hope that, as the Constitution makes the Vice President President to all intents and purposes, we shall not in any formal proceedings adopt any form of language which shall detract from the office; and I desire this to be done without any reference to the subject-matter of the resolution at all. I hope it will not enter into the argument.

Mr. HOWARD. I like the form of my colleague better than that suggested by the honorable Senator from California. It is merely a question of form and not, as I think, a question of substance. The Constitution does not declare that on the death of the President of the United States the person elected Vice President becomes President.

Mr. CONNESS. I am aware of that.

Mr. HOWARD. That is not the title which is given; the Constitution provides that—

"In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve upon the Vice President."

This contemplates a case in which the President of the United States proper may be still in life although unable to discharge the duties of the office. In that case it seems to me that we should hardly call the *locum tenens* of the office, which would be the position occupied by the Vice President, the President of the United States. I therefore prefer the form contained in my colleague's resolution. There is in it certainly nothing disrespectful to the gentleman who now occupies and performs the presidential functions. If we are to consult perfect accuracy I think the form of my colleague is to be preferred.

Mr. CONNESS. I apprehend that if the history of the entire proceedings of the Senate shall be examined, in all the resolutions that have been offered calling upon the President of the United States for information in every respect whatever, it will not be found that he has been addressed or alluded to officially in any other form by the Senate than as President of the United States. I do not think there is a citizen in the Republic that proposes in any manner to detract from the great dignity of that great office. To adopt the form of the resolution which the honorable Senator from Michigan says he prefers would be to change the practice of the Senate. I confidently appeal to the universal practice of the Senate for the propriety of the change that I propose to make.

Mr. FESSENDEN. I agree entirely with the Senator from California, as to the propriety of his motion to substitute the term "President." There is no question I believe on that point; it has been held always that the Vice President in such a case became President of the United States. The duties of the office devolve on him, and the office devolves on him, and I see no necessity for varying from the ordinary course. But I did not rise to speak to that question. I have no objection personally to this resolution passing if the Senator from Michigan chooses to offer it and the Senate choose to pass it. What I have to say is that if I were a member of the Judiciary Committee to which the resolution is proposed to be referred, if it should be so referred in the present state of things, I would not act upon the matter; I would not investigate it; I would not report upon it individually, for the simple reason that in the present state of things when an investigation is going on in the House of Representatives looking to a possible impeachment of the President, and when this matter is under consideration in the House, I do not think that as one Senator I would consent to investigate or form or express an opinion upon anything that might by possibility be included in any charges made by the House of Representatives. Since this matter has been discussed in the public press and by individuals I have had but one rule, and that is not only not to express an opinion upon any subject which has been discussed with reference to the President; but further than that, to be careful not to form any opinion or to make any investigation whatever of any description which might tend to influence my mind, should by possibility such an event ever take place. I think, therefore, that it must be highly disagreeable, to say the least, for any Senator, having in view the fact that possibly he may be called upon to act as a judge upon this very question, to investigate it in advance and express an opinion upon it which might bind him and which might tend to influence his own mind when he came to set here in an entirely different capacity.

I have made these remarks simply to express to the Senate my notion that in the present condition of affairs it becomes us, every member of the Senate particularly, to be extremely cautious not only with reference to what we say, but with reference to allowing our minds to be influenced in any degree in advance by what possibly we may have to consider in a judicial capacity. I regret, therefore, that this resolution has been offered, although as I am not called upon to act on it, but the members of another committee are, it is not a matter for me particularly to interfere with. I regard it as something rather between them and the honorable Senator and the Senate to decide according to their judgment.

Mr. POMEROY. I have supposed every Senator has uniformly avoided expressing any opinion in regard to the question of impeachment. I have been asked a great many times, as I suppose other Senators have been, what is to be done on that subject. It is a matter of excitement in public assemblies where we have been. I have always declined saying anything in regard to it, because I have supposed that it was highly improper for a person who was to sit in judgment upon a case of that kind either to form or to express an opinion. That is the reason why I for one cannot give my consent even to the adoption of a resolution on this subject. I have supposed from what I learned in the papers that the matter would be presented to the Senate, and I thought that then would be time for us to consider it. But to consider it in advance of its being presented in a constitutional manner I think highly improper. I shall be ready, of course, as every Senator is, to consider the question when it is properly presented; but let it be presented under the form of the Constitution by the House of Representatives, and let us not incapacitate ourselves for a fair judgment by prejudging it now.

Mr. GRIMES. I move to lay the resolution on the table.

The motion was agreed to—ayes twenty-eight; noes not counted.

#### POSTAL LAWS.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of House bill No. 903, being the pension appropriation bill.

The motion was agreed to.

Mr. FESSENDEN. Now, I am willing to yield to my friend from New York, who has a motion to make.

Mr. MORGAN. With the consent of the chairman of the Committee on Finance, I move now to reconsider the vote on the passage of the bill (S. No. 527) to amend the postal laws, and for other purposes, which was passed on Saturday evening. I desire to have the motion entered for future consideration.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

Mr. CONNESS. It would be very much better if the honorable Senator would have the motion considered now, because the effect of entering it will be to keep the bill back, and it should go to the House of Representatives at once if it is not to be reconsidered.

Mr. MORGAN. I am entirely willing to have the question taken now, and I will give my reasons for making the motion.

The PRESIDENT *pro tempore*. The Chair is advised that the bill has been sent to the House of Representatives, and it will require that a message be sent to the House requesting the return of the bill before action can be taken on the motion to reconsider.

Mr. MORGAN. I move, then, that a message be sent to the House asking for the return of the bill.

Mr. RAMSEY. I should like to hear a statement of the reasons of the Senator from New York for this course.

Mr. MORGAN. The reasons for the reconsideration of this bill were stated on Saturday evening. I stated then that it was passed in a very thin Senate, with far less than a quorum present, and at a time, too, when after the executive session Senators were not expected to be present. It is deemed an important bill, changing salaries in many respects, and interfering with another bill which we are to consider to-night in relation to the compensation of clerks in the various Departments. As there was but a small number of Senators present when the bill was passed, eight or ten or twelve at the outside, I think the bill should be reconsidered and more fully examined than it has been.

Mr. RAMSEY. I hope the Senate will not agree to reconsider this bill. It disposes of a matter that we cannot well avoid taking care of. The Post Office Department have urged the measure upon us, and it has been well and thoroughly considered by the Committee on Post Offices and Post Roads of the Senate, and there is nothing in the bill which would justify this action on the part of the Senate.

Sir, the Post Office Department has grown with the growth of the country till its annual revenues now amount to between fourteen and fifteen million dollars. Is it strange that in the lapse of years modifications of its own organization should be required? This bill is intended to adapt the machinery of the Post Office Department to the present condition of things. One provision of the bill to which objection has been made provides for a superintendent of the dead-letter office. What is there extraordinary in that? In the dead-letter office there are now some eighty-five clerks. The Department ask that over that large number of clerks in that responsible bureau there shall be a superintending clerk, with a salary of \$2,000. The bill does not increase the number of clerks there, but it allows the selection of the most responsible and capable man for the purpose of being put in charge of that particular bureau.

Then again, the bill provides for a superin-

tendent of the foreign mail branch of the Post Office Department. The negotiation of postal treaties is effected by the Post Office Department without reference to the Senate. By an act of Congress of 1863, the executive department is allowed to enter into postal negotiations with foreign States. That has got to be a highly responsible and important branch of the business of the Post Office Department, and the Postmaster General asks that that bureau shall be placed in charge of some one officer who is specially fitted for it. This bill creates the bureau, so to speak, of foreign postal service, and gives to the head of that bureau an adequate salary, a salary commensurate with the character and capacity of a man fitted to fill the place. Surely there is nothing extraordinary in this.

Then again, there are in the United States three blank agencies, one in the city of Washington, one in the city of New York, and one in the city of Buffalo. The business of these blank agencies is to distribute to the various post offices the blanks, the wrapping paper, and the twine they need. It is a very important branch of the service. The amount of matter distributed is large, and its money value is large. The Post Office Department here believe they can economize and make more efficient this branch of service by bringing these three agencies here to the center at Washington and combining the three into one. They have asked the privilege to do that. The expense will probably be about one thousand dollars more than is now paid to these three agents; but it is believed there will be a large saving by the greater economy that will be effected in the distribution of the blanks, twine, and so on.

These, sir, are the principal provisions of this bill, with which the Senator from New York finds so much fault. You would suppose there was some extraordinary and hidden trick in it; some great plot to destroy the Government or to increase its expenditures immensely. It contains the few simple provisions which I have narrated, and in addition to them a section conferring power on the Postmaster General to increase the compensation of letter-carriers in the city of New York. The maximum now allowed to this meritorious class, who perform a valuable service in all seasons, without regard to the inclemency of the weather, often occupying many hours of the day, is \$900. This bill allows them to be paid \$1,200, which the committee thought to be reasonable, and which the merchants of New York, neighbors of the honorable Senator, in great numbers have asked the Government to allow. Beyond these provisions which I have thus stated, there is nothing of consequence in the bill, according to my present recollection.

Mr. FESSENDEN. Mr. President, if I had any sort of doubt as to the propriety of reconsidering the vote passing this bill, that doubt would be entirely dissipated by the speech which the honorable Senator from Minnesota has just made. It seems that it is a long bill, containing many provisions increasing salaries, creating offices, and making provisions with reference to the punishment of certain offenses. All three of these things are involved in it. I looked over it as reported in the Globe this morning, and some parts of it I am inclined to approve, and I do not know but that on examination I shall approve it all; but I was perfectly surprised to see that the bill had passed without examination. I have thought it my duty, whenever I have offered a bill or have had charge of a bill, which made changes in the laws, especially in regard to salaries, to call the attention of the Senate specifically to it, in order that they might understand what was being done.

But how was this bill taken up? We went into executive session on Saturday, and everybody knows that when at that time of day we go into executive session for a special object, especially after a motion has been made to adjourn, it is understood that the business of the day is at an end. I was not present; I went away supposing that nothing further was

to be done; but it seems that with some eight or ten Senators present, not a quorum, or anywhere near a quorum, this bill was taken up, discussed in all its provisions, and passed without a division being called. The practice is a dangerous one and ought at once to be stopped. I of course have no question and wish to make none in regard to my friend from Minnesota; he thought it was all right; he thinks so now; perhaps it is. But my objection is to taking up a bill of such importance at the time this was taken up, when Senators could not be expected to be present. If such a practice is permitted to grow up in the Senate we shall not know what is done here. I fully agree with the objection which was made at the time by the honorable Senator from Indiana, [Mr. HENDRICKS,] and if I had been present I certainly should have called for a division, even if I had been in favor of the bill, for the simple purpose of having a quorum of the Senate present when a bill of that sort was considered, and for the purpose of opposing the beginning of the practice of taking up a bill of importance under the circumstances under which this was taken up, with eight or ten Senators present, and at a time when it was understood that the Senate was not to do any business of consequence. I am opposed to such a practice, and for that reason, even if the bill is all right, I hope the Senate will send for it and reconsider it, and act upon it properly, when the Senate is in session and full.

Mr. CONNESS. I do not care whether the Senate send for this bill, reconsider it, and act upon it properly, as the honorable Senator from Maine would say, or not; but I cannot listen to the speech of that honorable Senator without making a few words of reply.

The Committee on Post Offices and Post Roads of this body is made up not quite as well as the committee headed by the honorable Senator. It would be difficult in a body of fifty Senators to find an equal number of Senators such as compose the committee he has the honor to be chairman, of equal wisdom, of equal influence in this body, and having equally the confidence of the country. But, sir, in making up the committee—I give the Senator my word, having had a little to do with it, an effort was made to make it a very respectable committee, a careful committee. But the honorable Senator will bear testimony with me that, notwithstanding the care in making up that committee, it is not composed of Senators that can get the ear of the Senate. When the honorable Senator brings in a bill here from his committee the Senate bows before him, and I the lowest of them all in obeisance; and any day that the Senator claims is the day of the Finance Committee, any hour that the Senator claims is the hour of the Finance Committee. Is it so, I ask the Senator in all candor, with the Committee on Post Offices and Post Roads? Much business is committed to their care. They sat upon this bill long in consideration. It was deliberated on by a full committee. They considered every proposition in it, but they could not get an hour of time for its consideration by the Senate. That was found simply to be impossible. What with the bills which the honorable Senator so ably handles—and he well knows that I but say what I mean—getting and claiming as they do the time of the Senate, and the bills represented by the honorable chairmen of the Committees on Military Affairs, on the Judiciary, on the District of Columbia, and the bankrupt bill, and last, though not least, the Niagara ship-canal bill, a bill to improve the postal laws is not heard of; not an instant of time can be obtained by the chairman of the Post Office Committee to obtain action upon it. This day we understand was to be occupied by the honorable Senator who is at the head of the Finance Committee; to-night is mortgaged for the consideration of a particular bill, and to-morrow night is I understand for the consideration of special bills. When are the postal bills to be considered?

I say to the Senate—and I make this reply

so that the Post Office Committee shall stand justified—that they did their best in considering the bill spoken of, and they would not have asked its passage at such a time as it was passed if they could have avoided it. If the bill is now referred in the House to the Committee on the Post Office and Post Roads of that body it will never be heard of again this session, for that committee will not be again called upon for reports. There is no chance of passing it there but by taking it from the Speaker's table and putting it on its passage. And yet it contains provisions of importance to the postal service, and which, as I repeat again, have been most carefully and exactly considered.

But our careful Senators rise here and object lest the passage of this bill under the circumstances be a precedent. I admit that it would be a very bad precedent, and certainly there would be no Senators less disposed to establish such a precedent than the members of the Post Office Committee of this body; and I ask again in all candor what could we have done? When could we have the bill considered? I submit to the Senate that if they desire to drag this bill back, if they desire by their action while they repudiate it by their words, to cast an imputation on the committee composed of some of the same members who constitute the honorable Senator's committee, let them do so, and if legislation is delayed and hindered it will not be our fault.

I make this statement in defense of the Post Office Committee, and as a matter of justice to them that the Senate may understand the facts.

Mr. FESSENDEN. I should be very sorry indeed if my friend from California or my friend from Minnesota should think that in what I said I meant to throw the slightest imputation either upon the Post Office Committee or upon them individually. I have no doubt that they acted in perfect good faith with a view to the public business, and from what I read in the bill as I glanced my eye over it carelessly I think I should approve of it from beginning to end generally.

Mr. CONNESS. Then why not leave it to us?

Mr. FESSENDEN. Because it cannot be left to a committee to pass a bill. That is the answer.

Mr. CONNESS. Does not the Senator know that we could not get an hour or half of an hour of the Senate?

Mr. FESSENDEN. I must say that I do not know that.

Mr. CONNESS. Does not the Senator believe it if he does not know it?

Mr. FESSENDEN. No doubt it is difficult to get time now. But my object in making the remarks I did make was simply to present what I think if followed as a precedent would, as my friend admits, be a very bad practice.

Mr. CONNESS. I know that.

Mr. FESSENDEN. Very well. Now with regard to this particular bill, I do not think that any harm would be done in passing it or leaving it stand passed. I have entire confidence in the honorable Senator from Minnesota and the committee of which he is chairman with regard to their intentions about this matter. I have no doubt that what was done was done with a single regard to the public business and the importance of pressing the bill through. I hope that statement on my part will satisfy them, but I did think, on looking over the bill and seeing the circumstances under which it was passed, that if suffered to be a precedent and the attention of the Senate not called to it we might be in very great danger of passing measures at a time when the Senate was not present as a body. That is the ground of my objection to the practice, and the Senators, for whom I have great respect and regard, will accept this explanation.

Mr. CONNESS. Now, Mr. President, since it cannot be made a precedent, since we do not ask it to be made a precedent, and would be

against any such precedent, is legislation to be delayed by dragging the bill back here again?

Mr. MORRILL. I had Saturday assigned on a resolution somewhat solemnly, or at least intelligently, acted on by the Senate, for the consideration of District business, and I had the bad luck to proceed about an hour with that business when I found myself without a working force here, without Senators enough to enact a bill, so that I was obliged to take up for consideration only such measures as could go through by common consent, laying aside everything that was contested. After I had yielded to that necessity, and we had gone into executive session and come out again, finding our force not increased, the Post Office Committee undertook to try its hand at legislation. I did not object; I was quite willing. Through the suavity of the honorable chairman of that committee and the great persistency of the honorable Senator from California, who is also a member of that committee, they got this bill before the Senate. The Senator from New York seemed to have an objection to proceeding with the bill, and stated that it was irregular. That it was irregular nobody doubts. The honorable Senator from Kentucky was waiting to announce the death of a colleague of his in the House. A division of the Senate would break up the body and prevent that Senator from presenting his remarks to the Senate. In that condition of things I understand the honorable Senator from New York was persuaded not to interpose an objection which he felt that he had to the bill, and which he comes here and renews upon reflection to-day, feeling that he did not do his whole duty in not presenting an objection to the consideration of the bill under the circumstances.

Now, with the profoundest respect for the Committee on Post Offices and Post Roads, I think they ought to yield to the wishes of the Senator from New York, who yielded his objection on that occasion, but who cannot think to-day that he can do his duty without moving this reconsideration.

Mr. HENDRICKS. When this bill was up on Saturday night I thought it seemed objectionable to consider it when the Senate was not quite full, and so expressed myself; but the bill was taken up, and it was very fully considered, and I thought it was right in its provisions. Because the bill has passed, and I think it is right, I shall vote against the reconsideration, although I think it is objectionable to take up measures when Senators are not expecting their consideration.

Mr. RAMSEY. If this were the first instance of a bill being passed through the ordinary forms required by the Constitution in a thin Senate I should not object to the action proposed; but it must be in the knowledge of every Senator that we are every day passing bills of infinitely more importance in pecuniary and other points of view than this with much less than a quorum present. Is it to be the rule of the Senate that hereafter, whenever a bill has passed in that condition, we shall send for it to the other House, or are we at once to break up and adjourn whenever there may not be a quorum in the Chamber? We know that upon important appropriation bills the Senator from Maine has kept us here voting appropriations of a momentous character with a very thin Senate, with much less than a quorum.

I think the Senate might as well go into the consideration of this bill now upon the motion to recall it from the other House; and I am satisfied that if Senators give it their consideration they will find that there is nothing objectionable in it. I made persistent efforts through two weeks, I think, to get the floor for the purpose of asking the Senate to take up this bill; and when, on Saturday evening there seemed to be no objection to proceeding to its consideration I moved to take it up, and the Senate agreed to my motion. If it is brought back now I may not be able to get it up during the rest of the session. It is a bill of the highest importance to the proper administration of the Post Office Department; and if Senators will

consider it now upon this motion to recall it—and they may as well do it now as when the bill comes back—they can state their objections to each provision of the bill. Assuming that the Senate will pursue this course I will proceed to explain the bill—

The PRESIDENT *pro tempore*. The Chair will state that the bill is not, in the possession of the Senate.

Mr. RAMSEY. But the motion to recall it is before the Senate.

The PRESIDENT *pro tempore*. It is; but that motion does not open the merits of the bill. The bill is not in the possession of the Senate. The Chair, however, will not of its own motion interrupt debate.

Mr. RAMSEY. I had proposed to go on and explain the bill, but of course will not do so if it is out of order.

Mr. CONNESS. Upon the motion to recall the bill I ask for the yeas and nays.

Mr. SHERMAN. I think I have never known a case where the Senate refused to reconsider the vote passing a bill when the fact was stated that it was passed by less than a quorum. To do so would be to pass a bill in plain violation of the Constitution, which declares a majority of a quorum necessary to the passage of any bill. It is true, the record does not show that a quorum was not present. Perhaps technically you may say there was a quorum present, because no evidence to the contrary appears upon the record; but it is stated in open Senate, by a Senator who was himself present, that this bill was passed by less than a quorum of the Senate. That statement is made here in open Senate; and if we refuse the motion to reconsider a bill passed under such circumstances, the result is to pass a bill in plain violation of the Constitution, because among ourselves there is no question as to the fact.

Mr. RAMSEY. I desire to inquire of the Senator from Ohio how it appears that less than a quorum was here when this bill was passed? It certainly does not appear so upon the record.

Mr. SHERMAN. The Senator makes the very point. It is true, we have no technical evidence of the fact, because the Journal does not show there was not a quorum present; but we have the statement of a Senator, which is unquestionable, and no one doubts it. Under these circumstances it is wise to refuse the motion to reconsider? I have never known it to be done. I do not think any case has ever occurred in which, when a statement of that kind has been made by a Senator and not contested, a reconsideration has been refused.

In regard to the bill itself, I am perfectly willing to consider it to-day or at any time whenever the Senator from Minnesota moves to take it up. There are one or two provisions in the bill of which I should want an explanation before I could vote for it, but I do not propose to state them now.

Mr. RAMSEY. I proposed to go into that now, but it was held to be out of order.

Mr. SHERMAN. The motion to reconsider must prevail before you can do that. I cannot even state my objections to the bill till that motion prevails, but certainly that motion ought to be adopted.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Minnesota that he had no design to make a point of order, or to arrest the Senator's remarks, but he simply suggested what the rule of the Senate was, leaving it to the Senator himself to act as he pleased, and to any other member to call to order.

Mr. DAVIS. I am, I believe, unconditionally in favor of this bill so far as I understood its provisions on Saturday evening. That is my opinion in relation to its merits; but nevertheless I feel constrained to vote in favor of the motion that the Senate request the return of the bill from the House of Representatives for the purpose of reconsideration. Every gentleman who was present knows that the bill was passed by less than a quorum. That fact was just as palpable as any fact could be to the



observation and sense of the Senate. I believe the honorable Senator from New York was probably induced not to press his objections against the bill at that time because of my earnest wish to have the Senate take some notice of the death of a respected colleague of mine. If the objections had been pressed the Senate would have been divided, and the division would have shown unquestionably that there was not a quorum present. The consequence would have been that the Senate would have had to adjourn, and I should not have had an opportunity of performing a pleasant but sorrowful duty.

I agree with the principle suggested by the honorable Senator from Ohio. I believe it is a loose, a vicious, a reprehensible, and an unconstitutional practice for the Senate to pass bills when it is obvious to every Senator that a quorum is not present. I regard it as a deliberate violation of the Constitution, of evil and dangerous effect; and I should like to have the Senate adopt a positive and peremptory rule that whenever the Presiding Officer of the Senate shall have reason to doubt the presence of a quorum he shall verify the fact, and if on his verification he ascertains that there is not a quorum present it shall be his imperative duty then to suspend further action by the body until a quorum be obtained. Under this view of the case I will vote in favor of the proposition to ask the House to return the bill.

Mr. CONNESS. I called for the yeas and nays on this motion, but I now withdraw that call. The honorable Senator from Maine suggests that he is willing that this bill shall be considered now, and as he has the Senate for one of his bills to-day, I, for one, as a member of the Committee on Post Offices and Post Roads, accept the proposition. But, at the same time, I give notice that while I shall remain a member of this body no bill shall ever pass when I am here with less than a quorum present. So Senators must remain in their seats if they want legislation. I know it is every day the practice of the Senate, but I intend to apply the rule hereafter as closely as it is now applied to this committee.

Mr. MORGAN. I have reduced the motion which I submitted awhile ago to form in this shape:

*Ordered*, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. No. 527) to amend the postal laws, and for other purposes, passed by the Senate and sent to the House for its concurrence.

Mr. HENDRICKS. I think that we had better not decide on any rule that would be very inconvenient to the Senate. I think the Senator from California cannot carry out his proposition. It is known to every one of us that when the Senate is quite full oftentimes, so many gentlemen are called out by their constituents during the progress of business to the committee rooms or to the consultation rooms of the Senate as to leave apparently upon the floor a very thin Senate, and yet when it comes to a vote there is quite a large vote; and this view is an answer to the Senator from Kentucky. I dislike to see bills passed when there is not a full consideration of them. I am not prepared to say that if the yeas and nays had been called on this bill on Saturday evening a quorum of the Senate would not have been present, either in the Chamber or in the adjoining rooms. There was no test of the matter, but I observed the fact that the Senate was thin, and I supposed some Senators had gone home, and therefore I objected to the consideration of the bill. But as it was fully considered and passed I shall not now vote for its reconsideration.

Mr. WILLIAMS. I wish to say one word in explanation of my course. I am usually in my seat when business is transacted in the Senate unless I am compelled to be absent. I supposed the Senate was about to adjourn when I left on Saturday, and I was not aware that any business was transacted afterward by the Senate until the subject was mentioned this morning. After the chairman of the Committee on the District of Columbia had

given notice that he could not proceed with his business because there were so few Senators present, the Senator from Indiana [Mr. HENDRICKS] made a motion to adjourn, and everybody seemed to accede to it; but the Senator from Massachusetts [Mr. WILSON] desired the motion to be temporarily suspended until he could move to recommit some bills, and as those motions were entertained by the consent of the Senator from Indiana, and as it had been announced by the Senator from Maine that no other business could be transacted, I withdrew from the Senate, supposing, of course, after those bills were recommitment, that the Senate would adopt the motion of the Senator from Indiana. I was therefore accidentally absent, and was quite surprised to find that after that time business of the nature of this bill had been transacted. I have nothing particular to say about the question before the Senate, but I shall vote for the reconsideration.

Mr. DAVIS. I have always been thoroughly satisfied of the utter impropriety of the Senate passing any measure or taking any legislative action when there is obviously and palpably a quorum not present; and I am gratified that the honorable Senator from California has declared his purpose to call for a division of the Senate when in his judgment a quorum is not present. We all know that in the night sessions and late in the evening the opportunity is seized upon by many members of the Senate, when there is not a quorum present, for the purpose of hastily passing measures. I think that is a custom that ought to be reformed. I think it is in flagrant discrepancy with the principle of the Constitution which requires every measure of the Senate to be passed by a quorum. The Senator from California or any other gentleman can avail himself of his right and of his duty to have a majority of the Senate present by calling for a division of the Senate at any time, and I shall always be prepared to second such a motion and give it any countenance I can.

Mr. CONNESS. The honorable Senator will remember that that rule which I said I would apply in future, so far as the demand should go—and I shall be as good as my word—will operate very much harder upon myself than upon the honorable Senator, for it will be found, I think, upon examining the legislation of an entire session of Congress, that while I vote for more than two thirds, perhaps three fourths, of the bills that are passed and become laws, the honorable Senator has hardly voted affirmatively for half a dozen. He is generally found in the negative; so that it will not trouble the Senator so much if bills shall not pass.

Mr. DAVIS. I think the honorable Senator has received rather ungraciously my avowal to support his principle of practice; but, however, I give it my support, without any regard whatever to the measures that I oppose or that I support, but simply to the propriety of the rule and the constitutionality of the principle.

Mr. CONNESS. I suppose that is just what the Senator meant.

Mr. DOOLITTLE. I believe it is the right of any Senator to ask for a reconsideration of a bill, but if, because the bill has passed and gone to the other House, the Senate should deny the request to bring the bill back again, the right of a Senator to move a reconsideration would be practically gone. Therefore, without inquiring at all into the merits of the case, whenever a Senator, in order to make a motion to reconsider, asks to have a bill brought back from the House, I shall vote for it. I have always done so, and I shall do so in this instance.

The PRESIDENT *pro tempore*. Is the Senator ready for the question on the order now offered to the Senate?

The motion was agreed to.

#### PENSION APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The pension appropriation bill is now before the Senate.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 903) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1868, which had been reported from the Committee on Finance with two amendments.

The first amendment was in line nine, after the word "mothers" to insert the word "fathers, brothers;" so that the clause will read:

For pensions of widows, children, mothers, fathers, brothers, and sisters of soldiers, as provided for by acts of March 18, 1818; May 15, 1828; June 7, 1832; July 4, 1836; July 7, 1838; March 8, 1843; June 17, 1844; February 2, July 21, and July 29, 1848; February 3, 1853; June 3, 1858, and July, 1862, with its supplementary acts, and for compensation to pension agents and expenses of agencies, \$23,000,000.

The amendment was agreed to.

The next amendment was in line twenty-three, after the word "mothers" to insert "fathers, brothers;" and in line twenty-six, after the word "sixty-two" to insert "with its supplementary acts;" so that the clause will read:

For Navy pensions to widows, children, mothers, fathers, brothers, and sisters, as provided for by acts of August 18, 1848, and July 14, 1862, with its supplementary acts, \$280,000, to be paid from the Navy pension fund.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed, and the bill be read a third time; it was read the third time, and passed.

#### SIGNING OF TREASURY WARRANTS.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of Senate bill No. 493.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 493) supplemental to an act to establish the Treasury Department, approved the 2d of September, 1789. It provides that the Secretary of the Treasury shall have power, by an appointment under his hand and official seal, to delegate to one of the Assistant Secretaries of the Treasury authority to sign in his stead all warrants for the payment of money into the public Treasury, and all warrants for the disbursement from the public Treasury of money certified by the proper accounting officers of the Treasury to be due upon accounts duly audited and settled by them; and such warrants so signed are to be in all cases of the same validity as if they had been signed by the Secretary of the Treasury himself.

Mr. FESSENDEN. I will give a very brief explanation of this bill. As the law now stands, every warrant upon the Treasury, either for transfers from one branch to another, or to take money out of the Treasury on warrants that have been drawn after the certificates of the accounting officers are properly made, must be signed by the Secretary of the Treasury himself. It is a very onerous and a very unnecessary duty to perform. Every day the Secretary of the Treasury has brought to him a pile of warrants, generally about a foot high, a very large number of them, and it takes him a very long time to sign them. He cannot read them; he cannot know what they are, and he does not know personally what they are unless his attention is called to them by something which is peculiar in the case itself, to which his attention is called by the accounting officer. The accounts have to go through the accounting officers. They all have to be certified as having been examined by the Comptrollers and the Auditors. Then they have to be examined to see that they are in due form by the Assistant Secretary, who puts his initials on them, and they go to the Secretary, who must devote a very considerable portion of time to writing his name just as fast as he can write it, without knowing what he is signing in point of fact. It is a very unnecessary labor, and it has been for some time thought to be expedient to devolve that duty of merely putting the name to the warrant upon some officer of the De-

partment. It cannot be done either by the Secretary or Assistant Secretary except on proper certificate with regard to all of them that the accounts have been examined, and found correct, &c., and may be done by one as well as the other. It will be all under the Secretary's supervision. I hope there will be no objection to it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### POST OFFICE APPROPRIATION BILL.

Mr. FESSENDEN. I now move to take up House bill No. 918.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 918) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1868.

Mr. FESSENDEN. This bill contains the ordinary appropriations for the Post Office Department, according to the estimates. It also contains, on page 3, a proviso with regard to the steamship service between San Francisco and China. I deem it my duty simply to call the attention of the Senate to that, in order that they may know what the provision is. They will recollect that we authorized steam service between San Francisco, Japan, and China, which was let out upon contract, with the provision that the steamers should touch at Honolulu, in the Sandwich Islands. At the last session a bill was passed through this body to dispense with that part of the contract. It did not pass the House, however; and there is now the same provision in this bill, with the addition that a new steamship service, without any more pay, is to be established "between the port of Japan, used by the main line of steamships, and the port of Shanghai, in China, making continuous regular trips, connecting with the main line," &c. I will simply say that on an examination of this matter the Committee on Finance did not see fit to make any change, but reported the bill as it came to us, recommending its passage. They became satisfied that on the whole it might be as wise to do this, although I hope provision will be made some time or other for a steamship service between California and the Sandwich Islands.

The bill was reported to the Senate without amendment.

Mr. FESSENDEN. I wish to make an amendment to the bill; I had nearly forgotten it. I hold it in my hand—a new section which I offer to the bill, not however by the authority of the Committee on Finance, for they have not had an opportunity to consider it since the papers were placed in my hands. I have thought, therefore, I would offer it on my own responsibility, as it is a matter which I think will address itself to the approbation of the Senate. I ask to have the amendment read, and then I will state what it is for.

The Secretary read the amendment, as follows:

*And be it further enacted,* That the Secretary of the Treasury is hereby authorized to transfer two clerks from the third class to class four in the office of the Auditor of the Treasury for the Post Office Department; and a sum sufficient to pay the increased compensation required by said transfer for the remainder of the current and the fiscal year ending June 30, 1868, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. FESSENDEN. The Senate will notice that it is a mere authority to transfer two clerks to the fourth class, involving an additional expenditure of \$400. I send to the desk a letter from the Auditor stating the reasons for it, which may be read to the Senate.

The PRESIDENT *pro tempore*. The letter will be read, if there be no objection.

The Secretary read the letter, as follows:

OFFICE OF THE AUDITOR OF THE TREASURY  
FOR THE POST OFFICE DEPARTMENT.  
WASHINGTON, February 7, 1867.

SIR: I have the honor to submit the following statement:

There are in this office nine separate and distinct divisions, the examining, registering, book-keeper's, collecting pay, money-order, solicitor's, foreign mail,

and special mail, and but seven fourth-class clerkships.

The principal clerks in charge of these divisions, in consideration of the responsibilities attaching to these positions, ought to be fourth-class clerks, and are, with the exception of the collecting and special mail divisions.

The collecting division has in charge the collection of balances due from postmasters, late postmasters, and contractors, and there are engaged upon it twenty-six clerks. The superintendent of a business of such importance, and the supervision of the entire correspondence relating to it, in my opinion, entitles the principal clerk to the same compensation as that received by those of the other divisions. The same may be said of the special mail division, although a less number of clerks are employed.

John P. Wheeler and J. O. Wilson, the principal clerks of these two divisions, have been discharging these duties for several years as third-class clerks; and I think it due to their long, faithful, and efficient service that they should be placed upon an equality with the others.

I therefore earnestly recommend that the proper legislation may be had to increase the number of fourth-class clerkships in this office from seven to nine.

I am, sir, very respectfully,

H. J. ANDERSON, Auditor.

Hon. HUGH McCULLOCH,  
Secretary of the Treasury.

Mr. FESSENDEN. I have also a letter from the Secretary of the Treasury recommending that this authority be given, which I suppose it is unnecessary to read.

The amendment was agreed to.

The amendment was ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

On motion of Mr. FESSENDEN, the title of the bill was amended by adding the words "and for other purposes."

#### ALCOHOL FOR SCIENTIFIC PURPOSES.

Mr. FESSENDEN. I now move that the Senate proceed to the consideration of Senate joint resolution No. 163.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 163) to provide in certain cases for the removal of alcohol from bonded warehouses free from internal tax. It authorizes the Secretary of the Treasury to grant permits to curators of incorporated or chartered scientific institutions to withdraw alcohol in specified quantities from bond without payment of the internal revenue tax on it, or on the spirits from which the alcohol has been distilled, for the sole and exclusive purpose of preserving specimens of anatomy, physiology, or of natural history belonging to the institutions; but the curators, on applying for such permit, are to file a bond for double the amount of the tax on the alcohol to be withdrawn, with two good and sufficient sureties, who are not to be officers of the institution making application; the bond and sureties to be approved by the Commissioner of Internal Revenue, and conditioned that the whole quantity of alcohol so withdrawn from bond shall be used for the purpose specified and for no other, and that the curators shall comply with such other requirements and regulations as the Secretary of the Treasury may prescribe. And if any alcohol so obtained shall be used by any curator or other officer of the institution for any purpose other than that specified, then the curators, officers, or sureties are to pay the tax on the whole amount of alcohol withdrawn from bond, together with a like amount as a penalty in addition thereto.

Mr. FESSENDEN. I will explain briefly the object of this resolution. There are some scientific institutions in the country which have procured at very great expense a great many specimens of natural history, and they need alcohol to preserve them. That under the direction of Professor Agassiz particularly is exceedingly valuable. I suppose his collection of fish is very much the best in the world. It is equal in extent both to the English and French collections put together. They cannot be preserved without alcohol, and the labor of collecting must be lost unless they have it. In order to purchase the alcohol they have to pay a dollar a gallon first, and if they are obliged to pay the additional two dollars it makes it so high that they have not funds enough

connected with that school to enable them to procure the necessary amount. The matter is of great importance to the cause of science and of course to the country, and I trust there will be no objection to it. The bill is exceedingly well drawn and well guarded, and the committee I believe were unanimous in recommending its passage.

Mr. CONNESS. I should like to ask the honorable chairman if he will accept an amendment to allow all other persons who purchase alcohol or spirits to purchase it at one dollar per gallon. I think it would be a good thing to amend this resolution so as to put it at that price. There would be a great deal less swindling in the country and we should get more revenue. I think this is an opportune period to make the change.

Mr. FESSENDEN. We can hardly put it here. I hope my friend will not offer an amendment of that character to this resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### PRESIDENTIAL TERM.

Mr. WADE. I now move to take up Senate joint resolution No. 33.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 33) proposing an amendment to the Constitution of the United States. The joint resolution, as originally introduced by Mr. WADE on the 20th of February, 1866, was in the following words:

*Resolved, &c.* (two thirds of both Houses concurring.) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States; which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

#### ARTICLE.—

The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and shall not again be eligible to that office during the term of his natural life. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, who shall not again be eligible to the office of President of the United States during the term of his natural life. Whenever Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President, such officer shall not again be eligible to the office of President of the United States during the term of his natural life.

The Committee on the Judiciary reported the joint resolution with an amendment to strike out all after the word "article" in the eighth line, and to insert the following:

No person elected President or Vice President who has once served as President shall afterward be eligible to either office.

Mr. WADE. I am in favor of the amendment, and hope it will be adopted.

Mr. DIXON. In the amendment which I propose to offer to this resolution I do not wish to be placed in a position antagonistic to the proposition itself. I do not propose to strike out and insert, but to add to it. As I understand, the committee report to strike out virtually all of the original proposition, and to insert:

No person elected President or Vice President who has once served as President shall afterward be eligible to either office.

I am prepared to vote for that, provided it can be so shaped as not to seem to be an attack upon an individual officer. I think the Senator ought to consent to insert the word "hereafter," so as to read "no person hereafter elected President or Vice President;" for I presume his object is to effect a general purpose, and not to aim at an individual. It seems to be aimed at an individual as it stands at present. I do not suppose that was the intention of the Senator. I know it was not, for he has disclaimed it.

Mr. WADE. If the gentleman will allow me, I have no objection whatever to that amendment. On the other hand, if those opposed to the party to which I belong want to

take up the present incumbent I shall not object to it at all. I should rather be in favor of it.

Mr. DIXON. With regard to this proposition I have only to say it is wholly immaterial to me how it is worded except as I have stated. I do not know what are the designs and intentions of the present Chief Magistrate of the United States, but he has repeatedly said that he should not be a candidate for reelection, and I have no idea myself that he ever will be. Still it seems to me the Senate of the United States ought not to be called upon to vote for a proposition which shall seem to be aimed at any individual whatever. Therefore if, as I understand, the Senator from Ohio proposes to change it so that it shall refer only to future officers hereafter elected, I shall vote for it; and I shall vote for it much more willingly if he is willing to make another alteration, and that is with regard to the term of office. I do not know that anything is said in regard to the term of office in the amendment as the committee report it. I should much prefer, if the term of office is to be limited, that it shall be confined to the term of six years. I would vote for it more readily in that shape, but I believe, as it now stands, there is no proposition with regard to the term of office whatever; it leaves it as it is.

Now, sir, I have said that I do not propose what I shall offer as an amendment in opposition to the resolution. I propose a preamble and certain resolutions which will be very proper in connection with this as an entire scheme. I do not see that there is anything in what I propose to offer which is at all inconsistent with or inapplicable to the proposition of the Senator from Ohio. They will be germane. They both relate to the great interests of the country. I have already given notice of my intention to offer a preamble and additional resolutions, and I now ask leave to submit them to the Senate.

The PRESIDENT *pro tempore*. The question now is on the amendment reported by the committee.

Mr. DIXON. I desire to say a very few words upon the preamble and resolutions that I propose. I suppose they will be read; but I have no desire to call for their reading if Senators do not wish it.

The PRESIDENT *pro tempore*. Does the Senator offer this as an amendment to the amendment reported by the committee? It can only be offered in that point of view at the present time, there being an amendment pending.

Mr. DIXON. It would be, I suppose, an amendment to the amendment reported by the committee.

The PRESIDENT *pro tempore*. In that point of view it is in order.

Mr. SUMNER. I suggest to my friend that he might allow the question on the amendment of the committee to be taken and then offer his as an addition. That will simplify the proceeding.

Mr. DIXON. Very well. After the vote is taken on the amendment of the committee I can proceed to say what I have to say on the subject.

The PRESIDENT *pro tempore*. The question then is on the amendment reported by the committee.

Mr. FESSENDEN. It strikes me that the words "who has once served as President" should be struck out; so that it will read:

No person elected President or Vice President shall afterward be eligible to either office.

My reason is this: I do not think it quite fair to say that a man who has been elected Vice President, and by the death of the President or his removal he becomes President for a portion of the term, shall afterward be ineligible to the office of President. It is cutting him off from the privilege which every other citizen has of being, if the people so choose, elected President of the United States. It is not so high an honor, by any means, to elect a man Vice President as it is to elect him

President. Suppose we should pass a law, which I believe has been proposed in the other House, providing who shall be President in certain cases: first, the Vice President; then, if there is no Vice President, the President of the Senate.

Mr. CRESWELL. Will the Senator allow me to call his attention to the phraseology of the article as it will stand with the amendment made as he suggests? It seems to me that a person who is elected Vice President, then, would be incompetent ever afterward to be elected President. That, I apprehend, is not what he intends.

Mr. FESSENDEN. The language now includes the idea that if a person has been elected Vice President, and after being elected Vice President becomes, by the death of the President, President of the United States, he shall be ineligible afterward to the office of President.

Mr. CRESWELL. But if the amendment that the Senator from Maine suggests be made, will it not at least bear the interpretation naturally that a person who has once been elected Vice President cannot afterward be elected President?

Mr. FESSENDEN. Mr. President, perhaps I did not suggest the proper amendment. I merely stated it with the view of having the proposition correct and to state the reasons.

That bill proposes I believe—I have seen some account of it in the papers—that if the President shall die or cease to be President, the Vice President shall take his place, and if there be no Vice President the President of the Senate, and if there be no President of the Senate, the Speaker of the House, and going through several provisions. Now, sir, suppose that along toward the end of the term of office, the President should die, and the Vice President, or the President of the Senate, or the Speaker of the House should become for a few months or a year President of the United States, is it just to say that the citizen who by that contingency has served for a short time in the office of President shall not afterward be eligible to the office at all?

Mr. JOHNSON. And the best man, too.

Mr. FESSENDEN. Probably he might be the very best man, and the man the people would select.

Mr. SUMNER. I think the Senator is not aware of the operation of the language. I do not think it applies to such a case as that.

Mr. FESSENDEN. Certainly; "who has once served as President."

Mr. SUMNER. "Elected President or Vice President."

Mr. FESSENDEN. Yes; who has once served as President or Vice President. I am right.

Mr. TRUMBULL. If it is the President *pro tempore* of the Senate or the Speaker of the House who serves as President he is not made ineligible.

Mr. SUMNER. He must have been elected President or Vice President, and then have served as President.

Mr. FESSENDEN. That is true. I thank the Senator for the correction. I am wrong about it. It would not apply to those officers as it stands at present worded. But take the Vice President; go as far as that; a man is elected Vice President. Suppose that being elected Vice President, toward the end of the term he becomes for a few months President, or acting President, as the honorable Senator from Michigan [Mr. CHANDLER] called it this morning; is it right, is it just to him, because in that contingency he has served for a short period of time in the office of President that he should afterward be ineligible to that office. I think not. I think, therefore, for that reason alone, disconnected with any other, I should be opposed to the resolution as it at present stands. I do not think that it would be right to make that rule. I do not think it would be just to the individual. To be sure, the rule would not hold, so far as the justice or the injustice is concerned, to the

same extent if the Vice President should be President during nearly the whole term of office, as in the present case.

But we are providing for all cases; and more than all that, every man in the Republic I think who is constitutionally eligible is entitled to be considered a candidate, and to be nominated and elected, if the people so choose, to the office of President; and the fact that he has served a short time in the office when he was not selected to it is not a sufficient reason to exclude him.

I will state in addition to that that I would not have anything in the resolution that would look as though we were making a change in the Constitution with a view to affect any particular individual. I know that is not the intention, and the Senator would not desire it. We are fixing this for a great many future years. I agree also with the Senator from Connecticut in his idea, that if we fix it for one term we had better fix it for six years instead of four. I hope, therefore, that this resolution will be amended in these particulars.

Mr. WADE. This resolution was drawn with no respect to any individual in the world. I brought this subject before the Senate because I think the Constitution as it stands is greatly defective in this particular. Without any disparagement to any gentleman who ever filled the presidential chair, I believe the Government has not been as well administered as it would have been had there been no hope of another term to the incumbent occupying the presidential chair; and when I say that I need not disparage anybody. Such temptations placed before men as to have a view to their continuance in so honorable and great a position as that of President of the United States will warp the judgment of almost any man, whether he knows it or not. I believe that every statesman who has had his eye fixed upon the administration of our Government for years past has not failed to discover that measures have sometimes been adopted looking quite as much to the continuance of the incumbent in office as to the public good. This idea has not escaped the greatest and best men that we ever had in the office. They have all seen, and many of them have felt, that there were temptations that ought to be removed. Those who have been most revered who have occupied that high position have been the first to warn us that those temptations should be removed.

As to the objection made by the Senator from Maine, I do not think the resolution ought to be amended to correspond with his view, because I think the reason of the limitation applies to the Vice President when he becomes President, and it touches nobody else. When a person becomes President by virtue of law, in case of the death or removal of the President and Vice President, he does not fall within the rule laid down in this proposition. It may be that a gentleman elected Vice President, on the death or removal of the President toward the end of the term, may fill the office for but a short period; but such occurrences will be very rare. They are possible, but not very probable. But when they do occur, the same temptations and the same evils which induce us to bring forward the amendment at all attach to those persons. A gentleman goes from the Vice Presidency into the presidential office. If there is anything in what I have already suggested, the temptation upon him applies with quite as much force as it does upon the man who was elected to the office first.

Our experience of Vice Presidents has not been well calculated to favor this objection. We have had some four of them, from Aaron Burr to the present, and I believe nobody would have regretted it if their office had been circumscribed to the period in which they did hold the office. The reason is that as quick as they reach this place they are within the reason of the rule. The Senator thinks it a great hardship that an individual who happens to fall into this office for a short period should



be ineligible afterward. I do not think it is a very great hardship. No gentleman need submit to it unless he pleases.

This resolution was not framed by me with a view to individual interests or ambitions. I care but very little for the individual who shall happen to be the President or Vice President. This great office can honor but few. If there are emoluments attached to it they can reach but very few at best of all the American people; and it is hardly worth our while to frame the measure with a view to individual interests or ambitions. The effect that it will have upon the public is what we should look to. I certainly cannot commiserate very much the condition of the man who has had the good luck to be Vice President and then President for a short term, because he cannot be President for a full period. The Senator says that by this proposition we do such an individual great injustice. I do not think so. I think it better, inasmuch as he falls within the reasoning of these temptations, that he should be content with that portion of the presidential office that may fall to him, although I am not very particular about it. If it can be so framed as to escape that, I should not think it very objectionable; but still I do not think it wants amending for that reason.

Mr. FESSENDEN. Let me ask the Senator what reason is there why a man who has once been elected Vice President should not afterward be eligible to that office? He has the least power and patronage of any officer connected with the Government. He is merely the Presiding Officer of the Senate. The power that he exercises and the patronage that he has does not compare with that exercised by a Senator from a State. To be sure, he has the chance, the possibility of becoming President. But suppose he does not, why should he not be eligible for a second time or for any length of time that the people choose to elect him to the office of Vice President of the United States?

Mr. STEWART. He is under this resolution.

Mr. FESSENDEN. No; the language is he shall not afterward be eligible to either office.

Mr. STEWART. If he has served as President he cannot be elected, but if he has served as Vice President he can be elected Vice President.

Mr. WADE. As I understand he can be elected Vice President as often as the people choose to elect him, unless he has served as President. The language is:

No person elected President or Vice President who has once served as President shall afterward be eligible to either office.

Mr. FESSENDEN. Suppose he has served as President for a short time; why should he not be eligible again to the Vice Presidency?

Mr. STEWART. He might come into the Presidency again.

Mr. FESSENDEN. He might for a short time; but what harm would come of it? The reasoning is not applicable. The Vice President has no sort of power to do wrong in the office of Vice President. He has no patronage. My own idea is that the proposition ought to be confined to the office of President. All the logic, all the reasoning of the Senator from Ohio applies to the office of President. It should not apply to persons who, from the fact of being Vice Presidents, have by any contingency become Presidents of the United States for a brief period.

Mr. WADE. The original draft of this resolution only contemplated the exclusion of persons who had once occupied the presidential office, and it intended to cut them off, whether they held that office for a short or long term. The committee, however, have obviated all that. Those that may, by law, occupy the office, as when it shall devolve on the President *pro tempore* of the Senate or the Speaker of the House, or on the presiding judge of the Supreme Court, are not involved in the rule. They are not subject to the exclusion.

Mr. FESSENDEN. Why should it not, on

the logic of the thing, apply to them precisely as it applies to a man elected Vice President, who happens a short time to be President, because they can exercise the same power while they are in the office? The same logic applies to both.

Mr. WADE. I do not know but what it does. I will say I do not feel any very great interest on that point. I am willing, however, to take the amendment as it came from the committee, because, as I have already endeavored to explain, I do not think it will be a great hardship to make a person who, being Vice President has come into the Presidency, ineligible afterward to the office.

Mr. STEWART. If the Senator from Ohio will give way for a moment I will state a reason for that. As regards those who may succeed to the Presidency by virtue of law, the same law may limit their term; and you can fix it so that they shall occupy it but temporarily; whereas the person who becomes President by virtue of election as Vice President holds the office during the residue of the term; he is beyond the control of the law-making power. You can regulate those who are put in by law as you please. That does not require a constitutional provision.

Now, one word further. If it be an evil to have a President eligible for a second term, it is equally so to have a Vice-President eligible. The object is to prevent a person in power from using the office while in it to secure a reelection.

Mr. FESSENDEN. He has no power as Vice President.

Mr. STEWART. That is very true, but if he becomes President he has it for a fixed term; you cannot control it by law. The same reason applies equally, I think, to make him ineligible that applies to a man originally elected President, for if he becomes President his attention will be called to securing a reelection rather than to the proper administration of the affairs of the Government. I believe the same reason applies to the Vice President as to the President, and the reason in each case is because they have a fixed term. The committee left out those who come into the presidential office by force of law, because they have no fixed term; they have no term but what Congress can control. They are simply temporary. The committee thought it would not be worth while to make them ineligible.

Mr. WADE. I thought the Senator rose for an explanation. If gentlemen will allow me to finish the few words I have to say they can take the floor. I do not propose to occupy more than a few moments longer.

I do not see that the Vice President does not fall within the reasoning I have already endeavored to illustrate as the reason why the President should not be eligible again. In the two cases that are familiar to us all the presidential office fell to the Vice President very early in the term; I believe as early as the first or second month in the presidential term. Now, sir, he would have a great advantage over anybody else, because if you do not exclude him he would be eligible again, although he had already occupied the office for almost an entire term.

Mr. FESSENDEN. Mr. Fillmore did not hold the office for much more than half the term.

Mr. WADE. I think the Senator is mistaken. General Taylor lived but a very short time.

Mr. JOHNSON. Sixteen months.

Mr. WADE. Not over that. General Harrison, I believe, died within the first or certainly the second month of his administration.

Mr. FESSENDEN. But suppose he had not died until the very last month?

Mr. WADE. Very well. We cannot tell exactly when they will die, as it has fallen out now. When the office has devolved on a Vice President he has occupied it almost the entire term; and the same reasoning applies to him in that event as applies to the President who was elected as such, and there is a greater rea-

son why he should not occupy it, because the people really have never elected him with the expectation that he ever would be President. Their selections have been exceedingly good, for the Presidents themselves have always been more satisfactory than the Vice Presidents, whom the people never expected would be Presidents when they elected them. I do not think that the Vice President when he becomes President *ex officio* should be in a better condition than though he had been elected President.

Mr. WILLIAMS. I will ask the Senator if the amendment would be satisfactory to him with the words "elected President or Vice President" stricken out; so as to read:

No person who has once served as President shall afterward be eligible to either office.

I would prefer the amendment in that form.

Mr. WADE. That would restrict it still more. That would restrict it as regards those officers that came in by law, where, as has been said by the Senator from Nevada, Congress may limit the term of office to such period as they may see fit. For instance, if the President of the United States should die to-day, and the office should devolve upon the President of the Senate, Congress might fix the term long or short, as I should think.

Mr. STEWART. They can provide for an election in such a case.

Mr. WADE. They can provide for an election whenever they please, and they can limit it when the contingency falls out in that way. Therefore they do not fall within the same rule as those who come in under the Constitution for fixed terms, beyond the reach of Congress.

Now, one word as to the length of this term. I know that a great many, and perhaps a majority of the people believe the presidential term too short; that the great agitation and excitement coming around once in four years, distracting business and exciting the public mind, is too often. That reasoning is very plausible, and if there was nothing more in it I should be clearly of that opinion myself. But who does not know that in the vast and growing powers that devolve upon this great officer there is danger in a long period of his drawing such influences to himself as will be dangerous to the public weal? Six years is a very long term for a man to be in the position of a dictator; for really the President of the United States under our Constitution is scarcely less powerful than a Roman dictator. His word is law; his will is the rule of action of the whole body; and he rides over Congress at his will, as a general thing. In time of war the whole Government is in his hands to such an extent that I can hardly see how you could give him any more power than he legitimately has under the Constitution.

When our Constitution was framed originally there was not so much power and influence devolving upon the President of the United States as there is now upon the Governors of some of the States. It was not thought to be dangerous. The framers of the Constitution hardly contemplated the immense growth of the nation, and as it grows and progresses in power, wealth, and influence, the presidential office becomes more and more important every year. If the excitement is great upon electing this great magistrate for four years, how much more intense will it be if you lengthen out the period! It will make the presidential election much more important than it is now. And suppose the people make a mistake, as they are always liable to make a mistake, in the selection of this great officer and get a man there who is false to all they wanted of him, all they expected of him, who thwarts all their ideas, who overthrows all their principles; and there he sits, clothed with a power that you cannot get rid of; when such a thing happens every man would wish that his term, at all events, was not more than four years. On the other hand, when you elect a magistrate by the power of the majority of the people, of their own principles, who honestly stands by them and endeavors to

carry them out to the advantage of the people and for the welfare of the Government, it is natural for them to wish that the term should be extended.

I have no very settled convictions on this subject myself; but I have reflected upon it much, and I know no rule by which we can measure the time that we ought to fix. Our fathers adopted four years when the Government was exceedingly small, when the influence of the Chief Magistrate was not a hundredth part of what it is to-day in the selection of the officer, in wielding all the great powers that properly devolve upon him. If they thought then that four years was long enough, I think the great importance of the office, the ambition with which men aspire to all its honors and emoluments, are such that we should not rashly devolve it upon any man for a great length of time. Suppose you were to fix it at ten or twenty years, do you suppose you would ever get it out of his hands? If you make the term too long it would be apt to become hereditary, perhaps, in his family. As a republican I fear to invest any man with the great and growing powers of this high office for any great length of time. I think it is better and safer that it should frequently come back into the hands of the people, and again be submitted to their judgment to select another man as good as he is; for it is idle to suppose that there is but one man in the United States who is perfectly fit for this great office. We shall always find men enough, and if we look with an honest heart and with sagacity of mind we shall have no trouble in finding honest and honorable men to fill the office; but let us not tempt them with too long a period.

On the whole I have come to the conclusion, though not I will say very satisfactorily to myself, when I balance the evils of frequent elections with the dangers that attach to a longer period of office my republican ideas bring me, after all, to circumscribe it to the time fixed by the old fathers of the Constitution. I hardly think we can make it better; and I fear that in attempting to rid ourselves of the trouble and excitement and real difficulty of frequent elections we shall run into the other extreme, which is more dangerous and more fatal if we are wrong than the ordinary fixed term of this office. I therefore shall vote to keep it as it is; but if I am out-voted in that, I shall not be entirely satisfied that the majority are wrong, and shall cheerfully go with the Senate upon that subject, however they may fix it, wishing, however, that they would not extend the term.

Mr. POLAND. Mr. President, at the time this resolution was reported from the Committee on the Judiciary I gave notice that when the resolution should be called up for consideration I should move to amend it so as to make the term six years instead of four. That subject was considered somewhat in the committee, but inasmuch as the resolution itself pointed to nothing except restricting the office to a single term it was not deemed advisable by a majority of the committee to report a change as to the length of the term; that point was not acted upon. The amendment that I have drawn is in form a full, complete article, embracing precisely the language in which the amendment was reported by the committee, with some additional words to reach the extension of the term to six years. I offer the amendment as a substitute for the amendment of the committee. It embraces the amendment of the committee. It is to strike out all of the words proposed to be inserted by the committee, and to insert:

The President and Vice President of the United States shall hereafter be chosen for the term of six years, and no person elected President or Vice President, who has once served as President shall afterward be eligible to either office.

Mr. JOHNSON. I am in favor of the amendment proposed by the honorable member from Vermont provided the office is one which is not to be repeated. The honorable member from Ohio says he is in favor of the term of four years, because our fathers fixed

that as the proper term for the office; but he ought to have recollected that at the same time they provided that the President might be re-elected; and if the honorable member will refresh his recollection of the grounds upon which the clause as it actually stands was inserted in the Constitution he will find that the opinion of a very decided majority of the members of the convention, including many, perhaps, of the ablest men of that body, was, that the President should be reëligible, without any limitation of the term at all. The reasons for that are very persuasive, and they operated as we know to satisfy the convention that the incumbent should be reëligible. I confess that I have come to the conclusion for the last twenty years, as much as I respect the opinions of the convention by whom the Constitution was adopted, that the term should be limited; but in limiting the term I am for increasing the period of service to at least six years.

The honorable member from Ohio I think is needlessly apprehensive that there can be any danger to the liberties of the people, or that there will be any impediment at all thrown in the way of the prosperity of the nation in having the office continued two years longer than the present term; for it is not to be disguised that if a President of the United States shall be found at any time so antagonistic in his own views with the proper policy which the Congress of the United States may think should be pursued his power will be of little or no practical result. We have that illustrated, I think, in the condition in which we are now placed. All the powers conferred upon the office are now in the hands of the President of the United States, and yet we have seen that he is impotent to accomplish any policy of his own when it is found to be in conflict with the opinion of Congress; and we have seen that he is not so omnipotent but that it is in the power of Congress to deprive him of powers which have heretofore been exercised by every President of the United States without objection. Assuming that the legislation of Congress is within the legitimate authority of the body, (and it is not for me to deny it,) it proves beyond all doubt that if the representatives of the people think one way and the Executive another, there is no danger that the measures which the representatives of the people may think proper to adopt will ever be seriously thwarted, or that any danger to the liberties of the people can result from the fact that there is a President in office for six years instead of four.

The limitation of the term to four years was adopted principally upon the ground that the incumbent could be reëlected; and I think my friend from Ohio will find, if he will consult the debates, that but for the provision which makes him reëligible the term would have been extended beyond four years, perhaps to eight. No inconvenience, but on the other hand, as I think, great benefit has been the result of making the term of Senators of the United States six years; and I do not suppose that any reflecting man in the country, who is at all acquainted with the dangers to which all popular Governments have been subjected, and under which, sooner or later, they have fallen, can doubt that the security of our institutions is very much stronger by having the term of the Senators six years than it would have been if the term had been four years, or any shorter period.

The President of the United States has thrown upon him the duty of consulting the interest of the entire country, of making the entire country his study, and it is made his duty in consequence to propose to the Congress of the United States from time to time such measures as he may think are beneficial. Now, it is possible that he may fail the first or the second year, that he may fail the third or the fourth, but at the end of the fourth he may have satisfied the country that the measures which he recommends are the best which can be adopted for the true interests of the coun-

try. I am decidedly, therefore, in favor of the amendment suggested by the honorable member from Vermont, if we are to have any change, and I think there ought to be a change, which provides that the term of office of the President shall be six instead of four years.

Mr. SUMNER. I agree with the Senator from Maryland so far as I was able to follow his remarks. It seems to me it would be better if the term of the President was six years rather than four. I regretted that the report of the committee did not embody such a change. I am therefore thankful to the Senator from Vermont who, by his motion, gives us an opportunity to vote on that proposition.

But allow me to go a little further, and there I should like to have the attention of my honorable friend opposite, [Mr. JOHNSON.] If the term of the President is to be six years, should we not abolish the office of Vice President? Are you willing to take the chance of a Vice President becoming President, for instance a few weeks after the beginning of the six years' term, and then serving out that full term. Now, we all know in point of fact that the Vice President is nominated often as a sort of balance to the nomination of the President. It is with a view to certain political considerations and possibly to aid the election of the President rather than to secure the services of a man in all respects competent to be President. Suppose, therefore, we have only a President and leave to Congress the provision for a temporary filling of the office of President as is now left to Congress in the event of the disability of the President and Vice President.

I throw out these views, without making any motion at this moment, for the consideration of the Senate. I submit that we do not meet all the difficulties of the present hour unless we go still further and provide against these abnormal troubles that arise from the nomination of a Vice President, who, as I have already said, is selected less with reference to his peculiar fitness than to certain political considerations of the hour. As my friend says, he is thrown in for a make-weight, and then, as we know, sometimes in the providence of God the make-weight becomes the Chief Magistrate. Now, it seems to me important that if possible we should provide against any recurrence of the difficulties on that head.

But suppose the proposition of the committee to stand as it is reported, I am brought then to the question which was raised by the Senator from Maine, whether it should be applicable to a Vice President who in the providence of God has been called to be President. I am on that point obliged to go with the committee. It seems to me that all the evil which we wish to guard against in the case of the President naturally arises in the case of a Vice President who becomes President. I say that on the reason of the case, and then I say it on the melancholy history of this Republic. The three cases in our history which must distinctly teach the necessity of the amendment which is now before us are the cases of three Vice Presidents who in the providence of God became Presidents. I think but for these three cases nobody would have thought of the proposition which is now before us. It is to meet the difficulties which we have found to arise from a Vice President becoming President, and then hearkening to those whisperings and temptations which unhappily visit a person in his situation that we have been led to contemplate the necessity of such a change. I hope, therefore, if the proposition of the Senator from Vermont is not taken as a substitute for that of the committee, that the words of the committee will be preserved as they have been reported without any change.

Now, while I am up and the question is in regard to the amendment relating to the office of President, I desire to say that I am disposed to go still further. I wish an additional amendment, one that has not been presented to the Senate in this discussion, though it is not unknown in this Chamber, for distinguished Sen-

ators who once occupied these seats have often or more than once advocated it—I mean an amendment to the Constitution that shall cause the President to be chosen directly by the people of the United States without the intervention of Electoral Colleges. Such an amendment would give to every individual voter, wherever he might be, a certain weight in the election. It would give to minorities in distant States an opportunity of being heard in determining who shall be Chief Magistrate. Now, as we know practically, they are of no consequence. Such an amendment, it seems to me, would be of peculiar value. It would be in harmony, too, with those ideas which belong to this hour of the unity of this Republic. I know nothing that would contribute more to bring all the people, if I may say so, to mass all the people in one united whole, than to make the Presidency directly eligible by their votes without the intervention of an Electoral College. But there is no such proposition before us at this moment, nor is there any such proposition as I have alluded to with regard to the office of Vice-President. I hope, however, that both of these subjects will not be allowed to pass out of the mind of the Senate, and that some time or other we shall be able to act on them in a practical way.

Mr. HOWARD. Mr. President, I feel some hesitation in supporting any amendment of the Constitution in reference to the election or term of the President. I have long thought, however, that it would be but reasonable to limit an incumbent to one term and forbid his reëligibility, and I shall therefore vote for the amendment recommended by the Committee on the Judiciary. But I am entirely opposed to extending the duration of the presidential term. I think the history of the country shows that it is not too short. The frequent recurrence of the presidential election is no more an inconvenience to the people or to the Government than the frequent election of Representatives; it is, indeed, substantially the same process, and it is as easy to elect a President once in two years certainly, as to elect the members of the House of Representatives once in two years; and I do not see what is to be gained to the cause of republican liberty by the extension of the term. It strikes me that the observations of the honorable Senator from Ohio on this point are weighty and well worthy of our consideration. We ought not to permit it to be understood or inferred that the presidential office is anything but an elective, popular office, dependent upon the will of the nation; and I see no reason why there should not be frequent recurrences of the exercise of the elective franchise in respect to it.

Now, sir, I have in my mind a tolerably good illustration of this principle of allowing the President to hold a term of office for six years. I call the attention of the Senator from Vermont to the fact that we once had a James Buchanan as President of the United States; and was it not a most fortunate thing for this country and the cause of human liberty that the term of that gentleman expired at the end of four years? Suppose he had had possession of the office under the Constitution for six years instead of four, and had held on until the 4th of March, 1863, aided and assisted by those pinks of political honesty and honor, the Floyds, the Thompsons, the Touceys, and all that class of men. I ask you, sir, and I ask the gentlemen who favor the extension of the presidential term, what would have been the condition of the United States of America at this time? We should have lost the case, the Government would have been destroyed by the protracted and persevering treachery of that Cabinet, and instead of seeing the United States of America to-day represented in Congress assembled, we should have seen a universal anarchy from one end of the land to the other, and the rebel States installed in the possession of independence and sovereign power as a nation and recognized as such by the other nations of the earth. Our great experiment of self-govern-

ment in that case would have miserably failed. It was, in my judgment, a most fortunate circumstance that the term of James Buchanan expired on the 4th of March, 1861, instead of 1863.

The honorable Senator [Mr. POLAND] remarks that the mistake committed was that he was elected at all to the office of President. Well, sir, we are just as liable hereafter to commit similar mistakes; it is in the nature of our institutions that the people may from time to time be imposed upon by an incompetent, faithless, or traitorous Chief Magistrate. We were imposed upon then undoubtedly, but it will not follow that because we were once imposed upon we shall not again be imposed upon by means of similar political agencies and intrigues. The thing is to be expected almost as a matter of course, and the liability ought by no means to be overlooked.

If it were left to me—and I have not been without some reflection on this subject whether to extend the presidential term or abbreviate it—I should certainly abbreviate it, and elect a President as frequently as members of the House of Representatives are elected; and besides, elect him by the popular vote, precisely in the same way; but I do not now care to disturb the ancient arrangement under which we have lived for so many years, and I think it unwise to attempt it. I shall vote against the amendment extending the term of the President offered by the Senator from Vermont.

Nor would I except out of the operation of the proposed amendment the present incumbent of the presidential chair, as has been suggested by the Senator from Connecticut. The amendment suggests a fundamental alteration in our Constitution in reference to the eligibility of persons who have once exercised the presidential office. Has that honorable Senator discovered such beauties, such attractions in the political administration of the present incumbent as in his judgment to make it necessary and proper for us to exempt him from the operation of the general rule we propose now to establish? Is there anything in his administration or in his history, or is there likely to be anything in his future history and career, that would justify us in making him an exception? Although I have marked his course most diligently and sought to discover as with a microscope the political virtues that pertain to him, I have not been able to see them in such quantities as to induce me to make Andrew Johnson such an exception. On the other hand, speaking of course with all the charity and forbearance that I ought to exercise toward absent persons, I am prepared to say that if there be a living man within the limits of the United States to whom this restriction ought in justice and upon every consideration of policy to be applied that man is the present incumbent. The Senator from Connecticut, however, would release him from the operation of the rule, while, as it would seem, he would be entirely willing that the exclusion should apply to Mr. Fillmore, still living, and to Mr. Pierce, also a subsisting ex-President of the United States, and to Buchanan.

Mr. DIXON. The Senator is mistaken; my proposition saves them also; it saves every man who has ever held the office.

Mr. HOWARD. Possibly I may be incorrect in the construction given to the Senator's amendment. But, sir, I put this upon the ground which I have mentioned, that of all living men the present incumbent is in my opinion least deserving to be allowed the privilege of being elected President of the United States. However, that is a danger which need not alarm the most timid, for if there be any future imaginary event at which gentlemen of ordinary firmness and resolution ought not to be frightened it is the election of Andrew Johnson as President of the United States. I regard it as a mere chimera of the disturbed brain, not, I will say, of Andrew Johnson, but of those gentlemen who, a few months' ago, told us that with the banner of Johnson and

State rights they were going to sweep the country, to reverse the present order of things entirely and bring into these Halls a full representation of the southern States, which we had just conquered with our arms, and which they seemed to regard and now seem to regard as persecuted, injured communities.

I will say no more upon this subject. I am entirely opposed to the prolongation of the presidential term.

Mr. BUCKALEW. I hope, Mr. President, that the consideration of this measure will not be concluded to-day, as I desire to speak to one point which I think important in connection with presidential elections in this country.

I was glad to hear the Senator from Massachusetts [Mr. SUMNER] suggest that there was another reform more important than that which has been introduced to the attention of the Senate by the Senator from Ohio, [Mr. WADE,] and that is, that in the choice of President by the people they shall exercise their choice directly and not through intermediate agents. But, sir, I should be unwilling to vote for the proposition for which the Senator from Massachusetts proposes to contend. He proposes to have votes given by the people directly for candidates for President and Vice President upon the ordinary majority or plurality rule which prevails at elections. The Senator from Massachusetts is in favor of having this power of selection exclusively lodged in and exercised by the people of the United States themselves. He says that; I presume he thinks that; but in point of fact, if the Senator will come to analyze the measure which he proposes to support he will ascertain that he stops far short of his object.

Now, what I would desire would be that the people of the United States should in point of fact, and not in point of theory merely, select their chief Executive Magistrate, and the alternate who accompanies him always before them as an associate candidate, I mean the Vice President.

According to the accepted rule you submit in each State to the choice of a majority or a plurality, a certain number of electors to which the State may be entitled. You proceed to count the votes of one portion of the people of that State; you reject and ignore and exclude the votes of all others. You do this upon a system. You do it throughout the country. Hence it is that your elections are a matter of chance, a matter of accident; there is no certainty that the real voice of the people, as expressed by their ballots, will be executed in the Government of the United States; that the head of this Government will take office by virtue of real votes given to him by those in whom the popular sovereignty of this country is lodged.

Sir, would it not have been admirable in 1860 that in all parts of the United States every man's vote should have been counted for what it was worth upon the result, that there should have been no ignoring of minorities anywhere? And would it not be an admirable rule for the future to provide that any political interest however small in a State should have its vote taken into account in the decision of this most important of our popular elections? If an opportunity shall be afforded me before this debate is concluded I will endeavor to show to the Senate, without consuming much time, that there is a necessity for reform in the manner in which the sense of the people of the United States is taken in selecting their Chief Magistrate, and that a reform directed to this point may be easily and conveniently carried into practice under an amendment to the Constitution, or perhaps without an amendment of the Constitution, by a mere statute enacted by Congress.

Mr. President, there is another point connected with presidential elections upon which we may act and act completely as a legislative body, and that is the time when the presidential election shall be held. There are very strong reasons of convenience and of policy



in favor of fixing the presidential election in the month of October, fixing it for the entire country for all the States uniformly upon the second Tuesday of that month. I think that upon due consideration given to the reasons which apply to that question there will be little difficulty in coming to an agreement upon it. I propose if I can accomplish my purposes to call that question up and take the sense of the Senate upon it before we adjourn, in the hope that it may be assented to by both Houses.

There are strong reasons for action upon this subject, some of which apply to the present time. In the great State of New York a constitutional convention is about to be held under an act of the Legislature, to be enacted in pursuance of a recent vote of the people, for the purpose of reforming the constitution of that State. If you pass an act of Congress providing that the presidential election shall be held on the second Tuesday of October, instead of being held as now in November, no doubt that State in reforming her constitution will adopt the former day for her State election also.

There are opportunities for fraud along the borders of adjoining States when their elections are held upon different days. We have heard complaints in relation to fraud along the borders of Pennsylvania and of New Jersey, and the same complaints have been made in the State of New York; complaints of voters passing from one State to another when their elections are held upon different days. This is an evil which is almost perfectly provided against when you establish the same day in all contiguous States for taking the sense of the people upon the selection of officers.

There is another reason for fixing one uniform day for general elections, especially in our great States, and that is the influence which an election in one State has upon an election in another State when the latter is held subsequently. There can be no question, for instance, that in 1844 the vote of the great State of New York was controlled by the vote which had been taken in October in Pennsylvania. It gave direction to the canvass in the State of New York; it gave momentum and force to that political interest which eventually triumphed in the State of New York. It controlled the fence-men, all the movable voters, all those who constituted the balance of political power in that State; the consequence of which was that New York was carried by a very small majority for the candidate who was selected to be President of the United States. Now, by establishing the same day for holding elections in Pennsylvania and in New York, and in other States whose votes are powerful and important, you will prevent presidential elections from being determined by the influence and control of one State upon another in the manner I have described.

Again, the month of November, which is now fixed by act of Congress for holding the presidential election, is much too late. It is too late in the season for convenience and for comfort, and I suppose that all those States which have fixed upon November as a month for holding their elections will, whenever the opportunity offers, very gladly change the time and make it one month earlier. And if you fix the presidential election on the second Tuesday in October, fix it upon the day which has been selected by most of the northern States as the day for holding their elections, then all those States which have fixed their State elections in November will make the change promptly. New York will no doubt make such change at her coming convention in case you invite such action by the passage of a proper law here at the present session.

Again, sir, by holding presidential elections on the second Tuesday of October you will obtain in most of the States the election of members of Congress upon that day: and what will be the effect of that? Congress can meet here one month earlier than it does now. At a short session, such as that in which we are now engaged this would be—

Mr. WADE. I wish to inquire of the Senator whether we cannot by law and without alteration of the Constitution fix the times of holding these elections, all of them.

Mr. BUCKALEW. I said I proposed to call up a bill with this direct object in connection with these proposed changes relating to the Presidential election. I say then, sir, you gain one valuable month of time at every short session by meeting here early in the month of November, as we are obliged to adjourn on the 3d of March; we obtain one more month of invaluable time for the transaction of public business. And in the years of long sessions by beginning one month earlier you will be pushed into the summer months much less than you are at present. Instead of adjourning in June or July you can adjourn a month or two sooner. I consider this reform in connection with presidential elections to be very important, and one which ought to be adopted. I speak of it now for the reason that it is connected with the general question which the Senator from Ohio has introduced before us, the choosing of Presidents of the United States.

As to this proposition for limiting the eligibility of particular persons to the office of President of the United States, I must say that I do not think it near so important as he does. I think that those clauses in the Constitution limiting the eligibility of particular persons to the office of President and of Senator and of Representative in Congress are unimportant and unuseful; that too much importance was attached to them in the Convention which formed the Constitution of the United States; that in practice they have been of very little value. It is true that by one of these clauses Albert Gallatin was prevented from taking a seat in the Senate of the United States. He was selected a Senator from Pennsylvania and sent to this Senate, but was, after debate, excluded from his seat here as a representative of my State by reason of one of those limitations in the Constitution connected with the office of Senator. In other instances similar limitations in regard to membership in the House of Representatives have been disregarded. I believe both Mr. Randolph and Mr. Clay, two of the most eminent men of our country, took their seats in the House of Representatives in disregard of one of those limitations; at least the fact has been so represented. I know no good which those limitations have ever secured, I know no practical effect which they have ever had of a useful character, and the same remark will apply to limitations upon eligibility to the presidential office. I do not think that it is important that we should attempt to limit the people of the United States in their freedom of choice. I do not think that the adoption of such policy is wise. I do not think the adoption of a proposition in conformity with it and to apply it will have any very considerable effect in promoting the public interests. However, sir, I am not going into that question at this time.

#### MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McPHERSON, its Clerk, returning to the Senate, in compliance with its request, the bill (S. No. 527) to amend the postal laws, and for other purposes.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 183) concerning the fire department of Washington city; and it was signed by the President *pro tempore*.

#### POSTAL LAWS.

Mr. RAMSEY. I ask the consent of the Senator from Ohio, who has in charge the measure now before the Senate, to pass it by informally and let us proceed to the consideration of the postal bill, which has been returned from the House of Representatives. I think it will take but a short time to pass it.

Mr. WADE. If that is a debatable measure I should not like to have it interposed.

Mr. RAMSEY. I imagine there will not be much debate upon it. I should like to have it disposed of now; if not it may not be reached this session.

Mr. WADE. I would rather it should go over to some other time, for I am afraid it will be debated.

Mr. RAMSEY. There was an understanding that when this bill came back from the House we should at once proceed to its consideration. With that understanding some of us withdrew our objection to its being sent for.

Mr. WADE. I am afraid I shall lose my measure entirely if I let it go over. If it is only proposed to take a vote on this bill I shall not object; but I do not know how far it may take up time.

Mr. RAMSEY. I presume there is only a question about one or two sections of the bill, and it can soon be disposed of.

Mr. WADE. Well, Mr. President, as that bill has been dealt with in rather a short manner perhaps I had better give way to it; and I do so with the hope that it will not take long.

Mr. RAMSEY. I suggest that the special order be passed over informally by common consent for the purpose.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) That course will be pursued if there be no objection. The Chair hears no objection. The regular order of business is passed over informally, and the bill (S. No. 527) to amend the postal laws, and for other purposes, is now before the Senate, the pending question being on the motion to reconsider the vote by which the bill was passed.

The motion was agreed to.

Mr. FESSENDEN. I now move to reconsider the vote by which the bill was ordered to a third reading.

The motion was agreed to.

Mr. RAMSEY. Now, if the Senate will indulge me a few minutes, I think I shall be able to explain to them that the action which was taken upon this bill on Saturday evening last was proper, and that the Committee on Post Offices and Post Roads of this body acted judiciously and discreetly in recommending the passage of the bill.

I premise by stating that there is no one of the great Departments of this Government increasing and extending itself as rapidly in its business operations and its personnel as the Post Office Department. Growing as it has grown with the growth of the country, it is not surprising that annually there should be some modifications of the laws for the government of that Department asked for. In this instance the modifications proposed are moderate and reasonable, and such as I think justify the Senate in at once adopting them. I will proceed to consider the bill section by section. The first section provides—

That the schedule of charges or fees for issuing postal money-orders, established by the third section of the act approved June 12, 1836, be, and the same is hereby, modified so that the charge or fee for an order not exceeding ten dollars shall be ten cents, for an order of more than ten but not exceeding thirty dollars the charge shall be fifteen cents, and for an order exceeding thirty dollars a fee of twenty-five cents shall be charged; and, furthermore, that the compensation of deputy postmasters for the payment of money-orders is hereby increased from one eighth to one fourth of one per cent. on the gross amount of orders paid at their respective offices.

The Postmaster General, in his annual report at the present session of Congress, states very clearly the reason for this modification of the law. He says:

"The present charge or fee established by law for an order of twenty dollars or less is ten cents, and for an order exceeding twenty dollars twenty-five cents. These rates are defective in this respect: that an applicant who desires to remit any sum under forty dollars could do it more cheaply by two orders than by one, inasmuch as two orders for twenty dollars each would cost him but twenty cents, while for a single order of forty dollars he would have to pay twenty-five cents. The manifest tendency of this state of things is to augment unnecessarily the number of orders issued, involving a waste of time and of clerical labor at both the issuing and paying offices, as well as increasing the liability to error. The adoption of an additional rate of fifteen cents for all orders of more than ten, but not exceeding thirty dollars, without any change of the present fees for

orders of ten dollars or less, or for orders exceeding thirty dollars, would remedy the defect in question and promote expedition and accuracy in the transaction of the business.

At some post offices, particularly those located at centers of trade and commerce, the number of orders paid very greatly exceeds the number issued, so that the payment of orders constitutes the chief business of these offices, and as the postmaster's compensation for paying orders, being one eighth of one per cent. on the amount thereof, is much less than for issuing them, for which he receives one third of the fees, it is recommended that the commission for paying orders be increased from one eighth to one fourth of one per cent., so as to afford postmasters at such offices a compensation proportionate to their services."

In 1864 the tariff for money-orders was as follows: for an order of one dollar and not exceeding ten dollars, ten cents; for an order exceeding ten dollars and not exceeding twenty dollars, fifteen cents; for an order over twenty dollars, twenty cents; and the limit to money-orders in that law was thirty dollars. It was subsequently amended by the act of July 12, 1866, and the tariff for money-orders was then changed so as to be for money-orders not exceeding twenty dollars, ten cents; and exceeding twenty dollars up to fifty dollars, twenty-five cents, and the limit of orders was increased to fifty dollars. It seems to me that is a sufficient explanation of this first section, and I trust the Senate will think so. The second section provides—

That in case of the loss of a money-order, a duplicate thereof shall be issued by the superintendent of the money-order office without charge, on the application of the remitter or payee of the original, provided the applicant furnish a certificate from the postmaster on whom the same was drawn that it had not been and would not thereafter be paid, and a similar certificate from the postmaster by whom it was issued that it had not been and would not be repaid to the purchaser; and a second fee shall not be charged for a duplicate money-order issued to replace an order that has been rendered invalid because of non-presentation for payment within one year after its date, or because of illegal indorsements.

The Postmaster General in his report says:

"In case of the loss of a money-order the owner, in order to obtain a duplicate thereof, is required to furnish a statement under oath or affirmation, setting forth the loss or destruction of the original, together with a certificate from the postmaster by whom it was payable that it has not been and will not be paid. A certificate must also be obtained from the issuing postmaster that the order in question had not been and will not be repaid to the purchaser. In the majority of cases the applicant's information with regard to the loss of the original order is limited to the fact that it was mailed at a certain office, but failed from causes unknown to him to reach the person addressed. He is obliged, however, to furnish a statement to that effect under oath, (which is to be administered by the postmaster without charge,) and to defray the cost of a five-cent revenue stamp affixed to such statement. This additional expense is burdensome to the owner, who is rarely to be blamed for the loss of the original order, for which the regular fee had already been paid to the Department, and the latter having undertaken, in consideration of that fee, to transfer through the mails the sum of money represented by the order, should perform that duty without exacting any further compensation. Experience, moreover, shows that the certificates of both postmasters afford complete security against the erroneous issue of a duplicate in lieu of an order that had once been paid. It would seem, therefore, that the legal requirement from the applicant of a sworn statement as to the loss or destruction of the original is entirely unnecessary as well as onerous, and should be abolished. For similar reasons no charge whatever should be made for the issue of a duplicate order to replace an original that has become invalid because not presented within one year after its date, or because improperly indorsed. In such cases the invalidation of the order is in itself a penalty for any negligence of the holder, who, on application, should receive payment of his money by means of a duplicate without a second fee.

That I trust is a sufficient explanation of the necessity for the passage of the second section. The third section provides—

That if any person shall falsely forge or counterfeit, or willingly aid, assist, or abet in falsely forging or counterfeiting, or shall procure, directly or indirectly, to be falsely forged or counterfeited any postal money-order, or any material signature or indorsement to any postal money-order issued by the Post Office Department or any of its agents, for the purpose and with the intent of obtaining or receiving, directly or indirectly, or of procuring or enabling others to obtain or receive, directly or indirectly, any sum or sums of money, and thereby to defraud either the United States or any person of such sum or sums of money, or any part thereof, or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any such forged or counterfeited postal money-order, with intent to defraud either the United States or any person of any sum or sums of money, knowing such postal money-order or any signature or indorsement thereon to be so falsely forged or counterfeited, every

such person shall be deemed guilty of felony; and being thereof duly convicted, shall be sentenced to be imprisoned and kept at hard labor for a period of not more than five years, and to be fined in a sum not exceeding five thousand dollars.

The Post Office Department conceived that under no present law could the forging of money-orders be prosecuted as a felony, and hence they asked for this additional legislation, to which, I presume, no one can have any objection. The Postmaster General says in his report:

"During the last fiscal year five cases have occurred of the payment of orders to persons who had forged the signatures of the payees. These persons had previously, through lack of precaution or injudicious confidence of the remitter or payee, been put in possession of all the information required to obtain payment of the order. To forge or counterfeit a money-order is made a penal offense by the act of May 17, 1864, but there is no provision of law to punish the forgery of the payee's signature, and as the latter crime is liable to be often repeated, especially at the large offices, there is a necessity for additional legislation to provide an adequate punishment for it, as well as for any attempt to obtain payment of a money-order by fraudulent means.

The fourth section provides:

SEC. 4. And be it further enacted, That the Postmaster General be, and he is hereby, authorized to appoint in the bureau of the First Assistant Postmaster General a superintendent of foreign mails, at an annual salary of \$3,000, and one additional clerk of class four for that branch of the postal service, and that the superintendent of the money-order system shall receive an annual salary of \$3,000.

I have a statement of the number of letters, the number of newspapers, and the amount of postage upon the correspondence exchanged between the United States and foreign countries, each fiscal year from 1863 to 1866, inclusive:

Years.	Letters.	Newspapers.	Postages.
1863 .....	6,089,880	3,411,307	\$1,520,494 01
1864 .....	7,024,430	2,546,567	1,642,660 12
1865 .....	7,401,605	4,092,145	1,819,928 56
1866 .....	9,430,546	4,186,166	2,289,219 30

All correspondence with post departments of foreign countries, embracing the negotiations of international postal treaties and arrangements, which are conducted directly between the heads of the respective post departments, and also the direction and management of our ocean mail steamship service to foreign countries, is assigned to the officer in charge of the foreign mail service. Postal treaties and conventions, establishing and regulating the interchange of correspondence in open or closed mails have been concluded with Great Britain, France, Prussia, Belgium, Italy, Hamburg, Bremen, the British North American Provinces, Mexico, Guatemala, Costa Rica, and Venezuela, and negotiations are in progress for direct postal arrangements with several other countries. A new convention with Great Britain, on a very liberal basis, has recently been negotiated, reducing the international letter rate of postage from twenty-four to twelve cents, and admitting into the mails printed matter of all kinds at low rates of postage, the advantages of which will also accrue to all correspondence forwarded to and received from other countries of Europe and Asia, through the British mails.

Negotiations have also been opened with the French Post Department, with the view of readjusting our postal convention with France upon a more liberal basis, establishing not only reduced rates of international postage, but also providing for the territorial transit and sea conveyance of correspondence in closed mails through each country upon a basis of reciprocity mutually advantageous to the public of both countries. The recent establishment of direct mail steamship lines to Brazil and to Japan and China will enlarge the operations of our foreign mail service, involving the necessity of direct postal arrangements with the different countries of South America and Asia, which can be reached by means of these new routes of communication.

All this large and important branch of business is now in the charge of a clerk. The Department conceive that the importance of his duty justifies an increase of his compensation and a change in the denomination of his office, so as to advance him to a higher grade.

The expense under this section will be, for the superintendent \$3,000, and for an additional clerk \$1,400, making \$4,400. Then there is the superintendent of the money-order system which has grown into vast consequence, several hundred thousand money orders being issued every year. It is proper that this important service should be placed in the charge of some responsible officer. It is all in charge of a clerk, and the proposition is to give that officer some increased compensation. The provision is that he shall receive an annual salary of \$3,000, and there is provision also for two clerks of the fourth class, amounting altogether to an expenditure of \$5,600.

The fifth section provides for the appointment in the bureau of the Third Assistant Postmaster General of a superintendent of dead-letters, at an annual salary of \$2,000. I presume it is not necessary for me to explain to the Senate the importance of that branch of the Post Office Department. The increase of this business is evidenced by the number of clerks which it employs. There are now some eighty-five there employed, and the proposition is to place as superintendent of this large office an officer of this denomination, and to give him a salary of \$2,000, which certainly is not very large. Then there is an addition by this section of \$2,000, making thus far \$17,600 increased expenditure.

The sixth section provides—

That the Postmaster General be, and he is hereby, authorized to appoint in the bureau of the Second Assistant Postmaster General a superintendent of domestic mails and a superintendent of inspection, who, with the chief clerks of the three bureaus and the topographer of the Post Office Department, shall each receive an annual salary of \$2,500; also, to appoint an additional clerk, to be in charge of mail bags, locks, and keys, at an annual salary of \$2,000, and an assistant topographer at a salary of \$1,800 per annum.

I suppose every one will concede that in the growth of the business of the Post Office Department there must be a readjustment of its management, of its government, and this is all that this section provides for. Although a number of clerks and bureau officers are spoken of in it, all that it provides for amounts to about ten thousand dollars in money, so that the whole increase of expenditure proposed by this bill in all its various provisions is but \$17,900 in this great Department of the Government.

Mr. JOHNSON. I wish to ask the honorable member whether the measure is recommended by the Post Office Department?

Mr. RAMSEY. All the sections have been recommended by the Post Office Department and closely scanned by the committee, and the committee did not report favorably on them until they were perfectly satisfied that the Post Office Department was proper and within limits in asking for them.

I have gone through the various sections of the bill as reported by the committee. Two or three sections were added by way of amendment in the Senate which I can state very briefly. The seventh section provides for authorizing the Postmaster General to combine the three blank agencies into one and concentrate them here at the City of Washington. In that way, as I stated this morning, while the aggregate salaries will be increased about one thousand dollars, economy is expected to be produced in the management of this branch of business which will effect the saving of thousands of dollars.

Another amendment added by the Senate was in reference to the compensation of letter-carriers. We have received many petitions from the City of New York, signed by the principal merchants of the city, asking that additional compensation shall be allowed to the letter-carriers there, who are some hundreds in number. At present, as I before stated, the maximum compensation allowed to them is \$900 a year. The committee thought it but reasonable, and in this the Postmaster General agreed with us, to carry up the maximum to \$1,200.

Now, sir, I have covered the whole ground,

and I really think upon reflection and reëxamination the committee did nothing very improper in asking the Senate to pass this bill, and the Senate did nothing very wrong in passing it. I trust, then, that this action of ours may be sustained by the Senate.

Mr. SHERMAN. I suppose no one attributes to the Senator from Minnesota anything wrong in the passage of this bill, but still I think it very right, having been passed in so thin a Senate, that it should have been reconsidered. My attention was called to the bill this morning for the first time, and I am glad that an opportunity has been given to reconsider it. I ask now for the reading of the section which was added as an amendment to the bill relative to the settlement of postmasters' accounts.

The Secretary read as follows:

*And be it further enacted, That the Postmaster General be, and he is hereby, authorized to adjust and settle the accounts of postmasters accruing prior to the establishment of the system of salaries for deputy postmasters upon the basis of equity and justice: Provided, That such settlement shall not include any case of official delinquency by any deputy postmaster.*

Mr. SHERMAN. I hope Senators will reflect a little upon the extensive power given by this section to the Postmaster General. It dispenses with the examination of Auditors and Comptrollers and the whole machinery of the Treasury Department in all cases of claims made by postmasters before the passage of the recent act fixing salaries for those officers. In other words, the Postmaster General will be authorized to settle at his pleasure, upon principles of equity and justice, with every postmaster in the northern States, whether he be a defaulter or not.

Mr. CONNESS. The Senator is not correct in that statement.

Mr. SHERMAN. The only restriction is that the settlement shall not include any case of official delinquency by any deputy postmaster. Now, what is "official delinquency?" When South Carolina went out, suppose a postmaster there had \$10,000 in his hands which he has not paid over to the Government; is that a case of official delinquency?

Mr. CONNESS. I say, yes.

Mr. SHERMAN. I hardly know what that language means. At any rate, this amendment removes these postmasters' accounts from the ordinary supervision of the proper branch of the Government constituted to have that supervision. It seems to me to be an extraordinary provision to select the Postmaster General as a general arbitrator of claims in his Department growing out of the settlements of the accounts of postmasters, whatever they may be, unless they involve official delinquency, which is a term vague and indefinite, and of the meaning of which he is to be the only and sole judge. There is now an Auditor for the Post Office Department to pass upon these things. There are fixed rules and regulations and laws which govern the adjustment of accounts. This removes all these cases from that officer's jurisdiction, and allows the Postmaster General to settle them, not upon the rules and regulations that govern the Department, but upon principles of equity and justice; in other words, he becomes the grand arbitrator of all things of this kind in his Department. I do not see myself how far this authority goes, nor am I prepared in the present unsettled condition of affairs to give the Postmaster General such authority. I think that section ought not to be added to this bill.

The Senator from Minnesota says the bill does not increase the expenses of the Post Office Department more than about fifteen thousand dollars, and he gives the precise figures; but it does contain a provision which if once incorporated into this bill will involve an increase of expenditure amounting to very many tens of thousands of dollars. It is here provided that the chief clerks in the bureaus of the Post Office Department shall be entitled to a salary of \$2,500 a year. If that is once

enacted, how can you resist the same claim when made by every chief clerk of a bureau in every executive department? Are you prepared for that? Are you willing to raise the pay of the chief clerks of all the bureaus to \$2,500? How can you do it in the Post Office Department, which has always been regarded as the least important of all the Departments, and not do it as to the others? How could you resist such claim when made by the chief clerks of the bureaus of the Treasury Department, where the accounts are more complicated? If you ingraft this provision on this bill it will necessarily involve a gradation of the salaries in all the Departments.

There is also in the same section a provision raising the pay of ordinary clerks to \$2,000 a year, and raising the pay of the assistant topographer and ingrafting on your postal service at least three or four new offices with salaries varying from twenty-five hundred to three thousand dollars. It is true, the aggregate is not much, but if certain persons who are now fourth-class clerks can thus by name be raised in the pay of their offices by giving them some other name, the same principle must be adopted in all the different Departments. Nothing can be more difficult than the adjustment of the salaries of the various officers of the Government, and therefore I think it ought not to be included in a bill of this kind under these circumstances.

The fourth section makes two new offices in the bureau of the First Assistant Postmaster General, which, after all, is but a bureau of a comparatively inferior Department of the Government—a superintendent of foreign mails at an annual salary of \$3,000, a service that has usually been discharged by a fourth-class clerk, and one additional clerk of class four, so that you will have the same number of clerks and besides that a new officer at a salary of \$3,000 a year, instead of a salary of a fourth-class clerk. Then you introduce a new officer, called the superintendent of the money-order system, a duty now performed by one of the highest class clerks. The sixth section raises the salaries of the chief clerks of the bureaus of the Post Office Department to \$2,500, as I have stated.

Then it must be remembered that this bill takes effect from its passage, and if it should pass the House in a few days it will take effect in a very short time, during the present session, when we are this evening to consider a proposition to give to the clerks an additional compensation of twenty per cent. The result will be that these salaries will be increased, and at the same time they will get the benefit of the resolution which the Senator from Oregon has charge of, allowing twenty per cent.

It seems to me these things ought not to be put into the bill. So far as the legislative features of the bill are concerned I have no objection to them; I have no doubt the Senator has stated them correctly and explained sufficiently the necessity for them; but I do not think that the question of raising the compensation of the various employes of the Government should be introduced in this way, in a bill of this kind, because we cannot do it in one Department of the Government without doing it in all. I remember a case where the Senator from Iowa [Mr. GUMES] proposed to increase the salary of the Assistant Secretary of the Navy to \$4,000, and it was adopted. The result was that from that time forward for three years we had a controversy about the salaries of the different Assistant Secretaries of the various Departments of the Government, until finally they were all settled at \$3,500. In this case it is proposed to raise the salaries of the chief clerks of the three bureaus of the least important branch of the Government, and if it is done, as a matter of course the same claim will be made by the chief clerks of the bureaus of the other Departments. Perhaps there are a hundred and more chief clerks of bureaus in all the various Departments of the Government. It is better to meet that

claim directly as a legislative measure coming up and being fully considered rather than to meet it in a collateral way.

With the exceptions I have stated I have no objection to this bill. The new section to which I have referred I think is very mischievous in its effects. We cannot now see the extent of it. It may embarrass the Government in the settlement of postal accounts. I see no reason why these postal accounts should be withdrawn from the ordinary supervision of the accounting officers of the Treasury. This section undoubtedly does that, and it appoints the Postmaster General a general arbitrator to settle and adjust all the claims that may be made by postmasters in the southern States, unless he should judge that they arise out of official delinquency. If it is in order, I move to reconsider the vote adopting that section.

Mr. CONNESS. I understand it to be the section which provides that the Postmaster General may settle the accounts of postmasters on principles of equity and justice.

Mr. SHERMAN. Yes, sir.

The PRESIDING OFFICER. That motion is in order. The question is on the motion of the Senator from Ohio, to reconsider the vote adopting the section named by him.

Mr. CONNESS. The Senator from Ohio objects to this section and wishes it reconsidered, wishes that it shall not remain as part of the bill: he comments upon it, points out what may be its dangerous tendencies, but he proposes no amendment to it. He says that the latter provision of the section, providing that such settlements shall not extend to any case where there existed official delinquency, is loose and vague, but the Senator does not bring his ability to bear in making it more precise than it is now.

If the Senator had held the office of deputy postmaster in one of our towns many years since and had for his compensation the percentage then allowed by law, where not only the percentage but the whole receipts amounted to comparatively little, and yet in many instances had to provide a house, a fire-proof building, in which to receive the mails of the United States that passed through that office, for his handling of which and his care of which he received not a cent or fraction of compensation; if he had had to sit up the live-long night as the mails came in to attend to them either by himself or through a deputy, and the law allowed him no compensation whatever either for furnishing the building to transact this business in or for the attention required to be given, he would think it was a pretty hard case when the United States district attorney was authorized to bring suit against him in the premises on the instruction of the Auditor of the Post Office Department. But it has not fallen to the lot of the honorable Senator to be exposed thus and asked to defend himself against a suit in the United States courts for a trifling sum of money, but which defense is necessary to be made, and where ruin in reality is to follow.

I hope the Senator will be a little more liberal in regard to this matter, and if he desires to provide against the settlement of any southern postmaster's accounts where he reserved moneys belonging to the Government, let him offer a proviso to that effect and let it be adopted. The Postmaster General understands very well the cases to which this would apply, and he is in favor of such a provision, not I undertake to say because it gives him patronage, not because it authorizes him to settle these accounts, but because his attention is taken up in a great degree, and that of the officers of the Department under him, by a host of claim agents who are constantly engaged in pressing him for a settlement of their accounts. A large share of the time of the officers of the Department is constantly engaged in reference to accounts ante-dating the law fixing salaries, which is precise in its character, and which accounts ought to be adjusted and settled.



There are suits now to the extent of hundreds brought against men, involving their certain ruin; and yet the Postmaster General has not the authority to order their withdrawal. Certainly, if we cannot intrust the head of a Department of this Government, an officer who is the adviser of the President of the United States in the adjustment of these old accounts of the character I speak of, the country has come to a pretty hard pass indeed.

It is well known that I am not on the very best of terms, either politically or otherwise, with the honorable gentleman who presides at the head of this Department, but I am perfectly willing to intrust him with the settlement of these cases. I am exceedingly anxious that our citizens shall be relieved from being constantly harrassed by the agents of the law sent out upon a change in the Auditor's department of the Post Office. We have an Auditor to-day who understands a case; perhaps he has given an order to suspend a suit, but he cannot order its discharge. When a new officer comes in, upon representation made to him he gives an order to reinstitute the suit and to press it to its conclusion. These cases are very hard; they exist all over the country; and it is a duty of the Government at once to ascertain a basis of exact justice upon which the settlement can be made. If the Senator from Ohio sees fit to offer any provision which shall guard it with more care I have no objection.

Mr. SHERMAN. The Senator from California has shown by his argument the danger of this section. According to this construction it does enable the Postmaster General, without limit or restraint, to give additional compensation to every postmaster from the foundation of the Government to the passage of the recent law.

Mr. CONNESS. Not at all.

Mr. SHERMAN. That is the power conferred. Let Senators read the section of law and see. The Senator asks me to propose some amendment to the section. Nothing of the kind is necessary. Prior to the recent law the mode of assessing the compensation of postmasters was fixed, and the amounts were adjusted by the proper Auditor of the Post Office Department, and there is no difficulty in any person receiving all that is due to him from the Government of the United States for services as postmaster. Every person entitled to pay under the law can readily get it. If the law does not confer this authority we ought not to give to the head of a Department the power to allow that which the law does not grant. If a postmaster has a legal claim the way is open. Under these circumstances it is proposed to allow the Postmaster General to settle those accounts upon the basis of equity and justice.

Mr. CONNESS. What other basis should it be?

Mr. SHERMAN. Upon the basis of law. We never allow the head of a Department to settle accounts upon any other principle. Equity may be administered by Congress, but the executive officers must be governed by law. Suppose a postmaster should make a show of equity in regard to something that occurred twenty years ago, describing an extreme case, as the Senator did, and he should present it to the Postmaster General: the proofs on the part of the Government are all gone, but the Postmaster General under this section would have power to adjust the claim and pay whatever he thought just and equitable. There is no reference to an auditor or a comptroller; none of the ordinary machinery by which claims against the Government are investigated or allowed is provided for. Surely that ought not to be done.

Then, in regard to southern postmasters, the Senator thinks the phrase "official delinquency" will be sufficient to exclude them. Perhaps it may be, but I would not in any case give such authority to the head of a Department. The authority that was given by law two years ago to the Secretary of the Treasury

to compromise and adjust claims growing out of the internal revenue system has led to great complaints, and it will be modified at the first reasonable opportunity.

I have no desire to impeach, and I do not impeach, the integrity of the Postmaster General; but I would not subject any officer of the Government to be appealed to day by day by claimants for an additional allowance not contemplated by law. The time of the Postmaster General is now employed. The Senator says that claim agents are harrassing him already. Well, suppose you make him general grand arbitrator of all claims that may have arisen in his Department from the foundation of the Government to this time, he will have no peace; they will hound the life out of him. I would not give him authority to allow any claim unless it is a claim authorized by law, in strict pursuance of law. If the laws heretofore have been illiberal, and postmasters have not been granted enough, let us regulate that matter by our legislation.

Mr. CONNESS. From the remarks of the honorable Senator one would suppose that this case would cover great claims. One would suppose that it would bring about a settlement which would require that the Postmaster General should pay money out of the Treasury, when the facts are the other way; that the Post Office Department, through their Auditor, are prosecuting citizens on the assumption that they owe money to the Government.

Mr. SHERMAN. This would authorize the Postmaster General to overrule the decision of the proper tribunal.

Mr. CONNESS. The honorable Senator says that it is an unusual power to give to the head of a Department. Why, Mr. President, the Secretary of the Treasury has the power given him by law, and exercises it every day, of remitting to citizens when they have had property confiscated or proposed to be confiscated or condemned to the amount of hundreds of thousands of dollars, as in the cases of ships in the violation of the revenue laws of the United States. The law authorizes that officer to review the entire case, and to grant relief by dismissing the proceedings and restoring the property.

If that authority were not given under the laws as they stand there would be the greatest possible hardship to citizens. Citizens would rise up against the administration of the law. The cupidity of a Government officer might lead to the utter ruin of the best men of the land. These are great cases, and the authority is full and plenary in the head of the Department; but the cases to which this section is to refer are cases involving one hundred or two hundred or mayhap five hundred dollars of claims against deputy postmasters, where upon examination of the case the Department are forced to conclude that an allowance ought to be made in equity to the postmaster, but the law was exact at that time and did not authorize the allowance to be made. The suit is pending; the man is ruined, or about to be ruined. Here is the spectacle of a great Government crushing a man out who in a small and humble capacity endeavored to do the very best he could for the Government.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on the motion of the Senator from Ohio, to reconsider the vote adopting the section which has been specified.

Mr. CONNESS called for the yeas and nays; and they were ordered.

Mr. SHERMAN. I wish simply to answer one remark made by the Senator from California. He alludes to the power invested by law in the Secretary of the Treasury in cases of penalties. There is no authority vested in the Secretary of the Treasury like this. The Senator will look in vain in any law to find any such authority granted to any head of Department.

Mr. CONNESS. It is a very much greater authority.

Mr. SHERMAN. Not at all. In certain cases where seizures are made and forfeitures incurred the Secretary may relieve parties from penalties, and the cases are restricted by the law; but he has never been authorized to draw money from the Treasury on principles of equity and justice. That power has never been granted.

Mr. CONNESS. I desire simply to say that it is an equity power strictly that is given to the Secretary of the Treasury in those cases; that when he decides he overrules the judgments of courts and the law, because there is equity in the case.

Mr. HENDRICKS. I wish to ask the Senator from California what is the exact class of cases which will be submitted to the judgment of the Postmaster General if this section becomes a law.

Mr. CONNESS. They are cases of a very limited class where the percentage was the only compensation allowed to the deputy postmasters, but when they were, perhaps, what are termed separating offices, for which the law made no provision; where the office was required to be kept open every night, and a man kept on service; where a building sufficient to receive a large and overwhelming mass of mail matter had to be provided, and yet the law made no provision to compensate the man, and the postmaster went on performing those duties with the expectation that the Department would make an allowance thereafter.

Mr. McDOUGALL. Gentlemen have spoken about equity and law. Probably it would be well that we should understand what equity is and what law is. Whether we consult Lord Bacon or Lord Coke; whether we take the continental jurists or take the common-law lawyers, equity is law, and equity has the same foundation as the common law. It is the law of the country. What the law does not justify equity does not afford.

It is true that in ancient times, under the severe rule of the common law, the chancellors of England introduced from the Continent the continental jurisprudence, and it has received the name or style of equity; but what is that but simple justice, what is that but simple law? Equity is law only in a different form, and to be informed properly we must understand that there is no difference between the common law and the civil law when you come down to their real principles, because they all have the same foundation, and there is no such thing as equity in the understanding that it is out of the complaisance of the officer to grant a favor. Lord Bacon did not do that. The law as administered in the high court of chancery is altogether continuous with the common law of England. The common law of England is the same thing with the law of the Continent, only they use different terms, different styles, and different manners, but all seek the same result, and that is exact right.

Mr. FESSENDEN. I cannot help thinking that this is a very dangerous power. I have always been opposed to bills giving the head of a Department or anybody else power to settle claims upon the principles of equity and justice, because that leaves them entirely to his discretion to do precisely as he pleases. Most of the difficulties that we have had about claims have arisen from power given in such terms. Much of the complaint of the undue exercise of power in the payment of money that ought not to have been paid has arisen out of such legislation.

If it were possible for the Postmaster General himself to sit down and examine these claims personally and ascertain what should be done with them, it would not be so bad; but everybody knows that neither the Postmaster General nor any other head of a Department can give his personal attention to anything of that sort. He necessarily puts it into the hands of a clerk, and a clerk is open to influences, as all men are more or less.

The Postmaster General cannot even revise what he does. Everybody must see that these

claims may be almost innumerable. There is no limit. It applies to all accounts of postmasters existing prior to the law establishing salaries. It is simply saying that all of them who may have, or may think they have, equitable claims according to good conscience, may come forward and present them to the Postmaster General, and he puts them into the hands of a clerk to examine them. The power to this extent, it strikes me, is very dangerous, and such as we ought not to grant to anybody. I must therefore vote in favor of the motion to reconsider this portion of the bill.

The question being taken by yeas and nays, resulted—yeas 16, nays 22; as follows:

YEAS—Messrs. Buckalew, Davis, Fessenden, Fogg, Foster, Harris, McDougall, Morgan, Morrill, Pomeroy, Ross, Sherman, Sprague, Sumner, Trumbull, and Wilson—16.

NAYS—Messrs. Anthony, Brown, Chandler, Conness, Cragin, Creswell, Dixon, Frelinghuysen, Hendricks, Howard, Johnson, Kirkwood, Lane, Norton, Patterson, Ramsey, Riddle, Stewart, Van Winkle, Willey, Williams, and Yates—22.

ABSENT—Messrs. Cattell, Cowan, Doolittle, Edmunds, Fowler, Grimes, Guthrie, Henderson, Howe, Nesmith, Nye, Poland, Saulsbury, and Wade—14.

So the motion to reconsider did not prevail.

Mr. SHERMAN. I move in section six, line five, to strike out the words "with the chief clerks of the three bureaus and the topographer of the Post Office Department;" and in line eight of the same section to insert after the word "clerk" the words "of the fourth class;" so as to make the section read:

That the Postmaster General be, and he is hereby, authorized to appoint in the bureau of the Second Assistant Postmaster General a superintendent of domestic mails and a superintendent of inspection, who shall each receive an annual salary of \$2,500; also to appoint an additional clerk of the fourth class to be in charge of mail-bags, &c.

Mr. RAMSEY. I think, considering the important duties of the chief clerks of these several bureaus, a salary of \$2,500 is not too much, and probably not more than is paid for equivalent service in other Departments.

Mr. HENDRICKS. How far does the proposition which it is proposed to strike out extend?

Mr. RAMSEY. To the chief clerks of the three bureaus in the Post Office Department, the bureaus of the First Assistant, Second Assistant, and Third Assistant Postmasters General. Our proposition is to make the salaries \$2,500.

Mr. BROWN. What is it now?

Mr. RAMSEY. Twenty-two hundred dollars, I think.

Mr. SHERMAN. This involves the whole question of raising the salaries of the chief clerks of all the bureaus in the various Departments who now get \$2,000.

Mr. RAMSEY. I do not see that that necessarily follows.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. SHERMAN. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 6; as follows:

YEAS—Messrs. Brown, Buckalew, Conness, Cragin, Davis, Dixon, Fowler, Frelinghuysen, Harris, Henderson, Hendricks, Howard, Kirkwood, Lane, McDougall, Morrill, Norton, Patterson, Pomeroy, Ramsey, Ross, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—29.

NAYS—Messrs. Fessenden, Fogg, Morgan, Sherman, Sprague, and Sumner—6.

ABSENT—Messrs. Anthony, Cattell, Chandler, Cowan, Creswell, Doolittle, Edmunds, Foster, Grimes, Guthrie, Howe, Johnson, Nesmith, Nye, Poland, Riddle, and Saulsbury—17.

So the bill was passed.

#### AMENDMENT TO CONSTITUTION.

Mr. DIXON. I expected to have an opportunity to-day to say a few words on the amendment which I proposed to offer to the resolution of the Senator from Ohio, but as the hour is now late, and as I understand the Senator from Oregon intends to ask for an evening session, and as it is impossible for me to be here this evening, I desire to say that instead of offering my proposition as an amendment to that resolution I shall offer it as an independent

proposition. If there be no objection, I suppose it may as well be offered now, and I therefore ask leave to submit it at this time.

By unanimous consent, leave was granted to introduce a joint resolution (S. R. No. 169) proposing an amendment to the Constitution of the United States; which was read twice by its title:

Mr. SUMNER. Is that the proposition the Senator presented the other day?

Mr. DIXON. The same.

Mr. SUMNER. I regard it as a delusion and a snare, and I want to say so at once.

Mr. DIXON. I will say in reply to the Senator that I was in hopes to be able to say a few words to-day in defense of the proposition, but at this late hour, just on the eve of the recess, I will not attempt to do so; but I give notice, however, that I shall call up the resolution at an early day if the Senate will allow me to do so. I move for the present that it lie on the table.

The motion was agreed to.

#### RECESS.

Mr. WILLIAMS. I move that the Senate take a recess until seven o'clock.

Mr. CRESWELL. Before that is done I should like a few minutes for the consideration of House amendments of the Senate bill No. 491.

Mr. WILLIAMS. I cannot consent to withdraw the motion.

Mr. SUMNER. I wish to have an understanding as to the business we are to proceed with this evening.

Mr. CONNESS. There can be no understanding of that kind.

Mr. WILLIAMS. The Senate adopted a resolution the other day providing a session for this evening for the purpose of considering the extra compensation resolution. I expect that the resolution will be considered; and whether other matters will or will not be considered will be for the Senate to determine.

Mr. SUMNER. I understand that that measure will be in order.

Mr. WILLIAMS. It will be in order and have priority, as I understand, according to the resolution of the Senate.

The motion was agreed to; and the Senate took a recess till seven o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

#### BILL INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 591) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862; which was read twice by its title, and referred to the Committee on the Pacific Railroad.

#### CONSUL AT CADIZ.

Mr. POMEROY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of State be requested to report and transmit copies of any correspondence on file in the Department of State relating to the manner in which our consul at Cadiz has transacted the business of his office, particularly relating to any statement or documents of the Spanish Government upon the question of the invoices of wines shipped to the United States.

#### COMPENSATION OF CIVIL EMPLOYÉS.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of House joint resolution No. 224.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 224) giving additional compensation to certain employés in the civil service of the Government at Washington; the pending question being on the amendment proposed by Mr. RAMSEY to the amendment of Mr. WILLIAMS,

to insert in line thirteen, after the word "navy-yard" the word "arsenal."

Mr. RAMSEY. When this resolution was up before I moved this amendment. As I said then, I can see no very good reason why there should be a discrimination against the employés in the arsenal. They are very numerous, and their compensation, I believe, is not greater than it is in the other Departments of the Government. We all recollect the great catastrophe that occurred there last summer. There is more peril connected with employment in that particular branch than in any other. These people are sitting upon a powder magazine all the time. If there is any apology, and there is of course, for this increase of compensation, I think it is as justly due to these people as to any others in the service of the Government in the city of Washington.

Mr. WILLIAMS. I think the amendment proposed by the Senator will not embrace the persons whom he desires to benefit, because the amendment of the Finance Committee, offered by me, confines this increase of compensation to the persons employed in the offices, and does not extend it to the employés and laborers who may be engaged in the navy-yard; so that the Senator's amendment would only include the clerks and those persons who may be employed in the office of the arsenal, if there be such a place. I am not advised as to whether there is any distinct office connected with the arsenal or not; but the Senator will see by looking at this resolution that it is confined exclusively to the persons who are employed in the offices. I have only to say that if there be any such place as an office of the arsenal I do not know that there is any objection to this amendment, but it will not reach the employés and laborers in the arsenal.

Mr. RAMSEY. Probably a further amendment will be necessary to reach all the cases; but this will comprehend, at any rate, a larger class than the resolution as it stands does, and I do not think there can be any objection to it. There probably is—there must be, it cannot very well be otherwise—an office connected with the arsenal, and it will at least reach that class of persons. I cannot see why they should be omitted. I suppose the Senator will agree to that.

Mr. WILLIAMS. I have no objection to that.

Mr. RAMSEY. Then I will for the present let it rest there.

Mr. WILLIAMS. I have no objection to the amendment in the form it is presented.

Mr. HENDRICKS. If we commence to extend this appropriation beyond the Departments proper, in my opinion the resolution will become embarrassed and will lose support. There are navy-yards and arsenals elsewhere that can as well claim this relief as those establishments in this city. I should feel myself bound to move to include the arsenal at Indianapolis if it be extended to the arsenal in this city.

Mr. RAMSEY. Then you might as well move for the same reason to include the navy-yard at Philadelphia, the navy-yard at Brooklyn, &c.

Mr. HENDRICKS. I will say to the Senator that I do not represent either of those navy-yards, or I would do so.

Mr. RAMSEY. If there be any establishment in Indiana or elsewhere—

Mr. HENDRICKS. I believe there is no navy-yard in Indiana. There is an arsenal there.

Mr. RAMSEY. The arsenal here is a branch of the War Department. So it is not liable to the objection the Senator urges.

Mr. GRIMES. I understand that the idea embodied in this resolution is to increase the salaries of those persons whose salaries are now fixed by law. Now, if the Senator from Minnesota shows that the salaries of the clerks in the arsenal are already fixed by law and that they are too low, then he will have given sufficient reason for the adoption of his amendment; not until then. I suppose that no one

here knows what these salaries are, and until we are informed we cannot vote understandingly upon it. So far as the workmen are concerned their pay is not fixed by law, and it fluctuates according to the value of labor in the market. It is precisely so with those who are employed at the navy-yard. Their pay is not fixed by law. It is one price one year, or one season of one year, and another price at another. The law as now established is that the pay at each of the navy-yards shall be that which is paid for a corresponding species of work in adjacent ship-yards, and it goes up or down according as other labor falls or rises. I suppose that the same is the case with regard to the arsenal. But I agree with the Senator from Indiana, that if we want to pass any bill at all on this subject we have got to cease loading this measure down with amendments to include everybody in the city of Washington.

Mr. RAMSEY. I regret that after I had the consent of the member of the Committee on Finance who has this resolution in charge, the Senator from Iowa should have felt it his duty to oppose so reasonable an amendment as this. If there are no clerks receiving regular annual salaries in the arsenal, then of course no one will be benefited by this amendment. If there are clerks there, all those receiving over three thousand five hundred dollars a year cannot participate in it; but if you say that \$2,000 or \$2,500, the wages of a clerk in any Department is not enough, and you propose to give him twenty per cent. and I agree that you should, what possible objection can there be that he does that service in the arsenal rather than in the navy-yard or in the Treasury Department or elsewhere? I suppose the theory of this resolution is that the compensation of the Government clerks in the city of Washington, owing to the increased price of living, is not sufficient; and certainly that reason applies as well to the clerks who may be employed in the arsenal as to any clerks employed in any other branch of the Government service in Washington.

Mr. GRIMES. I am not aware that this resolution is to be acted upon and passed solely upon the recommendation of the Committee on Finance or of any member of it; nor do I suppose we can throw off from our shoulders our share of the responsibility of either passing it or rejecting it. When the Senator shows to us that there are clerks in the arsenal, and that their salaries are too low; it will be time enough to increase them. He has failed to show us that. It seems to me that the whole case is embraced in a nut-shell. Whenever we are convinced that the salaries are too low I am ready to vote for an increase, but we may place ourselves in the anomalous position of giving greater pay to the clerks of the arsenal than is now enjoyed under the law by those who are their superiors in rank and who have the control of them. We do not know that. But in regard to the clerks in the Departments we know what their compensation is, for we have fixed it by law, and there is no possibility for it to be raised unless it be by such action as the Senator from Oregon proposes. But can the Senator from Minnesota tell me that it is not within the power of the Secretary of War to increase the compensation of these clerks at the arsenal? According to my recollection of it the pay of each of those clerks is fixed by the Secretary of War, as it is in all the arsenals and armories in the country, and there is no legislation confining him to any particular sum.

Mr. RAMSEY rose.

Mr. WILLIAMS. Let us have a vote.

Mr. RAMSEY. Very well; I do not wish to protract the debate further. If all salaries under \$3,500 be too little in the other Departments they must for the same reason be too little in the arsenal.

Mr. WADE. I hope this amendment will prevail, and I hope, too, that it will be extended to all the laborers of the arsenal as well as of the navy-yard. I have prepared an amendment for the navy-yard. The real hard labor-

ers in these two places are not likely to be benefited by the passage of this resolution unless we amend it; and I cannot understand the reason that induces a man to go for increasing those who have large salaries there and entirely overlook the hard hand-laborer that certainly does as much work and is as much entitled to compensation as anybody and always gets less for it than anybody else. Their case is entirely overlooked through the whole of this resolution.

We are told by the Senator from Iowa that their compensation is uncertain, and depends, as he thinks, upon the will of the head of the Department; in the arsenal, of the War Department; in the navy-yard, of the Navy Department. That may be so; but why can we not act when they appeal to us, and when we know about what they get, for I am informed by those well acquainted with the business of the navy-yard that their wages are from two and a half to three dollars per day; and they work from morning till night, hard, fatiguing labor; and they find it exceedingly difficult to maintain themselves and families upon this pay. I say again I do not understand how it is that while we are providing for those who certainly are better off than these laborers we overlook them entirely and do not attempt to do anything for their benefit.

I know we are told that if we do this we must extend it to every navy-yard in the United States. I do not know but that we ought to do so. They have not applied to us, however, and I do not know that living and expenses are as burdensome in other places as they are here. But here we have the strongest appeals made constantly to us to the effect that they are unable to educate and clothe and feed their families on the wages we give them. While such a fact as that is staring me in the face I can hardly turn my back upon them and say we will not consider their case at all. I think we ought to extend this relief to them. Of course, under this resolution, the amount will be very little to the Government. Twenty per cent. on so small an amount as they earn now will be but a very small sum anyhow, but these poor men are accustomed to have but small amounts, and a very small sum to them appears to do them as much good and will go as far as a large amount to those who are receiving higher salaries. It will not be difficult to calculate this increase on their pay. We know very well what they are paid now, and it would be very easy to add twenty per cent. to the small earnings they have, and it would be of great benefit to them. Although a man receiving a large salary would not estimate it as worth much, yet to these poor men who are accustomed to economize everything and make everything they do receive go as far as it can, it will be a great benefit.

I hope, sir, that we shall extend this relief, not only to the employés of the arsenal, but also to those of the navy-yard. I have received a great number of communications from both places begging that we will not overlook their cases, and I cannot have the heart to do it. Therefore I was about to move an amendment to the resolution, in line eighteen, by inserting after the word "meters" the words "and also to the laborers and employés of the Washington navy-yard." I repeat again, it is not a great sum to come out of the Government, and it will do these people a great deal of good. I hope we shall grant it to them.

Mr. WILLIAMS. I hope Senators will confine their discussions to the questions before the Senate; otherwise we shall not be enabled to proceed with the business. The question now before the Senate is as to whether the clerks in the office of the arsenal shall receive the same compensation as the clerks in the other Departments named in this resolution. I am not advised as to whether or not there is an office in the arsenal to which the amendment would apply; but if there is such an office the clerks of that office of course are paid like other clerks, and they ought to receive the twenty per cent. But whether the workmen and laborers in the navy-yard shall

be paid twenty per cent. upon their wages is another and a different question. I hope the Senate will vote upon this proposition, and then if the Senator from Ohio offers his amendment it will be time enough to consider it.

Mr. POMEROY. In reply to the Senator from Oregon, I will say that I do not understand the question to be whether the clerks in the arsenal shall have the same compensation as the clerks in the Departments, but it is whether they shall have the same increase of compensation. I do not know for my own part what their compensation is, or whether it is established by law at all. I suppose that it is not established by law but by regulation of the Department. I am satisfied at any rate that if we intend to increase the compensation of those whose salaries are established by law there is no better way of defeating it than by putting on everybody else.

While I have as profound a respect for the laborer as the Senator from Ohio, having been a laborer all my life, at the same time I understand that his wages are paid under a regulation of the Department, under a rate of wages that may be raised or lowered from month to month. There is nothing binding in law about it. If they are not paid sufficient then it is the duty of the person employing them to pay them more, and he has a right to do it under existing law, and it requires no legislation. But the salaries of these laborers in the Departments who expect help by the measure now before the Senate are fixed. The heads of the Departments cannot raise them if they would; and that is the reason why this resolution especially commends itself to us in legislating upon the question.

For my own part, I think that we should make a regular increase of compensation rather than leave compensation to be distributed according to the discretion of any executive officer. Some clerks have left the Departments during the past year from the highest motives, and they will not be compensated if this resolution is passed. It is only those more subservient men who have stayed there during the year and are, now in the Departments who will be benefited by this resolution. During last summer and autumn there were very many who left the Departments. Some perhaps were turned out; others left because there were some things required of them that were distasteful, or because their salaries were inadequate. Some very good reasons I have no doubt compelled them to leave; and yet this resolution goes back over the ground and pays those who stayed in; it does not propose to pay a cent to those who left, even though they labored through the same portion of the year that this resolution contemplates granting increased pay for.

That is one objection I have to the manner of compensation proposed by this resolution. If it could be made prospective entirely, looking forward and not back, this objection would be obviated; but to pay for a portion of the year when a number of the clerks, and some of the very best clerks, too, left the service from the best of motives, and cannot reap the benefit of it, is only paying a sort of a premium for those who stayed. I do not object to paying this increase, because I think the salaries are too small to those who stayed; but the remedy will not be entirely perfect if it leaves out those who were obliged to leave, and who served some of them many months during the same period for which we propose to pay extra compensation.

I shall vote for the measure generally; but I have no idea that it can be passed if we encumber it with every laborer in Washington in the Government employ. If we do that we must extend it to the laborers outside of Washington who are in Government employ; for those in Washington, in the navy-yard or in the arsenal, have no greater claims upon us than the laborers whom we employ in other parts of the country. They are just as poorly paid in New York and New England, just as poorly paid in the West, and perhaps more so, than they are



here. If this resolution is encumbered by such amendments it will never be passed. If it can be confined strictly to those who are in service in these Departments perhaps it can; I think it can. At any rate I shall vote for it.

Mr. McDUGALL. I desire to ask the Senator from Kansas one question. This amendment involves the clerks in the arsenal. I desire to ask him where is the distinction between the clerks in the arsenal and the clerks in the other Departments of the Government? I cannot understand why they should not have the same pay.

Mr. POMEROY. I reply, as it has been measurably answered already, that the salaries of the clerks in the other Departments of the Government are fixed by law, and cannot be increased without law. The compensation of the clerks in the arsenals and those employed at various posts about the country is not fixed by law, but can be increased by the person employing them.

The PRESIDENT *pro tempore*. The question is upon the amendment proposed by the Senator from Minnesota to the amendment of the Senator from Oregon.

The question being put; there were, on a division—ayes 12, noes 9; no quorum voting.

Mr. BUCKALEW called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 8; as follows:

YEAS—Messrs. Cragin, Davis, Fogg, Foster, Fowler, Howard, Kirkwood, Lane, McDougall, Morrill, Norton, Patterson, Poland, Ramsey, Trumbull, Van Winkle, Wade, Williams, Wilson, and Yates—20.

NAYS—Messrs. Buckalew, Fessenden, Grimes, Henderson, Hendricks, Morgan, Pomeroy, and Willey—8.

ABSENT—Messrs. Anthony, Brown, Cattell, Chandler, Connors, Cowan, Creswell, Dixon, Doolittle, Edmunds, Frelinghuysen, Guthrie, Harris, Howe, Johnson, Nesmith, Nye, Riddle, Ross, Saulsbury, Sherman, Sprague, Stewart, and Sumner—24.

So the amendment to the amendment was agreed to.

Mr. WILLIAMS. I move to amend the amendment by inserting in line seven, after the word "watchmen," the words "including enlisted men detailed as such." I make this motion because the amendment was intended in that respect to correspond with the resolution as it passed the House. It is my opinion that the words now employed in the amendment would include such persons, but a doubt has been expressed as to whether enlisted men who have been detailed to perform the duties of clerks and messengers and watchmen in these different Departments would be included unless express language be employed for that purpose. I therefore move this amendment, not to add anything to the resolution, but to remove all doubt as to its meaning and effect.

Mr. WILSON. I desire to ask the Senator from Oregon, who has the care of this resolution, if he means to give the soldier who is detailed as a clerk this twenty per cent. upon his pay proper and also his rations and quarters? This ought to be so in order to put him on the same footing with other clerks. His pay is now made up of three items: pay proper, rations, and quarters. You ought to provide in this amendment that he shall receive twenty per cent. upon his entire pay in order to put him on the same footing with the others. If that is the understanding, I do not know that it need go any further.

Mr. WILLIAMS. That would be my understanding of the effect of the amendment if it is made.

Mr. KIRKWOOD. If there is any doubt of that being the correct understanding, it should be made clear. There are enlisted men in the War Department and perhaps in other Departments—I do not know about that—who are doing the entire duty that clerks are doing in their Departments, for which they are receiving \$1,200 and \$1,400, while those enlisted men receive only from \$900 to \$1,000. They are almost all wounded soldiers; and if any men should receive an increase of compensation they should, and if there is any doubt as to the meaning of the amendment it should be made clear.

Mr. WILLIAMS. I think there is no doubt whatever about it, because the amendment is made at the suggestion and in accordance with the wishes of these men, and the language is the language which they desire to have employed. They understand what their interests are in that respect, and will be satisfied with this amendment and this phraseology.

Mr. WILSON. I suggest the addition of a few words, which the Clerk will read. If the Senator is not satisfied to accept the modification I will not press it.

The PRESIDENT *pro tempore*. The Senator from Massachusetts suggests the following alteration. It will not be admissible to receive it as an amendment, because the pending amendment is already in the second degree.

Mr. WILSON. I ask the Clerk to read it, and if the Senator is satisfied with it he can accept it, and if he is not I will not press it.

The Secretary read the words proposed, as follows: "to be computed upon the gross amount of compensation received by them;" so as to make the clause read:

To civil officers, temporary, and all other clerks, messengers, and watchmen, including enlisted men detailed as such, to be computed upon the gross amount of the compensation received by them.

Mr. WILLIAMS. I have no objection to that that I know of.

The PRESIDENT *pro tempore*. Does the Senator accept it as a modification of his amendment to the amendment?

Mr. WILLIAMS. Yes, sir.

The amendment to the amendment, as modified, was agreed to.

Mr. TRUMBULL. I should like to inquire of the Senator from Oregon why the offices of the Surgeon General and Commissary General are not as well included in this resolution as the offices of the Quartermaster General and Paymaster General? There are clerks in the Surgeon General's office. It seems to me, if you include the clerks in the Bureau of Refugees, Freedmen, and Abandoned Lands, the Commissary General of Prisoners, the Paymaster General, and the Coast Survey, you ought also to include the clerks in the offices of the Surgeon General and the Commissary General.

Mr. WILLIAMS. I suppose the language employed in this resolution will include those offices. It would be my opinion that it would include the Commissary General without any specification, because it provides for compensation to civil officers and temporary and all other clerks and employes, male and female, in the Department of War, or in any bureau or division thereof. I suppose this language is the same language that was employed in the resolution as it passed the House. The words "Commissary General of Prisoners" are inserted here I suppose to remove all doubt. I am not very well advised as to the manner in which the War Department is constructed, but I suppose there was some doubt as to whether the office of the Commissary General of Prisoners is a bureau or a division of the War Department, and so it was included specifically.

Mr. TRUMBULL. Is there any doubt about the offices of the Paymaster General and Quartermaster General being branches of the War Department? Why are they mentioned? Does not the very fact of particularizing the offices of the Quartermaster General and the Paymaster General make it necessary to particularize the others, upon the familiar principle that where you specify certain things in a law you exclude the others that are not specified? If these specifications were all left out and the resolution was left to stand upon the general language in the first part of it, it might embrace them all; but when you proceed to specify and specify the Quartermaster General's office and do not specify the Commissary General's office, it would seem to me that the legal construction—I submit that to the Senator from Oregon—would be, that the Commissary General's office would not be embraced.

Mr. WILLIAMS. I will state to the Senator that the intention is not to specify the Quar-

master General's office. That is a misprint. The original was "quartermasters," and was so intended to be, and the word "general" should be stricken out and the letter "s" added to "quartermaster" so as to read "quartermasters" and not "quartermaster general."

Mr. GRIMES. So as to include quartermasters' clerks?

Mr. WILLIAMS. Yes, sir. I will state that this resolution is intended to provide for the clerks and employes in every bureau or division of the War Department, and then it proceeds to specify certain offices connected with its different departments, about which some doubts would seem to exist in the minds of some persons. If the Senator was aware of the constant applications that have been made here, and the suggestions that have been offered, as to whether this resolution did or did not apply to certain offices, he would see the necessity of these specifications. After providing for every bureau or division in any of the Departments it proceeds to say, "and in the offices of the Coast Survey, Naval Observatory, navy-yard, Paymaster General, including the division of referred claims."

Mr. TRUMBULL. Why "Paymaster General"?

Mr. WILLIAMS. The word "Paymaster General" was introduced there to embrace the division of referred claims, about which there would seem to be some doubt. I did not frame this part of the resolution. It is copied from what was agreed to by the House. I suppose the word "Paymaster General" was inserted for the purpose of including the division of referred claims, because there was some doubt as to whether or not that was a division of the War Department; and it also proceeds to include the Commissary General of Prisoners, the Bureau of Freedmen, Refugees, and Abandoned Lands, the quartermasters, the Capitol and Treasury extension, &c. I am very clear that these specifications, in the way they stand here, would not necessarily exclude any other bureau or division of the War Department. No such construction could be put upon this language, because it would not be a reasonable construction. These different offices that are specified here are such as perhaps do not regularly fall within these different Departments. There can be no doubt, as it seems to me, that the general language is sufficient to embrace every division and bureau of the War Department.

Now, I will say as to the quartermasters, that the business of the Quartermaster General's department, as I am advised, is to some extent divided among the quartermasters located here in Washington, and these quartermasters employ clerks who are engaged in performing the precise duties that the clerks in the Quartermaster General's office perform.

Mr. TRUMBULL. Allow me to suggest that there are paymasters and commissaries in the city of Washington who have clerks performing these precise duties, who are not in the Paymaster General's or the Commissary General's office, just as there are quartermasters here with their clerks. If it is necessary to put in the word "quartermasters" to include the quartermasters' clerks, manifestly it is necessary to put in "paymasters" and "commissaries" in order to include their clerks, if it is intended to include them.

Mr. WILLIAMS. I have no evidence that such is the fact.

Mr. TRUMBULL. I know there are paymasters here.

Mr. WILLIAMS. I know there are paymasters in the city, and no doubt those paymasters have clerks; but are they performing duties that pertain to the office of Paymaster General?

Mr. TRUMBULL. Just as much as the quartermasters here perform duties pertaining to the office of the Quartermaster General.

Mr. WILLIAMS. I do not think the honorable Senator knows that to be the fact. I presume if that was the fact, these clerks would have made application for the benefits of this

resolution; but no such application has been made from any of the officers referred to by the honorable Senator. Application has, however, been made by the clerks in the offices of the quartermasters in the city, because they were performing duties that ought to have been performed in the Quartermaster General's Department, but the business that belongs to that department has been distributed among the different quartermasters in the city, so that their clerks are performing the identical duties that the clerks in the Quartermaster General's Department perform, and are therefore entitled to the same pay. Such were the representations that were made, and their statements were credited, and on that ground they were embraced within the provisions of this resolution.

The PRESIDENT *pro tempore*. The Senator from Oregon moves to amend the amendment by striking out in line sixteen the word "General," and adding the letter "s" to the preceding word "quartermaster," so as to make it "quartermasters."

The amendment to the amendment was agreed to.

Mr. FESSENDEN. After the word "buildings" in line eighteen I move to insert "to the photographer and assistant photographer of the Treasury Department." These are two men whose salaries are not fixed by law, but who are very deserving. They are civil officers and regularly employed there.

The amendment to the amendment was agreed to.

Mr. MORRILL. I move to amend by inserting after the word "office" in line seventeen the words "and the custom-house and city post office at Georgetown." The duties of these officers are certainly on a par with those provided for in the resolution; they are as essentially under our care as those in this city; they are as deserving. Their expenses of living are as high as those of employes in this city. They are as essentially officers of the Government as the employes in the city post office in this city. I can see no reason why the discrimination should be made.

Mr. WILLIAMS. I hope the amendment proposed by the Senator from Maine [Mr. MORRILL] will not be adopted. Application was made by these persons to the Committee on Finance, and we took into consideration their claims; and the opinion of the committee was that it was necessary that the effect of this resolution should be confined to the city of Washington. If we undertake to go beyond Washington and include Georgetown the argument on which you extend the resolution to Georgetown will make you extend it to other places and cities outside of this District. There must necessarily be some limit to the operation of this resolution.

It is proposed by this resolution simply to increase the compensation of the clerks and employes in the different Departments in Washington, and the argument upon which it proceeds is that the expenses of living in Washington have been greatly enhanced, and that to enable the clerks and employes in these Departments to obtain a respectable livelihood it is necessary that they should have this increase of salary. The clerks in the custom-house and post office at Georgetown receive eight or nine hundred dollars per annum, I believe, and we have not been advised that their duties are particularly arduous, or that the amount which they receive is not an adequate compensation for their services. But the chief objection to this amendment is that it opens the door for other amendments, and it is one step toward loading down this resolution with amendments that will effectuate its defeat. I hope, therefore, the amendment will not be adopted.

Mr. MORRILL. I do not intend to occupy the attention of the Senate on this subject; but it is clear to my mind that the honorable Senator fails to raise a distinction between employes of the Government in the city of Washington and in the city of Georgetown. I should like to know if the honorable Senator

means to say that Georgetown is not as much a portion of the national capital as the city of Washington? I should like to know whether the Committee on Finance desire to establish an invidious discrimination among the employes of this Government against those who happen to live just outside of the limits of Washington? I maintain that an employe of the Government is as meritorious, and he stands in precisely the same relations to the Government of the United States in the city post office in Georgetown as he does in the city post office in Washington, and I might argue, if I had the time, that he is a thousand-fold more meritorious. Why, sir, hundreds of thousands of dollars are expended here in this city of Washington, and the residents of this city are the recipients of it, to a single thousand that is spent in Georgetown. I submit, therefore, that on principle there is no ground for the exclusion.

Mr. POMEROY. The resolution includes employes of the navy-yard.

Mr. MORRILL. The navy-yard is within the city limits of Washington, I believe, although it is further off than Georgetown; but the idea of a distinction between the employes of the Government in Washington and in Georgetown is absurd in principle. On the score of merit this application is a thousand-fold stronger. We are told that eight or nine hundred dollars a year is given to men who toil from morning till night in the post office and custom-house at Georgetown, and it is not proposed to give them anything additional, while you propose to raise young lads who are performing the service required in the Departments here at \$1,200. I submit, Mr. President, that if the resolution is to pass at all there should be a discrimination of this kind.

Mr. CONNESS. I had supposed that the basis of the application for an increase in Washington was because of excessive expenses here and the high cost of living. If Georgetown is to be added I do not see why we may not add all the towns west of the Rocky mountains, where expenses exceed those in Georgetown. The zeal on the part of the Senator from Maine in behalf of a part of the District that he so, I was going to say, arbitrarily governs; but that is not the word—undertakes to govern I cannot understand unless he shall apply his care and sympathy also in the direction I have indicated, across the Rocky mountains. If the Senator will only change his amendment so as to give it that application I will vote with him. And I think that by extending his amendment perhaps all over the Union he may get a very large vote in the Senate for it.

Mr. MORRILL. My honorable friend does not show his usual astuteness. He fails to see a distinction between the inhabitants of this district, which is the capital of the nation, and those that are entirely outside of the capital, outside of our limits. Then, I hardly think it is worth while for me to argue to the honorable Senator. What I was saying is that this District, including Georgetown, is the capital of the nation, and I insist upon it that Washington city is not the entire capital of the nation; and this is a resolution purporting to provide additional compensation for the employes of the Government—where? At the national capital.

Mr. JOHNSON. What is its title?

Mr. MORRILL. It has no title, I believe. Yes, it is "A joint resolution giving additional compensation to certain employes in the civil service at Washington;" that is the title. Of course they do not mean by "Washington" this corporation, to the exclusion of the rest of the national capital.

Mr. WILSON. How about the county of Washington?

Mr. MORRILL. They have not got any officers there.

Mr. HENDRICKS. I suppose that the reason the clerks in the post offices were omitted was because the Postmaster General fixes their salary. As I understand, he has a fund under his control, and he says what salary the

clerks shall receive and how many clerks there shall be in a particular post office. I supposed that applied to the post offices at Washington and Georgetown and elsewhere; therefore I thought it very strange that the clerks in the city post office here should be provided for when the entire relief is within the control of the Postmaster General. He fixes their salary arbitrarily, as I understand, and whether they get more or less than clerks in the Departments for performing like duties I do not know; it would depend on the discretion of the Postmaster General. All the post offices ought to be included or else this one should be stricken out.

Mr. FESSENDEN. I have not myself been able to see why the city post office was put in at all, and precisely for the reason stated by the Senator from Indiana. There is a fund out of which they can be paid all that it is necessary they should receive, and they will receive all that they ought to receive. That matter is at the discretion of the head of the Post Office Department. Now, why we should undertake to add twenty per cent. in cases of that description I do not know.

The amendment to the amendment was rejected.

Mr. JOHNSON. Has it been moved to amend by striking out the provision for increased pay of officers in the post office in this city? It seems to me, for the reason stated by the Senator from Maine and the Senator from Indiana, that it is entirely at war with the general system of the post office. The Postmaster General can increase the pay as he thinks proper; or if that is not so, and we are to provide for the officers in the city post office, the same reasons would apply to those in the same kind of office in the city of Georgetown. If it be in order, therefore, I move to strike out that provision in relation to the city post office.

The PRESIDENT *pro tempore*. It is proposed to amend the amendment by striking out in line seventeen the words "city post office."

Mr. WILLIAMS. When the resolution came from the House of Representatives it included these words, "city post office." No change was made in that respect by the Committee on Finance of the Senate. It is true that the salaries of the clerks in the city post office are not fixed by law, but the postmaster of the office does not feel justified in adding anything to their pay unless authority is given by the provisions of this resolution; and these clerks do to some extent perform duties similar to those of other clerks in this city. Everybody knows that the city post office here is a necessary part of the public buildings of the city of Washington, and that there is a very large amount of business transacted in that office for the benefit of the Government; and it is to all intents and purposes used for the benefit of the Government as well as of the citizens who reside in the city of Washington. I state these facts for the consideration of the Senate. Of course I have no particular interest in the matter further than to say that these clerks in the city post office as well as the postmaster claim that they ought to have their pay increased as well as others for the considerations which I have named; but if it pleases the Senate to strike the city post office from the resolution of course I shall not complain.

Mr. JOHNSON. I do not object to an increase of the pay of the employes of the city post office if it is too low. The only question is whether we are to decide that or the Postmaster General. Suppose we add twenty per cent. now to the salary which he has already fixed, he may give them twenty per cent. more directly, or in some way that he thinks proper. We have not the whole matter in our control. If we think twenty per cent. added to the amount they now receive is the sum which they should receive we had better negative the power of the Postmaster General to increase that sum. My sole object is to leave the law as it stands; his is better able to tell than we

are whether there should or should not be an increase in their compensation.

Mr. HOWARD. I understand that the corps of employés in the city post office perform a great deal of very hard labor, and that as compared with the other employés in the Departments here they perform more labor and spend more of their time actually in the public service, night and day, than other employés of the Government. They have not any regular rest even upon Sundays, such is the press of business in that office; and from what I know of the state of things there I certainly am unwilling to strike out the words proposed by the honorable Senator from Maryland. I think if there are any set of clerks in Washington who deserve this increased compensation it is the clerks in the city post office, and I hope the Senate will not strike out these words.

Mr. HENDRICKS. I should like to ask the Senator from Michigan or the Senator from Oregon, what is the compensation now allowed? As the Senator from Michigan thinks it is a more meritorious claim than that of any of the clerks in the Departments, many of whom render very high and important service to the Government, I should like to know what allowance is now made.

Mr. HOWARD. I am informed on very good authority that although there is no regularly fixed compensation for the employés of that office, the average amount is a very little over eleven hundred dollars a year. That is all the information I am able to give the Senator from Indiana on that subject. It is obvious that in this place it is not very convenient for a man to live upon \$1,100 and lay up anything for old age or a rainy day, as he and I are anxious to do, by turning an honest penny.

Mr. McDUGALL. Nearly every one who knows anything about post office business, knows that the clerks in the post office here, and generally in the large post offices throughout the country have more severe duties to perform than clerks anywhere else. I should not think I was departing from a sound judgment if I were to say that they render double the service that is rendered on an average by the clerks in the Departments here. They are not at rest either by night or by day. The service requires intelligence, promptitude, exact attention, and complete execution. What is proposed here is to add to their now assigned compensation twenty per cent. The reason is that while it is within the power of the Department or the postmaster to compensate up to the present maximum, he does not feel authorized, except by some resolution of Congress, to place the employés in the post office in the city of Washington on the same footing with the employés in the various other Departments of the Government. I believe they labor much more; I believe that their duties require more attention; I believe they should be just as well considered, and I see no good reason why they should not be put in this resolution in the category of other employés of the Government for an advance of compensation.

The amendment to the amendment was rejected.

Mr. TRUMBULL. I move to amend by striking out all after the word "annum" in the thirty-second line to the word "provided" in the thirty-seventh line. The words which I propose to strike out are "nor to any person whose salary has been increased by law since the 30th day of June, 1864, except those clerks in the office of the Quartermaster General whose pay was equalized with that of first-class clerks by act of July 28, 1866."

The effect will be simply to make that proviso read:

*Provided further, That the resolution shall not apply to persons whose salaries as fixed by law exceed \$3,500 per annum.*

Mr. WILLIAMS. So far as I am concerned I shall make no objection to the amendment proposed by the Senator from Illinois. I do not know what the other members of the Finance Committee may think, but my opinion

is that the resolution ought to be amended in that respect.

Mr. TRUMBULL. I am very happy to know that the Senator having the resolution in charge consents to the amendment, and his consenting to it relieves me from the necessity of saying anything about it. The object of striking out these words is to allow persons whose pay has been increased since 1864 to have the benefits of the twenty per cent.

Mr. FESSENDEN. Why not strike out the next proviso, which excludes those persons whose pay has been increased merely temporarily in one Department?

Mr. TRUMBULL. The objection which I should have to that I will state in a moment. The effect of striking out the words which I have proposed to strike out will be to bring within the provisions of the resolution those persons whose salaries have been increased within the last two years, and particularly the female clerks whose salaries were increased, I believe, from \$720 to \$900, and who would be excluded from the benefit of the resolution as it now reads. If these words are stricken out they will be embraced. The reason why I have not included the other proviso in my motion—

Mr. FESSENDEN. Those mentioned in it are persons whose salaries have been increased, not permanently, but only temporarily.

Mr. TRUMBULL. The Senator from Maine knows that that was an increase which never met my approbation.

Mr. FESSENDEN. The objection was as to the manner.

Mr. TRUMBULL. Yes. The proviso to which the Senator refers applies to those persons in the Treasury Department who received a part of the \$160,000 or the \$250,000 fund which was given to the Secretary of the Treasury to disburse there among the clerks.

Mr. CONNESS. Why should they not receive the benefit of this resolution?

Mr. TRUMBULL. The reason they should not receive it is because they have had this bonus already. They have received it from what I thought was a very injudicious appropriation: placing \$250,000 in the hands of the Secretary of the Treasury to be disbursed among his favorites in the Department. I do not wish to go over that argument again.

Mr. CONNESS. The clerks are not responsible for that.

Mr. TRUMBULL. The clerks have got the money, and I do not care about including them now in the appropriation of twenty per cent. that is made to other clerks. If the Senate think proper to strike out the other proviso, I shall say nothing further about it; but I will not make a motion to do it. I trust the words I have moved to strike out will be stricken out, and then if any other Senator thinks proper to move to strike out the last proviso, and the Senate agree to it, very well.

Mr. CONNESS. I hope both provisos will be stricken out if either shall be, and I hope that both will be. I do not know any reason why the clerks who received this bonus, as it is termed, should not receive this general and regular increase of compensation. I do not think the clerks should be held responsible for the mode of distribution of the appropriation. It is not the fault of any clerk that Congress placed the discretion over that sum in the head of the Treasury Department. It appears to me there is but one view which can be taken of that money distributed to these clerks as a bonus, namely, that it was found that they were worthy of it; that up to that time at which they received it they had received an insufficient sum, and that was given them to avoid a general increase, which at that time it was believed the Treasury could not afford; that in getting a share in the distribution of that money they got but what was their due, but what in part compensated them for the labor they had performed up to that time. It is now proposed to give an additional percentage to the clerks in the different Departments, and I ask what fairness there is in failing to extend it to these

men. Is that small additional compensation which they received out of the fund distributed by the Secretary of the Treasury and in accordance with the wish of Congress to be regarded as a sufficiency for them for all time? I do not understand the justice of that view of the case.

I hope that both provisos will be stricken out. If we are to compensate clerks at the capital because their present compensation is insufficient, shall we fail to compensate the men who have proved their capacity in the Treasury to the extent of securing the approval of those who exercised control over them? Let it not be said that favoritism guided the Secretary of the Treasury in every case in the matter of distribution. I cannot say that that officer was not guided by favoritism in any case; I do not know that it was so; but I do know that it is a mistake and utterly wrong to charge that he exercised favoritism in every case. It has fallen to my lot on another occasion in the Senate to speak of that miserable organization known as a Departmental Club in Washington. I will not refer to them further now; but I know very well that the distribution of the funds placed in the discretion of the Secretary of the Treasury was not confined to the men who made up that club. I know men in the Department who served through the war, were cut to pieces and incapacitated for hard labor, who have been employed there, and have won their way by their superiority as clerks to high promotion, who have filled their places with the greatest possible credit, who received a part of that compensation, and received it justly. I was about to say as much as this the other day when the discussion took place in the Senate upon this question; but that discussion was so much out of order, so much away from the immediate question then before the Senate, that I concluded to forego expressing, not only my opinion in the premises, but giving the knowledge that I had against the constant asseverations that the distribution was made to favorites and favorites alone. I hope that by no vote of the Senate shall we undertake to make compensation to clerks based upon any opinion that we had or have upon the merit of the other system of distribution by the Secretary of the Treasury, and I hope that we shall not do injustice by our votes here to clerks who have proven their superiority, and thus secured the favor of those who have control over them. I trust that the Senate will strike out both provisos.

Mr. FESSENDEN. The Senator from Illinois made the remark that he did not wish to apply this extra compensation to those persons who were paid from the fund which was distributed by the Secretary of the Treasury among his favorites. On that point, in order that an end may be put to that sort of remark, I wish to say that I have authority for the statement that the Secretary made the distribution in the various bureaus on the recommendation of their heads. The Secretary directed the heads of bureaus to recommend for extra compensation those chiefs of divisions or clerks performing important duties analogous to those of chiefs of divisions who in their judgment should receive the extra compensation, and the distribution was made on the basis of merit and efficient service, regardless of the former or present politics of the recipients. In view of this statement, I hope nothing further will be said about the money having been distributed by the Secretary of the Treasury among his favorites.

Mr. WILLIAMS. I consented to the amendment proposed by the Senator from Illinois because I have made some examination since the report was made, and I find that the increases referred to in the proviso have generally been increases to equalize the salaries of persons who were performing duties similar to those performed by other persons, so that all persons occupying similar positions in the Departments and performing similar duties should receive equal pay. If this proviso were left in the resolution in its present shape, the



result would be that some persons would receive twenty per cent. upon their salaries and others would receive nothing, while they all perform precisely the same duties and are by law entitled to the same pay. I think that would be manifest injustice, and therefore this proviso ought not to remain in the resolution. At any rate, it refers to but few persons, with the exception of the ladies, whose compensation has been increased since 1864. I am satisfied that most of these ladies, who are engaged in copying and counting, perform duties which are equal in all respects to similar duties performed by men who receive \$1,200 a year; and if they were discharged it would be necessary to employ men who would do no more work than they do, and the Government would be compelled to pay those men \$1,200 per annum, while now they pay these ladies but \$900 for their services. If a woman performs the same service in a Department that a man can perform, I see no reason why she should not have, perhaps not equal pay, but at any rate pay that approximates to the amount received by the man performing similar duties.

Mr. CONNESS. I move to amend the motion of the Senator from Illinois by striking out the remaining proviso of that section.

The PRESIDENT *pro tempore*. That is not in order. An amendment in the third degree is not admissible. The question is on the amendment of the Senator from Illinois to the amendment of the Senator from Oregon.

Mr. CONNESS. I was not aware that the pending proposition was an amendment to an amendment.

Mr. SHERMAN. Nothing can be more unpleasant than to oppose a proposition like this, especially when the Senator in charge of the resolution himself yields the action of the committee; but as I think I have been governed by a general principle in my action on this subject I prefer now, once for all, to state it.

When the application was first made by the employes of the Executive Departments for an increase of their compensation it was upon a simple and I think very just and equitable principle. They alleged that their pay had been fixed years ago, at a time when they received it in gold, when money was of much more value than at present. With the salary they then received they were able to maintain their families in comfort and independence. They represented to us that on account of the change in prices and the change in the character of the money paid to them they are unable to meet their ordinary expenses, and many cases of real distress came to our knowledge growing out of the insufficiency of their pay, the pay given by the Government being in a depreciated currency and not sufficient to maintain them in ordinary comfort and independence.

That was a claim which pressed strongly upon us and which no man with any feeling could resist. If their pay as it was fixed in 1864 was a just compensation for services of a certain character, it certainly was not just now. It was to meet this that, for a temporary purpose, for this year, till a general reorganization could be had in the Executive Departments, we agreed I believe unanimously that there should be some additional compensation granted to the employes of the Departments. We could not pretend, in the present condition of the Treasury, to give them all that they could reasonably claim. They might claim reasonably, on account of the currency, enough to make their pay equal to what it was before. That, however, we could not give, and finally by common consent it was agreed that twenty per cent. additional should be given to them this year upon the principle I have stated.

There were, however, certain exceptions to this general rule. One of them was the one now proposed to be stricken out. Within three or four years it has been the habit of the Government to employ in certain Departments female clerks and employes. Their compensation was first fixed at \$600 a year.

It is true they were called upon to discharge

the same services as male clerks to some extent; but the great body of the male population of our country being in the Army, and the ladies being very anxious for employment, the employment was I think wisely given to them, and they were then satisfied with the compensation fixed. Things passed on for a year or so, when upon their own application their pay was increased to \$720 a year. I had the pleasure of introducing that proposition and supporting it, and it was carried. That was on the ground that the increased cost of living caused by the continued depreciation of paper money made \$720 then no more than equal to the \$600 originally fixed. That increase was freely granted. The year following they came to us again, and represented that there ought to be a gradation in their pay; that while some of them were mere copyists, others were performing the duties of first, second, and third class clerks. Upon their representation and application we adopted a scale which they themselves proposed. Their own plan was adopted and an increase of compensation provided for.

Then, in certain departments of the Government, like the Bureau of the Comptroller of the Currency and the Bureau of Internal Revenue and some other bureaus that were organized during the war, a higher rate of pay was given by laws passed since 1864, in order to meet the argument that I have already mentioned. It was deemed wise when this general increase was provided for, on the ground of the inadequacy of the former pay, that those who had already been increased in the way I have stated should be excepted from the operation of this resolution, and that is the reason why this exception was made.

In regard to the other exception which is also proposed to be stricken out I have a word to say. By an appropriation which we all admit to be wrong in principle a fund was placed in the hands of an executive officer to distribute at his pleasure; and yet under the peculiar circumstances by which we were then surrounded we were prevailed upon to do it. I voted for it on the ground that we were not then prepared in the existing condition of the country to reorganize the Treasury Department. A sum of \$250,000 in the first place, and subsequently of \$160,000, was placed in the hands of the Secretary of the Treasury to be used in his Department to give extra compensation in proper cases. That this money was wisely and honestly distributed I have no manner of doubt. The statements made by gentlemen in that Department, who perhaps have no political affinities with the Secretary of the Treasury, show that the money was fairly distributed, and there is no ground to impute anything to the contrary. It must be remembered, however, that this sum of \$410,000, or a considerable portion of it, was distributed to certain clerks and employes in the Treasury, some of whom received as much as \$600, and some thirty per cent. over their salaries. They received from one hundred dollars to six hundred dollars a year out of this fund. Now, in addition to this large increase given to them for their faithful services, because an effort is made by other clerks and employes who have never had a benefit of an increase, and because their application has been kindly listened to by Congress and is about to be granted, it is proposed to give to those clerks who have already received from the Secretary of the Treasury all that the heads of their bureaus recommended an additional twenty per cent.

It seems to me it is not just, it is not right, and I think the resolution as reported from the Committee on Finance containing this exception ought to be sustained. As a matter of course, if the members of the committee vary from it first in one clause and then in another I have no hope of seeing the resolution as reported sustained. But it seems to me the resolution as it stands, giving a general increase of twenty per cent. to all whose compensation was fixed prior to 1864 and making the exceptions I have named, excluding those whose compensation has already been increased from

the benefits of this addition, and excluding those who have already received a large gratuity from the funds heretofore appropriated by Congress, will be right.

It does seem to be ungracious, to use no stronger term, because clerks who have never received any benefit from the bounty of the Government are proposed to be increased in their pay, that others who have received this bounty should come forward and claim an additional sum. The resolution already provides that if the amount allotted out of this fund should be less than the twenty per cent. allowed to other clerks that deficiency shall be made up, and if the amount already received exceeds the twenty per cent. that need not be paid back from what they have received.

I shall therefore vote against this amendment, although it is an ungracious task. I do not wish to deny to the ladies employed in the bureaus at Washington the twenty per cent., and to oppose it is a very ungracious and unpleasant duty.

Many of these ladies perform the functions of regular clerks, and perhaps in equity ought to receive the pay of regular clerks; but this resolution is not founded upon that principle. If that was the recognized doctrine upon which we should legislate, we ought to provide at once that ladies employed to discharge the duties of first, second, third, and fourth class clerks should receive the pay of their respective grades, but that is not the ground on which we have placed our legislation. I think they have no cause to complain. They have already been twice dealt with according to their own desire, and they have no ground of complaint if now we refuse to extend to them this twenty per cent. The object of Congress is attained by giving to those who have never received any change in their pay a reasonable and fair increase, and that is all that is justified by the exigencies of the public service and the state of the Treasury.

I do not wish to engage further in this discussion. I shall vote for the resolution as it stands; but if these exceptions are stricken out, and if it is loaded down with other amendments that are not founded upon any distinct reason, I cannot vote for it.

Mr. YATES. I do not think the positions assumed by the Senator from Ohio are correct. I do not think that because the salaries of these clerks have been increased repeatedly at their request to meet the exigencies of the hour that is a reason why they should not receive some additional per cent. with other clerks now. If the Senator will show me that their compensation has been increased until it is equal with that of other clerks who render the same service I shall admit the fairness of his argument; but to maintain that they should not have the benefits of this resolution simply because their salaries have been increased from time to time, while admitting that they perform the same service as clerks who receive this additional per cent., is certainly not a sound argument. The Senator must show that they receive the same compensation that other clerks receive for the same service. And here, sir, I should like to see the American Congress establish the principle that labor by whomsoever performed, by man or woman, shall have its fair reward, and that female industry, female worth, perseverance, fidelity, and faithfulness in the public service shall have the same compensation as similar qualities exhibited by males. If there is to be any distinction whatever, I will unite with my honorable colleague and be as gallant as he, and say it shall be in favor of the female clerks instead of the male clerks. Women have been debarred the emoluments of labor long enough. Odious and unjust discrimination have been made against female labor long enough. Now, sir, let an example go out from the American Congress that labor performed by every one shall have its fair reward, and that there shall be perfect equality between all American citizens, without reference to color, race, or sex.

Mr. CONNESS. I most heartily concur in

all that has been said by the honorable Senator from Illinois. The Senator from Ohio, it appears to me, admits the whole case in his argument. He tells us that the Finance Committee consented from time to time to certain temporary advances in favor of these ladies—

Mr. SHERMAN. I will say to the honorable Senator that those advances were permanent, and that their pay is fixed by permanent laws.

Mr. CONNESS. I speak of the advances made heretofore, and I understand him to say that they were upon the ground that the committee were convinced that the ladies were in many cases unable to meet their just demands. Congress yielded when the extreme necessities of these employes were presented, and that is urged now as a reason why we can go no further.

If it were proposed in this body that a day's labor in any of the Departments when performed by a man should consist of seven hours and a day's labor performed by a woman should consist of ten hours, I apprehend that it would not receive a Senator's vote; and yet you calmly advocate just as much disparity as that would be. While you admit that the value of the services of the female are equal to those of the male, you propose to give her less compensation. I do not understand the justice of such a proceeding.

It is only a little while since we had speeches made here upon a motion to extend the franchise to women, and it was argued at length that we could not deny equal rights to the female sex. Mr. President, we have a proposition before us now more practical in its character than that. It does not even reach the position whether we shall pay the female the value of her labor equally with that of the male, for that is not proposed. I am ready to vote it. I know no reason why a woman performing as much and as valuable service as a man should not receive its rightful compensation; but that point is not involved in the amendment. The question is simply whether the female clerks shall have twenty per cent. added to their salaries, which are now \$800 a year less than the lowest class of male clerks have. I cannot refuse to vote it.

I know that the Senator from Ohio is careful in regard to the public expenditures, and I honor him for that; but there is such a thing as exercising care in a wrong direction, and there is sometimes such a thing as being unjust in the exercise of care, and I hope that we shall not do the injustice of refusing to vote this twenty per cent. to the class of persons in the public employment who are in every respect entitled to equal compensation, and especially entitled to our consideration and care.

Mr. DAVIS. According to my understanding there are now four classes of male clerks. The first class receives \$1,200 a year; the second class \$1,400; the third class \$1,600; and the fourth class \$1,800. The point which I wish to present for consideration is simply this: that the most efficient class of female clerks who receive the highest pay get \$300 less than the first or inferior class of the male clerks. Now, I was struck very much by the view which the honorable Senator from California took of this subject in a single remark he made, and it illustrates the matter under consideration with force and truth. Suppose you were now regulating the hours of labor that should be performed by clerks and there was a proposition made that a female clerk for the same compensation should do labor three hours more than a male clerk, would there be any gentleman in the Senate or in the nation that would not be shocked with the injustice and the enormity of the proposition? It is just in substance the same.

I do not adopt any dreamy theories of my friend from Illinois, but I take a common sense, practical, and just view of the subject, and that is that the laborer is worthy of his hire or her hire, and that where a female clerk or employe does as much service as a male

clerk or employe as a general principle of justice she ought to receive the same compensation. But, sir, the proposition is not so favorable to the female clerks as that. It is simply that the female clerks, who were advanced from \$600 to \$720 and some to \$900, shall receive twenty per cent. in addition to that compensation.

Mr. President, you ought in justice and in right to these female clerks give them something like the proposed compensation or you ought to dismiss them from the public service; and if you were to dismiss them from the public service you would introduce in their stead an inferior set of clerks, who would not perform the same amount of labor nor with anything like the same carefulness and fidelity. I do think that the proposition to bring the female clerks, whose compensation is twenty-five per cent. less than that of the first class of male clerks, within the benefit of this proposition, is not even just; it is below sheer justice, and I trust the Senate will vote it down.

Now, in relation to the preferred clerks who receive the extra compensation that the Secretary of the Treasury was authorized by law for the last three or four years to pay them, I presume it was paid to them upon the ground of their great efficiency, their perfect acquaintance with the duties of their offices, and their great efficiency in their performance. I suppose that the present allowance is only what is due according to the proposed rate of increase of compensation to those very faithful and competent clerks. I therefore shall vote for that also.

Mr. HENDRICKS. I suppose that if these words are not stricken out there will be some gentlemen excluded from the benefits of this resolution not intended by it. It will be recollected that perhaps two years ago the salaries of the Assistant Secretaries and the Assistant Postmasters General were equalized at \$3,500. Some received prior to that time \$4,000 and some Assistant Secretaries \$3,000, and Congress equalized them all at \$3,500, so that the language now used would exclude those who had \$3,000 before and by that law were increased to \$3,500, which would not be just if we allow the twenty per cent. to those who were reduced from \$4,000 to \$3,500, and I would not be satisfied to see the language of the resolution stand as it is.

I admit the force of the argument of the Senator from Ohio on the other question, the compensation to the female clerks; but I do not think that in a bill like this we can reach the question, which Congress perhaps will have at some time to consider, whether the introduction of female labor to so large an extent as we now witness into the several Departments of the Government is an advantage to the public service and brings credit upon it. That is a question upon which I think any Senator may well have his doubts; but I do not think we can adjust and settle that question upon a measure like this.

Pursuant to law these ladies are employed; they have a salary of \$900; and I cannot see why, if we give twenty per cent. additional compensation to other clerks, they shall not have it. But when the question shall come up whether by the action of Congress this system of doubtful propriety, and which has been the subject of very much scandal, shall be increased, or whether the influence of Congress shall be given in favor of its gradual abandonment, it will have to be considered. My mind is not fully satisfied about it. Certainly the beautiful sentiments of the Senator from Illinois [Mr. YATES] find a response in the heart of every one of us; but it is not clear, when a man looks into some of the congressional investigations, that this system is promotive of advantage in the several Departments; but while the system stands and is recognized by law I am inclined to give them the same benefit of an increased compensation as is given to other employes.

Mr. FESSENDEN. As my friend from Oregon, who has the management of this reso-

lution in his charge, expresses his determination to recede from the position taken by the committee in reference to this matter, I certainly do not feel myself bound by anything that was done in committee on the subject; and as I perceive the general sense of the Senate is in favor of the amendment proposed by the Senator from Illinois, it may be well that I should give a brief account of the manner in which the committee came to the conclusion they did—and that conclusion was applicable to both clauses, the clause now under consideration, which applies to the females employed in the Departments, and the next clause, which applies to those persons who received an additional compensation out of the amount placed in the hands of the Secretary of the Treasury.

Senators who look at the resolution as first reported will find that it included both classes and gave the twenty per cent. to both. In that shape it was brought into the Senate. The ground taken by the committee was that although the pay of females employed in the Departments had been permanently increased to \$900 a year, on the whole it would be rather invidious to make a distinction between them and others who were perhaps in the same category of having had their pay increased generally. Inasmuch as their compensation was not very high and there was great complaint in regard to the want of adequacy of the salaries, and perhaps in some degree from the consideration which has proved to be correct that it would be impossible to resist the battery of supplications and tongues that must ensue if we did not do it, we thought we might as well come down in the first instance as in the last, because we felt very certain that that would be the conclusion to which the Senate would come and we might just as well make a virtue of necessity and recommend it ourselves. That was the reasoning applicable to that particular clause.

The other clause was with regard to the twenty per cent. to those whose compensation was increased during the last year by the Secretary of the Treasury. With regard to them we supposed their pay had not been made too high by anything they had received, and that the persons who had received it ought to have had it a year before. Indeed, we lost many very valuable men in consequence of such a compensation not having been provided for them. The money had been disbursed, as we understood, on the score of the superior merit of the recipients. It was thought it would be invidious to exclude them from the bonus here proposed to be given, particularly as they were men who had rendered special valuable services, many of them extra services.

It is impossible in a measure of this kind to do exact justice. I know, and we all know, that there are in the Departments many persons, young men and others who are not so young, who now receive all they ought to receive. I refer particularly to unmarried persons and those whose services are not of the highest description and whom we could replace at any moment from the thousands of applications from men just as good as they are. Hence, in any bill giving twenty per cent. increase you will necessarily give money to persons who now receive all they ought to receive, as much as they are entitled to, and are well paid for their services; but still in a bill of this kind it is impossible to discriminate.

If you give the twenty per cent. to one, you must give it to all. You cannot discriminate between classes because some clerks in the first class are very deserving and are so situated that they ought to have it, while some in the other classes may not be entitled to it. If you cannot discriminate between them, and if you must necessarily give it to many persons who really receive as much as they ought to receive now, why should you refuse it to those who are confessedly the most meritorious and the most deserving of any persons in the Departments?

The committee, therefore, came to the conclusion that they should include both, give it to both classes, and save all complaint upon

the subject. After that was done, and the resolution was brought into the Senate and was partially discussed, it was discovered that gentlemen were about to move amendments to put on a great many more whose claims were very doubtful. My friend from Ohio [Mr. WADE] spoke of adding the laborers and mechanics in the navy-yard, and the persons employed at the Printing Office, and the laborers and mechanics employed on the Capitol extension, on the Treasury extension, and some others.

If you put in all of these you would meet with infinite difficulties, and there is no knowing where to stop. They do not stand in the same category. My friend from Ohio says they do not get any too much. That is true; but they are paid by the day; they are anxious for the places; they get sure pay and the highest pay that any persons employed as they are receive anywhere else, and we were unwilling to add from three to four hundred thousand dollars, or perhaps half a million dollars, to pay extra compensation to persons who were anxious to get their places, and who were paid as well as any persons doing the same work in the country, and more surely, and who did not come at all within the category of which I have spoken.

When we found that that was the case we did not know but that something might be saved by abandoning our previous conclusion; and it was under the pressure of that idea that the honorable Senator from Oregon brought in this amendment, which was agreed to by the committee. I am in favor, as I was in the first place, of striking out this proviso, and then of striking out the following proviso, to do justice to all these men in the Departments; and I am not in favor of including these laborers and mechanics who are employed in this city in a resolution which had no reference to them and was intended to have no reference to them; and if they shall be included I shall feel compelled to vote against the whole resolution.

The amendment to the amendment was agreed to.

Mr. FESSENDEN. I now move to strike out the last proviso, in these words:

*Provided further, That all extra compensation allowed and paid to any of said persons during the current fiscal year by the head of any Department shall be taken and considered as a part of said twenty per cent., so that all of said persons shall receive twenty per cent. on their respective salaries as aforesaid, and no more; but no person shall be required to refund any sum that he may have received as aforesaid in excess of said twenty per cent. on his salary.*

Mr. CONNESS. I hope that will be stricken out.

Mr. TRUMBULL. I should not have said another word about this but for what was said by the Senator from Maine in reply to a suggestion of mine that this bonus of \$160,000 had been distributed among favorites, which he refutes as he supposes by presenting a certificate from the persons who made the distribution—not the best evidence, I would remark to the Senator from Maine. Parties who made the distribution would be very likely to certify that they did not make it upon any principles of favoritism. I should have expected that; they are not the most disinterested witnesses in the world; but however they distributed it, the fact is as was stated by the Senator from Ohio, [Mr. SHERMAN,] that certain clerks in the Treasury Department have received over and above their salaries bonuses varying from one hundred to six hundred dollars; and now, after they have been paid some of them as much as six hundred dollars in addition to their regular salaries, you propose to give them twenty per cent. more in this bill, which, as it is now written and reported by the committee, proposes to give something to those whose salaries have not been raised in any form. It is proposed now to go on and give the twenty per cent. additional to those who have been paid all they ought to have, because they have had a fund of \$160,000 from which to draw; and this proviso declares, as it is written, that they shall not be required "to refund any sum they may have received as

aforesaid in excess of said twenty per cent. on other salary," thereby admitting in the proviso as it now reads that some of these officers received out of this fund placed in the hands of the Secretary of the Treasury already more than twenty per cent. upon their salaries.

If they have not received it the proviso as it now reads declares that they shall receive up to twenty per cent.; that they shall stand like all other clerks of the Departments. If they have not already received twenty per cent. advance upon their salaries, then this proviso as it now reads is that they shall receive it, and if they have already had the twenty per cent., and more than the twenty per cent., they shall not be called upon to refund. It does seem to me these clerks stand well enough, and this proviso ought not to be stricken out.

Mr. CATTELL. The chairman of the Finance Committee has given a very plain statement of the course of this resolution before that committee. I desire to state, as one of the members of that committee, that I was opposed to both these provisos, and that the committee, in the first instance, agreed to report the resolution without either proviso, and that at the meeting of the committee when the amendment was agreed upon, including the two provisos, I was not present, and consequently I am not responsible for their appearance here. I state this fact simply because I not only voted for striking out the first proviso, but I propose to vote for striking out the second.

In my judgment if there is any error in regard to the sum which was given to the Secretary of the Treasury for distribution among the clerks in his Department it was the error of the Congress of the United States that placed the fund in his hands. In regard to its distribution I hold that there were, and are now, in the service of the Government men of the highest ability whose salaries were fixed years ago, when a dollar was certainly equal to a dollar and a half now; and it was intended to provide for the fact that in order to retain the valuable services of this class of men in the service of the Government it became necessary in some form or other to provide additional compensation for them. It was not thought proper to enter into a revision of the whole system of pay in the Executive Departments of the Government, and Congress in its wisdom chose to adopt this plan of placing a sum in the hands of the Secretary of the Treasury for distribution in accordance with his judgment among the most worthy in the service.

Now, I take the ground that the distribution of this money by the Secretary of the Treasury, if done with judgment, was pay for absolute extra valuable services rendered by the gentlemen to whom the compensation went; that it was for services done and rendered up to that time; that it was a compensation absolutely due to them for the faithfulness and ability with which they had performed their duty. I hold, therefore, that having paid these individuals compensation for extra, faithful service which they had performed, when we come to decide the question whether extra compensation shall be given to the entire clerical force you are not to take back from them what you once gave them for services actually performed.

I stated before the committee, as an illustration of this position, that it was the habit of the board of directors of the bank over which I have the honor to preside, during this period, when everything in the way of living has been so expensive, to vote an appropriation to be placed in my hands, as president, for distribution among the most faithful and deserving of the clerks of the bank. I sought out such of them as had families and were faithful, and whom I knew the salaries were scarcely adequate to maintain in comfort and independence. But when we came, as is our practice at Christmas day, to make an addition of some percentage to the salary of all the clerks in the bank, we did not stop to inquire how much the president had given to this one or to that one for his extra faithful services; but, dis-

posed to do a generous and a proper thing, we adopted a resolution to give each the same percentage upon his salary; and I never yet, among the clerks in that establishment, heard a single murmur from any of them that the pay which others had received for their extra, faithful service should be deducted out of the percentage which was given to all of them. I hope that if this resolution is passed at all, if the Congress of the United States want to do a just and generous thing, they will not stop to inquire whether Mr. McCulloch has paid an extra allowance to some persons employed in his Department, who have been faithful to their trust, who have been extraordinarily so, and whose services and signal abilities perhaps could not have been retained but for these extra allowances, and that we shall not require that to be deducted from the general advance which we now propose to make.

Mr. WILLIAMS. I think it is perhaps due to myself that I should say a word or two, as it seems that the responsibility of the change has been thrown upon me by the members of the committee. I was in favor, in the first place, of one of two policies in reference to this compensation. One was to confine this additional compensation to all persons whose salaries were fixed by law, and adopt that as the rule by which the allowance should be made; but if there was any departure from that rule, then all persons in the service of the Government in the city of Washington, whether their salaries were fixed by law or not, should be included; so that there should be some rule by which this compensation should be governed, and not to apply the twenty per cent. to those whose salaries were fixed by law and then pick out a certain number of persons whose pay was not fixed by law and give them twenty per cent., and exclude all others. That was the position I occupied as an individual upon the subject. I was willing to take either ground; but I desired to stand upon some ground where I could maintain myself. It would be consistent to confine this compensation to all persons whose salaries are fixed by law and exclude all others, or it would be right that all should be paid without reference to the manner in which they received their compensation.

When the resolution was reported from the Finance Committee I found that there were persons named in it whose salaries were not fixed by law and a large number of others excluded who were equally meritorious and whose salaries were not fixed by law. Hence it became necessary to reconsider the subject; and the resolution in the form in which it is now pending was as I understand the judgment of the committee in reference to the mode in which the compensation should be made, and I so reported it, although I am free to say that at the time and since the resolution has never been entirely expressive of my individual views on this question; but I acted as the organ of the committee, supposing that a resolution in this shape was the expression of the views of a majority of the committee.

As to this motion, I have simply to say that I am apprehensive that it will, if it prevails, defeat the resolution, because I am very confident that there are many persons who will not vote for it if this clause or something like it is not retained. The extra compensation paid by the Secretary of the Treasury has undoubtedly been paid to the most deserving in the Treasury Department, but they have received during the fiscal year from one hundred to seven hundred and fifty dollars. Some of them have received \$750 out of this fund during the present year.

Mr. FESSENDEN. Those are the highest officers.

Mr. WILLIAMS. Yes, the highest officers who receive the highest pay. Out of the \$250,000 and the \$160,000 fund some have received \$1,000, some \$1,500, and some as high as \$2,000. I admit that those persons who received this extra compensation have more responsibilities, more talent, are required to discharge higher duties than those who received less compensation; and I would not object to



an amendment providing that those persons who have received one or two hundred dollars should be included in this resolution, and that all who received over two hundred dollars should be excluded. If you undertake to include within this resolution those who have already received \$500, \$600, or \$750, I am apprehensive that it will be a great burden and possibly defeat the whole measure. That is one reason why I think it not advisable to adopt the amendment, not that it may not be right enough in itself.

Mr. JOHNSON. Will the honorable member be so kind as to inform me whether twenty per cent. is on the salary proper or on the salary with the temporary increase added?

Mr. WILLIAMS. Upon the salary proper, not upon the temporary increase.

Mr. TRUMBULL. I should like to inquire of the Senator from Oregon if I understood him correctly as saying that as much as \$2,000 of this fund was paid to some clerks as extra compensation?

Mr. WILLIAMS. I say that out of the fund of \$250,000 and \$160,000 appropriated in 1865 and 1866 some clerks have received as high as \$2,000.

Mr. TRUMBULL. And now it is proposed to give this increase to those who have already had \$2,000 extra compensation.

Mr. FESSENDEN. That is a mistake. Let the Senator give the names and it will be seen how the fact is.

Mr. WILLIAMS. I will state how I make it out. I hold in my hand a letter of the Secretary of the Treasury, in answer to a resolution of the House of 10th December, relative to the disbursement of the funds appropriated as extra compensation to clerks of the Treasury Department, and on the second page I find a "list of the temporary clerks in the Treasury Department who have been paid out of the \$250,000 appropriated by act of March 2, 1865, and \$160,000 appropriated by act July 23, 1866, for the payment of temporary clerks in the Treasury Department, and additional compensation to clerks in same Department up to and including November 30, 1866."

Now follows a list. A very large proportion of these clerks have received over \$1,000. Mr. W. A. Dumphy has received \$2,117 80, and many have received \$1,200; one clerk, (Mr. William Fessenden,) \$1,943 37; and other clerks have received \$900, \$1,000, \$1,100, and \$1,200.

Mr. FESSENDEN. That is in two years.

Mr. WILLIAMS. I say out of the two funds. I am honestly in favor of this resolution; I am anxious to see these clerks get some additional compensation; and I simply make this objection because I am apprehensive that if this clause is entirely stricken out and these persons who have received this large additional compensation included it will make the resolution so objectionable, if not here elsewhere, as to defeat its passage.

Mr. CRAGIN. There is one view of this case that has not been clearly presented, as it seems to me. This resolution is to go back in its operation to the 30th day of June last and to continue for one year. Since the 30th of June last only about six months have elapsed, and these clerks to whom allusion has been made who have been paid out of this fund have received pay for only two quarters of the year. Now, if this provision here remains I understand they are not to receive anything whatever out of this fund for the next two quarters; and if it should be stricken out it will make but very little difference with the present fiscal year whether they receive the extra compensation as contemplated by the money that was placed in the Secretary's hands or whether they now be paid twenty per cent. Having received their pay for the two quarters, the twenty per cent. now added, leaving out their pay under the money appropriated for the other two quarters, will place them almost precisely as though they had received their pay for the four quarters of the year, nothing being said about this twenty per cent.

There is another thing. You will recollect, sir, that near the close of the last session of Congress we voted to pay \$100 each to the first and second class clerks. Now if this provision is not stricken out, that \$100 will be deducted from their twenty per cent. under this resolution, and I submit to Senators whether that would be right and proper.

Mr. CONNESS. Mr. President, I do not partake of the apprehensions of the honorable Senator from Oregon, that the adoption of this amendment will defeat this measure. All that I find in the argument of the Senator from Illinois on this subject is this: that because Congress has heretofore done partial justice to a few clerks we shall now do less than justice to them. That is his argument as I see it and understand it. Because a few clerks have received the compensations stated we are to do injustice to a great many clerks and pay them less than they should have.

Mr. President, for two years I had the honor of a seat in the committee of which the distinguished Senator from Maine is chairman. It was during two years of the war. During that time the most valuable clerks in the Treasury and other Departments, but particularly in the Treasury, left the public employ, being offered and constantly receiving as they did higher compensation for their labor from banks, insurance companies, and private business firms in the country. We were told again and again, and notified by the head of the Treasury Department and by the heads of bureaus in that Department, that unless an advance was made they could not keep men whose services were a necessity to the Government. It was by reason of those constant applications and statements authoritatively made that this system that is now so much condemned, of making an appropriation and placing it within the discretion of the Secretary of the Treasury, was resorted to, because we could not at that time resort to a general advance of the compensation of clerks. The Treasury we thought could not bear it; and therefore it was deemed necessary to make an appropriation which should be divided in a great measure among the most valuable clerks in the Department, that they might be kept in the public service. Now, two years or a year after that measure of justice has been performed it is argued here that we shall do less than justice to-night. I do not understand the logic. I cannot understand why, if we have given something because of the deserts of those men, we shall now play the Indian giver, and, as it were, take it back again by refusing to give them the compensation which we are extending to other clerks.

The honorable Senator from Illinois shows great zeal in this matter. It is well to have zeal in behalf of the Treasury; but it appears to me that it were better exercised otherwise than against those men who perform valuable services for the Government. It was well stated by the honorable Senator from Maine that the worst feature of this resolution is that it proposes to give the twenty per cent. to a set of clerks in all the Departments who are not worthy of it. I mean the first-class clerks, many of whom get as much as they deserve, who have no families to support, nobody depending on them, who can live well, if they live properly, upon \$1,200 per annum; but no distinction can be made, and that to my mind is the evil of this measure of relief to the clerks. But it cannot be avoided; it must be done; for there are among those twelve hundred dollar clerks many men of superior capacity and of great necessity—men called upon to maintain families in this District, to educate, feed, and clothe children. But, sir, as to this proposition whether we shall refuse to give this advance of twenty per cent. to a worthy and superior class of men because we have rendered them already in the past a partial measure of justice, I cannot understand the force of the logic nor the justice of the proposition.

Mr. POMEROY. I did not intend to say a word on this subject, but I have such respect

for first-class clerks that I do not like to hear it said that they have more than they are entitled to.

Mr. CONNESS. It was not so stated.

Mr. POMEROY. Sir, in my opinion many of the most deserving men in the Departments and the most competent officers will be found among the first-class clerks. Many of them have served there faithfully year after year, doing the same work and sometimes more than the second and third and even the fourth-class clerks; and they are certainly as much entitled and even more than the other classes of clerks to this twenty per cent. I am decidedly in favor of the first-class clerks having something in this resolution. I have known the history of many of them, and it has been a history of neglect and even of suffering; and in the most uncomplaining manner they have year by year discharged their duties and have had no friend to intercede for them, and they will remain first-class clerks. Many of them have been contented with that position. What I rose to say was, that if we are to give this twenty per cent., as I think we ought to do, it is especially due to those who have in a quiet manner performed their duty as first-class clerks without extra compensation.

I do not suppose that this extra compensation has been paid where it was not deserved, as a general thing. I have entire confidence in the manner in which the fund has been administered; but I have noticed that a good many of our men last year, before the fall election, found their places so uncomfortable that they left the Departments. Some resigned; I do not know that any were turned out; but I learn that when their places came to be filled they were not filled with the same kind of men, politically, as went out. This compensation, reaching back to the 1st of July, does not relieve at all those men who left the service, either because they were requested to resign or because they thought their duties to the country were such that they could not stay. I suppose the extra compensation was distributed all right; but I have to say about it that the lower grades, called the first and second class, commend themselves peculiarly to me; and those who have had this extra compensation, in my opinion, have not been in all instances the most deserving.

Mr. DOOLITTLE. Mr. President; about the close of the last Congress a special committee was raised for the purpose of reorganizing the Interior Department. The chairmen of the various committees in this body who deal particularly with the bureaus in that Department constituted that committee. I was upon that committee, and remember very well that the heads of the bureaus of the Interior Department were called before the committee and gave their testimony in relation to the operations of their various bureaus. I remember very well that the heads of those bureaus stated that since the commencement of Mr. Lincoln's administration the clerks under them, especially in the land department, had changed twice, because, after being a time in the Department, and becoming experienced and having the knowledge which was necessary to discharge its duties, they became so capable and were in such demand elsewhere that it was impossible for them to be retained in the Department. The committee accordingly reported a bill for the reorganization of that Department, which passed the Senate, but which was not acted upon in the House.

It was to prevent just that operation in the Treasury Department that Congress thought proper to put this fund at the disposal of the Department, to hold it as an inducement and as a consideration for distribution among the meritorious and laborious clerks performing the great duties of the Department, to be distributed for that purpose, and to retain them in the service. Again and again it was urged upon Congress by the heads of those bureaus that they would lose their best clerks, and the service of the Government would be very much damaged by their leaving, and this fund was

placed at the control of the Department for the purpose of preventing that.

I shall not say anything in reference to the distribution of that fund. The statement of the heads of the bureaus is sufficient for me. But I wish to say a word in answer to the suggestion of the honorable Senator from Illinois, that they, having made the distribution, would as a matter of course say they had made that distribution without any favoritism. Certainly, they made the distribution without any political favoritism toward the Secretary of the Treasury, for, as we all know very well, almost all those heads of bureaus politically were opposed to the views of the Secretary of the Treasury, and they are the persons who made the distribution; so that political favoritism was impossible in the mode in which the fund was distributed. That the fund should have been distributed with a certain degree of favoritism, but a just favoritism, on the part of the heads of bureaus I do not doubt. They were to distribute this fund by favoring those who deserved the favor which the Government held out for the meritorious labor, responsibility, and work which they performed. It was distributed in that way.

Now, Mr. President, I ask, when that inducement has been held out to those men as the consideration of their staying, as the consideration of their performing this meritorious work, and has been paid to them for this meritorious work, is that any reason, if Congress conclude on the whole that all the salaries of these clerks are too low by twenty per cent., and we make a universal increase of salary to the amount of twenty per cent., that the salaries of these men shall not be increased for the future? I see no reason in it at all. If we increase the salaries of all twenty per cent., and these men are reduced to the twenty per cent. increase also, where is your pay for their meritorious services? Where is the reward of merit? Where is the just favoritism which rightfully belongs to them for the meritorious services they perform? It seems to me—I cannot look at it in any other light—that if you retain this proviso and reduce these men to precisely the same footing of all the rest your pay for their meritorious services is gone.

Mr. TRUMBULL. The Senator from California seems to suppose that I have manifested a great deal of zeal in reference to this matter. He is certainly capable of judging, for he is entirely cool and manifests no interest and no zeal about it at all. His indifference enables him to determine whether any one else is zealous or not.

I quite agree with what the Senator from Kansas said about the first-class clerks. I think them just as deserving as any other men in the Departments. Many of them are performing the duties which ought to be performed by second and third class clerks on their salaries of \$1,200, and many of them are just as competent and performing just as important duties.

One word also in regard to this question of favoritism. I see in the official document which was brought into the Senate by the Senator from Oregon a statement of the persons who received a part of this fund placed in the Secretary of the Treasury's hands to be distributed; and the Senator from Maine brings in a certificate of certain gentlemen—I do not remember all the names of the gentlemen upon that certificate, but I remember some of them—in which they say that the fund was properly distributed, and not according to favoritism at all. Well, perhaps it was; but who were the gentlemen that said that? If I remember rightly R. W. Taylor was one who said it, and he received out of that fund \$375; J. M. Brodhead said it, and he got a part of it; T. L. Smith said it, and he got a part of it; E. B. French said it, and he received a portion; John Wilson certified to it, and he got a part; N. Sargent certified to it, and he received a portion; Edward Jordan certified to the fact, and he received a part. No doubt all of them

thought it was very proper legislation. [Great laughter in the galleries.]

Mr. SHERMAN. There is but one fact more which I wish to state, and that is in regard to the report which has been referred to, and which seems to have misled the astute Senator from Illinois. He says that Mr. Such-a-one received \$250. That is only for one quarter. All the heads of bureaus received \$1,000 for the current fiscal year. Two hundred and fifty dollars was paid to them, according to the statement before me, for a quarter. I only wish to say in addition that the heads of the bureaus having received from one thousand to fifteen hundred dollars they are in the course of receiving it for this current fiscal year. Some Senators suppose that this allowance made by the Treasury Department was for years gone by, and is not for the same period of time that is covered by the appropriation we are now making; but it is. The first allowance did not extend, if I remember aright, to the officers of the Department. The Senator from Maine will recollect whether that is so. I think the first allowance was for the clerks, and did not go to the officers who signed that paper. The second allowance, which was made last session, went to all the officers, clerks, and employes of the Treasury Department. The effect will be, if this resolution should pass without this proviso, that in addition to the \$1,000 already given to these heads of bureaus you will give them \$700 more. That is the only question. It seems to me that having received no more than I think is fairly due them, but all they claimed, and all that the Secretary of the Treasury thought they ought to have, because he has not distributed all this money, it is certainly no hardship for them to wait until all the other clerks and employes have got only a portion of what they themselves have received before they ask anything more.

Mr. HENDRICKS. If I recollect correctly, this appropriation of \$160,000 to be expended at the discretion of the Secretary of the Treasury was given to him to compensate and to secure the best service in his Department. I think I recollect that one of the Senators connected with the Finance Committee stated that that Department had difficulty in retaining the services of many of the most valuable clerks; that being skillful business men their services were sought for by large enterprises in the country, such as railroads, banks, and the like; and in order to enable the Secretary of the Treasury to retain their services at the time this fund was placed in his hands. That was upon a particular ground as I have stated. Now, this resolution goes upon the proposition that the salaries of the clerks and other employes in this city ought to be increased. I cannot see why the fact that some have received a part of that fund, under the exercise of the discretion of the Secretary of the Treasury, should impair their right to a percentage upon their salary with all the other employes. As has been stated, if we adopt that idea we simply take back from them that which it was thought good policy to give them a year ago.

I do not know of any Senator more skillful in debate than the Senator from Illinois; but I do not think that skill in debate altogether compensates for exact fairness and candor in debate. That Senator and other Senators made an attack upon the Secretary of the Treasury on the subject of the distribution of this \$160,000. Upon that subject I have got just this to say: I do not think any man can distribute a fund of that kind and not have fault found with him. Among the three or four thousand clerks in this city who would get no part of it there would be almost that number of accusers against him. But when the charge is completely met as against the Secretary of the Treasury, when there is not a clear foot of logical ground for the Senator to stand upon in his accusation against the Secretary himself, he then turns around upon the gentlemen who have exonerated the Secretary from all responsibility about the matter.

I am in no position requiring me to defend those gentlemen who have written the letter which has been read to the Senate. I believe I am in political sympathy with scarcely any of them; but I have heard that they are able officers. Was it not striking that with a sneer the Senator from Illinois should read the name of Mr. Taylor, the First Comptroller? I believe Mr. Taylor, the First Comptroller, is the most radical of all Radicals, so far as I have heard; but in the discharge of his duty I have never heard that he was not a just and fair man. Is it not just for him to have a portion of this fund? He gets a salary fixed a number of years ago; I believe \$3,500. Does the Senator from Illinois claim that it was wrong for him to have a portion of this money that was to be distributed according to the efficiency of the employes?

Then what is the purpose of the Senator's reference to the report? Is it to cast discredit upon these bureau officers because they received a part of the fund, or is it the Senator's purpose to discredit them as witnesses when they vindicate so completely the Secretary of the Treasury from every charge that has been made against him on this subject? When there is no ground left to stand upon with regard to the charge made against the Secretary, then a sneer is to be made against the Comptrollers and Auditors because of the testimony they voluntarily give in favor of the Secretary and to acquit him entirely of a charge that was groundless and wrong. I never did in my life against a political opponent desire to avail myself of that which was not right. When I see the party with which I am associated succeed I want it to be upon a ground that is satisfactory, not only to my judgment, but to my conscience; and I believe I have never yet in my life made a charge directly or by insinuation, by sneer, or by any other means that I did not believe to be true and right.

Now, Mr. President, I suppose it is perfectly right that the heads of these bureaus shall have a part of this fund. They have to select among their clerks who shall receive it. They make their report to the Secretary and he approves it. So far as the heads of bureaus receiving any of this fund is concerned of course the responsibility of that is upon the Secretary. He had to decide upon their report so far as all the clerks of the Department are concerned. If any of them have not been well treated they must look to the heads of their bureaus. I was once connected with a bureau in this city which had a clerical force of one hundred and eighty, and I can say that no man can in every respect do full justice to all the clerks in his bureau; it is impossible.

Allusion has been made to the fact that first-class clerks frequently discharge duties that properly belong to the second and third classes. That of necessity must be the case, because the law usually provides a larger number of the first class than of the third or fourth class. The work must be done, and the head of the bureau must assign to the duty whatever force and labor is at his command, and frequently he has to employ upon higher labors gentlemen who are paid only as first-class clerks. It is a necessity resulting from the organization of the Departments under the laws of Congress. Very efficient services are oftentimes found among the first-class clerks and very good clerks; I have no doubt about that, and oftentimes also clerks that are not very valuable.

I wish we could, in the distribution of this fund, give it to the industrious and the careful clerks. If we could thus discriminate I would be glad to do it. But we cannot. We must legislate upon some general principle; and I know of no other mode than to give a percentage upon their salaries. Some will receive money when they do not deserve it. Others, in my judgment, will not get as much as they ought to have. This is the difficulty incident to the subject itself, and I do not see how we can avoid it. Oftentimes clerks are forced upon the Departments by political influence. They get promotion frequently because of polit-

ical influence. It is not for members of Congress to criticise any Secretary or head of a bureau because of that. The Secretaries and the heads of bureaus are dependent upon Congress to a very great extent, and Senators go to them and demand the promotion of their friends and the appointment of their friends, men who have fought their battles at home, and these Secretaries and heads of bureaus are brought under congressional influence to a greater extent than they ought to be. The remedy is not in the Departments; it is in Congress.

Mr. JOHNSON. You do not mean to include all Senators?

Mr. HENDRICKS. No; I do not mean to include all Senators. I believe I did get a couple of clerks appointed last year. They had just been discharged from the Army. They were a couple of captains from the State of Indiana, who were discharged here and did not happen to have much money on hand. I got them clerkships, or rather got them suggested for clerkships, but when they were examined they did not pass the examination; so I believe I am responsible for none now. [Laughter.] I wish they had got the appointments. But I intend to do what I think is just in this business. I know something of the ability in these Departments. I have seen talent in these Departments that could have carried men to the highest positions in the States, to the highest business positions, to the highest political positions, if they had not buried themselves in the Departments. I see talent and learning and ability in these Departments and bureaus; but when once they get in there men see no opening and no avenue if they leave their positions, and they think they are perfectly helpless and dependent if they are turned out of office. It is a misfortune to them that that impression should rest on their minds, for if they had the courage to break the bands and go out and struggle in the avenues of life, in all the pursuits that are opened up to the enterprising and the talented in this country, they would succeed well enough; but when they once get into an office here they think there is no other place for them to live on earth. That is their misfortune. But they do bring talent to the Government of great service and great value, and I am not going in any votes I give to be niggardly in compensating for that service.

Allow me to say in reply to the Senator from Kansas that upon this question I am not going to inquire what are the politics of a clerk. I did not do much of that when I was at the head of a bureau here with one hundred and eighty clerks in that bureau. The inquiries I made were, "Is your work up? Are you serving the people? Are titles secured to the people's lands through your instrumentality?" It is news to me that there have been some gentlemen in the Departments so sensitive that they could not remain there during the last year. I did not hear of that until the Senator from Kansas suggested it, that the politics of the President and of the Secretaries were so objectionable to them that their sensibilities were entirely overcome and they resigned. [Laughter.] My impression is that Barnum could make money out of just such a man if he could find him. I have not heard of any such. My opinion is, from all the information I have on the subject, that in the Departments in Washington there are six men opposed to the President where there is one in his favor to-day; that in the Department of the Treasury there are six men opposed to the President where there is one in his favor. I am not advised as to the politics of the ladies.

Mr. RAMSEY. Does not the Senator know that there is a larger proportion outside of the Departments standing about in that relation to the President? [Laughter in the galleries.]

Mr. HENDRICKS. The Senator makes a remark that delights the gallery, but it is a remark that is not supported by the facts. Last year when the contest was made before the people, out of four million voters eighteen hundred thousand men indorsed the President.

That is not six out of seven, I guess; and with such a large support in the country I have thought he ought to have some support in his Departments; but he and the Secretaries think otherwise, and it is for them to decide. I have no concern about that. No political party ever was built up in this country, in my judgment, by the influences that went out from these Departments.

I think good manners would require that the gentlemen in the different Departments should not avail themselves of their positions, either by word of mouth or by communications sent to the newspapers, to abuse and traduce the President and the Secretary that continues them in office. I think that is good manners, common decency, just that sort of common decency that forbids a man to abuse the person who entertains him, or the person from whom he receives a kindness. But if any persons will render good service in the Department, and at the same time abuse the Secretary, and the Secretary can stand it, I am very sure I can; and that shall not influence my vote. I think instead of the criticism of the Senator from Kansas being just the thing is altogether the other way. These Departments are filled by men who are opposed to the President and the Secretaries to a very large extent; and I vote just as cheerfully, knowing that fact, for this relief as if the fact were otherwise. I do not make an inquiry about the like of that. The question is: ought these men to have an additional compensation? I think they ought, and therefore I support it.

Mr. WILSON. I hope at this hour that we shall proceed to take the vote. It seems to me that we are well enlightened on this great question that we have had before us this evening. We have some other questions before Congress besides this question of giving a gratuity to the clerks in this city. I think we understand it, and I suppose all of us are for it, and I hope we shall not act niggardly, but act generously. As it is a mere gratuity, let us give it without grudging. I should like to have the vote now.

Mr. FESSENDEN. I should like to accommodate my friend by taking the vote now, but I have a few words to say, and I feel bound to say them. When this fund was given the last time the Senator from Ohio will very well recollect that we purposely put in the word "officers" in order to include the heads of bureaus. We came to the conclusion that we could not permanently raise their salaries, but that they ought for that year, and in fact for the year before, to be paid more; their salaries ought to be increased; and for that purpose we resorted to the word "officers," and put it into the appropriation.

The Secretary of the Treasury so understood it, that it was intended that these heads of bureaus should be included. There was a reason for it. I knew very well that if we did not do anything we should lose some of the most valuable officers. Mr. Taylor, who has been spoken of, had given notice that he would not stay in the Department. He is one of the most valuable men connected with the Government. He saves this Government tens of thousands of dollars, I have no doubt, every year. He is a very able man. He would do honor and credit to this Senate if he were a member of it. He is a man of great, known, stern integrity, one of the most valuable men that I know. Well, sir, I know another head of a bureau who was offered not long since \$10,000 a year to leave his bureau and go into a firm of claim agents in this city, and just give them his name and information and do nothing. He declined. That is the case with these men, sir; and it will not be a very severe business if they should get for this year a sum up to \$4,500 or even \$5,000. I have no misgivings about it, and I think they ought to have it.

As to the amounts that were allowed to these gentlemen themselves, I presume they did not fix that; that was fixed by the Secretary. I do not think it was fixed any too high. I think it a little hard that men of their known posi-

tions, many of them our friends, known radicals of the sternest sort, who never have compromised their opinions in the slightest possible degree, should be sneered at as if their opinions and statements could be bought for a few hundred dollars. I have not that opinion of any hardly of the Republicans that I know, and I do not believe it even of the Democrats in the Departments.

Mr. DAVIS. The honorable Senator from Illinois gave the Senate several examples of heads of bureaus who had voted to themselves certain sums of this contingent fund, as he expressed it, and said no doubt each of those gentlemen thought that that money was well appropriated. The honorable Senator from Maine says, I have no doubt truly, that this money was not voted by those gentlemen to themselves, but it was given them by the order of the Secretary of the Treasury. But if it had been in the line named by the honorable Senator from Illinois, I could give him some other instances of the same character. There are certain officers of the Government who, some months since, received \$3,000 compensation a year; they voted to themselves \$5,000. Among the gentlemen that gave that vote was the honorable Senator from Illinois and myself, [laughter,] and I suppose we both thought that the money was well voted, and that we were entitled to it when we received it. I thought so at least. [Laughter.]

The PRESIDENT *pro tempore*. The question is on the amendment to strike out the last proviso in the joint resolution.

Mr. TRUMBULL called for the yeas and nays, and they were ordered; and being taken, resulted—ayes 24, nays 10; as follows:

YEAS—Messrs. Brown, Cattell, Conness, Davis, Doolittle, Fessenden, Foster, Fowler, Hendricks, Johnson, Lane, McDougall, Morgan, Morrill, Norton, Patterson, Poland, Ross, Sumner, Van Winkle, Wade, Wiley, Wilson, and Yates—24.

NAYS—Messrs. Buckalew, Chandler, Fogg, Harris, Henderson, Howard, Pomeroy, Sherman, Trumbull, and Williams—10.

ABSENT—Messrs. Anthony, Cowan, Cragin, Creswell, Dixon, Edmunds, Frelinghuysen, Grimes, Guthrie, Howe, Kirkwood, Nesmith, Nye, Ramsey, Riddle, Saulsbury, Sprague, and Stewart—18.

So the amendment to the amendment was agreed to.

Mr. WADE. I now move to amend the resolution in line eighteen, by inserting after the word "meters" the words "and also to the laborers and employes of the Washington navy-yard."

Mr. RAMSEY. Would you not put in the arsenal?

Mr. WADE. That will follow as a matter of course if this shall be adopted.

Mr. President, early in the evening, when the amendment in regard to the arsenal was under consideration I said about all I wished to say on this subject; but I confess now, with all the light we have had by the debates that have been had, I am not able to see why the class of laborers for whom I am now advocating an increase of pay are not as worthy as any others that you have provided for. I hardly see upon what principle it is that we can select out a certain number of laborers whose labor is not half as onerous and repulsive, if I may so express myself, as the labor of those the increase of whose wages I now stand here to advocate. I say that the hard-hand day-laborer is just as worthy of having his wages enhanced as any man that employs himself in any other way. It is very true that his habits of life are very different from those who receive these higher salaries, and he can make himself comfortable on a very small portion of what they will expend to make them equally so; but I cannot understand why we should entirely overlook their condition and grant these favors to those who have the most, unless you are really proceeding upon what is sometimes called the scriptural rule: "For he that hath, to him shall be given; and he that hath not, from him shall be taken even that which he hath." I say, again, there is no reason in this limitation.

We have been told that the committee have agreed that they would restrict this increase to



the city of Washington. Now, sir, what kind of a principle is that? Does it not cost as much for a man to support himself and his family and to educate his children at the navy-yard down here as it does in the city of Washington? If it does not, there is a reason why you should make the distinction; but unless it can be shown that there is that difference, there is no distinction in principle, and you ought to award this small pittance to these persons as well as to those for whom you have already provided. I hope it will be done.

Mr. WILSON. Be brief. Let us have a vote; it is late.

Mr. WADE. I know it is late, and I know how impatient some gentlemen are when I stand forth here as the advocate of those not very well calculated to advocate their own claims. When Senators were advocating the claims of those who receive four or five thousand dollars a year, that was all very well; you could sit very patiently under their preaching just as long as they pleased to talk; but the moment a man gets up here and demands justice for those who receive but very little consideration at all events, we are called to a halt at once; the time seems very heavy on our hands.

Now, Mr. President, I know that the committee who prepared this resolution have said that it was not the principle on which they graduated it to extend its benefits to this class of employés; but they have entirely failed to inform us why they did not embrace them as well as anybody else. I hope we shall do it. I am in earnest about it, because I feel that they have been overlooked. They are a meritorious class of people; their condition is hard at the best, and the small pittance that they will get under my amendment, as I said before, will go a great way with them and will cost the Government but very little. I hope the amendment will be adopted.

Mr. WILSON. Mr. President, I am sorry if I have in any way offended the Senator from Ohio. I have been very anxious for the last hour and a half to come to votes on these questions, and I am ready to vote with the Senator most heartily. But it is now after ten o'clock at night; we are exhausting ourselves here, and are unfitting ourselves for the labors of to-morrow. We have a great amount of labor to do between now and the 4th of March; and I only suggested to the Senator to be brief, because there are several amendments to be offered, and I hope we shall get the votes on them to-night. I voted with the Senator to include the arsenal. I am now ready to vote with him to include the navy-yard. All I want is to get a vote. I think the Senator was a little unkind and a little unjust; but I know his earnest way, and I have no feeling about it.

Mr. WADE. I have no unkind feelings toward the gentleman, nor did I suppose I spoke harshly of him; but I thought it a little extraordinary, after the Senator had been so patient under the long speeches that have been made, that the moment I rose in behalf of these poor people I should be called to a halt.

Mr. WILLIAMS. I think if these incidental side issues were omitted, and the discussion confined to the questions before the Senate, very much time would be saved. I simply make that suggestion. I think I can give the Senate some information on this subject; otherwise I should not trespass upon its time.

"By the act of July 1852, the wages of the employés in the navy-yards are to conform, as nearly as consistent, with those of private yards in the immediate vicinity of the respective yards. Under this law boards have been appointed at intervals of two months to ascertain the rates of wages paid by private establishments near the yards. By the rates so ascertained the wages of the several classes of workmen in the yards have been regulated. Through this law the rates of wages in the yards have changed or varied to suit those paid outside. They have advanced with the advance of labor in similar departments of private establishments. The mechanics have been vigilant to see that justice was meted to them under the law, and are always ready to demand it if not done."

Now, sir, I have a table here exhibiting the rise in the wages of these persons employed in the Washington navy-yard for a period of six

years; and I will give a few specimens to show that great injustice has not been done to these workmen and laborers in the navy-yard. Take, for instance, the carpenters. In 1860 they received from one dollar and eighty cents to two dollars and twenty-five cents per day; in 1861 from two dollars to two dollars and fifty cents; in 1862 from one dollar and seventy-five cents to two dollars and fifty cents; in 1863 from two dollars to two dollars and seventy-five cents; in 1864 from two dollars and fifty cents to three dollars; in 1865 from three dollars and twenty-five cents to three dollars and fifty cents; in 1866 from three dollars and twenty-five cents to three dollars and fifty cents; so that their wages have greatly increased as prices have advanced. And so with the smiths, the joiners, the painters, the machinists, the boiler-makers, the iron-founders, the bricklayers, and the laborers; their wages have doubled since 1860.

There is a reason, notwithstanding what the Senator from Ohio says, why these persons should not be embraced within the provisions of this resolution, and the reason is given in the paper which I have read. There are persons appointed to ascertain if their wages are as high as the wages paid to workmen engaged in private establishments, and if they are found not to be so high, those who have the superintendence of the yard have the power to raise their wages, and they have raised their wages as circumstances have required. If the workmen and laborers in the navy-yard are to be included, then those in the arsenal, those in the Government Printing Office, and those on the Treasury and Capitol extensions must also be included. According to the computation which I have made—of course I cannot be exactly correct—this amendment, if it is carried to its legitimate results, will increase the appropriation made by this resolution nearly half a million dollars simply to add twenty per cent. to the wages of the workmen, laborers, and employés about the city of Washington. There are twelve hundred men employed in the navy-yard; hundreds are employed in the arsenal; hundreds upon the Capitol and Treasury extensions; five or six hundred are employed in the Government Printing Office; and it is very easy to see that this sum would accumulate with great rapidity.

The main reason why they should not be included is that these persons are employed by the Government as they are employed by other persons. Their wages are fixed by those who employ them; and they can be raised whenever the circumstances require it. They are paid the highest wages that are paid to similar workmen anywhere, and the Government is more punctual than any private person in the payment of its debts to them. There is no particular reason why they should be paid this twenty per cent. and their wages thus advanced over those of persons engaged in similar employment in private establishments. Although this resolution does in some cases unavoidably embrace persons whose salaries are not fixed by law, yet the theory upon which it proceeds is that the compensation of the employés in the different Departments has been fixed by law and therefore cannot be changed so as to accommodate the salaries to the change in circumstances and expenses, and for that reason this twenty per cent. is proposed to be paid upon upon their salaries.

The amendment to the amendment was rejected; there being, on a division—ayes 10, noes 21.

Mr. POLAND. I move to amend the amendment by inserting in the eighteenth line after the word "meters" the words "the lieutenants, sergeants, and privates of the Metropolitan police;" and I desire to say a word in reference to this amendment.

Mr. WILLIAMS. If the honorable Senator will allow me to make an explanation, I think I can save time by so doing.

Mr. POLAND. Certainly.

Mr. WILLIAMS. I wish to say that the Metropolitan police were originally included

in this resolution, and the words were taken out at their solicitation, because they proposed to have a separate law passed organizing the Metropolitan police, and a delegate, as he represented himself to me, from the Metropolitan police, one of the officers, came to me and requested that the words be stricken out of the resolution, and in accordance with that request they have been omitted.

Mr. FESSENDEN. I will state further that in a bill that we passed last week we added fifty per cent. to the remuneration of the Metropolitan police on their present pay, to be levied by the authorities of the District. They are taken care of, and have all that they asked.

Mr. POLAND. What the Senator from Oregon and the Senator from Maine say is all very well as far as it goes. Who it was that represented the Metropolitan police to the Senator from Oregon I do not know. I move this amendment at the solicitation and upon the representations made to me by several members of the Metropolitan police. I have made some examination in reference to the increase of their pay, and am prepared to state how that matter is, and to show whether it is proper and necessary that this twenty per cent. should be added to their pay or not.

Prior to the last session of Congress the pay of the members of the Metropolitan police was sixty dollars a month, and in addition to that they were provided with two suits of police uniform in each year. During the last session of Congress it was provided that fifty per cent. should be added to the pay of the members of the Metropolitan police; but by the same bill they were deprived of these two suits at the expense of the Government, the result of which was that that act made, in point of fact, but very little addition to the pay they had previously received. It was further provided by the bill that was passed at the last session granting them this fifty per cent., which raised their pay to ninety dollars a month, that the additional thirty dollars a month should be paid by a tax upon the District, upon the cities of Washington and Georgetown. The amount of their pay out of the Treasury of the United States was not increased at all.

Last week we passed another bill making precisely the same provision for the present year, raising their pay to ninety dollars a month, and providing that the additional thirty dollars a month should be paid by the cities of Washington and Georgetown. The amount of their pay from the national Government has not been increased at all, and the increase of thirty dollars a month takes the place of the two suits of police uniform that they previously received. Their pay, then, is ninety dollars a month.

Mr. WILSON. Let us have a vote.

Mr. POLAND. One word more, sir, and I shall not detain the Senator from Massachusetts or anybody else by making a long speech. These men work double the number of hours that the lowest class of clerks in the Departments do, who receive \$1,200. The amount that they are paid is less than that of the lowest class of clerks in any of the Departments. They work in the cold and in the heat, in the summer and in the winter, in fair weather and in stormy weather, and certainly they deserve quite as much compensation as the lowest class of clerks in any of the Departments, and the additional payment that has been made to them does not make them up by a considerable sum to that amount. It seems to me but just that they should receive it.

The amendment to the amendment was rejected; there being on a division—ayes 11, noes 16.

Mr. YATES. I move to amend the amendment by inserting after the word "meters" in the eighteenth line the words "the employés of the Senate and House of Representatives." I have offered this amendment because I cannot see the reason or the propriety of the discrimination against this class of laborers and clerks; I mean the employés of the Senate and House of Representatives.

Mr. FESSENDEN. We increased their pay last year twenty per cent., and it is a standing increase.

Mr. YATES. With the consent of the Senate, I will modify my amendment by moving to insert after the word "meters" in line eighteen the words "the employés of the Senate and House of Representatives whose salaries do not exceed \$1,500 per annum."

I offer this amendment because I happen to know personally a good many clerks who have families and who do good service, faithful and efficient services. I think the amendment is entirely proper. I think we ought not to discriminate against this class of men. When you have provided for the laborers and clerks in every other Department, the Navy Department, the War Department, the Paymaster General's office, the Quartermaster General's office, &c., I think this large class of men in the employment of the Senate and House of Representatives should not be overlooked. We have been liberal to ourselves in increasing our own pay; we have been providing for the clerks and laborers in every other Department; and I cannot see why there should be any discrimination against this class. I believe I shall ask for the yeas and nays upon the proposition.

Mr. WILLIAMS. I hope this amendment will not be adopted. Every clerk and employé about the Senate and the House receives now twenty per cent. upon his salary, precisely the same amount that we propose to pay to the clerks and employés of the different Departments. This resolution only puts the clerks and employés in the different Departments upon the same footing with the clerks and employés about the Senate and House of Representatives. Now, to add twenty per cent. to those whose salaries are less than \$1,500 and exclude those whose salaries exceed \$1,500 would be simply passing a law by which those whose responsibilities are the least shall receive the highest compensation, for it would put some of the persons who are engaged in unimportant matters about the Senate above those who have great responsibilities and arduous duties to perform. I hope that the amendment will not be adopted.

Mr. POMEROY. The Senator from Oregon must be aware that there is a precedent for this. We have already under the lead of the committee voted to pay certain employés of the Treasury Department twice, and that is a very good precedent to pay these employés twice. Following that precedent we ought to vote this.

Mr. HENDRICKS. Does the Senator from Kansas wish to give any persons forty per cent.?

Mr. POMEROY. To follow the votes of the Senate I must do it to be consistent.

Mr. HENDRICKS. I wish to know if the Senator wants to give any employés forty per cent.?

Mr. POMEROY. Many of the employés of the Treasury Department have forty per cent., and why should not our employés have it also? I did not vote for that; but as the precedent has been established in that case I intend now to vote for this.

The amendment to the amendment was rejected.

Mr. CRAGIN. I propose to amend the amendment in the seventeenth line by inserting after the words "Treasury extension" the words "watchmen employed in the Capitol extension." There are nine of these watchmen. One of them is employed in the architect's office, and is included in this resolution. The other eight have precisely the same duties to perform. Five of them are night watchmen. They receive \$250 per day. By the resolution, I say again, the one in the architect's office will receive this twenty per cent. He is a night watchman. There are four others precisely like him, night watchmen, who under the resolution as it stands will not receive the twenty per cent. I think if there are any exceptions made in the resolution this ought to be one. They are men who work about fourteen hours per day.

Mr. WILLIAMS. I suppose the same argument that would justify the amendment proposed by the Senator from New Hampshire would justify an amendment including all the workmen and laborers employed on the Capitol and Treasury extensions. It is necessary to confine this resolution to those who are employed in the Departments and in the offices. Now, it may so happen (because it is impossible in any bill to specify all the exceptions and provide for every individual case) that by the provisions of this resolution one night watchman is included while others are excluded; but when you depart from the rule that this appropriation shall be confined to the offices, then you go to an extent that will embrace all the workmen and laborers employed in these different kinds of business about the city of Washington. The necessity of the case which compels us to adhere to this rule requires the Senate to oppose this amendment. These watchmen, according to the statement of the Senator, receive the same compensation, or about the same compensation, that the laborers and workmen do upon the Capitol and Treasury extensions, and if they are to be paid the additional compensation, then the amendment of the Senator from Ohio ought to be adopted, and all ought to be included.

The amendment to the amendment was rejected.

Mr. HENDRICKS. I propose to amend the amendment by inserting after the word "meters" in the eighteenth line the words "and the clerks at the Executive Mansion whose annual compensation does not exceed \$1,800." I suggest this amendment simply because of the clerks who are employed at the Executive Mansion under the bill which passed at the last session some two or three, perhaps three, were transferred from the Treasury Department. They were clerks in the Treasury Department at \$1,800, and they were transferred to the Executive Mansion at the same salary.

Mr. FESSENDEN. They were clerks in the Treasury Department, but not at \$1,800.

Mr. HENDRICKS. Yes, at \$1,800. Mr. Sniffin is one, and I forget the name of the other. They were clerks in the Treasury Department at \$1,800, and were transferred to the Executive Mansion at the same salary. If they had remained at the Treasury Department they would have had the benefit of the fund that was appropriated, but by being transferred to the Executive Mansion at least one of them has been cut off from his proportion of the \$160,000 that was appropriated last year.

Mr. WILLIAMS. I will state to the Senate what the persons employed about the Executive Mansion receive. The Private Secretary receives \$3,500; the assistant, \$2,500; the short-hand writer, \$2,500; the clerk of pardons, \$2,000; three clerks at \$1,800; secretary to sign land patents, \$1,500; doorkeeper, \$1,000; messenger, \$900; general service men detailed to the President by the War Department, \$80 per month. These salaries, as it will be seen, are large salaries. If there are three clerks employed at the executive department who were employed in the Treasury Department at \$1,800 a year, I suppose the greater honor that they enjoy from belonging to the Executive Mansion was sufficient inducement for them to change. I presume the change was voluntary on their part. They left the Treasury Department and went into the employ of the Executive. If they had remained in the Treasury they would have received the twenty per cent., but they now belong to the executive department proper, and perhaps the honor of being in that department is a sufficient equivalent for the twenty per cent. which the Treasury clerks receive. At any rate, I think their salaries are very fair and reasonable and ought not to be increased.

Mr. HENDRICKS. The remarks of the Senator I think are not altogether just and right. I do not propose to increase the salary in any way of those persons whose salary was fixed by the law of last year, who got the sal-

ary under that bill for the first time. Now, he has read the salary of one officer at \$3,500, another at \$2,500, and some at \$2,000; but there are three clerks that get \$1,800 on this same paper that he read from, and one gets \$1,500. Those are all that my amendment would apply to. There is a doorkeeper and also a messenger. The doorkeeper gets \$1,000 and the messenger \$900. I propose to leave them just where they are. But here are two clerks who get \$1,800, and one clerk \$1,500; and I want to provide for these two clerks at \$1,800, because they were transferred from a Department where they would have had the benefit of this resolution, and at least one of them, with whom I am personally acquainted and whom I esteem very much, was transferred before the law in relation to the officers of the Executive Mansion was passed. He was transferred by the Secretary of the Treasury to assist the President because of the great pressure of business at the Executive Mansion; but he was still a clerk in the Treasury Department. I think when the distinguished Senator from Maine was in the Department perhaps Mr. Sniffin was at the Executive Mansion. I am not sure just at what time he was assigned to do duty there. Now, these three clerks thus going into the Executive Mansion ought not to be deprived of that which they would have received had they remained in their Department. My amendment only applies to those three clerks.

The amendment to the amendment was rejected.

Mr. POLAND. I move to amend the amendment by striking out the word "now" in the fifth line. It reads:

That there shall be allowed and paid, out of any money in the Treasury not otherwise appropriated, to the following described persons now employed in the civil service at Washington.

This compensation, therefore, is only given to those persons who are now, at the passage of this resolution, in service in these different Departments; but it goes back and reckons this twenty per cent. upon their compensation since the 30th day of June last. A very considerable number of persons have been employed in these different Departments since the 30th of last June who are not now in service there. Suppose that a man was employed for six months following the 30th of June last and was then dismissed from the Department for some reason; another man is employed at the same service and at the same salary during the same six months and he is not dismissed from the service; is there any justice in saying that the one shall receive twenty per cent. upon his salary during that period and the other not?

At some time during the last fall, some months after the 30th of June, there was a very considerable change in the employés in several of these Departments; and I believe it was true, although it was probably accidental, that those men who left the service about that time were men who agreed in politics with the majority of this Congress; and by another singular accident those who took their places did not. That perhaps makes no difference in relation to the application of the rule of justice to the case, but it perhaps would make some difference in the feelings of gentlemen in voting upon it.

But upon the justice of the thing itself, Mr. President, if we go back to those who are now in the service and reckon this twenty per cent. upon their wages from the 30th of June forward, is there any justice in saying that that same per cent. of addition shall not be made to those persons who were in service for some time after the 30th of June and who have been dismissed from the service before this time? I can see no ground to make any distinction. I think it ought to apply to all persons who have been in service during this period of time; and that the man who served a fraction of a year during the first portion of it is just as much entitled to receive his *pro rata* allowance from this additional compensation that is given as one who has served a fraction of the year

during the last half of it. If there is any ground to make any distinction between the two, I presume the gentleman having charge of that resolution can tell us what it is; I am not able to see it.

Mr. WILLIAMS. I have no doubt that the resolution in its present form will operate with hardship in some individual cases. Every gentleman seems to suppose that the resolution must necessarily provide for every individual case within his knowledge. There must be some rule on this subject. This appropriation must be confined to persons now in the employ of the Government, or it must extend to persons who are not in the employ of the Government. It may be if the word "now" is stricken out of the resolution, and it is made applicable to all persons who have been in the employ of the Government since the commencement of the present fiscal year, that some persons who have been discharged for misconduct in office will receive this twenty per cent. upon their salaries. I suppose that some persons have been discharged from the different Departments on account of their political views or opinions, but I am perfectly satisfied that the number is very limited, and that it is not necessary to change this resolution and make it embrace persons who are outside of the city of Washington and elsewhere in the country for the sake of meeting some such cases. It would devolve, it seems to me, great trouble upon the Department to find out where these persons were, and the circumstances under which they were discharged, and when they were discharged. It would tend very much, in my judgment, to embarrass the proceedings under this resolution. I hope, therefore, that the amendment will not be adopted.

The amendment to the amendment was rejected.

Mr. HENDERSON. I offer an amendment, to add as an additional section the following:

*And be it further enacted, That all acts or parts of acts heretofore passed authorizing the Secretary of the Treasury to apportion or distribute among the clerks of his Department any sum of money by way of additional pay or compensation, are hereby repealed; and after the passage of this act no money shall be paid to any officer, clerk, or employee of the Treasury Department except such as may be fixed by law.*

Mr. CONNESS. I would suggest to the Senator whether it would not be well, if there is a balance of the fund, to provide in this section for its being paid back into the Treasury?

Mr. FESSENDEN. It goes back as a matter of course.

Mr. CONNESS. If it goes back by course of law it is all right.

Mr. HENDERSON. My view in presenting the amendment is this: I believe there were \$250,000 appropriated at one session for this purpose and \$160,000 at another, making \$410,000. I find from the report of the Secretary of the Treasury that he has distributed \$310,000 of that money, leaving \$100,000 yet unused. Now, if we undertake to say what the compensation of the clerks shall be, and fix it by law, I think it is altogether proper that we take the power away from the Secretary of the Treasury to have any charge made against him of favoritism. I make no such charge; but I know perfectly well that if we now fix the compensation, the Secretary of the Treasury may increase it if he sees proper. I think it is proper for us to fix it, now that we have the subject before us, and if the addition now proposed is not sufficient let us increase it to an amount that is sufficient. I think this amendment ought to be adopted.

Mr. HOWARD. I hope this amendment will be adopted. I voted against the appropriation of \$160,000 to enable the Secretary of the Treasury to do what was supposed to be justice to the clerks in his Department. I was satisfied then that one of the purposes for which the money was asked was political. I think the money has not been expended without a view in many cases to that purpose. At all events, as we are now establishing a new rate of compensation for the clerks in the dif-

ferent Departments, I think we may as well repeal that act of 1866 so far as the remaining balance is concerned.

Mr. WILLIAMS. I think, if I understood the proposed amendment, there is no objection to it. I should like to hear it read once more.

The Secretary read the amendment.

Mr. FESSENDEN. I have some doubt as to whether the last clause had not better be left out. He is obliged to employ additional clerks, and it may apply to them.

Mr. HENDERSON. It does not affect them at all.

Mr. FESSENDEN. I had some doubt about it.

Mr. HENDERSON. I thought of that. I am satisfied that it will not interfere with the additional clerks that may be appointed by the Secretary.

Mr. FESSENDEN. Let the last clause be read again. I do not think it adds any strength to the section.

The Secretary read the last clause of the amendment, as follows:

And after the passage of this act no money shall be paid to any officer, clerk, or employee of the Treasury Department except such as may be fixed by law.

Mr. FESSENDEN. I suggest that the words "as additional compensation," or something of that sort, be inserted. I do not think the last clause necessary. The first portion, repealing this authority, is sufficient.

Mr. HENDERSON. I am not particular about the language. The Senator sees what I am aiming at. I think the amendment accomplishes it. If the Secretary appoints an additional clerk he is authorized by law to classify him; he is put either in the first, second, third, or fourth class, and when he is classified his compensation is fixed by law of course.

Mr. HOWARD. This amendment simply takes away from the Secretary the power of granting favors and exercising his discretion in the compensation of his clerks.

Mr. HENDERSON. That is all.

Mr. HOWARD. And returns to the Treasury the balance which remains of the appropriation of \$160,000. I think it is high time we did as much as that at least.

The amendment to the amendment was agreed to.

Mr. HENDERSON. I have another amendment to offer, to come in after "1866," in line twenty-two:

In all cases where said persons now receive an annual compensation or pay of less than \$1,800; in cases where they receive not less than \$1,800, and not exceeding \$2,500, they shall receive an additional compensation of fifteen per cent.; and in cases where they receive more than \$2,500 and not exceeding \$3,500, they shall receive an additional compensation of ten per cent. as aforesaid.

Mr. FESSENDEN. I would not attempt to grade them.

Mr. HENDERSON. I may be wrong in this, but I think not. The first-class clerks receive \$1,200; second-class clerks, \$1,400; third-class, \$1,600; fourth-class, \$1,800; chief clerks of bureaus, \$2,000; Auditors, \$3,000; and assistant heads of Departments, \$3,500. If Senators will take up the report which has been referred to by the Senator from Oregon, (House Executive Document No. 20,) they will find that clerks of the first and second classes have had given to them about one hundred dollars extra compensation, and the clerks of the third and fourth class and the chief clerks have received from three hundred to seven hundred and fifty dollars each. The chief clerks, who receive \$2,000 salary, have generally received from six hundred and seventy-five to seven hundred and fifty dollars each extra. It may be that they are perfectly entitled to it; it may be altogether right and proper that they should have it; it may have been given entirely on account of merit; but if my amendment be adopted it will work perfect justice, in my judgment, among these clerks, or very nearly so.

Take the head of a bureau who has received an annual compensation of \$3,500 and also an extra compensation of \$1,000. Under this resolution he will receive \$700 more, being twenty per cent. on his salary, making his

compensation for the year \$5,200, whereas a first-class clerk, who receives \$1,200, will get his twenty per cent. making \$1,440, a second-class clerk will get his twenty per cent., making him a compensation of \$1,680, and a third-class clerk will receive an additional compensation of twenty per cent., giving him \$1,920; and these three classes have already received nothing extra except \$100, while the gentlemen who received the largest compensation, salaries of from \$2,000 to \$3,500, have generally received from \$450 to \$750 extra. They have all received their twenty per cent., and I propose to allow them ten per cent. additional still.

Take the case of a chief clerk with \$2,000 annual salary who has received \$750 extra compensation. He will get under this resolution \$400 more, making his compensation for the year \$3,150; whereas a first-class clerk has received but \$100 extra, and many of them not a cent, and some of the second-class clerks have received nothing and some only \$100. Thus the first and second class clerks will receive very little more than their regular salaries, while the chief clerks will receive \$3,150. This may be just, but it does not strike me so. My impression is that inasmuch as the men who get the larger salaries have received the larger portion of the extra compensation fund, we ought to scale the percentage that we grant under the provisions of this resolution. Unless we do so, the result is to give them a very large compensation, larger in my judgment than we ought to give, and larger than we design to give.

I offered my first amendment for the purpose of preventing any charge of favoritism arising hereafter, and really for the purpose of preventing the Secretary of the Treasury from paying to the well-paid clerks a larger compensation, and making the aggregate amount to \$5,500 or \$6,000, as he might do and probably would do if we were to carry out the same policy adopted last year. I think the amendment I now offer is but just. It is certainly right to those men who scarcely receive compensation enough to support themselves and families that they should get a larger proportion of this fund. I think those individuals who last year received six or seven hundred dollars extra compensation each can very well afford to take the ten per cent. which I propose.

Mr. FESSENDEN. My idea is that we shall only get ourselves into difficulty if we attempt to make any distinctions or grades. The committee went on the idea that it was best to give twenty per cent. to all except those whose offices have been recently created, and whose salaries have lately been increased. The Treasurer, by a recent law, gets \$6,500, and the Comptroller of the Currency \$5,000. This resolution does not apply to them, but to those who get \$3,500 and less. The committee thought it was not worth while to make any distinction between those whom the resolution covers, and that the result of it would be only to get us into difficulty. Let me say to the Senator from Missouri that those whose salaries are \$3,500, if they get just as much as he says they do, would not be paid more in proportion according to the value of their services, considering what kind of men they are and what they do, than the \$1,200 clerks or the \$1,400 clerks. You cannot expect to pay a boy what you pay a man.

Mr. HENDERSON. They are not boys.

Mr. FESSENDEN. Many of the \$1,200 clerks are boys under age; and they are getting more there than they could get anywhere else. It is true, there are some individuals of that class, men of families, who may not get enough; but as a general rule that class of clerks are paid better, and will be paid better under this resolution in proportion to the service they render than those who get larger salaries. I think I may say I know that. I think we shall only get ourselves into difficulty by attempting to make these different grades of percentage. I hope the amendment will not be adopted.

Mr. WILLIAMS. I think the honorable Senator from Missouri has left out of view in



this amendment all the Departments except the Treasury Department. It is to be remembered that no fund has been distributed in any Department except the Treasury Department. He proposes here to pay the Assistant Secretary of the Interior ten per cent. additional upon his salary and give a clerk twenty-five per cent., I believe. I think that in the Interior Department and in the Navy Department and in the War Department the assistants and the heads of bureaus should receive twenty per cent. upon their salaries as well as the \$1,200 clerks. But the Senate has settled the question as to the Treasury Department; the Senate has refused to strike out the clause which includes the extra compensation in this computation; and now, if this amendment is adopted with a view to the Treasury Department, great injustice is done to the men employed in the other Departments, and I hope for that reason that the amendment will not be adopted.

Why, I will ask, is one man paid in the Interior Department \$2,500 and another \$1,200? Is it not because one's services are worth \$2,500 while the services of the other are only worth \$1,200? If you increase the salaries of both you ought to increase them ratably; the increase ought to be in proportion to the salaries which they receive; and there is no reason as it appears to me why you should pay to one who receives \$2,500 ten per cent., and to one who receives \$1,200 twenty-five per cent., unless it is made to appear that the salaries as they have been established by law are unjust. There must be a gradation in salaries from the Assistant Secretaries down to the lowest class of clerks, and this percentage ought to be in proportion to the salaries.

Mr. HENDERSON. I am not very particular about the amendment; but it struck me as being just. I really think that if twenty per cent. is added to salaries from \$2,000 to \$3,500, a larger percentage should be given to the clerks receiving a smaller compensation. But the Senator from Maine, who certainly understands this subject better than I do, having had experience in the Department himself, who speaks advisedly upon the subject, and who ought certainly to be able to counsel the Senate on such a matter, thinks otherwise. I know there are some first and second class clerks here who are scarcely able to support themselves on their salaries. I do not pretend that the Senator from Maine and the Senator from Oregon are wrong in saying that those who have the higher salaries ought to be increased; but it struck me that a larger percentage of increase should be given to those who receive the smaller salaries. If my amendment be adopted its effect would be to give a first-class clerk for the present year \$1,440, a second-class clerk \$1,680, a third-class clerk \$1,920, a fourth-class clerk \$2,070, a chief clerk \$2,300, the Auditors \$3,300, and the heads of bureaus \$3,850. But I shall not take up time on this amendment; I leave it to the Senate to decide.

The amendment to the amendment was rejected.

Mr. TRUMBULL. I move to amend by inserting after the word "annum" in the thirty-second line:

Not to any person so as to increase his compensation for the fiscal year ending June 30, 1867, beyond the sum of \$4,500.

Mr. CONNESS. I desire to inquire whether this amendment, if adopted, would not prevent such officers as the First Comptroller and Second Comptroller from receiving more than \$4,500?

Mr. TRUMBULL. That is the object.

Mr. CONNESS. I think they are worth more.

Mr. TRUMBULL. The proposition is that this twenty per cent. shall not be applied so as to increase the compensation of any of these heads of bureaus beyond the sum of \$4,500 for the present fiscal year. Is not that enough? The effect of it will be to prevent them from receiving somewhere between five and six thousand dollars. Their salaries are fixed by law at \$3,500. They have already received out of

this extra compensation fund various amounts; the precise amounts I cannot state, but some of them as much as \$1,000. Those who have had \$1,000 have already received \$4,500. Then, if you give twenty per cent. additional on the salary, it would be giving them \$5,200 for the present year. If the Senate proposes to increase their salaries to \$2,500, so be it; but the object of this amendment is to prevent any of them receiving more than \$4,500. I do not wish at this hour to take up time. I hope the Senate will adopt it.

Mr. CONNESS. This, it seems to me, is the old proposition that was settled in the Senate awhile ago. As I understand it, it is to prevent men who can go outside and get \$10,000 a year from receiving more than \$4,500 from the Government, no matter how valuable may be their services.

Mr. FESSENDEN. I hope it will not be adopted; it will only apply to some half a dozen men, and it is an invidious discrimination against them.

Mr. TRUMBULL called for the yeas and nays, and they were ordered; and being taken resulted—yeas 10, nays 19; as follows:

YEAS—Messrs. Buckalow, Chandler, Howard, Pomerooy, Ramsey, Ross, Trumbull, Wade, Wilson, and Yates—10.

NAYS—Messrs. Brown, Cattell, Conness, Davis, Doolittle, Fessenden, Fogg, Foster, Hendricks, Lane, McDougall, Morgan, Morrill, Norton, Poland, Sumner, Van Winkle, Willey, and Williams—19.

ABSENT—Messrs. Anthony, Cowan, Cragin, Creswell, Dixon, Edmunds, Fowley, Frothingham, Grimes, Guthrie, Harris, Henderson, Howe, Johnson, Kirkwood, Nesmith, Nye, Patterson, Riddle, Saulsbury, Sherman, Sprague, and Stewart—23.

So the amendment to the amendment was rejected.

The question recurring on the amendment of Mr. WILLIAMS, as amended, it was agreed to, as follows: strike out all of the original resolution after the resolving clause and insert—

That there shall be allowed and paid, out of any money in the Treasury not otherwise appropriated, to the following described persons, now employed in the civil service at Washington, as follows: to civil officers, temporary and all other clerks, messengers, and watchmen, including enlisted men detailed as such, to be computed upon the gross amount of the compensation received by them, and employees, male and female, in any of the following named Departments, or any bureau or division thereof, to wit: State, Treasury, War, Navy, Interior, Post Office, Attorney General, Agricultural, and including civil officers, and temporary and all other clerks and employees, male and female, in the offices of the Coast Survey, Naval Observatory, navy-yard, arsenal, Paymaster General, including the divisions of referred claims, Commissary General of Prisoners, Bureau of Refugees, Freedmen, and Abandoned Lands, Quartermaster's, Capitol and Treasury extension, city post office, and Commissioner of Public Buildings, to the photographer and assistant photographer of the Treasury Department, to the superintendent of meters, an additional compensation of twenty per cent. on their respective salaries as fixed by law, or, where no salary is fixed by law, upon their pay respectively, for one year from and after the 30th day of June, 1866; but when any of said persons is or shall be only entitled to receive salary or pay for a part of said year, the said twenty per cent. shall be computed on the amount such person is so entitled to receive for services in any or all of said Departments or offices within said year: *Provided*, That the above-named additional compensation to the employees of the Patent Office shall be paid out of the funds of said office: *Provided further*, That this resolution shall not apply to persons whose salaries as fixed by law exceed \$3,500.

SEC. 2. And be it further resolved, That all acts or parts of acts heretofore passed authorizing the Secretary of the Treasury to apportion or distribute among the clerks of his Department any sum of moneys by way of additional pay or compensation are hereby repealed; and after the passage of this resolution no money shall be paid to any officer, clerk, or employee of the Treasury Department, except such as may be fixed by law.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the joint resolution read a third time. The resolution was read the third time, and passed.

[The announcement of the passage of the joint resolution was welcomed with applause in the galleries, which was checked by the President *pro tempore*.]

On motion of Mr. WILLIAMS, (at sixteen minutes past eleven o'clock p. m.,) the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, February 12, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### TAX BILL.

Mr. LAFLIN, from the Committee on Printing, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed for the use of the House one thousand extra copies of the bill amending the internal revenue laws, reported from the Committee of Ways and Means yesterday.

### NEW ORLEANS RIOT.

Mr. LAFLIN also reported, from the same committee, the following resolution; which was read, considered, and agreed to:

*Resolved*, That twenty thousand extra copies of the majority and minority reports, and ten thousand copies of the evidence taken by the Committee on the New Orleans Riots, be printed for the use of the members of the House of Representatives.

### BOSTON CUSTOM-HOUSE.

Mr. LAFLIN also reported, from the same committee, the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed of the majority and minority reports of the committee on the subject of the Boston custom-house two thousand extra copies for the use of the House, and five hundred extra copies of the evidence.

### MINERAL RESOURCES.

Mr. LAFLIN also, from the same committee, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That ten thousand copies of the report of J. Ross Browne on the mineral resources, &c., in addition to those already ordered, be printed for the use of members of this House, and that a copy of the rules prepared at the General Land Office, to aid in the disposal of the mineral lands under the law approved February 26, 1866, for that purpose, be added to each copy of such report; and that one thousand copies of the same be for the use of the Treasury Department.

Mr. LAFLIN, moved to reconsider the vote by which the several resolutions were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### PACIFIC RAILROADS.

Mr. WENTWORTH, by unanimous consent offered the following resolution; which, being a call for executive information, was considered by unanimous consent, and agreed to.

*Resolved*, That the Secretary of the Treasury be requested to communicate to this House the ultimate cost under existing laws of the railroads concerning which he made his communication to this House yesterday, so far as the papers in his office will enable him to do so.

Mr. WENTWORTH moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

### TAXING POST OFFICE CLERKS, ETC.

Mr. HILL, by unanimous consent, submitted the following resolution; which, being a call for executive information, was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be, and is hereby, requested to inform this House whether the various postmasters throughout the United States are required to account for and pay a salary tax upon the salaries of clerks employed by them, where such salaries are not fixed by law, but are paid out of funds furnished by the Government; also that he be requested to furnish a copy of the regulations and the circulars of said Department, if any such exist, requiring such payment; also whether any such tax is collected or required to be accounted for from clerks of assessors of internal revenue; and if any discrimination is made between said two classes of clerks in respect to said tax, and why such discrimination is made.

### MERCHANT MARINE.

Mr. ELIOT, by unanimous consent, introduced a bill in relation to the merchant marine of the United States; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

### SOLDIERS' LOST DISCHARGES.

Mr. MILLER, by unanimous consent, presented resolutions of the Legislature of Penn-

sylvania, asking for the passage of a law allowing pensions to soldiers who have lost their discharges; which were printed, and referred to the Committee on Invalid Pensions.

#### CHANGE OF COLLECTION DISTRICTS.

Mr. J. L. THOMAS. I ask unanimous consent to take from the Speaker's table Senate bill No. 347, to change certain collection districts in Maryland and Virginia, for the purpose of having it referred.

No objection being made, the bill was taken up, read a first and second time, and referred to the Committee on Commerce.

#### COMMERCIAL MARINE.

Mr. DARLING, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas the commercial marine of the United States is reported to be in a languishing condition, and there exists also great depression in the ship-building interest owing to the legislative action of foreign Governments and other causes: Therefore,

Resolved, That the Committee of Ways and Means be, and they are hereby, instructed to inquire into the expediency of amending the tariff act by a provision to the effect that all goods imported in American bottoms shall be entitled to a rebate of ten per cent. of the duties imposed by said act.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed bills and a joint resolution of the House of the following titles with amendments, in which the concurrence of the House was requested:

A bill (H. R. No. 908) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1868;

A bill (H. R. No. 918) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1868, and for other purposes; and

A joint resolution (H. R. No. 224) giving additional compensation to certain employes in the civil service of the Government at Washington.

The message further informed the House that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House was requested:

An act (S. No. 493) supplementary to an act to establish the Treasury Department, approved the 2d of September, 1789;

An act (S. No. 527) to amend the postal laws, and for other purposes; and

A joint resolution (S. R. No. 163) to provide in certain cases for the removal of alcohol from bonded warehouses free from internal tax.

#### FEES OF EXAMINING SURGEONS.

Mr. FERRY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be, and they are hereby, instructed to inquire into the propriety of increasing the fee now allowed to surgeons for examination of applicants for pensions, and that they report by bill or otherwise.

#### WASHINGTON CENTRAL MARKET.

On motion of Mr. INGERSOLL, the bill of the House No. 799, to incorporate the Central Market Company in the city of Washington, District of Columbia, heretofore referred to the Committee for the District of Columbia, was ordered to be printed.

#### ACTS OF MISSOURI STATE MILITIA.

Mr. NOELL. I ask unanimous consent to submit for consideration at this time the following preamble and resolution:

Whereas it is alleged the Governor of Missouri has sent companies of militia into several counties of that State, which militia has driven out and maltreated officers of the United States, and killed and beaten peaceable citizens without cause or provocation, and has robbed citizens of property and destroyed and burned property and committed other devastations: Therefore,

Resolved, That a select committee of five be appointed to inquire into said allegations and report to this House.

Mr. GRINNELL. I object.

Mr. LE BLOND. I hope the gentleman will not object; this is a riot.

Mr. GRINNELL. Yes, a Democratic riot.

Mr. ELIOT. It is too late in the session now to order an investigating committee.

Mr. LE BLOND. It is not too late to do good.

Mr. NOELL. Will my resolution be printed?

The SPEAKER. It will be printed in the Globe, in the report of debates and proceedings.

Mr. NOELL. I ask permission to have also printed in the Globe certain documents I have in my possession relating to this subject.

Mr. ASHLEY, of Ohio. I object.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had concurred in the amendments of the House to Senate joint resolution No. 99, for the relief of Paul S. Forbes, under his contract with the Navy Department for building and furnishing the steam sloop-of-war Idaho, with amendments, in which he was directed to ask the concurrence of the House.

#### CIVIL GOVERNMENT IN LOUISIANA.

Mr. HARDING, of Illinois. I now call for the regular order of business.

The SPEAKER. The regular order is the bill reported from the select Committee on New Orleans Riots (H. R. No. 1162) for the reestablishment of civil government in the State of Louisiana. The pending question is upon the motion of the gentleman from Ohio [Mr. FINCK] to lay the bill on the table; upon which motion the gentleman has called for the yeas and nays.

The question was taken upon ordering the yeas and nays, and there were—ayes thirteen.

Mr. BOYER. I call for tellers.

Mr. FINCK. I withdraw the motion to lay the bill on the table.

The SPEAKER. The question now is upon the motion to lay on the table the motion to reconsider the vote by which the main question was ordered.

Mr. ELIOT. Upon representations of friends of the bill, I am willing to allow this bill to be amended by striking out the section which provides for the admission into this House of a delegate from Louisiana. I would inquire of the Chair in what way I can accomplish my object?

The SPEAKER. If the gentleman will withdraw the motion to lay on the table the motion to reconsider the vote by which the main question was ordered, the question will recur upon the motion to reconsider. Should that motion prevail the bill will then be open to amendment.

Mr. ELIOT. I will then withdraw the motion to lay on the table.

The question was upon the motion to reconsider; and being taken, it was agreed to.

Mr. ELIOT. I now move to amend the bill by striking out the twelfth section.

The section was as follows:

Sec. 12. And be it further enacted, That until the people of Louisiana shall be admitted to representation in the Congress of the United States under such loyal and republican government as the United States shall recognize and assume to guaranty, such people shall be entitled to one delegate in the House of Representatives, to be elected at the first general election provided for in this act by the qualified electors of the State, as provided in this act. Such delegate must be a person who has the qualifications for and could hold the office of Governor under the provisions of this act, and he shall have the same powers and rights now had by delegates from the Territories of the United States.

Mr. ELIOT. I now call the previous question upon the amendment.

The previous question was seconded and the main question ordered; and under the operation thereof, the amendment was agreed to.

Mr. ELIOT. I now renew the call for the previous question on the bill.

Mr. ELDRIDGE. We understood on this side of the House that the bill was to be open to debate if we consented to withdraw the motion to lay the bill upon the table.

Mr. ELIOT. I do not know upon what ground the gentleman from Wisconsin [Mr. ELDRIDGE] has proceeded. I am aware of no

understanding of that kind upon the subject. I am perfectly willing to state exactly what I should be glad to do if the House will sustain me in it. I have no objection to have this bill debated for one or two hours, if it will accommodate gentlemen upon the other side. I would a great deal rather have such debate as may be satisfactory than to have a renewal of scenes such as were had in this Hall a fortnight or three weeks since. And if it will be in accordance with the general wish of the House I propose that the bill may be discussed, and that the previous question may be seconded in an hour and a half from this time. That is giving as much time as, it seems to me, we can give at this period of the session, and I hope it is as much as gentlemen on the other side will feel disposed to ask.

Mr. STEVENS. As the gentleman does not call the previous question I call for the regular order.

The SPEAKER. The gentleman from Massachusetts [Mr. ELIOT] is upon the floor.

Mr. STEVENS. Well, then, I will call for the regular order as soon as the gentleman sits down.

Mr. ELIOT. I do not mean to sit down. [Laughter.]

The SPEAKER. This bill is the regular order.

Mr. STEVENS. It will not be if the gentleman allows it to be thrust aside.

The SPEAKER. This bill must be disposed of before any other is taken up, except by unanimous consent.

Mr. LE BLOND. Will the gentleman from Massachusetts yield to me?

Mr. ELIOT. For what purpose?

Mr. LE BLOND. For an inquiry.

Mr. ELIOT. Certainly.

Mr. LE BLOND. I understand from the gentleman from Massachusetts that he purposes in the course of an hour and a half to put this bill upon its passage and cut off all further debate, intimating that that is sufficient time for the discussion of the bill. Now, sir, I do not pretend to understand what the minority upon this side of the House propose to do. I can speak only for myself in this matter. But when a bill of the magnitude of the one now under consideration is proposed to be put through this House, permitting no more than an hour and a half of debate upon it, it seems to me that it is time for the minority here to assert, to some extent at least, the rights that belong to them.

I am aware that on the other side of the House it is urged as a pretext for hurrying this bill through that we are approaching very near to the close of the session, and that as yet no policy for the reconstruction of the southern States has been adopted. Well, sir, let me say that the minority are free from any blame upon that subject. Immediately on the organization of the Thirty-Ninth Congress the majority here took it upon themselves to establish a Reconstruction Committee and refer to that committee all matters relating to the reconstruction of those States. Thus all propositions looking to a restoration of those States to their rightful places in the Union were swallowed up. There the subject has remained from that day to this, except that now and then there has been reported a bill that was odious even to the majority.

Mr. SPALDING. I rise to a question of order. I do not think that the remarks of my colleague are in the nature of an inquiry to the gentleman from Massachusetts.

Mr. ELIOT. No, sir; they are not.

The SPEAKER. The gentleman from Massachusetts has the right to resume the floor whenever he chooses.

Mr. SPALDING. I appeal to him to resume the floor.

Mr. LE BLOND. Well, it is hardly necessary for my colleague to be quite so sensitive.

Mr. SPALDING. I object to so much "rigging."

Mr. LE BLOND. And let me say there has been little else done in this Congress than "rig-

ging," in which my colleague has performed a very conspicuous part.

Mr. ELIOT. I cannot yield to the gentleman from Ohio [Mr. LE BLOND] if he takes this occasion to lecture his colleague.

Mr. LE BLOND. Very well; if the gentleman from Massachusetts will yield to my colleague that he may interpose a proposition of this kind he must expect that I shall reply in the same spirit.

The SPEAKER. The Chair will state that the gentleman from Ohio [Mr. SPALDING] rose to a question of order. He did not appeal to any one except the Chair.

Mr. LE BLOND. The Chair will permit me with all respect to say that my colleague appealed to the gentleman from Massachusetts to cut me off.

But, Mr. Speaker, I desire to continue my statement of the reasons why this bill should not be hurried through. As I was remarking, this Reconstruction Committee has reported no legislation on this subject that has met the approval of the majority of this House. If that committee has been permitted to go on in this way through the last session and the principal part of this without producing anything for the good and harmony of the country, that is no reason, no excuse, no apology to justify the majority, at the very close almost of this Congress, in thrusting upon the House a proposition that ignores States, subverts civil government, and subverts the Constitution. Legislation of this sort cannot be justified or excused on the plea that the session has nearly expired, and that some action is necessary.

Mr. ELIOT. I resume the floor.

Mr. LE BLOND. Very good; then let him move the previous question.

Mr. ELIOT. Mr. Speaker, I have been hoping to hear some suggestion instead of an argument. I am desirous of having this reconciled, and it seems as though I meet with obstacles from one side and the other. Will gentlemen be good enough to say what they want?

Mr. LE BLOND. I will tell the gentleman, and he might have inferred it from what I have said; leave the bill open so there may be reasonable debate on the proposition, before you move the previous question, and thus give the minority a chance.

Mr. ELIOT. I call on the gentleman to state what time he wants. In view of the short existence of the session and the pressure of business, I ask what time they think is required?

Mr. LE BLOND. I will state to the gentleman—

Mr. ELIOT. I yield to my colleague on the committee.

Mr. BOYER. I simply desire to suggest to my colleague and to the members of this House, on a matter so important, involving the very existence of a State and the continuance of a State constitution, that we should pause until the reports which have been made by the committee, of which the gentleman from Massachusetts is chairman, have been printed and the House has had an opportunity to read them. I desire to inquire of my colleague how it happens gentlemen on the other side seem to be so well posted in reference to the facts involved in this question and the merits of the government of Louisiana so they are ready without debate to give their decision? I desire to ask whether my colleague knows the testimony taken by the committee in this case has been privately printed and also privately circulated among the Republican members of the House?

Mr. PIKE. No.

Mr. BOYER. Yes, sir; so that they have had an opportunity to "post" themselves and to get the version of facts known to my colleagues on the committee, while my associates on this side have been denied that privilege.

Mr. ELIOT. Let me answer that question right here. No such thing has been done. The gentleman has had all the opportunity any one has had to see all the evidence in print and manuscript. There has been nothing done he

is not aware of; nothing taken from the Printing Office except what has gone to him as well as to me.

Mr. BOYER rose.

Mr. ELIOT. I cannot have this kind of interrogation at this stage of the case upon the floor between a member of the committee and myself.

Mr. BOYER. I simply desire to correct my colleague.

Mr. ELIOT. I resume the floor.

Mr. BOYER. My colleague misapprehends me entirely in supposing I sought for any information. I am entirely "posted" in reference to the facts of this case; but I should like to have an opportunity of discussing those facts before the House.

Mr. ELIOT. What time does the gentleman want? I am trying to find out how much time is wanted.

Mr. ELDRIDGE. Will the gentleman yield to me?

Mr. ELIOT. If I can get an answer, with pleasure.

Mr. ELDRIDGE. We do not want unreasonable time to debate this bill. As I understand from those around me we want to debate it fairly and fully, to have a fair and reasonable opportunity to debate.

Mr. ELIOT. How long?

Mr. ELDRIDGE. Until the subject seems to have been exhausted. [Laughter.]

Mr. ELIOT. That is altogether too much.

Mr. ELDRIDGE. No one can say exactly how much.

Mr. BOYER. The House will always have within its own control the power to put an end to the debate, and why not then throw the debate open until the House in its judgment shall see fit to close it?

Mr. LE BLOND. I want to say a word.

Mr. ELIOT. If the gentleman will give me an answer I will yield.

Mr. LE BLOND. As the gentleman from Pennsylvania has already said, the majority of this House has the power to close the debate when in their judgment it has progressed a sufficient length of time, and put the bill on its passage. That is sufficient for us on this side to say now. It may take to-day and to-morrow; it may take only to-day; but leave it open and let debate go on until the House in its judgment shall say it has gone far enough and the debate should be closed.

Mr. ELIOT. Mr. Speaker, I have tried to get an answer, but—

Mr. FINCK. I propose to the gentleman that this debate go on till to-morrow at four o'clock, and then close.

Mr. ELIOT. That is utterly out of the question.

Mr. LE BLOND. Will the gentleman say why it is out of the question?

Mr. ELIOT. Because there is not sufficient time at this stage of the session to do that and do justice to the other business of the House. The state of the business demands more speedy action.

Mr. LE BLOND. That is what the Committee on Reconstruction and the gentleman from Massachusetts ought to have considered long ago.

Mr. ELIOT. Mr. Speaker, having tried in vain to obtain a reasonable proposition from the other side, I will say to the gentlemen that I do not intend to call the previous question for two hours; but at the expiration of two hours I propose to do it. During that time I think gentlemen will find no difficulty, if they will be brief, in expressing all their views for and against the bill.

The SPEAKER. Does the gentleman desire to have it understood that two hours for debate is to be given to those who are opposed to the bill?

Several MEMBERS. Yes, yes.

Mr. ELIOT. I understand it to be the desire on this side of the House that the minority should have the whole of the time.

The SPEAKER. The Chair then recognizes the gentleman from Pennsylvania, [Mr.

BOYER,] the minority of the committee, as entitled to the floor.

Mr. ELIOT. Allow me to ask what will be the effect of a motion to recommit the bill?

The SPEAKER. It will be to prevent further amendment.

Mr. ELIOT. I now make that motion.

Mr. BAKER. Will the gentleman from Massachusetts yield for a suggestion?

The SPEAKER. The gentleman from Pennsylvania [Mr. BOYER] has the floor.

Mr. STEVENS. I hope my colleague [Mr. BOYER] having the floor, will move to postpone this till to-morrow, for the purpose of going on in the mean time with the bill which was unfairly thrust aside to take up this.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. BOYER] yield to allow a suggestion from the gentleman from Illinois, [Mr. BAKER,] to the chairman of the Committee?

Mr. BOYER. Yes, sir.

Mr. BAKER. I desire to suggest a verbal amendment in the fifth line by inserting the word "provisional" before the word "governor."

Mr. ELIOT. There is no objection to it: I will accept it.

Mr. GARFIELD. I desire to make a suggestion about the printing of the bill if the gentleman from Pennsylvania will yield.

Mr. BOYER. I will do so.

Mr. GARFIELD. The suggestion is this: there have been but some forty copies of this bill printed, and it is not on the desks of more than one third of the members here. Now, I hope we shall not proceed with the discussion of a bill with a proposed amendment to it until every gentleman can have it on his desk; and I trust, by unanimous consent, it will be laid over until that can be done.

The SPEAKER. The Chair will state if this is postponed by unanimous consent, unless other orders are postponed by unanimous consent, it will not be reached during the remainder of the session.

Mr. BOYER. If I understood the suggestion of my colleague he would be willing to accede to a proposition for the postponement of the bill till to-morrow, or until some future day, reserving, however, our rights to debate, and leaving that question to remain as it is. If my colleague desires to make such a motion I will yield the floor for that purpose.

Mr. ELIOT. That is not in accordance with the order of the House. I have yielded for no such purpose. There are two hours given for debate.

The SPEAKER. Such a motion would be in order. The gentleman from Pennsylvania [Mr. BOYER] is on the floor and entitled to move it. The gentleman from Massachusetts has yielded two hours for debate.

Mr. ELIOT. It comes out of the two hours.

Mr. BOYER. I yield to my colleague if he desires to make that motion.

Mr. STEVENS. I move to postpone the further consideration of this bill until to-morrow.

The SPEAKER. The Chair will state that if it is postponed until to-morrow it probably will not be reached at all during the present session.

The question was taken; and there were—ayes 40, noes 83.

So the motion to postpone was not agreed to.

Mr. BOYER. Would it be in order to move that this, together with all the other special orders, except the bill from the Reconstruction Committee, be postponed until to-morrow?

The SPEAKER. It would be by unanimous consent. The Chair stated yesterday that the House had, by unanimous consent, which is the highest form that the action of the House can take, directed that certain bills should be taken up in their order—the military bill, from the Committee on Reconstruction; the indemnity bill, and the bounty bill; and the House cannot, by any lower grade of motion reverse the action so taken.

Mr. BOYER. It is desired by gentlemen



near me that I should state that there is no understanding on this side of the House that the debate upon this bill should be confined to two hours, and that then the vote should be taken upon the passage of the bill by common consent.

The gentleman from Massachusetts said that he would not call the previous question until after the expiration of two hours; but I did not understand that there was any arrangement entered into with gentlemen on this side of the House, that at the end of two hours they would interpose no objection to closing the debate. I state this now in order that it may not be hereafter said that there was any misunderstanding or any want of good faith on the part of gentlemen on this side.

Mr. ELIOT. Let me state that it is rather late to interpose that caveat now, after the gentleman has obtained the floor in pursuance of that arrangement.

Mr. BOYER. I certainly did not understand the gentleman from Massachusetts to offer two hours for debate upon this bill as a proposition to be accepted upon conditions by this side of the House; it was an announcement on his part, uncoupled with any conditions; as such I understood it, and as such I believe it has been understood by my associates on this side of this Chamber.

Mr. UPSON. I rise to a point of order: that the gentleman from Pennsylvania [Mr. BOYER] is not discussing the bill before the House.

The SPEAKER. The Chair sustains the point of order.

Mr. BOYER addressed the House. [His remarks will be published in the Appendix.]

Mr. HARDING, of Kentucky. Mr. Speaker, I have been a somewhat attentive observer of all that has transpired in this House for some six years past. During the war there were many gloomy periods when the friends of the Union seemed to despair. There were certain men who predicted that war never could restore this Union. I was one who thought otherwise. I did hope and believe that when the rebellion in the South was subdued, when there was no longer any armed resistance to be found there, whatever politicians might desire, a public sentiment would come from the North as well as from the South calling for and demanding peace and restoration too strong to be resisted. But, sir, the war is over. There is not to be found anywhere a man in arms against the Government of the United States. Some eighteen months have rolled away since the termination of the war; yet here we are as far from the restoration of the Union as we were at any time during the war, and I fear further. Now, gentlemen may think as they please, but the question before us is one that is worth thinking about. Every man who loves his country, every man who loves the Union of the States, ought to pause and reflect and ask himself whether we are moving toward a restoration of the Union or directly the opposite course. I may be wrong; I hope I am; but to my mind the cause of the Union this day is more hopeless than at any former period. My imagination pictures to me now more danger than at any time during the war.

Now, sir, in regard to these various propositions before the House, the one called the "military bill," with the several amendments coming from different sources, and the one now reported, I care not a fig which of them may pass, if any one must pass. This last bill, the one now before the House, while it shades to some extent the horrid and bloody features of the "military bill" is, in truth, nothing more nor less than the same thing, dressed up and veiled a little to conceal its enormity from public view. To my mind there is one thing very certain, that the temper of the Representatives here as well as of people elsewhere must undergo a great change before there will ever be a restoration of the union of these States. Sir, it is alarming that such a bill as that "military bill" should be seriously considered in this House. It is one

of the alarming signs of the times: that such a measure should find support from any quarter whatever; for it proposes to establish a supreme, unlimited, and absolute despotism over nearly one third of the people of this Union; to surrender to the military authorities supreme power; nay, to enthrone despotism here in the United States. I say it is alarming that such a proposition should meet with any sort of favor here; and it is not less startling to hear the utterances and witness the temper with which certain gentlemen have defended this very bill.

For example, let me allude to a remark that was made by the gentleman from Ohio [Mr. GARFIELD] in support of this horrid "military bill" at the time when he assumed to "close the door of mercy" and proclaim that the day of grace was passed. I was astonished and alarmed to hear him utter his solemn fiat, his terrible anathema, his withering curse which is to doom forever some eight or ten million people of the South. The inquiry would naturally suggest itself, "Who is this that stands here and lifts up his voice like a trumpet, closing up the day of grace and sealing the doom of eight or ten million human beings?" One would suppose it to be some being that had suddenly made his appearance in the American Congress from some higher and holier sphere, from some sinless clime, one that had never felt the need of mercy, one that knew nothing but stern justice unmingled with mercy, one that having never sinned himself had no sympathy with sinners; one wrapped in immaculate purity and holiness, standing here and proclaiming with trumpet voice to the people of the United States that the day of grace was ended, "the door of mercy closed forever, locked, and the key thrown away." We were naturally shocked and alarmed; but on drawing a little nearer and making closer observation we find that this being is one of us, one of Adam's fallen posterity, one who had been a rebel against the government of Heaven and a sinner all his days.

The alarm was gone, the fright was over, and our shattered nerves became steady again; but we were still amazed and wondered to see a poor, puny mortal—

"Drest in a little brief authority."

"Play such fantastic tricks before high heaven,  
As make the angels weep."

A MEMBER. Remember he is a preacher.

Mr. HARDING, of Kentucky. Mr. Speaker, that must be a slander. I have heard it before but it must be a mistake. I take up no slanders against any man. It cannot be; no man who ever bore the message of "peace on earth and good will to man," no man who ever expounded the pure and sublime truths of Christianity, could have indulged such feelings and sentiments.

I would like to argue with that gentleman in reference to this matter. I entertain for him, as I do for all men, no unkind feelings. I would if I could reclaim him from the error of his ways. But to what standard am I to appeal that will affect him? You cannot argue a question of the power of Congress with a man who ignores the Constitution. There must be a common recognized standard from which there shall be no appeal.

I do not know even whether the gentleman would recognize the binding validity of the Bible. If I did, then I would take that as the standard of authority and argue with him in reference to that awful anathema he uttered.

You tell me he is a preacher. How can that be, when a man is anathematizing eight or ten millions of his fellow-men? How can he say, "Forgive us our trespasses as we forgive those who trespass against us?" Never. None but merciful men can hope for mercy, for it is written, "He shall have judgment without mercy," who shows no mercy. The gentleman will reflect that at the time he is closing up the door of mercy against his fellow-men he closes it against himself; for the decree has gone forth, "He that shows no

mercy shall have judgment without mercy." Why, sir, the gentleman was dependent on mercy, and mercy alone, for the very breath with which he proclaimed in regard to the people of ten States that, "The door of mercy was closed forever, locked, and the key thrown away!" Yes, sir, if the Bible be true, then the gentleman closes the door of mercy against himself unless he withdraws that terrible anathema and changes his temper and feelings.

Now, Mr. Speaker, as to the constitutionality of the military bill, this pending measure, or any kindred proposition, I will not insult the judgment of legal men by arguing such a question. The man who is prepared to indorse this as constitutional is prepared to vote for anything, and argument, however powerful, would be of no avail. Ten years ago all lawyers here know that any law student would have disgraced himself by contending that Congress has any constitutional power to pass such a bill as this. That side of the House has been schooled and driven up to this bloody military bill. They have been led on from one extreme measure to another until now they seem to be prepared for anything.

Mr. Speaker, there was another gentleman from Ohio—

Mr. SCOTFIELD. I ask the gentleman to yield to me for a question.

Mr. HARDING, of Kentucky. Yes, if it will not come out of my time.

Mr. SCOTFIELD. The gentleman suggests that this side of the House is unmerciful. I want to ask him if in all the late confederate States not now represented in Congress the rebels themselves are not now in authority, having entire control, and show no mercy to the Union men?

Mr. HARDING, of Kentucky. Well, sir, I cannot stop to argue that question, because the facts are assumed to be true. But suppose they are true; suppose there are rebels who do these things, if you refuse to show mercy are you any better than they? There is no argument in anything of that sort, and yet if I have time I will consider these stories that are told about crimes that prevail in the South. I admit that the fact is so to some extent, but it is quite as true in regard to the North as the South. But, sir, there is nothing in these reports that should mislead or deceive a ten-year old boy. Why should you be gathering up such reports from one section of the country and making a great parade about them, overlooking the same kind of outrages that occur in another section?

But, sir, I was about to refer to the gentleman from Ohio, [Mr. BINGHAM,] with a part of whose speech here the other day I was well pleased. He broke out here the other evening in true loyal style, declaring that there never had been a time during the war when any of the southern States was out of the Union; that never had "one rood" of any of them become foreign territory. It was very true. Moreover, he went on to repeat some six or seven statutes that had been passed, all of which clearly recognized the stubborn fact that these were States in the Union during the war, and were still in the Union. He went even so far as to refer to various bills that gentleman had voted for, and coming down to the Freedmen's Bureau bill, he said that every man who voted for that bill had declared two things on oath: first, that the insurgent States were States in the Union; and secondly, that the people inhabiting them were citizens of the United States. I was glad to hear that from the gentleman from Ohio. I was glad to see the gentleman—better late than never—stand up for the Constitution and remind gentlemen of the oath to support it. He also said the idea that these States are out of the Union he "repudiated with scorn and contempt." I sympathized with him in that also.

But, sir, I confess I was a little surprised when I found him a few moments afterward making certain admissions which knocked his previous argument all into pi, as the printers say. [Laughter.] If the gentleman had stopped right there his argument would have been all

sound and truthful; but the mischievous gentleman from Wisconsin [Mr. ELDRIDGE] kept interposing and asking questions, such as, "If these States are in the Union how, under the Constitution, do you reconcile to yourself the establishment of military despotism over them?" And, then, the gentleman suddenly fell into one of his radical spells, the monomania of radicalism came over him, and he was gone in a moment, and declared that he "embraced the general purpose of the bill with all his heart." Then the gentleman from Wisconsin pressed upon him the question, "How do you reconcile your views of the Constitution with the establishment of a military despotism?" and the gentleman from Ohio answered, "Why, by the unlimited powers of the Constitution for the common defense." A clause in the Constitution to which my attention had never before been called as proof to support such a position! Turning to the Constitution we find a clause which provides that Congress shall have power to pay the debts and provide for the common defense and general welfare of the United States. How? By laying and collecting taxes, duties, imposts, and excises; but all duties, imposts, and excises shall be uniform throughout the United States.

That was the clause I suppose the gentleman intended to refer to: strange proof for such a purpose! If the gentleman will look a little further he will find another clause which provides that Congress shall have power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." This would have suited his purpose fully as well; it is just as clearly in point as the first, because neither of the clauses can possibly be so tortured as to have the remotest bearing or lend the least support to his position.

Now, sir, I do not know whether it was a mock fight or not. But while the gentleman from Ohio was ready to embrace most heartily this bloody monster of a bill, he would yet veil it a little in the preamble; he would have the words "so-called" stricken out. Denying that the loyal citizens of the South were a conquered people or had ever forfeited any of their rights, he is yet ready to establish an absolute despotism over loyal and disloyal alike, as this bill does.

He quarrels with the preamble—with the shadow—yet embraces the substance. If that scene in which the gentleman figured was but a mock fight for the leadership of that side of the House, then if I had a vote in the matter I should say, let the gentleman from Pennsylvania [Mr. STEVENS] continue in the leadership, because he is more open and undisguised; he seeks no concealment; he does not veil from the public gaze a proposition, however monstrous, which he is ready to embrace, nor will you ever hear him argue that the power is derived from the Constitution to pass such a bill as this. Not at all. He takes the ground now that he took some two or three years ago, that "all compacts between the North and South were abrogated and destroyed, and that thenceforth the fate of each section depended upon the will of the conqueror, under the laws of war and the laws of nations." Grant him his premises and he is always consistent in his conclusions; and certainly he will always contend boldly for his premises, whether you grant them or not. I think that they are all wrong; I am sure they are; but, as I have just said, the gentleman is too good a lawyer to claim power under the Constitution to pass such a bill. He claims it outside of the Constitution, from the laws of war and conquest.

I wish to call the attention of gentlemen to two predictions made by two great men—men great, however, in very different ways. All who were here during the period of which I speak will remember that from 1861 all through the war it was proclaimed publicly by the President over and over again, and by all his most distinguished supporters, that the Union was and must be perpetual; that it could not be dissolved or destroyed except by successful

revolution. They all stood together upon that platform, and claimed and seemed to be Union men. But I recollect very distinctly that some two or three years ago the gentleman from Pennsylvania [Mr. STEVENS] rose and repudiated the whole of that theory, and announced the doctrine "that all previously-existing compacts between the North and the South were abrogated and destroyed; and that thenceforth the doom of either section depended upon the result of the armed conflict; that if the South was conquered it would be subject to the absolute will of the conqueror!" and if the North should be conquered it would in like manner be subject to the South. That utterance called out quite a number of assailants, and members on that side of the House, from Massachusetts and elsewhere, combated his theory as ruinous and false. A fierce debate upon that theory sprung up at the time, and it found no favor from any quarter; but the gentleman poised himself and remarked that "he was generally a little in advance," that he was regarded as a pioneer; "but," said he, "after awhile you will all be with me." Two or three years have elapsed—that prediction is verified; and to-day these gentlemen are all with him, all ready to proclaim the same disunion doctrine.

The other prediction I wish to recall is that of another great man, from a different section of the country, and, as I have said, great in a very different way—a man who loved his country above all things else, a man who looked into the future with almost the vision of a prophet—Daniel Webster. He is reported to have exclaimed on one occasion—

"Let these infernal fanatics get control of the Government and they will treat the decisions of the Supreme Court with contempt; they will make laws to suit themselves; they will lay violent hands on all who oppose them; they will bankrupt the country, and finally deluge it with blood."

Now look at what has been done. That very party obtained control of the Government. There has been war; that war is over, but the Union is not restored, and at this very moment the public debt, mountain high, is casting its deadly and blighting shadow of bankruptcy over the whole country. We are literally bankrupt to-day; and generations to come must be ground to the earth under the crushing weight of this monstrous debt. Has not the land been deluged in blood, been literally reddened all over with the blood of half a million men?

And last, has not the Supreme Court been treated with contempt here in this very Hall? Yes, sir, we have seen here the attempt to bring into ridicule and contempt the last refuge of liberty for the oppressed. The only hope that now lights up the darkness of the horizon is that court; and that court has been rudely assailed here in this Hall, and why? Because it proclaimed a truth known to every lawyer who has read at all. That truth was that a "military commission taking charge of a citizen not connected with the Army or the Navy, and trying and executing him is guilty of murder." That is the whole of it. And I aver now that whenever a civilian, not connected with the Army or the Navy, is tried by a military commission, sentenced and executed, that is an act of cold-blooded murder; and there is not a lawyer in the United States who can frame even a plausible defense for such an act. And for declaring that truth the Supreme Court of the United States has been assailed and everywhere treated with contempt. And now, right in the face of that decision of the highest judicial tribunal of this country, it is proposed to reenact and sanction these bloody military commissions.

Now, as I said before, if any of these bills is to pass, I care not which it is. The one coming from the gentleman from Massachusetts [Mr. ELIOT] is only veiled and concealed a little. It provides for military rule, for a brigadier general who is to command in Louisiana, and to have all the force he desires to carry out his will. There is the absolute control, the bloody despotism of military power; though kept a little in the background, it is not a whit better than the other bill.

Now, I again call on gentlemen who deny that the Union has been dissolved, for I suppose this military bill is to pass if any does, to pause before they take this last and final step. What does this bill do? It proclaims the Union dissolved; it declares that ten States are out of the Union; and if ten States are out all are out; the Constitution holds and binds all together or it holds none. It proclaims that the Union is dissolved; that the experiment of man's capacity for self-government is a failure. This is the last struggle, and I fear its result will be as sad and melancholy as that of former republics. All along the stream of time you can see the wrecks of departed republics.

The last experiment is now being made in this country. And yet gentlemen are disposed to rush madly upon the passage of a bill declaring in substance that the Union is dissolved, establishing an absolute military despotism over ten States with a population of eight or ten million people, giving to the military commander unlimited and absolute power over life, liberty, property, and all things else. True, it is said—and it is all the more humiliating that it is said—that when a military commission shall try and pass sentence of death upon a citizen, he shall not be executed until the brigadier general commanding shall approve the sentence. That is, a man is not to lose his head until there is time to prepare an ax and block.

And, then, another provision of the bill is still more humiliating; that while the writ of *habeas corpus* is suspended everywhere in the southern States it is placed under the absolute control of military officers, and a commissioned officer, a colonel in the Army, may, as an act of sovereign grace and mercy, give authority to the Chief Justice of the Supreme Court to issue a writ of *habeas corpus*. Now, how humiliating it is to talk about passing a bill that puts the judicial power of the United States, with all laws, constitutions, and courts, absolutely under the feet of military power!

And yet as an act of mere grace you say to a justice of the Supreme Court of the United States, if a colonel in the Army shall write giving you permission to do so, you may issue a writ of *habeas corpus*, but not otherwise.

Now, sir, it would be folly to inquire whether a bill like this finds any favor in the Constitution. That is a question which does not deserve argument. Every man who gives the subject impartial consideration must know that there is not a shadow of constitutional authority for it. Let me remind you, sir, that the gentleman from Pennsylvania [Mr. STEVENS] does not pretend to claim constitutional authority for it. Why, sir, when West Virginia was erected into a State that gentleman himself declared that there was no constitutional authority for that step, and that he found no warrant for it in the Constitution, and that he voted for it on other grounds.

Mr. STEVENS. If the gentleman will permit me, I desire to state that what I said on that occasion was this: that I did not vote for the erection of that State under any provision of the Constitution giving us authority. My idea was that to call on Virginia as then organized to give consent to the formation of the State of West Virginia was absurd. I held, although all my friends on the other side of the House did not all coincide with me, that as part of the conquered territory of the nation, we had a right to deal with that State as we pleased. I voted for the bill on that ground.

Mr. HARDING, of Kentucky. I understood it so, precisely. But in that case, as in others, the gentleman from Pennsylvania was a pioneer. The gentleman on the other side have all adopted his doctrine, at least enough of them to sustain him in contending that the Union was dissolved and that the Constitution was no longer applicable to the question. I say it to the credit of the gentleman from Pennsylvania that he is always logical and consistent in his argument, though his premises on these questions are, as I think, always wrong; but grant his premises and you cannot

combat his argument. He never held that there was any authority in the Constitution for the bill creating the State of West Virginia, nor does he take the ground that there is any authority in the Constitution for this military bill. As the gentleman from Pennsylvania is now in his seat I will repeat a remark which I made a short time ago when he was absent. I said that he was the first to make the startling announcement here in this House a few years ago, "That all compacts between the North and the South were abrogated, and that the laws of nations and of war thenceforward controlled the destinies of each party in the conflict then pending." That is his ground. He is too good a lawyer ever to claim that there is any warrant in the Constitution for this bill. He will not do it. Yet gentlemen on that side of the House who pretend to repudiate his doctrine follow him in the support of this measure.

If they had taken his ground they would at least have made a show of consistency. When he made the announcement to which I refer I was a little startled, and I remember that two or three gentlemen whom I see here sprang upon their feet and drew him into a sharp debate. But he said that he was a pioneer. The idea then occurred to me that with a sort of mischievous foresight he was looking forward to the termination of the war. He saw that this Union platform would only bear their expenses to the close of the war, and anticipating, what now occurs, that when the war was over and the rebellion suppressed, and these States being States in the Union there would be no constitutional ground for keeping them out. Hence he took the ground that he did, two or three years ago, looking forward with a degree of foresight that seemed to belong to none other of his party to the time when the States in rebellion should be conquered—the time when the war would have ceased. Hence he took the ground that the Union was dissolved, and all compacts between the North and the South abrogated, that the conquered would be subject to the will of the conqueror. Having taken that ground two or three years ago he now feels that he can consistently occupy it when the war is over.

At that time the doctrine of the gentleman from Pennsylvania did not find a single indorser. Yet he declared to those of his own party who took issue with him that he was a pioneer, and that they would all in due time come forward and occupy his ground. This has come to pass, and it seems to me that the whole host of that party are now madly rushing this Government headlong to destruction. Without stopping to argue in reference to this bill, I ask gentlemen who love republican government whether they are not alarmed at the idea that such a measure as this should find any favor here?

Think of the idea of establishing and enthroning a supreme, absolute despotism over eight or ten million people in the ten States of the South! Think of surrendering up every power into the hands of the military! But a few months ago you were alarmed at the mere shadow of monarchy in Mexico. The Monroe doctrine was urged against tolerating monarchy anywhere upon this continent, and yet gentlemen seem to have forgotten all that; they are now ready to establish and enthrone an absolute military despotism over ten States of the Union.

How long do you suppose there will be any respect felt for republican government in any part of the country? When the Supreme Court of the United States and the Chief Executive of the nation are denounced, when both are ridiculed and brought into contempt, when one third of our whole territory is surrendered up and passes into the hands of a bloody despotism, how long will the people revere the Constitution? How long will these military men in the South be satisfied with this power, with absolute and supreme power over one third of the Union? Does any man suppose they will be content with that? How long will

it be before that despotism will extend and enlarge itself until it covers the whole Union?

Mr. Speaker, those military men who receive these appointments, who are to be intrusted with this absolute power of life and death over loyal and disloyal must of necessity have the spirit of tyrants. It is utterly impossible it can be otherwise. No matter what is intended, such is the result. You are going to place absolute power in the hands of the worst men to be found in the United States. There is no true patriot, no friend of his country, who will ever aid in subverting and destroying its liberty. In other words there is no man who will consent to do the work of a tyrant who is not a traitor and a tyrant himself. I say it boldly whenever you pass this bill, any man—I do not care what his fame may have been before—who accepts an office like this of absolute power of life and death over one third of the whole country must necessarily be a tyrant and traitor.

Mr. Speaker, I repeat, no man who is not a tyrant himself can fill the office and do the work of a tyrant. You are, then, proposing to establish an absolute despotism without any hope that any other than a tyrant will fill the office. You cannot escape this conclusion; and I ask the House to mark it well.

Now, sir, we have been told the South have forfeited their rights. If they have, do you acquire constitutional power by reason of that forfeiture? Such has been the strange argument we have heard upon this floor, that we have the power to do this, that, and the other thing to establish a despotism over ten States of this Union. And why? Because they have forfeited their rights. Does any lawyer here contend that a forfeiture of rights enlarges the constitutional power of Congress? Do you acquire power in that way? No man who has a reputation as a lawyer can successfully uphold any such doctrine.

Let us look at it a little further. Gentlemen admit that there are loyal men in those States and loyal men have been there during the whole war, but loyalty it seems is to go for nothing under this bill. This military despotism is to press alike upon the loyal and the disloyal. It is therefore a cruel mockery to talk about the loyal people in the South when you establish a military despotism like this over loyal as well as disloyal. Loyal as well as disloyal, aged men and women, infants in the cradle, all alike to be crushed under this despotism!

Ah, but most of them are disloyal, you say. Are they? Does any man in his sober senses believe it is the right way to make them loyal to tax them without representation and treat them as slaves? Will they learn to love and reverence a Government when they are visited by nothing but its merciless cruelty and oppression?

And now, sir, in regard to all these stories of crime in the South that we have heard again and again until we are weary of their repetition. I do not pretend to say but what there are outrages in the South in almost every county, and possibly even in every neighborhood. But what of it? Suppose a record had been made up of the horrid crimes and barbarous cruelties that have occurred in any section of the North; is there a child that need be misled by it? The truth probably is, that the whole community in the North, South, East, and West has become to some extent demoralized. They have been accustomed to look upon the shedding of human blood with less horror than formerly. The whole land has been deluged as it were in blood. A terrible war has prevailed for four years, and the natural result is demoralization, and I apprehend there is quite as much of it, if not more, in the eastern States as anywhere else.

Let me cite a few examples. Only a few days ago we read an account of two aged females, (white women, one aged sixty and the other seventy,) living in a quiet, secluded place in the State of Maine, whose house was entered by ruffians, who first brutally violated their persons and then murdered them. You may look

long before finding in the dark catalogue of crime a more brutal and savage outrage.

Mr. PERHAM. Will the gentleman yield to me for a moment?

Mr. HARDING, of Kentucky. I cannot do so just now.

Mr. PERHAM. I wished to state a fact which may not be known to the country in connection with that outrage.

Mr. HARDING, of Kentucky. Another case is reported as occurring in the State of Ohio quite recently. A lieutenant in the Federal Army, named Blackburn, after serving in the war, married a widow, who had a child (a little daughter) seven years of age. They had not been married but a short time until these monsters conspired together, by a systematic course of fiendish cruelty, to murder and put this child out of the way. They beat and abused her from day to day, and when she complained of the bruises and pains in her limbs they thrust her arms upon a red-hot stove and roasted them until they were black and charred to the bone.

Another case, not quite so recent, occurred in the State of New York, where a clergyman named Lindsley whipped to death his own little boy, three or four years old, because, as it was first stated, the child would not say his prayers. The clergyman was tried the other day, convicted and sentenced for manslaughter. This was a white boy.

Then there was another case that I know more about, where a white man rushed upon a free woman and cut her throat without provocation. Her daughter and son rushed to her relief; he attempted to murder them and they narrowly escaped. But this free woman was white and her husband was the murderer, and all the murdered victims I have mentioned were white persons, and hence we have had no strolling vagabond committees prowling over the country to hunt up and report the facts.

Mr. SCOTFIELD. The perpetrators were all arrested.

Mr. HARDING, of Kentucky. How do you know that? [Laughter.] I could gather up from any section of the country cases enough of brutal outrages by husbands upon their wives and embody them in a document that would seem to be alarming. But what would it all amount to in the estimation of any sensible man? And this is what has been done in regard to cases in the South. It was narrated and published all through the land some time ago that some ten or fifteen negroes had been beaten almost to death, and were found congregated in the streets of Lexington, Kentucky, in a most pitiable condition. General Fisk was reported to have published this case in a speech at Cincinnati. The Legislature of Kentucky promptly ordered a committee of investigation; General Fisk was notified to attend. The investigation was made, and it was established by irrefragable proof that the whole story was a sheer fabrication. Well, the general may have thought so; he may have thought it was true. But we all know that those stories are very much exaggerated; and after all, you may go to the South and gather up all the worst cases you can hear of, yet the picture will not be so bad as that presented in the New England States—in Massachusetts or in Maine.

As to these stories of the South, is it not well known that during the last session of Congress letter-writers were sent all through the South to gather up such stories and send them home to the North? Why was it done? Because these radical politicians wanted a fiery, burning, sectional sentiment at home in the North to sustain them, and they sent out their agents to find or manufacture stories and send home to feed and fan it and keep it alive and burning.

Mr. PERHAM. I wish to say, by way of explanation, that the horrid murder referred to, which was committed in the State of Maine, was committed in my own district; and in justice to my constituents I must add that the man, who has been arrested, and who has confessed his guilt, has also confessed that he was



formerly in the rebel army; so that he is one of the very kind of men that we propose to take care of by this bill. [Laughter.]

Mr. HARDING, of Kentucky. Well, would it have been any better if he had been in the Federal Army? Blackburn, the man in Ohio, had been in the Federal Army, and yet he helped to roast his step-child over a red-hot stove. A man is neither better nor worse for having been in the Army. The crime, the murder, is neither aggravated nor extenuated because the criminal has been in any army, north or South.

Why, sir, the returns from all the eastern States show an increase of crime there. The number of white children who are flogged there almost to death is quite alarming. Then there was that Philadelphia case, of which I am just reminded, where a whole family were cut up. But what of all these things? Every sensible man knows that such instances can be multiplied to any desired extent by whoever will take the trouble to collect all the cases of crime occurring in any one section of the country, especially now when crime has been so much increased by the presence in the community of returned soldiers from the armies. [Laughter.] Yes, sir, that is true; and it is perfectly natural that it should be so. Because while it is certainly true that large numbers of good and patriotic men went into the Army, it is equally true that the drift-wood floated in too. When war comes it is unavoidable that, however many good men may go into it, the lawless, violent, and reckless will certainly go too; and when peace comes and these reckless men are thrown back into the community, an increase of violence and crime is the certain result.

Well, here we are. And what has this Reconstruction Committee done? Formed in spite of all that could be said against it, and clothed with almost absolute power, that committee has "investigated" and reported, and reported, and reported, until now it is manifest it has become entirely demoralized, and unless some wholesome reconstruction process is speedily applied to it the Republican party is gone. [Laughter.] Now, some friends of that party ought to interpose. Gentlemen of the Republican party, you are in an emergency; your Reconstruction Committee is demoralized; its members are at war with each other, and cannot agree upon anything; and you ought to confer upon the Speaker power to disband and discharge them from the service. They have certainly done enough for their country, and it would be very cruel and hard to insist upon their continued service. Therefore I say the Speaker ought to have power to discharge them and appoint a new committee; having due regard, of course, to the Constitution, taking care to select men good and true, without regard to race or color, [laughter,] and then something might be done. I yield the balance of my time to the gentleman from Ohio, [Mr. FINCK.]

Mr. FINCK. How much time will there be for me?

The SPEAKER *pro tempore*, [Mr. BROMWELL.] The gentleman will have eight minutes.

Mr. FINCK. It will be impossible for me in the course of the few minutes allowed me to enter fully upon any argument in regard to this measure. What is the particular question involved? It is no less a question, than that of the power of Congress to upset and overturn a State government, and to substitute a government of its own in its place. This bill, Mr. Speaker, proposes by its first section that there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, a Governor for the State of Louisiana. Here is a proposition for the appointment of a Governor of a State to be made by Federal authority—a Governor to be so appointed for a State in the Union, having all its courts and its legislative and executive departments organized and in full operation. This bill goes upon the theory that Louisiana is one of the States of this Union; because it

is described in this bill as "the State of Louisiana." The first section provides—

That the President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint a Governor for the State of Louisiana, who shall hold his office for one year, unless sooner removed by the President, by and with the advice and consent of the Senate, or unless sooner superseded by a successor elected under the provisions of this act. Such Governor so appointed shall have attained the age of thirty years, shall be a citizen of the United States and of the State of Louisiana.

The second section provides—

That the President shall forthwith nominate and, by and with the advice and consent of the Senate, appoint a provisional council, consisting of nine persons, who shall have the same qualifications as are herein prescribed for the office of Governor, and who, before being confirmed by the Senate, shall on oath make, sign, and file with said Secretary the same oath as is prescribed for the Governor. Such councilors shall continue to hold their office, unless sooner removed by the President, by and with the advice and consent of the Senate, until a Legislature shall be duly elected and qualified under the provisions of this act. Such provisional council shall, with the Governor, have all legislative power in such State.

Now, here is involved in this bill the important propositions of the power of the Federal Government to make the Governor and the Legislature for a sovereign State of this Union. Where do you get your power to do that? I deny at the outset that there is any power under our Constitution for the Federal Government to appoint the Governor for the people of the State of Louisiana, or to intervene and select a Legislature for that State. What is the Federal Government and what are the powers conferred upon the legislative branch of the Federal Government? It is a Government created by a written Constitution, enjoying and exercising certain fixed and limited powers. And by a provision of that Constitution it is prohibited from the exercise of any power which has not been conferred upon it by the Constitution of the United States. And no such power as is assumed by this bill is conferred either upon the General Government or any department of it.

You might as well invade the jurisdiction of the State of New York, depose its Governor, set aside its Legislature, and appoint a new Governor and a new Legislature for the people of that great State, because that power is assumed by the provisions of this bill. Sir, I deny any such power. From the earliest records of our history, from the first settlement of the American colonies by our ancestors, the people of each of the colonies and each of the States have exercised the right of regulating their own internal concerns. These are rights that belong to a free people. Now, by this revolutionary legislation you seek to overthrow these first principles of government, to ignore the great doctrines which were established by our fathers, and which are written down not only in our past history, but in the constitutions of the several States and in the Constitution of the Federal Government. You not only propose to do that by this bill, but you propose to do more.

You propose by this bill to exercise the right of declaring who shall be the electors in the States of the South, or at least who shall be the electors in the State of Louisiana. From whence do you obtain that power? Is it contained within the Constitution of the United States? Have you a right to go into the State of Ohio, or into the State of North Carolina, and declare who shall there exercise the right of suffrage? If you cannot do it in Ohio, you cannot do it in Louisiana, because it is one of the States of this Union, equal in all its rights and dignities with the other States of the Union.

Now, I utterly deny the doctrine of the gentleman from Pennsylvania [Mr. SEVENS] that Louisiana is held as a conquered territory. I hold, as this bill declares, that Louisiana is today one of the States of the Union. And being one of the States of the Union, you have no power whatever to invade its jurisdiction, and appoint its Governor and Legislature. And why do you propose to do it? Is Louisiana to-day in a state of rebellion against the Government of the United States? Not a word of evidence to that effect is before this House. Is her gov-

ernment not republican in form? We have no allegation in this bill to the contrary, and every man knows that her government is republican in form.

And by what arguments do you propose to support this bill? The only argument I have heard, is that in July last a riot took place in the city of New Orleans. Is it upon that ground that this bill is to be passed into a law? A riot did, indeed, take place there, most shocking and terrible, and a disgrace to all those who united to bring it about or to carry it on. But the fact of that riot does not add a particle to the constitutional power of Congress to invade that State and frame a government and appoint a Governor and Legislature for its people.

[Here the hammer fell.]

The SPEAKER. The hour allowed to the gentleman from Kentucky [Mr. HARDING] has expired. The gentleman from Massachusetts [Mr. ELIOT] is entitled to the floor.

Mr. FINCK. Will not the gentleman from Massachusetts [Mr. ELIOT] allow me ten minutes longer?

Mr. ELIOT. Will it not answer the purpose of the gentleman from Ohio [Mr. FINCK] if I allow him ten minutes of my time after the previous question has been seconded? I have no objection to allowing him ten minutes then if that will satisfy him.

Mr. ROSS. I would like to inquire of the chair by what authority the gentleman from Massachusetts [Mr. ELIOT] has the floor at this time?

The SPEAKER. The Chair will explain to the gentleman from Illinois [Mr. ROSS] and to the House. The gentleman from Kentucky, [Mr. HARDING,] who obtained the floor for the second hour of debate yielded by the gentleman from Massachusetts, gave up the remainder of the hour, at the conclusion of his remarks, to the gentleman from Ohio, [Mr. FINCK.] The gentleman from Ohio inquired of the Speaker *pro tempore* [Mr. BROMWELL] how much time there remained to him, and was informed that there were eight minutes remaining. Those eight minutes have now expired, and the gentleman from Massachusetts, [Mr. ELIOT,] having reported the bill, now resumes the floor.

Mr. ELIOT. Mr. Speaker, after the previous question is seconded, if the gentleman from Ohio desires ten minutes more I will give it to him with pleasure. I withdraw the motion to recommit, and call for the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from Massachusetts [Mr. ELIOT] is entitled to the floor to close the debate.

Mr. ELIOT. I yield ten minutes to the gentleman from Ohio, [Mr. FINCK.]

Mr. FINCK. Mr. Speaker, is there a state of war existing in this country? because it is upon this assumption, as I understand, that the legislation of this Congress in regard to the southern States is to be based. I deny that there is a state of war existing within the Union. There is not in any one of these States a single arm upraised against the just authority and jurisdiction of the United States. We are in a state of peace. The people of the State of Louisiana are in a state of peace. There is within that State no resistance to the Federal Government. There would be no difficulty about the restoration of these States to their just and rightful relations to the Federal Government but for the attempt of the majority of this Congress to perpetuate their power in defiance of the will of a majority of the people of the thirty-six States of this Union. The purpose is to compel these States to indorse the policy of these Radicals, whose doctrines, if carried out successfully, would subvert the Constitution and disrupt the Union.

Sir, these men are not the friends of the union of these States under the Constitution. By their legislation they have committed themselves in favor of a dissolution of the Union. They are not the friends of the Union, because

the very effect of this bill and kindred measures before the House is to prevent the union of the States and to strike down the great right of local government in the States. For, sir, if you may put the State of Louisiana under this kind of government to be organized by Congress, and deprive her people of the free exercise of their constitutional rights, exclude their Senators and Representatives from Congress until such time as it may please a majority of this House and the Senate to admit them, you may by the same exercise of power invade the rights of any other State and thus effectually subvert the constitutional rights of the people of any of the States and destroy their governments.

Mr. Speaker, the voice of the people of the United States is not fairly represented on this floor. Not only are ten of the States utterly ignored and denied all representation in either House of Congress, but even the people of the States which are represented have not their fair proportion of power here. Look at my own State, for I cannot go into an examination of all the States. Look at Ohio, with her two hundred and thirteen thousand Democratic voters and her two hundred and fifty-six thousand Republican voters at the last election. What is her representation upon this floor? That State has nineteen Representatives in this House, seventeen of those represent the Republican element in Ohio; two represent the Democratic and Conservative element of that State. Two hundred and thirteen thousand voters are represented by two members on this floor, one hundred and six thousand five hundred to each member! Two hundred and fifty-six thousand voters are represented on this floor by seventeen members. It therefore requires nearly one hundred and seven thousand of the Democratic voters of Ohio to exercise one vote here on this side of the House, while each fifteen thousand Republican voters of that State have one vote on the other side of the House. So that in effect it takes seven Democratic voters of Ohio to equal one Republican voter in that State in the power of representation on this floor; and this gross inequality, I believe, exists almost to the same extent in some of the other States, while the Democratic element of the six New England States have not a single voice in the legislation of this House.

I repeat it, therefore, the voice of the people is not fairly represented upon this floor. It is a struggle on the part of those who have power here to maintain that power, in my judgment, against the will of the actual majority of the people of these thirty-six States.

When I denounce this measure, as I have already done, as revolutionary in its character I say but what is the truth. If you have the power under the Constitution to make governments for those States, not only to dictate their governments, but also to dictate who shall be their executive, legislative, and judicial officers, then you have the power to destroy all government within the States. It is an attempt, sir, not only to overthrow a government existing in one of the States, but it is an attempt to control that government, to take it out of the hands of your own race and to confer power upon another race who have heretofore been the servants of the white race of Louisiana.

You propose by this bill to exclude and disfranchise the white citizens of Louisiana, and to enfranchise the negroes of that State so that they may have the power and control of the government of that State. And where do you get that power to do all this? Anywhere in the Constitution? You look in vain for any such authority in that instrument. Yet you assume it, and by what authority? By the law of nations and the law of war? They, Mr. Speaker, have no application to this case. You cannot rightfully to-day exercise any jurisdiction over these States by the law of nations; the only warrant you have for authority in the exercise of jurisdiction is the Constitution of the United States, and that confers none which authorizes this bill.

But, sir, I cannot in the few minutes allowed to me enter into any detailed examination of the provisions of this bill. Indeed, this monstrous measure is proposed to be pushed upon the House without any information or statement of facts why it should be passed. Your committee sent out to investigate the riot at New Orleans have made a report, and yet, before that report has been printed and before we can examine the facts gathered by the committee, we are called upon to vote upon a measure like this, which is revolutionary; which overturns one government and establishes another in its stead over seven hundred thousand people in the State of Louisiana. The gentleman from Massachusetts, the chairman of the committee, whose magnanimity went so far as to yield two hours for debate, was kind enough to say that these two hours were to be used by this side of the House, and he did not even in the opening of this debate venture upon any statement in justification of this revolutionary measure of deposing a State government by an act of Congress and creating another by the same assumed power.

I admit, Mr. Speaker, this is not so startling a proposition as the one we had up the other day, because this affects but one State while that affects ten. But the doctrine is still the same. Both invade the rights of the people; both usurp power; both are revolutionary in their purposes; both are unwarranted by the Constitution; both postpone indefinitely the restoration to the people of these States their just rights and relations with the Federal Union; both invade the foundation upon which this Government rests, that all Governments derive their just powers from the consent of the governed.

[Here the hammer fell.]

Mr. ELIOT resumed the floor.

Mr. WARD, of New York. I wish to ask the gentleman a question. I understand the report which the committee have made to charge, in substance, the President of the United States at least countenanced and encouraged this New Orleans riot. It is apparent that he is wedded to these rebel governments of the South. I desire, therefore, to ask the chairman of the committee whether he thinks it is safe to vest in the President the power to appoint the provisional governor and the other officers contemplated by this bill, to which the President is opposed? And I ask further whether there is any warrant in the Constitution to confer this power on the head of the War Department whom we know to be loyal and true and sound upon this question? Will he not yield to me to propose an amendment to that effect?

Mr. ELIOT. Mr. Speaker, of course I cannot yield to my friend for any such purpose. The question of safety is always embarrassing. Sometimes it may be safer to do a thing which at other times would be very dangerous. We have examined with a great deal of care the question which the gentleman from New York has suggested, and I am free to say, as I understand the provisions of the Constitution, it would not be right for us to legislate so as to give the power of appointment elsewhere than as provided by this bill. But the power is guarded very carefully, and the gentleman will find upon examination of the provisions of the bill that before any officer contemplated by the first and second sections can enter upon his duties he has not only to take the oath and produce the proof called for, but to obtain the action of the Senate confirming the action of the President. If it should so happen, which I trust will not be the case, that a nomination should be made of men who, having power, would use it against the Union men who have already suffered from men in power there, it is my belief that the power of the Senate under the Constitution will be sufficient to restrain that action.

Mr. WARD, of New York. A single other question. Does the gentleman think this power could not be constitutionally vested in the Secretary of War, the head of the Department

which is called upon more than any other to execute this law? Why could you not vest the power in a friend of the law?

Mr. ELIOT. It is very manifest if the power should be conferred upon the Secretary of War it would in substance and effect be conferred upon the President, for the Secretary of War is one of the servants of the President, and may be removed without notice. There is no provision that I am aware of by which we could obtain the action of the Senate except through a nomination by the Executive. There have been various propositions urged by different members of the House, and upon the whole it has seemed to me and to the committee that the safest course to recommend is that which has been embodied in this bill.

Now, Mr. Speaker, the committee have reported this bill upon the order of the House. They have done so upon facts examined into. In the judgment of a majority of the committee it was the bounden duty of this House, if in point of fact there is an obligation resting upon the Government to support, defend, and protect its own constant efforts against men who through the rebellion have been its constant enemies, that there should be action in this direction.

Now, sir, I do not remember since I have held a seat on this floor that I have ever been unwilling to forego the pleasure of speaking for the sake of voting. I should be glad to defend the provisions of this bill, but in point of fact there has not been one provision of it attacked. The gentleman who has just resumed his seat [Mr. FINCK] was the only one on the other side, if I am not mistaken, who thought it worth while to discuss in any respect the provisions of the bill. Those who preceded him have used up the time by—

Mr. LE BLOND. Will the gentleman yield to me for about five minutes? I wish to call his attention to some of the provisions of the bill.

Mr. ELIOT. I cannot say no to that appeal. I will yield five minutes if he will give us his help to pass the bill when his time has expired. [Laughter.]

Mr. LE BLOND. Of course we on this side will do what is right, but I will not agree to vote with the gentleman. [Laughter.] The gentleman says no member on this side has attacked the provisions of the bill. Sir, it is not necessary that it should be attacked. The whole theory of the bill is radically wrong when you take into consideration the fact that we have a Constitution that we have sworn to support and to be governed by. But, sir, the other side of the House has ignored the Constitution.

And here let me say that in the conflict of opinion on that side of the House there is no one who foresaw the difficulties that we were to encounter so well as the distinguished gentleman from Pennsylvania, [Mr. STEVENS.] At an early period in this contest he foresaw where we were drifting, and for the purpose of meeting it he at once took the position that these States were conquered provinces, whose people were mere subjects to be dealt with according to the will of the majority of Congress. But who does not remember that when he proclaimed that doctrine in this House there were not within these walls ten men who approved it? Since that period a change has come over the spirit, the dreams of the other side, and we now find them, if not yielding themselves willing subjects to his doctrine, at least willing to vote for provisions quite as bad and quite as revolutionary as any that have been indicated by that gentleman.

Now, sir, as to the provisions of this bill in its detail. Here you will find in the fifth section of this act that they have provided that any man who has lived in the State of Louisiana one year, though it may have been twenty years ago, may return to that State and vote for the men who are to be elected to the convention to frame a constitution. I will call the gentleman's attention directly to that provision. The fifth section says that—

The following persons, and no others, shall be

electors and entitled to vote at all elections held under the provisions of this act, namely: every male citizen of the United States, without distinction of race or color, who has attained to the age of twenty-one years and has resided in Louisiana one year, and who has never borne arms against the United States.

So that you propose by this bill to let in men who have resided in that State at any time for one year go down there and control the elections, even against the will of the men whom you claim to be the exclusively loyal citizens of that State.

If that is not your intention, why not say that those who shall have resided in the State for one year next preceding the election shall be allowed to vote? But it seems to me that that was intentionally omitted, so that even the "loyal" citizens of that State might be controlled and that no constitution might be framed that would not meet the views of the party in power.

Turn to another section, the ninth. There you give to the military authorities power to take a man out of the hands of the civil authorities and retain him, without limit as to time. Why make that provision? Why not provide a legal remedy in such cases, and let the civil authorities dispose of them? This gives to any military officer there, under certain circumstances, a right to arrest a man, and fixes no time when he shall be required to release him.

The SPEAKER. The gentleman's five minutes have expired.

Mr. ELIOT. I was in the middle of a sentence when the gentleman from Ohio interrupted me, and now I have absolutely forgotten what the beginning of it was about, and I will not ask the reporter to let me know what it was. I send up to the Clerk's desk to be read a portion of a letter which I received yesterday from a citizen of New Orleans, Julian Neville, a grandson of General Neville, of revolutionary memory, and a great-great-grandson of General Daniel Morgan, whose name and character are known to most of the members of this House. Now, sir, let the letter speak for itself. I ask the Clerk to read the portions that I have indicated by lines in the margin.

The Clerk then read a portion of the letter, as follows:

"Can nothing be done to relieve us of this incubus, this misrule? There is no doubt that the quiet, peaceable citizens, planters included, would hail with joy a government, military or otherwise, that would protect them from this infernal tyranny under which we now exist. It is composed of the same parties who forced the State into rebellion, who are active, vigilant, and unscrupulous.

"Cannot patriots do something for our relief? Are something must be done soon or we shall be so far in the 'slough of despond' that it will be impossible to drag through. Oh, my friend, I never despaired before, and myself and friends are now resisting, and will do so as long as we are able. The Governor stands up to the line of battle firmly, refusing to give an inch, but he requires encouragement from your body, and for the sake of loyalty and for the sake of God extend a helping hand to us, or the Union men of the South will become scape-goats of the party and carry all the sins on our back and eventually be compelled to leave our homes; it will be impossible to exist.

"Very truly, yours, with great respect and consideration,  
JULIAN NEVILLE."

Mr. ELIOT. Now I desire to have read by the Clerk certain resolutions which were adopted last night by the southern loyalists, now in this city, representing the various States named in the document.

The Clerk read the following:

OFFICE OF SOUTHERN REPUBLICAN ASSOCIATION,  
WASHINGTON, D. C., February 11, 1867.

At a meeting of the Southern Republican Association this evening, the following resolutions were adopted unanimously:

*Resolved*, That this association, having carefully considered the principles and details of the bill for the reconstruction of civil government in Louisiana, introduced this day into the House of Representatives by Hon. THOMAS D. ELIOT, chairman of the committee to investigate the New Orleans riots, heartily indorse the same, and request Congress to pass it; and also request Congress to pass a similar bill for the reorganization of the other unconquered States on the same principle.

*Resolved*, That members of this association sign the foregoing resolution, specifying the State to which they respectively belong, and that the presi-

dent cause a certified copy to be placed in the hands of Mr. ELIOT, to be by him communicated to Congress.

#### Alabama.

ALBERT GRIFFIN.  
WILLIAM H. SMITH.  
J. J. GIBBS.  
D. H. BINGHAM.

#### Arkansas.

J. M. JOHNSON.  
M. L. STEPHENSON.  
A. M. BISHOP.  
JOHN KIRKWOOD.  
V. DELL.

#### Mississippi.

JAMES W. FIELD.

#### Missouri.

C. E. MOSS.

#### Virginia.

JAMES T. PRICHARD.  
J. J. ROLLEW.  
JOSEPH WILLIAMS.  
W. MILLER.  
A. STRATTON.  
JAS. W. HUNNICUTT.  
DAVID W. HALL.  
JOHN HAWKHURST.  
JAMES H. CLEMENTS.

A true copy from the minutes:

THOMAS J. DURANT,

President Southern Republican Association.  
D. H. BINGHAM, Secretary.

Mr. BOYER. Will my colleague on the committee [Mr. ELIOT] allow me to state the antecedents of some of those gentlemen who have signed the paper just read in behalf of the Union men of Louisiana?

Mr. ELIOT. Certainly not.

Mr. BOYER. It would not be suitable.

Mr. ELIOT. I now propose to yield a portion of my time to—

Mr. NOELL. I ask the gentleman from Massachusetts [Mr. ELIOT] to yield to me for a half an hour. [Laughter.]

Mr. ELIOT. How much time have I left, Mr. Speaker?

The SPEAKER. The gentleman from Massachusetts has thirty minutes of his hour remaining.

Mr. ELIOT. Of course the gentleman from Missouri [Mr. NOELL] will perceive that I could hardly yield him all the time I have left. I will yield him ten minutes.

Mr. NOELL. Then I will take the ten minutes.

Mr. ELIOT. And after that I will yield to my colleague on the committee, the gentleman from Ohio, [Mr. SHELLABARGER.]

Mr. NOELL. Mr. Speaker, the bill which is now under consideration contains in it features diametrically opposed to the whole policy of the party that is pressing it at this time. Living in the State of Missouri for some years past, I and others there have had a taste of the kind of government that is attempted to be set up by this bill in the State of Louisiana.

Now, ignoring the question of the constitutionality of the provisions of this bill, I shall proceed to address myself to the political results which will naturally follow the adoption of this measure. By it the whole theory of our Government is attempted to be changed. That theory is that the Government derives its powers from the consent of the governed. We are now to start a new theory, that the people of the States derive their power from the people of some other portion of the Union, and that a majority of a fraction of the Union shall control the whole nation. Following up that theory a government is to be imposed upon, and a constitution is to be prescribed—mark the word, "prescribed"—which shall be adopted by the people of that State.

Mr. ANDERSON. Will my colleague [Mr. NOELL] allow me to ask him a question?

Mr. NOELL. Very well.

Mr. ANDERSON. I desire to ask the gentleman whether when he speaks about the people of Missouri having had a taste of what this government will be he meant the fruits of his victory when he was first elected to Con-

#### Georgia.

G. W. ASHBURN.  
HENRY G. COLE.  
JAMES L. DUNNING.  
H. P. HARBIN.  
WILLIAM MARKHAM.  
L. P. GUDGER.

#### Louisiana.

E. HESTANCE.  
W. R. FISH.  
RUFUS WAPLES.  
W. JUNG.  
R. KING CUTLER.  
W. J. BLACKBURN.  
JOSEPH GARLSHE.

I approve cordially of the leading principles of the bill, and hope it will be passed.

THOMAS J. DURANT.

#### Texas.

E. M. PEARE.  
A. J. HAMILTON.  
J. H. BELL.  
GEORGE W. PASCHIAL.  
LORENZO SHERWOOD.  
A. J. BENNETT.  
JESSIE STANCLIFF.  
W. B. COFFEE.

gress, and if the taste of that fruit gathered on that occasion is not yet vividly upon his tongue?

Mr. NOELL. I cannot perceive that the question has any pertinence to the subject before us; and I have no time to address myself to mere personalities.

The constitution which is prescribed by this bill for the State of Louisiana is not republican in form; but it is the same thing which was foreshadowed by the gentleman from Massachusetts [Mr. BANKS] in his amendment proposed to the military bill reported from the joint Committee on Reconstruction a few days ago. I do not know whether he attempted to anticipate and steal the thunder of the gentleman who reported this bill, or whether the one who reported this bill was trying to steal the thunder of the gentleman from Massachusetts, [Mr. BANKS.]

Now, here is a bill by which the Secretary of War, known to be in the interests of a partisan faction in this country, is to appoint officers for the State of Louisiana. The Governor and Legislature of Louisiana are to be appointed by the Federal power. The government of Louisiana is to be set up by the power of a government to be perpetuated in the hands of such men as the Secretary of War shall designate.

Now, I ask what is the difference in the appointment of men for Governor and the Legislature and the appointment of the voters who shall elect those men? Allow me to designate who shall vote and to strike off from the register those who are politically opposed to me, and I will control the action of any State in the Union. By this bill civil government is attempted to be followed up by a system of militia to be established upon the same qualifications that are prescribed for voters. The militia of the State is to be composed of men who are qualified voters under this act. We have already had introduced here a bill for the establishment of a great "national guard," to extend all over this country, and to exercise supreme military control. And by its provisions all other military and police organizations are to be disbanded and the members of such organizations punished.

We are coming upon the times when this country can no longer trust to the devotion of the people for its support, but like an eastern prince it must trust to the power of armed janizaries to uphold its power. The Secretary of War, a man altogether loyal, is to designate the voters and the registering officers and prescribe rules and regulations for the government of the citizens of Louisiana. The gentleman from Massachusetts described the situation of the State of Louisiana as the great heart of loyalty, through whose great rivers and channels of commerce the great arteries of loyalty extend into all the country. In establishing this heart of loyalty it is the object of the gentleman to make it as black as possible.

In the bill under consideration it is proposed that the President of the United States shall appoint these officers by and with the advice and consent of the Senate. From the threats which are thrown out here it is very clear that if the President does not appoint men who will carry out the partisan ends of those who desire this measure, they will then, in the language of the gentleman from Massachusetts, [Mr. BANKS], "drop legislation and proceed to consider the condition of the country."

It has been said of old, "accursed is the nation whose prince is illegitimate," for when the prince or Government devotes its time to keeping itself safe by armed force, there is no time to administer the Government for the good of the people. When we in a republican form of government attempt to prescribe constitutions and designate portions of the people of any State who are to possess all authority in that State, we must neglect the interests of the people to uphold our authority. Not only have we presented to us a proposition under which a fraction of the people of the South are to carry out the revolutionary



scheme of subordinating the white race to the control of the negroes, but this is coupled with threats of confiscation, which clearly mean that the property of those people is to be confiscated on the pretext of giving negroes social power, and thrown into the hands of political speculators.

The gentleman from Massachusetts said on Saturday last that the duty of Congress was embraced in three words—liberty, emigration, census.

[Here the hammer fell.]

Mr. NOELL. I have some documents which I desire to have printed as a portion of my remarks.

No objection was made, and leave to print was accordingly granted.

The documents are as follows:

*To his Excellency the President of the United States:*

The undersigned, as United States assessor for the sixth collection district of Missouri, would respectfully submit to your Excellency the following statement in regard to the unfortunate and disturbed condition of things in the county of La Fayette, my residence:

1. Martial law has been proclaimed by the Governor in said county, as he avers "he is satisfied that ordinary process cannot be executed, and a sufficient posse will not respond to the call of the officer for that purpose." It is not alleged that civil process has been resisted or that the citizens have been called upon by the proper officer and refused to respond, which alone could, under the Constitution of the United States, authorize the placing of the county under martial law and the calling out of the militia of the State. The facts are that no process has ever been resisted in the county; that the citizens have never failed or refused to respond to the call of the civil officers; that the great mass of the citizens of the county are ready and willing at any and all times, if needed or called upon, to aid the civil officers in the enforcement of the laws against all offenders; that the civil officers of the county stand ready at all times to execute the laws, and say they need no military aid in doing so; and it is not at their request nor by their desire that martial law has been proclaimed and troops quartered upon the people of the county, and there is no necessity whatever to justify such interposition of the Governor.

2. Since such quartering of militia from other counties they have by their lawlessness and violence interrupted the execution of the civil laws and also the revenue laws of the United States by driving out the sheriff and his deputies, and the United States assessor and collector of said district, whose lives are threatened if they return. They have taken the United States assistant assessor a prisoner.

3. They are committing such acts of violence upon the citizens of said county as to cause many of them to flee from their homes and business, and to cause a complete suspension of business in said county. For the further information of your Excellency we enumerate the following among the many acts of bloodshed and violence perpetrated by said militia, who are in the main composed of desperate men, some of whom were known during the late war as Confederate bushwhackers. William H. Bowen, county clerk for the county, was attacked and beaten by them and driven from his office and his life threatened. Alexander Mitchell, a prominent Union man and banker, was stopped upon the street by one of the militia, a revolver presented to his head, and he compelled to remain quiet while he was robbed. Next morning, in company with Major Kelly, of General Hancock's staff, he called upon Major Montgomery, the commander of the militia, and pointed out the man who robbed him. Some of the stolen property was found in his possession. The life of Mr. Mitchell was then threatened and he was compelled to flee the county. On the same night Mr. Mansfield, a gentleman from Michigan, and four other gentlemen were robbed and beaten in the streets. Three went to the residence of John Aull, county treasurer, drew their revolvers, and threatened to shoot his wife. A squad of them attacked Major John E. Ryland, who was during the war in the United States military service, and were about to maltreat him when Major Montgomery coming up compelled them to desist, telling them to have no controversies with citizens on the streets, but if any citizen insulted them to shoot him down at once.

There was a citizen named Richardson shot on the streets and killed since they have been in the city. The murderer has not yet been identified. The United States Express has been robbed by them. A quiet and peaceful citizen named Mason was shot by them and dangerously wounded. A large number of Union citizens, among whom we name James M. Poole, the sheriff of the county, and who was in the United States service during the entire war; his deputy, Jacob A. Price, a prominent Union man, and his two sons; Z. Ryland, who also served during the war in the United States service; the county attorney for the county, H. Beverly Vaughan; the United States assistant assessor, and who was during the war also in the United States military service, and many others overtaken by the militia and held as prisoners, and some of them badly beaten and otherwise maltreated, and when discharged were told by the commander that if any of his men were hurt or injured, that no matter who did it they should be held responsible. The commander of the militia threatened to set fire to the City Hotel, and ordered turpentine for the purpose, but was prevailed upon to desist. If

fired it would have burned the most valuable business square in the city. Squads were searching for the United States assessor for the district, threatening his life. All the roads leading out of the city were guarded by them, and I escaped by the ferry over the river, which a few minutes afterward was also guarded by them. The lives, liberty, and property of the citizens are at the mercy of these desperate and lawless men, sent into the county, it is said, by order of the Governor, some two weeks before the issuing of his proclamation, which is herewith inclosed, and they are now being reinforced by large numbers of the most desperate men in the State, under the call of the Governor for troops. A statement of the facts, signed by leading citizens of the county, was laid before the Governor, and he was solicited to remove them or protect the citizens, assured of the ability of the civil officers to enforce the laws if the militia were withdrawn, and of the willingness of the citizens to aid them in doing so. The only response to that application was forwarded by the Governor to the commander of the militia at Lexington, who, with a squad of his men, mobbed Colonel Casper Gruber, a leading Union citizen, because he had aided in having the application or statement made to the Governor.

The United States revenue laws cannot be executed in the district while this lamentable condition of things exists. The United States assistant assessor for Ray county is also made a prisoner by the militia.

In view of the interruption to the United States laws in said district, and the fact that civil officers of the United States cannot remain in said district without protection against the violence of these lawless men, who are now in possession of the county, we respectfully solicit the interposition of your Excellency to protect us in the discharge of our duties as assessor in said district, and that your Excellency will take such steps as will lead to a full and complete investigation of the outrages perpetrated upon a loyal and peaceful people under this unfounded and false pretext, that the law cannot be executed in said county.

RICHARD C. VAUGHAN,

*United States Assessor, Sixth District, Missouri.*

We, the undersigned, citizens of Lexington and county of La Fayette, state that we know the foregoing recital of some of the outrages perpetrated upon the people of La Fayette county, as set forth by the United States Assessor, R. C. Vaughan, to be true, and they can be established by the concurrent testimony of the great mass of the people of the county, including the civil officers. And we most earnestly and respectfully unite in the prayer of said petition for protection, under the laws of the United States, to our lives and property, and that an investigation may be instituted at the earliest period practicable.

A. GREEN.

ALEXANDER MITCHELL.

THOMAS B. WALLACE.

*United States Marshal, Western District of Missouri.*

JEFFERSON CITY, MISSOURI, December 12.

The Governor has issued the following supplemental proclamation:

*To the citizens of La Fayette and Jackson counties:*

Having become satisfied that the ordinary process of law cannot be executed in your counties, and that a sufficient posse will not respond to the call of an officer for that purpose, I have, by authority of the act of the General Assembly of the 14th of March, 1866, entitled "An act to provide for the enforcement of the civil law" &c., called into active service twenty-four companies of cavalry and ten companies of infantry for duty in the counties of La Fayette and Jackson, which counties will be required to raise by taxation the amount necessary to pay said force. Whenever I am satisfied that the people of the counties named will enforce the law against all men who have violated it, as they can and ought to do, and shall, by their support of civil authority, give the usual legal protection to the law-abiding citizens, and each civil-doer has a proper fear of the punishments of the law, the troops ordered there will be withdrawn.

In testimony whereof, I have hereunto set my hand and caused to be affixed the great seal of the State of Missouri. Done at the city of Jefferson, this 12th day of December, in the year of our Lord 1866, and of the independence of the United States the ninety-first, and of the State of Missouri the forty-seventh.

THOMAS C. FLETCHER.

By the Governor:

FRANCIS RODMAN, *Secretary of State.*

ST. LOUIS, December 21, 1866.

I have the honor to state that during nearly two years of the past war I was in command of the United States forces in the district of country herein referred to. That I am personally and intimately acquainted with the signers of this petition and statement, and know that they were original Union men and have ever been such, and that they are men of unblemished reputation and character. I also say that I am personally acquainted with the men who have been sent by the Governor to La Fayette county as militiamen, either personally or by their general reputation, and know them to be men of bad character, a portion of whom were dishonorably dismissed the service for bad conduct, and some of them have the reputation of having been rebel bushwhackers.

E. B. BROWN,

*Late Brigadier General Volunteers.*

ST. LOUIS, MISSOURI, December 20, 1866.

*To the President of the United States;*

The undersigned, citizens of the State of Missouri, respectfully represent that they are well acquainted

with Messrs. R. C. Vaughan, Amos Green, A. Mitchell, and Thomas B. Wallace, who have signed the accompanying statement in relation to the deplorable condition of affairs in the city of Lexington, and county of La Fayette, in this State. They are gentlemen of unblemished private character and of well-known loyalty. Mr. Vaughan was among the first to take arms for the Government during the late rebellion, and was made prisoner by the rebels at the time of the capture of Colonel Mulligan, and served subsequently until near the close of the war, with the rank of brigadier general in the service of the State.

Mr. Green is a lawyer of high character and social position in Lexington, and known to the whole community as a firm and decided Union man. Mr. Mitchell was also in the service during the war as a quartermaster, with the rank of major. Mr. Wallace was appointed United States marshal for the western district of Missouri by Mr. Lincoln at the beginning of his Administration, and has been reappointed to that position by your Excellency.

The undersigned, therefore, do not hesitate to indorse fully the statement of these gentlemen and call upon your Excellency to exert the power of the Government to arrest and punish the outrages which have been, and are now being committed upon an unoffending and unresisting community, whom the Executive of this State, in violation of law and without any justifiable pretext, has made the victims of robbery and murder.

The extraordinary occurrences detailed in the statement of Messrs. Vaughan and others would naturally excite incredulity, if the history of this State for the past few years had not prepared most men of intelligence and observation to expect such a catastrophe.

The government of the State of Missouri has long since ceased to be republican except in its mere name. The present Governor of the State and State officers were elected in the midst of the recent war. At the same time a constitutional convention was called to consider amendments to our constitution. At that time the great body of patriotic citizens of our State who were exerting themselves to put down the rebellion were absent from the State serving as soldiers in the armies of the United States; war was flagrant in almost every county of the State, and in many places the polls surrounded by armed men from other States and the militia of our own State.

The result was the success of those who clamored most loudly against the rebellion, but whose conduct in remaining at home during the war showed a keener appetite for civil office, as a means of its overthrow, than for the hardship and danger of service in the field. The constitutional convention thus elected passed an ordinance vacating almost all the civil offices in the State, even those elected at the same time and by the same votes by which their own power was conferred, and gave to the Governor of the State the power of appointment to all the offices thus vacated. The Governor, under this authority, reappointed such as were his friends and partisans, and filled the other vacancies from the same class of persons. The convention then made a new constitution which was not submitted to the people of the State for ratification, but to those of the people only who would take an oath which the convention had prescribed, which oath is believed to be in violation of the Constitution of the United States, and which thousands of our most loyal citizens could not conscientiously take, and least of all those who favored the oath and forced it upon the people of the State.

The result was that eighty-five thousand votes only were cast at the election upon the ratification of the constitution, less by some twenty thousand than the number of soldiers contributed by the State to the armies of the Union, and only one half of the number of votes polled in this State at the presidential election of 1860. The new constitution was proclaimed to be ratified by eighteen hundred majority; some of the strongest Union counties at the first outbreak of the war giving the heaviest majorities against it, and some of the strongest secession counties in the State at that period giving majorities for it. Thus at an election in which more than one half of the people were disfranchised by an unconstitutional test oath, many thousands of those thus disfranchised being in the service as soldiers of the Republic, by a minority vote of the people this new constitution was fastened upon the State as its fundamental law. The constitution required a registry law to be put in force and one was enacted, born of the spirit which made the constitution and intended to retain the power of the State in the hands of the minority who had made it.

This registration law gave the Governor the authority to appoint a supervisor who was to appoint the registrars for every county in the State, and the registrars thus appointed had the power substantially to appoint the voters. They could with or without evidence reject the vote of any one or admit to the franchise whomsoever they pleased. The judges of election were appointed by the judges of the county courts, all of whom were appointed by the Governor and the clerk of the county court, whose duty it was to give the certificate of election to the successful candidates, was also appointed by the Governor. No single link of the chain of despotism by which the absolute control of the elections was given to the Governor will be found wanting in this elaborately contrived plan. So shameless and careless even of appearances were the contrivers of this palpable fraud that at the last election in this State a large number of the registrars and supervisors were themselves candidates for the most lucrative offices in the several counties while making out the lists of qualified voters.

The result of the election, if that can be called an election in which one political party had the power to disfranchise its political antagonists, was, as it

was intended it should be, to confirm the power of the minority and retain its leaders in office. The majority of the people of the State, disfranchised by their political antagonists, have nevertheless submitted peacefully and quietly in the hope and expectation that their constitutional right of suffrage would be restored to them by an appeal to the judiciary of the United States, and that with its restoration the State would again resume its republican character, in fact as well as in name, and that the fundamental principles of liberty would be vindicated and enforced.

It is not to be supposed that those who have committed such crimes against popular liberty would hesitate to commit further and greater crimes to retain the power they have usurped. Nor is it to be supposed that these crimes have been perpetrated for the mere purpose of possessing themselves of the modest emoluments of office prescribed during the days of our former republican frugality and simplicity; nor has the honor which attended these positions, as attesting the confidence of our fellow-citizens, much attraction for those who no longer seek them through the consent of the people. These men have been actuated by other motives; the manner in which their usurped power has been used will disclose the objects for which they have committed so many crimes in its pursuit.

The declaration of war by the Governor of this State upon the people of Jackson and La Fayette counties, and the unprovoked robbery and murder of their citizens is but the continuation of similar acts of violence by many citizens of this State have been stripped of their property and lives by the direct sanction and connivance of the authorities whose appointment and power emanated from the Governor. Preachers of the Gospel have in many parts of this State been dragged from their pulpits, not alone by the officers of the law under the barbarous provisions of the new constitution, but also by armed mobs of lawless ruffians. One preacher, at least, if not more, Rev. Mr. Headlee, was taken from "the horns of the altar" and brutally shot and killed by a band of armed outlaws, and no effort of any kind has been made by the authorities of the State to arrest or punish the perpetrators of these crimes. Many men have been murdered, in some instances by persons claiming authority under the Governor, under the pretense that they were or had been rebels or sympathizers, and that while the courts of law were open for their trial and punishment, and no attempt has been made by the State authorities to prevent or punish these crimes; but on the contrary the perpetrators (as in the instance of a man by the name of Babcock) have by such acts atoned for a long life of infamy and crime and become the familiars and favorites of our Governor.

The more possession of property in some parts of the State has afforded sufficient cause for a notice to quit the country under pain of death in case of refusal, and always under circumstances involving the sacrifice of the property, which usually falls into the hands of the patriots most active in ridding the country of such obnoxious characters.

Nor has this spirit been content with the spoliation of private property. The railroads, public works, and other valuable property of the State to which our creditors looked for reimbursement, and our tax-burdened people for relief, have been wickedly and corruptly sacrificed for sums of money absolutely trifling in comparison with their cost or value, and that, too, when in some instances double the amount, and in every instance much larger amounts were offered for the same property than was accepted from the political partisans to whom this property was sold. We challenge the record of any civilized State to show a more shameless and profligate spoliation of public property, to gratify and enrich partisans and favorites than that furnished by the sale (so called) of the Iron Mountain railroad and the Southwest Branch of the Pacific railroad. Such transactions by which the property of the State was disposed of for sums of money so inadequate, when a larger amount was offered for the same property by parties of greater pecuniary responsibility, brings us irresistibly to the conclusion that the officials who sanctioned them must have shared in the plunder.

The declaration of war upon the counties of La Fayette and Jackson is the continuation and development into a system of the spirit by which Missouri has been governed during the last few years under the usurped rule of a minority. It will last as long as the rule of the minority continues. It foreshadows the fate of every county in the State which has sufficient wealth to tempt the plunderer. The object seems to be to drive the people by violence and intimidation to abandon their homes and lands and then to purchase them from the banished proprietors at a nominal price or at tax sales under laws passed for that purpose.

Under these painful and threatening circumstances the undersigned feel themselves compelled to appeal to your Excellency, and through you to the Congress of the United States, for protection against the outrages of which our fellow-citizens in almost every county of the State, and especially those of the counties of La Fayette and Jackson, have been made the victims. In this State the executive functionaries, as well as the legislative and the judicial, are almost all the creatures of a minority, and the equal instruments of the oppression of the people whom they have wronged, whom they consequently fear and hate.

We invite from Congress a scrutiny and investigation of the facts alleged and the charges we have made. If Congress fails to perform the duty which it owes to our people, if it fails to investigate the charges we make and to interpose the authority of the Government to protect peaceful, loyal, and law-abiding citizens from oppressions which have become

unendurable, then will Congress make itself responsible for the consequences which may follow.

Respectfully,

FRANK P. BLAIR.  
S. T. GLOVER.  
JOHN HOW.  
THOMAS T. GANTT.  
G. F. FILLEY.  
JOSEPH O'NEIL.  
O. D. FILLEY.  
JAMES O. BROADHEAD.  
E. R. BROWN.

The SPEAKER. The ten minutes of the gentleman from Missouri have expired.

Mr. ELIOT. I yield the remainder of my time to the gentleman from Ohio, [Mr. SHELLABARGER,] my colleague on the committee.

Mr. SHELLABARGER. Mr. Speaker, this important bill is precisely what its title indicates, one "to provide a civil government for Louisiana." The bill assumes as the truth upon which it is based a proposition that was uttered by him who administered the Government before the present acting President of the United States came into power, and which was repeated by the latter, that these revolted States have lost their civil governments. It assumes nothing beyond that. It does not touch what has been, to some extent, the controverted question whether their condition is exactly analogous to Territories or not. It simply attempts to restore to those States civil governments; nothing more, nothing less.

Now, let me remind gentlemen on the other side, who have asserted so earnestly that this bill is unprecedented in its legal aspects, that they forget that the Supreme Court of the United States, in a well considered case, and by an opinion which according to my present recollection was unanimous, decided that the Government of the United States in its Congress has the identical power upon which this bill proceeds, to wit: the power to decide whether the government in a given State is republican or not, and if it be found to be not of that character, to set it aside.

That was decided in the celebrated Rhode Island case, so perfectly familiar to every gentleman of the House who is at all versed in these legal questions. Gentlemen, therefore, must not come to us with the charge there is anything startling in this bill. My learned colleague who spoke a moment ago ought not to forget the very horn-books of his law when he makes a speech to this House on constitutional questions. The Constitution itself speaks about a State being a State notwithstanding it may have lost its republican government. He upbraids this bill because it speaks of Louisiana as a State. So does your Constitution speak of States as things which may be States and yet not have republican governments, because it assumes that it is possible a State in the constitutional sense may be a State and yet have lost its republican government. Is not that alphabetical constitutional law? Do you not find it on the very face of the instrument, and why do gentlemen seek to startle themselves about a question of this kind?

Mr. ELDRIDGE rose.

Mr. SHELLABARGER. I cannot yield, as my time is too short.

Mr. Speaker, there is another thing to which I wish to call my colleague's attention as well as that of the other side of the House. He speaks of the people of Louisiana. Now, the electors, the rebel element of Louisiana, have again and again dealt with this identical government to which we now hear peans sung, and that it is sacrilege to put our hands upon it. Why, sir, they treated it as no government at all. I hold in my hand an act passed by an overwhelming vote through one branch of the Legislature last winter, and which was only prevented from being passed by the other by the interference of the President of the United States, the preamble to which declares that the constitution of 1864 was the creature of fraud and violence and not in any sense the expression of the will of the people.

Mr. BOYER rose.

Mr. SHELLABARGER. I cannot be interrupted. Let me say to gentlemen on the other side of this Hall that last winter, in that act to which I have alluded, this disloyal element of Louisiana proposed to destroy that government in a method not provided for by, but in contravention of the principles of that constitution and the mode prescribed for its own amendment. That act got through one House, and was only prevented from going through the other by the interference of the President of the United States. Let me remind my colleague further, that it is only a day or two since the telegraph brought an announcement that in defiance of the provisions of that constitution which they say has no sanction from the people, but is the creature of fraud and violence, that in defiance of that constitution they are to-day passing a law, which we are told will pass over the veto of Governor Wells, destroying that government in a method not provided for in the Constitution itself.

Now, keep these facts, my fellow-members, before your minds, and remember that you are the Representatives of this mighty nation; that here the voice of the American people speaks in execution of that provision of your Constitution which says you shall guaranty to the States a republican form of government. After this can any gentleman hesitate to carry out the obligation and to fulfill the duty imposed upon Congress, that we shall see to it that these States are republican?

Mr. BOYER. I ask my colleague to yield to me merely for a question.

Mr. SHELLABARGER. I would yield to my friend under other circumstances; but surely he will not deprive me of any portion of my poor twenty minutes.

Now, that is the point where this bill and every other bill proposing to reconstruct the States South must rest. It rests upon the right and the duty of this part of the Government to see there is kept in each State a republican form of government. This bill says we will neither have nor guaranty the government which is there now and which rests on a disloyal basis, so far as it has any basis at all.

Mr. BOYER. As the gentleman is pausing now, will he allow me to put my interrogatory?

Mr. SHELLABARGER. I am only pausing in order to get another start. [Laughter.] I will now, Mr. Speaker, proceed to give the substance of the bill. It is as follows:

Its first section requires the President, with the assent of the Senate, to appoint a citizen of Louisiana, who never in any way favored secession or rebellion, and who shall file an oath in the United States Senate to that effect, provisional governor, to hold his office until a successor shall be elected next June.

Its second section requires the President and Senate, in the same way and from the same description of loyal citizens, to appoint a legislative council of nine, a majority being a quorum, who remain in office and in session until June next; and this legislative council make the laws of the State. And the Governor, with the assent of this council, appoint from strictly defined loyal men all the other State officers known to the present law; who also hold office until the election of successors in June.

Its third section requires the Governor to see that all laws of State and United States are executed, and that archives and State property are taken possession of.

Its fourth section requires that the electors qualified to vote by the terms of the act shall, on the first Tuesday of June next, elect from them who have ever been truly loyal, as defined by the bill, all these officers of the State so as above stated appointed in the first instance.

Its fifth section makes them alone electors, without distinction of race, who are male citizens of the United States, twenty-one years old, and one year resident of Louisiana, who have never voluntarily favored rebellion or secession; but it permits them who have never in any manner favored rebellion otherwise than as private soldiers in civilized modes of war,

and that not voluntarily, after 4th March, 1864, to prove these facts in a United States court by the evidence of persons who have ever been loyal. And on such proof and subscribing on the court records an oath to that effect such private soldier is entitled to a certificate entitling him to vote.

The seventh section requires the Secretary of War to cause a complete registration of such electors to be made, and a week before each general election published, and this to be done by qualified electors.

The eighth section authorizes these same electors upon the third Tuesday of October, 1867, unless Congress should otherwise provide, to elect from persons eligible for Governor a convention to frame a permanent constitution for Louisiana, which must contain the three irreversible provisions:

1. That the United States shall enforce the perpetual union of the States;
2. That no distinction in the rights of men shall be permitted on account of race; and
3. That no rebel debt nor pension nor gratuity shall be paid by the State.

And this constitution may be presented to Congress for approval and admission of representation, but on such terms as Congress may prescribe.

The eleventh section requires all the laws passed by any provisional Legislature to be, as soon as possible, presented to Congress for approval; and makes them void from date of the receipt of the disapproval at supreme court of Louisiana.

The tenth section creates the militia out of them who are electors, requires them to be organized and equipped; and, during the provisional government, puts them under the paramount control of the United States commander for Louisiana.

The sixth section makes every act of disloyalty *prima facie* voluntary; and to avoid the resulting disqualification to vote or hold office permits it to be shown by testimony of them who have always borne true allegiance to the United States that it was involuntary.

The thirteenth section keeps in force, until modified or repealed, all the present laws of Louisiana which are not inconsistent with this act nor with the Constitution nor any other law of the United States.

And the ninth section provides that whenever from any cause the civil authority shall fail promptly to enforce, in favor of all men, the criminal and other laws of both State and United States, including all election laws there, the United States military forces (to be stationed by the President in Louisiana for the purpose under a United States officer not below brigadier general) shall arrest and hold offenders until prosecuted by civil courts; and shall, so far as requisite to insure full execution of the laws, give support and aid to the civil authorities.

Such is the exact substance of this entire bill. I wish to state a few things with regard, first to the legal right, and second in relation to the duty of Congress to pass this or some similar bill.

I shall confine what I say touching the power of Congress to pass the bill principally to our power to employ the military forces for the purpose of enforcing order and law, as this bill and the one reported by the Reconstruction Committee do; because, as the greater includes the less, if it shall appear that we can use the military force as provided by the bill, *a fortiori* we can the civil authority also.

Are, then, this State of Louisiana and its people in that condition and state of fact which under our Government make it legal to control them by military force? As I said the other day, this is a question of law dependent for its answer upon a state of fact. That question of fact is exactly this: is there in Louisiana such a remaining state of hostility, insubordination, and rebellion to and against the authority of the United States as that the courts cannot or will not redress personal

grievances nor protect the loyal people? Now, before inquiring how this fact is, let me allude to some general principles of public and of constitutional law which belong to and control the powers of our own and all other free Governments in those conditions of society which I shall seek to show are now upon Louisiana.

And first of all it must be ever remembered that the laws of nations, including the laws of war, are part of both our Constitution and of our common law as one of the family of civilized nations. This is so expressly written in our Constitution (article one, section eight, clause eleven) where it assumes that, in absence of any statute or constitution, an act in violation of the law of nations will be an "offense," and that all that Congress need be empowered to do is "to define and punish" these "offenses."

Chancellor Kent, the foremost jurist of this age, in the opening sentence of the greatest work upon the law produced in our age, declares that—

"When the United States ceased to be a part of the British empire, and assumed the character of an independent nation, they became subject to that system of rules which reason, morality, and custom among the civilized nations of Europe, as their public law."

Next, it must be borne in mind that the great body of the citizens of Louisiana have for four years been engaged in the most fierce, huge, and bloody war for the destruction of the Government which is known to human history, and that most of their arms-bearing white men are to-day prisoners of war.

Next, it must be remembered that the flagrant war is only just ended, and that not by any voluntary surrender or upon professions of changed views, of purposes, or of sorrow; but only by reason of a crushing defeat in war.

These things being kept in mind, let us approach this inquiry: whether over this people, in such condition, the United States may exert military and other police force for the enforcement of the law, when the fact is found to be that the spirit of the rebellion remains so strong and insubordinate as to prevent the courts from enforcing the law and from protecting the lives, property, and other rights of the friends and citizens of the Government.

Now, Mr. Speaker, to ask such a question in an assembly of men supposed to be above idiocy seems like an insult, and to answer it is like mockery. Why, sir, in the name of all the gods at once, has it come to that? Must a Government which can expend four billions of treasure, an ocean of tears such as would almost float your navies, of blood that would turn all your rivers into crimson, lives that would people and enrich an empire, must a Government that can do all this for the crushing out of a rebellion against its life stop short at the moment of overthrow of hostile armies and let every man, woman, and child in one half of the Republic—and who would not fight it—be either assassinated or banished on account of their invincible love of country, and all this be suffered because the rebel assassin is not doing his work while drawn up in the lines of armies or in martial array?

Why, sir, is it so that there can be no rebellion, no absence of public safety, except when war is flagrant and armies are in the field and the glare of battle lights up your valleys? Neither reason nor law nor history permits but one answer to this. There is no Government, and there can be no Government long which applies such a rule to the defense of its citizens and its own life in time of great public danger and disorder.

When they were arranging in your country the terms of your Constitution upon this subject they were enacting in France the terms of her constitution under which the state of siege might be declared in which the empire of the law is suspended; and this is arranged to be exactly like your own when invasion or rebellion brings "imminent peril to the public security." And under these terms of French statutes the emperor, as well as the governors of provinces and commanders of posts, have been permitted to declare a state of siege as

well where there was no flagrant war as where there was.

With a provision in the English Constitution that the privileges of this writ of *habeas corpus* shall ever be had by all the people, the Parliament has suspended the writ "when for whatever cause the ordinary administration of justice has been arrested in any part of Great Britain." (Wheaton, 520.) And English history is full of examples of the enforcement of martial law in times of profound peace, of which we have had an example, I believe, within a few months in Ireland. I allude to these foreign examples only to show what all good and free Governments deem to be requisite for the preservation of government.

But the powers of your own Government in this regard are not to be learned alone from the practices of other Governments, but are settled by your own authorities.

Now, what by your own authority is that state of public danger in which this writ may be suspended in the United States? Must war be actually flagrant? or is it enough that the courts are so obstructed by a foreign or a domestic enemy of the United States as that they cannot protect the citizens nor overcome the unfriendly force which hinders the execution of the laws? It is most manifestly, as well in the latter as in the former state of insurrection and danger, that the United States may suspend the writ. This is virtually and almost expressly declared by Chief Justice Marshall in *ex parte* Bailman, (4 Cranch, 75.) Let it be remembered that this case arose out of an arrest and suspension of the writ during Burr's conspiracy in 1807. Then there was no war, no battles, no armies, and it is to-day a matter unsettled by your history whether there was even any conspiracy unfriendly to your Government.

And yet, in that state of things, not only did Mr. Jefferson seek to suspend the writ, not only did the Senate unanimously order the writ suspended, (in which the House did not, however, concur,) but it was in, and as to, that state of the country that Chief Justice Marshall uses the following words:

"If at any time the public safety should require the suspension of the powers vested by this act [Judiciary act of 1789] in the courts of the United States, it is for the Legislature to say so. The question depends on political considerations, on which the Legislature is to decide. Until the legislative will be expressed this court can only see its duty and must obey the laws."

Now, I do not allude to this language, nor to this alleged conspiracy of Burr, to say that the country was in fact in such a state of danger as to demand the suspension of the privileges of the writ of *habeas corpus*, nor to show that Judge Marshall so decided. But I do allude to it to show that nobody then pretended that an actual conflict of arms or array of armies was requisite to authorize the writ to be suspended by Congress. I allude to it to show that both Jefferson and the entire Senate did deem that to be a time when the writ should be suspended. But especially and above all I allude to this language of Marshall to show that he deemed the country even then to be in such a state of danger, though there was neither a flagrant war or rebellion, nor any battles, nor armies, nor possibly even conspirators as that it was then competent for the Legislature to "say that the public safety required the suspension of the powers vested in the courts."

Mr. Lawrence in his Notes to Wheaton (page 517) quotes with apparent approval the following words from a speech by Mr. Bayard, in United States Senate of 28th January, 1862:

"But I deny, unless you mean to abrogate the Constitution entirely, that such a principle can apply to any portion of the territory of the United States in which the laws are not suspended in consequence of its being in the possession of either a domestic or foreign enemy, or in consequence of the courts not being open for the redress of personal grievances."

Now, neither Mr. Lawrence nor Mr. Bayard can be accused of showing an excess of favor to a liberal use of war powers against this rebellion; and yet here these men expressly admit that this military power may be exer-



oised even where the country is not in the open or armed possession of a domestic or foreign enemy, and where the laws are suspended only "in consequence of the courts not being open for the redress of personal grievances." And, sir, I cannot for want of time stop here to show what I think is most evident indeed, that there is another principle of public and constitutional law upon which can be most securely rested the power of the United States to enforce, in Louisiana, through its military forces, law, order, and civil government, subject all the while to the controlling duty and obligation to make all this exercise of temporary power only provisional and in aid of the duty to guaranty as soon as may be to Louisiana a republican government.

That principle is that the people of Louisiana have just been conquered in war, and as such can be governed by military force so long as the conqueror may find the military power necessary to completely subdue and overcome the rebellious spirit of the people. In California, as conqueror, you established a civil government, imposed duties on imports and tonnage, and exercised all necessary control over the people, and all this organized and enforced by pure military command; and yet of these military governments so established over what had then by conquest come to be your own territory the Supreme Court of the United States say, in *Cross et al. vs. Harrison*, (16 Howard, 190,) that—

"No one can doubt that these orders of the President, and the action of our Army and Navy commanders in California in accordance with them, were according to the law of arms."

I am not saying that we may continue military sway over them of Louisiana and omit to restore and guaranty to them a republican government as long or to the same extent that we could over a mere Territory; but I do say that if the United States has the right to overthrow a rebellion by war at all, its war powers cannot be arrested and at an end the moment that arms are wrested from the public enemy and organized war is crushed, but continues until all such hostility to the United States is annihilated as is too strong to be controlled by courts and constables. If this be not so, then it is absolutely self-evident that the United States has no power to put down rebellion at all, for then the Government is obliged to cease exerting the only power that is sufficient to attain the ends of the war before the actual resistance of the rebellion to the law is ended. And the rebellion is thus permitted to assert its constitutional rights in such a way as to destroy the Constitution.

But, sir, this is not all. In his message vetoing the Freedmen's Bureau bill the President sustained that veto by the argument that that bill would remain operative for one year. And yet this law commits the absolute and complete control of all subjects relating to refugees and freedmen to the Army, under control of the War Department. Here, then, the control of civil affairs and the enforcement of law are, by a law approved by the President, continued in force for more than one year after flagrant war is ended.

I will now in the few minutes that I have left say a few words in regard to the condition of Louisiana, and let us see if there is that state of subordination that requires and justifies this law and the interposition of the military authority of this Government. I will not run through, as I cannot, the horrid details of what has occurred and what is being brought before the country from ten thousand sources of reliable testimony. It is enough that I should point to one single, strange, and startling fact, which taken by itself is utterly overwhelming and conclusive, and that is, that on the 30th day of July last at high noon, by prearranged plan—the proof of prearrangement being absolutely conclusive and overwhelming—the police, with officers and citizens of New Orleans organized, a part of them constituting what was called the Hayes brigade, for the purpose of slaughter, and did then and there, with shouts and hurrahs for Jefferson Davis and Andrew Johnson

mingling with their infernal orgies, execute some two hundred murders in the streets.

The names of a majority, if not all, of those murderers are known to the people of New Orleans. The names are in the reports before this House; and yet with these facts before the authorities of the State, and written down in its history, not even an attempt has been made at prosecution against a single one of the offenders, the only prosecution that has been attempted being against the victims of the wrong. Gentlemen on the other side get up here and tell us the courts are open. Ah, gentlemen, the courts are, indeed, open there, but under rebel control, in rebel sympathy for the purpose of protecting—and I declaim not now, but talk cautiously by the book—rather of protecting and shielding than for the punishment of crime when that crime is of a political character and is committed against the loyal people of Louisiana.

[Here the hammer fell.]

Mr. LE BLOND. How do we know that? Your report has never been published, and we are groping here in the dark.

Mr. BOYER. Mr. Speaker, I desire to say that the statement just made by my colleague on the committee is not the fact. [Cries of "Order!"]

The SPEAKER. The previous question has been seconded and the main question ordered; the pending question is first on the amendment offered by the gentleman from Illinois, [Mr. BAKER,] to insert in line five before the word "Governor" the word "provisional." The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time.

Mr. BOYER. I call for the reading of the engrossed bill.

The Clerk read the engrossed copy of the bill.

The question was upon the passage of the bill.

Mr. ELIOT. I call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I call for the yeas and nays upon the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 113, nays 47, not voting 30; as follows:

YEAS—Messrs. Alley, Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Bidwell, Blaine, Boutwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Culom, Darling, Davis, Dawes, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, John H. Hubbard, Hulbard, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McIndoe, McNair, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Spaulding, Starr, Stevens, Stokes, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—113.

NAYS—Messrs. Ancona, Baker, Bingham, Boyer, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Harris, Hise, Hogan, Edwin N. Hubbell, Humphrey, Hunter, Kerr, Kuykendall, Latham, Le Blond, Leitwisch, Marshall, McCullough, Niblack, Nicholson, Noell, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Silwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thayer, Thornton, Andrew H. Ward, and Whaley—47.

NOT VOTING—Messrs. Ames, Benjamin, Bergen, Blow, Brandegee, Bundy, Conkling, Culver, Deffrees, Dodge, Griswold, Hale, Hart, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, James R. Hubbell, Jones, Kasson, McKee, Phelps, Pomeroy, William H. Randall, Raymond, Schenck, Trimble, Elihu B. Washburne, Henry D. Washburn, Winfield, and Wright—30.

So the bill was passed.

During the roll-call the following announcements were made:

Mr. MERCUR. I desire to state that the

gentleman from Iowa, Mr. KASSON, is absent by leave of the House on business relating to the committee of which he is a member.

Mr. DEMING. I desire to say on behalf of my colleague, Mr. BRANDEGEE, that he is paired with the gentleman from New York, Mr. BERGEN, upon all questions relating to the subject of reconstruction. I desire also to say on behalf of the gentleman from New York, Mr. GRISWOLD, that he is called away by imperative business.

Mr. HILL. I desire to state that my colleague, Mr. H. D. WASHBURN, is paired with Mr. WINFIELD, of New York.

Mr. DARLING. I desire to state that my colleague, Mr. HART, is unavoidably absent. If he were present he would vote for this bill.

Mr. KETCHAM. I desire to state that my colleagues, Mr. POMEROY and Mr. JONES, are paired. If Mr. POMEROY were present he would vote for this bill.

The result of the vote being announced as above recorded,

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the amendments of the House to Senate joint resolution No. 99, for the relief of Paul Forbes, under his contract with the Navy Department for building and furnishing the steam sloop of war Idaho, with an amendment, in which the concurrence of the House was requested.

#### EVENING SESSION.

Mr. STEVENS. I move that the House take a recess from half past four o'clock till half past seven this evening.

Mr. BINGHAM. To go on with the regular business?

Mr. STEVENS. Yes, sir.

Mr. LE BLOND. What will the regular business be?

The SPEAKER. The next business in order will be the bill reported from the joint Committee on Reconstruction for the military government of the insurrectionary States, which is open to debate.

Mr. DAWSON. Is it expected that a vote will be taken this evening?

The SPEAKER. Probably not.

The question was taken; and it was decided in the affirmative—ayes ninety-four, noes not counted.

So the order for a recess was adopted.

#### ENROLLED JOINT RESOLUTION.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution of the following title:

Joint resolution (H. R. No. 247) for the relief of James Keenan; when the Speaker signed the same.

#### CREDENTIALS—SOUTH CAROLINA.

Mr. CHANLER. I rise to a question of privilege. I desire to present the credentials of Hon. William Aiken, claiming to be entitled to a seat in this House as a Representative from the first congressional district of South Carolina.

The credentials were received, and referred under the rule to the joint Committee on Reconstruction.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Clerk, informed the House that the Senate had passed, with an amendment, in which the concurrence of the House was requested, bill of the House No. 1053, granting an increase of pension to John J. Sohan.

#### GOVERNMENT OF INSURRECTIONARY STATES.

The House resumed as the next business in order the consideration of House bill No. 1143, to provide a more efficient government

for the States lately in insurrection; upon which Mr. KELLEY was entitled to the floor.

Mr. STEVENS. Will my colleague [Mr. KELLEY] yield to me for a moment, for some business that will occupy no time?

Mr. KELLEY. Certainly.

#### POST OFFICE APPROPRIATIONS.

Mr. STEVENS. I ask unanimous consent to have taken from the Speaker's table and have referred to the Committee on Appropriations the amendments of the Senate to House bill No. 918, making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1868, and for other purposes.

No objection was made, and the reference was accordingly made.

#### PENSION APPROPRIATIONS.

Mr. STEVENS. I also ask unanimous consent to have taken from the Speaker's table and referred to the Committee on Appropriations the amendment of the Senate to House bill No. 903, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1868.

No objection was made, and the reference was accordingly made.

Mr. RADFORD. I move that the House now take a recess.

The motion was agreed to; and accordingly (at four o'clock and fifteen minutes p. m.) the House took a recess till half past seven o'clock p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

#### HENRY E. EARLE.

Mr. LYNCH asked and obtained leave to withdraw from the files of the House the petition and papers in the case of Henry E. Earle.

#### CAPITAL AND LABOR.

Mr. KUYKENDALL. I ask unanimous consent to present, have printed in the Globe, and referred to the Committee of Ways and Means, the following petition of citizens of Oberlin, Ohio, upon the subject of capital and labor.

No objection was made.

The petition is as follows:

*To the Senate and House of Representatives of the United States in Congress assembled:*

Your petitioners, inhabitants of Oberlin, Ohio, respectfully represent to your honorable body that the masses of laborers in the United States are yet uninformed on the subject of national finance, or the proper institution of money, and therefore not prepared to act in the premises. Their ignorance as to the power of capital over their liberties and lives is second only to that of the slave, and they have been too willingly left so by the owners of capital for similar reasons to those which kept the slave in ignorance and under the lash. Our papers are as silent concerning the curses of the present system as were ever the southern sheets concerning the abominable iniquities of slavery. These are under the control of the money power; those were under control of the slavery power.

We therefore pray you that all important action on this subject may be deferred until sufficient time and opportunity have been given the people for discussion, for the interests it involves are vital to liberty. The masses are beginning to get awake to this matter, and they should have time to deliberate, and to give their voice before anything is done by which the nation shall be expected permanently to abide. If this time is not given it will only lead to greater complication in the final settlement of the question, when the masses have considered and decided it.

Capitalists have done nothing by which they are entitled to double interest on their bonds from the hands of loyal laborers.

Laborers fought the battles against treason. The rebels fought the battle against liberty, or labor in the front, and capitalists fought us in our rear and right in our lines.

We therefore pray you that nothing may be done by your honorable body by means of which the heavy burdens now imposed upon the laboring masses shall be sought to be made permanent.

But if action now is unavoidable we pray you to act in behalf of the masses, in behalf of liberty and of labor; for such action must be had if the perpetuity of the nation is secured; and we would respectfully suggest that the only safe method of doing this is to "abolish the present national banking system," and resort to the issue of legal-tender Treasury notes only for a system of national currency. The people are satisfied with these, and only with these.

We want a currency which has for a basis nothing less than the assets of the entire nation and the perpetuity of our republican institutions, and in the safety and perpetuity of which every individual in the nation is personally interested.

#### MISS SUE MURPHY.

On motion of Mr. MAYNARD, the bill of the Senate, No. 418, for the relief of Miss Sue Murphy, of Decatur, Alabama, was taken from the table and referred to the Committee of the Whole, and placed upon the Private Calendar.

#### CALIFORNIA CENSUS MARSHALS, ETC.

Mr. NIBLACK. I am instructed by the Committee on Appropriations to ask that that committee be discharged from the further consideration of a resolution referred to them, and that the same be referred to the Committee of Claims. The resolution was one directing the Committee on Appropriations to inquire into the expediency of making an appropriation for the payment of census marshals for taking the eighth census in California of the amount or balance remaining due, \$9,460 48; also, an appropriation for the payment of outstanding California war bonds, \$10,188 63.

The motion was agreed to.

#### PENNSYLVANIA DISTRICT JUDGE.

Mr. NIBLACK. I am also instructed by the Committee on Appropriations to ask that that committee be discharged from the further consideration of a petition of members of the Philadelphia bar, asking an increase of the salary of the United States district judge for the eastern district of Pennsylvania, and that the same be referred to the Committee on the Judiciary.

The motion was agreed to.

#### MRS. GLORVINA FORT.

Mr. NIBLACK. I am also instructed by the Committee on Appropriations, to which was referred the petition of Mrs. Glorvina Fort, praying an appropriation to her of the sum of \$2,934 07, the amount awarded to her father by the United States district court of New York on June 26, 1793, for loss of the cargo of the brig Catharine, captured by the French frigate L'Embuscade, be discharged from the further consideration of the same, and that it be referred to the Committee of Claims.

The motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. McCLURG asked and obtained leave of absence for the remainder of the week for his colleague, Mr. BENJAMIN.

#### SALE OF GOLD.

Mr. STARR, by unanimous consent, submitted the following resolution, which was read, considered, and agreed to:

*Resolved*, That the Committee on Banking and Currency be, and they are hereby, instructed to inquire into the expediency of prohibiting by law the sale of gold by the Secretary of the Treasury of the United States; and also by the national banks; and to report by bill or otherwise.

#### TAXATION OF NATIONAL BANKS.

Mr. STARR also submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Banking and Currency be, and they are hereby, instructed to inquire into the expediency of exempting from State or other local taxation that portion of the capital of the national banks invested in United States loans; and to report by bill or otherwise.

#### NEW MEXICO—LINCOLN.

Mr. DARLING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Territories be requested to inquire into the propriety of changing the name of the Territory of New Mexico to that of Lincoln; and to report by bill or otherwise.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. FORNEY, its Secretary, notifying the House that that body had passed House bill No. 593, to establish a uniform system of bankruptcy throughout the United States, with amendments, in which he was directed to ask the concurrence of the House.

It also requested the return of House bill No. 269, for the relief of certain officers of volunteers, yesterday postponed indefinitely in the Senate.

#### GOVERNMENT OF INSURRECTIONARY STATES.

The House resumed the consideration of the bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States, on which Mr. KELLEY was entitled to the floor.

Mr. BINGHAM. Mr. Speaker, by leave of the gentleman from Pennsylvania, [Mr. KELLEY], I desire to make a statement to the House; and after making that statement, to ask consent that the amendments which I have offered may be published in the Globe, together with the bill reported by the honorable gentleman from Pennsylvania, [Mr. STEVENS], so that to-morrow members may be able to understand exactly the effect of the amendments.

By an inadvertence the Public Printer in publishing my amendments has preceded it by the words "strike out the parts within brackets," instead of saying "insert the parts within brackets." All that is not included in brackets is the original bill, word for word, as it was reported from the committee by the honorable gentleman from Pennsylvania. The portions marked in brackets are what I wish to incorporate in the bill. In order that members may fully understand the issue between the gentleman from Pennsylvania and myself I ask consent of the House that my amendments, together with the bill, be published in the Globe.

The SPEAKER. The Chair is informed that this error occurred in the public Printing Office; that the document was correct as it was sent from this House.

Mr. BINGHAM. I know that.

The SPEAKER. If there be no objection the amendment of the gentleman from Ohio; [Mr. BINGHAM], together with the original bill, will be published in the Globe.

There was no objection.

The bill as proposed to be amended by Mr. BINGHAM is as follows, the amendments being included within brackets:

Whereas the pretended State governments of the late so-called confederate States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas, were set up without the authority of Congress and without the sanction of the people; and whereas said pretended governments afford no adequate protection for life or property, but countenance and encourage lawlessness and crime; and whereas it is necessary that peace and good order should be enforced in said so-called States until loyal and republican State governments can be legally established; [whereas it is expedient that the said States lately in insurrection should, at the earliest day consistent with the future peace and safety of the Union, be restored to full participation in all political rights; and whereas the Congress did, by joint resolution, propose for ratification to the Legislatures of the several States, as an amendment to the Constitution of the United States, an article in the following words, to wit:

SEC. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may,

by a vote of two thirds of each House, remove such disability.

Sec. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

Sec. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Now, therefore:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the above-recited amendment shall have become part of the Constitution of the United States, and any State aforesaid lately in insurrection shall have ratified the same, and shall have modified its constitution and laws in conformity therewith, and shall have presented to Congress a constitution of government republican in form and not inconsistent with the Constitution and laws of the United States, and which shall secure equal and impartial suffrage to the male citizens of the United States, twenty-one years of age, resident therein, without distinction of race or color, and which shall have been approved by Congress, the Senators and Representatives from such State, if found duly elected and qualified, may, after having taken the required oaths of office, be admitted into Congress as such.

Sec. 2. And be it further enacted, That when any State lately in insurrection as aforesaid shall have ratified the foregoing amendment to the Constitution, any part of the direct tax under the act of August 6, 1861, which may remain due and unpaid in such State, may be assumed and paid by such State; and the payment thereof, upon proper assurances from such State to be given to the Secretary of the Treasury of the United States, may be postponed for a period not exceeding ten years from and after the passage of this act.

Sec. 3. And be it further enacted, That until said so-called States shall be admitted to representation in Congress as herein provided, the said so-called States shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida, the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

Sec. 4. And be it further enacted, That it shall be the duty of the General of the Army to assign to the command of each of said districts an officer of the regular Army, not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

Sec. 5. And be it further enacted, That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end he may allow civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, anything in the constitution and laws of the said so-called States to the contrary notwithstanding; and all legislative or judicial proceedings, or processes to prevent or control the proceedings of said military tribunals, and all interference by said pretended State governments with the exercise of military authority under this act, shall be void and of no effect.

Sec. 6. And be it further enacted, That courts and judicial officers of the United States shall not issue writs of *habeas corpus* in behalf of persons in military custody, [except in cases in which the person is held to answer only for a crime or crimes exclusively within the jurisdiction of the courts of the United States, within said military districts, and indictable therein,] or unless some commissioned officer on duty in the district wherein the person is detained shall indorse upon said petition a statement certifying, upon honor, that he has knowledge or information as to the cause and circumstances of the alleged detention, and that he believes the same to be wrongful; and further, that he believes that the indorsed petition is preferred in good faith and in furtherance of justice, and not to hinder or delay the punishment of crime. All persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted.

Sec. 7. And be it further enacted, That no sentence of any military commission or tribunal hereby authorized affecting the life or liberty of any person shall be executed until it is approved by the officer in command of the district; and the laws and regulations for the government of the Army shall not be affected by this act, except in so far as they conflict with its provisions.

Mr. KELLEY. Mr. Speaker, I rise to express the hope that the House will adopt the bill under consideration as reported by the committee without amendment. Considerable dissent has been manifested, and the House refused by a very decided vote to order the previous question when called by the chairman of the committee. Yet, after the ample discussion the bill has had, and especially after

the incidents of yesterday and to-day connected with the Louisiana bill, I indulge the hope that when the final vote is ordered the House will adopt the bill.

Unanimity cannot be expected among a numerous body of gentlemen like those who wield the power of this House. They represent intelligent and thoughtful constituencies, and it has never been my privilege to mingle with a body of men among whom there was so much well defined individuality of character as in the controlling party of this House. It is impossible, therefore, that we should obtain entire unanimity of judgment on important measures. There has been on almost every important law enacted concession, I may say—much as I have come to despise the word—compromise, as to detail and language. A gentleman suggests to me the word “cooperation.” I accept it as a better word, which more accurately expresses my sense of our duty.

Some days since, when first entitled to the floor on this question, I went to the Clerk's desk and found that already six amendments to the bill had been printed. I had in my mind one which I would gladly have offered. I found it in direct hostility to the purpose of several of those that were in print. It was brief, but I then thought it essential. It was to insert in line three, immediately after the word “that,” the words, “such pretended governments are hereby declared void and set aside, and that.”

Since then we have had the substitute submitted by the distinguished gentleman from Massachusetts, [Mr. BANKS;] and the gentleman from Missouri [Mr. KELSO] has one which I regret has not found its way into print, for if any were to be adopted it would command my preference.

Under these circumstances we cannot hope to frame a bill on a subject of such primary importance that will meet the unqualified approval of every Republican member. All we can expect to do is to frame one in harmony with and support of that which we passed to-day, which all must agree is as a whole, though not in my judgment perfect in detail, a wholesome and needed measure. I apprehend that a large part of the dissent from this bill arises from the fact that gentlemen have not understood the limitations of its scope and purpose, and have regarded it as a reconstruction bill.

Let us recall the history of the constitutional amendment now pending. Supposing that it was proposed as a finality, almost every gentleman on this side of the House dissented from and sneered at it, yet we all voted for it; and when it came to be considered by the people it met with an approving response such as few measures have ever received. I remember, sir, that when it first came to the House I asserted that my opposition to one of its provisions was irrevocable. Nor was that a passionate exclamation. It was deliberate; for in other connections I had considered the point. Yet after due consideration of the measure as a whole, and ascertaining its limitations, I voted for it. We were ready to reject it because we supposed it was brought to us as a finality, as a conclusive measure. As such it could not have been adopted, I think; and the people responded to it enthusiastically as they did because they had learned that it was but one of several measures essential to the preservation of the country. They saw, as we had done before we passed it, that it was simply a measure to protect forever the country and the people against the dangers which the gentleman from Massachusetts [Mr. BANKS] still seems to apprehend as imminent. It protects the sanctity of the national debt.

It secures the citizenship of the people of the American Union throughout its limits, be they natives of what State or country they may, and protects them and the Government against claims for damages done during the war, property seized by our Army, or for slaves made free by proclamation or the act of war; it establishes the political equality of men whether

they dwell in the cold North or the sunny South, and provides for the repudiation of the rebel debts and the sanctity of the debt of the nation. These were its purposes, and these it performs.

The work of reconstruction will be provided for by other bills than the one now under consideration. This, sir, I may say, is little more than a mere police bill. The necessity for it arises from the perfidy of the President of the United States. Had he been true to the duties of his high office and his public and repeated pledges there would have been no necessity for considering such a bill. It does but propose to enable the General commanding the Army of the United States to execute the dying purpose of Abraham Lincoln, and, if we may accept as evidence, his oft-repeated assurances the early presidential purpose of Andrew Johnson. Its object is to maintain peace throughout the insurrectionary districts, the people of which, as the President has asserted in a dozen solemn proclamations, have by revolutionary violence been deprived of all civil government. It proposes to give peace and safety to every man within the limits of that extended district, irrespective of the tint of his complexion, or whether he fought against or for his country's flag. Its object is to preserve peace and vindicate the sanctity of human life.

The gentleman from Massachusetts [Mr. BANKS] said that at first it was his purpose to sustain the bill, but that he had concluded to oppose it as he did in a lengthened speech. In assigning reasons for this change of opinion, he said:

“It made a frame of civil government to be administered by the regular Army without any restriction or limitation of power except the discretion of the regular Army. The regular Army, in administering that power, was to be without responsibility to the Constitution, to the Congress, or to the people of the country, but was to be responsible only to the commander of the Army.”

Sir, the bill does in this respect what the law of nations and his oath of office justified Abraham Lincoln in doing and required his successor, Andrew Johnson, to do; that is, to administer under the military power such laws as should give security to property, person, and life in districts the civil government of which had been overthrown, and to continue such administration until the law-making power could establish civil governments and codes of law for the people. It proposes to enable Grant to do throughout that confederacy, whose armies he crushed, what Scott did in conquered Mexico and what Butler and BANKS did in that part of Louisiana in which by the aid of the Navy our Army established itself. They protected life and property and maintained peace while awaiting the action of that branch of the Government which had the right to make terms with the conquered or to frame laws for their government.

That is what this bill proposes to do. It abrogates the results of Executive usurpation by ignoring the existence of the illegal and anomalous governments established by the Commander-in-Chief of our armies and Navy. In the establishment of these “so-called” or “pretended” States he usurped a greater power than any that is proposed to be ordained by this bill. Who made the “so-called” government of North Carolina? Andrew Johnson. By what power? By virtue of the fact that he was Commander-in-Chief of the armies and Navy of the nation. And by virtue of that same power, enforced by the persuasive influence of the pardoning power, he arrogates to himself and exercises the right to supervise, control, and govern those governments. He told their conventions what they must and what they might not do, and those so-called sovereign bodies obeyed his commands. Through the officers of the Army he suspends or enforces the enactments of their so-called Legislatures as pleases his whim, so that their laws depend upon his temper or the state of his digestion. There are no States there; and to speak of these organizations as such is an abuse of language. There are pretended States, “so-called” States; States whose nominal Legislatures and



Executives are not at liberty to deny that they are subservient to the will and orders of the acting President of the United States. They are not such republican governments as Congress can recognize. They are known to Congress and to the people to be the offspring of executive usurpation and instruments of power in the hands of a usurper, and must be declared void and set aside.

But gentlemen cry, "That will produce anarchy; we must not leave the people without government and law." No such consequence will ensue. When we brush away these foul usurpations the law will arise that was in force when Lee and Johnston surrendered. The difficulty is that the false man upon whom crime devolved the presidency will not execute that law. He has given us his construction of it, and we have the results before us. I shall attempt to depict those results as I proceed, though conscious that my poor effort will sadly lack color and effect. It is important, therefore, that we embody that law, coming to us as it does through the progress of civilization from its dawn to the close of the last war, in statutory provisions, and hold him responsible, under our power of impeachment, for the faithful execution of every clause we enact.

Gentlemen will not deny that we have that power if war still exists. The distinguished gentleman from Ohio, [Mr. SHELLABARGER,] whose views on that point I accept, says that we are not now engaged in war *flagrante*; that it is war *cessante*. And what is war *cessante*? It is when two armies rest under stipulations of armistice or temporary treaty; that no life shall be taken and no position changed during a given interval. Our condition is nominally that of war *cessante*; but it is war *flagrante* on the part of the rebellious people of the so-called or pretended States, for they give neither justice nor safety to the friends of the Union. They slay them by night and by day, sleeping or waking; giving to *quasi* war horrors that do not belong to it within entrenchments or on tented field.

The gentleman from Massachusetts, [Mr. BANKS,] defining our condition, said: "It was not peace, it was not war; it was a state of siege." Sir, I would like to know whether he regards a state of siege as a condition of war or peace? Does he think the people of Leyden and Utrecht heard the drowsy hum of peace during the siege which they endured; and that the tender women and children who cowered in caves during the siege of Vicksburg were vexed by doubt as to whether peace or war prevailed? Was Valdez in doubt on that point when he demanded the surrender of Leyden, and received from Dousa the reply that "When provisions failed the people of that city would devour their left hand, reserving their right to defend their liberty?" Sir, when the people of that city, gathering around the good burgomaster Vandenwerf, presented their wasted forms and cried for bread, he knew they were suffering war's most agonizing horrors, and, like a true soldier, replied: "Bread I have none; but if my death can afford you relief tear my body in pieces and let those who are most hungry devour it!"

Sir, when the gentleman said our condition was that of a state of siege, he declared it to be that most ruthless form of war which knows not sex or age. What man in all Protestant Christendom has not thrilled at the horrors of war, and at its glories, too; at the burst of pride with which Walker welcomed those citizens of Londonderry, who had searched his cellar to find whether he had food to sustain him in uttering such brave words of resistance, and came to tell him that there was nothing within his premises for the sustenance of wife or child.

But who, sir, are the besieged; who are the starvelings of this state of siege which is not war? Who exist furtively upon the bleak mountain side or bury themselves in the miasmatic swamps? They are Union men, our friends, the companions in arms of the soldiers who, carrying our flag, broke the military power of the rebellion, and who, if we will but pro-

tect them, will break its spirit and curb even its proud leaders and make of them at least passably good citizens. If there be a siege they are its victims, and this bill will enable their fellow-soldiers, those who stood beside them in the battle-field, to restore them to their homes and shield and protect them.

The gentleman from Ohio, [Mr. LE BLOND,] more logical by far than the gentleman from Massachusetts, asserts that the old States still exist, and says that we should not expect—

"That perfect peace would prevail throughout those States as soon as the war ended. It was in the nature of things there would be lawless conduct on the part of many citizens."

But he also asserts that—

"The civil authorities there have been using the power they have to keep down this lawlessness and to punish men for the commission of offenses."

Sir, had the latter assertion been well founded, the Thirty-Ninth Congress might possibly have adjourned without enacting such a bill, and escaped the reproaches of our constituents and the hissing curses of southern Union men. War, while it calls forth the noblest attributes of individuals and communities, is, and must ever be, a great demoralizer. We therefore do not hold the people of the South responsible for individual acts of violence. We have felt the demoralizing effects of the late war all over the North. Crimes of unusual magnitude and turpitude have been committed in almost every city of the North. But the treatment of their perpetrators in contrast with that of murderers of Union men at the South serves to distinguish between a state of war and peace. This contrast shows that in passing such a bill as this we will not be legislating to meet individual cases of violence, but to restrain a community that is at war with the Government and all who sustain the Government. At the North perpetrators of great crimes have been pursued and brought to trial and punishment. Their forms have graced the gibbet and admonished those who would offend in like degree that they are in a land of law.

But will gentlemen who deny the existence of war tell me what one murderer of a Union soldier has been brought to trial and punished by the civil authorities of these pretended States? The military arrested some few murderers and tried and convicted them, but through the machinations of Andrew Johnson, the present leader of the rebellion, they have been turned loose and have received the welcome of their fellow-citizens, "Well done, good and faithful servant." Thus the crimes of individuals are assumed by the communities of which they are members, and in the crimes and their assumption by the community we find a reply to the question whether the gentleman's state of siege be war or peace. Sir, if the present condition of the Union men of the South be peace, may God pity the most courageous and hardy of those whose country is at war! Let us in mercy assume that it is not peace, but war, and arm the Union men for their defense of home, family, and life. The bloody barbarities of the rebel captors at Fort Pillow disgrace the annals of civilized warfare; but atrocious as they were they are exceeded by the horrors inflicted by the so-called civil authorities of New Orleans upon the unarmed members of the constitutional convention and its friends gathered around it in that city. And, sir, the loathsome details of the sacking of Badajos are exceeded by the atrocities reported to us by the committee to inquire into what gentlemen on the other side of the House mildly term the "Memphis riots." Our abhorrence of the atrocities at Badajos is mitigated by the fact mentioned by Napier, that hundreds of soldiers attempted, and many lost their lives in the attempt, to stay the outrages. There is no mitigating fact of that kind in the report of the "Memphis riots" committee.

The gentleman from Maine [Mr. PIKE] has given us a picture of the condition of the Union men, soldiers and citizens, white and black, of South Carolina; and the report of the committee of which he is chairman con-

tains, I am told, much more than we have yet heard. I beg leave to turn to the State of North Carolina for a few illustrations of their condition throughout the South generally. I select it, not because I regard North Carolina as the worst of these so-called States, but because, with the single exception perhaps Florida, a Union man is as safe in North Carolina as elsewhere in the insurrectionary district.

I remember, sir, that more than a year ago three friends of mine from New England, one of whom must be known to gentlemen from Massachusetts—Mr. Thomas Drew, of Boston, formerly editor of the Massachusetts Plowman—returned to this city from North Carolina. They had gone thither to invest capital in renting or purchasing a plantation. They proposed to carry capital, seeds, and implements and New England culture and thrift to the people of that State and to settle among them. But they had made no settlement. They were returning to cold and sterile Massachusetts. Do gentlemen ask why? It was because when they were about making a contract of lease or purchase for a property one Roddick Carney and his father had notified the owner of the property that if he rented to the "Yankees" they would burn his dwelling and outbuildings, and with the same frank amiability notified my friends that if they purchased every freedman they employed or "Yankee" they brought there to work should be murdered. "But did you believe them?" said I. "Oh, yes," said Mr. Drew, "for Roddick Carney had but a few days before, as he said for fun, shot two negro boys to show how good a marksman he was."

Some few weeks ago a discreet and courageous friend from another quarter of the country was going into the same State, and I begged him to let me hear his views of the condition of the people. I received a lengthy communication from him last Saturday. I will offer some extracts from his interesting letter, from which it appears that Roddick Carney would probably have executed his threats had my friends persisted in their patriotic and philanthropic enterprise. The writer says:

"Some fourteen months since one Roddick Carney with a few friends committed a number of outrages upon the loyal citizens of Beaufort and Pitt counties, and in mere wantonness shot and killed two negro boys. The civil authorities, neglecting or refusing to take any measures to arrest and punish these murderers, a lieutenant with a squad of men was sent to arrest them. While they were endeavoring to arrest him Carney shot and killed the lieutenant. Another unsuccessful attempt to arrest him was made by the military, and he is now living undisturbed in Beaufort county."

"This murderer, Carney, has in his possession a colored boy, named Joseph Wiggins, the son of a respectable negro man, and he refuses to give him up. The civil authorities profess that they are afraid to arrest him or have anything to do with Carney for the relief of the enslaved negro."

Fourteen months ago this man Roddick Carney perpetrated two unprovoked murders. Nearly fourteen months since he murdered a lieutenant of your Army engaged in the performance of duty; and if the civil authorities are discharging their duties, and if there be peace there, why in the name of law and justice is he living unmolested and respected in the community in which he dwells?

But let me read another extract from this same communication:

"Near Hillsborough, in Orange county, in November of 1866, a freedman who had raised a small quantity of corn invited a few of his friends to assist him in shucking it. In the evening while the party were singing and dancing, a rebel named C— heard them, armed himself with a gun, went to the freedman's house, and with oaths and curses demanded to know what they were doing. The freedmen, frightened, attempted to escape, when he deliberately shot one of their number, killing him almost instantly. The coroner's jury returned a verdict of 'accidental homicide,' and there the matter rests."

Do not these statements portray a capital state of peace?

My informant is a cool, courageous, business man, a man of veracity, upon whose statement and judgment I confidently rely. He indicates the reason for these crimes and this impunity in a brief passage, as follows:

"It must be understood that four fifths of the white

population are fanatically devoted to the cause of the rebellion, that the present so-called State government is composed entirely of men who have, in one form or another, proved their devotion to secession and rebellion, and in whose creed the cardinal plank is contempt for Yankees and 'niggers' and hate for the Government of the United States. The 'Howard amendment' stood, from the first, no chance of acceptance by a Legislature, most of the members of which were elected on their rebel war record, after much ranting declamation in which the candidates boasted of having carried the rebel flag in triumph from Big Bethel to Bentonville, vying with each other in vaunting what they had done to destroy the national Government and drench the country with blood.

"As a matter of form the courts are open; as a matter of fact there is no such thing as an impartial administration of justice by the courts between whites and blacks, rebels and Union men; the prejudice of the judges, justices, the lawyers, and of the juries in favor of the rebel white and against the Union men and the negroes forbid it."

Mr. Speaker, I cannot better illustrate the power and efficiency of civil authorities so eulogized by the gentleman from Ohio [Mr. LE BLOND] than by asking the Clerk to read a short extract from the same letter of my correspondent. It relates to the Governor of one of the pretended States.

The Clerk read as follows:

"As a sample of the carelessness of Governor Worth in his official statements I may mention the laws governing the apprenticing of children in North Carolina. In his message to the General Assembly at the commencement of the session, (November 19, 1866,) he admits that in the matter of apprenticing there is a distinction made by the law of the State between white and black children, or rather between children of purely white parents and children having some faint trace of negro blood, for many who were two years ago slaves are as white as their former owners.

"One month later (the 19th December) he tells the President and General Howard that the law of North Carolina makes no distinction on account of color or race in the apprenticing of children.

"And still another month later, (the 29th of January, 1867,) when the cry of parents whose children had been torn from them and bound to cruel and hard taskmasters became so loud that the authorities could not shut their ears, and when the children, thus ruthlessly thrust into a slavery worse than that of other years, starving, freezing, sickening, and dying under the cruel treatment of their chivalrous masters and high-born mistresses, at last escaping told their piteous stories to officers of the Freedmen's Bureau, then, and not until then, the General Assembly of North Carolina passed an act to amend the fifth chapter of the revised code, entitled 'apprentices,' which act purports to repeal all laws discriminating between whites and blacks in the apprenticing of children; yet this same act in substance declares that the indentures of all children heretofore illegally apprenticed shall be declared legal and valid; and this when it must be well known to the members of the General Assembly of North Carolina that all the children illegally bound were the children of negro parents.

"Grant that the laws make no discrimination between whites and blacks, no one who is familiar with the action of the courts in the rebel States can for a moment suppose that there will not be, in the future as in the past, a discrimination made against the negroes.

"There is scarcely a single case of apprenticing of negro children in this State during the past eight months in which the State laws protecting the children have been respected by the courts.

"There are hundreds of cases which might be cited to prove all that I have asserted concerning the action of the courts in this matter of apprenticing negro children. I will mention one or two, which will serve as examples.

"Near Tarboro' two children, girls, one eleven and the other thirteen years of age, were last summer apprenticed to their former owner. The girls' mother had formerly been whipped to death under the orders of the wife of the man to whom they are now apprenticed, then the master and owner of the murdered woman. Recent information shows that these children, who are still held as apprentices, are nearly starved and not half clad; the only garment they wore, while picking cotton in the inclement weather of December, was a straight gown, short in the skirt, and with short sleeves, with neither shoes, stockings, nor bonnets.

"The father and two brothers of these girls are laboring for a gentleman from the North who is engaged in planting, and together earn about sixty dollars per month and their rations. The girls were apprenticed without the consent of their father, who has made repeated efforts to recover his daughters that he might send them to school, but thus far his efforts have been vain; and the girls are now held in a condition of slavery much worse than that in which they formerly lived. The younger of the two sons, now nearly eighteen years of age, and who has during the past year been earning twenty dollars per month and his rations, was last fall apprenticed to the man to whom his sisters are apprenticed, who has sued his former employer for the wages of the boy for the past year."

Mr. KELLEY. Mr. Speaker, from the same source I draw one more illustration of the ridiculousness of the position assumed by

those who claim that we are in a state of peace, and that the President of the United States ought not, therefore, to protect the Union men and other citizens by the military power of the Government. My correspondent says:

"In 1865 a freedman named Lewis Warren was arrested in Sampson county, on a criminal charge, imprisoned, tried, and acquitted. He was confined in jail nearly five months. The charge of jail fees, and the cost of the suit, (\$125,) were charged to him after he had been proven innocent before the court and acquitted; and to pay these costs he was sold by the sheriff, upon the order of the court, for three years to one Simon Peter Hobbs, of Sampson county, for whom he labored faithfully for thirteen months and eighteen days. He then escaped, and is believed now to be concealed by certain well-known Union men in Johnson county, who, at their own peril, are preserving the liberty of a man whose innocence has been vindicated even before a rebel court."

Mr. Speaker, in taking leave of North Carolina I turn to Texas. I have a picture of things in that State taken from the New York Tribune of last Friday morning. It presents a condition of things quite as bad as that in South Carolina, as reported by the committee over which the gentleman from Maine [Mr. PIKE] presides, quite as bad as that reported as existing in Louisiana by the committee whose bill we passed to-day. When gentlemen shall have heard they will be able to judge whether Texas is at peace or war or in a state of siege. It is as follows:

"One of the first acts of the Legislature was to abolish the judicial districts in which Union men had been elected judges: the administration of the law was restored entirely to rebels. Large grants of lands and money were made to rebel soldiers. The bodies of rebels were brought from other States for reinterment, and an act passed to remove the bodies of Union soldiers from the State cemetery. Congressional districts were created by which counties thirty miles apart were placed in the same district for the purpose of preventing the election of any man to Congress who could take the test oath. In rejecting the constitutional amendment, October 13, the Legislature adopted a report which declared the action of Congress to be 'a nefarious conspiracy,' 'crafty and iniquitous legislation,' 'degrading and malignant.' Labor laws were framed which practically reduced the freedmen to slavery, and were found so monstrous that the Freedmen's Bureau refused to admit their authority. In brief, the Legislature of Texas, animated by the old spirit of slavery and rebellion, did nothing for loyalty and order, but directly encouraged that reign of violence which is now driving Union men from the State and making the negroes serfs. The United States military force in Texas is small, and outside of its immediate protection Union men and freedmen are at the mercy of rebels. Hundreds of cases of outrage have been published recently; of these we will quote a few furnished by unquestionable authority.

"In the spring of 1866 a son of Jonathan Lindley was murdered in Bell county; his murderers were arrested by the military, and in attempting to escape two of them were killed, it is said by Major Carpenter, commanding the troops, and Mr. Lindley. In November Lindley was arrested for murder and placed in jail. Through his counsel he applied to General Heintzelman for protection, affirming that his life was in danger because of his Union principles. General Heintzelman laid the facts before Governor Throckmorton, who replied, November 17: 'I apprehend that Mr. Lindley is in no danger from rash violence in Bell county. I shall write to the authorities of that county on the subject, and impress the necessity of a strict compliance with the law and the confidence expressed by Major General Heintzelman in their regard for law.' Solemn assurances were given by the authorities of Bell county that Lindley should be dealt with justly. Near the end of November the troops in the neighborhood were sent to the frontier to protect the people of Texas from Indians, and on the night of December 3 a mob of about thirty entered the jail, murdered old Mr. Lindley, his son, and another inmate of the jail who was an entire stranger to the Lindleys. In this case not even the interference of Governor Throckmorton was a protection. It is an instance of the cruelty of trusting to the civil courts the lives of Union men; the folly of believing that Texas rebels respect any authority but that of the bayonet.

"We believe that for almost every day of the past six months a murder of a Union man or a negro might be cited. But the cases which we quote are sufficient to show the condition of the State. On the 21st of October, in Grayson county, four men rode up to the house of a freedman named Daniel Wheat, arrested him for some pretended offense, and shot him before his own door. The murderers were not arrested. In Sumpter, Trinity county, a freedman was burned alive in December, and several killed. In Chambers county, in the same month, a Union man was beaten by two men till he was senseless, and his house robbed. An order for the warrant from the sheriff, tore it to pieces, and defied his power. Edmund Parsons and Mat. Howlin, two freedmen, were shot in Travis county in December, by white men, apparently from mere wantonness. Their murderers were not arrested. At Prairie Lea, December 8, a negro was publicly whipped for calling a young rebel Thomas, instead of Master Thomas. On the 15th,

at the same place, a bottle of whisky was demanded of a negro, and upon his refusal to give it he was shot. The murderers were known, but the civil authorities refused to arrest them. Prairie Lea is forty miles from any military post, and it is the common amusement of the rebels, mounted on horses, to chase the freedmen through the streets and shoot at them with revolvers.

"Never," says a trustworthy correspondent of the Freedmen's Bureau, presenting the case of a Union man, 'in the days of slavery has there been known the wrongs, the outrage, the oppression that now exist in the northeastern counties of Texas toward the poor negroes. They are now more downtrodden and brutally treated than he has ever known them during his residence here, which has been ever since 1833. They have no rights whatever that are respected; and he has related to me instances of cruelty, wrong, and violation of all law toward them which would make your heart bleed. His own freed negroes have returned to him and besought him to receive them to his care as his slaves, that they might have some protection. He says that the lash is now more cruelly administered than it ever was; that negroes who have cultivated lands rented from some of the white men, after growing fine crops and having them laid by for the harvest, have been deprived of everything upon some pretext sought by the landlord to engage in quarrel, which would terminate in the most brutal punishment of the negro and his dismissal without a dollar for the labor he had bestowed upon the crop. I could not pretend to attempt a description of outrages, from cold-blooded murder down; and there is not an agent of your bureau or an officer to whom these people can appeal for redress.'

"This description correctly applies to every district in Texas of which the United States troops have not control. In Harrison county bands of organized robbers plunder whites and blacks alike, and in twenty-seven other counties in that district there is no safety for negroes or loyal men. From the northern part of Texas we have testimony that the freedmen are not paid for their labor, and remain in actual slavery. Freedmen who dare to bring suits to recover wages due are frequently whipped, and many of those who at the close of the year were paid were afterwards robbed. 'Unless protection can be afforded from the military,' writes a Union man in Caldwell county, 'assassination will soon become the order of the day.' Panola county was in November, probably is controlled by organized robbers whom the civil authorities dared not attempt to arrest. Thus the catalogue of crime continues; but we have said enough. If these were exceptional cases we should have said nothing; but they are the rule; and though we have few reports from Texas during the month of January we believe that the number of murders is not diminishing, and the condition of the State probably growing worse."

Mr. Speaker, the condition of things I have thus fully attempted to portray prevails in a greater or less degree throughout the whole district in which civil government was overthrown. It is to remedy it that we propose to pass this bill and divide it into five military districts. If we have no right to redress such wrongs and establish government where none exists the bill should fail. If we are thus powerless there is an end of the matter, and we ought to proceed to other business.

Upon what theory is our right and power to do this denied? It is said ten States exist there and that we have no right to interfere thus within the limits of States. The gentleman from Massachusetts [Mr. BANKS] said:

"He believed that the States lately in rebellion were still States. They had been made States by the action of the people and of the General Government, and they could never cease to be States until the General Government had consented to that condition. That consent had never been given."

I am never surprised to hear such assertions from the other side of the House, but when Massachusetts raises her voice in behalf of the doctrine of State rights and asserts that a State is immortal or indestructible, and that the States of the Union are still States of the Union, wherefore we have no right to interfere for the protection of Union men within their limits, I feel called to make my protest.

Sir, a State is not immortal. It may be dissolved by a sovereign convention of the people called together to modify the constitution, but which should refuse to adopt any, and the people accept the result. The people of a State, and with the people its organization, may be swept away by the act of God. A conqueror may crush out a State and annex or absorb its territory. The history of nations, from the dawn of civilization till to-day, shows that empires, kingdoms, and States are as evanescent as human life. States of the Union are destructible, and the confusion on this point, as to whether certain States are in the Union or out of it, arises from the fact that gentlemen consider that which is a complex question as a

simple one. A State consists of territory, people, and political organism. The territory of Texas belongs to the United States; the territory of Louisiana and of Florida belongs to the United States. It was all acquired by purchase. We paid for them out of the common Treasury. Florida we bought of Spain, Louisiana of France, and Texas we bought with the gold and blood of a war with Mexico. The soil belongs to the United States, and the people who are on it owe their allegiance to the Government which exists in conformity to the Constitution of the United States, which has been decreed to be the supreme law of the land.

The territory could be taken from us but by successful war. Passing by the right of conquest, the allegiance of the people might be transferred with the soil. But those who attempted to transfer this territory to a foreign confederacy failed. The soil belongs to our country and the allegiance of the people is due to our Government. In so far they are still in the Union.

But there was, as I have said, another thing that entered into the organization of a State. Over the soil and over the people was a thing known as a constitution; in one instance of Texas, in another of Louisiana, and in a third of Florida. Those constitutions contained ligaments binding them to the Union. The fourth and sixth articles of the Constitution of the United States show how States are bound to the Union and interwoven with each other. We are to surrender fugitives from justice, and public acts, records, and judicial proceedings of each State are to be accredited in all others. There are many provisions by which the States are bound together in a Union. They have direct relations to the Union through the courts, the custom-houses, the postal system, and in divers other ways.

The insurgent States were overthrown, and if they were not out of the Union, to borrow a figure from that distinguished son of Maryland, Fred Douglass, they had got the Union pretty thoroughly out of them. There were within the limits no United States courts, the judges of their courts took no oath to support the Constitution of the United States as it provides, no United States laws were in force there, and judgments in favor of our fellow-citizens were of no effect. Fugitives from our justice, after poisoning our wells and disseminating disease among us, flew among them, and our indictments against them were not recognized by any of their Governors.

There were no States then known or related to the Union, nor are there any there now. The territory is ours, and the rebellious people having been conquered by our armies are subject to our control. We are bound to guaranty them a republican form of government. There are no States there, and if we would execute the law which this House adopted to-day we must pass this bill providing for a military government over them, so that our Army may give safety to the agents designated by that bill, to those who through the long period of the war cherished a love for the Union, when they dared not avow it, and to those who, loving the Union, followed its flag and periled their lives on bloody fields in its behalf.

Sir, this was in accordance with the views of Abraham Lincoln. General Weitzel made an arrangement by which the members of the Virginia Legislature were to meet at Richmond, and got Mr. Lincoln's consent to their visiting that city. But when it came to the President's ears that they were not to go there as private citizens but as legislators he canceled his order and prohibited the assemblage. It was the view of Andrew Johnson, expressed in my hearing and in a conversation in which I participated, to General Gantt, of Arkansas. He then rejoiced that eight months must elapse before Congress was to come together, as during that time it would be his duty simply to secure peace and order through the military power to the people of that broad district then embracing Tennessee, and that during those

eight months, while they would have no civil government, they would ascertain the end and true foundation of government and come to understand the people of the North; while the people of the North would come to know them better, and we would all be better able to estimate the capacity of the negro for freedom and our duty to him.

This was immediately after Wilkes Booth had invested him with the presidential office, before he had yet entered the Presidential Mansion as an occupant, and while he was yet the guest of the gentleman from Massachusetts [Mr. Hooper] and holding executive levees in the Treasury building. Then, if his words might be believed, he had no thought save that the Government having crushed the armies of a powerful belligerent, it was his duty as its executive head and Commander-in-Chief to hold the territory until the law-making or treaty-making power could exercise its functions and determine what should be the future condition of the conquered territory.

It continued to be his view until a later day. When General Sherman made his ill-advised peace with General Johnston he renounced it. On the 22d of April, the day on which the terms of that arrangement were brought to the President, he, after consulting his Cabinet, set the agreement aside, assigning nine reasons therefor. Those reasons were utterly inconsistent with the idea that there were or could be States in that territory until the law-making power, which is Congress, should have exercised its functions. Some of those reasons are as follows:

"3. It undertook to reestablish the rebel State governments that had been overthrown at the sacrifice of many thousand loyal lives and immense treasure, and placed the arms and munitions of war in the hands of the rebels at their respective capitals, which might be used as soon as the armies of the United States were disbanded, and used to conquer and subdue the loyal States.

"4. By the restoration of rebel authority in their respective States they would be enabled to reestablish slavery."

"5. It formed no basis of true and lasting peace, but relieved the rebels from the pressure of our victories and left them in condition to renew their efforts to overthrow the United States Government and subdue the loyal States whenever their strength was recruited and any opportunity should offer.

Mr. Speaker, I might add to these the clause in the proclamation establishing the so-called civil governments in North Carolina, in which he declared that all civil government had been overthrown by the violent revolutionary force of the people. But, sir, my hour is almost spent, and I must hasten to a conclusion. And in doing so I ask gentlemen not to regard this as a measure of reconstruction, but as a measure essential to the execution of the bill we passed to-day, and of similar bills for other parts of the insurrectionary district. I appeal to them by the adoption of this bill, pure and simple as it came to us, with the sanction of the committee of fifteen, to give security to every Union man in the South or avenge his wrongs, and to allow those who now are held in constrained hostility to the Government of their fathers to avow a desire for peace at the end of a long and disastrous war. Not alone do I make this appeal; from thousands of graves come ghostly voices chiding us with having invoked men to our aid and then shamelessly and pitilessly handing them over to the unrestrained malice of revengeful enemies whom they had aided us to conquer. The widow and the orphan cry to us not to disgrace their country and the Thirty-Ninth Congress by leaving them unprotected in communities which exult in the fact that it has taken the lives of their husbands and fathers for their devotion to our country and cause.

The passage of this bill or its equivalent is required by the manhood of this Congress to save it from the hissing scorn and reproach of every southern man who has been compelled to seek a home in the by-ways of the North, from every homeless widow and orphan of a Union soldier in the South who should have been protected by the Government, and who despite widowhood or orphanage would have exulted in the power of our country had

it not been for the treachery of Andrew Johnson. In God's name, men of the Thirty-Ninth Congress, do not interweave your names ignominiously with his by betraying the Union men of the South and surrendering nearly one half of the country to rebels whose power your armies crushed.

Mr. ALLISON obtained the floor.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body had passed without amendment bills of the following titles:

An act (H. R. No. 840) for the relief of James Pollock, late receiver at Crawfordsville, Indiana; and

An act (H. R. No. 813) for the relief of Rufus C. Spalding, paymaster in the United States Navy.

The message further announced that the Senate had passed a joint resolution (S. R. No. 160) for the relief of Dempsey Reece, in which the concurrence of the House was requested.

#### RELIEF OF VOLUNTEER OFFICERS.

The SPEAKER laid before the House the following message from the Senate:

IN THE SENATE OF THE UNITED STATES,  
February 12, 1867.

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the joint resolution No. 269, for the relief of certain officers of volunteers, yesterday postponed indefinitely by the Senate and returned to the House.

The SPEAKER. If there be no objection this bill will be returned to the Senate as requested.

There was no objection.

#### GOVERNMENT OF INSURRECTIONARY STATES.

Mr. ALLISON. Mr. Speaker, I have agreed to yield twenty minutes of my time to the gentleman from Tennessee, [Mr. MAYNARD,] and will do so now.

Mr. MAYNARD addressed the House. [His remarks will be published in the Appendix.]

Mr. ALLISON. Mr. Speaker, when the question of the reorganization of these States, known as House bill No. 543, was under consideration a few days ago in this House, I voted with the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] who at the last session reported the bill from the Reconstruction Committee, in favor of seconding the previous question and against the reference of the bill to the joint committee upon that subject, for the reason that I believed it to be the duty of this Congress at the present session to present to the country some plan whereby the insurrectionary States could be restored upon the basis of loyalty to this Government. We have been told that that bill, by its reference to the committee, has been consigned to "the tomb of the Capulets." Therefore, Mr. Speaker, I rejoice that this day there is another bill affecting, temporarily at least, this question of reorganization. For one, I am in favor of this bill, either as reported by the committee or with any reasonable modification that may be made to it in this House securing the adoption of a general plan of reorganization upon the basis of loyalty and justice.

There is, in my judgment, necessity for immediate action on this general question; and I think the action of the House to-day has shown manifest progress. By our legislation to-day we have declared to the country and to the people of these ten States that the legislative body of this nation, representing its sovereignty, repudiates and ignores the action of the President of the United States in establishing governments for those ten States. We have declared by our action to-day that this Congress has supreme control over this question; and we have brushed away by a single vote the question whether or not these are States within the meaning of the Constitution and entitled to any or all of the privileges and rights of a State.

We have taken full and complete control of the State of Louisiana by the bill passed to-day, and decided that Louisiana can exercise no functions whatever except as authorized by



act of Congress. I have had no difficulty for myself upon this question of the status of the rebellious States, and have always believed that they were under the complete dominion of Congress and subject to its sovereign will and power.

Now, sir, the President of the United States has a plan of reorganization. His plan has been before the country, and has been repudiated by the people of the loyal States of this nation, as it has been indorsed by the rebels who now control these ten States. It is a plan whereby the rebels are to hold supremacy. Opposed to it is the plan of the people of this country, who desire us to declare by our action here that those governments shall be placed in the hands of loyal men. If we do not, by our action here and now, place the control of those States in the hands of loyal men we shall be derelict to our duty, and shall have forfeited the pledges which we made to our constituents during the last year, and upon which they acted at the polls, deciding by unprecedented majorities against the policy of the President and in favor of the policy that "loyal men should govern a preserved Republic."

I do not quite agree with the gentleman from Massachusetts, [Mr. BANKS,] wherein he tells us that for two years and a half we cannot restore these States upon a loyal basis against the will of the President, much less do I believe that we have within two or three days reached the happy moment when the President will place himself in accord with the views of Congress and the people upon this momentous question. I have no faith, Mr. Speaker, that the President has any intention of yielding, in fact, one iota of the plan he has marked out for the reorganization of the States in rebellion. As I said before, his plan is to place the rebels in supreme power there, and anything which will contribute to that object will meet his approval, and whatever will defeat it will not be sanctioned by him, but opposed with all the power he possesses. But let him pursue that plan as he will, if we have the wisdom and the nerve to enact laws, as we are authorized to do, placing the power and control in the hands of the loyal men, the President is powerless unless he refuses to execute these laws in good faith; and if he chooses the latter, we can then, if not before, "take into consideration the state of the country," as mildly expressed by the gentleman from Massachusetts, [Mr. BANKS.]

I know of but one way to surely and certainly place this control in the hands of loyal men, namely, to treat as utterly void the governments organized by the President in those States. I am not aware that Congress has in any manner recognized these governments. But it has acted as though they were usurping governments without authority or sanction of law. We have certainly this day, in most emphatic terms, so declared in relation to the existing pretended government of Louisiana. I so voted to-day and shall continue so to vote as often as opportunity is presented. This being done, we have only to authorize the loyal men of those States, without distinction of race or color, to organize new governments upon the basis of loyalty and justice. This should be done without limitation and without qualification. I want no property qualification, no qualification of intelligence in the enjoyment of the elective franchise. Let intelligence follow, as it surely will, the enjoyment of this great privilege of voting for those who shall govern. If we thus place the ballot in the hands of the loyal men I believe they have within themselves the power to control and direct affairs in all those States. Especially will this be so if leading and influential rebels are denied suffrage, even for a limited time. I have no fear but that now there can be found intelligence enough among the blacks to prudently and properly exercise the franchise.

I believe the hope of restoration of republican governments in those States rests in the masses of the people, the uneducated, the poor, and now powerless masses. Certainly not in

the aristocratic few, who, though vanquished by our arms, are still wedded to the idea that the strong should govern the weak at their own pleasure and will without the consent of the governed. Therefore I believe to stop short of manhood suffrage in our legislation is to trifle with the great subject, and render us ridiculous in the eyes of all those who respect popular government based on the will and judgment of the people.

Mr. Speaker, I am not aware that there is now any party in this country that arrays itself directly against this principle of manhood suffrage. The leaders of the Opposition out of this House, if not in it, recognize the justness of the principle. The leading journal of the Democratic party in the West urges its adoption as the only feasible solution of our national difficulties; and even the New York World, in a recent article, recognizes its justice and the policy of adopting it in a modified form, and in the debate to-day I heard no one of the Opposition oppose the Louisiana bill because it provides for suffrage without reference to color. If this Congress shall adopt it as an indispensable condition of restoration, I venture to predict that no party in this country would be found assailing it, unless possibly a few of our Kentucky friends on this floor might see in its adoption the overthrow of free government. But no one will be alarmed at their position, as that State is always slow to adopt views consistent with our advancing civilization. I believe this, and such other conditions as the judgment of this Congress may indicate, should at once be presented to the people of the rebel States, in order that they may know what we expect of them, and that they may no longer rest under the delusion that restoration will follow their clinging to the repudiated theories of an Executive who has abandoned the principles upon which he was elected and betrayed the party that placed him in power.

To them anything is better than unrest and uncertainty; like the criminal in the box, no moments are to them so long as those between the verdict of the jury and the sentence of the court.

Mr. Speaker, I have but one word to add in reference to the bill before the House. It is denounced as a measure of despotism, placing in the hands of the military absolute power over eight or ten million people. I admit that it is a bill strong in its provisions. I am for one as desirous of preserving the sacred rights of the citizen as any other man in this House can be. I believe the privilege of the writ of *habeas corpus* should be held sacred and inviolate as far as it can be. It has been held sacred for too many centuries to be trifled with lightly at this time. But, Mr. Speaker, we are told, and from the overwhelming evidence adduced we are compelled to believe, that in these ten insurgent States life, liberty, and property are unsafe. The civil governments organized there manifest their hostility to this Government and to loyalty as much now as during the war. It is therefore the bounden duty of the Federal Government, at all cost, to protect the life, liberty, and property of its citizens; and until we can do that by the organization of loyal civil governments we are recreant to our duty, to them, and to ourselves if we do not place over them the strong hand of military power. The concurrent testimony, so far as I have been able to read the letters and examine the reports, is that in those States neither the life, liberty, nor property of loyal men is safe. Now, if that be true, inasmuch as they have no civil governments in those States recognized by the law-making power of the nation, we have the right, and it is our duty, to place over them temporary military governments.

Gentlemen who are supporters of the President need not be so much alarmed at this military rule in the southern States. Until the 1st day of August, 1866, all of those States were virtually controlled by the military power of this Government. They do not know that

long after the surrender of the rebel army in 1865, along through the early part of 1866, even up to August, the generals of our Army were issuing orders contravening the enactments of the Legislatures of these southern States, expressly declaring by general orders that the processes and mandates of this Government should be obeyed as against the laws of those States and the judgments of their courts. General Grant himself, I believe, on the 1st of July, 1866, issued a general order to all his military commanders in those States to arrest and hold men who had been charged with crime in all cases where the civil courts either neglected or refused to punish them. General Sickles in 1866, in South Carolina, and General Terry, in Virginia, each set aside statutes of those States by general orders, which orders were indorsed at the time by the President, and that long after the pretended governments were organized by the President and in full operation.

This military law is no new thing to these rebel States. They have only been relieved from it five or six months, and these have been sad months to the Union men of that country. Who in this House, on this side or the other, believes that if military law had been in force in New Orleans on the 30th of July, 1866, they would have had that scene of wholesale murder that transpired on that day? Who believes that had it not been for the telegraphic dispatch sent by Andrew Johnson to Lieutenant Governor Voorhees on the 28th of July, those murders would have been committed by rebel officers? By that dispatch he declared that the military power of the Government should be used for the purpose of enforcing the decrees and mandates of the rebel civil authorities in that city, and with that encouragement those murders were committed.

Now, I desire to say that it is because of the interference of the President of the United States with the military law which exists in those States that this bill is rendered necessary. In my judgment if we had to-day an Executive who was desirous of enforcing the laws of the United States to protect loyal men in those States, instead of defending the rebel element, this bill would not be needed. Those people are yet in a state of quasi rebellion at least. It is true, they have laid down their arms; but they have no civil government that is worthy of recognition anywhere as such. As was said by the gentleman from Pennsylvania, [Mr. KELLEY,] the President of the United States himself has declared that those governments are of no binding force upon the people of the country until they are recognized by the law-making power of the country, the Congress of the United States. Such assent has not yet been given, and I trust it will never be given, to a single one of these governments organized in the interest of the rebellion.

Now, Mr. Speaker, believing as I do that this measure is essential to the preservation of the Union men of these States, and believing that their lives, property, and liberties cannot be secured except through a military law, I am for this bill. But I say now frankly to the distinguished gentleman from Pennsylvania, who has charge of it, that I hope something may be devised and added to it whereby the loyal people in the southern States may divest themselves of this military law by organizing civil governments that shall be republican in form and in fact, and that shall recognize the manhood of all men in these States. Let there be such an enabling act as will secure to loyalty and loyal men the control and direction of affairs, and then relieve them from the temporary power of the military authority of this Government, as provided in the bill.

Mr. Speaker, we have but a few days more in which to pass this bill or any measure affecting this subject and have it become a law over the apprehended veto of the President. Hence, I regret that I have occupied even so much of the time of the House as I have upon this subject.

It is important, in my judgment, that this

should pass, because if it does not I do not see how it is possible for us consistently to pass any measure before the beginning of the second session of the ensuing Congress, which will be in December next. We ought not to legislate upon a matter of such vital importance to the country with any of the loyal States unrepresented on this floor. Therefore, it is of the utmost importance that we should now have such legislation as will protect these people, not only temporarily, but such as will give them at least an opportunity of returning again to the Union with all the rights of representation in both Houses. Let us discharge our duty here fearlessly and firmly, and leave the consequences, whatever they may be, to those who would embarrass restoration upon the principles of liberty and justice, in order that rebels may yet for a time hold sway over conquered States. I now yield a few minutes of my time to the gentleman from Maine, [Mr. BLAINE.]

Mr. BLAINE. My purpose in taking the floor at this time is to say very briefly that whether amended or not I shall vote for this bill; but at the same time to express the earnest hope that it may be amended in one important feature. I hold in my hand a provision which I trust may be incorporated in it, and I appeal to my distinguished and venerable friend from Pennsylvania [Mr. STEVENS] to allow us at least the privilege of a vote upon it. I propose it as an additional section to the pending bill, and I ask the attention of the House while I read it, as follows:

SEC. — And be it further enacted, That when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the United States by the ratification of three fourths of the States now represented in Congress, and when any one of the late so-called confederate States shall have given its assent to the same and conformed its constitution and laws thereto in all respects; and when it shall have provided by its constitution that the elective franchise shall be enjoyed equally and impartially by all male citizens of the United States, twenty-one years old and upward, without regard to race, color, or previous condition of servitude, except such as may be disfranchised for participating in the late rebellion; and when said constitution shall have been submitted to the voters of said State, as thus defined, for ratification or rejection; and when the constitution, if ratified by the popular vote, shall have been submitted to Congress for examination and approval, said State shall, if its constitution be approved by Congress, be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this bill shall be inoperative in said State.

Now, I ask what more does the bill passed to-day in regard to the civil government of Louisiana demand of that State than this demand of all the States? That applies to only one State; you have said nothing of the kind to the other nine; you propose no civil government for them. You do not know what may be the fate of that bill. If you incorporate this amendment in this bill and send it to the Senate, whichever bill the Senate may adopt we shall have achieved something as a basis of reconstruction, and we bring Congress up to the declaration of making equal suffrage a condition precedent to admission. We have never done that yet, and for lack of that declaration we are weak before the country to-day.

It happened, Mr. Speaker, possibly by mere accident, that I was the first member of this House who spoke in Committee of the Whole on the President's message at the opening of this session. I then stated that I believed the true interpretation of the elections of 1866 was that, in addition to the proposed constitutional amendment, universal, or at least impartial suffrage should be the basis of restoration. Why not declare it so? Why not, when you send out this military police authority to the lately rebellious States, send with it that impressive declaration? This amendment does not in the least conflict with the bill for the civil government of Louisiana which we passed to-day. It need not conflict with any enabling act you may pass in regard to the other nine States. If you choose you may follow up this action at the opening of the Fortieth Congress

by passing enabling acts for the other nine States. A declaration of this kind attached to this bill will, it seems to me, have great weight and peculiar significance. It announces to these States what it is important for them to know, and what alone the Congress of the United States can authoritatively declare.

In the first place, it specifically declares the doctrine that three fourths of the States now represented in Congress have the power to adopt the constitutional amendment, and it does not even by implication give them to understand that their assent or ratification is necessary to its becoming a part of the Constitution. It implies that their assent to it is a qualification for themselves; merely an evidence both moral and legal of good faith and loyalty on their part. We specially provide against their drawing the slightest inference in favor of their being a party in any degree essential to the valid ratification of that amendment.

Mr. RAYMOND. Will it interrupt you if I ask you a question?

Mr. BLAINE. Not at all.

Mr. RAYMOND. With the gentleman's consent I would like to ask him a question, mainly for the sake of information to myself, and possibly to the House. He stated that at the outset of this session, during the debate on the President's message, he made a speech in which he took the ground that the real interpretation of the verdict of the last fall elections was, that in addition to the constitutional amendment, impartial suffrage would also be required as a condition for admitting the southern States.

I desire to know from him, if he will be good enough to explain, on what ground he makes this declaration? So far as I observed the elections of last fall they turned clearly and distinctly upon the constitutional amendment. I should be glad to know from him whether in the State conventions or in any authorized declarations of the Union party in the States he has good warrant for saying that the voice of that party declared that in addition to the constitutional amendment there should be the further requisition of suffrage as a condition of admission on the part of the southern States?

Mr. HIGBY. I desire to suggest whether the taking of the constitutional amendment as the platform was not confined to the State of New York?

Mr. BLAINE. Mr. Speaker, I will say that, with the exception of the State of New York, I do not now recall a single State convention or a single congressional convention within any loyal State that made the declaration that on the adoption of the constitutional amendment the southern States should be admitted to representation here. On the contrary, I recall numerous declarations in State and district and county conventions—through all the organized exponents that give voice to the policy of a party—that the adoption of the constitutional amendment should not be the sole condition of readmission.

Now, sir, I ask the gentleman from New York a question in turn. When these numerous conventions, the exponents of party policy, negated the presumption that the constitutional amendment was to be the basis of readmission, what did they imply should be the additional requirement? What was that additional requirement if it was not suffrage? The idea that the adoption of the constitutional amendment was to be alone sufficient was distinctly negated. Now, I repeat my inquiry, and I ask the gentleman from New York to tell me and to tell the House what was fairly implied by that negative?

Mr. RAYMOND. Mr. Speaker, I understand that at the last session of Congress we adopted the constitutional amendment as the basis of reconstruction. We certainly adopted no other. That was the basis, the only basis, which this Congress put forth to the country. Now, although in the fall elections each State and each district and each county did not specifically say in so many words that this should

be the only requirement made as the basis of restoration, yet, in the absence of any other provision, I submit to the gentleman from Maine that it is fair to assume that the country accepted the provision which Congress had presented as that upon which they intended to restore the Union, especially as the issue was made distinctly between the policy of the President and the policy of Congress.

Mr. BLAINE. I want to say to the gentleman from New York that he ignores one very important fact of the last session. The Reconstruction Committee, so far as their action could go, attempted to make a basis such as he speaks of. They reported the bill distinctly, declaring that on the adoption of the constitutional amendment by any of the rebellious States, such State should be readmitted. But that bill did not rise to the dignity of being rejected in Congress. It never received a hearing. It was absolutely kicked under the table in both branches. It was so far scouted that it never had a third reading at the Clerk's desk. And when Tennessee was admitted there was no possible implication in the act or joint resolution admitting her that the adoption of the constitutional amendment was the sole basis on which she was admitted. In proof of this I beg to read the preamble to the Tennessee resolution. It is as follows:

"Whereas in the year 1861 the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State, in pursuance of an act of Congress, were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States; and whereas the people of said State did, on the 22d day of February, 1865, by a large popular vote, adopt and ratify a constitution of government whereby slavery was abolished and all ordinances and laws of secession and debts contracted under the same were declared void; and whereas a State government has been organized under said constitution which has ratified the amendment to the Constitution of the United States abolishing slavery, also the amendment proposed by the Thirty-Ninth Congress, and has done other acts proclaiming and denoting loyalty," &c.

Now, I submit, Mr. Speaker, that this recital distinctly shows that the constitutional amendment was very far from being the sole basis on which Tennessee was admitted to representation here. It was the last, if not the least, of the many reasons that made Tennessee exceptional and peculiar and secured her recognition here in advance of her sisters in rebellion.

[Here the hammer fell.]

Mr. RAYMOND. I ask the gentleman to allow me one minute of reply.

Mr. ALLISON. I hope by unanimous consent the gentleman from Maine will have a few minutes more.

The SPEAKER. How much time does the gentleman from Maine want?

Mr. BLAINE. Fifteen minutes, and I will share it with the gentleman from New York.

There was no objection, and it was ordered accordingly.

Mr. BLAINE. I desire, Mr. Speaker, even if it subject me to the charge of repetition, to say that the action of the Thirty-Ninth Congress at its first session, so far as it indicated any policy, did refuse to make the constitutional amendment the sole requirement of restoration to the rebel States. The resolution readmitting Tennessee, almost the closing act of the first session, especially and significantly ignored it. Political conventions in the ensuing campaign equally ignored it as a final basis, and throughout the whole loyal North I do not recall more than one State that took a contrary position. If I mistake not, the gentleman's own State was the only one that did put that as the distinct issue in the platform of the Union party, and I believe the author of that platform found his political death during the present session of the New York Legislature in his contest for the United States Senatorship principally by reason of holding that position. Am I right?

Mr. RAYMOND. Does the gentleman yield to me?

Mr. BLAINE. Yes, sir.

Mr. RAYMOND. I think my friend from Maine deals somewhat in rhetorical statements when he says the proposition submitted at the last session of Congress to move a constitutional amendment as the basis of reconstruction was "kicked under the table" and treated with scorn and contempt. I can understand other reasons why it was not adopted without resorting to a supposition so extremely disrespectful to the Reconstruction Committee of Congress.

Mr. BLAINE. They helped to "kick it under the table." [Laughter.]

Mr. RAYMOND. Then, sir, if they did that after reporting it themselves, after spending six months of time upon it, after submitting it to Congress, if they, in general terms, "helped to kick it," they are guilty of more disrespect and faithlessness than I ever ventured to charge them with, and that is saying a good deal. [Laughter.]

I will say, Mr. Speaker, there is a sort of fair dealing in this matter, aside from technical objections, from legal quibbles, from mere words and phrases, upon which we base such an inference. We are acting here as the Congress of the United States. We lay down the basis of reconstruction for restoring this Union. The last Congress did that. The Reconstruction Committee, appointed at the last session by joint action of the two Houses of Congress, laid down a basis of reconstruction. Well, sir, we adopted that constitutional amendment, and held it forth to the country as the basis of restoring the Union; and it was fairly presumed that if it should be accepted by the southern States it should be conclusive. Objections having arisen to its adoption in terms, men holding exactly opposite views joining in opposition to it, it was laid aside; but not twenty men in this House voted against it on the ground that it did not provide for universal suffrage in addition to the constitutional amendment.

Now, I again ask the gentleman from Maine to point me to a single State that added suffrage distinctly as an additional requirement for the restoration of the southern States.

Mr. BLAINE. I ask the gentleman this question—

Mr. RAYMOND. Let me first finish what I have to say on this point.

I say that the joint Committee on Reconstruction submitted to Congress and to the country the constitutional amendment, which was acquiesced in by the country with the understanding that it was to be regarded as the basis of reconstruction. It is possible they have concluded to lay that aside, for I admit that the changes of public opinion in this House are about as frequent as the changes of the moon.

Mr. BLAINE. Do I understand the gentleman from New York [Mr. RAYMOND] to maintain that the Thirty-Ninth Congress adjourned at the close of the first session submitting to the people of the United States the constitutional amendment as, in the opinion of that Congress, the basis on which the disloyal States should be received to representation here?

Mr. RAYMOND. The gentleman uses epithets; he speaks of "the disloyal States."

Mr. BLAINE. Well, I will say the late insurrectionary States. The gentleman knows what I mean.

Mr. RAYMOND. I say that the Thirty-Ninth Congress adjourned last session, having proposed an amendment to the Constitution; and that they appealed to the people of the United States at the polls with the constitutional amendment as the only basis for reconstruction; that reconstruction must be on that basis, if on any. The Congress had made no other provision; they had laid down no other basis; they had specified no other programme. Now, what I wish to know is, can the gentleman from Maine [Mr. BLAINE] name to me some one State, or some two States, or any number of States, which added to that basis suffrage or any other distinct and specific

terms such as would require any additional measures?

Mr. BLAINE. I again call the attention of the gentleman from New York [Mr. RAYMOND] to the preamble of the joint resolution for the readmission of Tennessee, which has already been read. The passage of that joint resolution was, I repeat, about the last act in reference to reconstruction which the Thirty-Ninth Congress performed at its last session.

Mr. RAYMOND. Exactly; that is what I have said: "ratified the amendment proposed by the Thirty-Ninth Congress."

Mr. BLAINE. But that is not all; the preamble further says, "and has done other acts proclaiming and denoting loyalty." Now, the very last of these "acts proclaiming and denoting loyalty" was the one ratifying the amendment proposed by the Thirty-Ninth Congress.

Mr. RAYMOND. That was the last thing required of them by Congress; and there was no requirement of suffrage embraced.

Mr. BLAINE. Oh, no.

Mr. McKEE. Will the gentleman from Maine [Mr. BLAINE] allow me to ask him a question?

Mr. BLAINE. Certainly.

Mr. McKEE. I desire to ask him this question: If the State of Tennessee had refused to adopt or ratify that constitutional amendment, would he have voted for her admission, even though she had done all the other acts recited in the preamble which he has read?

Mr. BLAINE. Before I answer that question I desire to say to the gentleman from New York [Mr. RAYMOND] that he can show only one State, his own, that ever accepted the constitutional amendment proposed by Congress as the only basis to be required for reconstruction. And I submit that however great New York is, however overshadowing are her numbers, she cannot in that respect give law to the great Union party of the loyal States.

Mr. RAYMOND. Is it not true, and does the gentleman not know it to be true, that we admitted Tennessee into this Congress upon a telegraphic announcement that she had adopted the constitutional amendment?

Mr. BLAINE. That Tennessee had done that among other acts. And now I will say, and that will answer the question of the gentleman from Kentucky, [Mr. McKEE,] that if Tennessee had not adopted that constitutional amendment she could not have been admitted. But the gentleman takes the negative for the affirmative. That of itself would not have been sufficient; without it she could not have been admitted; nor could she have been admitted with that ratification unless she had accomplished certain other acts.

Mr. RAYMOND. That ratification was what we waited for.

Mr. BLAINE. Because it was the last in the order of the acts which distinguished Tennessee from the other ten States. That, with other things, is what the other ten States lack, and that is the reason why they are to-day not represented here.

Mr. ALLISON. I desire to yield the remainder of my hour to the gentleman from Ohio, [Mr. GARFIELD.] But before doing so I wish to inform the gentleman from New York [Mr. RAYMOND] that the Republican party of the State of Iowa, in its platform during the last canvass, distinctly enunciated as one of its planks a proposition in favor of universal suffrage.

I now yield the remainder of my time to the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. I would not ask the further attention of the House upon this subject were it not that I find myself very seriously misrepresented here and elsewhere in reference to the remarks I made on this bill on Friday last.

I would not have the worst rebel in the world suppose me capable of anything like malignity toward even him. I therefore take this occasion to contradict the representation made to-day by the gentleman from Kentucky, [Mr. HARDING,] as I am informed for I did not hear

him myself, that I had declared that though I had hitherto been in favor of magnanimity toward the people of the South, I was now in favor of enforcing a blood-thirsty policy against them. I have never uttered such a sentiment. All that I did say was said directly and explicitly upon the single question of the constitutional amendment as a basis of restoration.

I did say the other day, and I say now, that if the amendment proposed at the last session of Congress had been ratified by all the States lately in rebellion in the same way that Tennessee ratified it, and if those States had done all the other things that Tennessee did, I should have felt myself morally bound, though it fell very far short of full justice and of my own views of good statesmanship, and I believe the Thirty-Ninth Congress would have been morally bound to have admitted every one of the rebel States on the same terms.

Many members know that I have been opposed to taking further decisive action until every rebel State had had full opportunity to act upon the amendment. Now that they have all rejected it, and considering their action as final, I say, as I said on Friday last, that that offer as a basis of reconstruction is forever closed so far as my vote is concerned. The time has come when we must protect the loyal men of the South; the time has come when fruitless magnanimity to rebels is cruelty to our friends. No other victorious nation has ever so neglected its supporters. For a quarter of a century the British Government gave special protection to the Tories of the American Revolution, paying them \$15,000,000 out of the royal treasury. What loyal man of any State, except Tennessee, has been honored or defended by the Federal Government? It is a notorious fact that it is both honorable and safe in the South to have been a rebel, while it is both dangerous and disgraceful for a Southerner to have been loyal to the Union. They are every day perishing as unavenged victims of rebel malignity.

I desire to say, also, that I am in favor of placing these States under military jurisdiction only as a temporary measure of protection until republican governments can be organized based upon the will of all the loyal people, without regard to race or color.

Now, Mr. Speaker, since the gentleman from Kentucky [Mr. HARDING] volunteered to read me a lecture on blood-thirstiness and reminded me of the sinfulness of human nature as represented in myself, I will volunteer a few suggestions and reflections to him and the party with which he acts.

I remind the gentleman that his party and the President who leads it have had it in their power any day during the last twenty-two months to close the bleeding wounds of this grievous war and restore the States lately in rebellion to their proper places in the Union. I tell that gentleman that if, on any one day during the war he and his party had risen up and said honestly and unanimously, "We join the loyal men of the nation to put down the rebellion," the war would not have lasted a twelvemonth. The Army never feared the enemy in its front; it was the enemy in our rear, with their ballots and plots against the Union and their sympathy with the rebellion, which continued the war and wasted and desolated the land with blood and fire. That party is responsible for more of the carnage of the war than anybody this side of the rebels.

But, sir, the gentleman and his party have made a record since the war ended.

If the Democratic party, with the President at its head, had, on any day since July last, advised the people of the South to accept the constitutional amendment and come in as Tennessee did, it would have been done. I have information from a source entirely reliable that but little more than one month ago Alabama was on the eve of accepting the proposed amendment to the Constitution when a telegram from Washington dissuaded her from doing so and led her to rush upon her own ruin by rejecting it.



Of all men on earth the gentleman and his party have the least right to preach the doctrines of mercy to this side of the House. That mercy which smiles only on murder, treason, and rebellion, and has only frowns for loyalty and patriotism, becomes the gentleman and his party. I cannot agree with all that has just been said by my friend here, that our own party in Congress have been so very virtuous and true to liberty. I cannot forget that we have learned very slowly; I cannot forget that less than four years ago on this floor the proposition to allow negroes any share in putting down the rebellion was received with alarm even on this side of this House.

I cannot forget that less than five years ago I received an order from my superior officer in the Army commanding me to search my camp for a fugitive slave and if found to deliver him up to a Kentucky captain, who claimed him as his property, and I had the honor to be perhaps the first officer in the Army who peremptorily refused to obey such an order. We were then trying to save the Union without hurting slavery. I remember, sir, that when we undertook to agitate in the Army the question of putting arms into the hands of the slaves, it was said, "Such a step will be fatal, it will alienate half our Army and lose us Kentucky." By and by, when our necessities were imperative, we ventured to let the negroes dig in the trenches, but it would not do to put muskets in their hands. We ventured to let the negro drive a mule team, but it would not do to have a white man or a mulatto just in front of him or behind him; all must be negroes in that train; you must not disgrace a white soldier by putting him in such company. "By and by" some one said, "the rebel guerrillas may capture the mules; so for the sake of the mules let us put a few muskets in the wagons and let the negroes shoot the guerrillas if they come." So for the sake of the mules we enlarge the limits of liberty a little. [Laughter.] By and by we allowed the negroes to build fortifications and armed them to save the earthworks they had made—not to do justice to the negro, but to protect the earth he had thrown up. By and by we said in this Hall that we would arm the negroes, but they must not be called soldiers nor wear the national uniform, for that would degrade white soldiers. By and by we said, "Let them wear the uniform, but they must not receive the pay of soldiers." For six months we did not pay them enough to feed and clothe them; and their shattered regiments came home from South Carolina in debt to the Government for the clothes they wore. It took us two years to reach a point where we were willing to do the most meager justice to the black man and to recognize the truth that—

"A man's a man for a' that."

It will not do for our friends on this side to boast even of the early virtues of the Thirty-Ninth Congress. I remember very well, Mr. Speaker, during the last session I, with forty others, tried to bring the issue of manhood suffrage before Congress. Our friends said, "You are impracticable; you will be beaten at the polls if you go before the people on that issue." "Make haste slowly." Let us not be too proud of what we did at the last session. For my part I am heartily ashamed of it, though I am glad that I with a few others gave my testimony against our shortcomings and the small measure of justice we meted out to our best friends in the South.

But, sir, the hand of God has been visible in this work, leading us by degrees out of the blindness of our prejudices to see that the fortunes of the Republic and the safety of the party of liberty are inseparably bound up with the rights of the black man. At last our party must see that if it would preserve its political life, or if we would maintain the safety of the Republic, we must do justice to the humblest man in the nation, whether black or white. I thank God that to-day we have struck the rock; we have planted our feet upon the truth. Streams of light will gleam out from the luminous truth embodied in the legislation of this

day. This is the *ne plus ultra* of reconstruction, and I hope we shall have the courage to go before our people everywhere with "This or nothing" for our motto.

Now, sir, as a temporary measure, I give my support to this military bill properly restricted. It is severe. It was written with a steel pen made out of a bayonet, I believe, and bayonets have done us good service hitherto. All I ask is, that Congress shall place civil Governments before these people of the rebel States, and a cordon of bayonets behind them.

[Here the hammer fell.]

Mr. NOELL addressed the House. [His remarks will be published in the Appendix.]

At the conclusion of the remarks of Mr. NOELL, Mr. VAN HORN, of New York, obtained the floor, but yielded to

Mr. PRICE, who moved that the House adjourn.

The motion was agreed to; and accordingly (at ten o'clock and forty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By the SPEAKER: The petition of John A. Ragan, of Raymond, Mississippi, on the subject of the Mississippi levees.

By Mr. ANCONA: The memorial of Jefferson Good, late a lieutenant in company H, eighty-eighth Pennsylvania volunteers, praying for such legislation as will authorize the payment to him of the amount of veteran bounty that would have been due him if he had not been promoted from the ranks.

By Mr. BROMWELL: The remonstrance of the citizens of Decatur, Illinois, against any legislation depreciating or unsettling the national currency.

By Mr. BUCKLAND: The remonstrance of L. S. Hubbard, and 60 others, business men of Sandusky city, Ohio, against the passage of the bills of Mr. HOOPER and Mr. RANDALL, on banking and currency.

By Mr. COOK: The memorial of Donat Hollicker.

By Mr. DODGE: The remonstrance of the Chamber of Commerce of the State of New York, against any increase of tariff on imports.

By Mr. DRIGGS: The petition of Henry Davis, and others, citizens of Ontonagon county, Michigan, asking for an appropriation for the improvement of the mouth of the Ontonagon river.

By Mr. EGGLESTON: The petition of David Dunseth, and others, belonging to the crew of the steamboat Champion No. 5, for services during the time they were prisoners.

By Mr. FARNSWORTH: The petition of citizens of Polo, Ogle county, Illinois, in favor of the repeal of the five per cent. tax on manufactures.

Also, the petition of citizens of De Kalb, Illinois, for the same.

By Mr. HOOPER, of Utah: The memorial of the Governor and Legislature of Utah Territory, praying for an appropriation to repair penitentiary.

By Mr. MORRIS: The petition of H. Stone, Esq., and many others, of Ontario county, New York, asking Congress to pass a law substantially adopting the tariff on mail as provided last session in House bill No. 718.

By Mr. MYERS: The memorial of Joseph Nock, the patentee of Nock's round hinge inkstand, asking Congress to restore the sixth section of the patent law of August 19, 1842, or enact other provisions affixing penalties for failure to stamp or engrave the date of the patent on all patented articles.

By Mr. PRICE: The petition of citizens of Linn county, Iowa, asking that no law be passed by Congress compelling a retirement of the national currency, or compelling redemption in New York.

#### IN SENATE.

TUESDAY, February 12, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.

On motion of Mr. LANE, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. NORTON presented a petition of citizens of Minnesota, praying for the establishment of a mail route from St. Charles to Plainview, in that State, via Quincy and Little Valley; which was referred to the Committee on Post Offices and Post Roads.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, in favor of an appropriation for the completion of the straight cut to the entrance of Fox river; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. YATES presented a petition of citizens of Wabash county, Illinois, praying that the charge of desertion against certain late mem-

bers of the forty-eighth regiment of Illinois volunteers may be erased from the rolls, and that they may be allowed to receive the pay and bounty which would be due them if no such charge had been made; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of citizens of Jacksonville, Illinois, remonstrating against the passage of an act calculated to depreciate or unsettle the established national currency; which was referred to the Committee on Finance.

Mr. POMEROY presented the petition of Black Beaver, a Delaware Indian, praying compensation for the loss of property occasioned by the evacuation of Fort Cobb by the United States military forces in April, 1861, he having been forced by the commanding officer to leave his property to guide the command to Fort Leavenworth; which was referred to the Committee on Claims.

Mr. MORGAN presented resolutions of the Legislature of New York, in favor of the passage of an act granting aid to the Northern Pacific railroad; which were referred to the Committee on the Pacific Railroad, and ordered to be printed.

He also presented resolutions of the Tobacco Board of Trade, of New York, in favor of such an amendment of the internal revenue act as will exempt tobacco, snuff, cigars, and petroleum from the operations of the eighty-eighth and ninety-first sections of that act; which were referred to the Committee on Finance.

Mr. KIRKWOOD presented the petition of W. A. Griffin, late superintendent of the national cemetery at Andersonville, Georgia, praying compensation for expenses incurred and losses sustained while in charge of that cemetery; which was referred to the Committee on Claims.

He also presented a petition of citizens of Fremont county, Iowa, praying the passage of the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes; which was ordered to lie on the table.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, in favor of a grant of land to aid in the construction of the Green Bay and Lake Pepin railway; which was referred to the Committee on Public Lands, and ordered to be printed.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom the subject was referred, reported a bill (S. No. 592) to provide for a temporary increase of the pay of officers in the Army of the United States, and for other purposes; which was read and passed to a second reading.

He also, from the same committee, to whom was recommended the bill (H. R. No. 848) to amend an act entitled "An act to incorporate the National Soldiers' and Sailors' Orphans' Home," approved July 25, 1866, reported it with an amendment.

Mr. LANE, from the Committee on Pensions, to whom was referred the bill (S. No. 535) for the benefit of Mrs. Jerusha Page, reported it without amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 558) for the relief of Mary A. Smith, of Johnson county, Tennessee, widow of Alexander D. Smith, deceased, reported it with an amendment.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the memorial of officers of the Southern Minnesota Railroad Company, reported a bill (S. No. 593) to authorize the Southern Minnesota Railroad Company to construct a bridge across the Mississippi river, between La Crosse, in the State of Wisconsin, and the opposite bank of said river, in the State of Minnesota, and to establish said bridge as a post route; which was read and passed to a second reading.

Mr. SHERMAN, from the Committee on Finance, to whom the subject was referred,

reported a bill (S. No. 594) to provide for the payment of compound-interest notes; which was read and passed to a second reading.

Mr. HARRIS, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 578) to extend the provisions of an act entitled, "An act for the final adjustment of private land claims in the States of Florida, Louisiana, and Missouri, and for other purposes," reported it without amendment.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 746) for the organization of land districts in the Territories of Arizona, Idaho, Utah, and Montana, reported it with an amendment.

Mr. MORGAN, from the Committee on Commerce, to whom was referred the bill (S. No. 467) to amend the act entitled "An act further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes," approved July 26, 1866, reported it without amendment, and submitted a report; which was ordered to be printed.

Mr. FESSENDEN, from the Committee on Finance, to whom were referred the following bills, reported them severally with amendments:

A bill (H. R. No. 904) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1868, and for other purposes; and

A bill (H. R. No. 912) making appropriations for the support of the Military Academy for the fiscal year ending 30th June, 1868.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Annie E. Dixon, widow of Henry T. Dixon, late a major of volunteers, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 246) for the relief of Townsend Harris, have had it under consideration, and directed me to report it back with a recommendation that it be indefinitely postponed. In making this report I desire to say emphatically that the committee were strongly impressed by the value of the services rendered to the country by this gentleman, who was consul general of the United States at Japan, in negotiating the treaty with that Government, but they find no sanction in the law or in any established precedent of the Government for allowing the additional compensation which he claims on account of that service. They, therefore, with very great respect for Mr. Harris, and with a sense of his eminent services, have come to the conclusion that they cannot recommend the passage of this joint resolution. I am directed, therefore, to report it back, and to move that it be indefinitely postponed.

The motion was agreed to.

JAMES KEENAN.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 247) for the relief of James Keenan, have had the same under consideration and have directed me to report it back with a recommendation that it pass. As this is a very short resolution, and as it has been passed by the other House, I ask that the Senate proceed with it now. It will take but one minute.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury, in the settlement of the accounts of James Keenan, late consul at Hong Kong, China, to pay to his legal representatives the amount of exchange to which he would have been entitled for loss if he had drawn the several balances due him on the adjustment of his accounts.

The joint resolution was reported to the Sen-

ate, ordered to a third reading, read the third time, and passed.

PAUL S. FORBES.

Mr. RAMSEY. The Committee on Naval Affairs, to whom was referred the amendment of the House of Representatives to the joint resolution of the Senate (S. R. No. 99) for the relief of Paul S. Forbes, under his contract with the Navy Department for the building and furnishing of the sloop-of-war Idaho, have directed me to report it back with a few slight amendments to the House amendment. I think this matter ought to be disposed of, and I therefore ask the Senate to proceed to its consideration at once.

By unanimous consent, the Senate proceeded to consider the House amendment. The first amendment of the Committee on Naval Affairs was in line six of the House amendment, to strike out "upon payment" and insert "at a price."

The amendment to the amendment was agreed to.

The next amendment was after the word "dollars" in line six, to add, "already paid said Forbes, and which shall be in full discharge of his contract with the Navy Department on account of said steamship."

The amendment to the amendment was agreed to.

The House amendment, as amended, was concurred in.

#### MAIL SERVICE TO CHINA.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution for the printing of extra copies of the report accompanying Senate joint resolution No. 98, have instructed me to report it back with an amendment; and I ask for its present consideration.

The Senate proceeded to consider the resolution.

The amendment of the Committee on Printing was to strike out "one thousand" and insert "five hundred;" and the resolution, as amended, was agreed to, as follows:

*Resolved*, That five hundred extra copies of the report No. 116 of the Senate, to accompany joint resolution (S. R. No. 98) to amend an act entitled "An act to authorize the establishment of ocean mail steamship service between the United States and China," approved February 17, 1865, be printed for the use of the Senate.

#### NOTICE OF A BILL.

Mr. CHANDLER. I desire to give notice that I shall to-morrow or some subsequent day ask leave to introduce a bill repealing all existing tariff laws, and imposing an equal duty of fifty per cent. upon all articles imported into the United States from and after the passage of the act.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 170) to facilitate the settlement of claims for quartermasters' stores and subsistence supplies furnished by loyal persons to the Army of the United States in the late rebellion; which was read twice by its title, and ordered to lie on the table.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 595) to regulate the disposition of an irregular fund in the custody of the Freedmen's Bureau; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 596) granting lands to the States of Wisconsin and Michigan to aid in the construction of the Wisconsin and Lake Superior railroad and its branches; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 171) for the relief of Martha McCook; which was read twice by its title, and referred to the Committee on Pensions.

#### PATENT BUSINESS.

Mr. WILLEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That on Friday next, at seven o'clock p. m., the Senate will proceed to the consideration of business relating exclusively to patents and the Patent Office.

#### PRESIDENTIAL OFFICE.

Mr. TRUMBULL, while reports of committees were being called for, submitted a motion that the Senate proceed to the consideration of House joint resolution No. 235.

Mr. HARRIS. I ask for the consideration of the resolution in regard to the compensation of the Senators from Tennessee.

Mr. SUMNER. There is on the table a resolution that I offered yesterday, of instruction to the Judiciary Committee, that was objected to. I should like to have it acted upon now.

Mr. POLAND. I desire to offer a resolution.

The PRESIDENT *pro tempore*. The Chair will receive the resolution of the Senator from Vermont.

Mr. POLAND. I offer the following resolution:

*Resolved*, That the Committee on the Judiciary be directed to inquire into the expediency of amending the Constitution of the United States so as, first, to restrict the office of the President to a single term, and for extending that term to a period of six years; second, to abolish the office of Vice President; third, to provide for the election of Presidents directly by the people, without the intervention of Electoral Colleges; and to report the proper articles of amendment to be proposed to the several States.

I will not ask that this resolution be considered now. I introduce it because the subject is before the Senate, and I desire that this view of the question may be submitted so that the subject may be considered in every aspect.

The PRESIDENT *pro tempore*. The resolution will lie over under the rule.

#### ORDER OF BUSINESS.

Mr. POLAND. Now, if I am in order, I ask the Senate to proceed with the consideration of the bankrupt bill.

Mr. SUMNER. I wish that the Senate would take up and pass the resolution of inquiry which I introduced yesterday. I wish to get that subject before the Judiciary Committee.

The PRESIDENT *pro tempore*. The Chair will state that there are now four different motions to proceed in the consideration of business upon the table. The Senator from Illinois [Mr. TRUMBULL] is recognized by the Chair as having made the first motion.

Mr. TRUMBULL. I trust the Senate will proceed to the consideration of the joint resolution which I have indicated.

Mr. HARRIS. I desire to inquire of the Chair whether the resolution which I ask to have considered does not properly belong to the order of resolutions, and whether it is not a privileged question? It is a resolution reported by the Committee on the Judiciary for the compensation of the Senators from Tennessee.

The PRESIDENT *pro tempore*. The Chair thinks there is no special privilege in regard to a resolution of that description, and no special privilege in a motion to take up a resolution upon the table over a motion to take up a bill or a joint resolution. The Chair thinks the practice of the Senate has been to recognize any Senator who, after the morning business is completed, makes a motion to take up either a bill, a joint resolution, or a resolution, without regard to one having priority over the other.

Mr. HARRIS. I am not at all familiar with the rules of the Senate, but I was advised by those who are familiar with them that this was a question belonging to the order of resolutions, and therefore had priority at this time.

Mr. TRUMBULL. I trust we can take up both questions this morning. If the Senator from New York will allow the resolution which I have moved to take up to come up, I think

we can dispose of it in a short time. My motion is that the Senate proceed to the consideration of the joint resolution (H. R. No. 235) to amend an act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March 3, 1863.

Mr. POLAND. I trust that joint resolution will not be taken up. I am perfectly aware, having been one of the committee that reported it, that it is a subject which will lead to a discussion, and take a considerable time. I desire to bring the bankrupt bill before the Senate this morning and have a vote upon it, that we shall determine it finally one way or the other. It seems to me that that bill, having been considered so much, and having been once put upon its final passage, I am entitled to have it taken up and disposed of before new bills are brought before the Senate which have not been considered at all. I trust the Senate will not vote to take up the joint resolution which the Senator from Illinois proposes to take up, and that they will come to a vote upon the bankrupt bill, which I think can be determined in five minutes.

Mr. TRUMBULL. I trust the Senator from Vermont will not interpose and antagonize the bankrupt bill against this joint resolution from the House of Representatives. This joint resolution repeals or suspends a section of a statute passed some years ago which authorizes the appointment of commissioners to assess the amount which should be paid to the owners of slaves on account of their slaves having entered the military service of the United States. I think that section ought to be repealed. The House passed some time ago this resolution repealing it; but I understand that commissioners are engaged in assessing damages under the former statute, while there is no provision for paying them. In this way expense is accumulating; a pretense of a claim, at any rate, is being made against the Government. I hope the joint resolution will be taken up and acted upon.

Mr. WILSON. I agree with the Senator from Vermont that we had better not in this morning hour take up the joint resolution referred to by the Senator from Illinois. It will take some time to dispose of it, and I deem it very important that we should this morning take up the bankrupt bill upon which we can very soon come to a vote. I am sure of one thing, that the measure which the Senator from Illinois moves to take up will lead to a debate that will consume the entire morning, and perhaps not be settled then.

Mr. TRUMBULL. Do you not think we ought to settle it at once?

Mr. WILSON. I think it ought to be settled very soon, in a day or two.

Mr. TRUMBULL. We may as well take it up. It will take no more time this morning than any other morning, unless the Senator from Massachusetts means that it shall not come up at all.

Mr. WILSON. I will do nothing to interpose in its way; but there was an understanding last night that the bankrupt bill should come up and be voted on this morning in order that it may go to the other House, as there may be occasion for a committee of conference upon it.

Mr. TRUMBULL. I know of no such understanding. Certainly there was no understanding in the Senate on that point.

Mr. POLAND. The Senator from Illinois says that this joint resolution was passed by the House of Representatives some days ago. That is very true; but the bankrupt bill was passed by the House at the last session, nearly a year ago, and it is a bill which has been fully considered, and we are on the question of its passage, and it could have been disposed of in half the time we have taken up in talking on the question of priority. I suggest that it be allowed to be taken up and voted on.

Mr. TRUMBULL. I did not raise the question of priority; the Senator from Vermont raised it. It is for the Senate to determine. I consider that I have discharged my duty in

reference to the matter. This is a joint resolution from the House of Representatives which came to this House some time ago. They thought it important that it should be passed, and that the action of this commissioner in some of the States should be stopped. There are reasons, that it is unnecessary to go into now, why we supposed it important that the joint resolution should pass at an early day. It went to the Committee on the Judiciary, received the favorable consideration of that committee, and is reported back to the Senate. I consider it my duty as the organ of the committee to ask the Senate to consider it. If the Senate will not do so, I shall have discharged my duty. I submit it to the Senate.

Mr. DAVIS. I hope the joint resolution referred to by the Senator from Illinois will not now be taken up. I see that one of the Senators from Maryland [Mr. JOHNSON] who takes a deep interest in that subject, is not in his seat. The State of Missouri is also considerably interested in the subject, and I see neither of the Senators from that State in his seat. I hope those Senators will be permitted to be in their seats before the Senator from Illinois calls up that joint resolution.

Mr. FESSENDEN. I think we ought to dispose of the bankrupt bill. It now stands on a motion to reconsider; and if we mean to pass it at all, it ought to be sent to the House of Representatives in time for action there. It has been fully debated, and we ought not to take much more time in discussing it. I really think the Senator from Vermont is entitled to have it considered.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois, that the Senate proceed to the consideration of House joint resolution No. 235.

The motion was not agreed to.

#### THE BANKRUPT BILL.

Mr. POLAND. Mr. President—  
The PRESIDENT *pro tempore*. The Chair understood the Senator from New York to submit a motion.

Mr. HARRIS. I give way to the bankrupt bill.

Mr. POLAND. I move to take up House bill No. 598.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 598) to establish a uniform system of bankruptcy throughout the United States.

The PRESIDENT *pro tempore*. This bill has been read three times, and the question is on its passage.

Mr. GRIMES called for the yeas and nays, and they were ordered.

Mr. SUMNER. There are one or two amendments that I desire to move to the bill.

The PRESIDENT *pro tempore*. The bill is not amendable in its present stage.

Mr. WADE. We have tried your amendments and rejected them.

Mr. SUMNER. So was the bill rejected. I supposed the purpose of the reconsideration was to give an opportunity to amend the bill.

The PRESIDENT *pro tempore*. The vote of the Senate ordering the bill to a third reading must be reconsidered before the bill can, under the rules, be amendable.

Mr. SUMNER. I was going to say, too, there were two objections, each of a radical character, to the bill; and when I make the objections I do so in good faith, for I am sincerely a friend of the bill. I have so declared myself and so voted always. One of the provisions which it seems to me ought to be introduced into the bill is what we will compendiously call the Massachusetts provision, to the effect that there shall be no discharge where the assets do not amount to fifty per cent. unless a majority of the creditors consent. That was in the bill as it came from the House of Representatives, and ought to be, I am sure, in any well-considered bankrupt system. Then there is another amendment which I wish to see in the bill, and that is an exclusion of all rebels or persons who have been in the rebellion from appearing

before the judge as voluntary petitioners for the benefit of this act. I had the honor of submitting that proposition when the bill was under consideration before. Since then further reflection has confirmed me in the practical value of the suggestion. Communications that I have received from those who are the most competent to judge of the operation of this measure are all in one direction. I have received important communications from persons eminent in professional and judicial life, and from others having the most extensive business relations throughout the South, and they have, according to my observation, but one opinion on the importance of excluding all who have partaken in the rebellion from any participation in the benefits of this act, so far at least as they may have them through their voluntary petition.

I wish the bill was in such a condition that I could make that motion again, and again have the judgment of the Senate upon it. I do wish to arrest the course of the Senate at this moment on a question which I deem of vital importance. I insist that the time has not come for any such measure of amnesty. These very rebels are treating our kindred and our countrymen with the most heartless cruelty, and this is not the moment for us to endow them with additional opportunities and advantages. The time has not come; it will come, by the blessing of God, if we are only true to our duties, and throw the protection of Congress over those to whom we are under the most solemn obligations; but to my mind this bill, so far as it has any operation, is in this respect an abdication of the solemn duty of protection which we owe to Unionists at the South. I call it protection: we ought not to allow their oppressors to get on their feet and acquire new power and vigor to carry out their oppression. I protest against any such concession; it is unhappy; it is sinister; I almost feel that it is inhuman. I wish, therefore, that the bill was in such a condition that I could repeat that motion and again have the vote of the Senate upon it. A Senator says I can move to reconsider the vote. I am not so situated that I can do so. I voted with the minority: I did not vote with the majority. If any Senator who voted with the majority would move to reconsider that vote, so that the Senate might again act upon it, I should be very glad. I do not wish to take time with it.

Mr. DIXON. I desire to say a single word in reply to the remarks of the Senator from Massachusetts in regard to the treatment which he says is received by Union men in the South from what he calls the rebels, meaning by that the whole people of the South who were formerly in rebellion. This charge has often been made; it is made every day; it has gone through the country, and it is believed generally by the people that throughout the whole southern country the men lately in rebellion are now engaged in one grand conspiracy, as it would seem, of oppression and abuse against those who were formerly Union men and against the blacks. Sir, I wish to say that, in my judgment, from inquiries which I have made, from testimony satisfactory to my mind, these statements are, to say the least, to use a mild expression, grossly exaggerated. Sir, there is no evidence of such a state of things, although the Senator from Massachusetts has read to us many anonymous letters, which he may call evidence. There being no evidence whatever that such a state of things exists at the South, without meaning of course to apply the remark to the Senator or to any individual but merely speaking in the abstract I say the accusation against the South seems to be a stupendous falsehood. I saw the other day a gentleman, formerly a member of Congress from the South, always a Union man, by whom I was told that the northern mind was utterly abused on this subject. He said he knew the charge was believed, and it seemed impossible to get a contradiction, but he declared that the blacks were as well treated in his State as the whites.

Mr. SUMNER. What State was that?



Mr. DIXON. The State of Georgia. I will state another fact. I was informed by a gentleman whose business leads him throughout the whole State of Georgia, traversing it from one point to another daily, that the colored people of the South, instead of being ill-treated, are receiving the kindest treatment from their old masters and their old employers. He stated that there was a very great fear in Georgia that the colored population would leave the State, would migrate to the Mississippi river, where they could receive higher wages; and knowing how important their labor was to the State they were treated with the greatest possible kindness. That gentleman I knew well. He is a man of truth. I believe him.

We have other information. I saw it stated to-day that a gentleman from the South, formerly a rebel and a leading rebel, was now in this city, who had his old slaves on his plantation and was employing them. That is a fact of some value.

But I did not wish to go into this subject at length. I wish only to say that in my belief if the people of this country could know the actual truth on this subject they would find that the exaggeration was gross. I have no doubt that in the wilds of Texas and in some other portions of the southern country the negroes are ill-treated, and I should be glad to see proper legislation applied to cases of that kind. If facts should be brought before us and a real instance was pointed out calling for legislation, and a law was passed which was in accordance with the Constitution, I would gladly vote for it. I think the civil rights bill already applies to it; but this general statement, that throughout the southern country the colored people and the Union white people are abused at this day and need protection from Congress, as a general thing I believe to be incorrect. I believe the idea which now prevails in the northern mind upon this subject is, as I said before, based on a stupendous falsehood, and it ought to be corrected.

Mr. CONNESS. Mr. President, what is the question before the Senate?

The PRESIDENT *pro tempore*. The question is, Shall the bill pass?

Mr. CONNESS. Well, sir, I hope we shall get the vote upon it.

The PRESIDENT *pro tempore*. The Chair will put the question the moment the debate ceases.

Mr. YATES. I rise simply to say a word in reply to the Senator from Connecticut. I think it is well to ascertain that there is a proper spirit of toleration in the South, and our view on that subject depends rather on the channels through which we obtain information than anything else. If we get our information through good loyal Union men, and through the loyal press of the country in the southern States, the information is that there is no toleration whatever of Union men in the South. That is the information we get from that source. But those men who are opposed to reconstruction upon the congressional plan, those men who were engaged in the war against the Union, those men who have no desire now for the perpetuation of the Union upon the principles maintained by the Republican-Union party, tell us that all is quiet and harmony and peace throughout the South! They have said this in the face of the massacre at New Orleans. They have said this in the face of the fact that, while there have been thousands of arrests in the southern States of men engaged in criminal persecutions of loyal Union men, not a solitary conviction can be found to have taken place in the courts there under the rebel régime which there prevails.

I am somewhat amazed at the statements of the Senator from Connecticut, because my advices are through loyal Union men, and I have numerous letters from men who are familiarly acquainted with the facts of which they speak, and the loyal papers in Georgia and other States which I have seen say that the same spirit of rebellion, the same intolerance of Union men and Union sentiments pervades the whole South.

"Facts are stubborn things;" and when we see this disposition to resist a reconstruction of the Government upon the plan that is desired by the men who sustained the war; and when we see that Union men at the South have no protection in the courts there, that in the trials which take place there are no convictions, how can we believe that there is a proper loyal spirit in the South?

Mr. SHERMAN. I wish to state in regard to the bankrupt bill, that at the request of the Senator from Vermont, [Mr. EDMUNDS,] who has been called away by the illness of his wife, I agreed, on the passage of the bill, to pair with him. I am opposed to the bill and he is in favor of it. Upon the question of amendment to the bill I am at liberty to vote.

Mr. DIXON. The Senator from Illinois [Mr. YATES] did not address himself precisely to what I had said. I did not say that there was a spirit of loyalty throughout the whole South. The Senator would be glad to see it everywhere, and so should I. I have no doubt there is in some portions of the South a bad spirit, and I have no doubt there is throughout the whole South something remaining—of course it could not be otherwise—of that feeling which led to rebellion and which was developed by rebellion. It would be miraculous if that feeling should have ceased entirely; but it has ceased to an extent far greater than I expected to see at so early a day as this. What I said was that the statements were grossly exaggerated, so grossly exaggerated that they may be said, taken together, as declaring the South to be in a disloyal condition, and that the Union men and the colored men need protection against the cruelty and abuse of the southern people as a mass. Such statements I repeat may be called false. The testimony does not prove them to be true. That there are exceptional locations in that part of the country in a very bad condition I have no doubt. There are places in the city of New York where none of us would be safe to-night if we expressed what might happen to be unpopular sentiments; but it seems to me that we ought to legislate with regard to the general character of the people, and not with regard to particular cases or individuals.

Mr. HOWARD. Mr. President, I do not know what are the sources of information from which the Senator from Connecticut derives the statements which he asks the Senate to believe. I believe from sources of information which I regard as equally entitled to credit with those to which he has referred, that there is not at the present time anything like adequate protection to Unionists in the rebel States, and especially to the black part of those Unionists.

It is only a few days since I had a conversation with a very intelligent gentleman from Texas, who had been stationed there for some time past, and was acting as an officer of the Freedmen's Bureau, a man of excellent character and reputation, as honest and as observant a man as you will ordinarily find; and he told me that within the last year in the State of Texas there had been undoubtedly in his opinion and from the best information which he could derive, being on the spot, not less than fifteen hundred deliberate murders committed by ex-rebels, guerrillas, and that class of ruffians, and that not one single case had yet transpired of the arrest and trial of one of those offenders. Men, black and white, in that State are found murdered; they lie in their gore by the wayside and in the thickets, and in other nooks and corners of the country, where their bodies are thrown, and sometimes it happens that very little care is taken to conceal the bodies; and there is no such thing in Texas to-day as criminal justice. Murder and manslaughter are committed there with impunity all over the State, while petty offenses against property are prosecuted and persons sometimes brought to justice.

There are none, says the old saying, "so blind as those who will not see;" and it sometimes happens to politicians to be willfully blind

to facts which they might ascertain if they would give them their candid attention. I assert that in the main the reports which we obtain from the southern States in regard to the non-execution of the criminal laws and in regard to the turbulence and disorder and anarchy which prevail there are correct and deserving of the attention of every man who loves his country, and of every man who has a proper observance of law and order; and I hold it to be our duty as a Government to see to it at the earliest practicable day that crime in the rebel States is punished, and that the power of this Government for protection and security shall be exerted and felt by the turbulent and disorderly hordes who now create so much disturbance in those States.

Mr. DOOLITTLE. Mr. President—

Mr. POLAND. I really trust, Mr. President, we shall now be allowed to come to a vote on this bill. This debate is on no question before the Senate, and it can take place just as well after we have voted on the bill as before. I really hope the Senator from Wisconsin will allow us to vote.

Mr. DOOLITTLE. I shall not detain the Senate from a vote, and I rose simply to say that I have no doubt there are disorders existing in some of the States of the South, and undoubtedly in the State of Texas the disorders do not exist to any such extent as is stated or feared or apprehended by the honorable Senator from Michigan. I hold in my hand a letter—and I read no anonymous letters to this Senate or elsewhere as any authority for a statement that I make—a letter signed by a gentleman from the State of Wisconsin who was an officer in the Federal Army, and who has lately removed to the State of Texas and taken up his residence at La Grange, in that State: it is Mr. Willard, formerly of the State of Wisconsin. Mr. Willard writes to me under date of 22d of January last:

LA GRANGE, TEXAS, January 22, 1867.

SIR: \* \* \* \* I left Washington in June last with my family and have resided here ever since. I have ample means of knowing the position of the people to the Government, as I have traveled through nearly every Southern State and talked frankly with many who were active participants on the southern side of the war. They were fairly defeated and frankly acknowledge it, and never has a brave and generous people been so vilified and slandered as have the people of the southern States, and never in the history of any civilized Government has a fallen foe been treated as has this. I came here to the people as a northern man and late an officer in the Federal Army. I have been treated with courtesy and uniform kindness ever since I have been in the State by those who were during the war the most ardent supporters of the confederate government. This was for many years the home of Jack Hamilton, who publicly declares on the stump at the North that a loyal citizen's life is not safe in any community in Texas. It is a fact well known in this community that Hamilton brought there from Alabama a free negro woman when he first came into the State and held her as a slave until he was compelled by the court of this district to liberate her. This fact can be substantiated by the personal friends of Hamilton, and who do not pretend to make any apologies for his licentious course as a private citizen. With one accord it is generally acknowledged that he has no character to lose. Yet this man is put before the people of the North to instruct them as to the political status of the people of this State: a man who is an outcast from respectable society and an honest community because of his immoral and dishonest life as a man. Free speech is as much tolerated as in Wisconsin to-day, and as good and law-abiding people as those in Racine county.

Let me mention one fact within my personal knowledge in regard to justice as dealt out to the negro in this State. At the sitting of the district court here in November, a young man about twenty-two years of age was arraigned and tried for the shooting and killing of a negro. The facts were these: the negro was at work in a cotton field for Jones, who had formerly owned the negro. Some dispute arose between the negro and Jones, when Jones called his son, Robert, who settled the difficulty by shooting the negro. Robert was arraigned and tried by a jury of twelve citizens, all of whom had formerly been slave-owners and supporters of the war; he was defended by the best legal counsel in this part of the State; the judge, a firm believer in the divine institution of slavery, charged the jury to find according to evidence. The jury returned a verdict of guilty, and he was sentenced to the penitentiary for five years. Robert was a son of one of the most influential men in this community.

With regards, &c., to yourself and family, I am your obedient servant,

C. D. WILLARD.

Now, sir, here is a young man from the State

of Wisconsin, an officer of the Army, who states on his own personal knowledge the facts in relation to the arraignment, trial, and conviction of a son of one of the most influential men in Texas, in the very home of this Jack Hamilton, who he says is sent to the people of the North to declare that a Union man cannot live in the State of Texas. He was tried by a jury of slaveholders, and under the charge of the judge of the district, convicted and sent to the penitentiary for this offense. Mr. President, I do not allude to this by way of saying that there are no outrages in Texas. I only say that the honorable Senator from Michigan has not taken all the testimony on this subject in relation to the condition of affairs there.

I will state another thing. I was in Louisiana and Texas myself last fall, and from information which I received—

The PRESIDENT *pro tempore*. The morning hour has expired and it becomes the duty of the Chair to call up the special order which is House bill No. 452.

Mr. POLAND. I hope that may be laid aside long enough for us to get a vote on the bankrupt bill, and I trust Senators will agree to that course.

Mr. DOOLITTLE. I will forbear taking any further time of the Senate if the honorable Senator from Vermont desires to take a vote on the bill. I simply wish to say that, under bankrupt laws in other countries, even alien enemies are allowed to come in and take the benefit of them.

The PRESIDENT *pro tempore*. The bill before the Senate is House bill No. 452.

Mr. POLAND. I move to postpone that temporarily.

Mr. GRIMES. I am perfectly content that this bill shall be postponed or laid aside informally if we can have a vote on the bill of which the Senator from Vermont has charge; but if there is to be debate upon it, and I understand the honorable Senator from Massachusetts [Mr. SUMNER] has risen to address the Senate on that subject, I must object.

Mr. POMEROY. I think we had better complete this question of the bankrupt bill.

Mr. GRIMES. If there is any understanding reached by the Senator from Vermont and his friends that the bankrupt bill can be voted on now, I am perfectly content that the special order shall be laid aside informally.

Mr. CRAGIN. I wish to say a few words before the bankrupt bill passes; I may perhaps occupy five minutes.

Mr. GRIMES. Then I trust the special order will not be laid aside.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont, to postpone the present and prior orders and continue the consideration of the bankrupt bill.

On a division, there were—ayes 24, noes 7; so the motion was agreed to.

Mr. DOOLITTLE. If we can come to a vote on the question I do not desire to take up the time of the Senate on this side issue which is sprung on the bill here.

Mr. SUMNER. I do not wish to take up time either, but I do not regard the issue to which the Senator refers as a side issue; it is an issue of substance; it is one of the pivots of the bill. However, I do not wish now to debate it, and I should not say another word but for the remarks that have fallen from the Senator from Connecticut and also the Senator from Wisconsin. They have introduced letters from the rebel States undertaking to gloss over and—the Senators will pardon me the expression—to whitewash the unhappy condition of things there. They are able to show what I would call a sporadic case of justice, the standing rule throughout that unhappy region is injustice.

A Senator near me [Mr. HOWARD] asks me very properly, do I call it justice when a man is sentenced to five years in the penitentiary who shot another man down. That is the justice which the Senator from Connecticut or the Senator from Wisconsin—I forget which it

was—introduced and quoted as an example of the heavenly condition of things in that country. Sir, the evidence from every quarter of that country, from every State and every part of every State, all tends in one direction; it is that there is something like anarchy and chaos there, that misrule prevails, cruelty, harshness, wrong of all kinds. The whole region is now little better than a whited sepulchre full of dead men's bones and all uncleanness; and the Senator from Connecticut comes here to add to the whitening, to white over this sepulchre.

Because I have introduced letters sometimes without giving the names of the writers the Senator calls them anonymous; or at any rate says that to him they are anonymous. Well, what he reads in the newspapers is anonymous; the statements that fill the newspapers are anonymous. Is he prepared not to believe the terrible tidings that come to us every day? Those tidings are always anonymous. One aggravation of the case is that we cannot give the names of these writers without endangering their lives. Since the Senator has been on his feet, in running over my morning letters which are now on the desk before me, I have come upon one with regard to a recent terrible outrage in Georgia, and the writer, after signing himself "Yours, for humanity," says at the end—

Mr. FESSENDEN. Does he give his name?

Mr. SUMNER. I am coming to that. After signing himself "yours for humanity," he says, "of course you will not allow my name to be known; it would be as much as my life is worth;" and Senators ask us to give the name of writers in that unhappy condition. Sir, I was here in the old days of Kansas, and I remember when the cruel slave-masters of that time smiled over what they called the "freedom shriekers of Kansas;" smiled over all the evidence that we introduced day by day of the terrible atrocities that were there perpetrated; and Senators now in similar mood smile when all these horrors are brought before them and they ask for the name of the writer, knowing well, as they must, that giving the name of the writer is perhaps his death-warrant. That is the case. You cannot give the name of the writer who communicates these terrible tidings. There is such a condition of things, such a lawlessness, such an absolute recklessness of human life, that people cannot tell the truth with regard to the actual condition of things there without paying for it a terrible penalty. I hope Senators will not ask for names when the asking the question may involve a terrible sacrifice.

But Senators may say that then the letters should not be read, that the authority should not be introduced. Why, sir, I heard that more than ten years ago with regard to Kansas. Does any one doubt now that all the statements we then made with regard to Kansas, that all that bloody record was true to the letter? History is now making another fearful record with regard to these rebel States, and I entreat you Senators and my colleagues here in public duty, to listen kindly and attentively to all this news and to apply yourselves directly, and generously throw over these people all the protection possible.

But now, to give a practical application of these remarks into which I have been betrayed unexpectedly, I must again call your attention to that bankrupt act which proposes to confer certain benefits on persons who have been in the rebellion; and in this way give them an undeserved advantage over good Union people, black and white. I regret infinitely that feature of the bill. I sought to have it changed. I wish now that I could have another opportunity of voting on that question even if the Senate should vote me down. I see the impatience of the Senator from Vermont, [Mr. POLAND.] He says, "Why, they would vote you down." The Senator is comparatively new in the Senate. I have been accustomed to be voted down. When I brought forward in this body the motions for the repeal of the

fugitive slave act, for emancipation, for human rights, again and again was I voted down; again and again was I in a very small minority; and yet that cause has prevailed. Vote me down if you please; let the Senator from Vermont vote against me if he pleases; but still I shall not miss any opportunity to sustain the cause which I believe is the great cause of Human Rights and of this Republic.

Mr. CONNESS. I have no desire to continue this discussion, and shall only say a few words.

Mr. President, I may be mistaken in my estimate of myself; but I claim some manhood; I claim a little courage; I claim some devotion to the Republic; I claim some integrity in the support of humanity and of correct principles; and because I do claim those things I am tired of the whip of the leader in this body lashed at me, telling the country at the same time in those stentor tones of his that there is none here to do duty but the honorable Senator from Massachusetts. I am tired of that relation here; I have great respect for the Senator; I have much attachment for the Senator; I have stood by the Senator, in my way, heretofore; but the Senator should leave to me and to every other Senator some individuality. Mr. President, it is not right, it is indecent at this time, after we have been tried here, myself for four years, in every struggle, in every vote, in every act that could defend the nation or defend humanity, to have the country told that we are cowards, lacking moral nature, lacking the disposition to do our duty. Such paintings are drawn constantly, and we are denounced, by implication if not directly, and frequently directly, as falling short of our duty in this body. Mr. President, we are equals here. I am tired of this. I shall not submit to it for one. I only simply profess to be an atom of this body, one of its constituent elements, but I ask to be let alone and not to be placarded to the country as a coward. Upon every occasion this opportunity is seized. I am tired of it.

Mr. CRAGIN. Mr. President, the Senate will bear me witness that since I have occupied a place in this Chamber I have consumed but very little time in speaking. I aim never to speak upon any occasion unless I think I have something to say pertinent to the subject under debate, and to say that in the shortest time possible.

I make no factious opposition to this bill; but I felt it my duty on a former occasion to vote against it without giving any reason for that vote. Since that time I have received several anonymous letters from men in New York, representing themselves as New Hampshire men, abusing me for that vote. Believing as I did on the former occasion, and as I now believe, that the people of New Hampshire, whom I represent, are almost unanimously opposed to this measure. I then felt it my duty to vote against it, and I still feel it my duty to vote against it. I admit that there are many men in this country who would be benefited by this bill if it should be enacted into a law and who ought to be benefited; but at the same time I can see that there is a large class who deserve no benefit under it who will avail themselves of its provisions.

If the bill could have been amended in two particulars, notwithstanding I believe the people of my State are overwhelmingly against it I should have voted for it, and would now do so. If the amendment offered by the honorable Senator from Massachusetts [Mr. WILSON] had been adopted so that no man could be discharged from his indebtedness unless he could pay fifty cents on the dollar or receive the consent of a majority of his creditors, it would have recommended the bill to me. Then if the amendment offered by the honorable Senator from Missouri [Mr. HENDERSON] placing the limit of indebtedness at \$1,000 before a man could voluntarily take the benefit of this act had been adopted, it would have also commended it to my approbation; and with those two amendments I could have voted for

this bill. There is no reason on earth why a man owing simply \$300 should be discharged from this little debt when he may owe that to a man worth much less than himself; for under this bill a man may be worth thousands of dollars and yet be discharged from his debts. I remember the operations of the bankrupt law passed in 1841. I remember that the odium that attached to that measure mainly arose from the little suits, from the men who owed comparatively nothing, who were indebted in the sum of a few dollars or a few hundred dollars, going in and taking advantage of that measure, and thus creating litigation, thus making the thing infinitely odious. A man that owes only \$300 is not a man who is worth much to the community, whose energy should be relieved, as we are told, by this measure. As I said before, he may be indebted to men worth much less in property than himself.

But, sir, the main reason why I voted against the bill before, and shall do so now, is that I believe the people whom I represent are overwhelmingly opposed to it. I have received but one single letter from my State in favor of this bill, and that was from a lawyer who said to me that the law business in his community was very dull, and he hoped the bankrupt bill might pass, so as to give more business to the legal profession. [Laughter.] That is the only letter that I have received in favor of the passage of this bill from any man in my State, whereas I have received hundreds from men who are opposed to it upon general principles.

Mr. JOHNSON. Mr. President, what is the question immediately before the Senate?

The PRESIDING OFFICER. (Mr. HARRIS in the Chair.) On the passage of the bill.

Mr. JOHNSON. So I supposed. When any other question is before the Senate that involves the condition of the South I may take occasion, and probably will, to answer what I consider as the unfounded charges upon the condition of the people of that section; but at this time, in my opinion, it is entirely out of place.

Mr. DIXON. I made no charge against the Senator. I stated the fact that he read these letters to the Senate. I did not object to it. I said that was the testimony which we were called to consider. I do not want the names of the writers. I do not desire them to be published.

But the Senator makes a direct charge against me. He says I have attempted to gloss over or whitewash, to use a favorite term of his, the existing state of things at the South.

What does the Senator charge? What is the statement which has been made on this floor frequently during this session, first by the other Senator from Massachusetts [Mr. WILSON] early in the session, then by his colleague, then again by the Senator from Michigan, [Mr. HOWARD], and repeated here to-day? Why it is, to use the expressive language of the Senator from Massachusetts [Mr. SUMNER] himself, that the whole South is one mass of corruption; that it is like a whited sepulchre; and the other Senator from Massachusetts in his graphic description would have us believe that the midnight skies were lurid with the flames of burning school-houses in a country where we have been told for years there were no school-houses. No doubt, sir, there may have been school-houses burned. I do not think there have been many; nor do I think they have been burned by any class of people who can be called the respectable people of the South—for there are some respectable people there. There are wandering vagabonds and worthless bad men at the South as well as with us in the North, and they no doubt commit crime. I never have denied it; I have never attempted to conceal it; and I believe it to-day. But when it is said that the whole southern country is filled with men of this kind; when it is said that northern people cannot go there with safety; when it is said that Union men cannot express their sentiments there with safety; when it is said that the whole race of colored people are treated with cruelty and

oppression at the South; then I take the liberty to say that I do not believe the assertion, that the testimony does not prove it. The Senator reminded me in what he said of the testimony of General Grant one year ago on this subject. Here it is before me. What did he say of the condition of the South? He had traveled there; he went there for the very purpose of giving his information. Did General Grant say that such a condition of things existed one year ago in the southern country?

Mr. WILSON. What does he say now?

Mr. DIXON. The Senator asks what does he say now? I ask what does he say now in his published reports?

Mr. SUMNER. What does Sheridan say?

Mr. DIXON. What does he say? If General Sheridan will tell us that the whole South is as stated I shall at once admit his testimony. General Sheridan has told us no such thing. No officer has said so. Instances of oppression and cruelty have been pointed out, and no doubt instances exist; and instead of "whitewashing" I deeply regret it. I trust I have a heart to feel as well as other men. I trust I do not desire to see the colored people of the South abused, nor do I desire to see the white people of the South abused. I have some feeling for the colored people there and I have also some feeling for the white people.

But, sir, I desire truth. Between us let there be truth on this subject. Let the truth come out, and when it does it come out I am ready to submit to it. But I am not willing to sit here day after day and hear those general denunciations against the southern country which I believe to be false; nor am I willing to be accused of "whitewashing" because I say the testimony is not sufficient. Sir, it is not enough for the Senator from Massachusetts to tell us that instances of abuse prevail. That is not the charge. A single letter from Georgia does not prove it.

But the Senator says that the fact that the individual in the case mentioned was only sentenced to five years in the penitentiary proves his charge. I cannot go into the facts of that case; I do not know what they are. The Senator showed that there had been a conviction and punishment. Whether that punishment was sufficient or not does not appear. I know that in the State of Massachusetts it has been very difficult to bring men convicted of the most heinous crimes to capital punishment. One Governor went out of office before it could be done, and another distinguished man denounced the execution of the sentence as almost a judicial murder. We know very well that different ideas prevail with regard to punishment. They may prevail at the South. What I wish to say is this, and this is all, that I believe these statements by which the northern mind is abused are grossly exaggerated, and they ought not to go forth without a denial.

Mr. WILSON. I am anxious to take the vote on this bill, and I do not propose now to take up much time; but the Senator from Connecticut, in replying to the remarks of my colleague, has seen fit to comment on some remarks of mine made on another occasion. I believe the Senator from Connecticut has a heart as well as other men; but I say to him that I have not stated one fifth part of the outrages perpetrated upon loyal men and upon freedmen in the rebel States since the surrender of General Lee; and the evidence of officers of this Government and of other persons entitled to credit of the murders that have been perpetrated there make the number larger than the number of our Army killed on the field of Antietam.

The Senator speaks of bringing in letters here; I have brought none; but there was a day when I did bring letters into this body concerning the outrages perpetrated upon citizens in Kansas. There sits a gentleman on this floor to-day representing that State, from whom we received letters, and we dared not give his name to the Senate. There are other men known throughout the country who gave us the facts of the outrages perpetrated in that young

Territory in 1856; and we dared not give their names, because it would have periled their lives. To-day, sir, officers of this Government in the Army, judges and district attorneys, whose names are known in the country, are writing letters to this Capitol marked "confidential," because it would subject them to insult and outrage to have it known that they dared write the truth.

Sir, it is time to put an end to this sneering at the use of letters in regard to these outrages. The letter read this morning will be a passport for the writer in every rebel camp in Texas. It will not be his death-warrant; it will subject him to no insult; but every ruffian in Texas will read it with delight, and thank the Senator from Wisconsin for reading it to the Senate.

Now, sir, I have as much confidence in our generals as I have in the Senator's letter-writer. I remember that the gallant Terry was sent away, with his consent I admit, from Virginia, and General Schofield, supposed to be a conservative general, sent down there. Senators know what General Schofield thinks now in regard to the state of affairs in that State. General Sickles' testimony sustains every thing that has been said on the floor of either House as to the condition of affairs in his department.

General Robinson and General Scott—General Robinson was in South Carolina; General Scott—

Mr. DIXON. Where is his testimony? Has it been published?

Mr. WILSON. There is only one opinion among our officers in Virginia, the Carolinas, and Georgia. General Ord, a native of Maryland, supposed to be one of the conservative generals, reports murders and outrages in Arkansas. He states that there is no justice. He is a Radical to-day, I suppose, because he believes and says that outrages are perpetrated in Virginia, and they are done with impunity. The other day Dr. Watson shot down a black man who ran away from him when he undertook to flog him. He called upon him to stop and the man would not do it, and he shot him down, and he died. Dr. Watson was taken up but let out at once. General Schofield arrested him. He was brought to trial, and the President, by an order, let him go.

How is it with General Sickles? Is his word not to be trusted? He arrested floggings in his department. His orders have been overruled; and murders are perpetrated and nobody arrested for them. How is it with General Thomas? How with Sheridan? He says it is impossible to get murderers of Union men convicted. I say that all our generals in that part of the country bear this testimony. The number of murders there count by the hundred, and according to the evidence received by the Government but three men have been arrested and convicted for all these murders. I will do the Governor of South Carolina the honor to say that he has striven in South Carolina to arrest these outrages; that he brought to trial, through great effort, and brought to conviction, a man for committing these murders; that the sheriff let him out; that he ran away to Florida; that Governor Orr called for his surrender, and when he was taken he shot the sheriff and escaped again.

There have been three attempts to punish these hundreds of murders that have been committed. If the eye of the Christian and civilized world could look in upon us they would see more insults, more floggings, more outrages, more maimings, more murders upon innocent and defenseless men, women, and children than has marked any Christian nation of the world during the last thirty years; and they would be horrified at it.

I do not undertake to reproach gentlemen; but I say the time has gone by in this country when any man on this floor or in the other House should apologize for these outrages or defend them or attempt to explain them. There are portions of the rebel States that are improving. I think there is great improvement in Mississippi, in Alabama, in Florida, and in some other portions of the country; and I



thank God that there is improvement. I hope it will go on; and I believe that if Congress is firm, and the people are firm, in spite of any action or any decisions that make blood flow, as certain actions and certain decisions have made blood flow, we shall correct these things, establish order, and bring about a time when men who murder poor men for no offense can be brought to punishment in all parts of our country. But I do not think that any Senator here or any member of the other House has during this session stated, or can state, one fifth part of the outrages, the wrongs, and the murders that have been committed on men in the rebel States for no offense.

Mr. DIXON. The Senator from Massachusetts, I know, does not intend to misrepresent me. He says it is too late for any man to stand here and defend or apologize for the crimes which he says have been committed in the South. I desire that Senator and the Senate to understand that I do not defend, nor do I apologize for any outrage or wrong. What I do—I may be mistaken; the evidence may be adduced—is not to defend, but to deny the existence of the crime. I say the charge is not proven. I do not believe that the whole South is so utterly lost to all sense of justice, so utterly depraved as to have turned against the helpless colored men who have formerly been their slaves. I believe, on the contrary, from the evidence which I receive, that as a general thing they are treating them with kindness; that the former slaves are generally, or at least in a vast number of instances, living with their old masters on terms of friendship and brotherhood. I believe that; and believing it, I take the liberty to say so. I should not apologize for a different state of things.

Mr. SUMNER. How is it with the white Unionists of the South? Are they well treated?

Mr. DIXON. In the first place, with regard to the white Unionists of a great portion of those States they are myths; they do not exist and never did. We saw them all. They traversed the northern country last year. Of their character I will not speak. One of them, their leader, has been characterized this morning. I take it that about the whole representation of the original Union party of the South was exhibited last fall in their progress—triumphant progress, if you please to call it so—through the northern country, and some of them proved on inquiry to have been original secessionists. When you speak of the original Union men of the South you speak of that which really in point of fact never existed to any considerable extent. There was a body of men at the South who were opposed to secession, but they finally assented to secession. They took the ground that they must go with their States, and they did go with their States; and those were what might be called original Union men. But as to the Union men of the South who resisted secession to the last, who refused to go with their States, in Georgia, North Carolina, South Carolina, Mississippi, and Alabama, we know they were not to be found. We know very well that the whole South was finally almost a unit in this war against us. Of course, the Senator may say I am apologizing for that. I am stating a fact; that was the fact, and everybody knows it. So when we are told to-day about Union men being maltreated it must be northern men, if the term means anything, who have gone to reside there since the war. In proof of that, if there is any proof necessary, I will read an extract from a report of a distinguished general, Carl Schurz, who traveled in that country and made a report. Under the head of "returning loyalty," he has several paragraphs on this subject, in which he shows that the South is divided into several classes, and as to original Union men there are none. He says:

"These statements are naturally not intended to apply to all the individuals composing the southern people. There are certainly many planters who before the rebellion treated their slaves with kindness, and who now continue to treat them as free laborers in the same manner. There are now undoubtedly many plantations in the South on which the relations between employers and employes are based upon mutual good will. There are certainly many

people there who entertain the best wishes for the welfare of the negro race, and who not only never participated in any acts of violence, but who heartily disapprove them. I have no doubt a large majority can, as to actual participation—not, however, as to the bitter spirit—offer a good plea of not guilty. But however large or small a number of people may be guilty of complicity in such acts of persecution those who are opposed to them have certainly not shown themselves strong enough to restrain those who perpetrate or favor them. So far the spirit of persecution has shown itself so strong as to make the protection of the freedman by the military arm of the Government in many localities necessary—in almost all desirable. It must not be forgotten that in a community a majority of whose members are peaceably disposed, but not willing or not able to enforce peace and order, a comparatively small number of bold and lawless men can determine the character of the whole. The rebellion itself, in some of the southern States, furnished a striking illustration of this truth."

As I said before, we desire the truth on this subject. If it were true that a state of things existed in the southern country such as has been depicted by the Senators from Massachusetts, humanity would shudder at the idea. Sir, human nature is not capable of the infamy which is charged on the South. Pandemonium would be a paradise compared with such a country. As a member of the human family, I protest against such a belief unless it is proved. I have seen southern men; I have conversed with them; I have sat with them in this and the other Chamber. I know that they are misled, deluded, misguided. Heaven knows how deeply they have been misled, how misguided, and Heaven knows how they have suffered. Their offense has been great, and terribly have they answered it.

But, sir, is it necessary for the Senator from Massachusetts, with the influences he has at the North, to impress the public mind with a greater idea of the enormity of their crimes than the truth demands? I think there is, to a certain extent, a bad state of things there; but is it necessary that not only our own people, but that the world should believe that ten million people in the South are given up to plunder, rapine, and murder, and every possible enormity of which human nature is capable? It is utterly useless for gentlemen to say it does not amount to this. This is the charge; this is what you say; and you say that in consequence of it it is necessary to wipe out every vestige of civil government, every idea of republicanism there, and place those people under a military government. That is what is said here.

I know it is easy for the Senator to excite a prejudice against me. I know he may possibly, unintentionally, induce the people whom I represent to suppose that I stand here as an apologist for crime. I do not wish to stand under that imputation. I am an apologist for no crime. But I will say here and elsewhere that in my judgment such is the prejudice which has been excited in the minds of certain gentlemen, perhaps some of them on this floor, that it is utterly impossible for them to look at this question with candor. Candor is the rarest virtue in the human character. I see fifty conscientious men to one candid man. Few there are, indeed, who can look at this question candidly. It is very easy to join the crowd and go with the popular idea that our southern brethren (and even to call them "brethren" is a crime) have become fiends; that they are no longer human beings; that they are murdering negroes daily, and, as a gentleman said in the House of Representatives the other day in a speech, as I see reported in the Globe, shooting them down for amusement. Sir, I do not believe it. I do not believe one word of it. I deny it; and those who bring the charge against these people are bound to prove it. It is not enough to assert what General Grant thinks, what General Schofield thinks, what General Sheridan thinks; let them state what they think publicly in their reports, and when they have so stated it then I agree that is testimony. The Senator's statement of his belief, well informed as he is, is not testimony. But, sir, it would require all the testimony that has ever been concentrated upon any given point to convince me that human nature has

come to that degree of depravity, to which we must suppose it has come, if what the Senator from Massachusetts says is true of the southern people.

Mr. LANE. I have hitherto contented myself with giving a silent vote upon the various amendments to this bankrupt bill and upon the passage of the bill itself, and now shall only detain the Senate for a very few moments to present my objections to its passage.

I read in the Constitution of the United States that Congress shall have power to enact a uniform system of bankruptcy. In looking to the grant of power in the Constitution of the United States we must look to the contemporaneous and antecedent history of legislation on the subject of bankruptcy, and particularly to the bankrupt laws of England, from which we have derived our notions, not only upon that, but upon almost every other subject of commercial legislation. The grant of power is to pass a uniform system of bankruptcy; first, it was to be uniform; secondly, a system of bankruptcy. Why the introduction of the word "uniform?" Simply because under the Articles of Confederation each State of the Confederation claimed and possessed the right to legislate upon this subject, and they had made insolvent or bankrupt laws different in their character. Hence, the necessity of requiring that the system should be uniform.

But it was to be a system of bankruptcy then known and ascertained by judicial proceedings, and by the history of bankrupt legislation in England. What was that system? A prospective system from the beginning, and an involuntary system, without any right of the debtor by his own motion to release himself from debt. Then, to make this law constitutional you must have in view the English system of bankruptcy, which must have been in the contemplation of the framers of the Constitution, and you must have the further provision of uniformity.

The bill now proposed to be passed is in contravention of the whole English system of bankruptcy. There has grown up there during a long period of time a system well-digested, looking only to the future, and not proposing any retroactive action. The English system of bankruptcy, therefore, is wholly distinct from the system now proposed; because this system has a retrospective feature, and has also the voluntary feature.

Then, I do not suppose that Congress has the power to pass this bill; first, because it is retrospective in its operations; secondly, because it contains the voluntary clause under which the debtor can relieve himself from all his debts. I do not suppose this bill to be constitutional because it is not uniform in its operation. You have already adopted a provision that property exempt from execution and homesteads exempt from execution by the different State laws shall not be surrendered in bankruptcy. That at once makes the system anything else but uniform, for every single State has a different system of exemption. Then it cannot be uniform, and therefore is unconstitutional. It is retrospective and contains the voluntary clause, and therefore cannot be constitutional, if we believe the framers of the Constitution to have had in view the English system of legislation on this subject.

These to me are controlling reasons why I shall vote against the present bill. I have another, and an all-sufficient reason to me. I have old-fashioned notions as to the honesty and morality of the obligation of debts. I believe when a man contracts a debt he owes that debt till he pays it, and that a Legislature cannot, without impairing the obligation of contracts, interfere between the debtor and the creditor. We are all alike, debtor and creditor, citizens of the same Government, and the Government owes precisely the same protection to the one as it does to the other. I believe, furthermore, that the effect of such a bill as this will only be temporary in its character. It will enable the wild and reckless speculator, the adventurer, and those who do not feel the obli-

gation of their debts, to take the benefit of the bill, and leave honest men who feel their obligations to law and conscience and morality to stagger on through life, having been impoverished by the frauds of adventurers and fraudulent debtors. This I believe.

Now, sir, what has been the history of legislation on this subject? From 1789 down to 1800 the Congress of the United States never assumed to carry out this grant of power in the Constitution. It remained in abeyance from 1789 till 1800. Then, for the first time in the history of the world, as I believe, a bankrupt law was passed embracing the voluntary feature, the right of a debtor to release himself from his debts without paying, not fifty cents on the dollar, but one hundred cents on every dollar that he owes. That is the way to pay debts. That is the way we understand it in Indiana. When a man owes a debt he discharges it, not by paying fifty cents on the dollar, but by paying one hundred cents on the dollar, and then he can look his fellows in the face as an honest man.

But the act of 1800 was passed. It was in operation for some two or three years, and under a perfect storm of indignation—such was the public sense of honesty and justice and integrity—the law was repealed, and we heard no more of a bankrupt law until 1841. Thirty-nine years elapsed between the repeal of the bankrupt law of 1800 and the passage of the law of 1841. Then another law was passed, embracing all these odious features, for which I voted under instructions, some nine thousand of my constituents petitioning for it, and no one remonstrating against it; but when I gave the vote I said expressly that I gave that vote not of myself, but on behalf of my constituents. I have regretted the vote ever since, and I have been explaining it ever since. If I were to vote for this bill I should never live long enough to explain my vote. There has been no single man from the whole State of Indiana, during the last or the present session, who has asked me to give any such vote. No single paper in my State, of any shade of political opinion, so far as I know, has ever recommended the passage of any such bill.

Therefore, I shall vote with great heartiness against the passage of this bill. It may pass as other bills have passed; but without assuming the character of a prophet, let me say—and I speak from experiences of the past—that if you pass this bill it will not be upon your statute-book twelve months until it will be repealed under a storm of indignation which no public servant will dare to resist. It is in violation of the principles of common morality, as I conceive, which govern my action. Gentlemen equally conscientious will vote against me; but with my convictions I can never sanction any such bill.

Now, Mr. President, I shall not go into the present condition of society in the lately rebellious States, believing that that matter does not properly appertain to the discussion and investigation of this subject; yet I do draw one reason from the present condition of the southern States inducing me to vote against this bankrupt bill. There was a very large indebtedness in all these southern States to the loyal northern States at the beginning of the rebellion. Every single dollar of that debt was confiscated by the action of the rebel States and the confederate Congress; and now they ask me and ask you to affirm that confiscation and repudiation, and say that the northern creditor shall have no process by which he shall collect his debts. That results from the nature of our legislation and from the provision of the Constitution; for when you pass this bankrupt law it must be uniform in its operation over all the States, loyal and disloyal. For five years we have been engaged in a war with rebellion; the northern creditor had no process by which he could enforce his debts against the southern people; it was all in abeyance; the authority of the constitutional courts was overthrown; for five years war rendered it impossible to collect those debts; and now you propose, by a

solemn act of Congress, to say that hereafter and forever these debts shall be confiscated, repudiated, and wiped out.

Mr. SAULSBURY. I know of no member of the Senate of the United States for whom I have a more profound respect than I have for the honorable Senator from Indiana. I know of no member of the Senate who would answer more frankly an interrogatory propounded honestly to him than the Senator from Indiana. Sir, I have been here for eight years, and I have heard these terms "rebellion" and "rebellious States" and "disloyal man" frequently used here. I want to ask my friend now what is meant by a "rebellious State" and a "disloyal man?" His ideas on those questions and mine differ. I hold that there has never been a rebellious State, and that the man who obeyed the lawful commands of his State was not a disloyal man. I should like to hear from the distinguished Senator from Indiana some explanation of the error under which I labor.

Mr. LANE. It would give me great pleasure to answer the distinguished Senator from Delaware if I thought it at all pertinent to this investigation. I will simply say now that any man who went into armed rebellion to overthrow the authority of the United States is a rebel, and that any State passing an ordinance of secession is a rebellious State. I hold that their first allegiance always, under the Constitution of the United States, is to the United States.

Mr. SAULSBURY. Will my friend allow me to ask him one further question?

Mr. LANE. Certainly.

Mr. SAULSBURY. Suppose that the State of Delaware, by whose action I owe obedience to this Government, enters into a compact of union with other States, transferring obedience on my part from the Federal Government, withdraws it upon political questions and questions upon which the United States courts have jurisdiction; who decides, the Federal Government or the State?

Mr. LANE. In answer to that question I shall simply say that if the State of Delaware should do any such thing she would, in my opinion, do a very foolish thing, and would be brought to see it just as the States lately in rebellion have been brought to see their error. But I do not choose to go into that controversy. As to this whole question of the present condition of the southern States, I think so far as this discussion is concerned it has no further relevancy than simply to look to their condition as a bar or prevention to the collection of northern debts. When the subject of reconstruction shall come up I shall be, I hope, prepared at least to give a conscientious if not an intelligent vote. I think we shall soon have to establish these provisional governments supported by the military power of the Government strong enough to protect loyal citizens, white and black, or we shall have to establish military governments over the lately insurgent States to effect precisely the same object.

But I rose simply to enter my protest against the passage of this bill, and not to be drawn into a general discussion about the condition of the South. God knows I have no feeling of enmity, no feeling of vengeance, toward the South. I would that the rebel people of the rebel States were a hundred times more loyal than I fear they are.

Mr. STEWART. I wish to say a word in reply to some suggestions of the Senator from Indiana. I should like to inquire of that Senator if Indiana has not an insolvent law on her statute-book?

Mr. LANE. I will answer that question with great pleasure. Indiana has insolvent laws under which every honest debtor who is not tainted with fraud may be released from his debts at any hour.

Mr. STEWART. So I supposed. The argument that the people of Indiana want to pay dollar for dollar is answered by the insolvent laws on her statute-book. Her insolvent laws guard no more strictly against fraud than does this bill. I believe nearly every State has its

insolvent laws. The inconvenience of these State insolvent laws was the argument used in the debates in the Convention that framed the Constitution in favor of a general law, and at this particular time it is very pertinent. The South has its insolvent laws which allow a debtor to be discharged, and under their peculiar system there is no chance of an equal or fair distribution of the assets. This bill is for the benefit of the northern creditors as much as for any other class. The State insolvent laws enable the debtor to escape with as much and generally with greater facility than this bill, and under them you go into the State courts instead of into the United States courts. This bill enables a northern creditor or a creditor anywhere in another State to force the debtor into the United States courts and obtain a distribution of his assets. This argument, therefore, that the people of the States desire to pay their debts and to adopt that policy is not true in the sense in which it is used. There is no State that does not in some form relieve the debtors by insolvent laws. It is the policy of the people of Indiana, when an enterprising, honest man has been unfortunate and he is pursued by relentless creditors, to allow him to surrender up all he has and start again in the world. This is the policy of Indiana. That is the policy of this bill.

It is not true that it is the policy of the United States to make every man under all circumstances pay his debts. That was the theory at one time under the English Government, and they carried that theory so far that they allowed creditors to take the person of the debtor and confine him in jail and let his family suffer, perhaps starve. The creditors were all-powerful, and they treated the debtors as criminals. But, sir, all that has been changed. The only question here is whether we shall, under the provision of the Constitution, have a uniform system of bankruptcy, so that citizens of one State may have the same chance to a fair distribution of the assets of the debtor as the citizens of another State. The only question is whether we shall, under the provision of the Constitution, make that policy, which is acknowledged by every State and by all the people of the United States to be right and just, uniform; make it apply uniformly. There is no doubt about the propriety of the bill so far as that is concerned.

The Senator further says that we must look to the English bankrupt law in determining questions of uniformity. I wish to call the attention of the Senate particularly to that as applicable to this question of allowing the States to retain their homestead laws. The English bankrupt system allowed in each case the judge before whom the proceedings were tried to set apart for the support of the family of the bankrupt so much as was suitable to the condition of the bankrupt, so much as was reasonable owing to his position in society, that would correspond with his condition; in one case £5, in another case £100, and perhaps in another case £1,000, and so on graduating it. Does anybody question that that was a uniform system of bankruptcy? We were referred to that one example for an interpretation of the provision of the Constitution. That is the English law to-day. Is not that entirely analogous to allowing the States to set apart beforehand a homestead for the family? Does that interfere with the uniformity of the system any more than it did to allow an arbitrary amount to be set apart for the debtor corresponding to his condition and circumstances in life? Certainly not.

Then we maintain that there is nothing in this bill which violates that principle of uniformity. There is certainly nothing in the bill that allows a dishonest debtor to avoid the payment of his debts. There is nothing in the bill which is not in precise harmony with the legislation of all the States of the Union, for they all have insolvent laws, and all recognize the necessity of relieving enterprising men from debts which will otherwise incumber them for life and make their families paupers. All the

States, I believe, recognize the principle in some form. The only question is, whether we shall make it convenient and uniform for the accommodation of the commercial people of the United States; whether they shall have the same privileges all over the United States that they have in any one particular State; whether they shall have the advantage of the United States courts in which to have the assets of a dishonest debtor distributed. That is the only question to be determined here.

As to the objection that the bill is unconstitutional because of the voluntary clause, that has been determined by the Supreme Court. We had a bankrupt act before this; the act of 1841 was a voluntary act; and the Supreme Court held that it was constitutional. That objection, therefore, is disposed of.

I do hope, sir, that this bill will pass. I do not think it involves the question of reconstruction. When that question comes before us I shall be prepared to adopt any necessary measures that may be before Congress to secure the life and property of every loyal man. I will go as far as any other Senator in that direction. But this bill has nothing to do with that question. The question now before us simply is, whether we shall, in conformity to the requirement of the Constitution, have upon our statute-book, for the convenience of the commercial men of the country, a uniform system of bankruptcy, by which bankrupts may be driven into the United States courts, and their assets fairly distributed; where they may appear, if they wish to go into voluntary bankruptcy, in the United States courts; where the creditors can have an opportunity to examine their accounts; or whether they shall go into the interior courts in the interior of the country, where nobody will hear of it, and go through bankruptcy in the fraudulent way that is complained of, to the prejudice of their creditors. I repeat, the question is simply whether we shall have a uniform system in the proper courts, or whether we shall let it go on in the way it now goes on, to the detriment of commercial men, with the whole thing involved in uncertainty: the South with her stay-laws, with her laws that prevent the collection of debts in every possible form, and with the prejudice in the local courts that must exist to the fair distribution of assets—a prejudice which will prevent a northern creditor from sharing equally with a southern creditor. This prejudice must necessarily exist. It existed at the time of the formation of the Constitution. This local prejudice was recognized by those who were in the Convention. They sought to avoid local prejudices, and for the convenience of commercial men, and for creditors throughout the United States, it was deemed important that the United States courts should be thrown open under a general system. That is all there is of this bill, and I hope it will pass.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on the passage of the bill, and upon this question the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. ANTHONY (when his name was called) said: I was paired off on this question with the Senator from Pennsylvania who is absent, [Mr. COWAN,] who was kind enough to pair off with me when I could not be present.

The Secretary resumed and concluded the calling of the roll, and read the list of yeas and nays, as follows:

YEAS—Messrs. Chandler, Conness, Creswell, Dixon, Doolittle, Fessenden, Foster, Harris, Howard, Johnson, McDougall, Morgan, Norton, Poland, Pomeroy, Ramsey, Ross, Stewart, Van Winkle, and Wilson—20.

NAYS—Messrs. Brown, Buckalew, Cragin, Davis, Foss, Grimes, Henderson, Hendricks, Kirkwood, Lane, Morrill, Nesmith, Saulsbury, Sprague, Trumbull, Wade, Wiley, Williams, and Yates—19.

ABSENT—Messrs. Anthony, Cattell, Cowan, Edmunds, Fowler, Frelinghuysen, Guthrie, Howe, Nye, Patterson, Riddle, Sherman, and Sumner—13.

Mr. PATTERSON. Mr. President—

The PRESIDING OFFICER. On this question the yeas are 20 and the nays 19; so the bill is passed.

Mr. LANE. The Senator from Tennessee was on the floor before the vote was announced and asked to vote.

Mr. HENDERSON. That is so.

Mr. LANE. I ask that he may be permitted to vote before the result is announced.

Mr. TRUMBULL. He addressed the Chair, but the Chair did not notice him.

The PRESIDING OFFICER. The Senator from Tennessee will be allowed to vote.

Mr. PATTERSON. I vote "nay."

Mr. FRELINGHUYSEN. I desire to vote. I vote "yea."

Mr. CATTELL. I vote "yea."

The PRESIDING OFFICER. The Chair will restate the vote. On this question the yeas are 22, and the nays are 20; so the bill is passed.

#### ORDER OF BUSINESS.

Mr. CHANDLER. I move the Senate proceed to the consideration of House bill No. 344, to incorporate the Niagara Ship-Canal Company.

Mr. GRIMES. There was a bill taken up on last Friday and made the special order for Saturday; but preference was given to the Committee on the District of Columbia on that day. It was then made the special order for to-day at one o'clock, but was put over for the sake of taking up the bankrupt bill. I desire the Senate to proceed to the consideration of that bill. I trust, therefore, that the Senator from Michigan will withdraw his motion and allow that bill to be taken up.

Mr. CHANDLER. I do not think this will occupy much time. I propose to bring it to a vote without debate.

Mr. GRIMES. I supposed that the bill to which I alluded was entitled to precedence. I do not know whether that is the rule or not.

The PRESIDING OFFICER. The Chair understands it was postponed by a vote of the Senate.

Mr. CHANDLER. Then I hope my motion will be put to take up House bill No. 344.

Mr. FESSENDEN. I think in fairness to the Senator from Iowa his bill ought to come up. It was made the special order for Saturday, and then postponed until to-day and made the special order for one o'clock, but the Senate then postponed it on account of the peculiar circumstances under which the bankrupt bill stood. I think, therefore, it is no more than fair that the Senator should have the floor now to take up his bill. I am opposed to his bill; but I cannot think it would be right for the Senate to take it out of his hands simply because it was postponed for the bankrupt bill on account of that being a question which the Senate had to pass upon. I hope, therefore, that the bill of the Senator from Iowa will be suffered to resume its course.

Mr. JOHNSON. I understood that it was postponed with the understanding on the part of the Senate that it would be taken up next after the bankrupt bill. I certainly was under that impression.

Mr. FESSENDEN. That was my understanding.

Mr. JOHNSON. The Senator from Iowa told the Senator from Vermont that he had no objection to his bill being proceeded with, provided his should not lose its place, and if that was the understanding he withdrew all objection. No Senator said that he did not concur in that view, and the bankrupt bill was taken up. Under these circumstances I hope my friend from Michigan will permit the bill in the charge of the Senator from Iowa to be taken up.

The PRESIDING OFFICER. The question is on the motion of the Senator from Michigan to take up the bill (H. R. No. 344) to incorporate the Niagara Ship-Canal Company.

Mr. HENDRICKS. Is it in order to move to amend that motion by substituting another bill?

The PRESIDING OFFICER. The Chair thinks not.

Mr. CHANDLER. I will ask for a division on the motion.

Mr. GRIMES. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. At this stage of the session it is very manifest I think that if we cannot get up this bill now there will be very little prospect of getting it up and acting upon it during the present session. It is a House bill which passed the House of Representatives at the last session. It is a very important measure to the people of the West, in which they feel a very deep interest, and I hope that the Senate will allow us to consider this bill. There was an effort made at the last session of Congress, but we could never get the consideration of the Senate to it.

Mr. MORGAN. It was postponed by the Senate.

Mr. TRUMBULL. It was never considered in the Senate. It was reported by the committee, and I think the Senator from Michigan, who has charge of the bill, if I recollect rightly, made several efforts to get the attention of the Senate to it and a vote upon it. It is true that it was laid aside by a vote, just as it will be at this session by refusing to take it up.

Mr. FESSENDEN. You can take it up after we get through with this.

Mr. TRUMBULL. Is there any assurance that we can take it up after we get through with the measure of the Senator from Iowa?

Mr. FESSENDEN. You have just exactly the same chance as anybody else has.

Mr. TRUMBULL. Just as good a chance. Now this is in order. The motion made by the Senator from Michigan is in order.

Mr. FESSENDEN. The motion is made, but it is not yet agreed to. I suppose we have a right to state the objection to taking it up, and that is that another bill is fairly entitled to precedence under the circumstances, having been assigned for to-day.

Mr. TRUMBULL. If there is anything in that I hope they will not be antagonized, because I desire to see a fair vote on the Niagara ship-canal bill.

Mr. FESSENDEN. That is the ground on which I put it.

Mr. TRUMBULL. If the Senator from Maine or other Senators think it is crowding some other bill out that is fairly entitled to precedence, I hope the Senator from Michigan will not press the motion.

Mr. FESSENDEN. That is entirely the ground on which I put it. As I said, I am not in favor of the bill which the Senator from Iowa wishes to take up, and never have been; but it having been especially assigned for to-day—I believe it was first brought and assigned for Saturday—

Mr. TRUMBULL. It had not been assigned for to-day.

Mr. FESSENDEN. Yes, it was specially assigned for to-day at one o'clock, but the bankrupt bill intervened.

Mr. HOWARD. The Senate postponed it by a vote.

Mr. FESSENDEN. I know, but with a perfect understanding that they were only postponing it in order to dispose of the bankrupt bill, that was pending at the time on a reconsideration.

Mr. HOWARD. I did not so understand it.

Mr. FESSENDEN. I so understood it, and I think common fairness requires that other measures should not be antagonized with it.

Mr. CHANDLER. If I can have an understanding that this bill shall come up immediately after the action of the Senate upon the bill that the Senator from Iowa proposes to bring up I will consent to withdraw my motion. But I have been trying, as the Senator from Illinois has stated, for two sessions to get a vote on this bill and have failed thus far. I think it is the most important measure now before the Senate.

The House acted upon it nearly two years ago. It is a bill in which the Northwest take a deep interest. It is of equal interest to the East. It is a national work, a work of necessity. If Senators will, by common consent,



say that this bill shall come up immediately after action on the other bill, I will withdraw my motion.

Mr. CONNESS. Why, Mr. President, whether the Senator withdraws it or not the Senate will settle it by a vote. I hope we shall come to a vote, and that will settle it.

Mr. GRIMES. That is the best way.

Mr. CHANDLER. Very well.

The PRESIDING OFFICER. Does the Senator from Michigan withdraw his motion?

Mr. CHANDLER. No, sir.

The question being taken by yeas and nays, resulted—yeas 14, nays 25; as follows:

YEAS—Messrs. Chandler, Dixon, Fogg, Foster, Frelinghuysen, Howard, Pomeroy, Ross, Sprague, Stewart, Sumner, Trumbull, Wade, and Yates—14.

NAYS—Messrs. Brown, Buckalew, Cattel, Conness, Creswell, Davis, Doxittle, Fessenden, Grimes, Harris, Henderson, Hendricks, Johnson, Kirkwood, Lane, Morgan, Morrill, Nesmith, Patterson, Saulsbury, Sherman, Van Winkle, Willey, Williams, and Wilson—25.

ABSENT—Messrs. Anthony, Cowan, Cragin, Edmunds, Fowler, Guthrie, Howe, McDougall, Norton, Nye, Poland, Ramsey, and Riddle—13.

So the motion was not agreed to.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the 7th instant, a copy of the correspondence between the Department of State and the minister of the United States at Stockholm in relation to his reported transfer from Stockholm to Bogota; which, on motion of Mr. SUMNER, was referred to the Committee on Foreign Relations, and ordered to be printed.

#### BILL RECOMMENDED.

On motion of Mr. WADE, it was

Ordered, That the bill (S. No. 404) to regulate the selection of grand and petit jurors in the Territory of Utah, and for other purposes, with the amendments thereto, be recommitted to the Committee on Territories.

JOHN J. SOHAN.

Mr. DAVIS. Before the Senator from Iowa calls up his bill I hope I shall be allowed a moment to call up a pension bill for a blind sailor. The House have passed a bill placing him on the pension-roll, and the Committee on Pensions have reported it with an amendment simply requiring the pension to be paid out of the naval pension fund. I hope the Senate will take up the bill, concur in the amendment, and pass the bill. It will take but a moment. It is House bill No. 1053.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1053) granting an increased pension to John J. Sohan. It directs the Secretary of the Interior to allow and pay John J. Sohan, in consequence of total blindness, resulting from disease contracted in the line of his duty as a marine in the United States Navy, a pension at the rate of twenty-five dollars per month, commencing on the 16th of August, 1866, and to continue during his disability, in lieu of the pension heretofore allowed to him by the Secretary of the Interior on the 13th of October, 1866.

The Committee on Pensions reported the bill with an amendment, to add the words "to be paid out of the naval pension fund."

The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendment was concurred in, ordered to be engrossed, and the bill to be read a third time. It was read a third time, and passed.

#### DISTRICT BUSINESS.

Mr. MORRILL. The Senate on Saturday last authorized a meeting at seven o'clock to-night for the consideration of business of the District of Columbia. I am persuaded that after the late session last night I shall hardly succeed in getting a quorum of the Senate to-night. I move, therefore, that to-morrow night, at seven o'clock, be assigned for the consideration of the business of the District of Columbia instead of to-night.

Mr. WILSON. The Military Committee

want to-morrow; we have some twenty bills to act on.

The motion of Mr. MORRILL was agreed to.

#### RECONSIDERATION OF A VOTE.

Mr. MORRILL. I desire to enter a motion to reconsider the vote by which the joint resolution (H. R. No. 269) for the relief of certain officers of volunteers was yesterday postponed indefinitely.

The PRESIDENT *pro tempore*. The motion will be entered.

#### LEAGUE ISLAND.

Mr. GRIMES. I now move that the Senate proceed to the consideration of House bill No. 452.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 452) to authorize the Secretary of the Navy to accept League Island, in the Delaware river, for naval purposes.

It authorizes the Secretary of the Navy to receive and accept from the city authorities of the city of Philadelphia the title to League Island, in the Delaware river, and adjacent marsh land, including the whole of the creek known as the Back Channel, from the Schuylkill to the Delaware river, and all the riparian rights and privileges of League Island, adjacent marsh, and Back Channel, together with so much of the opposite shore of the Back Channel from the League Island shore as shall, in the opinion of the Secretary of the Navy, be ample to enable the Government to have the sole and exclusive use of the Back Channel and both shores; the island and appurtenances to be held for naval purposes by the Government of the United States; but League Island, the marsh adjacent, and the Back Channel, with its shores, is not to be received or accepted until the title to the whole of the same, as herein described, is complete and indefeasible, nor unless the acceptance thereof shall be recommended by a board of officers to be appointed by the President.

Mr. SUMNER. Before the debate begins on the bill, if it is in order, I should like to move an amendment to strike out all after the enacting clause and insert as a substitute:

That Admiral David G. Farragut, Lieutenant General W. T. Sherman, and Mr. J. E. Hilgard be, and they are hereby, appointed and constituted a commission to select a suitable site on or adjacent to the Atlantic coast for a naval station for the storage and repair of iron vessels and iron-clad vessels of the Navy, and for other naval purposes. And the Secretary of the Navy is hereby authorized and empowered to accept such selected site on behalf of the United States: *Provided*, The same shall be conveyed to the United States as a free gift, for their exclusive use and benefit, by a valid and indefeasible title. And the Secretary of the Navy is hereby further authorized to take possession of and occupy such site for the purposes herein indicated; and in preparation thereof to use such amount of money as may be necessary out of any unexpended appropriations for the Navy.

Mr. HENDRICKS. Mr. President, under the instruction of the Committee on Naval Affairs it became my duty to report this bill back to the Senate with a recommendation in its favor, and I shall now, in its explanation, ask the attention of the Senate but a short time. In my investigation of this subject I have not considered the question which is suggested by the amendment of the Senator from Massachusetts. I do not consider this to be a question whether the United States will establish and build up an additional navy-yard; and I believe in that view the committee agreed with myself. It is not a question whether a new yard shall be established, but simply whether the navy-yard at Philadelphia shall be removed to what is supposed to be a more desirable location; and I think the only question that the Senate is called upon now to decide is whether that removal shall take place. I think we have no sufficient reason for the establishment of an additional navy-yard.

That Senators may understand just how the navy-yards of the country are located, I will state that there is now a navy-yard in Maine of one hundred and sixty-four and seven eighths acres; one at Charlestown, Massachusetts, of eighty-five and one fourth acres; one

at Brooklyn, New York, of one hundred and ninety-three and one tenth acres; one at Philadelphia of twenty acres; the Washington yard, forty-one and seven eighths acres; Norfolk, to some extent destroyed, one hundred and nineteen acres; Brunswick, no expenditure yet made, eleven hundred acres; Pensacola, to a large extent destroyed, eighty-three and one fourth acres; Mare Island, California, nine hundred acres; Sackett's Harbor, New York, a very inconsiderable establishment, three and a half acres.

Upon this statement Senators will observe that there is but one navy-yard located in the middle States, that at Philadelphia. I think Senators will not consider the question now whether we shall cease to have a navy-yard in the Delaware, or anywhere in the middle States, and, in connection with that, whether we shall put an additional yard upon the shores of New England. I am aware that there has been a controversy growing out of the respective claims of Philadelphia, and New London, in the State of Connecticut; but I do not choose, in this connection, to consider the claims of New London, for the simple reason that I do not understand the question to be before the Senate or Congress whether an additional navy-yard shall be established in New England. That part of the country is well provided for in this respect. I think the lessons of the war teach us that the military and naval power should be fairly, equitably, and wisely distributed over the country. There is scarcely any Senator who would now say that the only arsenal should be in New England, or should be in the middle States, or should be in the southern States. The possible disaffection of any section teaches us that it is important to have the military power scattered over the country; and upon that policy we have established arsenals at different points, and have not allowed the country to rely upon a great arsenal in some one particular section of the Union. So I think, in regard to the navy-yards, that the policy is a wise one that they shall be carefully and wisely distributed along the coasts which we control. Perhaps one upon the Pacific coast for the present is enough. Two or three in New England are quite enough for that locality. Norfolk and Pensacola will perhaps when rebuilt be enough for the southern coast. But upon what propriety is it claimed that a navy-yard, up to this time so useful, and found so important as the one on the Delaware, shall be abandoned and a new yard built upon the shores of New England? So, sir, I have declined to consider the comparative claims of these two localities.

Philadelphia now has a yard of twenty acres, capable of enlargement somewhat, but, according to the opinion of naval men, not capable of enlargement to such an extent as the necessities of the Government require. The measure which is now before the Senate has been recommended from the Navy Department in every annual communication since 1862. Early in the war the Secretary of the Navy became of the opinion that the enlargement of the yard at Philadelphia was very important; but especially that there should be provision made for the laying up of our iron-clads. I will call the attention of the Senate very briefly to one or two extracts from the communications or reports of the Secretary of the Navy. In his report of December 1, 1863, the Secretary says:

"The Government is destitute of a suitable establishment for the construction or repair of iron vessels, their machinery or armature; nor has it any place for preserving them when laid up in ordinary. Some proper and suitable accommodations for vessels of this description are necessary where there is fresh water, and, as stated in my communications to the last Congress, it has appeared to me that no place combines so many advantages as are to be found on the Delaware, in the vicinity of Philadelphia."

In his report of December 5, 1864, the Secretary of the Navy says:

"The Government has not even at this time an establishment where a shaft can be made for our steamers, or a plate for our iron-clads."

Again, in the same communication, the Secretary says:

"A navy-yard, if we have one for naval iron work, should be established on fresh water, for this is essential to the preservation of iron vessels, which cannot be laid up in salt water during peace. Ready access to coal, iron, and timber is also important, for these essential articles should be always available on the inland waters without exposure to an enemy by coast-wise transportation. The vicinity of a large city, where skilled artisans can be obtained without difficulty, and the facilities of markets and tenements are abundant, should be considered. A foundation of gravel would for the purpose of machinery be preferable to stone. An extensive water frontage must also be secured. For such a depot and establishment where costly machinery and material would accumulate during years of peace the advantages of an interior location are most manifest. These favorable conditions are to be obtained nowhere else so completely as on the Delaware river; and the position of League Island, within the limits of the city of Philadelphia, presents probably a stronger combination of the points that are necessary than any other location."

I read now from his report of the 4th of December, 1865:

"The board of naval and scientific gentlemen appointed in 1862, in pursuance of an act of Congress passed on the suggestion of the Department, to select a site for a navy-yard for iron purposes, while entertaining differing opinions as to the most eligible location for a navy-yard for general objects, were united in favor of League Island 'so far as iron vessels are concerned.'"

In a letter to the Committee on Naval Affairs of the House of Representatives, dated March 6, 1866, the Secretary says:

"The importance of a suitable navy-yard and establishment for iron and armored vessels was felt to be a necessity during the war. League Island, on the Delaware river, adjoining Philadelphia, was tendered to the Government for naval purposes, and the locality possessed such extraordinary advantages that I could not do otherwise than present the subject to the consideration of Congress. The late President Lincoln was so impressed with its importance that he deemed it a duty on two occasions to make special reference to the subject of promptly securing League Island for naval purposes."

Again, he says:

"When hostilities ceased, the Department was compelled, in consequence of the neglect to make suitable provision for our fleet, to ask and obtain permission of the proprietors to place the armored vessels in the back channel of League Island during the pleasure of private parties or until Congress shall designate some other locality."

League Island is situated about two miles below the built-up portion of the city of Philadelphia. There are now inclosed within the walls that protect it from the highest stages of the water about four hundred acres, and the inclosure may be extended so as to make the island about six hundred acres. Therefore, the proposition now is to secure for the navy-yard at Philadelphia six hundred acres, being League Island, about two miles below the built-up portion of the city of Philadelphia. This island was subject to overflow, being about two and a half feet below the highest water in the Delaware. It is protected from the water by a stone wall, a portion of which has stood for a great many years, and is so completely protected by that wall as that the land has been used for meadows.

Now, Mr. President, I should favor this measure if we never contemplated the building of a navy-yard upon the island itself. I should vote to accept this donation from the city of Philadelphia if the island could be used for no other purpose than as a place of refuge and security in fresh water for our iron-clads. The Delaware river flows in front of the island. There is in the rear of it a back channel, in which for the last two years the iron-clads have been laid up—not the largest size, but the medium sized iron-clads have been securely laid in this channel. The channel is of sufficient length and sufficient capacity when dredged to far more than accommodate any navy which this Government will perhaps ever provide for. I have a map of the island which shows the position of the island in relation to the city of Philadelphia and in its relation to the main channel of the Delaware river and to this back channel, and also to the mouth of the Schuylkill.

I shall not stop to discuss the importance of having fresh water in which to lay up the iron-clads. It is conceded upon all hands that it will not do to lay them up for any length of

time in salt water. The iron is destroyed by it. The destruction of the iron in fresh water is very small, scarcely perceptible. All scientific men who have given any opinion on this subject at all have agreed that we must have a fresh-water basin in which to lay up our iron-clads. That is found, according to the opinion of naval men, in the back channel adjoining League Island. It is now of about the depth of fourteen feet. To accommodate the larger-sized vessels it must be deeper. That channel empties into the Delaware along with the Schuylkill; and so pure is the water at that point that I am told by the distinguished Senator from New Jersey [Mr. CATTELL] that very many of our vessels supply themselves before sailing with water at that point.

Some objections have been made to this location of a navy-yard and the selection of this back channel for the laying up of the iron-clads. I will refer to them briefly. I choose rather to refer to them more fully after they shall have been suggested by those who oppose this bill. In this connection I will refer to the opinion expressed by Mr. Fox, the Assistant Secretary of the Navy, under date of February 21, 1866, about a year ago:

"The island has a shore line of two and a quarter miles upon the Delaware river, nearly half a mile upon the Schuylkill, and a back channel separating it from the main land two and a quarter miles in length, with an average width between the dykes of three hundred and fifty yards. At present there is a mile and a half of this back channel that is one hundred feet wide and fourteen and a half feet deep, with soft bottom. Here are moored the harbor and river monitors, the light-draught monitors, and torpedo boats, also several double-enders and other gunboats. A natural basin, secure from every known risk, inside of the permanent defenses of the coast, in fresh water; away from ice and currents; within reach of coal and iron, and skilled labor to prepare our vessels for battle at a moderate expense; only a mile distant from the main ship channel, which has been closed by ice but once in forty years; with no expenditure required to secure the vessels in their present position that would not be incurred at our best yards, (where there is no room for them); and finally, a complete back channel, that by dredging would give ample room for the entire American and English navies, are some of the facts which impressed me with the importance of securing this inestimable site, by accepting it as a free gift, before the rapid growth of the city of Philadelphia absorbs it."

"The importance of this back channel has not been sufficiently estimated, as it seems to me, in any of the able discussions which have set forth the advantages of League Island as a naval station, instead of the present insignificant yard at Philadelphia, which has but one fifth of the frontage of the English navy-yard at the island of Bermuda, off our coast. Our navy-yards have not frontage enough to contain the vessels now laid up, and which belong permanently to the Navy."

"The advantages to result from dredging the back channel for wet docks, basins for lumber, and other essential purposes are also very great. League Island contains about six hundred acres, and is two and four tenths feet below high-water mark, and for a great many years has been protected by a stone wall or dyke, and has not been overflowed since that protection was established."

One great objection made to League Island is that it must be filled before a navy-yard can be built upon it. I will read what Mr. Fox says on that subject:

"To raise the island three feet above high-water mark would require about thirty-six hundred thousand cubic yards of earth. Dredging the back channel to a depth of eighteen feet in the middle, with a curved cross section to zero at the sides, would give about forty-one hundred thousand cubic yards—sufficient to bring the whole island to a level of four feet above high-water mark."

Here is a calculation, sir, upon the subject, that to place the island three feet above high-water mark will require three million six hundred thousand cubic yards of earth, and this can be supplied, and more than supplied, by the dredging that will be necessary to make the back channel what we desire for the accommodation of the iron-clads. Then the question arises: what will be the cost of this dredging and filling of the island? We have been told in communications addressed to the committee that the expenditure will be many millions. Here is the estimate made by the distinguished Assistant Secretary of the Navy:

"Some idea of the expense, practicability, usefulness, and healthiness of this plan may be derived from the operations of the War Department in the extension of the arsenal grounds in this city. There mud is being dredged from the bottom of the fresh-water swamp known as James' creek, and deposited

upon the surface of the lands added to the arsenal grounds; and the expense of this operation is estimated by the efficient superintendent, Mr. Wise, at twenty-five cents per cubic yard, which would at the same rate make the cost of raising League Island \$900,000. Mr. Wise would be very glad to take the whole contract, at present prices of labor, at thirty cents per cubic yard. This sum is less than has already been expended by the Navy Department during the war for the repairs and coal of the steamer Vanderbilt. It is less than Mr. Forbes has expended upon the steamer Idaho, building for the Government, and is only twenty per cent. more than some of the first-class steam-engines built since 1861."

According to this statement, to dredge the back channel, and thus to enlarge and deepen it so as to accommodate our own and the English navy, and to fill up the island and place its surface three feet above high-water mark, will cost \$900,000, less than some of our vessels have cost us, less, as has been stated by the distinguished gentleman from whom I read, than it cost one of our builders to construct the Idaho, less than has been expended by the Navy Department during the war for repairs and coal of a single vessel, the Vanderbilt. And yet the country has been frightened almost by the statements of the enormous expense necessary to fit this island for a navy-yard. Nine hundred thousand dollars, say \$1,000,000 if you please, to make the island three feet above high-water mark, to give us six hundred acres of land for a great navy-yard in the center almost of our Atlantic coast, to furnish us a basin with the purest fresh water sufficient to accommodate our Navy when it may be increased to the greatest possible extent, and finally to furnish us accommodations for the largest operations of any navy-yard. Why, sir, the expense of \$1,000,000 is not to be regarded in this connection. The yard at Philadelphia now does not serve our purpose. We cannot bring our iron-clads to rest there. We must provide for their laying up; and where shall it be? At an expense of \$1,000,000 we can provide this grand basin, if I may so express it, or back channel to accommodate the entire Navy. I ask Senators, if we went no further, if we stopped just there, if we dredged this back channel and made it of sufficient depth and width to accommodate our Navy, and should never build a navy-yard upon this island at all, should we not be justified in the expenditure of this \$1,000,000?

Objection has been made—I anticipate that it will be made again—that Philadelphia is too far removed from the sea to furnish a suitable location for a great navy-yard; that our vessels cannot be brought out to meet the service that may be required of them sufficiently ready. Why, sir, it is about seventy or eighty miles from the ocean. It is on a grand river, up which our largest vessels of war have heretofore passed. There was some objection to the location of a navy-yard for the repair of vessels far up the rivers when we depended upon sailing vessels alone; but they are abandoned. Now, of course as a naval Power we must look to a steam navy; we do look to it, and the location of our navy-yard must be in view of the fact that ours will be a steam navy. A steamer finds no difficulty in going up or passing down the Delaware river. Why, sir, this argument is to prove that Philadelphia does not exist, a city that has been built up by the commerce which is brought to her and taken from her by great vessels passing up and down this river. By many the remoteness of this position from the ocean is regarded as an advantage. The yard and the vessels at anchor there are well protected from any enemy; and other Governments are abandoning their yards that are located near to the shore and within range of the improved guns of this age. It will not do any more to locate a navy-yard within four or five miles of the coast. A navy-yard thus located must be protected; it cannot protect itself. Philadelphia is already protected. We must always protect Philadelphia, and the protection necessary to that great commercial city is the protection for this navy-yard. We have no cost in providing a protection for the navy-yard. Its position gives it its protection, and its remoteness from the sea, instead of being

an argument against it as a location for this great navy-yard, is an argument in its favor.

Objection has been made to this location because of the liability of the vessels to be injured by the ice in the Delaware river. I will read on that subject:

"The iron monitor steamer Dictator, the New Ironsides, the Atlanta, and the St. Louis have lain, during the whole of the last winter, moored off the extremity of a single wharf projecting from League Island into the Delaware river, and built twenty-two years ago; none of these vessels have received any injury whatever.

"The ice, in a severe winter, is occasionally inconvenient at the city of Philadelphia, but it is not so at League Island, which is situated below the city, as the current throws it along the New Jersey shore opposite the island.

"The ice of the Delaware river has never been urged as an objection to the yearly appropriations made for the Philadelphia navy-yard, nor has it prevented Philadelphia from becoming the third commercial city in the Union."

If I can turn to it I will read what Professor Baché says upon this subject of the ice. I read from the report of Professor Bache and Captain Marston:

"When ice makes in the Delaware in extremely cold winters it is deposited on the Horseshoe shoal, and, breaking up, passes in the direction of the currents to the New Jersey shore, and thence in a gentle, undulating curve to the lower end of League Island. The testimony of pilots shows that the breaking up of ice is never a serious matter on the shores of League Island. It is usually honeycombed and rotten before moving. The ice-boat is with rare exceptions of extremely cold winters, say once in forty years, able to keep the Delaware open; in ordinary winters its use is not required; and in the coldest on record in eighteen years it was able to make way through the ice on any day of the season, one of these years including the severest winter on record."

If we provide a fresh-water resting place for the iron-clads we have got to meet the difficulty of ice unless we locate the yard upon the southern coast; and I suppose that the difficulty from ice in the Delaware in the neighborhood of Philadelphia is perhaps less than would be encountered in any river furnishing a sufficient and suitable resting place for the iron-clads north of that latitude. Go to Connecticut, to Massachusetts, or to Maine, and do you expect to find fresh water free from ice, and do you expect in any of these localities to avoid the inconveniences to which I have referred? But I think the statement of Professor Baché on this subject is quite sufficient.

The advantages of this location are obvious. In the first place the yard will be near a large city, furnishing at all times to the Government a supply of skilled labor. In the second place it is as convenient and advantageous a location as can be found with a view to the necessary timber for use in a navy-yard; the supply will be as convenient and cheaply obtained as at any other point. Then the supply of coal and iron, a most important consideration indeed, will be more certainly secured at all times and more cheaply at Philadelphia I presume than at any other locality in the country.

Some objection has been made to the remoteness of the island from the city of Philadelphia and the want of accommodations for the families of the laborers at such a yard. I shall not stop to discuss that at any length. I suppose that the extension of two or three lines of street cars down Broad street and other streets to the shore will furnish sufficient convenience to all the laborers. But there is no doubt that as soon as the navy-yard is established, tenements will be erected at once. This navy-yard cannot be established advantageously to the Government in the heart or near the heart of the city of Philadelphia; no point furnishing the advantages which we must now have can be found nearer to the city of Philadelphia or perhaps to any other city than League Island; and as soon as the work commences, every Senator knows that the necessary accommodations will grow up; it will come to be the interest of men to make improvements.

I intended, Mr. President, at this time merely to indicate some of the views of the committee upon this subject, and not to discuss it elaborately. I suppose there will be objection made, as there has been elsewhere, to this bill. I favor it because I am not willing to see the only navy-yard which we have in the middle

States removed from them. I should consider it a great national calamity to remove the only yard that is now found in the waters that flow through the middle States. I do not intend to discuss this matter in any sectional view; I do not suggest this with any purpose to address any sectional sentiment; but we have agreed by the establishment of arsenals over the country that the military and naval power of the country ought to be distributed into the different sections. It is a lesson taught us by the late war, and I would not consent unless the reasons were entirely controlling to the abandonment of a navy-yard at Philadelphia.

Mr. SUMNER. Mr. President, as I have had the honor of moving a proposition which is a substitute for the bill now before the Senate, I hope you will pardon me if I go into a very brief explanation. If I have followed the Senator from Indiana, he is disposed to limit the character of the proposition before us. He presents it to us simply as a question between the existing navy-yard at Philadelphia and a new navy-yard for Philadelphia. If it could be presented in that limited way I should be very little disposed to enter into the controversy; but it strikes me that the statement of the Senator is not complete. The proposition before us involves something more. It is not merely supplying a new navy-yard to Philadelphia; that in itself would be of importance; but this proposition still goes further. While supplying a new navy-yard to Philadelphia it undertakes to supply a navy-yard on a large scale, which is to meet the great change in the naval system of our country growing out of the introduction of iron-clads; and you have the single practical question presented to you whether at this moment League Island is the best place for a navy-yard of iron-clads. There is the question. The Senator from Indiana must not divert attention from that question. The Senate, when it votes, must vote on that question. It must say yea or nay on the question whether League Island is best for these new and extraordinary purposes.

I am not at this moment disposed to go into the consideration of the merits of League Island. Many pamphlets have been written upon them, many speeches have been made upon them. I will not now add to the number. Suffice it to say, that on the evidence there is certainly grave doubt whether League Island does in a practical way supply all that is needed for the desired purposes. I certainly doubt it. Then, on the other hand, there is a proposition for a navy-yard at New London. With regard to that there are also pamphlets and speeches. I have seen that site myself, and I must say, if I may so express myself, it is even captivating. I can hardly imagine a site which is better adapted to the purposes in view. The water is ample; the supply of fresh water behind is peculiar; and all these, too, are under the guardianship, if I may say so, of fortresses, so that I believe it would be in reasonable security against any foreign approach. You cannot put aside New London on the existing evidence, it seems to me. Certainly you cannot put it aside and take League Island; but that is what the bill before you asks you to do.

Under these circumstances I have felt it my duty to bring forward what I will call an intermediate proposition. It is neither for League Island nor for New London, but it is for the creation of a commission of engineers as eminent as any in the country, having the undoubted confidence of the country, who shall make an inquiry with regard to a proper site for a navy-yard for the purposes in view. The commissioners that I have proposed, and whose names are set forth in the substitute, are Admiral Farragut, Lieutenant General Sherman, and Mr. Hilgard. Of Admiral Farragut I need say nothing; of General Sherman I need say nothing, except that he is placed in this commission on account of his eminence as an engineer. Mr. Hilgard is also placed here on account of his familiarity with our coast and his eminent scientific attainments. You all know that he is now the practical head of the

Coast Survey. I doubt whether three gentlemen in the whole country could be selected who if they should unite in a report on this subject would inspire more confidence.

I propose that this commission shall select a suitable site on or adjacent to the Atlantic ocean for a naval station for the storage and repair of iron vessels and iron-clad vessels of the Navy and for other naval purposes. But I do not stop there. I do not content myself with providing a commission that shall do what I submit at this moment the Senate and the Congress are not competent to do, to determine between these two places; or to select some other place which is neither one nor the other; I do not stop with the creation of an effective commission; I go further, and provide that the Secretary of the Navy shall act at once on the report of that commission. Here are the words:

And the Secretary of the Navy is hereby authorized and empowered to accept such selected site on behalf of the United States: *Provided*, The same shall be conveyed to the United States as a free gift, for their exclusive use and benefit, by a valid and indefeasible title. And the Secretary of the Navy is hereby further authorized to take possession of and occupy said site for the purposes herein indicated, and in the preparation thereof to use such amount of money as may be necessary out of any unexpended appropriations for the Navy.

Observe the language. Under this amendment the Secretary of the Navy will be authorized to go forward at once on the report of this commission and prepare his navy-yard. Therefore, if any Senator should be disposed to say that my proposition is in its nature dilatory, I reply at once that he is mistaken; it is dilatory only so far as it does interpose the agency and judgment of a commission. That is all. It is not introduced, either with a view to delay, but it is introduced with a sincere desire to find some means of reconciling this controversy, which has so long agitated both Houses of Congress. It is time that it should be brought to a close, and I see no better way of bringing it to a close than by subjecting it to the impartial umpirage of so distinguished a tribunal as that which is described in this amendment.

Let those commissioners proceed with the inquiry, and we shall all be ready to accept their conclusion. If they sanction the receiving of League Island, then for one I shall consent. If on the other hand they prefer New London, or some third place, then again I shall consent. I shall feel that my own judgment will be essentially aided by theirs. Indeed I shall gladly, on this question, subordinate my judgment to theirs.

I ask you, then, what is the practical objection to this proposition? Is it not calculated to harmonize these two different sides? Does it not afford an easy and quiet way of bringing this controversy to a close? I have said that for one I should accept the report of any such commission. I believe the Senate would accept it; still more the country would accept it. The people who are interested in League Island, I believe, would not set themselves up against such a report; and, on the other hand, those who are interested in any other place would be equally contented.

This is all that I have to say on the case at present. Should the debate continue I may be disposed to consider more at length the comparative merits of the different places, though for one I am very anxious to avoid these details. I do not believe that the Senate is competent to consider these details to advantage. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. GRIMES. I do not think it is possible that anybody can be induced to vote for this proposition except the Senator from Massachusetts, who offered it. It avoids all the questions that are at issue upon this subject. It does not propose to establish a navy-yard, and it does not authorize one to be selected. It does not authorize these men, if they choose, to remove the navy-yard from its present location in Philadelphia to League Island or to Red Bank



or to any other place, or to New London; it merely says that these distinguished gentlemen, all of whom save one know nothing of nautical matters, shall be authorized to select a place for the storage and repair of iron-clads; that is all. Nothing else can be done. Of course the Senator from Massachusetts is not desirous that all the labor to be done in the navy-yards of the United States shall be done in the yards in New England. Of course he could not be influenced by any such consideration as that in offering such a proposition as this; but such would be the effect of his proposition. You would thereby virtually dispense with the present yard at Philadelphia, that only embraces thirteen acres of available land, where all your buildings are cluttered up together and liable to destruction from fire within and fire without, and where you are obliged year after year to rent wharf room for your vessels to lay, where there is no room to-day for more than two vessels to lay up on your water front. Does he want to dispense with that and have all the repairs to your wooden ships, that will be your cruisers in time of peace, done at Portsmouth, Charlestown, and New York city? Let me read it:

That Admiral David G. Farragut, Lieutenant General William T. Sherman, and Mr. J. E. Hilgard be, and they are hereby, appointed and constituted a commission to select a suitable site on or adjacent to the Atlantic coast for a naval station for the storage and repair of iron vessels and iron-clad vessels of the Navy, and for other naval purposes; and the Secretary of the Navy is hereby authorized and empowered to accept such selected site on behalf of the United States: *Provided*, The same shall be conveyed to the United States as a free gift, for their exclusive use and benefit, by a valid and indefeasible title. And the Secretary of the Navy is hereby further authorized to take possession of and occupy said site for the purposes herein indicated, and in the preparation thereof to use such amount of money as may be necessary out of any unexpended appropriations for the Navy.

There is no limit as to the amount of land that is to be secured. These gentlemen may, if they choose, demand of one locality a large amount and of another two acres or five acres or ten acres. Then it confers upon the Secretary of the Navy unlimited power over the Treasury to expend just so much money as he chooses in order to put this navy-yard that we authorize these gentlemen to select in working order. I confess that I never heard of a bolder proposition presented to the Senate than this seems to me to be.

Mr. President, the country does not want another navy-yard. Neither the Secretary of the Navy nor the President of the United States has ever asked for one. We have navy-yards enough to-day. A simple proposition came to us from the Navy Department, asking that the present yard at Philadelphia should be enlarged; and the question was whether we should enlarge that yard by acquiring the adjacent property, taking it out of the business property of the city that is necessary for commercial uses, or whether we should move it a mile and a half off to another locality. We decided that it was best for the Government to move it to another locality; and then the question was where that locality should be, whether we should move it a mile and a half off to League Island, or further down the river to Red Bank or to Chester. But as to the propriety of removing the Philadelphia yard and having a larger establishment there cannot be a question.

We have been enlarging our yards ever since the foundation of the Government. In 1798 the Navy Department was established. An act of Congress was passed authorizing the construction of six frigates. At that time Benjamin Stoddard was the Secretary of the Navy. There was never any authority of Congress to establish the six navy-yards that we had in this country; but Mr. Stoddard, under the latitudinarian notions that prevailed in Mr. John Adams's Administration (as his enemies said) thought that the authority to construct the six frigates carried with it the power to purchase the land upon which they should be built; and therefore that Secretary of the Navy, the first one we ever had, bought a

small piece of ground at different points, upon which the ships were built; and from that day to this we have been constantly enlarging these yards. Since I have been a member of this body we have made two purchases to add to the Philadelphia yard; and it is in that way that all our navy-yards have sprung up. We have never succeeded in getting a yard as an entirety except that noble one which we possess on Mare Island on the Pacific coast. Now there is an opportunity to secure a yard as an entirety, to lay it off as it ought to be, to make such a yard as is demanded by the commercial and naval interests of the country; such as is worthy of a great maritime Power.

When this subject shall be more thrown open to debate and the qualities and capacities of League Island shall be brought in question, I may have something more to say on the subject.

Mr. FOSTER. Mr. President, the question before the Senate, whether it be regarded as the pending bill or the amendment moved by the honorable Senator from Massachusetts, it seems to me is one of more importance than the Senate appear to consider it. The bill itself comes before us under rather peculiar circumstances. It seems to me a little singular that a bill so important as this should be reported to the Senate with no document connected with it from any Department, without one word from the committee reporting it; simply the naked bill. That, as it was sent to the committee, is reported back, without anything in the form of report to inform the Senate either of the necessity for the bill or of the ground on which the committee recommend its passage.

It is true, the honorable Senator from Indiana, a member of the Naval Committee, has stated with his usual clearness and force the reasons why the committee favor the bill; and the honorable chairman of the committee, not going into the general question, but speaking more directly to the amendment, has enlightened us, as he always does when he addresses the Senate upon any topic which may be under discussion. But certainly it is usual in this body, and I should be sorry to see that usage changed, when a subject of so much importance as this comes before us and we are asked to vote upon it, that we should have a report, something in an authentic and enduring form on which our action may be based. There is nothing of that kind in the present case, and I repeat that it is singular—peculiar.

The honorable Senator from Iowa, seems to think that in the amendment proposed by the honorable Senator from Massachusetts there is nothing that can obtain the vote of any one but the Senator who offered it. Now, sir, if I mistake not, there is in the amendment, as it regards the general subject-matter, all, and indeed more than all, that there is in the original bill. What does the bill propose? The honorable Senator from Iowa says the amendment does not propose the building of a navy-yard, or indeed the doing of anything, or authorizing the Secretary to do anything. His objection to the amendment is that it amounts to nothing. Now, let us see what the bill proposes. It purports to authorize the Secretary of the Navy—

To receive and accept from the city authorities of the city of Philadelphia the title to League Island, in the Delaware river, and adjacent marsh land, including the whole of the creek known as the Back Channel, from the Schuylkill to the Delaware rivers, and all the riparian rights and privileges of said League Island, adjacent marsh, and Back Channel, together with so much of the opposite shore of the Back Channel from the League Island shore as shall in the opinion of the Secretary of the Navy be ample to enable the Government to have the sole and exclusive use of said Back Channel and both shores thereof; the said island and appurtenances to be held for naval purposes by the Government of the United States.

That is all the bill proposes to do, that we shall acquire what I have read, "to be held for naval purposes" by the United States. That is about as vague and indefinite as anything can well be, and amounts to as little, my word for it, as the amendment can amount to, be that ever so little. But the amendment, in

my judgment, is not at all obnoxious to the objection made to it. I call for the reading of the amendment again, that it may be seen in connection with this bill whether it be the pure nihilism which the honorable Senator from Iowa seems to suppose it is.

The Secretary read the amendment, which was to strike out all after the enacting clause of the bill and insert the following:

That Admiral David G. Farragut, Lieutenant General W. T. Sherman, and Mr. J. E. Hilgard be, and they are hereby, appointed and constituted a commission to select a suitable site on or adjacent to the Atlantic coast for a naval station for the storage and repair of iron vessels and iron-clad vessels of the Navy, and for other naval purposes. And the Secretary of the Navy is hereby authorized and empowered to accept such selected site on behalf of the United States: *Provided*, The same shall be conveyed to the United States as a free gift, for their exclusive use and benefit, by a valid and indefeasible title. And the Secretary of the Navy is hereby further authorized to take possession of and occupy such site for the purposes herein indicated, and in preparation thereof to use such amount of money as may be necessary out of any unexpended appropriations for the Navy.

Mr. FOSTER. Now, Mr. President, I submit—

Mr. SUMNER. Before the Senator proceeds, I will make a verbal addition to my amendment by inserting the words "and building" after the word "repair," so that it will read: "for a naval station for the storage, repair, and building of iron vessels."

The PRESIDING OFFICER. (Mr. DOOLITTLE in the chair.) That modification will be made.

Mr. FOSTER. Without the modification which the honorable Senator from Massachusetts has now made to the amendment it certainly contains all that the original bill did, and much more; for all that the original bill contained, as the text shows, was that the Government should hold this Territory "for naval purposes." The amendment has that same expression, so that if there be any magic or comprehensiveness in that term "naval purposes," the amendment has all that the bill has. Besides, it had in addition prior to the present modification other conditions which the bill has not; but whether it had previously or not, surely now when the honorable Senator from Massachusetts adds the words "and building" it contains all that can be technically required, if the honorable Senator from Iowa were now about to specify what is required in order that we might have a perfect bill to acquire a navy-yard.

Mr. GRIMES. I inquire of the Senator from Connecticut if there is any requirement as to the quantity of land that shall be selected?

Mr. FOSTER. There is not.

Mr. GRIMES. And yet the Secretary of the Navy is directed, no matter how small that quantity of land may be, without regard to its magnitude, to go on and expend the money of the Treasury. In the other case there is included the whole of League Island, whatever that may be.

Mr. FOSTER. It is true that the amendment does not specify the amount of land. The Senator is right in that respect. But, sir, when we consider that the gentlemen named in the amendment are Admiral Farragut, General Sherman, and Mr. Hilgard, and that the amendment itself points out the purpose for which this site is to be selected, I do not think there is any very great danger that these gentlemen will select either too much or too little land, or select an unfit site.

Mr. SUMNER. They are to select "a suitable site"—comprehensive words, applicable at once to the locality and to the extent of the ground to be occupied.

Mr. FOSTER. Certainly; there is no doubt about that; but even if the language had been less well chosen when the subject is committed into the hands of three gentlemen like these it will not be in the power of the honorable Senator from Iowa, skillful as he may be in finding difficulties where he wishes to find them, to persuade the Senate that that board would not do their whole duty and do exactly what was necessary to be done to accomplish

the purpose in view. There is no manner of danger that they would select a site so small that it could not be used with advantage, no danger that they would purchase so much that it would bankrupt the Treasury to pay for it. I think in regard to these gentlemen we may say what it is said the late lamented Chief Justice Marshall once said to a practitioner in the Supreme Court who commenced an argument of a cause by going back somewhat to the A B C's of the law. The learned Chief Justice, after hearing him with great patience, as was his practice, for some time, finally interrupted him and said, "Sir, from the peculiar organization of this court I think it may perhaps be presumed that the judges do know something." I think that we may presume that the three gentlemen named in this amendment do know something, and that when by an act of the Congress of the United States they are called upon and it is made their duty to select a suitable place for a navy-yard it will be safe to leave the matter to their discretion, and there will be no danger that that discretion will not be wisely exercised.

In regard, then, to the amendment, I think it is perfectly clear that it will accomplish all that it is necessary to accomplish under this bill.

But, Mr. President, the honorable Senator from Indiana and the honorable Senator from Iowa object that here is really no other purpose than to change the navy-yard at Philadelphia from its present location to another location, and that is all which the Senate can now be properly called upon to consider. I do not understand that that is any question at all. Has there been any complaint in regard to the navy-yard at Philadelphia that it is not perfectly adequate for all the purposes for which a navy yard is required at that locality?

Mr. HENDRICKS. I will say in answer to the Senator's question that that has been the burden of the reports of the Navy Department for four years.

Mr. GRIMES. For six years and longer.

Mr. HENDRICKS. The condition of our Navy at the commencement of this war was complaint enough.

Mr. FOSTER. The condition of our Navy at the commencement of this war was probably not chargeable to any lack of accommodation in the navy-yard at the city of Philadelphia. If that navy-yard had been ten times as great as it was I doubt whether the condition of our Navy would have been any more effective than it chanced to be when the rebellion broke out. If the Secretary of the Navy for four years or six years has been constantly complaining about the small size of the navy-yard at Philadelphia I have not happened to hear it. It is true that he has made recommendations in regard to a change of the navy-yard there to League Island, and there is something a little remarkable in the pertinacity with which the Secretary of the Navy has urged upon Congress from time to time the propriety of making League Island a naval station. It has been on the ground that we required some more accommodation than we now have for our iron-clad vessels; that for the purposes of protection and preservation we required different and additional accommodations in the way of a naval depot for our iron vessels, which, previous to the introduction of those vessels into our Navy, we had not required, but which afterward became a necessity. On that ground, as I understand, the honorable Secretary of the Navy has urged the acceptance of League Island by the Congress of the United States, because that could be made, in his judgment, a proper station for iron-clad vessels, not because the navy-yard at Philadelphia needed any particular change or enlargement, only that we required a different arrangement for our iron-clads from what we formerly had required for our wooden ships.

Here, perhaps, as well as anywhere else, I may say that I think it a little strange that after the Secretary of the Navy had appointed a

commission of his own selection, under the authority of Congress, to examine this locality and he had been favored with the report of that board of officers condemning it in terms as an ineligible location, he was still as eager and as persistent in urging upon Congress the adoption of his former plan as before this report had shown how utterly unfit this place was for the purposes contemplated. The honorable Senator from Indiana, in quoting from one of the reports of the Secretary of the Navy, if I mistake not the report of December 4, 1865, quoted the Secretary as saying that this board of officers appointed by him, though they differed as it respected other points in connection with League Island, agreed in this, that League Island was a fit and proper place for an iron-clad navy-yard. It would puzzle anybody but the Secretary of the Navy to find any such agreement as that in the report of that board of officers. The honorable Senator from Indiana, astute as he is, aided by the astuteness of the honorable Senator from Iowa, will not be able to find any such statement in the report. I have the report before me and I will read the closing paragraph, from which it will be seen whether they agree to such a state of facts as the honorable Senator from Indiana quoted the Secretary of the Navy as saying was true. I read from this report, as contained in the letter of the Secretary of the Navy communicating, in answer to a resolution of the Senate, the majority and minority reports of the board of officers appointed under the act, approved July 15, 1862, entitled "An act to authorize the Secretary of the Navy to accept the title to League Island, in the Delaware river, for naval purposes." I read from the ninth page of that report:

"The board is aware of the importance of the advantages which League Island possesses over the harbor of New London in the immense supplies of iron and coal which can, without question, be delivered at that point at cheaper rates than at any other site examined, and also of the fact that the fresh water of the Delaware river would be very advantageous to the bottoms of iron vessels. Still, in view of the very great expense that must necessarily be incurred in filling up this island before it can be of practical use for a navy-yard, the probability that a large annual appropriation will be required for maintaining a sufficient depth of water at the island by dredging, the great cost of pile foundations for every structure required in the yard, the danger from drift-ice, and in view of the many advantages possessed by the harbor of New London over League Island, the board, after a very careful examination of all the points under consideration and mature deliberation, is of the opinion that the advantages of a more abundant supply of coal and iron at League Island, and at cheaper rates, together with the advantages of fresh water, are more than balanced by the superior advantages possessed by New London in other respects; and therefore—

"Resolved, That in the opinion of the board the public interests will not be promoted by acquiring the title to League Island for naval purposes.

"Resolved, That the harbor of New London possesses greater advantages for a navy-yard and naval depot than any other location examined by the board."

That was signed by S. H. Stringham, presiding officer; W. H. Gardner, commodore; G. J. Van Brunt, commodore; and W. P. S. Sanger, engineer. If there is anything in that which shows that the board agreed that League Island was the fit and proper place for a navy-yard for iron-clads, though they disagreed on other points, I should be glad to have gentlemen explain how they extract that fact from the report.

The Secretary of the Navy is quite authorized to make recommendations to Congress in regard to navy-yards, and it is the duty of Congress to consider those recommendations, giving them all the weight to which they are entitled; but when it turns out that the Secretary of the Navy appoints a board of most competent, intelligent officers to examine various sites, and the examination is made and a particular locality is by them condemned as unfit and ineligible, I say that the continued recommendation by a Secretary of the Navy of the same site, under those circumstances, is not entitled either to weight or to respect, especially when it is admitted that the Secretary of the Navy is not a nautical man, and has and can have no other skill and knowledge on the subject except

what he derives from those around him who are skilled, intelligent, and able to form and express opinions.

Who has inspired the Secretary of the Navy with this opinion I undertake not to say. The honorable Senator from Indiana read from a pamphlet in which he quoted a letter from the Assistant Secretary of the Navy, Mr. Fox. That pamphlet by his courtesy I have been enabled to look at, and I see that it purports to have been written "by a New England man." I shall be obliged to the Senator if he is willing to say if he knows who the author of that pamphlet is?

Mr. HENDRICKS. I believe I have no reliable information on that subject. I saw that it was a very satisfactory compilation of the reports and letters that bear upon this subject, and it furnishes these reports and letters and makes them of easier reference than if I was to go to the voluminous documents themselves. That is the reason why I read from it. I would not be authorized to say who was the author. I did not notice that it was written "by a New England man."

Mr. FOSTER. It only purports to be on the title page. I thought that fell under the gentleman's eye.

Mr. HENDRICKS. I suppose that name was adopted by the writer of the document in order to give it force and weight with the Senate.

Mr. FOSTER. I supposed the honorable Senator probably knew who was the author of the pamphlet he was reading from, and as it stands simply now vouched for "by a New England man" we must take it as we take other anonymous publications.

Mr. HENDRICKS. We may as well have this question correctly understood. I have read from this pamphlet quotations from official documents. If the Senator says that the quotations are not given correctly in this compilation there is force in his criticism. I have not relied upon any argument of the writer of this pamphlet. I have relied upon what the Secretary of the Navy has said, and upon what Professor Baché has said, and upon what Mr. Fox, then Assistant Secretary of the Navy, has said. I do not care whether I find that in one document or another if I find truthful extracts from their reports.

Mr. FOSTER. Mr. President—

Mr. RAMSEY. Permit me to suggest to the Senator from Connecticut that I do not know who is the writer of the pamphlet to which the Senator from Indiana referred, but I presume it is Mr. Bolles, as I perceive that he is a gentleman who has been writing very largely on this subject.

Mr. CATTELL. I find Mr. Bolles's name at the head of a pamphlet laid on my desk. As a very large number of these publications are here, and as I find one on my table with the name of "John R. Bolles" upon it, I should not wonder if this pamphlet was written by him, although I am not positive of the fact.

Mr. FOSTER. It may be, Mr. President, that the honorable Senator from New Jersey is of opinion that Mr. Bolles wrote the pamphlet the honorable Senator from Indiana has quoted from. I do not know but that he thinks so. He of course is the best judge on that subject. It may be that the honorable Senator from Indiana thinks that that is the production of Mr. Bolles. Of course if he thinks so he will say so if he deems it proper.

Mr. HENDRICKS. What I read as entitled to some weight before the Senate was the production of the Secretary of the Navy, of the Assistant Secretary of the Navy, and of Professor Baché. Who compiled this document I do not know; I have heard it stated, but I do not know, and therefore I would not be authorized to connect any gentleman's name with it. It is a mere compilation so far as I have used it.

Mr. FOSTER. Of course, Mr. President, the honorable Senator from Indiana will pursue such course as he judges best in answering

as to the authorship of the pamphlet, even if he does know; but as he says he does not know I of course admire his delicacy in not repeating a rumor. I have heard who the author of that pamphlet is; but I do not know, and I therefore shall not give his name. I hoped the honorable Senator from Indiana did know, and as he brought the pamphlet in and read from it I presumed he might know; but as he does not, it must stand of course as the anonymous production of a New England man.

Mr. HENDRICKS. That we may understand ourselves exactly right here, I wish to ask the Senator from Connecticut whether any of the quotations from the official documents are incorrectly made, as I read them?

Mr. FOSTER. Not to my knowledge. I have not compared them, and have no knowledge but that they are correct, although I cannot from my own knowledge affirm that they are.

Mr. HENDRICKS. Then, as I have read from the report of the Secretary of the Navy, and from the Assistant Secretary of the Navy, and from Professor Baché, I do not think it is important to know who compiled this pamphlet.

Mr. FOSTER. Except it should turn out that some one rather intimately connected with this project in some other form was the author of the pamphlet. Then I think it would be of some importance. In that point of view surely it would be; but not in the point of view to which the honorable Senator would confine it, namely, the accuracy of the quotations. If the quotations are accurate, and I am not disposed to question their accuracy, it makes no difference who wrote the pamphlet.

I repeat, Mr. President, that there is something strange and unaccountable in the persistency of the Secretary of the Navy in urging the selection of League Island as a naval station, in view of the evidence which was furnished him by the board of officers selected by him to make the examination, and it was by no means the only source of information that he had on that subject.

Commodore Pendergrast, an officer well known to many members of the Senate, was in command of the navy-yard at Philadelphia for several years, and while there in command of the navy-yard wrote in regard to the project of selecting League Island as a naval station for the Navy of the United States in language which I will read:

"This new project of the mayor and city councils of moving the yard to League Island is all a matter of speculation with a party here to draw four or five million dollars from the Government, out of which they would make splendid fortunes, while the United States would be a loser at every turn. If the city even buys the property and presents it to the Government the latter would still be a loser, for it would take at least four or five years to prepare the place before an attempt could be made to use it, and this, too, at an outlay of millions. Besides, the island is unfit for it, being constantly overflowed, which would render an immense expenditure necessary for filling in, wharfing, making docks, &c."

Mr. HENDRICKS. Will the Senator pardon me if I ask him whether he knows who is the author of the pamphlet from which he reads?

Mr. FOSTER. I believe I do, though I cannot say that I know it in such a sense that I should be qualified to testify to it before a court of justice. So far as my own opinion is concerned I think I do know who the author is. That, however, is not the point; for the honorable Senator has informed us that the question is as it regards the quotations read from the pamphlet and not who the man who wrote the pamphlet was. In the light of that information which the honorable Senator kindly gave me, I read also the opinion of Admiral Joseph Smith upon this same subject, which the Secretary of the Navy had the benefit of, besides the opinion of the board selected by him, and the opinion of Commodore Pendergrast. Admiral Joseph Smith, after a personal examination of League Island in 1863, said of it:

"Some of the objections to which [to League Island] are of so serious a character as to be at once discovered by the most superficial observer."

Again, the Committee on Naval Affairs of the House of Representatives in 1864, reported—

"That the public interest would not be promoted by its selection, some of the objections seeming to your committee insuperable."

I thus give you the conclusion of the board of officers selected by the Secretary of the Navy himself, and so selected that no charge of prejudice or bias against League Island can properly be made as against them who reported that this island is unfit and improper for these purposes. I have also given the letter of Commodore Pendergrast, and the opinion of Admiral Joseph Smith. This last named officer, from his age and experience in the Navy, from his position as chief of the Bureau of Yards and Docks, is entitled to much consideration. It may be safely affirmed that when he is called upon to examine a subject of this sort he will understand it thoroughly, and he adds his high sanction to the objections which that board and Commodore Pendergrast had made to League Island. Then the Committee on Naval Affairs of the House of Representatives, who went personally upon the ground and made the examination for themselves, made their report condemning it altogether. And yet the honorable Senator from Indiana, and the honorable Senator from Iowa, say that the Secretary of the Navy still recommends, and has for half a dozen years recommended and urged upon Congress the selection of League Island.

Sir, in view of these facts, I would ask why he does it, what reason is there for it? Can the Senate see any such reason as should cause them to pay heed to the request? Is not the evidence overwhelmingly against League Island, giving to the recommendation of the Secretary all the weight that it should ever be entitled to? Ought we not to rely upon the reports of boards of officers who were sent there on purpose to examine the site, upon the testimony of the commander of the yard there, of the chief of the Bureau of Yards and Docks, of the committee of the House of Representatives who went there and made a personal examination? Ought we not to take testimony of that sort as immeasurably higher than the opinion of the Secretary of the Navy, which after all may have been inspired by the "New England man" who wrote that pamphlet? I do not say that it was; but I say it is possible. It is written "by a New England man," and the Secretary is from New England, a thing greatly in his favor; and the man who wrote this pamphlet manifestly thought it would give currency and strength to his opinions by placing "by a New England man" on the title page. Lest the honorable Senator from Minnesota should be misled, as he seemed to think this was one of the pamphlets which he had read in favor of New London, let me say to him that this is a pamphlet in favor of League Island, and that there may be no mistake about it, and no misunderstanding on this point, I will read the title page:

"Advantages of League Island for a naval station, dock-yard, and fresh-water basin for iron ships and other vessels-of-war, as recommended by public authorities, with all the objections heretofore officially advanced, substantially or textually reproduced and severally answered."

Now comes the astounding phrase:

"By a New England man. Published by the Board of Trade of Philadelphia. Philadelphia: Sherman & Co., Printers, 1866."

Now, Mr. President, it is quite possible that the author of that pamphlet, a New England man, inspired the Secretary of the Navy with the opinion that League Island was after all, first and last, the best place for a naval station. But is it so? And is the opinion of the Secretary of the Navy under these circumstances to weigh a feather against these contrary opinions? I think I can show by documentary evidence of the highest authority that this League Island, so far from being a desirable location for a navy-yard and naval station, is about one of the most unfit points that could be selected on our whole coast from Eastport to Cape Florida. And I have no question

that it will cost more money to prepare properly League Island for a naval station and depot than to construct and complete all the works necessary for such an establishment at a fit and eligible site. That is my first objection.

My next objection to League Island is that when completed it is a most unfit and ineligible site for the purpose contemplated, the objections to it being permanent and fatal.

It is on these two propositions that I oppose this bill. But the amendment of the honorable Senator from Massachusetts leaves League Island with all its advantages, if it has them, to be examined by the gentleman named in the amendment together with other sites along the coast, and they are to make a selection of the best site. Is there anything unfair, anything which should be excepted to in that proposition? If League Island has advantages over other points, will not Admiral Farragut, General Sherman, and Mr. Hilgard be as ready to discover and appreciate those advantages as even the honorable Senator from Indiana or the honorable Senator from Iowa or the Secretary of the Navy himself? I say there is no conflict of testimony; it is all on one side; there is not a shadow on the other. There was a suspicion of testimony on the other side, but on examination it proved to be a shadow. If, however, we go on the ground that there is a conflict of testimony, is it not perfectly safe to leave the decision to men such as are named in the amendment?

The honorable Senator from Indiana went into a calculation to show what the amount of filling was which would be requisite on that Island, and what would be its cost. I do not know whether he read this from the letter of the Assistant Secretary, Mr. Fox, or from the text of the pamphlet.

Mr. HENDRICKS. The letter.

Mr. FOSTER. The honorable Senator made it cost about nine hundred thousand dollars, or, as he said to speak in round numbers, \$1,000,000, which he said was a less amount than was used in coaling and running the steamer Vanderbilt during the war, and he seems to think this is a small sum. I know that during the war we got into a habit of speaking of millions of dollars so flippantly that when we come to talk of a million now the honorable Senator from Indiana, as economical as most of us here, hardly seems to think that \$900,000 is worth talking about, and therefore he spoke of \$1,000,000 as being easier. It not being the ordinary way of speaking here to talk of \$900,000, he speaks of \$1,000,000, it being about as small a coin, if I may say so, as any currency used among us—I mean in current speech, for I do not think the current coin is quite as abundant as the currency of words. The honorable Senator, however, seems to think that it might cost \$1,000,000, but I think I can show from evidence that that is an estimate greatly below what will be the actual cost of putting that island in any proper condition to be made a naval station and navy-yard.

There is, in the first place, quite a difference in the evidence with regard to the amount of territory which makes up this island. I think in this pamphlet "by a New England man" it is claimed that there are some six hundred acres in this island. Other pamphlets, and among them one which I believe the honorable Senator from New Jersey thinks was written by Mr. Bolles, makes out only some three hundred acres in the island. There is a difference of nearly one half as regards the area of the island; and I suppose from the character of the soil there and the location it is impossible to get nearer than within one or two hundred acres of the actual area. It depends entirely upon the condition of the tide and the state of freshets in the Delaware whether there are six hundred acres or three hundred, and, indeed, whether there is an island there at all if the wall gives way. While the wall is kept up, the wall being a number of feet higher than the surface of the ground, it keeps the river



off, and makes, if you please to call it so, an island; but if the wall should give way in freshets or in very high tides there would be no island there. That island would be almost certain to escape under those circumstances, be submerged, go into solution, get washed down to Cape May. It might be heard of there, but not above. If, however, we take it to be six hundred acres, and if we consider the fact that that island of six hundred acres is from three to four feet below low-water mark, the idea of filling it up so that it can be useful for any purpose as a naval depot or naval station and navy-yard, with an expenditure of anything like \$1,000,000, is perfectly preposterous. In the letter which the gentleman read the estimate was two feet and a fraction of filling. It is greatly below the amount of filling that the engineers report. They report all the way from three to ten feet; some say it would take from three to four feet; others say from nine to ten feet. And when the additional question of drainage comes into view it is perfectly apparent that nine or ten feet of filling on that island will be as little as will make it available for any useful purposes.

Mr. GRIMES. With the consent of the Senator from Connecticut, I wish to move that the Senate take a recess until seven o'clock.

Mr. FOSTER. I give way to allow the motion to be made.

Mr. GRIMES. I submit the motion.

The motion was agreed to; and the Senate took a recess till seven o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

#### PUBLIC PARK.

Mr. BROWN. I am directed by the Committee on Public Buildings and Grounds; to whom was referred the bill (S. No. 549) for the establishment and maintenance of a public park in the District of Columbia, to report it with an amendment and recommend its passage. I am also instructed by the same committee to submit a communication from N. Michler, major of engineers, addressed to the chairman of the Committee on Public Buildings and Grounds, in relation to a suitable site for a public park and presidential Mansion, and to ask that it be printed for the use of the Senate.

The motion was agreed to.

Mr. BUCKALEW. I was going to observe that if the committee are reporting plans for architecture, probably it would be best for us to have an extra number printed, if the general plan of the park is set forth.

Mr. BROWN. No; it is rather a description than otherwise of the ground. We do not think it is necessary to have any additional numbers printed.

Mr. BUCKALEW. The cost will be very little.

Mr. BROWN. I will inquire about it during the evening.

#### BILL INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 597) to amend an act entitled "An act for the disposal of the public lands for homestead and actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida;" which was read twice by its title, and referred to the Committee on Public Lands.

#### SURETIES OF JAMES T. POLLOCK.

Mr. LANE. With the permission of the Senator who has the floor on the bill regularly before the Senate, I should like to call up a private bill in which I feel some interest, and ask that it be passed. It is House bill No. 840.

The PRESIDENT *pro tempore*. The Chair can entertain the motion only by unanimous consent, there being another subject before the Senate.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 840) for the relief of the sureties of James T. Pollock, late receiver

at Crawfordsville, Indiana. It proposes to release Robert C. Gregory, Henry Crawford, William Galey, and the other sureties of James T. Pollock, late receiver at Crawfordsville, Indiana, by bond to the United States, dated January 30, 1837, from their liability arising from any defalcation, omission, or misconduct on his part as receiver, and it directs the proper officer of the Treasury Department to dismiss any and all suits that may have been instituted and are now pending in favor of the United States against them growing out of his default.

Mr. LANE. I will explain the bill in one moment. There is a full report from the House of Representatives, made by Mr. DELANO, explaining all the facts. I am personally acquainted with all the facts stated in the memorial and in the report. It happened in my own town thirty years ago. Colonel Pollock was appointed receiver of public moneys at Crawfordsville. He gave twenty securities upon his bond. Seventeen out of the twenty securities have since died. It was found out, some twenty-five years ago, that he was a defaulter to the General Government. The Secretary of the Treasury, under the then existing law, issued a Treasury warrant and took possession of property two or three times as much in amount as would have paid the whole debt; but the marshal of the State, in whose hands the warrant was, instead of levying upon the property, delayed until it was squandered, and there was a defalcation unsettled and unpaid. Some twenty-two years ago Congress passed an act releasing the marshal and his securities from all liability. Now it is sought to recover the amount from the original securities of the receiver after a delay of thirty years and after the death of all the securities but three. We think the Government lost any right to resort to these securities by their laches, by their delay, and from the fact that they did not appropriate the security which they had in their hands. The bill passed the Committee of Claims in the House unanimously; it passed the House unanimously; it passed the Committee on Claims of this body; and I am satisfied that it is perfectly just from beginning to end.

Mr. BUCKALEW. I wish to make one remark before this bill passes. I do not intend to oppose its passage. I do not assent to the bill upon the ground upon which it was mainly pressed in the House and before the Committee on Claims. That ground was that the United States had another security arising from the default of the marshal; and, inasmuch as they discharged the marshal from the payment of the debt, these sureties ought to stand, either in law or in equity, discharged; at all events, that arising from that fact, there was some obligation upon the United States to discharge the original debtor or his sureties. Now, sir, I think that is bad law and bad reason; that there is no ground whatever for the passage of this bill arising from the fact which I have mentioned. I think that if the United States have two securities for the enforcement of a pecuniary obligation, their failure to pursue one of their remedies can have no effect whatever upon their right to pursue the other; and that the original debtor and his sureties, being utter strangers to the case as between the United States and her own officer, cannot plead any action or any lenity exercised by the Government in regard to its own officer in discharge of their obligation; that it will stand unaffected altogether, either in law or in reason, by any indulgence which the United States may show in pressing against a defaulting officer the obligation which he may have incurred.

I vote for this claim upon a sort of equitable principle of limitation. I think that where the Government has stood by for a period of thirty years, and has not enforced or attempted to enforce its demand against the original debtors for the period of thirty years, and when most of the sureties are dead or have removed from the place or have become insolvent, it would be most unreasonable, perhaps inequitable and

unjust, to enforce the whole of the original demand against the few sureties who remain alive; and not only to enforce the original demand, but the accumulations of interest, making the debt three times what it was originally. In a case of this kind, after the lapse of a quarter of a century, when the Government has not pursued its remedy, when it has not enforced its demands, when the circumstances of the parties have changed, and when the obligation of the few sureties who are still responsible is increased fifteen or twenty fold by the delay of the Government, it would be inequitable and improper for the Government to enforce the demand.

I speak on this subject because I apprehend that in other cases hereafter before the Committee on Claims and before the Senate the passage of this bill may be quoted as a precedent, and it may be insisted that inasmuch as we have discharged these sureties, and one of the grounds for such discharge alleged before us and pressed upon our attention was that we had discharged the officer, therefore in other cases we are to pass bills upon similar principles. I vote for the bill on the other ground I have stated.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### DEMPEY REECE.

Mr. RAMSEY. There is a small resolution reported by the Committee on Post Offices and Post Roads, for the relief of Dempsey Reece, of Indiana, which I hope the Senate will take up and pass at this time.

The PRESIDENT *pro tempore*. The clerks are unable to find the resolution referred to.

Mr. RAMSEY. While they are searching for it I will endeavor to explain it as well as I can. This man, Dempsey Reece, is a citizen of Indiana, an illiterate man, which is an extraordinary thing in that State, who bid for carrying the mail on one of the mail routes of that State. He bid \$600 for it; but he had to employ some one else to make up his bid and that person made a mistake and made it read \$300. The next lowest bid was \$800, which itself is evidence that \$300 was a mistake. The Post Office Department are satisfied that it was a mistake. He has been carrying this mail for several years at a great sacrifice, and the proposition now is to release him. The Post Office Department recommend that the route be relet, and after being relet that he be released. It is very evidently a mistake. There is among the papers, I believe, the affidavit of the party who drew up the bid for him stating that it was a mistake. He has been carrying the mails for several years. He is an honest man, and very poor, and has been endeavoring to carry out his contract at a great sacrifice.

By unanimous consent the joint resolution (S. R. No. 160) for the relief of Dempsey Reece, of Indiana, was read a second time and considered as in Committee of the Whole. It requires the Postmaster General to receive proposals for carrying the United States mail on route No. 12068, between Newcastle and Mechanicsburg, in the State of Indiana; and when such bid shall be accepted, Dempsey Reece, the present contractor, is to be discharged from any further performance of his contract.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### RUFUS C. SPALDING.

Mr. WADE. I move that the Senate proceed to the consideration of House bill No. 843.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 843) for the relief of Rufus C. Spalding, paymaster in the United States Navy. It requires the Secretary of the Treasury, in adjusting the accounts of Rufus C. Spalding, as paymaster in the

Navy of the United States, to cause him to be credited with the sum of \$14,563 78, being the sum of money stolen from the Government safe at the naval station at Mound City, Illinois, on the night of the 21st of December, 1865, which sum stands charged to his account as United States paymaster at that naval station; but nothing in this bill is to be so construed as to exempt from official or personal liability, or upon his bond, Assistant Paymaster J. S. Harvey.

The bill was reported to the Senate without amendment.

Mr. DAVIS. I should like the honorable Senator from Ohio to give some explanation of that bill.

Mr. GRIMES. I can explain that.

Mr. WADE. Very well; the Senator from Iowa will explain it better and quicker than I can.

Mr. GRIMES. There were two paymasters belonging to the Navy of the United States stationed at Mound City. The Government furnished them a safe, which was used by them in common. The senior paymaster was the gentleman for whose relief this bill is now proposed to be passed. Each of them had a key to the safe. The other paymaster, whose name is mentioned in the last clause and for whom there is an express clause of exclusion that this bill shall not apply to his benefit, put his key in a drawer, where it was discovered by somebody, who took it out, and used it, entered the safe and took out the money that had been intrusted by the United States Government to Spalding. The loss was not occasioned, as was found by the Navy Department, by a board of inquiry of naval officers appointed to investigate it, and as was found by both the Naval Committees, through any neglect or laches of any description on the part of Spalding, but on account of the carelessness of another person who had a duplicate key of the safe. The money that was taken happened to be the money intrusted to Spalding. He had no place to keep it except this safe which had been furnished by the Government.

The bill was ordered to a third reading, was read the third time, and passed.

#### LEAGUE ISLAND.

Mr. GRIMES. I now call for the regular order of the evening.

Mr. SUMNER. I hope the Senator will allow us to act upon one or two little bills.

Mr. GRIMES. I think we had better go on with the regular business.

Mr. SUMNER. One or two little bills that the Senator will not be against.

Mr. GRIMES. I am against anything now except League Island.

The PRESIDING OFFICER. (Mr. RAMSEY in the chair.) The bill (H. R. No. 452) to authorize the Secretary of the Navy to accept League Island, in the Delaware river, for naval purposes, is now before the Senate.

Mr. FOSTER. It happened to be my fortune or misfortune to be on the floor at the time the recess was taken. According to usage, therefore, I suppose I am entitled to the floor when this subject is resumed. I do not know what the purpose of the Senate is in regard to sitting this evening. I notice there is not a quorum present. If it is merely to sit for a few moments, I do not care about occupying their time at all.

Mr. GRIMES. I presume there will be a quorum here shortly.

Mr. FOSTER. If it is understood that the debate is to be continued, of course I am willing to take my share of occupying the time.

Mr. SUMNER. I suggest that the Senate proceed to the consideration of some of the bills on the Calendar, to which there is no objection, for a few minutes at least, until there shall be a quorum. I hope the Senator from Iowa will relax a little of his rigor.

Mr. GRIMES. I am satisfied there will be a quorum here in a few minutes, and the debate may as well go on upon this question.

Mr. SUMNER. I suggest that we proceed

with some of the business on the Calendar until a quorum appears.

Mr. GRIMES. It is not near as necessary that there should be a quorum here to hear gentlemen make speeches as it is that there should be a quorum here to transact business. The Constitution and the laws and our rules require that there shall be a quorum here when we transact business; but there is no such requirement as that in regard to speech-making.

Mr. SUMNER. I can understand why the Senator from Iowa should be glad there is not a quorum present to listen to the Senator from Connecticut, because the Senator from Iowa, I know, is against the Senator from Connecticut on this question, and he naturally would like to have a thin Senate, so as not to be impressed by the arguments of the Senator.

Mr. GRIMES. I trust the Senator will not attribute the motives which govern him to his associates in the Senate. I have given no evidence of being influenced by any such consideration as that, I trust.

Mr. FOSTER. I am perfectly willing to go on as far as I am concerned if it is understood that other gentlemen take their chances, too. I am not so ambitious of speaking as to speak to a body that cannot do business unless other gentlemen also take the same fate. If they do, I am content to go on and speak, or attempt to give my ideas, to a body that cannot transact business, cannot pass a vote. I do not wish to do it, however, unless other gentlemen are also prepared to do it and will go on with the debate. I do not think it is fair to one side of the question that the debate should go on on that side without a quorum and then adjourn, and go on with the debate in the presence of a quorum on the other side of the question.

Mr. GRIMES. So far as I have anything to say, I would just as lief say it when there are a few here as at any other time, because I do not flatter myself that any argument or any eloquence I may be able to use is going to influence a great many votes on this or any other subject; and I think I can speak for other gentlemen who entertain the same views that I do on the subject now under consideration. They are just as willing to discuss it now as at any other time. This bill has got to be considered, and we have got to get through the discussion, and I trust pass it, and I hope it will be passed before we adjourn to-night. If we do not, it will not be because I am willing to adjourn before it is passed.

Mr. FOSTER. If it be understood that the honorable Senator from Iowa and the honorable Senator from New Jersey, who, I understand, are intending to give us the benefit of their views at some length, are to go on this evening, I am perfectly content to go on now and make my remarks as briefly as possible, in order that the Senate may be more pleasantly entertained by hearing them than me.

Mr. GRIMES. It is not understood that the Senator from Iowa is going to make remarks of any length that I know of. I am not conscious of it.

Mr. FOSTER. Of course I did not mean to pledge the Senator, but I had supposed he was intending to address the Senate.

Mr. CATTELL. I desire to say to the gentleman from Connecticut that the Senator from New Jersey—I suppose he alludes to me—does not intend to speak at very great length on this question; but having lived all his life in the immediate vicinity of this island he is disposed to offer a very few observations, and will very cheerfully follow the gentleman, and at some time during the evening will say what he has to say on the subject.

Mr. DIXON. I suppose we might as well test the question whether there is a quorum present, and for that purpose I move that the Senate adjourn.

Mr. CRESWELL. If there is no quorum present I suppose I can call up a bill that will occupy but a few moments.

The PRESIDING OFFICER. The motion to adjourn is not debatable. The Senator from Connecticut moves an adjournment.

Mr. GRIMES. This sort of business I am not going to submit to. I suppose the design is to put this bill off so that it cannot be passed at this session.

Mr. CRESWELL. That is not my motive.

Mr. GRIMES. I know that.

Mr. DIXON. I withdraw my motion for the present.

Mr. GRIMES. Then I insist on the business of the evening.

Mr. CRESWELL. With the consent of the Senate I desire to call up a bill that will occupy but a moment.

Mr. GRIMES. I object.

Mr. SUMNER. I move that—

The PRESIDING OFFICER. The Senator from Connecticut is entitled to the floor. Does he give way to the Senator from Massachusetts?

Mr. FOSTER. I do.

Mr. SUMNER. I move that the Senate postpone the consideration of the pending and all prior orders and proceed to the consideration of House bill No. 457, for the relief of Hiram Paulding, rear admiral in the United States Navy.

Mr. GRIMES. I call for the yeas and nays on that motion.

Mr. HENDRICKS. Was that bill reported from the Naval Committee?

Mr. GRIMES. No.

Mr. HENDRICKS. What committee is it from?

Mr. BUCKALEW. The Committee on Foreign Relations.

The question being taken by yeas and nays, resulted—yeas 10, nays 14; as follows:

YEAS—Messrs. Dixon, Foster, Fowler, Howard, McDougall, Poland, Ramsey, Sumner, Trumbull, and Wade—10.

NAYS—Messrs. Brown, Buckalew, Cattell, Creswell, Davis, Fessenden, Grimes, Hendricks, Howe, Lane, Morrill, Patterson, Willey, and Wilson—14.

ABSENT—Messrs. Anthony, Chandler, Conness, Cowan, Cragin, Doolittle, Edmunds, Fogg, Frelinghuysen, Guthrie, Harris, Henderson, Johnson, Kirkwood, Morgan, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Sausbury, Sherman, Sprague, Stewart, Van Winkle, Williams, and Yates—28.

The PRESIDING OFFICER. The vote discloses the absence of a quorum.

Mr. HOWE. I move that the Senate adjourn.

The PRESIDING OFFICER put the question, and stated that he was unable to decide.

Mr. HOWE. Let us have the yeas and nays.

Several SENATORS. Oh, no; withdraw the call.

Mr. HOWE. I withdraw the call.

Mr. McDOUGALL. I demand the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 11, nays 13; as follows:

YEAS—Messrs. Brown, Creswell, Davis, Dixon, Foster, Fowler, Grimes, Howe, Morrill, Ramsey, and Trumbull—11.

NAYS—Messrs. Buckalew, Cattell, Chandler, Fessenden, Howard, Lane, McDougall, Patterson, Poland, Sumner, Wade, Willey, and Wilson—13.

ABSENT—Messrs. Anthony, Conness, Cowan, Cragin, Doolittle, Edmunds, Fogg, Frelinghuysen, Guthrie, Harris, Henderson, Hendricks, Johnson, Morgan, Kirkwood, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Sausbury, Sherman, Sprague, Stewart, Van Winkle, Williams, and Yates—28.

The PRESIDING OFFICER. The Senate refuses to adjourn, but the vote still discloses the absence of a quorum.

Mr. HENDRICKS. I move that the Senate take a recess for fifteen minutes.

Mr. SUMNER. I beg to remark that that cannot be done unless there is a quorum present.

The PRESIDING OFFICER. In the opinion of the Chair the motion cannot be entertained in the absence of a quorum.

Mr. TRUMBULL. A motion having intervened, I trust the Senate will now adjourn. It seems to me to be useless to be sitting here in this way. I move to adjourn.

Mr. HENDRICKS. I think the motion I made is in order. It is not legislative business.

Mr. GRIMES. What is it?

Mr. HENDRICKS. To take a recess for fifteen minutes.

The PRESIDING OFFICER. No motion except a motion to send for absent members or a motion to adjourn is in order, and a motion to adjourn has been made and is in order.

Mr. McDUGALL. I call for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 7, nays 18; as follows:

YEAS—Messrs. Davis, Dixon, Foster, Fowler, Morrill, Sumner, and Trumbull—7.

NAYS—Messrs. Anthony, Brown, Buckalew, Catell, Chandler, Creswell, Fessenden, Grimes, Hendricks, Howard, Lane, McDougall, Patterson, Poland, Ramsey, Wade, Wiley, and Wilson—18.

ABSENT—Messrs. Conness, Cowan, Cragin, Doolittle, Edmunds, Fogg, Frelinghuysen, Guthrie, Harris, Henderson, Howe, Johnson, Kirkwood, Morgan, Nesmith, Norton, Nye, Pomeroy, Riddle, Ross, Saulsbury, Sherman, Sprague, Stewart, Van Winkle, Williams, and Yates—27.

The PRESIDING OFFICER. The Senate refuses to adjourn, but the vote still discloses the absence of a quorum.

Mr. CRESWELL. By way of varying the proceedings, I move to take up House joint resolution No. 251.

The PRESIDING OFFICER. No business can be done in the absence of a quorum.

Mr. CRESWELL. Now I suppose a motion to adjourn at least is in order.

Mr. HENDRICKS. Perhaps we have tried as far as we can to get a quorum to go on with business. I do not want to sit here just for the fun of the thing; and I therefore move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 13, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

### WISCONSIN RAILROAD LAND GRANT.

Mr. McINDOE presented joint resolutions of the Legislature of the State of Wisconsin, praying for a grant of land to aid in the construction of the Green Bay and Lake Pepin railway; which was referred to the Committee on Public Lands, and ordered to be printed.

### IMPORTATION OF IRON.

Mr. MILLER. I ask unanimous consent to submit the following resolution for reference to the Committee of Ways and Means:

*Resolved*, That it is incompatible with the policy of the protective system of the United States and detrimental to the industrial interests of the country to admit under any pretext whatever, free of duty, foreign iron, whether manufactured for railroad purposes or otherwise.

Mr. GLOSSBRENNER. I object.

### PERSONAL EXPLANATION.

Mr. PHELPS. I desire to state that I was necessarily absent yesterday when the vote was taken upon the passage of the bill in relation to Louisiana. At the proper time I shall ask permission to record my vote in the negative on that bill.

### LAWS OF MONTANA.

The SPEAKER laid before the House a copy of the laws of Montana Territory; which were referred to the Committee on the Territories.

### REVENUE IN MARYLAND.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, in answer to a resolution of the House of the 2d instant, relative to the amount of revenue collections in Baltimore city and the several counties of Maryland, during the years 1864 and 1865, from all sources, except duties on imports; which was laid on the table, and ordered to be printed.

### ADMISSION OF COLORADO.

The SPEAKER also laid before the House a telegram from Denver, Colorado; which was laid on the table, and ordered to be printed.

The telegram is as follows:

DENVER, COLORADO, February 12, 1867.

To the President of the United States Senate and the Speaker of the House of Representatives:

A large and enthusiastic mass meeting this evening unanimously adopted the following preamble and resolutions:

Whereas it has been falsely reported to Congress by interested parties that a majority of the people of Colorado are opposed to State organization; and whereas the same unscrupulous parties have misrepresented our Territory and people in many other ways by depreciating our wealth and prosperity and falsifying our actual population; now, therefore, we, the Union men of Arapahoe county, and many from other portions of the Territory, in mass convention assembled, do adopt the following:

*Resolved*, That to our certain knowledge the people of Colorado are very largely in favor of State organization.

*Resolved*, That we most respectfully and urgently urge upon Congress the passage of the bill for our admission as a State, recently vetoed by the President.

*Resolved*, That we pledge the faith of the great national Union party we represent for the prompt acceptance of its conditions and the ratification of the constitutional amendment proposed by Congress.

*Resolved*, That the president of this meeting be directed to telegraph these resolutions to the President of the United States Senate, and the Speaker of the House of Representatives, with a request to lay them before the respective Houses of Congress.

AMOS STECK, President.

### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; which were thereupon signed by the Speaker:

An act (H. R. No. 840) for the relief of the sureties of James T. Pollock, late receiver at Crawfordsville, Indiana; and

An act (H. R. No. 848) for the relief of Rufus C. Spalding, paymaster in the United States Navy.

### GOVERNMENT OF INSURRECTIONARY STATES.

The House resumed as the next business in order the consideration of House bill No. 1143, to provide a more efficient government for the States lately in insurrection, upon which Mr. VAN HORN, of New York, was entitled to the floor.

Mr. VAN HORN, of New York. Mr. Speaker, theories are all very well. We may have plans in relation to reconstruction as with reference to other matters of public interest, but if not put into practical operation and made efficient in results they accomplish little else than to attract attention for the moment and remove us from practical results. For some time past I have rather adopted the idea that it would be as well, if not better, to allow this Congress to expire before acting directly and positively upon the question of reconstruction; that as the Fortieth Congress was elected expressly upon the issue made up between the executive and legislative branches of the Government, and as the people had decided the issue so positively and undeniably in favor of the policy and purposes of Congress, and in addition had expressed their wish and determination that their representatives should control the question of the restoration of the States lately in rebellion so far as it legitimately belonged to them; to adopt such measures in addition to what had already been presented and indorsed by them as would in their judgment secure the grand result sought to be accomplished, that it might be as well to leave the work to be finished by the next Congress.

I had come to this conclusion for the following among other reasons: I desired to take from any one, friend or foe, loyal or disloyal, any complaint that we had acted hastily and not given a sufficient time for reflection and the second sober thought to take possession of the people lately in rebellion, and still very far from being our friends. I have been anxious, when the period for more positive action should arrive and more radical measures were demanded by every consideration of humanity, justice, and patriotism, and a regard for the vows we have all made to the Great Ruler to be just, and do justice, as I have for a long time been convinced, and as now the whole country must be convinced, that that period, if not

already upon us, is near at hand, that there should not be a voice raised against such action or measures, but that with united action we might go forward, beginning at the bottom, and plant governments in those States upon the sure foundations of unconditional loyalty, and place them where they will ever remain, in the faithful hands of the friends of the Government and impartial liberty. I have not been opposed, so to speak, to action at any time since we began this session, but have of the two thought it advisable that we should take the course I have suggested.

But, sir, upon a careful survey of the whole field of operations, in view of my responsibilities to my country, knowing, too, as I do full well the one great and inspiring idea or thought that lifts the loyal people I represent above all time-serving considerations and attaches them with an unyielding purpose to their country, for whose interests and salvation they have yielded up their choicest idols and surrendered their very household gods, making their hearthstones a desolation and filling their happy homes with wailing and woe; in view, too, of the sad condition of affairs all over the South, and especially in some portions of it, disorder, proscription social and political, ruin, treason and death reigning supreme, with little or no love for the Government that has crushed the rebellion, it is true, but which deals gently and generously with its enemies; with a fixed determination on the part of those lately in rebellion and still in power to the exclusion of the loyal, to make their rebellion honorable before the country and the world, and forever fix upon the faithful friends of the Government the badge of dishonor and treason; with the sure and certain prospect of such a result being brought about if the present state of things be allowed to continue, which in the end must result in the overthrow of our Government and institutions, or such oppressions and misrule be wiped out; in view, lastly, of the solemn vows the nation has taken upon itself in the hour of its sorest trial, when its fate was trembling in the even balance, that it would be faithful to the sacred trusts of humanity, liberty, and justice committed to its hands, that every faithful heart should be a sovereign and no wicked hand should fall heavily and cruelly upon one of its true and faithful ones for want of its protection and care; and as we expect to perpetuate our national life by the practice of such principles and the faithful execution of such sacred trusts, I have come to the conclusion that we cannot act too soon in endeavoring to correct the evils that are upon us and ward off the dangers that threaten us.

Congress at its last session, after a long and faithful deliberation, presented a plan and enacted a portion of it into a law, which is known as the constitutional amendment. This amendment had merits in it, although it was not all that very many desired and believed to be absolutely necessary upon which to secure a safe and complete restoration of the lately rebellious States. Many believed that the people South were misrepresented, that they were not still rebellious, that they were anxious to return to a full and perfect allegiance to the Government they had tried to destroy; that while they accepted the situation they were heartily sorry for their treason, and would adapt themselves gladly to the new condition of things and forever abandon their rebellious spirit even, and adhere more strongly than ever to their country. In the hope that this might be so, that such an anxious hope might be realized, the constitutional amendment was adopted by Congress, if not as a complete plan of reconstruction, nevertheless as part of a plan, which, with the faithful cooperation of the people lately in rebellion, it was hoped might go very far toward if not fully accomplish the work we all so much desired.

Congress desired to put these people upon their professions of repentance and good faith toward the Government, holding at the same time, as we always must until the work is complete, the power in our own hands in behalf



of the loyal people of the country; so that by no error or mistaken notion, resulting from fair promises or often repeated professions of loyalty, the chance shall pass from our hands to command the whole situation and secure the legitimate and just fruits of the great struggle through which our country has passed, to wit, a perfect Union and Government based upon right, with protection to all, with a full guarantee of the rights of manhood to all and a perpetual guarantee in favor of loyalty and the loyal as against treason and the disloyal. The people ratified our course, and in doing so declared their confidence in the Congress and its purposes as against any other policy proposed, and especially the one adopted by the executive government, and which to-day is the source of nearly all our evils and the confusion and crimes that desolate the South, as it places and keeps in power the sworn enemies of the Republic to the exclusion of its unyielding friends.

Congress never surrendered the right to do anything else that might be necessary to be done as time advanced, neither did the people at the last election decide that nothing else should be done. While they indorsed the amendment, they decided more than anything else that the work of reconstruction belonged to themselves through their representatives, and demanded that the work begun in the amendment presented should be finished by them, so far as it properly belonged to them, in such a way and at such a time as the peculiar advantages they had to determine when and how to act should justify. It is too late to argue the power of Congress in this work of reconstruction. All branches of the Government have acknowledged that the work is peculiarly a legislative work or the work of the people. The executive branch especially has so acknowledged it, and the people in their decisions upon the great questions in controversy so understand it.

Secretary Seward telegraphs Provisional Governor Sharkey, of Mississippi, under date of July 24, 1865, as follows:

"The government of the State will be provisional until the civil government is reorganized with the approval of Congress."

As late as September 12, 1865, the same high functionary telegraphs Provisional Governor Marvin, of Florida:

"It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress."

As to both the right and duty the authorities are ample and abundant, aside from this express acknowledgment on the part of the executive government. Wheaton, 115, says:

"The right of self-preservation is not only a right with respect to other States, but a duty with respect to its own members, and the most solemn and important one which a State owes to them."

"This right of self-preservation necessarily involves all other incidental rights as a means to give effect to the principal end."

And again, Vattel declares:

"Every nation is obliged to perform the duty of self-preservation."

"Since, then, a nation is obliged to preserve itself, it has a right to everything necessary for its preservation. For the law of nature gives us a right to everything without which we could not fulfill our obligations; otherwise it would oblige us to impossibilities, or rather would contradict itself in prescribing a duty and prohibiting at the same time the only means of fulfilling it."

"By an evident consequence from what has been said, a nation ought carefully to avoid, as much as possible, whatever may cause its destruction, or that of the State, which is the same thing."

"A nation or State has a right to everything that can secure it from such a threatening danger, and to keep at a distance whatever is capable of causing its ruin; and that from the very same reasons that establish its rights to the things necessary to its preservation."

Will any one ask any higher authority than these, or can any higher be obtained? Certainly not.

Who is silly enough to demand that we must adhere strictly to the constitutional amendment as a finality without reference to existing facts, when it may be that a development of feeling and action in the South would justify a complete change of policy on the part of the Government, or as it does at least some modifications of or additions to it? There is but one

safe way to reconstruct the rebel States and restore them to their former relations to the Government of the United States, and that is upon the principles of unconditional loyalty, and placing the power in those States in the hands of loyal men and those who are safe to intrust with power. No other policy will succeed. We may travel all around the point and try one scheme and then another, but in the end, if we do not let the question pass from our hands as we should not, we shall have to begin at the foundation, and upon the rock as we are doing in the bills now before us, and then the superstructure will be reared to stand forever.

I see in the discussions of the propositions now before us and the disposition of the House to act upon and perfect them, a desire to do something to correct the evils that are upon us, and to adopt a policy in the end, if not immediately, to give ample and complete protection to our friends throughout all the rebellious States, and intrust the governments to their hands, and place them under their control. While I am willing to go for the bill presented by the Committee on Reconstruction, proposing to govern these States for the time being by the military for the purposes of protection until we can erect suitable governments there based upon loyalty and loyal suffrage, still I greatly prefer that this measure may come in as part of a more comprehensive measure, which shall first provide for the establishment of such loyal civil governments, and then give all the military power necessary to more firmly establish them, and secure the more faithful execution of the great trusts to be executed by them. This would be more in accord with the genius of our Government.

That it is the first great duty, however, of the Government, and has been since the war closed, to protect its friends in the South, both white and black, all will admit; and to do this, if necessary, I would cover every acre of it with armed men until the earth quaked beneath their tread. But what hinders, at the same time the speedy erection of governments in all those States upon a basis of loyalty and loyal suffrage, with the express declaration on the part of the Government that such governments are to be maintained by its influence and power? In such case but little military would be needed; perhaps there is enough already in those States to give the protection needed; if not it could be very easily supplied. Those governments, thus established, and the loyal people feeling, as they do not now, that they had a faithful Government behind them to protect and defend, if need be, would very soon provide for themselves sufficient force to secure their own defense and execute the laws both State and national. The very fact that the Government had settled its policy and it was to be maintained and the law executed and loyalty sustained, would of itself be as strong as armies and navies and achieve more than anything else in the great struggle between right and wrong, loyalty and disloyalty.

When the war closed, those who are now in power in the South and responsible for the rebellion were ready to submit to any terms that the conqueror might choose to propose. They knew as they now know they justly deserved entire and complete exclusion from place and power, and that they were not so excluded surprised them more than it did us. This willingness to submit to our terms was on account of the fact that they were conquered, and that the Government was able to enforce its authority, together with the fact of the consciousness of their guilt and the enormity of their crimes. That we have failed thus far to treat the loyal men of the South as our friends and given the disloyal the control, or allowed the Executive to set up and perpetuate governments without any authority of law and in the interests of those who brought on the war and all its attendant disasters, is the reason why to-day a spirit of defiance and rebellion rules more or less everywhere throughout the South; and to be loyal to the Government,

and especially to have been loyal and sustained and fought for it during the war, is the most certain badge of dishonor and lasting disgrace. We have got to come back again to the point in this great struggle which we abandoned and exercise our power and arouse in the minds of the people South who thus demean themselves, the awful memories of the past, and teach them that "treason must be made odious and traitors punished," or at least displaced from power, and that no arm raised against us shall prosper.

It is idle to talk of a final restoration upon the pretended governments now in those States. They are without any authority of law, and we never can legalize or recognize them as legitimate and republican so long as they are in the hands and under the control of our enemies and the enemies of the loyal people of the South. Such has been and is to-day the fact, and certainly they will and can never be any better. Those in power in them will never relinquish that power themselves; this is not in the nature of things, and the time never will come when they will consent even to share their power with those who have been opposed to them during the war and steadfast friends of the country during its hour of trial. I have no time now to find fault with the policy of the President in trying to give governments to those States; the people have expressed their opinion upon that policy and repudiated it; it is fraught with evil, and will work a complete social and political proscription of all the loyal men there, a result which can be justified in no way possible, and to be prevented even at the exercise of the whole power of the Government. These pretended governments being null and void, having no legal existence, having been set up where there were no governments, without any authority of law, it becomes the duty of Congress to gather together the loyal elements in those States and proceed through the coöperation of the loyal people therein to establish such governments as we can recognize, loyal in character, republican in form, and in spirit, so that they may be suitable channels through which we can coöperate, in complete harmony with the loyal sentiment of the country and of the Constitution.

The President himself declared by proclamation and otherwise, and acted, too, upon the fact so declared, that the rebellion overthrew all loyal governments in the disloyal States; that they were but a mass of ruins when the war closed, which is agreed to by all; and that a necessity existed for the interference of the Government to aid in the establishment of governments therein. So said Congress, and so we say to-day. That necessity exists still. To meet this necessity the executive government proceeded without law, without the consent of the people or their representatives, who alone have the right to initiate and put forth a policy of restoration in such cases as the one now upon our hands, to set up governments. It appointed provisional governors, which all agree was without any authority, and did other acts, however well intended, without law, none of which has ever been legalized or recognized by Congress, and cannot be. Had these governments proved a success and given ample and complete protection to all the loyal people South, and were they calculated to build up a social and political society there based upon unconditional loyalty, and secure the prosperity and happiness of all the people alike, there might be some apology for the effort made and some grounds for ratifying what has been done, as our great object would thus have been accomplished; but no such results appear, neither is there any hope of their ever being realized.

The delay thus long in giving such governments as are necessary to those States but makes our obligations the stronger to act, and act promptly, in this work of restoration. It is claimed that the theory thus advanced of erecting governments in these States, if carried out, will inevitably lead to the conclusion

that the States lately in rebellion are out of the Union, or dead States, a doctrine hostile to our professions during the war, and all the policy of the party now in power. It does not follow at all that these States, as such, are, or ever were, out of the Union because we propose to establish governments where they have been destroyed. The President decided that their governments were destroyed, and attempted to and did set up governments therein through the coöperation of the people, but of the disloyal portion of the people, which is the rock upon which he split, and upon which we and the country have taken issue with him; but he did not so act upon the policy that these States were out of the Union—not at all; neither do we.

We all agree that the governments in the rebellious States were disloyal through and through during the war; all their agents sworn to support another government, so called; and that all loyal organizations existing before the war were destroyed. There was, then, no loyal organizations through which the United States could coöperate; and by treason and crimes against the Constitution and the country the people having forfeited all rights under that Constitution—first and foremost among which is the right of representation—the people against whom they have offended, and whose Government ours is, alone have the power to restore them to their forfeited rights; and they can do it in their own time and way. In doing this great work coöperation should be had with the loyal people in those States, and perhaps such as were never voluntarily disloyal, but forced to act against their country, and with such alone. It is not only our right to proceed to this work, but it is our duty, and we cannot avoid it. Mr. Lincoln said on one occasion, in substance, that it mattered not, so far as the question of duty was concerned, whether these States were out of the Union or not, all would agree that their functions were suspended by the treason of their people and the destruction of their governments; the duty being upon us (the Congress) to provide governments for them, or aid the loyal people in restoring governments to those States. The condition of those States is a serious disability, which the people brought upon themselves by their own crimes and treason against the country; and that disability must be removed by and through the operation of law, and can be accomplished in no other way.

Rights may be forfeited by organized communities that derive their powers from constitutions and laws, when their governments are overthrown by their treason and rebellion against such constitution and laws; but it does not follow that the States thus fall outside of the Union, as in the case before us, by no means. They may render themselves unfit and ineligible to the exercise of municipal or local authority, but they can in no case escape from under the Constitution and control of the United States, or the loyal people of the country, as in our case, who by their patriotism and devotion prevented their rebellion from terminating in a successful revolution, and the consequent overthrow of the Government. Taxation follows this right to control and govern. It is a power conferred by the Constitution, which rules supreme over all our people; and while the functions of these States are suspended and the disability of their people remains upon them and not removed, in consequence of their having forfeited their rights under the Constitution by treason and crime, still taxation goes with the Constitution and our power to control and govern. So during the war. Our right to tax was not diminished by the fact that we were not able to do so, by reason of the power of the rebellion at times and in places; but all the time this right given us by the Constitution was as supreme over all the country as the Constitution itself.

How silly the argument, then, that because representation is not and has not been allowed the States lately in rebellion before their disability has been removed and they are restored

by law to their forfeited rights, therefore their people should not be taxed. The Constitution of the United States was made by the people and not by the States as such, as its preamble declares, and hence it operates primarily upon the people, and all are bound by it and at all times under its control. Whether in rebellion or not, loyal or disloyal, all alike are subject to its control and must submit to its authority.

It seems, then, that the President and Congress start out upon the same premises, admitting the same facts, and acting upon the same necessity, to wit, that all governments were overthrown in the South by the rebellion, and that a necessity existed for the establishment of governments in their stead. He proceeded without law and placed the States so disabled in the hands of our enemies and the enemies of the loyal men South who had stood by us and the Government during the long dark night of the war, which policy is fast eating out the last vestige of loyalty in those States and forever shutting out the last hope of social and political equality to those faithful ones who never faltered in their faith and support of our cause during all the years of trial and blood through which we have at last triumphantly passed. We, on the other hand, in behalf of the people we represent, and who saved the nation's life, declare that all this policy is wrong; its execution, as we see in the case before us, although not designed to be, is the crying evil of the hour, the greatest crime against humanity, loyalty, and justice of the age, and should be at once removed.

Neither can it be said that the action of the President thus far has given these people any additional rights. The placing of the rebels in power in those States without authority of law, and their exercise of power under the pretended governments thus set up, gives them no right that they did not have before under the Constitution, and so far as our duty is concerned they stand before us precisely as they did when the war closed, subject to our control. The question of reconstruction is precisely the same and our duty the same as then in regard to those States lately in rebellion.

It matters not either by whom such a policy was inaugurated, or by whom it may have been forced upon the loyalty of the South; the question with us is, what is our duty or the duty of the hour? Great trusts are committed to our hands; to us is intrusted the keeping of great interests, such as take hold on the nation's life; such, too, as a consequence that reach, in their tender relations to such life, to the hearth-stone of every family in the land, and to the heart of every patriotic and devoted child of the Republic. These questions, then, are practical. It is not what we think, but what shall be done. Action is demanded, positive action, such as will command the respect and obedience of all. The sovereign power of our great people should be brought into requisition to do what and all that the case demands and the Constitution will allow, to relieve the distresses of our people and establish our institutions and Government upon a loyal and an enduring basis. To accomplish all this they have commissioned us to act for them. That all this may be accomplished, certainly they have made sacrifices enough already, but are willing still to make more if needs be to secure this grand result. Until, however, we reap some fruits of the battles they have fought and the victories they have won, until we have asserted the powers they have given us, and exercised the authority they have clothed us with to secure the great ends of justice, the responsibility will rest with us and not with them.

I have said that the policy of discarding, now that the war is over, the Union men of the South, and shutting them out of place and control, is a great evil and the greatest crime of the age. I believe it. I know it is contended that there are not loyal Union men enough South to form and sustain governments in the States in question. This cannot be so, and is not so. When the war broke out and during the war many of the Union men were

compelled to flee from the States in rebellion to the North for life and protection; others were forced into the rebel service, and very many joined the Federal armies. When the war closed the most of those who had been loyal were ready to return, and many did return, but did not find in the end that protection and favor to which they were entitled and which they had reason to expect at the hands of their Government, for which they struggled or to which they had been loyal. Had a different condition of things existed they would all have returned to their homes and their property and friends, and would still, could they be assured that they were to be preferred to traitors, and placed in power and position where they could protect themselves and be protected. The facts show that in every State there are an abundance of loyal men, who have been loyal, and who would gladly coöperate with the Government had they protection and power; and so in all the rebellious States there are thousands of men who have never given way to treason, and as many more of the masses of the people who were forced into the war against their will who would coöperate with them gladly under the control of the United States in forming governments that would be loyal and remain loyal.

I would place the power first in the hands of the unconditionally loyal, give them the control of the governments and the shaping of their policy, as Mr. Lincoln did in Tennessee, through and with the approbation of now President Johnson, allow all without distinction to participate in the framing of such governments who had been friends of the Government and loyal. Very soon all the better class who were forced into the rebellion would be absorbed by the policy of those who were invested with power and control, the whole system being based upon and supported by loyal suffrage, and thus treason would be made odious, loyalty honored, and the Republic and our liberties made secure. The leaders would then be cast out and placed upon their good behavior, and if ever it became safe, after we had secured all proper guarantees for the future security of the nation, and those States as thus restored had adopted all the amendments to the Constitution that have been or may be proposed for our safety, the disability of even these leaders of the rebellion might then be removed as provided by law. But what are our obligations with reference to this work? I have said in the light of the Constitution the work was ours and we were bound to perform it. It is ours to initiate and carry out the work to a completion, and we have no right to neglect or dodge it. It then belongs to the Executive to execute the law, and if he fail to do his duty the responsibility is not upon us, but upon him. If anything more be needed to stir us to duty, we find it in the actual condition of the people South, and especially those who have every claim upon our protection and favor that any people can have upon their Government.

That the spirit of the rebellion still lives and now thrives in the South no sane man can deny; that the determination exists to make their rebellion honorable and the loyalty of the South a lasting disgrace and a permanent badge of dishonor is equally true and cannot be denied. The leaders of the rebellion, being in power in all of the ten States unreconstructed, still defy the authority of the United States to a great extent, and deny the power of the loyal millions of the country, who have saved our nation's life against their treason and rebellion, to prescribe terms of settlement of this great controversy, and deny also that they have lost any rights they had before the war or committed any treason against the Government. We have offered to the country a constitutional amendment calculated to give us some security for the future, and asking through it but very little of what we had the right to demand and what a large portion of our people think should be required at the hands of the people and States South before they are fully restored to their former relations to the Government of

the United States. The States where the people have not been corrupted by the curse and virus of slavery, and one or two where this evil has long existed, States that stood nobly by our Government when it was on trial before the world in our recent struggle with treason and rebellion, one after another, as they have opportunity, wheel into line and seal their devotion to our Union and liberty by ratifying this amendment; while one after another of the ten States lately in rebellion and unreconstructed, through their pretended governments in the hands of traitors, have all rejected with defiance this same amendment, giving scarcely a voice in its favor.

But we are told that the Executive has now evinced through his friends a disposition to change his policy and place it more in accord with the constitutional amendment, and that should be adopted. He, as the Executive, has no right to have a policy as against the people or their representatives to the extent to force it upon the country.

This proposition was presented in the Senate by the honorable Senator from Connecticut, [Mr. Dixon,] and is said to be such as the southern States will indorse. While there are some good features in this measure, embracing portions of the amendment presented by Congress and ratified by the people, the vital parts of it are discarded and care taken to leave the power now possessed by the late leading rebels in their own hands. The very announcement of this new scheme is a confession of weakness, which is encouraging to the loyal people of the country; but, like the other "policy," which has been repudiated by them and whose nakedness is now so completely exposed, it is only a movement the result of which would be to hold the power where it is now lodged by the pretended governments in the South, and rob the loyal men from any or very much control in them. It would thwart the will of the people, and secure a settlement of this great controversy upon other than the policy of justice and universal liberty, which the representatives of the people feel bound to demand and secure. Executives may recommend, the late leading rebels seeking to hold power that they have rendered themselves unfit to possess may indorse, and together they may go all around the main question and attempt to avoid and set aside the voice of the people who saved the Government and whose representatives we are; it is of no use, for here is the altar upon which the great offering must be laid; and here, in the name of the great people of the land, by virtue of their power, and in obedience to their will, must remain the citadel of their hope, for in this high place of the nation alone can they declare their will and execute their sovereign purpose. To force or attempt to force, by any means, any other "policy" upon the country than the people demand and approve as it comes from those especially delegated by them under the Constitution, is no less than an attempt to usurp their power, and will fail, as it already has, upon and crush those who persist in so doing.

There is no hope of ever restoring these States upon the principles of loyalty with the leaders of the rebellion in power; neither will they ever consent to make their rebellion dishonorable and lift to place and favor the loyal people of those States while they are masters of the situation and command the whole field of operations. Every gale that comes from the South is freighted with the pitiful cry of distress and help that breaks forth from the true, faithful, and trusty friends of the Government, who are fleeing still before treason or bowing with broken spirits and hearts under the heavy load of sorrow which our failure thus far to protect and care for them lays upon them. Every sighing breeze tells the sad tale of expiring life that is passing away without the care we owe it; and to have been a defender of the nation's life is a crime and treason against the State and fits one only to be an outcast and makes life not worth possessing.

It has been my privilege during quite a large part of the great conflict through which we have passed to hold a seat upon this floor, and when not here to have an important part in the no less important work of rallying the people at home, and thus aiding to strengthen the arm of the Government to crush the rebellion, and in all this work no consideration has had a greater influence upon me than the duty we owed the loyal men of the South whose cry was continually coming over to us pleading for help.

And so it was with all our people. The war was fought not only for the Government and its perpetuity, but as a means to this end, for the protection of loyalty and loyal men everywhere. And now, when the war is over, and our Government and their Government is triumphant by the joint efforts of the loyal men North and South, it is a crime against justice and right to leave the loyal people of the South at the mercy of our common enemy, when we have the undisputed power to protect them and while it is our duty to protect them. No duty can be plainer. All admit that it is upon us and that it ought to be performed. Some insist that order will come out of the chaos that now reigns if the present governments are allowed to remain, but for such a conclusion there is no good reason in the facts that now appear or have existed for the last two years, neither is there any hope that things will improve under the present rule and power that now reigns supreme. Where is there any chance for the Union men South who mean to stand by their integrity and not waver in their loyalty? In what State lately in rebellion are they even respected as much as others, much less allowed to hold any position or have a voice in controlling public affairs?

There may be localities which were more thoroughly scourged by war, and where the military have continually given evidence of a power that was able and would protect the loyal, that a different state of feeling to some extent exists or manifests itself; but the fact is undeniable, that in no locality throughout the whole South where the rebel element ruled during the war, and where the Government has taken away its restraint and left the people to do and conduct as they choose, but that the Union element is completely ignored so far as position in society is concerned, and the policy fixed and unchangeable to discard and wipe it out entirely. Is there an American citizen that will acquiesce in such a state of things? Who will fold his arms in his quiet and ease and because this fate is not his own have no pity for those who are thus treated, and will not raise his voice and arm if necessary to relieve their distresses and lift them up to the level of loyal citizenship and the recognition to which they are entitled.

The same spirit of persecution that during the war hunted down Union men in the South followed them to the mountains, caves, and solitary places, left their dead bodies hanging upon the trees in the woods or by the wayside as a warning to their friends that they would share a like fate, still lives, and as the power of the Government is removed shows itself from time to time in just such degree as the condition of affairs will justify. Rewards are offered for the heads of some, and others are more openly shot down by the wayside. The facts as they appear, connected with the riots at Memphis and New Orleans, clearly show the spirit of those who are now in power in the lately disloyal States, while they are but expressions of the ruling feeling all over the South if once allowed to exercise and develop itself. The following letter from the chief justice of Louisiana will justify me in all I have said upon this subject:

CITY OF JEFFERSON, LOUISIANA, January 7, 1867.

SIR: In compliance with your desire, I here state my knowledge and opinion of the loyalty of the people of Louisiana to the Government of the United States, and what would be the condition of those holding Union sentiments in the event that all local control should be permanently in the hands of those lately in arms against the General Government.

From conversations with the secessionists, I know that they hope that an issue will arise from some

cause, either between the President and Congress, or between the United States and some foreign Power, which will precipitate a war, and through this hoped-for war they believe they will rid themselves of a people and Government which are odious to them.

Most of the persons with whom I have conversed would to-day join in any movement to rid themselves of the Government of the United States, provided there was a fair prospect of success.

The most of the people (I mean the rebels) of Louisiana honestly believe that in the late struggle they were only contending for the right of self-government; that the war carried on against them by the United States was to destroy that right; that it was an iniquitous war on the part of the Government; that it was waged with inhumanity and brutality by the Government and the people of the North, and that by both the people of the North and the Government they have been robbed and plundered of their rights and property.

With such impressions on their minds they can entertain no loyalty to the Government of the United States nor friendly feelings for the people of the North.

There is many an honest man who engaged in the late rebellion believing that he was right in so doing, but being now overpowered would submit to the decision of the sword were it not for the fact that most of their military leaders, some of whom are very bad men and murderers, now have control, and excite these well-meaning men, and if the United States military forces were to-day removed from Louisiana, and if there was no fear of interference by the United States, these base men, their military leaders—among the most conspicuous of whom is Richard Taylor, who has murdered many citizens of this State—would arouse the well-meaning citizens to violence and blood, and no Union man, whether white or black, would be safe in his person or his property.

So complete are the influence and control of such men as Richard Taylor and Mayor Monroe, who caused the assassination of so many citizens in New Orleans on the 30th of July, 1866, that the assassin's dagger is restrained at the present time only by United States bayonets, and I cannot believe that the Government will leave the Unionists and freedmen of the State in the hands of assassins.

The spirit of secession is as strong and defiant as it ever was, because the hope has been revived that it can succeed in maintaining power in each of the southern States, and that when a favorable occasion presents it can disrupt the Federal Government. It rests with Congress to adopt such measures as will destroy that hope and finally eradicate that spirit.

If the Government and the northern people intend that Louisiana shall be a part of the United States the power and influence of those who inaugurated and controlled the rebellion must be broken, a Union sentiment fostered, and personal security and absolute freedom of speech and of the press firmly established.

Respectfully, your obedient servant.

W. B. HYMAN.

Hon. THOMAS D. ELIOT, Member of Congress, Washington, District of Columbia.

All this is fully corroborated by our agents in those States. Generals Schofield in Virginia, Sickles in South Carolina, Sheridan in Louisiana, and Thomas in the West, all testify to one and the same thing in relation to the spirit of the ruling class in their departments. They all declare that there is no hope for the friends of the Union if left to the present systems of government for protection.

That lawlessness and crime will exist in those States to a great degree for a time no one will deny, but after making due and liberal allowance for all this, the evidence is overwhelming, filling every newspaper, is the burden of every letter, the complaint of every swelling heart that finds a refuge in flight and reaches us or a place of safety; it is the conclusion of every investigation we have had, the essence of the testimony of every impartial witness we have summoned, that the same spirit inspires and controls the dangerous men of the South to a great extent that did during the war, and left to themselves and their own control loyalty will find no protection nor realize any of its hopes. It is perhaps in the very nature of things that it should be so, but this is no excuse for neglect or delay on our part when the remedy is so simple and plain. Let the nation assert its power, and let the edict go forth that loyalty shall be the rule and treason the exception. This policy firmly settled and the work is half done. Governments can follow, as proposed by the measures before the House, placing the power in the hands of the loyal, supported by loyal manhood suffrage, disfranchising the leaders of the rebellion as unfit at least for a time to unite in shaping their destinies, and you have laid the foundations of institutions that will stand the test of time, and growing stronger and stronger with age, because justice and truth are the



foundation-stones upon which they rest, they will stand forever.

Unless such be the result we shall lose nearly all the fruits of the great conflict through which we have passed triumphantly, and the sacrifices of blood and treasure to secure such a result will have been made in vain. Whatever may have been the objects and purposes of the war on the part of the Government at first, they bind no one at its close, in settling up the controversy, to abandon the great results that God wrought out by the struggle, and for the security of which He will hold all of us responsible. The whole world is moving onward to an advanced position, and for our nation, which seems to be the pioneer in the grand march of national progress, to falter and prove false to its vows and attempt to turn back the great revolution, would be to render itself unworthy of leading the nations onward to the grand realization of a more perfect national life. I am one of those who through all our recent struggle believed that the great God, having for our people a higher and a nobler destiny, preserved us, that by reaping the fruits of that struggle, and applying them to a more perfect system of government, where justice, liberty, and equality should reign, we might give evidences of a higher development of national life, and thus lead the world on to a still greater advance.

During all that struggle who does not remember the dark clouds and deep seas that shut out the light and almost buried our hopes, when feeling along in the darkness we were led by a way we knew not, always, however, making some sure and certain progress toward the grand result. He who was the support of our fathers in the days of old and defended their heads in the hour of battle because their cause was just, was with us through all our recent struggle, directing and guiding to such results as would fit us, if we were true, to be the instruments in His hand in accomplishing the ends designed. His footprints were seen all over the field of strife, and as the nation from time to time made its vows and promised to be just and do justice, the cloud lifted, the storm passed, and at last the full sun appeared in all its splendor. Who dare now deny the obligations we are under to stand firmly and nobly by our plighted vows and give efficacy and power to the nation's voice?

Too many of us seem to forget that "the battle is not to the strong and the race to the swift," but, influenced by the passions and prejudices born of old political notions and theories, stand up in our own sufficiency and power and try to force against the age and its advancing spirit those old notions and theories, which were too often perversions of right, justice, and liberty, in the main, having no authority in our great Bill of Rights or the Constitution itself.

The gentlemen upon the other side of this Chamber, who represent the so-called Democratic party of the country, for that party and in its behalf exhibit a zeal worthy of a much better cause in their advocacy and support of those old notions and theories, and in their opposition to every measure of progress and advancement. They struggle as with the tenacity of life against the swelling tide of progress that presses them, apparently never for a moment reflecting that behind and above all the struggle a divine purpose pushes on the rolling current, and will surely sweep away all who oppose its resistless tide. They cling to the dead, loathsome, stinking carcasses that the great revolution has and is leaving behind us as the blasted wrecks of the wicked, oppressive forms and systems of the past, and fail to catch the new spirit and life of the present and see in them the new creations of the future. We are now giving life and power to the true spirit of our Constitution and the liberties handed down to us by the fathers of the Revolution, who by day and by night, in the storm and in the sunshine, during all the eventful struggles of that Revolution, were inspired by the broadest liberty, the most unselfish patriotism, and a

sense of the equal rights of all men, and equal and exact justice for all before the law. No other policy can live and thrive hereafter in this land of liberty, neither can the Republic long survive the overthrow and destruction of these certain and sure elements of national life. Why, then, struggle longer against the great God for mastery?

It is not a question longer of physical force, but of the supremacy of ideas and thoughts, tempered and fashioned by a true spirit and made noble and sublime by their exalted and divine character. It is in fact the same struggle that has been upon us ever since our Government was established, which for a time took the shape of strife upon the field of battle, but which again assumes its wonted field of operations to control the minds, consciences, and hearts of the people. In fact, it is the continuation of the world's great struggle between right and wrong, justice and injustice, which has always been going on, and which is now especially intensified in our own country. Let us briefly rehearse its history generally and as it relates to us.

Who that has read the history of the world's great conflicts, and carefully studied their nature, tendencies, and results, as affecting human character and human destiny, and the existence and perfection of human society and government, but can see the hand of the great God in them all defending the weak, for with the weak is very often the right in great moral conflicts. Men have gone forth to battle with their fellows, nations have been upheaved with the throes of great civil commotions until the earth has quaked and the skies been covered with the darkness of battle, but no physical causes produced the struggle. Antecedent to all this, thought has grappled with thought, purpose clashed with purpose, ideas battled with ideas, mastery being claimed for each side, until, as in our case, physical force came in as a last resort to settle the question at issue between the contending ideas and thoughts.

Always has this been the case, and it is impossible to be otherwise in such great moral and political conflicts. It has been very difficult at times in the heat and storm of the struggle to see the bearings of the conflict, it is true; but after the storm had passed and the elements had settled down into their new relations and combinations, we see that some great truth has been developed, some fetter upon humanity has been broken, and it may be a whole race or a nation born into a new life with a higher and nobler destiny than before. God, in the person of his Son, has given the world a guarantee that the great truths of His gospel shall triumph in the world, and woe to the nation or the people who thrust themselves against His omnipotent decree. Onward and still onward has the great thought of the universal brotherhood of man, a common immortality to all, an equal chance in the race of life to secure the highest hope of a common Christianity, all of which is the central, all-controlling idea of this gospel, been making its way, elevating by degrees, but surely, the thoughts of the people, producing here and there startling revelations and hastening the world on to still higher hopes and a more illustrious advance.

The struggle, though silent, is majestic and grand. It is the working of the great thought of Omnipotence in the minds and hearts of men, stirring them to the oftentimes wonderful developments of progress that astonish the world. While great struggles of physical force have wrought out grand results as they have given ascendancy to grander ideas and thoughts, still all the great achievements in the history of mankind have not been the results of such conflicts, but not unfrequently they have come to pass in the ordinary progress of events, the results of intellectual and moral forces. Prior to the Revolution the same struggle filled the colonies with apprehension and at the same time determination.

The great thought of civil and religious liberty that filled the hearts and swelled the bosoms of those early voyagers in the May-

flower lived and burned in the hearts of our ancestors, and strengthened them to demand in the name of that eternal justice that inspired them with holy ardor for the defense of the right, those things which of right belonged to them, and to wrench from tyranny's grasp their land and its liberty.

The young Republic in all the vigor and exuberance of its new and happy life, with bright prospect moved on in its orbit among the nations to reap the rich harvests of its more mature and illustrious days. How soon it found that it had only entered upon the threshold of its trials, that at best it had only started into life, and with the very start, evil, avarice, ambition, aristocracy, and a spirit of despotism were all struggling for the mastery over its better, nobler, and holier purposes and aims. How soon it found that the great central inspiring thought of a common humanity and equal justice to all, which thought by day and by night during all the weary and bloody years of trial that ended in our liberties, lifted up the sinking hearts of our people and made them strong amid disaster even, as they thought of the eternal justice of Him who had ever listened to the cry of his oppressed people, and to whom they had made their solemn vows. The same struggle that had existed for nearly eighteen hundred years between truth and falsehood, between liberty and oppression, still survived, and began to fill the young Republic with discord, contention, and strife. The shock of battle had been displaced by the close contact between antagonistic ideas and opposing thoughts. And still the war goes on. Parties rise and fall as the victory turns upon one side or the other.

And so on through all the long and tedious war of conflicting ideas and antagonisms we have passed, the right steadily gaining strength, until that great moral and political struggle came in 1860, which resulted in the ascendancy, in part at least, of the better idea, the heaven-born idea, that man is a man, entitled to his liberty and to rank with his fellow in a common brotherhood, and share at the same bar on earth, as in eternity the same, and an equal dispensation of mercy and justice. As in all time past oppression and crime, beaten before the bar of public opinion, has been loth to yield to the judgment rendered without a struggle, so in this case they flew to arms, bid defiance to the conquerors of the field of peaceful conflict, covered over the land with armed men, and under the plea and pretense of injury received, waged a cruel, unrelenting, and barbarous warfare against the nation's life and the defenders of civil and religious liberty.

The heaving, surging sea of angry, bloody strife has become still as the wave of battle has subsided, but down in its mighty depths the current rolls on and on, and still the war of antagonisms and conflicting ideas continues. God, my friends, has not abandoned the field yet, and will not leave it until every knee shall bow and every tongue shall confess that he is God forever more. His eternal justice is deaf to all appeals that come short of being inspired by the Divine precept embodied in the "golden rule," and it is useless to presume upon His forbearance and mercy while we regard iniquity in our hearts and practice it toward those for whom He has overruled this great conflict and directed it to a happy issue.

If, then, in the light of history, our own experience, and the present, these things be so, why contend longer with inevitable destiny? We shall surely be worsted, for no arm raised against the right shall long prosper.

The same struggle will go on. Constitutions may throw up barriers against it, laws may declare that peace shall reign through all the land, resolutions of great conventions may denounce agitation in advance, and parties, President, Congress, and people, may anathematize the man or set of men who may dare to break the constitutional silence, it matters not. No outward applications will cure the disease. The practice must be radical—I mean in no offensive sense—there must enter into the whole circulation, purifying the source and fountain

head, and then all the streams will be sweet and pure.

When this nation ascends to the high position within its reach, fulfills the vows it has taken upon itself before the great Ruler when its fate was trembling in the even balance, and with uplifted hand swore to be just and do justice as well as love mercy, then will the light of a purer and a happier life shine upon its way, in which no obstacles shall arise to check its grand and sublime career. I say, again, we must be just; without exact justice to all after such a struggle as we have passed through, with such vows as we have made, and such sacrifices and costly offerings as we have brought to the altar and seen consumed, there will be no lasting peace, for it is not according to the ways of the Almighty so to deal with his people. Such is the struggle and such our relations to it.

Now, Mr. Speaker, in conclusion, let me say that we have no right longer to delay the work which we have begun, which is clearly before us, and which it is our duty to perform. By the vows the nation made in the day of its extremity, when the tide of battle rolled heavily upon us, that we would not fail to be just; by the battle-fields all over the South, over which have run rivers of blood, and are scattered the wasting and unknown forms of the nation's heroes who perished for its life; by the thousands of new-made graves that bellow the whole South, sad mementoes of loved ones fallen in our defense and to secure what we now ask; by the tears and sorrows of widowhood and orphanage the land over, produced by the crimes of the very persons we propose to displace from power; by the wailings and woes of the whole nation during more than four years of dreadful war for the express purpose of crushing out rebellion that the Government might not only live, but that it might protect its friends and reward its loyal defenders; finally, by the sacrifices, toils, sufferings, blood, and death of over three hundred thousand noble sons of the Republic, who went down beneath the great conflict on the field of strife, at home, in the hospital, on land and sea, starved in prison-pens, and tortured by poison, I demand that this work be pressed on as now begun, until all the legitimate and just fruits of the great struggle and decisive victories we have won be appropriated to the proper use and benefit of all the people of the land, and especially those who amid more than ordinary trials have proven their devotion to the Union and liberty.

Sir, within the shadow of this Capitol lie the wasting forms of many thousands of those who have given themselves for the salvation of our Government and our liberties; and standing by the very side of these sacred relics, who dare refuse to move forward to lay hold of the high duties that press upon us, and press upon us now? Whatever others may do, and however false they may prove to the occasion upon which we have fallen and the great duty of the hour, let us move forward, strong in the right, seeking and doing justice to all as we shall see the light, "though the earth shall quake and tremble beneath our feet and the heavens o'er us fall."

Mr. BOUTWELL obtained the floor.

Mr. STEVENS. I ask the gentleman from Massachusetts to yield to me for a few moments.

Mr. BOUTWELL. I will do so.

Mr. STEVENS. Mr. Speaker, for the purpose of making the pending bill more acceptable in its phraseology to other gentlemen, I desire to submit several amendments; and in order to offer them I withdraw the motion to recommit. For the sake of convenience I will offer my amendment in the form of a substitute, embracing the several changes which I propose to make. I therefore move as a substitute what I send to the Clerk.

The Clerk read as follows:

Strike out all after the enacting clause and insert the following:

That said late so-called confederate States shall be

divided into military districts and made subject to the military authority of the United States as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

SEC. 2. *And be it further enacted*, That five officers of the Army, each of whom shall be of the rank of major general or brigadier general, be, and they are hereby, detailed to the command of the several districts by this act created and established; and the General of the Army is hereby authorized and required to designate said officers and assign them severally to their respective commands. The General of the Army is hereby required, under the direction of the President, to detail a sufficient military force to enable each officer so assigned to perform his duties and enforce his authority within the district to which he is assigned.

SEC. 3. *And be it further enacted*, That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, anything in the constitution and laws of any of the so-called confederate States to the contrary notwithstanding; and all legislative or judicial proceedings or processes to prevent or control the proceedings of said military tribunals, and all interference by said pretended State governments with the exercise of military authority under this act, shall be void and of no effect.

SEC. 4. *And be it further enacted*, That courts and judicial officers of the United States shall not issue writs of *habeas corpus* in behalf of persons in military custody, except in cases in which the person is held to answer only for a crime or crimes exclusively within the jurisdiction of the courts of the United States within said military districts and indictable therein, or unless some commissioned officer on duty in the district wherein the person is detained shall indorse upon said petition a statement certifying, upon honor, that he has knowledge, or information, as to the cause and circumstances of the alleged detention, and that he believes the same to be wrongful; and further, that he believes that the indorsed position is preferred in good faith, and in furtherance of justice, and not to hinder or delay the punishment of crime. All persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted.

SEC. 5. *And be it further enacted*, That no sentence of any military commission or tribunal heretofore authorized affecting the life or liberty of any person shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the Army shall not be affected by this act, except in so far as they conflict with its provisions.

Mr. STEVENS. Mr. Speaker, for the information of members I will indicate the changes embraced in the substitute just read. In the first place, I have in the third line inserted before the words "so-called" the word "late," and before "States" the word "confederate;" so that the phrase will read, "said late so-called confederate States." This change I have made to meet the views of some gentlemen who thought that the language of the bill as it stood might imply what was not intended.

I have struck out the second section and inserted another allotting five officers to the command of the several districts, instead of simply authorizing the General of the Army to make the allotment, to which some gentlemen objected.

In the third section I have inserted before the words "civil tribunals" the word "local." I do not think this of any importance, but other gentlemen do.

Then I have adopted one of the suggestions of the gentleman from Ohio, which seemed to be well taken, and inserted in the fourth section, after the words "military custody," these words:

Except in cases in which the person is held to answer only for a crime or crimes exclusively within the jurisdiction of the courts of the United States within said military districts and indictable therein.

Mr. Speaker, having indicated my amendments, I renew the motion to recommit.

Mr. SCHENCK. If I have correctly understood the effect of the gentleman's substitute for the second section, it proposes a distinct exercise by Congress of the military power to detail an officer. Undoubtedly Congress may direct others to detail officers; but this proposes that Congress shall give the order. I would like to hear that section again read.

The Clerk read the second section of the substitute of Mr. STEVENS.

Mr. GARFIELD. I trust the gentleman will strike out that portion of the section which proposes that Congress shall detail officers. The language of the section is that five officers "are hereby detailed," and then it authorizes and requires the General of the Army to designate those officers. By the provisions of the section the act of detailing the officers is one thing and the act of designating them another. Now, if we can command the President, or some other officer, to designate officers for duty, we can also command him to detail them for duty. I undertake to say that such a thing as Congress detailing officers is unprecedented. We might as well attempt to post a picket by act of Congress or drill a regiment by act of Congress.

Mr. STEVENS. If the gentleman will allow me, I put it in that shape to satisfy several gentlemen, who thought it the best way to obviate their objections. I found on examination that we did it often during the war, detailing them by rank, though not by name. I hold Congress has the right to send them anywhere it chooses. But it seems in trying to accommodate everybody I find myself in the condition of John Thompson's hat in the anecdote of Dr. Franklin. I withdraw the amendment to the second section, and ask that the section shall stand as it was originally reported.

Mr. FARNSWORTH. The bill was reported by the Committee on Reconstruction, and under the rule, as I understand, the gentleman cannot make any modification of it.

The SPEAKER. The gentleman can modify his own substitute.

Mr. SCHENCK. I desire to ask the gentleman from Pennsylvania another question.

Mr. STEVENS. Certainly, sir.

Mr. SCHENCK. This bill stands now on a motion to recommit, which of course precludes all further amendment. The gentleman has renewed the motion to recommit, which was withdrawn for the purpose of making the amendment we have heard, and as I understand he intends to follow that motion by a demand for the previous question, I ask him whether we are to have any vote on any other than the amendments before the vote on the third reading? Will he not allow us, before calling the previous question, and I put the inquiry specifically, to have a vote on the proposition submitted by the gentleman from Maine [Mr. BLAINE] last night?

Mr. STEVENS. All I can say is that after full examination the committee think the bill cannot be made to suit them better and the country than it is; and the last one they would favor is the amendment of the gentleman from Maine. It will be for the House to say whether it is good enough as it is. If they want to amend it they will refuse to second the demand for the previous question.

Mr. SCHENCK. Then I hope the previous question will not be seconded.

Mr. RAYMOND. Mr. Speaker, I desire merely to ask what will be the effect of different votes on the original amendments? I understand the gentleman from Ohio desires to get before the House for a vote of the House the amendment moved by the gentleman from Maine, which is to make the constitutional amendment the basis of restoration together with suffrage. I desire to know how that can be reached by a vote of the House? If the previous question be voted down, then do the amendments come in?

The SPEAKER. They would not.

Mr. RAYMOND. Would voting down the previous question and the motion to recommit allow us to move an amendment?

The SPEAKER. It would.

The Chair will state, as the question is proposed to him, that the pendency of the motion to recommit, if the previous question be seconded, brings the House to vote first on the motion to recommit, and then on the various amendments, and next on the third reading of the bill. The previous question does not exhaust itself till the third reading of the bill.

Mr. RAYMOND. Then to vote down the previous question will substantially open the bill for amendment.

The SPEAKER. It will open the bill only for debate. The gentleman can arrive at his object if the majority of the House desire to amend the bill, after seconding the previous question, to go through with it until the third reading of the bill, and then reconsider that, when the bill will be open for amendment, for the previous question cannot be reconsidered when partially executed.

Mr. BLAINE. When that is done, cannot the motion to recommit be again interposed?

The SPEAKER. If the motion to reconsider be carried the Chair would recognize that as an indication the House desired to amend the bill, and would give the floor to some gentleman who had an amendment to offer.

Mr. BLAINE. I desire to offer an amendment.

Mr. BINGHAM. If the previous question is seconded would not the vote be taken first on the motion to recommit?

The SPEAKER. Certainly.

Mr. BINGHAM. Then if it is voted down we could reconsider the vote by which the previous question was seconded.

The SPEAKER. The previous question could not be reconsidered until it was entirely executed.

Mr. BINGHAM. So I understand.

Mr. BOUTWELL. Mr. Speaker, I am aware that no measure can be more unpalatable to the American people than one which provides for a military government, and there is no position in which I can myself be placed in the performance of a public duty more disagreeable than that of an advocate of military rule. I shall, however, make no apology for proceeding to the discussion of the measure before the House by the aid of common-place and inartificial processes of examination and reasoning. My purpose, in the first place, is to examine this bill in connection with the amendments that are now pending, moved by the chairman of the committee on the part of the House, for the purpose of relieving, if possibly I may, the force of some objections which have been made on this side of the House to the passage of this bill. I then purpose to consider the amendments proposed by the gentleman from Ohio [Mr. BINGHAM] and the gentleman from Maine, [Mr. BLAINE,] for the purpose of showing how those amendments are inconsistent with the vote of the House taken yesterday in reference to a bill for the reconstruction of Louisiana, and that they are also vitally and dangerously inconsistent with any measure for the permanent restoration of the rebel States to their position and influence as loyal members of the Government. I then purpose, in conclusion, to present certain general views bearing upon the question of military authority in the ten rebellious States, showing that in a large degree the necessity for the present condition of things has arisen from the policy of the President, a policy for which we are in no proper degree responsible, but which in its effect compels us, as the Representatives of the people and as the law-making power in the Government, bound to protect all persons within the jurisdiction of the Union in their rights of person, property, and liberty, to resort to measures which otherwise we could neither approve nor contemplate.

It has been objected that the committee did not propose, in connection with this bill, a measure or measures for the restoration of civil authority in the ten States recently in rebellion. That is true, and it may have been a mistake on the part of the committee. If so, it is due in some degree, as far as I am concerned, to an error of opinion as to what this House was prepared to do. I refer now to the vote of this House on the passage of the bill for the reorganization of Louisiana.

It will be very well remembered that on former occasions during the existence of this Congress any proposition contemplating universal manhood suffrage was not only unani-

mously opposed on the other side, but failed to receive the united or even the general support of this side of the House. If therefore naturally came to be believed in the committee that if we should report a measure which provided for universal manhood suffrage, either in one of these States or in the ten States, we should fail to combine the entire support of the loyal party in its favor. I have now to say that it is one of the most noteworthy facts in the history of this great contest that the bill providing for civil government in Louisiana, which passed this House yesterday, was discussed to some extent on this side, and for two consecutive hours without interruption on the other side, and was not, I believe, opposed by any gentleman upon the ground that it provided for universal manhood suffrage in the State of Louisiana. Only one gentleman on the other side adverted incidentally, as far as I heard, to the fact that there was such a provision in the bill.

Mr. FINCK. Will the gentleman yield?

Mr. BOUTWELL. Yes, sir.

Mr. FINCK. One of my objections to the bill was that it proposed to disfranchise the white people of Louisiana and confer suffrage on the colored people. I made that point distinctly.

Mr. BOUTWELL. I referred to the gentleman, [Mr. FINCK,] and I believe I did not misinterpret the force of his observations. It was a passing incidental objection, instead of being in the forefront of the reasons why the bill for the reconstruction of Louisiana should not be adopted by the House. I have therefore to say for myself that I was in error as to what this House, representing the country, was prepared to do; and without submitting to the interruption which is indicated by the gentleman from Kentucky, [Mr. HISE,] I have to say further that I congratulate the House and the country, and give notice to the gentleman from Kentucky, and to all those of the border States who sympathize with him in opinion, that the time manifestly has passed when there can be any longer a question or a struggle as to whether the colored people of this country are to participate, as other men participate, in the government of the country.

Speaking generally of the bill under consideration, it has two advantages which I think of primary, nay, I may say of vital importance, to the future welfare of the country. One is that it contains a distinct declaration for all political purposes that the governments which have been set up in the ten States recently in rebellion are mere pretenses, pretended governments, having no vital or binding force upon the people of the respective States in which they have been set up, and being in no sense entitled to the recognition of the country.

The declaration is of importance to the future of the country considered with reference to its effect upon these governments, but it is of more importance considered with reference to the possible action of the Supreme Court of the United States. If it be true, as has been stated by the gentleman from Ohio, [Mr. BINGHAM,] that on former occasions, and especially upon the reenactment of the Freedmen's Bureau bill, Congress did virtually admit that those ten States were States in the Union, then the reasons for the passage of this bill are vastly increased in force. If Congress, being the political department of the Government, entitled under the Constitution to decide what government in any State is the legal government, has heretofore used language which can be properly interpreted to support these pretended State governments at the South, then it is of vital necessity that that policy should be reversed and another declaration made. If it should happen, as possibly it may, that the Supreme Court of the United States should declare that those ten States are States in the Union, entitled to all the rights and privileges of States, and should base that declaration upon any act of Congress, then those States are restored as far as the judiciary can restore them, and nothing remains for Congress and for the people but to accept

that conclusion, or else to enter into an undesirable and dangerous controversy with the chief judicial tribunal of the land.

In the preamble of this bill these words are found: "Whereas the pretended State governments of the late so-called confederate States," &c., thus declaring that these governments are merely pretended State governments. While this preamble will not in itself, as matter of law, bind the legal tribunals of the country, the text of the bill is connected with the proposition in the preamble by the use of such language as that there can be no mistake as to the true import of the whole bill considered as a measure of legislation. In the third section, we have said:

And all legislative or judicial proceedings or processes, to prevent or control the proceedings of said military tribunals, and all interference by said pretended State governments with the exercise of military authority under this act, shall be void and of no effect.

We have declared, then, in the preamble, and in the text of the bill, that these are pretended, not real State governments. How will that declaration made by Congress affect the action of the Supreme Court? As is very well known, in the case referred to yesterday by the gentleman from Ohio, [Mr. SHELLABARGER,] (Luther vs. Borden,) the Supreme Court held that Congress was the department of the Government that was to decide in case of two governments set up in a State which of the two was the republican form of government. They also decided another point which has not yet attracted the attention of the country. It was held in general terms that it was in the power of Congress to inspect the constitution of a State where there was but one form of government, and to decide whether that particular constitution was republican or not. The Court illustrated the proposition by saying that if a State should establish a military government it would be in the power of Congress to set that government aside and to institute proceedings for the organization of a government republican in form.

The Supreme Court, looking at these ten States before it can discern judicially the existence of States, must find State governments; and if this bill be passed it will fail entirely to find any State government whatever. They must also further find that the State government existing in any State has been recognized by the Congress of the United States, and therefore, judicially, the Supreme Court will have no capacity to see in either of these ten States any government; and therefore for judicial purposes there will be no State. It follows, then, that for the purpose which we have in view, which is to keep in our own hands, as the political department of the Government, the reorganization of these ten States, this bill in its present form is of vital importance to the future welfare of the country. It keeps in the hands of Congress and of the people the control of a most important question; none other than this: whether these ten States shall be admitted into this Union under the lead and control of disloyal men, or whether they shall be admitted under the lead and control and by the direction and influence of loyal men. This is the question before the country.

Mr. DAVIS. I desire to ask the gentleman whether, in his judgment, a bill which establishes in these States a military government is consistent with the duty of Congress to guarantee a republican form of government to those States?

Mr. BOUTWELL. A very proper question, and one in reference to which I hope to present my views.

The remark has been made that the committee did not contemplate anything but a military government for these States. This statement is negatived by the concluding clause of the preamble, which is in these words:

And whereas it is necessary that peace and good order should be enforced in said so-called States until loyal and republican State governments can be legally established, &c.

I may remark here that the gentleman from



New York [Mr. RAYMOND] admitted the other day that life, liberty, and property were not protected in these ten States; and it follows as a matter of course that somebody for the time being is bound to furnish that protection. What I ask the House to accept is, the fact that there is no other practicable way of furnishing protection to life, liberty, and property in these ten States except through the instrumentality of a bill conferring great powers upon the military department of the Government; but powers not to be exercised without authority of law, powers not to be exercised independent of Congress, but to be exercised precisely as the police of a city exercise the vast powers confided to them. They derive their authority from the law and they exercise the powers intrusted to them in obedience to principles of law. They are always responsible to the people as the source of law. The military department in its operation in these ten States, whether considered with reference to the people of the whole country or considered with reference to the powers that they exercise, will be but as the police of a city acting under authority of law and in consonance with the principles of law, possessing vast power, exercising great authority, but always in subjection to law. The moment they depart from the principles of law, the moment they attempt to assume or assert any authority not confided to them, they become utterly powerless in the presence of the majesty of the people, who will revoke the delegated authority with the same judgment and the same certainty with which they conferred it. It follows, therefore, that fifty or sixty thousand men of the Army who may be intrusted with these powers in those States will be, with reference to the people of those States and of the country, but as the police of a city.

I pass over the second section of this bill. I believe that as reported by the committee it is constitutional, and I believe also that the amendments suggested by the gentleman from Pennsylvania would have been constitutional also. But the main feature of this section, whether accepted as reported by the committee or amended as suggested by the chairman of the committee, is that which gives to the General of the Army, subject, of course, to the authority vested by the Constitution in the President as Commander-in-Chief of the Army, authority to designate five officers of the rank of major general or brigadier general, and appoint them to command the five districts created and established by the bill.

In passing I venture to make a single observation for the purpose of relieving gentlemen upon the point suggested by my friend from Ohio, [Mr. SCHENCK,] that it was not competent for Congress to detail officers of the Army by rank. I do not at all concur in that idea if by "detailing" is meant designating certain officers by name or by rank and assigning them to the performance of certain services. The President is undoubtedly Commander-in-Chief of the Army and Navy; but by a provision of the Constitution Congress has power to make rules for the regulation and government of the Army and Navy. The President is required to command the Army in subordination to the rules and regulations which Congress prescribes. There would be no doubt of the authority of Congress to send a fleet to the Indian ocean for the protection of American commerce, and to detail Admiral Farragut by name and assign to him a certain number of vessels belonging to the Navy, and direct him to proceed to the Indian ocean for the purpose of protecting the commerce of the United States. The authority of the President over the Navy is precisely the same as is his authority over the Army.

Objection is made to another provision of this bill, found in the third section, which authorizes the military officers to allow local civil tribunals to take jurisdiction of and try offenders. It has been suggested that this provision is equivalent to a recognition of the State governments which have been set up in those

States, and that in some way or to some degree it conflicts with the provisions contained in the preamble and in the text of the last paragraph of the third section of the bill. I think that this provision is not justly subject to any such interpretation. We establish military authority in that vast district of country. We give to our military officers supreme, but not necessarily exclusive, jurisdiction over all local affairs; and by this provision we put it in the power of the military officers to use the existing legal tribunals. The officer does not use a local tribunal because it was instituted by the State and derives its powers from the State; but he uses it, if he uses it at all, because he finds it there, because he finds the people acquainted with its mode of administration, and because he can make it useful in protecting the property, the liberty, and the lives of the people within his jurisdiction. But no authority or argument can be deduced from this provision in favor of the pretended State governments which have been set up. Our action in this case will be precisely analogous with the conduct of President Lincoln when my friend and colleague [Mr. BANKS] was in command in Louisiana. I remember that at that time a proclamation was issued, I suppose by the President, declaring the constitution of Louisiana, except those parts of it which related to slavery, the law of Louisiana for the time being. I was myself slightly disturbed at that time by the fear that the President recognized the old constitution of Louisiana as binding upon the people of that State because it had been the constitution; but with his usual clearness he made the distinction, and said that finding the constitution there, and finding the people familiar with it, he recognized it and caused it to be enforced; and not because it had any vital power or legal existence arising out of the fact that previously it had been the constitution of the State.

Mr. BANKS. Will my colleague [Mr. BOUTWELL] allow me to say the constitution of Louisiana was recognized, as he has suggested, only for the purpose of the election, or with a view to the establishment of a government immediately by the people, and not as a semi-frame of government. It was recognized for a special purpose.

Mr. BOUTWELL. Undoubtedly it was for a special purpose. I did not introduce the subject with the design of saying that it was otherwise; but only for the purpose of showing that it was competent for the authorities of the United States to use institutions and frameworks of government found in the rebellious States for the purpose of accomplishing what is desired; whether it be the protection of life, liberty, and property, or whether it be the reconstruction of the government itself. They are used not because they have been established in those States at some previous time, but because they are convenient instruments of accomplishing what we desire to have done. They derive their power not from the fact that they have been established as institutions of the State at some previous time, but because of the fact that we endow them with life for certain purposes, whether those purposes are temporary or permanent. In this case, as in the case of Louisiana, we propose to use these institutions and tribunals for certain purposes, for a limited period of time, and only until another system can be introduced.

Mr. BANKS. I desire to say a word further.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?

Mr. BOUTWELL. I will first yield to my colleague, [Mr. BANKS.]

Mr. BANKS. There is one other distinction to which the attention of my colleague [Mr. BOUTWELL] ought to be called. That distinction is that the constitution of Louisiana which was recognized was in the hands of loyal men. But the civil governments indirectly recognized in this bill are in the hands of the enemies of this country.

Mr. BOUTWELL. Very well; that for our purpose is a distinction of no consequence

whatever; for the reason that the military officers having control over these tribunals will deprive them of power from time to time, and to such extent as may be necessary for the purpose of securing protection to life and liberty and property. If the tribunals referred to so fail under such circumstances and for such periods of time as to render it probable that they cannot be used as instruments of good government, then they will be thrust aside altogether. And so it would have been with the constitution of Louisiana if in the experiment which was tried it had failed to accomplish that which the President desired, to wit: to aid in the restoration of civil government in that State. Had it failed to do that the President would not have hesitated to put the hand of military power upon that constitution at once.

Mr. ELDRIDGE. If the gentleman from Massachusetts [Mr. BOUTWELL] will now allow me a moment, I will say that I understand the gentleman to admit that the whole government of these people will be under the control of the military officer who may be in command of the district or department, subject alone to his supreme will, unless he shall concede, if he shall see fit, a certain amount of jurisdiction to the civil officers. Now, I would inquire of the gentleman, in the first place, what laws these military officers are to administer? whether they are to be the laws of their own will which they are to administer upon their own impulse and discretion, or whether the laws and Constitution of the United States and the laws and constitution of the State of Louisiana? Are these the laws that they are to administer, or are they to administer martial law alone?

Mr. BOUTWELL. I think I understand what the gentleman desires to express. I may say in one word that the supreme power will undoubtedly be for the time in the military officers. But that power is limited by this bill in various ways, and by the Constitution of the United States, as I will undertake to point out.

But before entering upon that branch of the subject I desire to refer to what has been said in reference to the suspension by this bill of the writ of *habeas corpus*.

Mr. BANKS. Let me say just one more word right here.

Mr. BOUTWELL. Very well.

Mr. BANKS. I wish to say one word in confirmation of what my colleague has said: that it was the distinct understanding of the military authorities and those they represented in the experiment in Louisiana that if it had resulted in placing disloyal men in office the whole affair would have been immediately suppressed.

Mr. BOUTWELL. I have no doubt of it. As I was about to say, there is not in terms in this bill any suspension of the writ of *habeas corpus*. If it be true, as is asserted in the preamble of the bill, that these are pretended State governments and not real State governments, then these State governments have no power whatever over the privilege of the writ.

The privilege of the writ of *habeas corpus* is a privilege which can be enjoyed only under those governments which are legitimate and recognized. Therefore, when we declare that the governments in these ten States are pretended governments and not real governments, as far as those governments are concerned they neither have nor can have any power over the writ of *habeas corpus* in any form. Hence it follows that this bill is broader in its provisions than the mere suspension of the writ of *habeas corpus* as far as the tribunals of the so-called States are concerned. The bill not only suspends their functions in that particular, but it suspends by its power all their functions. So far as the courts of the United States are concerned there is no suspension of the writ of *habeas corpus* but only a regulation of the mode in which the privilege of the writ shall be enjoyed by the people. With reference to this point the amendment introduced

by the gentleman from Ohio [Mr. BINGHAM] seems to me very proper; and I trust that it may be adopted.

I come now to certain provisions of the bill which limit the authority of the military officers. It is declared first—

That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals.

Then it is declared in the fourth section that—

All persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted—

Using in this respect the language of the Constitution.

Then the fifth section provides—

That no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district.

Under the general principles of law and practice no capital punishment can be inflicted until the sentence shall have been approved first by the military commander of the district, and then referred to the President of the United States and approved also by him. Thus we impose upon these officers those obligations which are imposed upon other departments of the Government by the Constitution of the United States. We have, then, always in the presence of these officers the political power of the Government to arrest their proceedings at any time if they are harsh, unjust, unwise, or oppressive in any degree.

Mr. ELDRIDGE. I desire to ask the gentleman whether he considers that this bill secures to a person accused of a capital offense the right of trial by a jury of his peers?

Mr. BOUTWELL. It does not.

Mr. ELDRIDGE. Is it not, then, in direct conflict with that provision of the Constitution which declares that a party charged with crime shall be entitled to a trial by jury, to be confronted with the witnesses against him, &c.?

Mr. BOUTWELL. Mr. Speaker, the Constitution provides—the provision was quoted the other day—that “the privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require it.” Now, sir, there is a distinction which can properly be made, but which, so far as I have observed, has not been indicated upon this floor. It is this: that the power of Congress to suspend the privilege of the writ of *habeas corpus* is not confined to periods of rebellion or invasion; but it arises when there is a case of rebellion or invasion and it ceases to exist only when in the judgment of the law-making power the occasion has passed. Therefore the people of these ten States are to-day not only without civil governments—that has been declared by the executive department, and it is also affirmed in this bill—but they are also in that condition, even if the existing governments are valid, when it is in the power of Congress to suspend the writ of *habeas corpus* for the reason that a case of rebellion exists. Although war is no longer flagrant in that part of the country it still is true, as is confessed by gentlemen on all sides, that as an effect and consequence and incident of the rebellion, there is no real protection to life, person, or property. There was a case of rebellion and the consequences remain.

Therefore the case of rebellion having arisen, the consequences, incidents, and facts of that case yet continuing, the power of the Government over the people of these vast regions of country, aside from the rights of conquest, is as supreme and exclusive as it was over the sections of the country subjugated by the arms of the Republic during the time while the rebellion was flagrant in other portions of the South.

Mr. RAYMOND. If it does not interrupt the gentleman from Massachusetts, and I understand it does not, I desire to ask him a question on one point which seems to me a point of distinction in that matter. The gentleman maintains inasmuch as the invasion, the rebel-

lion, the endangerment of the public safety continued, therefore the suspension of the writ of *habeas corpus* continued.

Mr. BOUTWELL. The power to suspend. Mr. RAYMOND. But as I understand it, by proclamation duly authorized by law, that state of rebellion has been legally ended, and therefore this is a new exercise of power. It is not the continuance of a previous exercise of power, but a new state of things having arisen, the war having been ended and proclaimed ended in accordance with law, this is a new exercise of that power.

Mr. BOUTWELL. The proclamation by the President had no other effect, as I understand, than to declare that flagrant war was at an end; but no proclamation of the President, whatever may be the terms in which it is couched, can ever deprive the legislative department of its constitutional authority to decide for itself in the case of rebellion that the privilege of the writ shall be suspended. The President cannot deprive the legislative department of the Government of the power of deciding for itself when the case of rebellion exists and when the effects and consequences of that rebellion terminate. The power is here, and no paper proclamation of the President can ever divest us of it.

Mr. ELDRIDGE rose.

Mr. BOUTWELL. I fear all my time will be consumed with these interruptions. I will yield to the gentleman from Wisconsin and then decline to yield to all others.

Mr. ELDRIDGE. I understand the gentleman to claim that the suspension of the writ of *habeas corpus* itself justifies the holding of the person charged with crime and the depriving him of an immediate trial. I do not understand that the suspension of the writ of *habeas corpus* has any such effect; but on the contrary, I hold the provisions of the Constitution still applies, that he is entitled to be tried speedily by an impartial jury, and be confronted with the witnesses against him, and to have the assistance of counsel for his defense.

Mr. BOUTWELL. I decline to yield further. I have only to say that in my view, as far as these ten States are concerned, when the exigency exists it is competent for Congress to declare that they shall be governed by martial law; to declare that pretended State governments have no power to grant writs of *habeas corpus* or do any other act of government except as they derive it from military authority. The military government for the time being will be supreme, but not necessarily exclusive, because these military officers may, as provided in this bill, grant to the local tribunals an opportunity to dispose of questions as they may arise among the people.

Mr. Speaker, passing from the provisions of the bill, I wish to call the attention of the House to the amendment offered by the gentleman from Ohio, [Mr. BINGHAM,] and the amendment offered by the gentleman from Maine, [Mr. BLAINE,] which are similar in character. I observe these amendments are supported by quite a number of gentlemen on this side of the House. Without examining into the details of the amendments I have this to say, that any general proposition for the restoration of these States to the Union upon any basis set forth in an act of Congress is fraught with the greatest danger to the future peace and prosperity of the Republic.

The reason is apparent: yesterday we passed a bill providing for the admission of Louisiana to the Union. I will refer now to the provisions of this bill for the purpose of deducing therefrom an argument against the proposed amendments of the gentleman from Maine [Mr. BLAINE] and the gentleman from Ohio, [Mr. BINGHAM.]

In the first place, we have taken the utmost care in that bill to secure a loyal governor for Louisiana while the process of reconstruction is going on. We have taken the utmost security that the legislative council shall be composed of loyal men; that no person shall be elected a delegate to the constitutional conven-

tion or legislature who has ever had anything whatever to do with the rebellion.

And for what purpose have we taken all these securities? For this purpose alone, as I apprehend, that we set up as the principal figures in the reconstruction of Louisiana loyal men. We clothe them with power so that all the people of Louisiana, loyal and rebel, may see that all power in that new State, under the policy of Congress, is given to loyal men; and also that disloyal men are carefully excluded. I need not dwell upon what is a well-known and potent fact, that when you create a State, when you give power to a Governor, when you appoint a legislative council, when you select judges, it is of the first importance that they be loyal men if you desire to construct a loyal State.

How is it, how will it be under the amendment proposed by the gentleman from Ohio? He lays down a general rule under which each of these nine States is permitted to reconstruct itself and obtain admission into the Union. What is to be the effect of this measure? The legislative departments of those nine States are all in the hands of disloyal men. Every Governor, every judge, is a disloyal man. The majorities in each of the Legislative Assemblies is composed of disloyal men. As soon as it is ascertained, as it will be if the amendment of the gentleman from Ohio prevails, that certain things are to be done in order to secure admission into Congress, what happens? These disloyal authorities proceed at once to do that which the gentleman from Ohio says they must do before they are admitted into Congress. Disloyal men in these States become the central figures in the Government. They become the source of power.

Mr. BINGHAM. Will the gentleman allow me—

Mr. BOUTWELL. I cannot; I have only a few minutes left. The effect of this will be that these nine States will appear here with their constitutions framed as you demand, the constitutional amendment adopted, and negro suffrage provided for, but every officer in the States will be a disloyal man. Am I told that the pending amendment to the Constitution excludes certain persons? To be sure it does; but the number excluded is very small in proportion to the whole number of disloyal people in those States. Nothing remains except for the disloyal people to select men who are disloyal but who will not come under the ban of the constitutional amendment. The consequence is that the timid people, black and white, who adhere to authority, who naturally place confidence in men of power, will be the sport of disloyal men. Thus you permit disloyal men to set up and control the governments which are to be formed in these nine States. Therefore I protest with all the power I can command against any general proposition for the admission of these States into the Union; and in that protest I do not mean to be understood as entertaining the opinion that these States ought not to be restored as speedily as possible. But I do assert and maintain that either the bill which passed yesterday should be passed for these several States as they may appear qualified to take their places in the Union, or one somewhat like that proposed by my colleague, [Mr. BANKS.] Take each State and provide that the men who are intrusted with the organization shall be loyal men; secure a loyal government, loyal judges, loyal Legislatures, a loyal convention for framing the State constitutions, and thereby you secure loyalty among the people of each of the new States. If you allow power to go into the hands of the disloyal people of the South they will without doubt reconstruct governments as you demand. They possess all the means of information; they command in a large degree the intellect of the South; they control the institutions of learning; the clergy is in their interest. And having all the means of influence and power, if in addition we allow them the offices in the incipient State, they will rally to their support enough of the people to control the State for a

long period of time. Therefore I am of the opinion clearly that if we were to pass bills to-morrow for the reconstruction of every one of these States, those bills should be separate; they should be framed like the bill passed yesterday in relation to Louisiana, that thereby we may have the influence of the military officers in support of the new State governments we desire to establish.

I hold further that we are driven to this extreme measure because the policy of the President has failed, for some reason or other, to secure to the people of the South protection of life, liberty, or property. I have in my desk a statement in detail which I suppose and have reason to believe is very imperfect, but which contains the names of forty persons murdered, and the places are named where they were murdered in the State of Arkansas, within a comparatively brief period of time. Although many of the murderers are known not one of them has been brought to justice or even arraigned before any tribunal.

There are now, as far as I can understand, but four methods which can be resorted to for reconstructing the governments of the rebel States. The first mode is to admit all the southern States upon the plan suggested by the gentleman from Ohio, [Mr. BINGHAM.] I have already indicated as clearly as I am able the objections I entertain to that plan. I consider it nothing more and nothing less than a proposition to put all those State governments into the hands of the rebels.

The second plan is to leave those States as they are now. Are gentlemen prepared to do that? Are they prepared to continue this grand carnival of disquiet, disorder, bloodshed, and murder throughout the South? We shall be false to our duty if we permit the existing condition of things to continue one day beyond the time when we can relieve ourselves from the circumstances in which we are placed.

The third plan is to follow the example set in the case of Louisiana by the bill which we passed yesterday. We may follow that example as speedily as possible, even though we pass the bill now before the House. The bill for a military government over the insurrectionary States does not interfere at all with the reconstruction of North Carolina or Arkansas, or any other State, should Congress deem either in a fit condition to be received into the Union of States.

But in the mean time, as I believe, it is necessary to establish some sort of government there which shall protect the people in their rights; and I know of no means whatever except to employ for that purpose the military force of the Government. I do not participate at all in the idea that the military will in any degree deviate from the strict line of their duty. I do not apprehend that they will oppress any man, or that it will do anything from malice, or for any unjust purpose. I believe that temporarily it will be a safe depositary of the public power, and that we can at least do that which thus far the Government has failed to do since the suppression of the rebellion, protect our friends against the injustice and wrongs under which they have suffered for now more than two years, and under which they are writhing in the very agony of death.

I have promised to yield the remainder of my time to the gentleman from New York, [Mr. WARD.] But there is so little of my time left I do not know that he will want it.

The SPEAKER. The gentleman has five minutes of his hour remaining.

Mr. WARD, of New York. I can hardly say in five minutes anything worthy of the subject. I thank the gentleman for his courtesy. I will ask him, if he has no objection, to yield the five minutes to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. BOUTWELL. I will do so with pleasure. Mr. SCHENCK. It seems exceedingly difficult to get the privilege of some four or five minutes of time; but I will avail myself of it for necessarily a few remarks.

I wish to say, in the first place, that I heartily assent to the necessity of martial law being extended over these States that have been in rebellion; but I am just as decided in the opinion that, in extending martial law over them with a view to keeping them in a condition of peace and good behavior until civil governments can be established, we ought at the same time, as a part of the system, to indicate to them what we require them to do. And here seems to be the point on which gentlemen who want to press this bill naked to a vote differ with myself and those who agree with me. If I understand the sentiment of the country and of the Republican party of the country, Congress is called upon to adopt and declare some policy, some scheme, some plan upon which these States are to be restored. Now, sir, it is proposed upon the one hand that the whole plan shall consist in putting them under martial law until they are in fit condition to have representation. I aver that this is only half the work. I aver that while you are subjecting these men to the rule of the bayonet you ought, at the same time, to indicate to them what you require them to do in order that they may be rid of the bayonet. This is proposed by the amendment offered by the gentleman from Maine [Mr. BLAINE] and explained by him yesterday. I understand my colleague [Mr. BINGHAM] is willing to withdraw his amendment in order to let this distinct, succinct proposition come in.

Mr. BINGHAM. I accept the words giving universal suffrage, letting the amendment remain otherwise as it was.

Mr. SCHENCK. Now, what do the friends of this amendment propose? They say, "Pass your bill declaring martial law, but accompany it with an additional provision which shall indicate to the States that have been in rebellion what you expect them to do in order that they may get rid of martial law by showing their fitness to have it lifted from them." This amendment is of itself an argument which, it seems to me, appeals to this House and to the whole country, and especially to that party in the country that has sent the majority to this House. It proposes that whenever the constitutional amendment which has been submitted by this Congress to the States "shall have become a part of the Constitution of the United States, and when any one of the late so-called confederate States shall have given its assent to the same and conformed its constitution and laws thereto in all respects," this shall be one of the conditions upon which that State shall be relieved from martial law. Now, sir, what is that proposed amendment to the Constitution? Just what this Committee on Reconstruction gave us at the last session of Congress—securing equality of representation; debarring from the privilege of holding office the dangerous men of the South until their disqualification shall be removed by two thirds of both Houses of Congress; providing for maintaining inviolate the public faith; prohibiting payment for slaves. It is unnecessary for me to recapitulate the provisions of that amendment. They are familiar to every gentleman here.

But, sir, the condition I have specified is not the only condition proposed to these States as that upon compliance with which they shall be relieved from martial law. It is further required that the State "shall have provided by its constitution that the elective franchise shall be enjoyed equally and impartially by all male citizens of the United States, twenty-one years old and upward, without regard to race, color, or previous condition of servitude, except such as may be disfranchised for participating in the late rebellion"—thus securing what this measure providing for martial law does not secure, and what is not clearly secured by the bill in relation to Louisiana.

[Here the hammer fell.]

Mr. STEVENS. I rise to call the previous question.

Mr. SCHENCK. I ask the gentleman to

grant me a few moments more before he demands the previous question.

Mr. STEVENS. I yield to the gentleman two minutes.

Mr. SCHENCK. I am sorry to be restricted in this discussion to so brief a time; but I suppose I must be thankful for small favors.

I will complete what I was about to say of the character of this amendment in its several parts. This constitution thus made, pending these provisions, must itself have been submitted to the vote of the State that desires to get rid of martial law, and ratified by a vote of the people of that State; and when the constitution thus ratified by the popular vote shall have been thus sanctioned by the people of the State, it is still to be submitted to Congress for examination and approval; and that State then, if its constitution be approved by Congress, shall be declared, but not till then, entitled to representation in Congress on taking the oath on the part of the Senators and Representatives who shall be sent here.

What I claim—I must say it in a word, for I am allowed no longer time—is that if you present this in the shape of law you ought to provide a complete scheme, to say to these men they shall be put under martial law until they properly deport themselves; and when that is manifest, what they are to do to get rid of martial law. Anything less than that would be mockery, and but partial legislation. We ask, therefore, for a scheme; we ask for consistency; we ask for a plan; we ask for a policy to be adopted by Congress. But instead of meeting the expectation of the country, the only reply seems to be it is sufficient to give us half a scheme, and not to present it in its whole entirety.

[Here the hammer fell.]

Mr. STEVENS. I desire to ask the House whether they are ready to close this matter by taking a vote on it. I therefore call for the previous question.

Mr. BINGHAM. I hope the previous question will not be seconded. I want to explain to the House why we should have a vote on the pending amendment.

The House divided; and there were—ayes 53, noes 70.

Mr. BOUTWELL demanded tellers.

Tellers were ordered; and Mr. BOUTWELL and Mr. BINGHAM were appointed.

The House again divided; and the tellers reported—ayes 54, noes 79.

So the House refused to second the demand for the previous question.

Mr. BINGHAM. I owe my thanks, Mr. Speaker, to the House for giving me the opportunity of presenting to the issue which is thus sharply made between the honorable gentleman who has charge of this bill and myself. And before I proceed further in this discussion I thank the honorable gentleman from Pennsylvania for so far conquering his prejudices as to deem one amendment proposed by me to the bill as not unworthy of his acceptance. I refer, sir, to the amendment offered by me to the fourth section of the bill as reported by the gentleman, and which amendment is in the words following:

Except in cases in which the person is held to answer only for a crime or crimes exclusively within the jurisdiction of the courts of the United States within said military districts, and indictable therein.

This amendment having been accepted by the gentleman, there remains, therefore, Mr. Speaker, in controversy the additional amendment which I propose to insert, and which is as follows:

Whereas it is expedient that the said States lately in insurrection should, at the earliest day consistent with the future peace and safety of the Union, be restored to full participation in all political rights; and whereas the Congress did, by joint resolution, propose for ratification to the Legislatures of the several States, as an amendment to the Constitution of the United States, an article in the following words, to wit:

ARTICLE.—

SEC. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein



they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

SEC. 4. The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, nor any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Now, therefore,  
*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever the above-recited amendment shall have become part of the Constitution of the United States, and any State aforesaid lately in insurrection shall have ratified the same, and shall have modified its constitution and laws in conformity therewith, and shall have presented to Congress a constitution of government republican in form and not inconsistent with the Constitution and laws of the United States, and which shall secure equal and impartial suffrage to all the male citizens of the United States twenty-one years of age resident therein, without distinction of race or color, except such as may be disfranchised by reason of participation in rebellion or for felony at common law, and which constitution shall have been approved by the qualified voters thereof as aforesaid and by Congress, the Senators and Representatives from such State, if found duly elected and qualified, may, after having taken the required oaths of office, be admitted into Congress as such.

SEC. 2. *And be it further enacted,* That when any State lately in insurrection as aforesaid shall have ratified the foregoing amendment to the Constitution any part of the direct tax under the act of August 5, 1861, which may remain due and unpaid in such State; may be assumed and paid by such State; and the payment thereof, upon proper assurances from such State to be given to the Secretary of the Treasury of the United States, may be postponed for a period not exceeding ten years from and after the passage of this act.

SEC. 3. *And be it further enacted,* That until said States shall be admitted to representation in Congress as herein provided, &c.

If this amendment be adopted it leaves the gentleman's bill to follow the words "herein provided" just as the gentleman presents it.

I did take some objection when the bill as reported by the gentleman was first before the House for discussion to the phraseology which was employed therein, and the House yesterday, in the passage of the bill known as the Louisiana act, recorded their vote against ascribing the theory adopted by the gentleman, that the States were foreign or domestic Territories. For that vote of the majority on that question, although I could not approve the Louisiana bill, I thank the majority of the House for declaring in that bill that Louisiana is a State by adopting the words therein, "the State of Louisiana;" not the so-called State, not the conquered territory of Louisiana, not a territory occupied by alien enemies and conquered by arms, but "the State of Louisiana." The gentleman has so reformed his bill as to describe those States lately in rebellion by the words "late so-called Confederate States."

Now, sir, the House having settled that question by a decisive vote yesterday, and the gentleman from Pennsylvania having so far changed

his bill, I waive any further objection to his bill on that ground.

Mr. Speaker, I respectfully ask attention to the importance of allowing the vote to be taken on the amendment proposed. Here is a bill the object of which, as I said when I had the honor of addressing the House before, meets my hearty approval, as I believe it meets the approval of others, in that it makes some provision by law to protect life and property in the disorganized States. It is the duty of Congress to provide such protection until constitutional State governments in accordance with the requirement of the Constitution of the United States shall be established therein by the people. On that question I have no controversy with gentlemen; but, sir, I have some controversy with gentlemen who declare that, either by direction or indirection, Congress can make State constitutions for the people of any State of the Union. That is a power that belongs exclusively to the people of those States respectively, and by their act alone can such constitutions of government be adopted, and not by act of Congress.

The formation of a State government must be the voluntary act of the people themselves. I desire to give the people of those States, all the people thereof, an opportunity to exercise this right even in the presence of that military rule which it is deemed needful to set up in their midst. To secure this privilege to the people is the effect of the amendment which I propose to the bill. The amendment is in accord with the grand imperishable words of the Declaration of Independence: that all Governments derive their just powers from the consent of the governed. The amendment but reaffirms the words of that declaration. It secures to every male citizen of the United States over twenty-one years of age, resident within each of those States, and who may not by the laws thereof be disabled by reason of participation in rebellion or by having been guilty of a felony at common law, the privilege to vote and to have equal voice in the adoption of a constitution of government for themselves, to be presented to Congress for approval or rejection.

I thought the gentlemen who favor the military bill would accord manhood suffrage, but it seems that the special champions of this bill are now for suffrage restricted and restricted to a minority of the people of a State, a large majority of that privileged minority being emancipated slaves, now happily free men, and about to be righteously clothed with the highest rights of citizens of the Republic. Has it, indeed, come to this, that gentlemen are not content to secure to the emancipated citizens of the Republic the elective franchise, and all the rights of citizens and men, but by act of Congress insist farther by like act of Congress to secure to them even in a minority the whole political power of the State, and by like legislation compel the majority of white citizens to be their subjects for life? By the Louisiana bill, which you passed yesterday, you require that this shall be the law in Louisiana, and that the majority of white citizens in that State shall by coercion of the bayonet pay the expenses of the minority's administration. If the majority in that State will not consent to equal rights and equal justice to all, compel them to yield to the just government of the minority. To deny them the privilege even to do this right and just thing seems to me an act of tyranny. There is not, in my judgment, an emancipated slave in America that would ask any such legislation at your hands. These men only ask equal rights and equal protection. They ask that that decree of the people who saved the nation's life, and which, thank God, by the recorded legislative act of twenty represented States of this Union has become a part of the supreme law of the land, shall be enforced by act of Congress. That is all the freedmen ask, that is all that the great people authorize or require in this work of restoration. That decree is obeyed when in every State every man, being a citizen of the United States, shall have equal rights and full and equal protection until he forfeits it by crime,

and no person shall be denied the equal protection of the laws.

"But," say gentlemen, "you do not want to allow rebels to vote, do you?" Certainly not while in rebellion; but those who were enemies in war, but in peace friends and citizens, should vote. Why not? The gentleman from Massachusetts [Mr. BOWWELL] says they will control the State. How? In what State are they in a majority except Louisiana? unless you include in your law of proscription and exclusion those who were friends of the Constitution, but who in fact aided the rebellion under an enforced conscription. When we enfranchise, as I trust we shall, and as I propose to do, all the emancipated citizens of those States, will not the loyal men be in the majority, and can you not trust the majority? Is the principle of republican government, the right of the majority to govern, to be abandoned?

Mr. SLOAN. Will the gentleman permit me to put a question?

Mr. BINGHAM. Yes, sir.

Mr. SLOAN. I ask him if in the reorganization of the civil government in these revolted States he is in favor of having the rebels take part?

Mr. BINGHAM. I am in favor of having them vote according to the terms of the constitutional amendment which we have proposed; and I will give my reasons why.

Mr. SLOAN. I wish to put another question. Does that constitutional amendment you now propose allow rebels to vote in the reorganization of civil governments?

Mr. BINGHAM. It allows them to vote unless they shall be disfranchised for participation in rebellion by the act of the majority.

Mr. SLOAN. By themselves.

Mr. BINGHAM. By themselves, the gentleman says. Are the hundred thousand majority in South Carolina of emancipated slaves rebels?

Mr. SHELLABARGER. Will the gentleman yield?

Mr. BINGHAM. Yes, sir.

Mr. SHELLABARGER. I am not quite sure but I may vote for the gentleman's proposition. I certainly will if I can. I therefore ask this question for information. I understand the effect of his amendment will be that all the processes of organizing governments in these States prior to their admission to representation will be left to the control of those who are now electors in those States. This amendment provides no way by which the entire people, including the black, whom he is in favor of permitting to vote, can participate in the exercise of authority in the organization of government there or in presenting a constitution for our acceptance.

Mr. BINGHAM. Well, the gentleman has manifestly not read the amendment or heard my statement of it; otherwise, his general intelligence would have furnished him with an answer to his inquiry without troubling me.

Mr. SHELLABARGER. Will the gentleman explain how it is the basis of universal suffrage?

Mr. BINGHAM. I will tell the gentleman how it is. In the first place, the bill of the gentleman from Pennsylvania [Mr. STEVENS] remains untouched by the amendment.

Mr. SHELLABARGER. The military bill.

Mr. BINGHAM. Yes, sir, the military bill now under consideration, and which I propose to amend. The amendment contains this provision:

SEC. —. *And be it further enacted,* That when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the United States; and when any one of the late so-called Confederate States shall have given its assent to the same and conformed its constitution and laws thereto in all respects; and when it shall have provided by its constitution that the elective franchise shall be enjoyed equally and impartially by all male citizens of the United States twenty-one years old and upward, without regard to race, color, or previous condition of servitude, except such as may be disfranchised for participating in the late rebellion, or for felony at common law; and when said constitution shall have been submitted to the voters of said State, as thus defined, for

ratification or rejection; and when the constitution, if ratified by the popular vote, shall have been submitted to Congress for examination and approval, said State shall, if its constitution be approved by Congress, be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law.

Now, the gentleman says the bill makes no provision for taking the votes of the people. It makes just this provision: that the military authority under this bill may permit the local authorities to submit the whole question of amending their existing constitutions to the vote of the people enfranchised by the terms of this bill, for approval or disapproval. But the gentleman asks if that compels them to make a constitution? Why, sir, you cannot compel a people, either black or white, to make a constitution.

Mr. SHELLABARGER. The method of the gentleman, I submit, does not provide that the people may take part in forming the constitution.

Mr. BINGHAM. That the people are secured the right to vote upon the whole question, I submit has something to do with forming and adopting a constitution. They take about as much part in it as they do under the Louisiana bill, supported and voted for by my colleague, [Mr. SHELLABARGER,] which was passed yesterday, under which the laws are made for them by a body of nine men appointed by the President of the United States and confirmed by the Senate. Now, it will not do for the gentleman to signify at this time his anxiety for the people to have a voice in their laws, statutory or fundamental, after such legislation as that.

Mr. SHELLABARGER. Will my colleague permit me—

Mr. BINGHAM. I decline to be inquired of any farther about the matter.

Mr. SHELLABARGER. Permit me to say—

Mr. BINGHAM. I have answered the gentleman when I say that this amendment offered by me gives to the people of those States an opportunity of framing such a constitution as is therein specified, to be submitted for approval or disapproval to the vote of all male citizens, irrespective of race or color, over twenty-one years of age, within the State, except such as may be disfranchised for crime; and they are to be protected by the military power of the United States in casting their votes and thus declaring their will. I submit, sir, that if the gentleman were to write from this hour till the going down of the sun he could do no more toward giving those people an opportunity to adopt a republican form of government.

The amendment gives the people the opportunity to act in the premises. If they will not act, reform, or amend their constitutions, you cannot make them do it; you cannot make them form and adopt a constitution. Constitutions of government are made by the voluntary act of the people, not by rifled ordnance and the bayonet. By incorporating this amendment into the bill you say to the people, "Until you do make a constitution you shall all be under the protection of the Federal Army; every man alike shall be protected in his person and in his property until that day comes when you present to Congress a republican form of government, not inconsistent with the Constitution and laws of the United States, securing equal and impartial suffrage to all male citizens of the United States of full age, without respect to race or color, except such as forfeit their right by crime."

I said before, and I repeat it now, that I do not desire to interfere with the other provisions of this bill; but I desire a vote upon the question whether the people shall have an opportunity to rid themselves once and for all of military rule and martial law by complying with the just and equitable provisions of the proposed amendment.

Oh! says some gentleman, you want rebels to participate in this government. Sir, the nation has decided this question, and let gentlemen beware how they trifle with the twenty-

five million people who have decided that very question by the ratification of the amendment to the Constitution which you proposed. What sort of a record are we presenting here for the consideration of the country? No longer ago than the last session of Congress the very question was submitted to this House, whether you would allow the question to be submitted to the people of the Republic, to decide whether citizens lately in rebellion should be disfranchised or not permitted to vote for the short period of three years, until 1870, for Representatives in Congress or for presidential electors.

What was the result? At least twenty, if I recollect aright, of the Republican majority of the House voted against any such proposition of disfranchisement. You sent it to the Senate by a combined vote of our friends on the other side, and of a minority on this side, of which I make no complaint. The opponents of the proposed constitutional amendment thought it their duty to make that amendment odious by retaining in it that provision of disfranchisement of all rebels until 1870. It was sent to the Senate, and there stands your printed record to-day, that in the Senate, on the motion to strike out the proposition to disfranchise all rebels until 1870 from giving a vote for Representatives in Congress or for presidential electors, every vote in the Senate of every party present was recorded for the motion save one.

If that vote in the Senate—that almost unanimous vote—against the proposition to disfranchise the whole body of men who participated in the late rebellion in those ten States until 1870 was right last June it remains right to-day and cannot be made wrong. You went to the people on that. You notified the people that you did not propose to disfranchise these men, and to take from them the privilege of voting in common with the majority of the loyal people, black or white, in these States. The people sustained you in that declaration and ratified the amendment imposing only the disability of holding office, and that only upon those who had broken by participation in the rebellion an oath, taken at one time or another, to support the Constitution of the United States.

The express enumeration of disabilities in the fundamental law of the land excludes all other disabilities by every rule of interpretation. Not that if hereafter these men should be disturbers of the peace you may not control them by the strong arm of the law, and take from them whatever rights they may otherwise enjoy. But this action of the people gives even late rebels an opportunity to put themselves upon their good behavior, and to participate meanwhile in a Government as just as any beneath the sun; a Government that secures to every human being the equal protection of its laws; a Government that gives to all citizens who do not forfeit the privilege by crime, being male persons over twenty-one years resident therein, equal suffrage.

But gentlemen say that they propose to vote this down. I am glad that my colleague [Mr. SHELLABARGER] has made the suggestion he would vote for it if he could. He voted for it when he voted to strike out the third clause of the constitutional amendment to which I referred, which disfranchised these rebels until 1870. He voted for it again when he voted for the constitutional amendment as amended in the Senate. He voted for it again when he went before his own people, as I did before mine, declaring our purpose to stand by that amendment.

But gentlemen say you call this a finality. No, sir; that is a word I never use. There is no finality to a nation's power. But let the nation speak and not their delegates in Congress. I pray gentlemen to remember, when they come to consider this question, that we are but the servants of the people, not their masters. That our business is to regard their decrees, to obey their will. I would remind gentlemen that legislators "are but the servants of the popular will;" that one condition

of the people's prosperity is that their servants shall use very economically their delegated power and not presume to raise themselves into supreme judges of the national interests or deem themselves authorized to defeat the wishes of those for whose benefit, and I may add by whose will, alone they held their trust.

If this amendment goes into this bill the force of the measure is in no way impaired. It simply notifies the North and South, the East and West that military rule is exercised there for the protection of all persons alike, only until the people by a solemn vote at the polls, under the authority of the national law and the protection of the national Army, shall have assented to the constitutional amendment and set up a just and republican government.

I have accepted, as the House will doubtless notice, the express words of my friend from Maine, [Mr. BLAINE;] they are incorporated and do not substantially change my amendment, the only difference being that I set out also the constitutional amendment itself, and retain the preamble thereto as it was originally reported to this House by the Reconstruction Committee, in these words. That preamble is as follows:

Whereas it is expedient that the said States lately in insurrection should, at the earliest day consistent with the future peace and safety of the Union, be restored to full participation in all political rights; and whereas the Congress did, by joint resolution, propose for ratification to the Legislatures of the several States as an amendment to the Constitution of the United States, an article in the following words, to wit:

I set out the amendment, and then set out the sections as amended by me and reported by the Committee on Reconstruction last session. I retain what is omitted by the gentleman from Maine, the provision that upon compliance by any State lately in rebellion with the terms set out in my amendment, and upon giving security for payment thereof to the Secretary of the Treasury, such State shall be allowed ten years within which to pay its portion of the direct tax assessed by the act of 1861. There is no departure in this from what was reported at the last session to this House from the Committee on Reconstruction. There is no compromise in it.

As the gentleman from Massachusetts [Mr. BOUTWELL] was pleased to speak of the action of the Reconstruction Committee in closed session, I beg leave to say this amendment which I offer, except the verbal changes made therein by me, received assented a vote in that committee as any bill that ever came from it.

In addition to what I have said I beg leave to add that an attempt was made by me in that committee to have it reported to the House with the bill of the gentleman from Pennsylvania, and that gentleman moved to lay it upon the table, which the committee refused to do. This was on last Wednesday, the day upon which the gentleman reported the bill to the House. In so far, then, sir, as that committee has weight in this House, the amendment which I offer has its approval substantially.

I ask what objection there is to having a vote by yeas and nays. I do not see any. I will bow with pleasure to the decision of the House, but I do ask the poor privilege of having a vote by yeas and nays on the question, shall the amendment pass, and thereby notify the people of the insurgent States whether it is our purpose to allow them on any terms whatever to reform their constitutions and be restored to their political relations to the Government of the United States as States of this Union.

Mr. BLAINE. The amendment of the gentleman from Ohio and the one I have submitted embrace substantially the same idea, and I wish to ask my friend from Ohio whether he would be willing, when it reaches the parliamentary point where such a thing is practicable, to take mine as a substitute?

Mr. BINGHAM. I have no objection if you propose the constitutional amendment with it.

Mr. BLAINE. I have a suggestion to make in order to disentangle what now seems to be so much entangled. I move the bill be recommitted, with instructions to report back imme-

diately the pending amendment of the gentleman from Ohio.

The SPEAKER. If this were a House committee that could be done, but the Chair doubts, as this is a joint committee of the two Houses, whether it can be ordered by a vote of the House to report immediately.

Mr. BLAINE. I move, then, that the bill be referred to the Committee on the Judiciary, with instructions to report back immediately the following:

Sec. — *And be it further enacted, That when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the United States; and when any one of the late so-called confederate States shall have given its assent to the same, and conformed its constitution and laws thereto in all respects; and when it shall have provided by its constitution that the elective franchise shall be enjoyed by all male citizens of the United States, twenty-one years old and upward, without regard to race, color, or previous condition of servitude, except such as may be disfranchised for participating in the late rebellion or for felony at common law; and when said constitution shall have been submitted to the voters of said State, as thus defined, for ratification or rejection; and when the constitution, if ratified by the vote of the people of said State shall have been submitted to Congress for examination and approval, said State shall, if its constitution be approved by Congress, be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this bill shall be inoperative in said State.*

Mr. HILL. Must not the reference under the rule be to the Committee on Reconstruction?

The SPEAKER. The Chair is of the opinion, as the Committee on Reconstruction has reported this bill and it is now before the House, is it within the province of the House to send it to another committee. As an original proposition it would have to go to the Committee on Reconstruction.

Mr. BLAINE. I demand the previous question.

The question being put on seconding the previous question, there were—ayes 44, noes 58.

Mr. BLAINE demanded tellers.

Tellers were ordered; and the Chair appointed Messrs. BLAINE and FARNSWORTH.

The House divided; and the tellers reported—ayes 65, noes 57.

So the previous question was seconded.

Mr. STEVENS. I demand the yeas and nays on ordering the main question.

Mr. SPALDING. I suggest to my friend that we can have a test vote on a motion to lay the whole matter on the table.

Mr. STEVENS. The gentleman can move that afterward.

The yeas and nays were ordered.

Mr. SPALDING. I think we have spent time enough on this matter to have a test vote; I therefore move to lay the bill and pending motions on the table, and on that I demand the yeas and nays. I shall myself vote against my own motion.

The yeas and nays were ordered.

The question was taken on laying the bill and pending motions on the table; and it was decided in the negative—yeas 39, nays 115, not voting 36; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Campbell, Chandler, Cooper, Dawson, Denison, Eldridge, Finck, Glessbrenner, Goodyear, Aaron Harding, Harris, Hise, Hogan, Edwin H. Hubbard, Humphrey, Hunter, Kerr, Lettwich, Marshall, Nicholson, Noel, Phelps, Radford, Samuel J. Randall, Ritter, Ross, Rousseau, Shanklin, Sitgreaves, Sloan, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, and Andrew H. Ward—39.

NAYS—Messrs. Alley, Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Beaman, Benjamin, Bingham, Blaine, Blow, Boutwell, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Dawes, Deftrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hubbard, Julian, Kelley, Kelso, Ketcham, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McKee, McRuer, Mercer, Miller, Moorhead, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shollabarger, Spalding,

Starr, Stokes, Thayer, Francis Thomas, John T. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Windom—115.

NOT VOTING—Messrs. Ames, Baxter, Bidwell, Brandegee, Conkling, Culver, Darling, Davis, Griswold, Hale, Hart, Hooper, Hotchkiss, Asabel W. Hubbard, Demas Hubbard, Ingersoll, Jenckes, Jones, Kasson, Latham, Le Blond, McCullough, McIndoo, Morrill, Niblack, Pomeroy, William H. Randall, Rogers, Stevens, Stillwell, Trimble, Elihu B. Washburne, Henry D. Washburn, Winfield, Woodbridge, and Wright—36.

So the bill was not laid on the table.

During the roll-call,

Mr. DEMING stated that his colleague, Mr. BRANDEGEE, was paired with Mr. McCULLOUGH.

Mr. NIBLACK said he had paired on this vote with Mr. WASHBURN, of Indiana.

Mr. ALLISON. I would inquire if this motion prevails and the bill is referred to the Committee on the Judiciary, and that committee reports it back again according to the instructions, will it then be open to amendment?

The SPEAKER. If the bill is immediately reported back, as it must be according to the order of the House, if the motion prevails, it will then be open to amendment, unless the previous question is seconded.

The question was taken on ordering the main question; and it was decided in the affirmative—yeas 85, nays 78; not voting 27; as follows:

YEAS—Messrs. Allison, Ancona, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Bergen, Bidwell, Bingham, Blaine, Blow, Boyer, Broomall, Buckland, Bundy, Campbell, Reader W. Clarke, Cook, Cooper, Darling, Davis, Dawes, Deftrees, Delano, Deuing, Dixon, Dodge, Donnelly, Dumont, Eggleston, Farnsworth, Farquhar, Garfield, Goodyear, Hayes, Hill, Hogan, Chester D. Hubbard, Edwin H. Hubbell, James R. Hubbell, Jenckes, Kelso, Kerr, Ketcham, Kuykendall, Laffin, George V. Lawrence, William Lawrence, Lettwich, Marvin, McClurg, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Nicholson, Patterson, Phelps, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Ritter, Ross, Rousseau, Schenck, Stillwell, Nathaniel G. Taylor, Nelson Taylor, Thayer, John L. Thomas, Andrew H. Ward, William B. Washburn, Welker, Whaley, James F. Wilson, and Woodbridge—85.

NAYS—Messrs. Alley, Arnell, Barker, Beaman, Boutwell, Bromwell, Chanler, Sidney Clarke, Cobb, Cullom, Dawson, Denison, Driggs, Eckley, Eldridge, Eliot, Finck, Glessbrenner, Grinnell, Aaron Harding, Abner C. Harding, Harris, Henderson, Higby, Holmes, Hooper, John H. Hubbard, Hubbard, Humphrey, Hunter, Ingersoll, Julian, Kelley, Koontz, Le Blond, Loan, Longyear, Lynch, Marshall, Marston, Maynard, Morris, Moulton, Myers, Newell, Niblack, Noel, O'Neill, Orth, Paine, Perham, Pike, Rogers, Rollins, Sawyer, Scofield, Shanklin, Shollabarger, Sloan, Spalding, Starr, Stevens, Stokes, Strouse, Taber, Francis Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, Wentworth, Williams, Stephen F. Wilson, and Windom—78.

NOT VOTING—Messrs. Ames, Baxter, Benjamin, Brandegee, Conkling, Culver, Ferry, Griswold, Hale, Hart, Hawkins, Hise, Hotchkiss, Asabel W. Hubbard, Demas Hubbard, Jones, Kasson, Latham, McCullough, McIndoo, Pomeroy, Sitgreaves, Trimble, Elihu B. Washburne, Henry D. Washburn, Winfield, and Wright—27.

So the main question was ordered.

The question was upon the motion of Mr. BLAINE to commit the pending bill to the Committee on the Judiciary with instructions.

Mr. STEVENS. I will call for the yeas and nays on that motion. But before doing so, I will ask whether the hour will ever come to which I am entitled by the rule after the previous question has been seconded and the main question ordered?

The SPEAKER. The gentleman is entitled to his hour now if he claims it. The Chair will state in this connection that the motion to refer to the Committee on the Judiciary, one of the standing committees of this House, takes precedence as an independent motion of the motion to recommit to a select committee.

Mr. STEVENS. If this is the only chance I shall have I will say now what I have to say on this subject.

The SPEAKER. After the House proceeds to act under the previous question, and the order is partially executed, it is not in order to debate the question.

Mr. GRINNELL. Is it in order to ask unanimous consent that the gentleman from Pennsylvania (Mr. STEVENS) have leave to speak at some other stage of this bill?

The SPEAKER. Unanimous consent could be given for that purpose. But should the motion to commit prevail, the bill will not then be before the House for discussion.

Mr. STEVENS. In the present state of my health a few words must suffice for what I have to say at this time. Besides my physical inability, I feel a moral depression, possibly without sufficient cause, when I see the condition of the great party that is responsible for the doings of this Congress, and to which I belong; to see it, in my judgment, about to destroy itself, to place itself in a condition which ought to destroy it.

For the last few months Congress has been sitting here, and while the South has been bleeding at every pore, Congress has done nothing to protect the loyal people there, white or black, either in their persons, in their liberty, or in their property. Although we are insensible to it, the whole country is alive to the effect of the supineness with which this Congress has conducted itself. I of course have no right to reproach anybody. I do not reproach any one. I simply grieve that such is the condition of the country, one which is not realized apparently by the House, and especially that part of it which is responsible to the nation. We are enjoying ourselves in a tolerable way, those of us who have health and spirits, while the South is covered all over with anarchy and murder and rapine.

The President has sought to establish what he says will effect the union of these States, if yielded to by Congress. The Congress has declared that the President has usurped powers which do not belong to him; that all that he has done is void in the face of the law; and that Congress alone has the power to protect these people and to create governments, and yet we sit by and move no hand, we sit by and raise no voice to effect what we declare to be the duty of Congress. I know not how other gentlemen may view it, but so far as I am myself concerned—I charge none else with it—I view it as great dereliction of duty.

We are asked by gentlemen why we who are upon the joint Committee on Reconstruction have not presented some plan upon which Congress could act. We have been asked it with some acrimony by the gentleman from Ohio [Mr. SCHENCK] and others on this side of the House; we have been asked it with more propriety by gentlemen on the other side.

Now, it must be remembered that during this session of Congress we had no opportunity of acting until after the holidays, and since that time we have had but little over a month. It must be remembered that when the holidays had passed and Congress had again assembled there was a plan, whether good or bad, presented to this House for consideration, upon which a debate of three weeks took place without any attempt to amend it. And then there was a course of action pursued on the part of a gentleman, [Mr. BINGHAM,] who, it seemed to me, in a most unparliamentary and discourteous manner took charge of that bill when it had been reported, before the author of it had any opportunity to make any motion in regard to it; and with a vigor, an energy, and if I may say so without offense, with a doggedness which would have done great credit to Stonewall Jackson in his palmiest days. Although appealed to, time after time, he refused to allow the bill to be open to amendment. It will be remembered that I asked that the motion to recommit should be withdrawn, to give an opportunity to the House, if they did not like the bill in its then condition, to go on and perfect it. But it was defiantly refused; and inasmuch as this House sustained the refusal I of course have nothing to say. I accept the position, as the rebels do, because it cannot be helped.

But we have been told that we do not offer anything. I do not know whether that bill



was good or bad; I thought it was a good bill; I had labored upon it in conjunction with several committees of loyal men from the South for four months, I had altered and realterd it, written and rewritten it four several times; and found that it met the approbation of numerous societies and meetings in all the southern States. It was, therefore, not altogether my fault if it was not so good a bill as might be found; but I did think that, after all, it was uncivil, unjust, indecent not to attempt to amend it and make it better, to see whether we could do something to enable our friends in the southern States to establish institutions according to the principles of republican government.

I warned the House that if that bill should go back to the committee it must die. My vigorous friend from Ohio assured us that such would not be the effect, that the bill would come back here fresh and blooming in the course of a couple of days. Where is it now? Why have we not something in lieu of it that suits the gentleman? for I may say that this bill came from that same committee, after careful examination, with the unanimous consent of every member of the committee belonging to this side of the House except one. It came here with a perfect understanding that if it was to pass and become a law it must pass without amendment. It was not intended as a reconstruction bill. It was intended simply as a police bill to protect the loyal men from anarchy and murder, until this Congress, taking a little more time, can suit gentlemen in a bill for the admission of all those rebel States upon the basis of civil government.

But, sir, this bill encounters precisely the same obstacles as the other, and is met in precisely the same spirit. There are in it some words in regard to which there is a difficulty about the spelling. Several of my friends cannot accept the bill because adverbs are improperly placed; and while on this side of the House gentlemen do not pretend to object to its main features, yet they do object to its particles and its articles; and what is worse than all, for I have tried to alter the language to suit my friends around me, they have with a pertinacious determination taken every possible step to pledge this Congress to what we are pleased to call a constitutional amendment, as a finality, so that its adoption by the South shall secure their admission. Gentlemen on this side have maintained that these conquered districts are States; and my friend from Ohio [Mr. BINGHAM] declared this morning with proper exultation that he had succeeded in passing through this House a bill which uses the word "States" precisely as the President uses it in his theory as to the right of admission of those claiming to represent the rebel States.

But, sir, the gentleman's announcement was no news to me. It was only in accordance with what I have seen all winter. I saw it in the magnificent peroration of the gentleman in the last discussion with regard to the bill to which I have referred. It is now proposed to pledge Congress in advance to that to which we have no right to pledge them—the admission of those States when certain things shall be done. Why, sir, are we to pledge future Congresses?

Mr. SHELLABARGER. The gentleman will permit me to say that there was embodied in one section of the Louisiana bill a distinct declaration that if the State should seek representation here under the Constitution provided for in that bill, its admission shall be on such terms as the Congress to which application is made shall demand. That provision was inserted for the very purpose of excluding the conclusion that Congress when the time comes shall not declare what it may deem the proper terms of admission.

Mr. BLAINE. And my amendment leaves the question entirely to future Congresses, just exactly as that does.

Mr. STEVENS. What I am speaking of is this proposed step toward universal amnesty and universal Andy-Johnsonism. [Laughter.]

If this Congress so decides, it will give me great pleasure to join in the *io triumphe* of the gentleman from Ohio in leading this House, possibly by forbidden paths, into the sheepfold or the goatfold of the President.

Now, sir, what do we propose by this bill? We propose simply to protect them, and if any gentleman chooses to introduce to-morrow a joint resolution based on the bill of the gentleman from Ohio, the New Orleans bill, and making it applicable to all these States, I have no doubt that it will be passed through this House in a few hours and will become law. If the other can become a law, so could it.

But why tie us up by this pledge in advance to the constitutional amendment? I do not like to say anything against that amendment, sir, although I have no respect for it. But why touch it? There is a difference of opinion; why distract the party, unless it is for the benefit of others in other quarters?

Mr. Speaker, I feel quite unwilling to discuss questions of this kind after seeing the foregoing conclusion of the House, but I am so clearly impressed with the importance of this bill that I have thought proper, unwell as I am, to say this much.

If, sir, I might presume upon my age, without claiming any of the wisdom of Nestor, I would suggest to the young gentlemen around me, that the deeds of this burning crisis, of this solemn day, of this thrilling moment, will cast their shadows far into the future and will make their impress upon the annals of our history, and that we shall appear upon the bright pages of that history, just in so far as we cordially, without guile, without bickering, without small criticisms, lend our aid to promote the great cause of humanity and universal liberty.

I know that the gentlemen upon the other side of the House believe that this is a harsh measure; and so does the gentleman from Ohio on this side, who to-day, and the other day, made beautiful appeals to our sense of humanity, and depicted the glory of a great nation forgiving great criminals for unrepented crimes.

I am aware that gentlemen, here and elsewhere, have seemed to be ambitious to enunciate principles of forgiveness, benevolence, and mercy still more startling and saintly than those of the Athenian or the Galilean sage. Sir, generosity and benevolence are the noblest qualities of our nature; but when you squander them upon vagabonds and thieves you do that which can command no respect from any quarter. The sublime, I might almost say divine, doctrines or religion promulgated by Socrates, and so much more nobly and divinely expressed in the Sermon on the Mount, seem to require acts of self-restraint almost beyond the reach of man. And yet in urging forgiveness they refer simply to private offenses, to personal transgressions, where men can well forgive their enemies and smother their feelings of revenge without injury to anybody. But what has that to do with municipal punishment? What has that to do with political sanction of political crimes? When public tribunals, municipalities, nations pass sentence for crimes committed and decree confiscation for crimes unrepented, there is no question of malignity. When the judge sentences the convict he has no animosity. When the hangman executes the culprit he rather pities than hates him. These acts have no faculty of cruelty in them. Cruelty does not belong to their vocabulary. These officers of the law are but carrying out what the law decrees. The law commands, the law executes; but the law is unimpassioned. The law has no feeling of malignity, no feeling of vengeance. Gentlemen mistake, therefore, when they make these appeals to us in the name of humanity.

Mr. Speaker, I desire to say what perhaps had better not be said, that gentlemen who are thus, either by direction or indirection, defending the cause or palliating the conduct of these rebel traitors are making for themselves no good record with posterity. They, sir, who while preaching this doctrine are hugging and caressing those whose hands are red and whose

garments are dripping with the blood of our and their murdered kindred, are covering themselves with indelible stains, which all the waters of the Nile cannot wash out.

Mr. Speaker, a single word as to the number of amendments. There are seven of them; and I am satisfied that any one of them, if ingrafted upon this bill will be sure to kill it. This bill proposes to do certain things. If there is anything further desired, let it be accomplished in some other way. The bill of the gentleman from Ohio [Mr. ASHLEY] may be a good bill, but it has no business here, it is not pertinent to this question. Of the amendment of the other gentleman from Ohio [Mr. BINGHAM] I have already spoken. The amendment of his colleague [Mr. LAWRENCE] shows great care and wisdom; but I implore that gentleman not to thrust it upon this bill to its utter destruction. Just so with the amendment of the gentleman from Kentucky, [Mr. TRIMBLE.] The bill of the gentleman from Maine [Mr. LYNCH] is a very desirable one and more effective than that of his colleague from Maine, [Mr. BLAINE,] and could I vote for either, did I not know that either would be ruinous to this bill, I would accept that in preference to any other.

The amendment of the distinguished and gallant gentleman from Massachusetts [Mr. BANKS] has undoubtedly much talent in it. It applies, however, only to a single State—

Mr. BANKS. I did not propose any amendment to this bill.

Mr. STEVENS. I know; but it is on the file of amendments. I fear that that bill would not succeed. It proposes to set up a contrivance at the mouths of the Mississippi, and by hydraulic action to control all the States that are washed by the waters of that great stream. [Laughter.]

So I might go on with two or three more. The amendment of the gentleman from Maine, [Mr. BLAINE,] as I said before, lets in a vast number of rebels, and shuts out nobody. All I ask is that when the House comes to vote upon that amendment it shall understand that the adoption of it would be an entire surrender of those States into the hands of the rebels.

Mr. Speaker, I feel that I have already trespassed too long upon the House; and as there may be a wish to take the vote now, as it is about four o'clock, I shall sit down, so as to leave it to the House to determine.

Mr. BROOMALL. I desire to ask a question of the Chair. If this bill is committed to the Committee on the Judiciary, and immediately reported back, as it will be, will it then be in order to move, as a substitute for the entire bill, the substance of the Louisiana bill applied to the rest of the States?

The SPEAKER. After it is committed to the Committee on the Judiciary, the chairman of that committee will report it back instantly under the instruction of the House; and then if the House does not close the debate by seconding the previous question that amendment will be in order.

Mr. BROOMALL. Then I give notice that I will offer that amendment when I have the opportunity, should the motion to commit prevail.

Mr. RICE, of Maine, and Mr. MILLER asked and obtained leave to print some remarks upon the bill under consideration. [Their remarks will be published in the Appendix.]

Mr. JULIAN. If the motion to commit the bill to the Judiciary Committee should be voted down, what would be the effect?

The SPEAKER. The previous question having been seconded and the main question ordered, if the motion to commit is voted down, the previous question will not be exhausted until the third reading of the bill.

The question recurred upon the motion of Mr. BLAINE, to commit the bill to the Committee on the Judiciary, with certain instructions.

Mr. STEVENS. I demand the yeas and nays.

The yeas and nays were ordered.

The question was then taken on the motion to recommit to the Committee on the Judiciary, with instructions, and there were—yeas 69, nays 94, not voting 27; as follows:

**YEAS**—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Baldwin, Benjamin, Bingham, Blaine, Blow, Broomall, Buckland, Bundy, Campbell, Cooper, Darling, Davis, Dawes, Defrees, Delano, Deming, Dodge, Ferry, Garfield, Goodyear, Hawkins, Hill, Hise, Chester B. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Hunter, Jenckes, Kelso, Ketcham, Kuykendall, Luffin, George V. Lawrence, William Lawrence, Leitch, Marvin, McKee, McKuer, Morrill, Morris, Nicholson, Noell, Patterson, Phelps, Plants, Price, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Rousseau, Schenck, Sitgreaves, Stilwell, Strouse, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Warner, Whaley, James F. Wilson, and Woodbridge—69.

**NAYS**—Messrs. Alley, Ancona, Arnell, James M. Ashley, Barker, Beaman, Bergen, Bidwell, Boutwell, Boyer, Brownell, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Denison, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Farquhar, Finck, Glossbrenner, Grinnell, Aaron Harding, Abner C. Harding, Harris, Hayes, Henderson, Higby, Holmes, Hooper, John H. Hubbard, Humphrey, Ingersoll, Julian, Kelley, Kerr, Kootz, Le Blond, Loan, Longyear, Lynch, Marshall, Marston, Maynard, McClurg, Mercur, Miller, Moorhead, Moulton, Myers, Newell, Niblack, O'Neill, Orth, Paine, Perham, Pike, Radford, Ritter, Rogers, Rollins, Ross, Sawyer, Schofield, Shellabarger, Sloan, Spaulding, Starr, Stevens, Stokes, Taber, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, William B. Washburn, Welker, Wentworth, Williams, Stephen F. Wilson, and Windom—94.

**NOT VOTING**—Messrs. Ames, Banks, Baxter, Brandegee, Conkling, Culver, Dawson, Griswold, Hale, Hart, Hogan, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Jones, Kasson, Latham, McCullough, McIndoe, Pomeroy, Alexander H. Rice, Shanklin, Trimble, Elihu B. Washburne, Henry D. Washburn, Winfield, and Wright—27.

So the motion to recommit to the Committee on the Judiciary was disagreed to.

The question next recurred on the motion to recommit to the Committee on Reconstruction.

Mr. FINCK demanded the yeas and nays.

The House divided; and there were—ayes twenty; not sufficient.

Mr. ELDRIDGE demanded tellers on the yeas and nays.

Tellers were ordered.

The SPEAKER suggested, as there were more than enough on ordering tellers to order the yeas and nays, that the yeas and nays be considered as ordered.

There was no objection, and it was ordered accordingly.

The question was taken; and it was decided in the negative—yeas 38, nays 121, not voting 31; as follows:

**YEAS**—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Hogan, Edwin N. Hubbell, Humphrey, Hunter, Latham, Le Blond, Leitch, Niblack, Nicholson, Phelps, Radford, Samuel J. Randall, William H. Randall, Ritter, Ross, Rousseau, Shanklin, Sitgreaves, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, John L. Thomas, Thornton, and Andrew H. Ward—38.

**NAYS**—Messrs. Alley, Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brownell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Davis, Dawes, Defrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Aaron Harding, Abner C. Harding, Harris, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Julian, Kelley, Kelso, Ketcham, Kootz, Kuykendall, Luffin, William Lawrence, Loan, Longyear, Marston, Marvin, Maynard, McClurg, McKee, McKuer, Mercur, Miller, Moorhead, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Raymond, Alexander H. Rice, John H. Rice, Rogers, Rollins, Sawyer, Schenck, Schofield, Shellabarger, Sloan, Spaulding, Starr, Stevens, Stilwell, Stokes, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Windom—121.

**NOT VOTING**—Messrs. Ames, Baldwin, Banks, Brandegee, Conkling, Culver, Griswold, Hale, Hart, Hise, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Jenckes, Jones, Kasson, Kerr, George V. Lawrence, Lynch, Marshall, McCullough, McIndoe, Morrill, Noell, Pomeroy, Trimble, Elihu B. Washburne, Henry D. Washburn, Winfield, Woodbridge, and Wright—31.

So the motion was disagreed to.

During the vote, Mr. HILL stated his colleague, Mr. WASHBURN, was paired with Mr. WRIGHT. The vote was then announced as above recorded.

The SPEAKER. If there be no objection, the substitute of the gentleman from Pennsylvania, [Mr. STEVENS,] as modified, will be considered as the original bill.

There was no objection, and it was ordered accordingly.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. ANCONA demanded the yeas and nays. The yeas and nays were ordered.

The question was taken on the passage of the bill; and it was decided in the affirmative—yeas 109, nays 55, not voting 26; as follows:

**YEAS**—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brownell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Dawes, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Kelley, Ketcham, Kootz, Luffin, George V. Lawrence, William Lawrence, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McKee, McKuer, Mercur, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Schofield, Shellabarger, Sloan, Spaulding, Starr, Stevens, Stokes, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—109.

**NAYS**—Messrs. Ancona, Baker, Banks, Bergen, Boyer, Campbell, Chanler, Cooper, Dawson, Defrees, Denison, Dodge, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Harris, Hawkins, Hise, Hogan, Edwin N. Hubbell, Humphrey, Hunter, Kelso, Kerr, Kuykendall, Latham, Le Blond, Leitch, Loan, Marshall, Niblack, William H. Randall, Radford, Samuel J. Randall, Ross, Rousseau, Shanklin, Sitgreaves, Stilwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, John L. Thomas, Thornton, and Andrew H. Ward—55.

**NOT VOTING**—Messrs. Alley, Ames, Baldwin, Blow, Brandegee, Conkling, Culver, Griswold, Hale, Hart, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Jenckes, Jones, Julian, Kasson, McCullough, McIndoe, Phelps, Pomeroy, Trimble, Elihu B. Washburne, Henry D. Washburn, Winfield, and Wright—26.

Mr. STEVENS. Before making the motion to reconsider I wish to inquire, Mr. Speaker, if it is in order for me now to say that we endorse the language of good old Laertes, that Heaven rules as yet and there are gods above? The SPEAKER. It will be in order for the gentleman to say it. [Laughter.]

Mr. STEVENS. I move to reconsider the vote by which the bill was passed; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Messrs. DAVIS, J. L. THOMAS, and LAWRENCE, of Ohio, asked and obtained leave to print remarks on the bill just passed. [Their remarks will be published in the Appendix.]

#### RELIEF OF DRAFTED MEN.

The SPEAKER. The Chair lays before the House a message of the Senate of to-day, requesting the return from the House of Representatives of House bill No. 811, for the relief of certain drafted men, which was indefinitely postponed by the Senate on the 11th instant.

No objection being made, the bill was accordingly returned.

#### ORDER OF BUSINESS.

Mr. BLAINE. I desire to call up the motion which I had entered on the 16th of January, to reconsider the vote by which House bill No. 998, in regard to the war debts of the loyal States, was recommitted.

The SPEAKER. That is a privileged motion. The next business pending before the

House is the bounty bill, but that was reported with the understanding that it should not interfere with the morning hour. There has been no morning hour to-day, and of course it will not come up till after the morning hour to-morrow.

Mr. BLAINE. I do not intend to consume any time at all on the bill in regard to the war debts of the loyal States, but to-morrow morning after the reading of the Journal as soon as the House is full I shall ask a vote upon it.

Mr. MORRILL. It is my purpose to have the tax bill considered to-morrow morning, and if possible finished within two days.

The SPEAKER. If the House goes into Committee of the Whole on the tax bill, the bounty bill will be thereby postponed until the Committee of the Whole report the tax bill to the House.

Mr. SCHENCK. I give notice that I shall call for the regular order so as to go through the morning hour to-morrow and then take up the bounty bill, and I hope the friends of the bounty bill will not permit me to be taken off my legs by a motion to go into the Committee of the Whole. [Laughter.]

The SPEAKER. That will be a question between the chairman of the Committee of Ways and Means and the gentleman. [Laughter.]

Mr. BLAINE. I would inquire if the bill in regard to which I have risen will not go over as unfinished business?

The SPEAKER. It will be pending at the adjournment unless otherwise ordered.

Mr. SCHENCK. I give notice that to-morrow morning I shall insist upon the regular order.

#### EVENING SESSION.

Mr. MORRILL. I move that the House take a recess to-day until seven o'clock.

Mr. THAYER. I move to amend by making it half past seven.

Mr. FINCK. Is a motion to adjourn in order?

The SPEAKER. It is.

Mr. FINCK. Then I move that the House adjourn.

Mr. MORRILL. Do I understand that this motion to adjourn, if it shall prevail, will cut off the evening session?

The SPEAKER. Certainly it would. Even where there is an order of the House for an evening session to be held each day a motion to adjourn, if successful, has always been regarded by the Presiding Officer as carrying the session of the House over to the next day to the regular time of meeting.

Mr. MORRILL. Then I hope that the members who are in favor of carrying on the business of the House will vote against the motion.

Mr. FINCK. I object to any debate.

The question was taken upon the motion to adjourn; and upon a division there were—ayes 33, noes 70.

So the motion to adjourn was not agreed to.

The question recurred upon the amendment of Mr. THAYER to the motion of Mr. MORRILL, to take a recess; the amendment being to take a recess till half past seven o'clock p. m. The amendment was agreed to.

The motion of Mr. MORRILL, as amended, was then agreed to.

Accordingly (at four o'clock and forty-five minutes p. m.) the House took a recess until seven and a half o'clock p. m.

#### EVENING SESSION.

The House, pursuant to order, reassembled at half past seven o'clock p. m.

#### COMPENSATION OF CIVIL EMPLOYEES.

Mr. MORRILL. I ask unanimous consent to take from the Speaker's table and have referred to the Committee of Ways and Means the amendments of the Senate to House joint resolution No. 224, giving additional compensation to certain employees in the civil service of the Government at Washington.

The SPEAKER. That will require unanimous consent at this time.

Mr. HARDING, of Illinois. I object. I am opposed to that bill, and therefore I am not willing to give it any advantage in any way.

The SPEAKER. The Chair will suggest to the gentleman from Illinois [Mr. HARDING] that by keeping this bill upon the Speaker's table will in no way tend to accomplish his object. Should a motion be made at any time to go to business upon the Speaker's table, and it should prevail, these amendments could be taken up and disposed of at once.

Mr. HARDING, of Illinois. Then I withdraw my objection.

No objection being made, the motion of Mr. MORRILL was agreed to.

PAUL S. FORBES.

Mr. PIKE. I ask unanimous consent to take from the Speaker's table, for consideration at this time, the amendments of the Senate to the bill for the relief of Paul S. Forbes. They are merely verbal amendments, and will take no time to dispose of.

Mr. COOPER. I object to any business being done except the consideration of the tax bill, for which this evening was set apart by the order of the House.

MAIL ROUTE IN WEST VIRGINIA.

Mr. WHALEY, by unanimous consent, introduced a bill to establish a mail route in the States of Virginia and West Virginia; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

TAX BILL.

Mr. MORRILL. I move that the rules be suspended, and that the House now resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and proceeded to the consideration of the special order, being House bill No. 1161, to amend existing laws relating to internal revenue.

Mr. MORRILL. Mr. Chairman, I have no ambitious speech to make on the present occasion. I propose merely to submit some business-like statements, if I can do so, in explanation of the principles and details of the bill.

The Committee of Ways and Means, in reporting the present bill, have sought to afford the greatest possible amount of relief to the country consistent with a prudent regard to the public credit, and were led in the outset to consider what would be the most feasible mode of accomplishing this object and leave at the same time the fewest impediments in the way of general industry.

If the tax on distilled spirits, tobacco, and cigars were fully paid or collected, the taxes on the major part of all other articles of manufactures could have been at once remitted; but unfortunately necessary changes in the law, followed by unnecessary and more unfortunate changes of internal revenue officers, have proved that two dollars, whether above the price of whisky or not, is certainly above the price of those who make it; that no spirits have been sold by the maker for as much as the cost of production; and the tax betrays the fact that whoever is in the business somehow corruptly evades the payment of some part of the tax, large or small, due to the Government. Trusting that the amendments proposed now to this branch of the law will hereafter secure a more effectual collection of the revenue from spirits, for the present we are forced to lean temporarily upon many other articles, which will doubtless be released at no distant day.

Two obvious plans present themselves: either we must reduce a percentage of the tax on all manufactures or entirely exempt those articles having the strongest claims to exemption, in consequence of inevitable duplication of taxes or of directly swelling the cost of

living. From the first and by intentment very little revenue has been sought by any tax upon property as such, and therefore the agricultural and mining interests have been shielded, but commerce, manufactures, and the gains of realized capital have made by far the most bountiful contributions through multiplied taxation for the support of the nation. Licenses or special taxes, stamp taxes, and the tax on manufactures are at once advanced and paid by the parties engaged in business, and they have to trust to their chances whether any portion of these large sums are ever recovered or not. In prosperous seasons, or when prices are advancing, the ultimate consumer pays his due proportion; but in adverse seasons, or when prices are falling, losses by the producer are inevitable, leaving out of the question whether aggravated by taxes or not.

The Committee of Ways and Means have adopted the second plan alluded to. It is certain that to reduce the rate of taxation from five to four per cent.—and we could not at this time afford anything beyond such a reduction—would have afforded a very inconsiderable amount of relief, and yet the same labor and expense of collecting and paying the revenue, both to individuals and the Government, would have been perpetuated. It is true that this course would have greatly simplified and lessened the labors of the Committee of Ways and Means, but they have felt that the advantage of the whole country was to be studied rather than their ease or comfort. When the articles remaining on the tax list shall be found entitled to equal favor this course may be properly pursued.

By adopting the other alternative and exempting entirely from taxes such articles as salt, clothing, leather, pottery-ware, tinware, and coöperage of all sorts, with a large number of other articles upon which a tax was a petty annoyance to the payer as well as to the Government, the committee feel that they propose to distribute equal favor over the whole country, and by removing the tax from some of the common necessities of life we shall perhaps indirectly actually aid all branches of industry quite as much as they would be aided by a direct one per cent. diminution of the tax. The theory is well settled that all taxes in the end are distributed, and if heavy taxation increases the cost of production of raw materials or of manufactures, so a reduction of taxation diminishes the cost in an equal ratio. Whatever lessens the cost of living is a palpable benefit to all branches of industry, as much so as whatever lessens the cost of production. By pursuing the plan indicated we shall soon reach the point where taxes may be levied only upon a very small number of articles, and the cost, vexation, and annoyance of revenue officers, greatly reduced in numbers, will be roundly diminished.

If the example of the country oftenest held up for our imitation is valuable for anything, and I am not disposed to overvalue it, it is in favor of confining excise laws to the narrowest limits. Last year we liberated a very large number of articles, the benefit from which has only just begun to operate, and now we shall have added to the number to the extent of surrendering an amount of revenue equal to nearly one half of all we obtained in the first year of the operation of the internal revenue law.

For what we have done in each case of exemption I trust satisfactory reasons and explanations, if required, will be at hand as the cases arise in the progress in the bill; but there are a few items which I shall attempt to explain in advance.

I recognize the fact that our taxes for the past five years have been excessive, and nothing but the danger which menaced the life of the nation justified the heavy drain upon the pockets of our people. Now we feel the keenest joy of legislators when they can again lighten the weight of taxation. But a little more than six months ago we gave relief to the extent of

not less than \$75,000,000, and now shall give still further relief fully equal in substance if not in amount. The boundary where we pause is the point at which we reach the amount which will pay our ordinary expenses, the interest on the public debt, and leave a snug balance for some diminution of the public debt. This is absolutely essential to the public credit, essential to public faith; and beyond this no lover of his country would dare to go. For one I fully recognize the truth that no tax is so small the payment of which does not either impose increased toil upon the tax-payer or deprive him of some indulgence or enjoyment of life. But notwithstanding the unprecedented amount of our taxes, the exhibit of our income tax—which is after all but little more than what each individual chooses to pay on his own estimate of his income, leaving out the earnings of at least three fourths of our people, who by our minimum are exempt—shows that they have not fallen upon the capital nor even absorbed the annual income of the country. The ambition of the American people is to improve their condition and every year to know more, earn more, and have more. This prominent characteristic is endangered by the paper fever and ague which now afflicts the country; but hitherto our people have made great exertions, not only to maintain their capitals undiminished in spite of increased taxation, but to add thereto their usual annual surplus. We have reached the point when this cannot be continued. The income of the country for the present and coming year will be heavily reduced—no sane man can doubt it—and we must reduce our taxes and our expenses correspondingly.

Although I cannot congratulate the House upon an entire and persistent consistency in its course as to a speedy return to the old limits of our annual expenditure, yet we have not done altogether ill. We may at least not fear a contrast with the position of the finances of some other countries. France raises about four hundred and fifty million dollars, and yet annually exhibits a small deficit. Italy, however unfavorable her balance-sheet, is too young to be severely criticised. Austria, where a depreciated currency has largely contributed to the degradation and dismemberment of the nation, is an example so excessively bad that to cite it would not be refreshing even to those whose condition was much less forlorn. Prussia is in a far sounder position and comes out of a successful war with no increase of taxation, but when Prussia wages battle her soldiers are paid a sixpence per day, forage upon the enemy, and an indemnity is demanded of the vanquished. England is a fairer example. She increased her national debt by the Crimean war \$450,000,000, and her annual expenditure has since been larger by about one hundred million dollars per year, and instead of being diminished since the close of the war is now nearly twenty million dollars more than it was in 1858, at the close of the war. Besides the annual charge of \$850,000,000, Great Britain raises \$40,000,000 in a single item for poor rates.

Though we were forced to create a large national debt, yet since the close of the war we have steadily and largely reduced the sum of our expenses from the point at which they stood at the close of the rebellion. Our expenditures were in 1865 \$1,290,312,982; in 1866 \$520,750,339; and in 1867 (estimated) \$284,317,000. This shows as well the elasticity of our Government in rising to the height of the emergency as a facility in returning from the track of war to the inexpensive and more genial paths of peace. The people have already beaten their swords into plow-shares. The colossal expenditures of years of war have not become altogether chronic and are not transmitted to succeeding years. Yet I must insist that much further retrenchment is practicable and should be rigorously pursued. Our expenses for next year are estimated at nearly seventy-five millions more than the present year. The cost of government has been only in-



creased in exceptional departments, and elsewhere it should not be permitted to go beyond its accustomed limits. Large expenditures mean large taxation, and diminished expenditures mean diminished taxation.

The important question in relation to the rate of the tax on distilled spirits now as heretofore presents all of its usual points of embarrassment. As an original question, it was my opinion, in view of the insuperable difficulties in the way of enforcing the law, that a less rate than two dollars per gallon was advisable, and if whisky frauds should continue to be successfully perpetrated it is not impossible that a lower rate may be at some future time accepted; but now the Committee of Ways and Means reached the conclusion to recommend an adherence to the present rate, and have proposed some very stringent provisions, believed to be necessary if we expect any considerable revenue, and without which we may as well retire vanquished from the attempt to enforce this part of the internal revenue law. As a beverage it may be estimated that the consumption of the United States is about one and a quarter to one and a half gallons *per capita*; or a total of about forty-five to fifty million gallons. In 1860 we produced nearly ninety million gallons, of which it was estimated that seventy-five million gallons were consumed as a beverage. The large increase of cost has unquestionably somewhat reduced the amount consumed, and if it were wholly to extinguish it there would be few regrets and we might patiently bear the loss of all revenue from this source; but in a community tolerably prosperous an increase of duty has been found not to diminish consumption so much as to increase smuggling and illicit distillation. Father Mathew by his temperance labors from 1835 to 1841 reduced the consumption of spirits in Ireland nearly five million gallons, when the duty was only 2s. 4d. per gallon; but raising the duty in 1860 from even 8s. to 10s. per gallon did not reduce the number of gallons charged only about one million gallons, although the resources of the Irish population were notoriously of the most meager sort. In spite of all we can do it would appear to be mainly a revenue question, and as such it does not appear to be advisable to put down the rate of tax so low as to leave no temptation to smuggling and illicit manufacture, as the logical result would be to wholly abandon the tax. We have very boldly attempted to obtain the largest sum of revenue possible from the distillation of spirits, and guided by this principle it is but fair to give the highest rate of duty an ample and effectual trial, at least, before receding from it. It is true that the consumer has had to pay almost the entire amount of the increased cost added by the tax, but hitherto other parties than the Government have collected and pocketed much the largest share of the tax. If the Government have got \$29,000,000 the whisky princes have got \$50,000,000. The struggle now is to protect honest men, if any can be found, who may engage in the business, and to punish with a pitiless impartiality all of any other sort.

Among other measures it is proposed to raise the special tax from \$100 to \$500. While it is known that many small-sized distilleries are at work, concealed in garrets, cellars, and remote places, it is also known that distilleries which are duly authorized practice little integrity beyond paying the special license, but find an outlet for the largest quantities of the contraband article. If the number of distilleries can be diminished we shall undoubtedly diminish the sources of fraud, and an increase of the special tax is a step in the right direction.

We raised last year from distilled spirits \$29,188,578 15. If we had collected on the full amount consumed it would have been perhaps \$90,000,000 or over.

The tax on sugar made from the sugar-cane it is proposed to reduce to one uniform rate of one cent per pound. All other sugars being exempt, it may, without examination, seem that this is sectional and unfair, but when we

examine into the facts and find that we import of competing sugars about nine hundred million pounds, from which we derive more than twenty-five million dollars of revenue, and thus protect Louisiana sugars by a duty of three and four times the amount of tax, the charge of sectionalism and injustice at once vanishes. True, we might do more, but it would be unjust that Louisiana and Texas should do less. By the unfaithfulness of Louisiana and other States we were involved in an expensive war to put down the rebellion, and now our own loyal people submit to an unusual tax of never less than three cents per pound on all the sugar they consume, while the people of Louisiana and Texas, though subjected to a tax of one cent per pound on the sugar they produce, receive as compensation an addition of not less than three cents to the price of all they sell by virtue of the facts already recited. The sugar business of the South is surpassingly profitable, and immensely more profitable than it would have been had we not been compelled to adopt the high tariff on sugars. The prices which must prevail will stimulate production largely. Southern sugar-planters have no cause of complaint, and could much better afford to pay the internal tax of one cent than to see the tariff reduced to one cent per pound.

Nor have we proposed to change the tax on cotton. This is about the only considerable tax we collect in the South, and I fear not one half of this is actually collected. We collected last year from all sources in the ten States which rebelled \$20,599,749 05; but from New England, New York, Pennsylvania and New Jersey, nine States only, we collected \$170,876,246 26, and from nine western States—Ohio, Indiana, Illinois, Michigan, Wisconsin, Iowa, Missouri, Minnesota, and Kansas—we collected \$64,259,662 89.

But for the great crime of the South no tax on cotton would have been required, and now it is very certain that upon what goes abroad foreigners are paying the lion's share of the tax, and as much the largest amount of the remainder is consumed in the loyal States, ultimately southern planters are very lightly charged. What is sold to go abroad is undoubtedly enhanced in price by reason of the tax, but exactly to what extent must at present remain undetermined. Should the tax ever be found oppressive to loyal men it will be repealed. The cotton mills of the South were seldom busier or more profitably employed, and new mills are constantly springing up. Only last week I saw a notice of twelve mills in operation in South Carolina. The time when the South, with the provision in relation to the drawbacks on manufactured goods in force, will be likely to insist upon the perpetuation of all our laws intact on this subject may be assumed to be not more distant than the time of repeal. Other countries have been stimulated by extraordinary prices to increase their production, and with some success, but not much more than equal to the increase of the world's consumption, which appears to be growing with marvelous rapidity. The price also remains dear.

The disposition to understate the crop of cotton is chronic and universal. Last year the amount in the country was so adroitly concealed that the experts were all deceived, and so greatly exceeded expectations that all who laid in stocks for a rise came to grief. The Secretary of the Treasury, Mr. McCulloch, estimated the cotton remaining in the country and the new crop of 1865 at one million three hundred thousand bales, but it proved to be about twice as much, or two million five hundred thousand bales. The Liverpool cotton-brokers estimated the amount which they might receive from America at but little more than half of the amount they got. An accurate inventory even of the stock on hand in Liverpool is a pursuit of knowledge under difficulties. When the price falls the stock is hidden, and only comes out when it is safe to uncover the actual facts. The India crop was similarly underestimated, the public being misled, too, by the In-

dian government. The amount already brought to the sea-board and the amount of the weekly shipments show that the crop of last year has yet by no means been brought to market, and the expectation of two million bales is likely to be fulfilled. The crop cannot be hidden forever, although both the planters and speculators conspire to mislead. The price is too tempting to allow cotton lands to remain idle. Next year, if the season should not be unpropitious, we may anticipate a handsome increase over the present. The crop of the past year, after paying the three cents per pound tax, will have been sold for three fourths as much in gold as that of the largest crop (1859) ever produced in the United States.

Liverpool is the great cotton market, and although the stock on hand is larger than for five years, yet the price is higher now and growing firmer than it was last May, selling for middling uplands at about twenty-nine cents per pound in gold, and tending upward, and it is selling in New York at thirty-four cents per pound, currency.

The promise for cotton from most other countries for 1867 is not improving. Egypt and Brazil will not increase their crops, notwithstanding the temptation of high prices, and India will, it is estimated, fall short of the crop of the present year by four hundred thousand bales. There is no discouragement in the way of the production of cotton in the United States, and the tax should no sooner be removed from it than that on petroleum.

The manufacture of leather is hardly less extensive than its use. Nearly every State and Territory has more or less capital embarked in its production. The outlay for boots and shoes in the log-cabin is not infrequently greater than in the four-story brown-stone mansion. The harness, trunk, and carriage maker also use it as a raw material, which if taxed duplicates their burdens. Before we were compelled to levy internal taxes we had a prosperous and growing export trade of several millions in boots and shoes, which, of course, must be nearly or quite annihilated by the tax on leather, no part of which could be returned by virtue of a drawback; but with leather free this trade may again have a better chance of being recovered.

Tinware, hollowware, stone and crockery-ware, employing large numbers of workmen, is used by all classes of people for domestic purposes, and by those in moderate circumstances perhaps beyond their fair proportion. If exempting tin pails and tin pans shall tend to diminish the cost of good butter who would be likely to complain?

Last year we exempted all dry casks and barrels; but why should not a pork or beef or oil or fish barrel be free as well as a flour barrel? It is proposed to answer this question by making all the work of the meritorious class of coopers free.

I have before had occasion to say that a tax in the nature of an excise tax on manufactures could have been resorted to only from the imperative necessity of at once placing in the hands of the Government an unusual and large amount of revenue. This resort has been successful. Last year it produced \$178,356,661 37. But the exigency has passed, and measures designed to be but temporary must be replaced by others of a more satisfactory character in the speediest time possible. I do not doubt that we shall at a very early day be able to relieve iron, cotton, woolen, and all other general manufactures from any internal tax. It is with this prominent idea that the committee have diligently labored in framing the present bill. A reduction of expenditures and a more effectual collection of taxes on the few articles which the judgment of the world consigns to such burdens will hasten the day when there will be full relief to the industry of the country from all such taxes. Meantime, in addition to concessions in various other directions, it is proposed to reduce the tax on woolen manufactures from five per cent. to two and a half per cent. Some may think that bar-iron should have been liberated instead of woollens, but the

tax on bar-iron has been in the form of a specific, and is not now and never has been equal to the *ad valorem* tax of five per cent." The trade in each branch of business is equally depressed, and the action now proposed will make the distribution of favors not unequal. But a higher motive, perhaps, moved the committee, and that was to place woollen manufactures in the hands of the consumer at reduced cost. By reducing the tax on home manufactures of woollens two and a half per cent. a reduction of the rates otherwise asked for by manufacturers can be made in the duties on imported woollens of five per cent. as an equivalent. This will tend in some degree to satisfy the just claims of consumers. The amount of internal revenue from woollens last year at six per cent. was \$8,814,101 08; but in the act of July last it was, with all other manufactures, reduced to five per cent. The loss to the revenue this year by the proposed reduction to two and a half per cent., if our production remained the same, as it is not likely to remain, would be \$3,172,542 10.

The revision of the income tax, it will be seen, presents the subject in the main as it was presented last year, or, the differential rate excepted, as it passed the House, though not then accepted by the Senate. That every person should contribute to the support of the Government in the exact ratio of the interests protected by the Government is a principle that will be universally admitted. An income tax is based on this theory, and yet it is beset with all sorts of difficulties in its practical application. Inequalities appear at every step. One man's skill is taxed as much as another man's property. To-day one man pays no income tax, and to-morrow dies leaving a fat estate to his heirs though for the moment it had been unproductive. To-day one man pays a liberal income tax, his brains have given a generous support to a large family, and to-morrow he dies and all his heirs are penniless. An equal income tax in such cases can hardly be reconciled with justice. If an income tax was to continue as a permanent tax it should be based upon the value of the whole property possessed by each person. I am disposed to think, however, that a tax of the vexatious character which must adhere to an income tax should rightfully place it on the list of those to be abandoned first in order after the tax on manufactures has been removed. In fact it is one of the resources which ought not to be appealed to except in great exigencies, but should be held in reserve. No nation can for any length of time afford to tax without exception all its available sources of revenue. Something must be left for extraordinary occasions.

For the present it is merely proposed to amend the income tax and remove from it some of its most exceptionable features. The exemption of \$600 is enlarged to \$1,000, and, in addition, an allowance is to be made for all rents, taxes, insurance, and repairs. To be taxed at all any person must be in the receipt of something above this minimum amount, and which certainly must be deemed as very liberal, and it will prove a large loss to the Government, as it will exempt entirely the vast majority of persons with moderate means; yet it is believed that the increased amount of the exemption would meet with favor even from a majority of those who will remain subject to the tax. Another change is proposed to relieve the manifest injustice of taxing incomes above \$5,000 twice as much as those below; but one rate, and that five per cent., is now recommended. To do more than this is to provoke a controversy as to the constitutional right to do it, and to lodge in the mind of every man, who finds himself as he thinks unjustly oppressed, an excuse for understating his income to such an extent as will avoid the wrong with which he is threatened. To such persons it seems sheer confiscation, and if justifiable to the extent of five per cent. then justifiable to the extent of fifty per cent. They offset wrong for wrong. Few nations tolerate an income tax at all, and there

is no nation which has any other than a uniform rate. The Treasury needs money; but on a question of taxation justice must be dealt out with an even hand, and the rule of perfect equality should be as immovable as the poles.

The estimates of the receipts for the next fiscal year ending June 30, 1868, as recently revised by the Treasury Department and the Commissioner of Internal Revenue, reduce the estimates from the sums originally estimated ninety days ago to the following figures, namely:

From customs.....	\$130,000,000
From internal revenue.....	240,000,000
From lands.....	1,000,000
From miscellaneous sources.....	20,000,000
Total.....	\$391,000,000

This last item will almost entirely depend upon the amount of coin we may have to sell and the premium obtained upon it. Looking at the general depression of trade, as well abroad as at home, and the recent falling off of customs and internal revenue, the revised and reduced estimates would appear to be fully justified. The same revision of the expenditures for the year ending 1868 brings out items to the original estimate already ascertained of not less than \$7,000,000, or making the total at \$357,247,641 82, besides any claims passed upon by Congress. This leaves to apply on the public debt and for reduction of taxes less than thirty-four million dollars. That some positive sum should be devoted to that object in order to restore our public credit to the level of the world, or even to keep it from sinking below the point at which it now stands, is a principle so plain that it does not seem to require argument so much as correspondent action.

The committee have ventured to use up the entire surplus or margin in various reductions of taxes and exemptions, believing that we have secured such an increase of revenue from other sources, by amendments designed to stop the waste-gates of different portions of the law, as will beyond all doubt leave something to apply on the public debt, provided we pass no bills which throw any considerable additional charges upon the Treasury.

The committee have felt willing for the coming year to give the largest possible amount of relief to the business interests of the country, and have also been willing to so reduce the revenue that no large balance would remain in the Treasury to tempt any one to disregard the wisdom of economy—not that cheese-paring economy which higgles at trifles and then swallows millions, but that which looks to the means of payment for every debt contracted.

Having gone in the line of reduction to the extent as estimated, of \$36,730,500, and as far as it is prudent to go, it follows that if any other reduction should be proposed it will be our duty at once to seek something of equal amount to be restored to the list of taxable articles. It is possible, in spite of an earnest solicitude to avoid any mistakes as to what should be relieved from taxation, that the judgment of the House may make a different selection, and any improvements of the bill will be regarded with as much favor by the Committee of Ways and Means as by any other member of the House.

If there are any gentlemen who disbelieve the recitals concerning idle factories, forges, furnaces, and foundries, and who think that we are still on the top-wave of prosperity, and so may be willing to venture a deeper cut into our revenues, I invite them to look at the comparative returns of some of our principal railroads, to the present state of our navigation interests, to the decline in the commerce of our canals, to our diminished export trade in cattle, horses, hogs, beef, butter, cotton, and manufactures of cotton, iron, copper and brass, together with numerous other articles. This is an exposition of which I have the details, but which I shall not, unless compelled to do so, place upon the records. Depressed as trade must be conceded to be, the depression is no greater, perhaps not yet so great, as might have been ex-

pected to follow the recent exhaustive struggle of the country. Nor is it at all equal to what has been the experience of Great Britain for the past year, where cholera, cattle plague, cotton famine, bad harvests, and a commercial crisis have all successively culminated; where the bank rate of interest was for three months kept at the ruin point of ten per cent., and where thousands of workmen are now only kept from starvation by daily charities from the Queen as well as those who are hard pushed even to pay their poor rates.

But I am by no means despondent of the future. The people of the South in no long time, it may be hoped, will return to loyalty and the Union, knowing that it is as "fixed as fate or foreknowledge absolute" that this is to be their and our common country and Government forever; a country and Government as formidable in war as beneficent in peace. They will speedily find how much more rapidly will be their growth with free institutions than when linked to one of the last relics of barbarism. They will then have, as we have now, a just pride in all that contributes to the prosperity of the nation, the grandeur of its position, and the splendors of its history. Our facilities for the development of wealth and power can only receive temporary checks, and the load we bear of taxation to-day with some weariness will ere long become light, and in a little more than thirty years, when our people will number one hundred millions, there will not be more than enough left of our public debt to remind our children of the honor of the legacy.

#### [APPENDIX.]

*Reductions by the proposed bill as estimated by the office of internal revenue.*

Alcoholic extracts.....	\$2,500
Bale rope, twine, &c.....	50,000
Canned meats.....	30,000
Carpet-bag frames.....	30,000
Casks, barrels, and all cooperage.....	200,000
Castings.....	500,000
Hollowware.....	200,000
Clock trimmings.....	20,000
Clothing.....	4,000,000
Coffee mills.....	25,000
Drain, gas, and water pipe made of wood, iron, cement, or any other material.....	5,000
Copper bottoms.....	2,000
Doors, sash, &c.....	500,000
Saw handles.....	5,000
Glue and gelatine, solid.....	60,000
Glue and gelatine, liquid.....	1,000
Horse-rakes, tedders, &c.....	50,000
Horse-blankets, &c.....	
Leather of all descriptions.....	3,250,000
Piano legs, &c.....	10,000
Licorice.....	1,000
Manufactures of jute.....	1,000
Molasses, &c.....	50,000
Naphtha, &c., above 59°.....	250,000
Palm leaf.....	75,000
Pottery-ware.....	120,000
Root-diggers, &c.....	5,000
Salt.....	180,000
Scales, pumps, garden engines, &c.....	150,000
School furniture.....	50,000
Sleds, wheelbarrows, and hand-carts.....	30,000
Rubbersoles.....	1,000
Steel of all descriptions.....	15,000
Engines.....	1,000,000
Straw-board, &c.....	50,000
Tags.....	1,000
Tinware.....	600,000
Varnish.....	1,000
Wagons, carts, and drays, &c.....	200,000
Washing machines, &c.....	50,000
Boots and shoes, rubber.....	100,000
Brandy from grapes.....	100,000
Hats, &c.....	100,000
Hoop skirts.....	300,000
Woollen manufactures.....	3,500,000
Sugar.....	50,000
Sugar refineries.....	600,000
Wood screws.....	110,000
Gunpowder.....	100,000
Advertisements.....	300,000
Income:	
Exemption of \$1,000.....	6,500,000
Ten per cent. reduction to five per cent.....	13,000,000
Total.....	\$36,730,500

Mr. LE BLOND. Mr. Chairman, before the gentleman from Vermont takes his seat I wish to submit to him one question. If I understand correctly his remarks, this is a bill for revenue alone.

Mr. MORRILL. The gentleman probably did not hear what I stated. This is not the tariff bill, but the tax bill; and it proposes to reduce taxation.

Mr. LE BLOND. Exactly; but the object is to raise revenue. Now, I will state the inquiry which I desire to submit to the gentleman from Vermont. The latter part of the forty-fifth section provides that—

If the officer having such spirits in charge shall have been unable, for a period of ninety days, to sell the same for the price equal to the tax, such spirits shall be destroyed, under such rules and regulations as the Commissioner of Internal Revenue may prescribe.

Now, I would like to know how the gentleman proposes to raise revenue by the destruction of the very article upon which he seeks to raise revenue?

Mr. MORRILL. I was aware that whenever we reached that provision of the bill it would excite the gentleman's regret. [Laughter.]

Mr. LE BLOND. This is only a contest as to locality. We think these rules and regulations are designed to withdraw the liquor into New England, to be consumed in the way of drinking. [Laughter.] That is the only way we in the West can solve the proposition.

Mr. MORRILL. I yield to the gentleman from New York. [Mr. DARLING.]

Mr. DARLING. Mr. Chairman, I do not propose to occupy the time of the House with any extended remarks upon this bill. It is to be regretted that the select committee appointed by this House, of which I have the honor to be chairman, have not been able to prepare their report and submit it to the House in advance of the presentation of this bill. That report would have been heretofore presented but for the fact that the labors of the committee are just concluded; and the vast amount of testimony which they have taken and which is just written up requires some days more for examination and analysis and the preparation of a report.

I am glad to see, however, that the Committee of Ways and Means, although there has been no consultation between that committee and the one of which I am chairman, has substantially anticipated in some measure the views which I intended to submit to the House. There is, however, one portion of this bill to which I take exception, although I do not know that at this late period of the session there is time to prepare a bill with sufficient care to embrace in all its details what would be required to give efficiency and force to the provisions of the law. I regard the present system of collecting the tax upon distilled spirits as a perfect failure; and I regret to see that by this bill the Committee of Ways and Means propose to retain substantially the provision of the present law in reference to the appointment of local inspectors for each distillery, these inspectors being paid by the distillers. If the object of the committee had been to facilitate frauds and defeat the collection by the Government of its due amount of revenue, they could not more successfully or skillfully have devised a provision for accomplishing that object.

Now, sir, I contend that it is the duty of the Government in the assessment of internal revenue to impose the highest amount of tax upon such articles as are not necessary for the health, comfort, or existence of the people. If such tax is imposed, and the necessity for it is apparent, the collection of it becomes a necessity, and the creation of law to enforce its collection also becomes a necessity. And if such tax is imposed and is collected the people are released at once from tax upon all articles that do affect their health, comfort, and well-being. I hold it is the duty of the Government to impose upon such articles as distilled spirits and tobacco the highest amount of tax, a tax in the aggregate that will secure to the Government a revenue that will release all other articles from any tax whatever. Until all legislative ability is exhausted, until officers can no longer be found whose fidelity in the discharge of their duty can be relied upon, until every means has been tried, until crime can no longer be discovered and its perpetrators punished, I shall vote for the imposition of that tax.

The honorable chairman of the committee proposes to increase the license of distillers only \$500. I hope this House will raise it to \$1,000, and I hope the collectors of districts will not be allowed to give a permit for distillation that shall extend for more than three months. If at the end of three months the distiller shall not have demeaned himself properly he shall not have his license renewed, and shall lose the \$1,000 paid; and if he has demeaned himself properly he shall have a renewal for three months.

It will be seen at once the appointment of these local inspectors, paid by a distiller, become at once his paid agents and confidential intimate friends. He is his witness, and when he is detected in illicit distillation by outside parties and brought into the Federal courts he brings up this very man appointed by the Government as his witness to defend and protect him. He is his witness, and he cannot be anything but his witness unless he criminales himself, for the moment he complains of any irregularity in that distillery in which he is placed that distillery stops and his pay ceases. The strongest temptation to fraud is held out by the Government when they appoint a man to office under such circumstances.

Gentlemen upon this floor will remember when this subject was before the House at the last session I endeavored faithfully to strike out this provision, in which I was sustained by the honorable gentleman from Kentucky. All I said then, all I predicted then, has come to pass. The law appointing these officers stinks in the nostrils of the people. No man at all familiar with the daily routine and practice of these distilleries in our large cities and towns but knows this is an open door for fraud. This man stands there protecting the distiller in his illicit manufacture.

It is not mandatory on the distiller now to pay a tax, but optional. Under the present system he pays what he thinks will keep the inspector quiet. In one district in Brooklyn in three months subsequent to September thirty-three licensed distilleries, running with a capacity of ten thousand gallons per day, on which the tax would be \$20,000 per day, but \$3,000 was paid into the Treasury for the whole three months. And since this law has been in effect, three months subsequent to the 1st of September in ten districts in New York, where this system of local inspection is carried out in its most pernicious practice, the revenue from distilled spirits has fallen off half a million dollars in three months. How can you trace a barrel of spirits without a brand? The inspector is aware there is no testimony to criminate him.

I contend this bill should be amended so that those officers should be paid by the Government, and they should not be permitted to remain for any length of time in any one distillery. I am willing to abrogate this whole system. I would reach it in the intermediate result between fermentation and charging the still. I think there can be a system devised, I think science will yet devise a plan, by which we can tax the specific gravity of all the fluid that passes into the still.

Why, sir, we collected tax last year on fourteen million gallons only. In the year 1810 this country distilled over twenty-three million. In 1860 the amount of distilled spirits was ninety million. Now, sir, I contend that the consumption to-day is as large as it was in 1860, if not larger. The demoralization growing out of the war, the taste that has been engendered for the use of ardent spirits, has tended to increase the consumption. At all events, I maintain that the Government does not get more than one eighth of the tax that it would get if the whole of the spirits were reached and the tax imposed. The reason why the Government does not get it is because of this pernicious system of appointing local inspectors in the pay of the distillers, who are their agents and confidential friends and their witnesses interposed between charges against them and the Government to protect them when they are arrested for illicit practices.

Mr. MORRILL. I move that the first reading of the bill be suspended.

No objection being made, it was so ordered.

Mr. MORRILL. I now move that the committee rise for the purpose of terminating all general debate, so as to leave the debate open to the five-minute rule.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union, having had under consideration the state of the Union generally, and particularly House bill No. 1161, to amend existing laws relating to internal revenue, had come to no conclusion thereon.

Mr. MORRILL. I now move that when the House shall again resolve itself into Committee of the Whole on the state of the Union for the consideration of the special order, all general debate be terminated in ten minutes, and that the debate be under the five-minute rule.

The motion was agreed to.

Mr. MORRILL. I now move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and resumed the consideration of the special order, and particularly House bill No. 1161, to amend existing laws relating to internal revenue.

Mr. McKEE. Mr. Chairman, I do not know that I shall occupy the attention of the House for even the ten minutes allowed for general debate. I desire to say a few words in relation to the topic discussed so ably by the gentleman from New York, [Mr. DARLING,] and to give my assent to all he has said upon this subject. I have examined this bill thoroughly, and it strikes me that if the committee had sat for six months, and had been the whole time endeavoring to devise a system by which frauds might be perpetrated in the distillation of spirits, they could not have accomplished their work more thoroughly than through this system of appointing an inspector for each distillery. Sir, if I had not had some experience and some personal knowledge of these things my assertions might go for naught. I reside in a district altogether rural, in which there is not a single city, a district where all the distilleries are very small concerns and always have been. I know something about the character of the inspectors who are appointed. The recent investigation of the committee of which the gentleman from New York [Mr. DARLING] is chairman must certainly show conclusively that these inspectors are men put over distilleries for the purpose of enabling them to perpetrate frauds rather than prevent them. An inspector who is under no bonds, under no obligations, who owes nothing to anybody, who is accountable to nobody for his action; and, Mr. Speaker, the corruptions of human nature we all know, and it is a fact which these investigations when published will certainly bring to light that in one single distillery—yes, I will venture the assertion in one single distillery in the city of New York or Philadelphia or Brooklyn—more frauds have been perpetrated than in all the small distilleries throughout the length and breadth of the land.

One other point in regard to this measure. It strikes me that it is a law made for one other purpose: to throw the distillation of spirits (which as a branch of manufactures is perhaps more profitable than any other in the country) into the hands of a few men of capital to crush out those who have not large capital, and to prevent the poor man, who would honestly desire to make a few barrels of whisky—which, if any such liquor is fit to drink, is the only kind that is—from pursuing the business of distilling.

So far as I am concerned individually, sir, I cannot be accused of any personal object in this matter, for if I could have my own desire



gratified, and could by a single effective law sweep away this whole traffic, I would make the law and strike the blow. But I do not believe such a thing practicable; and if this branch of manufacture, which is a curse to all concerned, is to be indulged in and recognized as a legitimate business, then I protest against this policy, which strikes down the honest poor man and places the whole business in the hands of a few men of moneyed interest. While the possession of money does not necessarily make men rascals or dishonest, I have yet to learn that money alone has ever been found to be a promoter of honesty. Although distilling is a business that I would never engage in, yet I know that as a general thing the men who are engaged in it in a small way are as honest as any in the land; and I do not wish to see them driven out of their business by the power of capital aided by this law.

Again, sir, I repeat that this inspection law, the whole machine from beginning to end, is a measure to create fraud, not to prevent it. It is a law in the interest of a few favored men in this nation, who by their immense capital can establish great concerns and pour out their thousands of barrels of poisonous liquor, which runs daily down the throats of millions, leading them to destruction, and it prevents poor honest men, who would almost of necessity make a pure article, from engaging in the business at all. In my own district the advocates of this measure say that it is to increase the revenue; but the records show that by its operation the revenue has been diminished. Under the operation of the law of 1865 vastly more revenue was collected than has been collected under the operation of the present law. Does any man therefore suppose that less whisky has been made, that less whisky has been drunk, or that less is consumed daily? By no means, sir; the only difference is that much of it is now smuggled under the working of this law. Let the law be open. Put on whatever tax you please, as far as quantity is concerned, but let the law be open.

To show how it affects the revenue, let me give one or two examples. In my own congressional district, under the law of 1865, the revenue collector calculated that it would produce \$240,000 revenue. Under the law of 1866, his estimate is that it will produce less than \$60,000. And notwithstanding this falling off in revenue more whisky is consumed throughout that section of the country, twice as much, perhaps, as was consumed the preceding year. And is there any less made? Not at all. But this law prevents them from making it in such a manner as that they can report what they do make. I have a letter upon my desk from the collector of that third congressional district. He says that in 1865, under the operation of that law, for the year the total amount of revenue would approximate to two hundred and seventy-five thousand dollars. Under the operation of the law of 1866 for the next year, the revenue, he says, will fall below seventy-three thousand dollars. Take the State of Kentucky alone, and you will find that under the operation of this inspection law we lose more than six hundred thousand dollars revenue. And the same applies all over the land.

I only make these general remarks in regard to this subject. I believe, as the gentleman from New York has intimated, that a law may be prepared by which we may collect the revenue from this source upon the material which is put in to be manufactured before it goes through the process of fermentation at all; and by doing that we might evade these frauds.

The CHAIRMAN. All general debate is now closed by order of the House. The bill will now be read by sections for amendment.

The Clerk read as follows:

*Be it enacted, &c., That all acts required in relation to the assessment, return, collection, and payment of the income tax, special tax, and other annual taxes now by law required in the month of May, shall hereafter be required on the corresponding days in the month of March in each year; all acts required in the month of June, in relation to the collection, return, and payment of said taxes, shall*

*hereafter be required on the corresponding days of the month of April of each year.*

Mr. HOOPER, of Massachusetts. I move to amend this section by inserting the words "to be performed" after the word "required," where it first occurs; also to insert the same words before the words "in the month of June."

Mr. WILLIAMS. I would suggest to the gentleman from Massachusetts [Mr. HOOPER] that he better modify his amendment so as to insert after the word "required," where it first occurs, the words "to be performed;" and to strike out the words "now by law required," before the words "in the month of May."

Mr. HOOPER, of Massachusetts. I will accept the suggestion of the gentleman, and modify my amendment accordingly.

Mr. MAYNARD. I would make another suggestion to the gentleman from Massachusetts, [Mr. HOOPER,] that the better way would be to strike out the word "required" where it first occurs in this section, and insert the words "to be performed" after the word "required" where it next occurs in the section.

Mr. HOOPER, of Massachusetts. I think that is still better; and I modify my amendment accordingly.

The amendment, as modified, was agreed to.

Mr. McRUER. I desire to ask the chairman of the Committee of Ways and Means [Mr. MORRILL] if it is the intention of the committee that this section shall apply to the coming months of March and April of this year? The provisions of this law can hardly be known in the States on the Pacific by that time.

Mr. MORRILL. I think there will be no difficulty in having it go into effect at that time.

No further amendment being offered,

The Clerk read as follows:

*Sec. 2. And be it further enacted, That apothecaries, butchers, confectioners, and plumbers and gas-fitters, whose annual sales exceed \$25,000, shall pay, in addition to the special tax now required by law, one dollar for every \$1,000 in excess of said \$25,000; and the taxes on such excess shall be assessed and paid in the manner provided in the case of wholesale dealers.*

No amendment being offered,

The Clerk read as follows:

*Sec. 3. And be it further enacted, That in all suits or proceedings arising under the internal revenue laws, to which the United States is party, and in all suits or proceedings against a collector or other officer of the internal revenue, wherein a district attorney shall appear for the purpose of prosecuting or defending, it shall be the duty of said attorney immediately at the end of every term of the court in which said suit or proceeding is or shall be instituted, to forward to the Commissioner of Internal Revenue a full and particular statement of the condition of all such suits or proceedings appearing upon the docket of said court: Provided, That upon the institution of any such suit or proceeding it shall be the duty of said attorney to report to said Commissioner the full particulars relating to such suit or proceeding; and it shall be the duty of the Commissioner of Internal Revenue (with the approval of the Secretary of the Treasury) to establish such rules and regulations, not inconsistent with law, for the observance of revenue officers, district attorneys, and marshals, respecting suits arising under the internal revenue laws, in which the United States is a party, as may be deemed necessary for the just responsibility of those officers and the prompt collection of all revenues and debts due and accruing to the United States under such laws.*

No amendment being offered,

The Clerk read as follows:

*Sec. 4. And be it further enacted, That the Commissioner of Internal Revenue shall have charge of all lands and other property which have been or shall be assigned, set off, or conveyed, by purchase or otherwise, to the United States, in payment of debts arising under the laws relating to internal revenue, and of all trusts created for the use of the United States, in payment of such debts due them; and, with the approval of the Secretary of the Treasury, may sell and dispose of lands assigned or set off to the United States in payment of such debts, or being vested in them by mortgage or other security, for the payment of such debts; and in cases where real estate has already become the property of the United States by conveyance or otherwise, in payment of or as security for a debt arising under the laws relating to internal revenue, and such debt shall have been paid, together with the interest thereon, to the United States, within two years from the date of the acquisition of such real estate, it shall be lawful for the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to release by deed, or otherwise convey, such real estate to the debtor from whom it was taken, or to his heirs or other legal representatives.*

Mr. ALLISON. I move to insert before the words "to the United States," where they last occur in the section, the words "at the rate of one per cent. per month" as the rate of interest.

Mr. INGERSOLL. I move to amend the amendment by striking out the word "one" and inserting the word "one half," as the rate of interest per month.

Mr. ALLISON. Mr. Chairman, that is precisely the legal rate of interest—six per cent. The object of the amendment which I propose, is that it shall not be to the interest of a debtor to have his property sold and then at the end of two years redeem it by simply paying six per cent. interest.

Mr. INGERSOLL. I desire to ask the gentleman from Iowa [Mr. ALLISON] whether or not the "debt" referred to in this section does not include whatever penalty may have been assessed? As I understand it, the interest accrues, not only on the amount of taxes, but on the penalty.

Mr. ALLISON. It is quite possible that under certain circumstances the penalty may be included; but in many instances the penalty, from necessity, would be very light. Certainly, if the debtor is allowed the privilege of redeeming his property at the end of two years, he ought to be satisfied to pay one per cent. per month for the time during which he has withheld the money.

The amendment to the amendment was rejected.

The amendment was agreed to.

Mr. SLOAN. I move to amend by inserting after the word "of," in the ninth line, the words "at public vendue upon not less than twenty days' notice;" so that the clause will read as follows:

*And, with the approval of the Secretary of the Treasury, may sell and dispose of at public vendue upon not less than twenty days' notice, lands assigned or set off to the United States in payment of such debts, or being vested in them by mortgage or other security for the payment of such debts.*

The amendment was agreed to.

Mr. FARQUHAR. I move to amend by inserting after the word "thereon," in the sixteenth line of this section, the words "and all expenses incurred by the Government in collecting said debt;" so that the clause will read as follows:

*And in cases where real estate has already become the property of the United States by conveyance or otherwise, in payment of or as security for a debt arising under the laws relating to internal revenue, and such debt shall have been paid, together with the interest thereon, and all expenses incurred by the Government in collecting said debt.*

Mr. HILL. I desire to inquire of my colleague whether this amount is intended to include such expenses as compensation of detectives, fees of counsel, &c., or whether it simply is designed to include what is understood by "costs?"

Mr. FARQUHAR. The object of the amendment is to cover all the legitimate expenses which the Government is necessarily obliged to incur in the prosecution of the suit, and the disposal of the property. I do not understand that the amendment which has been adopted includes these expenses. It simply covers the interest upon the money during the time for which the use of it has been enjoyed.

Mr. FINCK. Mr. Chairman, I rise to oppose the amendment. The proposition of the gentleman from Indiana [Mr. FARQUHAR] is too indefinite. It uses the term "expenses." Now, what are "expenses?" Does the term include attorneys' fees, the compensation of detectives, and costs of court, or what does it mean? In my view, it is better in all such cases as this that there should be a specific amount fixed as a penalty, so that the debtor may know what he is obliged to pay and the Government what it has the right to demand. I am opposed to the amendment because of the uncertainty of its language.

Mr. MAYNARD. I move to amend the amendment by striking out the word "expenses," and inserting in lieu thereof the word

"costs." The latter is the legal word and is well understood.

Mr. FARQUHAR. This is designed to include more than mere costs.

Mr. MILLER. I move to amend by adding "all costs and necessary expenses."

The CHAIRMAN. That amendment is not in order. An amendment to the amendment is already pending.

Mr. ALLISON. I think, Mr. Chairman, that neither of these amendments should be adopted. The provision of this section is intended only to cover a class of cases in which the Government makes a compromise with the delinquent party or where property has been sold upon execution or process of a court. Of course whatever sum the property may sell for would include the proper costs of the suit, and would be a part of the debt due to the Government. It seems to me, therefore, the section is as well as it could be with any amendment.

The CHAIRMAN. Debate on the amendment is exhausted.

Mr. MAYNARD's amendment to the amendment was disagreed to; and then Mr. FARQUHAR's was also rejected.

Mr. COOPER. I move to amend by inserting in line seventeen of section four, after the word "estate," the words "by the debtor, his heirs, assigns, or other legal representatives, or any mortgagee or judgment creditor of the debtor;" and inserting in line twenty-one, section four, after the word "representatives," the words "mortgagee or judgment creditor so redeeming."

The object of the amendment, Mr. Chairman, is to confer upon the creditor of the debtor the same right to redeem that the debtor has. Of course the only object the Government has in view is the security of the debt for which the real estate has been taken. If it can get its money from any source it is that much to the advantage of the Government; so that by giving the judgment creditor of the debtor the right to redeem you thereby furnish additional means to the Government to get its money.

Mr. SLOAN. I move to insert "mortgagee" before "judgment creditor."

Mr. COOPER. I accept it.

Mr. ALLISON. I rise to oppose the amendment. This amendment should not be adopted for various reasons. This is a personal privilege tendered for the benefit of the debtor and his creditors. If a judgment creditor shall have the benefit, which one shall it be? Suppose a judgment creditor proposes to come in and redeem in three months, what will become of the debtor and his creditors? It seems to me this should be confined to the debtor and his representatives.

Mr. INGERSOLL. It is variously understood as to whether the first amendment of the gentleman from Iowa was considered as adopted or rejected.

The CHAIRMAN. It was adopted.

Mr. INGERSOLL. It was understood by the gentleman from Iowa to have been rejected, and he withdrew his amendment. The Chair announced 40 in the affirmative and 44 in the negative.

The CHAIRMAN. It was 44 in the affirmative and 40 in the negative. The Chair understood the objection was withdrawn, and the amendment was declared adopted. If there is doubt, however—

Mr. INGERSOLL. There is doubt, and I ask the gentleman from Iowa whether he did not understand the amendment to be rejected?

The CHAIRMAN. The gentleman from Illinois can have a vote on the amendment in the House.

The pending amendment was disagreed to.

Mr. PAINE. I move to strike out the word "being" in line ten.

The amendment was agreed to.

The Clerk read as follows:

SEC. 5. *And be it further enacted*, That if it shall at any time be ascertained that the manufacturer of any article upon which a tax is required to be paid by means of a stamp, shall have sold or removed for sale

any such articles without the use of the proper stamp, in addition to the penalties now imposed by law for such sale or removal, it shall be the duty of the proper assessor or assistant assessor, upon such information as he can obtain, to assume and estimate the amount of the tax which has been omitted to be paid, and to make an assessment therefor, and certify the same to the collector; and it shall also be the duty of the proper assessor or assistant assessor in like manner to assume and estimate the amount of taxes which may be due from any manufacturer of distilled spirits on account of any spirits manufactured by him upon which the tax has not been paid, and to make the proper assessment therefor, and the subsequent proceedings for collection shall be in all respects like those for the collection of taxes upon manufactures and productions.

Mr. HOOPER, of Massachusetts. I move to amend in the first and second lines by striking out after the word "that" the words "it shall be at any time ascertained that."

The amendment was agreed to.

Mr. MAYNARD. I move at the close of the section to add the following proviso:

*Provided*, That no tax shall be collected on any spirits manufactured in the State of Tennessee and disposed of by the manufacturers before the 1st day of August, 1866.

I beg the attention of the House to the reasons for this amendment. There are a great many small distilleries in Tennessee that make but a few barrels of spirits. They were in operation before any system of internal revenue was extended to that section by the appointment of assessors and collectors. The distillers were in fact ignorant of the provisions of internal revenue law. Most of the time they were under military rule and were regulated by what were called permits. The liquor was made and sold at prices not exceeding a dollar or a dollar and a half a gallon, and was actually consumed in the neighborhood. Now, to impose a tax upon those people for their arrearages would, as they are men of small means, break up and destroy their business. I have had a communication from the assessor in my own district urging as a matter of justice that prior to the time fixed by this bill the tax should not be imposed upon liquors that were not then in the hands of the manufacturers, such as have been disposed of and consumed. The amount of revenue raised by the Government, if we attempt to pursue these people, will be very small, and to impose this tax would be a great hardship. We had no internal revenue officers there to enforce the law and the manufacturers were in fact ignorant of it. I have seen letters from persons engaged in this business desiring to know whether the law imposes a tax of two dollars a gallon. I trust they may be relieved from the imposition of this tax so far as I have proposed.

Mr. GARFIELD. I suggest to the gentleman to waive this and let the committee consult the Commissioner of Internal Revenue, and bring it in again at another point.

Mr. HOOPER, of Massachusetts. I suggest to the gentleman to have it read "disposed of by the manufacturer and consumer." [Laughter.]

Mr. DARLING. If it is consumed, how can you collect the tax on it? The gentleman complains of this being a hardship. Now, all taxes are hardships as a matter of course. Tennessee is reconstructed, and I think she ought to be willing to pay her share of the tax. I see no reason why there should be exemption or discrimination in regard to that State. The tax should bear equally on all sections. There will of course be hardships in individual cases, but that cannot be avoided.

Mr. MAYNARD. For the purpose of answering the gentleman, I move to strike out the last word. The state of things in Tennessee is unlike that of any other State. The liquor manufactured by these men was actually sold for much less than the amount of tax, while there was no officer there to make the demand for the tax. Now, it is proposed to send an assessor to impose this tax, which will be unjust and ruinous to the manufacturers.

Mr. MORRILL. I ask by general consent that we pass over this section until to-morrow, in order to have the committee confer and con-

sider it, leaving the amendment to be renewed if necessary.

No objection being made, the section was accordingly passed over with that understanding.

Mr. BEAMAN. I ask leave to suggest another amendment, by striking out in line eight and also in line twelve the words "assume and." I only make the suggestion.

Mr. PAINE. Is it understood that this section is passed over with a view of returning to it for the purpose of making any amendment?

The CHAIRMAN. Certainly.

The Clerk read as follows:

SEC. 6. *And be it further enacted*, That it shall be lawful for the Commissioner of Internal Revenue, whenever he shall deem it expedient, to designate one or more of the assistant assessors in any collection district to make assessments in any part of such collection district for all such taxes as may be due upon any specified objects of taxation, and in such case it shall be the duty of the other assistant assessors of such collection district to report to the assistant assessor thus specifically designated all matters which may come to their knowledge relative to any assessments to be made by him: *Provided*, That whenever two or more districts or parts of districts are embraced within one county it may be lawful for such assistant assessor or assessors to make assessment anywhere within such county upon such specified objects of taxation as he may be by said Commissioner required: *Provided further*, That such assessment shall be returned to the assessor of the district in which such taxes are payable.

No amendment being offered to the above section,

The Clerk read as follows:

SEC. 7. *And be it further enacted*, That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to pay such sums, not exceeding in the aggregate the amount appropriated therefor, as may in their judgment be deemed necessary for detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws, or conniving at the same in cases where such expenses are not otherwise provided for by law. And for this purpose there is hereby appropriated \$100,000, or so much thereof as may be necessary, out of any money in the Treasury not otherwise appropriated.

No amendment being offered to the above section,

The Clerk read as follows:

SEC. 8. *And be it further enacted*, That hereafter for any failure to pay any internal revenue tax at the time and in the manner required by law, where such failure creates a liability to pay a penalty of ten per cent. additional upon the amount of tax so due and unpaid, the person or persons so failing or neglecting to pay said tax, instead of ten per cent. as aforesaid, shall pay a penalty of five per cent., together with interest at the rate of one per cent. per month upon said tax from the time the same became due, but no interest for any fraction of a month shall be demanded.

No amendment being offered,

The Clerk read the first clause of section nine, as follows:

SEC. 9. *And be it further enacted*, That the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, as amended by the act approved July 13, 1866, be, and the same is hereby, amended as follows, namely:

That section twenty-two be amended by striking out after the words "assistant assessor" and before the word "actually" the words "four dollars for every day," and inserting in lieu thereof the words "five dollars for every day;" and further, by striking out the following words: "And assistant assessors may be allowed, in the settlement of their accounts, such sum as the Commissioner of Internal Revenue shall approve, not exceeding \$300 per annum for office rent; but no account for such office rent shall be allowed or paid until it shall have been verified in such manner as the Commissioner of Internal Revenue may require, and shall have been audited and approved by the proper officers of the Treasury Department; and assistant assessors, when employed outside of the town in which they reside, in addition to the compensation which they are now allowed by law, shall, during such time so employed, receive one dollar per day." This amendment shall take effect upon compensation for the month of March, 1867, and thereafter.

Mr. McRUER. I move to amend this clause by striking out "\$300" and inserting "\$1,000" as the salary of the assistant assessor.

Mr. GARFIELD. That is merely the portion of the section of the present law which this bill proposes to strike out. The gentleman does not certainly propose to amend that portion of the law which we propose to strike out.

Mr. McRUER. I was under a misapprehension; I withdraw my amendment.

Mr. FARQUHAR. I move to strike out

the last word for the purpose of asking the chairman of the Committee of Ways and Means, [Mr. MORRILL,] or some other gentleman, what is the meaning of this clause; whether or not it increases the pay of the assistant assessor?

Mr. MORRILL. It leaves the pay about the same as it is now by law; only it makes it five dollars per day without any allowance for rent.

Mr. FARQUHAR. I withdraw my amendment.

No further amendment being offered,  
The Clerk read as follows:

That section seventy-three be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that any person who shall exercise or carry on any trade, business, or profession, or do any act hereinafter mentioned, for the exercising, carrying on, or doing of which a special tax is imposed by law, without payment thereof, as in that behalf required, shall, for every such offense, besides being liable to the payment of the tax, be subject to a fine of not less than ten nor more than five hundred dollars. And if such person shall be a manufacturer of tobacco, snuff, or cigars, or a distiller or a rectifier, or a wholesale or retail dealer in liquor, he shall be further liable to imprisonment for a term not less than sixty days and not exceeding two years.

Mr. HUMPHREY. I move to amend this clause by striking out the words:

And if such person shall be a manufacturer of tobacco, snuff, or cigars, or a distiller or rectifier, or a wholesale or retail dealer in liquor, he shall be further liable to imprisonment for a term not less than sixty days and not exceeding two years.

I am not aware that it is any more of a crime to carry on the business of manufacturing tobacco, snuff, or cigars, without paying the license therefor than it would be to carry on the business of the practice of law or of medicine or of any other employment or profession for which a license is required. Neither can I discover any necessity on the part of the Government to impose a severer punishment upon persons in this particular business who violate the law than upon persons in any other business. It is not a kind of employment which can be carried on with any more secrecy than many other kinds of employment, or an employment that works any greater detriment to the public interest than many other kinds of employment. It would seem to be a reflection by this House upon a great number of respectable men all over the country, but more particularly in the cities, who are engaged in this particular branch of business. I cannot see any reason for it, either in the way of benefit to the revenue or for the suppression of crime, if this is to be regarded in that light.

I hope, therefore, either that the part I have indicated will be stricken out or that the section will be so amended as to make the extreme punishment which is attempted to be affixed to this particular branch of business applicable to a violation of the license law in respect to all other classes of business.

Mr. GARFIELD. I hope the amendment of the gentleman from New York [Mr. HUMPHREY] will not be adopted. It is very well known that the two articles mentioned in this clause, which ought to furnish us the largest portion of our internal revenue, are the most subject to frauds of any articles in the whole list; and that just in proportion as the tax is made high on any particular article just in that proportion is the temptation to defraud. And as a matter of fact the interest of the Government in every gallon of whisky paying tax is very much greater than the interest which the owner or manufacturer has in it. The facilities for concealing all the operations connected with manufacturing tobacco or cigars or distilling whisky are so very great that without the most stringent regulations it is found absolutely impossible to collect the tax. I trust, therefore, that this amendment will not prevail, but that we shall incorporate in this bill all possible safeguards for the interest of the Government. Now, in some courts it has been found that the judges, in pronouncing sentence for a violation of the law in this respect, have imposed punishments merely nominal, as for instance, one day's imprisonment or six cents fine. Thus in many cases the judges have absolutely encour-

aged violations of the law. It is found necessary, therefore, that instead of leaving it optional with the judge to impose either punishment we should provide for the infliction of both, taking care that they shall not be so light as to encourage the violators of the law. I trust that the provisions as reported may be sustained by the judgment of the House.

Mr. MORRILL. I desire to move an amendment which, as it proposes to perfect the text of the bill, takes precedence of the motion to strike out the whole clause. I move to amend by striking out in the thirty-seventh line the words "or a distiller, or a rectifier." These words are unnecessary, as the matter is provided for in another portion of the bill.

Before taking my seat, I desire to say a few words on the proposition of the gentleman from New York, [Mr. HUMPHREY.] The fact is that a large number of persons, especially in the gentleman's own State, succeed in carrying on illegally the business, for instance, of a liquor-dealer, yet when an attempt is made to subject them to the penalty of the law the district judge imposes a merely nominal fine. Unless we specify in the law a minimum amount of fine and a minimum term of imprisonment, there must continue to be an utter evasion of the law. It is suggested to me by a gentleman here that on the question of drinking the inclination of the bench harmonizes with the interest of the retail liquor dealers. [Laughter.] It is perfectly apparent that if the present law is continued, without some such amendment as we now propose, persons in certain localities may carry on the business of selling tobacco or cigars or whisky while refusing to pay any tax. If we would protect the honest dealers who pay the tax we must enforce some adequate penalty upon those who do not pay it.

The amendment of Mr. MORRILL was agreed to.

The question recurring on the amendment of Mr. HUMPHREY, it was not agreed to.

Mr. DARLING. I move to amend by adding at the end of the thirty-ninth line the words "and until the fine is paid."

Mr. Chairman, I think experience has shown that unless you enforce the payment of these fines by imprisonment, continuing until they are paid, they never are collected. This is the fact as it is found to exist by the select committee who have examined this subject. If you would enforce properly your revenue laws you must provide that where the penalty is a fine, accompanied with imprisonment, the imprisonment shall continue until the fine is paid.

Mr. PAINE. It seems to me that if the amendment of the gentleman from New York is to be adopted, we should change the phraseology of the clause; because unless this change be made it will provide for imprisonment "not exceeding two years," but which is to continue "until the fine is paid." I suggest to the gentleman from New York to include in his amendment a further modification of the language of the bill.

The CHAIRMAN. That will be open to amendment if this amendment is agreed to.

Mr. STEVENS. Let the amendment be again read.

The Clerk read the amendment.

Mr. STEVENS. Suppose he is not able to pay it. I move to amend by saying not exceeding ten years. [Laughter.]

Mr. MORRILL. The party may be fined or imprisoned. Suppose he is fined?

Mr. DARLING. Then imprisonment can be added by the judge if he regards the case of so flagrant a character as to need further punishment. The fine does not exceed in any case \$500.

Mr. ALLISON. While I agree with the gentleman from New York we should require stringent provisions, it does seem to me the amendment proposed by him should not be adopted. We have stricken out from this provision distillers and rectifiers of whisky.

Mr. DARLING. I withdraw my amendment.

Mr. HUMPHREY. I offer the following amendment:

After the word "dollars," in line thirty-five, insert the word "or;" strike out the words, "and if such person shall be a manufacturer of tobacco, snuff, or cigars, or a distiller or a rectifier, or a wholesale or retail dealer in liquor, he shall be further liable;" and at the end of line thirty-nine insert "or both such fine and imprisonment in the discretion of the court;" so that it will read:

That section seventy-three be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: That any person who shall exercise or carry on any trade, business, or profession, or do any act hereinafter mentioned, for the exercising, carrying on, or doing of which a special tax is imposed by law, without payment thereof, as in that behalf required, shall, for every such offense, besides being liable to the payment of the tax, be subject to a fine of not less than ten nor more than five hundred dollars, or to imprisonment for a term not less than sixty days, and not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

Mr. Chairman, as I have already suggested, it seems to me perfectly proper and right to strike out this last provision making a distinction in punishment between the man who commits one crime and he who commits another. The committee seem to be opposed to that on the theory that the kinds of employment provided for in this last clause may require greater punishment than some other kinds of employment for which licenses must be procured before any one can engage in them.

I desire for the purpose of removing one invidious distinction between people engaged in different classes of business to have this amendment adopted. It will relieve us from manifest inconsistency in determining by legislative action that a man who commits crime in one respect is not as guilty as a man who commits crime in another branch of business. It seems to me they should all be put upon the same level; and that we should therefore strike out this particular class of persons. Let this severe punishment attempted to be applied to certain classes be applied to all who are required to take out licenses, leaving to the discretion of the court to apply it when a case comes up considered as requiring as extreme a penalty as this.

Mr. GARFIELD. The thing we have tried to avoid is to leave this matter to the discretion of certain courts that have used their discretion in a bad way. The gentleman asks what was voted down a few minutes ago; and I hope that it will be voted down again.

Mr. NOELL. I move to strike out the whole clause.

The CHAIRMAN. That is not in order.

Mr. NOELL. I move to strike out the last word and to insert the amendment I shall indicate. A few days ago it was ascertained that the judicial tribunals of the southern States did not dispense justice fairly and impartially, and we therefore established military governments there. From what has been said by the gentleman from New York it is very clear that the judges of that State are not doing their duty faithfully by the loyal people. Therefore I move that in lieu of this proposition General Grant be directed to detail a brigadier general to enforce the revenue laws of the State of New York.

Mr. MORRILL. It is not the intention to detain the committee longer than to reach the next section of the bill. The proposition of the gentleman from New York is objectionable. It is very important to know who these parties are who deal in these articles. Great frauds are committed by the makers of tobacco and cigars and dealers in liquor, and if we can fix their places of business by the fact of their taking a license we may track something into their hands. And it is very proper we should make a discrimination in reference to manufacturers of tobacco, snuff, and cigars, and dealers in liquor, for the reason that more frauds are practiced in that direction than in almost any other, and we are not able as yet to collect anything like half the amount of revenue we were ought to receive from that quarter.

Mr. NOELL withdrew his amendment.

The amendment of Mr. HUMPHREY was disagreed to.



Mr. DARLING. I move to amend by inserting after "\$500" the words "and shall be imprisoned until such fine is paid not exceeding one year;" also by striking out the words immediately following, "and if said person," and inserting in lieu of the same the words "provided he;" also by striking out the words at the close of the paragraph, "he shall be further liable to imprisonment for a term not less than sixty days and not exceeding two years;" so that the paragraph, as amended, will read as follows:

That any person who shall exercise or carry on any trade, business, or profession, or do any act herein-after mentioned, for the exercising, carrying on, or doing of which a special tax is imposed by law, without payment thereof, as in that behalf required, shall, for every such offense, besides being liable to the payment of the tax, be subject to a fine of not less than ten nor more than \$500, and shall be imprisoned until such fine is paid, provided he shall be a manufacturer of tobacco, snuff, or cigars, or a distiller or a rectifier, or a wholesale or retail dealer in liquor.

Mr. THAYER. I rise to oppose the amendment. It is a very extraordinary legislation, such I am sure as never was sought to be put in any law-book in this country. For a mere omission or oversight, accidentally made, with no intention to evade the law, a citizen of the United States is to be imprisoned, without any discretion on the part of the court that tries him, by an inflexible law which admits of no moderation. If anything like that can be pointed to in the legislation of any State in this country I would like the gentleman from New York to show it. In my judgment it is a most cruel and unwise proposition.

Mr. DARLING. The party can escape imprisonment by payment of the fine.

The amendment was disagreed to.

Mr. FARQUHAR. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union, having had under consideration the state of the Union generally, and particularly the special order, being House bill No. 1161, had come to no resolution thereon.

#### WAR DEBTS OF THE LOYAL STATES.

The SPEAKER. The House now resumes the consideration of the motion to reconsider the vote by which House bill No. 998, in regard to the war debts of the loyal States, was recommended to the committee, on which the gentleman from Maine [Mr. BLAINE] is entitled to the floor, he having called up the motion at the adjournment of the House this afternoon.

Mr. ALLISON. I move that the House adjourn.

The motion was agreed to; and thereupon (at ten o'clock and ten minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CONKLING: The petition of merchants of New York, praying that goods, wares, and merchandise shall only pay duty on amount withdrawn; and that tea, coffee, sugar, spices, and the raw produce of the East Indies shall not pay the ten per cent. additional duty if they remain one year in bond.

By Mr. COBB: The remonstrance of citizens of Potosi, Grant county, Wisconsin, against all tinkering with the currency.

By Mr. CULLOM: A petition signed by a large number of citizens of McLean county, Illinois, asking Congress to repeal the law authorizing the withdrawal of the national legal tenders from circulation.

By Mr. FERRY: The petition of F. B. Wilcox, L. G. Mason, T. J. Rand, J. N. Hackley, and 50 others, citizens of Muskegon, Michigan, protesting against any material curtailment of the currency.

By Mr. LARLIN: The petition of S. H. Sherman and 46 others, citizens of Watertown, Jefferson county, New York, adverse to the withdrawal of national bank currency from circulation.

Also, the petition of Isaac H. Fisk and 40 others, citizens of Watertown, Jefferson county, New York, against withdrawal of national bank currency from circulation.

Also, the petition of V. S. Kenyon and 12 others, citizens of Newport, Herkimer county, New York, adverse to withdrawal of national bank currency from circulation.

By Mr. WASHBURN, of Massachusetts: The petition of Henry Cook and 25 others, citizens of South

Danvers, Massachusetts, against the passage of the Randall bank bill.

Also, the petition of Francis Boker and 31 others, citizens of South Danvers, for the same purpose.

Also, the petition of Charles H. Fabens and 56 others, citizens of Salem, Massachusetts, for the same purpose.

#### IN SENATE.

WEDNESDAY, February 13, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.

On motion of Mr. WILSON, the reading of the Journal was dispensed with by unanimous consent.

#### CREDENTIALS.

Mr. DIXON presented the credentials of Hon. Orris S. Ferry, chosen by the Legislature of Connecticut a Senator from that State for the term of six years, commencing March 4, 1867; which were read, and ordered to be filed.

#### PETITIONS AND MEMORIALS.

Mr. WADE presented a telegraphic dispatch addressed to the President *pro tempore* of the Senate, communicating resolutions adopted at a meeting of citizens of Arrapaho county, in the Territory of Colorado, in favor of the admission of that Territory into the Union as a State; which was ordered to lie on the table.

The PRESIDENT *pro tempore* presented resolutions of the Legislature of Kansas, in favor of a grant of lands to that State for the benefit of the Freedmen's University; which were ordered to lie on the table.

Mr. POMEROY presented a petition of loyal citizens of Arkansas now in the city of Washington, praying that the bill (H. R. No. 1162) for the reestablishment of civil government in the State of Louisiana pending in the Senate may be so amended as to make its provisions applicable to the State of Arkansas; which was referred to the joint Committee on Reconstruction.

Mr. HENDERSON. I desire to present a letter of James E. Yeatman, of St. Louis, Missouri, in reference to the poverty, destitution, and suffering of the southern people. It is a letter addressed to me, though it might properly have been put in the shape of a petition or memorial to Congress. Mr. Yeatman is a gentleman well known. He was in the southern States during a large part of the time that elapsed from the fall of Memphis to the close of the war, and is well acquainted with the subjects he writes about. As this letter contains a good deal of information that may be of importance to the Senate, I move that it be printed.

The motion was agreed to.

Mr. TRUMBULL presented a memorial of citizens of Illinois, remonstrating against any curtailment of the national currency with a view of a return to specie payments within a limited time, and against the passage of any act requiring the national banks to redeem their circulation in New York, or prohibiting them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

Mr. MORGAN presented resolutions of the Chamber of Commerce of the State of New York, in favor of a conveyance by the commissioners of the land office in that State, and the commissioners of the sinking fund of that city, to the United States of a portion of what is known as the battery extension, and recommending an appropriation by Congress to complete the improvements and buildings upon the land so conveyed; which was referred to the Committee on Finance.

Mr. BUCKALEW presented a petition of seamen, firemen, coal-passers, and marines who served in the Navy during the rebellion, praying to be allowed a bounty of \$8 33 $\frac{1}{3}$  per month during their term of service; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of citizens of Northampton county, Pennsylvania, remonstrating against any curtailment of the national

currency with the view of a return to specie payments within a limited time, and against the passage of any act requiring the national banks to redeem their circulation in New York, or prohibiting them from paying or receiving interest on bank balances; which was referred to the Committee on Finance.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1162) for the reestablishment of civil government in the State of Louisiana, in which the concurrence of the Senate was requested.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 247) for the relief of James Keenan; and it was signed by the President *pro tempore*.

#### RECONSTRUCTION OF LOUISIANA.

Mr. WADE. I move to postpone all other business and proceed to the consideration of the bill just received from the House of Representatives for the reorganization of the State of Louisiana, and I hope we shall take it up; it is among the most important business that we have or can have before us, in my judgment, at this session, and it should supersede for the present all other business until it is passed. I hope we shall proceed to consider it. I will take occasion to say now that there is so small a part of the session left and such an immense press of business that I hope we shall all—and I promise to do so myself as much as I urge it upon others—be as brief in our arguments as possible, for we shall not get through the business pressing upon us unless we study brevity. We have already established our names for being good talkers. Now, sir, I want it established through the country that we are energetic for action as well as for anything else. I hope we shall take up this bill and pass it. I make that motion.

Mr. LANE. I hope this bill will not be taken up, at least until the morning business is through. I wish to present some reports from my committee to have them printed so as to have them ready for action to-morrow night. I hope there will be no motion to postpone the regular business until the morning business is through.

Mr. BUCKALEW. I wish to inquire what is the precise order of business at this moment?

The PRESIDENT *pro tempore*. The Chair will state the question. By the rules of the Senate it is the duty of the Presiding Officer, after the Senate comes to order, to call for petitions and memorials, then for reports from committees, then for the introduction of bills and joint resolutions, then for resolutions. That is the order by the rules of the Senate for the morning. The Chair has very frequently pursued that course when Senators have risen to make a motion to take up some other business, but is, of course, aware (or at least thinks that to be the correct rule) that if any Senator persists in a motion to postpone all prior orders and proceed to the consideration of any particular bill, it is the duty of the Chair to entertain the motion; and governed by that rule if at this time a motion is made to postpone the present and all prior orders and proceed to the consideration of the bill named by the Senator from Ohio, the Chair will entertain the motion and put it to the Senate; otherwise he will proceed with the morning business under the rules of the Senate, as is the duty of the Chair. If the Senator from Ohio makes this motion the Chair will entertain it.

Mr. WADE. I make the motion.

Mr. TRUMBULL. Wait till one o'clock.

Mr. SUMNER. Why not now?

Mr. TRUMBULL. We wish to get through with the morning business.

Mr. WADE. I feel myself that this is the most important business, as I said before, that we can have; and if it should be put under

debate, as questions of this importance generally have been here, we shall not be able to act upon it this session, and I cannot understand why Senators should persist upon proceeding with the morning business, which certainly can be postponed with less detriment to the public than this bill. I hope there will be no opposition to it, that we shall take it up and pass upon it. It is under the control of the Senate, I suppose.

Mr. BUCKALEW. I will suggest—  
The PRESIDENT *pro tempore*. It is moved and seconded that the Senate postpone the present and all prior orders of business and proceed to the consideration of the bill named by the Senator from Ohio, just received from the House of Representatives.

Mr. BUCKALEW. I will suggest to the Senator that very likely all petitions and reports would have been presented and made by this time if he had allowed us to go on. They will take but a short time.

Mr. LANE. I shall oppose this motion at present, and I am as anxious to take this bill up as anybody else. I have four or five pension bills here to report and some reports to submit which I wish to have printed by to-morrow, as to-morrow evening is set apart for the consideration of bills of that character, and it will not take one minute to introduce the whole of them, and thus get rid of the morning business.

Mr. TRUMBULL. The Senator from Ohio is not more anxious than I am to proceed to the consideration of the bill that he has mentioned; but in the morning hour, when our tables are crowded, and we have all brought in our petitions and reports that will take but little time to get rid of, I do think we shall gain time by allowing us to clear our tables. I hope the Senator will allow us to do that, and then we shall take up the bill referred to. It will take but a few minutes to do as I have suggested, and probably we should have got through with the morning business before now. Just allow us to dispose of the business upon our tables, and then we can take up the bill. I hope the Senator will not persist in his motion.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

Mr. HENDRICKS. Mr. President, I wish to inquire whether under the rules a House bill can be considered, if there be any objection, on the day that it is received in the Senate?

The PRESIDENT *pro tempore*. It can be read once; that is all, if objection be made.

Mr. HENDRICKS. Then I object to any further consideration of that bill.

The PRESIDENT *pro tempore*. The bill is not yet before the Senate; it is not yet subject to objection. The motion is to proceed to the consideration of the bill.

Mr. HENDRICKS. When the objection is available I shall put it in.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio, which is that the Senate postpone the present and all prior orders and proceed to the consideration of the bill named by the Senator from Ohio.

Mr. WADE called for the yeas and nays, and they were ordered.

Mr. GRIMES. I desire simply to say that everybody knows that I feel a deep interest in the bill that comes up at one o'clock; it is the regular order, and under ordinary circumstances I should vote against this motion in order to go on with the consideration of that bill; but I regard the bill now attempted to be taken up by the Senator from Ohio as of such momentous importance, such national consequence, that although I am aware that it will displace that bill I shall be compelled to vote for the Senator's motion.

The question being taken by yeas and nays, resulted—yeas 23, nays 19; as follows:

YEAS—Messrs. Brown, Chandler, Conness, Cragin, Creswell, Fowler, Frelinghuysen, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Morgan,

Pomeroy, Ramsey, Sherman, Stewart, Sumner, Wade, Williams, Wilson, and Yates—23.

NAYS—Messrs. Buckalew, Cattell, Davis, Dixon, Doolittle, Fogg, Foster, Hendricks, Johnson, Lane, Morrill, Nesmith, Norton, Patterson, Poland, Sprague, Trumbull, Van Winkle, and Wiley—19.

ABSENT—Messrs. Anthony, Cowan, Edmunds, Fessenden, Guthrie, McDougall, Nye, Riddle, Ross, and Saulsbury—10.

So the motion was agreed to; and the bill (H. R. No. 1162) for the reestablishment of civil government in the State of Louisiana was read the first time by its title.

Mr. HENDRICKS. I object to the further consideration of the bill to-day.

The PRESIDENT *pro tempore*. Objection being made, the bill lies over.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 1134) declaring and fixing the rights of volunteers as a part of the Army, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 1149) to amend an act entitled "An act making appropriations," &c., approved July 28, 1866, giving additional bounties to discharged soldiers in certain cases, reported it with an amendment.

He also, from the same committee, to whom were referred the following bills and joint resolutions, reported them severally without amendment:

A bill (S. No. 595) to regulate the disposition of an irregular fund in the custody of the Freedmen's Bureau;

A bill (H. R. No. 1128) to authorize the payment of prize money to certain officers and enlisted men of the signal corps of the Army;

A bill (H. R. No. 1135) to extend to general officers and officers on the retired list the benefits of the additional ration for every five years' service;

A joint resolution (H. R. No. 261) for the relief of Stephen E. Jones; and

A joint resolution (H. R. No. 273) for the relief of Walter C. Whitaker.

He also, from the same committee, to whom were referred the following bills and joint resolutions, reported adversely thereon, and moved their indefinite postponement; which was agreed to, namely:

A bill (S. No. 588) to restore the jurisdiction of Indian affairs to the Department of War;

A joint resolution (H. R. No. 259) of thanks of Congress to Edwin M. Stanton, Secretary of War; Major General M. C. Meigs, Quartermaster General; and Brevet Lieutenant Colonel James M. Moore, Assistant Quartermaster;

A bill (H. R. No. 1140) to repeal the twelfth section of an act approved July 17, 1862, entitled "An act to define the pay and emoluments of certain officers of the Army, and for other purposes;"

A bill (H. R. No. 879) relating to brevets in the Army of the United States;

A bill (H. R. No. 1129) providing for the issue of certificates of service to officers and soldiers of volunteers;

A bill (H. R. No. 1138) to amend an act entitled "An act to provide for the payment of horses and other property in the military service of the United States," approved March 3, 1849;

A joint resolution (H. R. No. 202) in relation to brevet appointments and commissions in the United States Army; and

A joint resolution (H. R. No. 276) directing the Secretary of War to furnish certain muster-rolls to the different States.

He also, from the same committee, to whom were referred the bill (H. R. No. 1139) for the relief of Captain David Beaty's company of independent scouts, the joint resolution (S. R. No. 166) providing for the payment of the Tennessee home guards, organized under the authority of Major General Burnside, and the joint resolution (H. R. No. 262) for the payment of Captain James Kelley, sixteenth United States infantry, asked to be discharged

from their further consideration; which was agreed to.

Mr. HOWARD, from the Committee on Military Affairs and the Militia, to whom was referred the following bill and joint resolution, reported them severally without amendment:

A bill (S. No. 495) authorizing the payment of the rewards offered by the President of the United States and the officers of the War Department in April and May, 1865, for the capture of Jefferson Davis.

A joint resolution (H. R. No. 271) authorizing the Secretary of War to adjust and settle the claim of D. Randolph Martin, assignee of the Washington, Alexandria, and Georgetown Railroad Company.

Mr. POLAND, from the Committee on the Judiciary, to whom was referred the bill (S. No. 563) supplementary to the several acts of Congress abolishing imprisonment for debt, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 561) to provide for the appointment of a marshal for the District of Columbia and to change the mode of appointing that officer, asked to be discharged from its further consideration, and that it be referred to the Committee on the District of Columbia.

Mr. MORRILL. I hope that bill will not be referred to the Committee on the District of Columbia. The United States marshal here is not an officer of the District; he is an officer of the United States. The subject-matter of the bill I think properly belongs to the Committee on the Judiciary.

Mr. POLAND. We understood that there was a bill before the District Committee involving the same subject. This bill proposes to change the mode of appointment of the marshal and give it to the court of this District. The Committee on the Judiciary thought it more appropriate that such a matter should be considered by the District Committee.

The report was agreed to.

Mr. POLAND, from the Committee on the Judiciary, to whom were referred a bill (S. No. 559) in relation to guardians of minors in the District of Columbia, their appointment, powers, and duties, and a bill (S. No. 560) to create the office of surrogate of the District of Columbia, provide for the appointment of a surrogate, and define his powers and duties, asked to be discharged from their further consideration, and that they be referred to the Committee on the District of Columbia; which was agreed to.

Mr. POLAND, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 608) to protect the rights of action of loyal citizens, reported adversely thereon.

Mr. LANE, from the Committee on Pensions, to whom were referred the following bills and joint resolution, reported them severally without amendment.

A bill (H. R. No. 1125) granting an additional pension to Samuel Downing, one of the last surviving soldiers of the revolutionary war.

A bill (H. R. No. 1146) for the relief of Mrs. Elizabeth Fletcher; and

A joint resolution (S. No. 171) for the relief of Martha McCook.

He also, from the same committee, to whom were referred the following petitions, submitted adverse reports, which were ordered to be printed: the petition of Elizabeth J. Manning, widow of Captain Henry W. Manning, late of the sixty-first regiment Illinois volunteers; the petition of Levi C. Masson; the petition of Mary G. Harris, widow of the late Colonel John Harris, of the Marine corps; and the petition of Mary Loup, widow of Constance Loup.

Mr. BROWN, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 598) for the relief of Elias Beale, late captain of company H, eighth regiment Tennessee volunteer infantry, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred a petition of jurors serving in the United States courts

for the eastern district of Michigan, praying for an increase of compensation to jurors serving in the United States courts, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 430) to regulate the civil service of the United States and promote the efficiency thereof, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

Mr. VAN WINKLE, from the Committee on Finance, to whom was referred the memorial of William H. Harmon, praying to be relieved from the payment of certain taxes, reported a bill (S. No. 598) for the relief of William H. Harmon; which was read and passed to a second reading.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of Jane Newall, praying compensation for the loss of a steamboat, reported adversely thereon.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 589) to amend an act entitled "An act to incorporate the National Theological Institute," and to define and extend the powers of the same, reported it with an amendment.

He also, from the same committee, to whom was referred a bill (S. No. 570) extending the time for the completion of certain street railways, reported it with amendments.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment:

A bill (S. No. 569) to authorize the formation of corporations for manufacturing, mining, mechanical, or chemical purposes in the District of Columbia;

A bill (H. R. No. 258) to punish for the removal of dead bodies from the grave or other place of interment in the District of Columbia;

A bill (H. R. No. 356) fixing the compensation for the bailiffs and the criers of the courts of the District of Columbia; and

A bill (H. R. No. 431) for the punishment of certain crimes therein named in the District of Columbia.

Mr. FRELINGHUYSEN, from the Committee on the Judiciary, to whom was referred the petition of Logan Huntton, of Missouri, praying extra compensation for services in connection with the prosecution of certain violations of the neutrality laws, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. HENDRICKS, from the Committee on the Judiciary, to whom were referred sundry memorials of the citizens of Little Rock, Arkansas, remonstrating against any legislation to remedy any defect in tax sales at that place in May, 1865, for non-payment of the United States direct tax, asked to be discharged from its further consideration; which was agreed to.

Mr. HOWARD, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 268) to pay Lieutenant John H. Hamlin for military services, reported it with amendments.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the bill (H. R. No. 1099) providing for the election of a Congressional Printer, reported it with amendments, and gave notice that he would call it up to-morrow.

#### COMPENSATION TO VERMONT SENATORS.

Mr. WILLIAMS. The Committee to Audit and Control the Contingent Expenses of the Senate have instructed me to report back, with an amendment, a resolution providing for the payment to Senator Collamer's widow of the amount of compensation due him at the time of his death; and I ask for the present consideration of the resolution.

By unanimous consent, the Senate proceeded to consider the following resolution:

*Resolved*, That the Secretary of the Senate be, and he is hereby, directed to pay out of the contingent fund of the Senate to Mrs. Mary N. Collamer, widow

of Hon. Jacob Collamer, deceased, late a Senator from the State of Vermont, the amount of compensation due the deceased at the time of his death, according to the act of the last session increasing the compensation of members of Congress.

The amendment of the committee was to strike out the words "contingent fund of the Senate," and in lieu thereof to insert "fund for compensation and mileage."

The amendment was agreed to.

Mr. FESSENDEN. I of course have no objection to Mrs. Collamer receiving every thing she is entitled to receive; but I rise to inquire whether or not the late Mr. Collamer was at any time a member of the present Congress? If so, I think his widow would be entitled to receive the increased compensation given to members of the present Congress up to the time of his death.

Mr. CRESWELL. He was here at the called session.

Mr. POLAND. He was a member of the present Congress, and died in November, 1865. We consider the present Congress as commencing on the 4th of March, 1865.

Mr. WILLIAMS. I will simply say that I referred to the pay clerk of the Senate, who made the computation from the time that the law went into effect up to the time that Mr. Collamer died.

Mr. FESSENDEN. The law took effect from the beginning of the Congress, and he was a member of the Congress?

Mr. WILLIAMS. Yes, sir.

Mr. FESSENDEN. That was all I wished to be certain of.

The resolution, as amended, was agreed to.

Mr. WILLIAMS. The Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred a similar resolution in favor of Mrs. Foot, have directed me to report it back with an amendment, and I ask for its present consideration.

By unanimous consent, the Senate proceeded to consider the following resolution:

*Resolved*, That the Secretary of the Senate be, and he is hereby, directed to pay out of the contingent fund of the Senate to Mrs. Mary Foot, widow of Hon. Solomon Foot, deceased, late a Senator from the State of Vermont, the amount due the deceased at the time of his death for compensation, according to the act of the last session increasing the compensation of members of Congress.

The amendment of the committee was to strike out "contingent fund of the Senate" and insert "fund for compensation and mileage."

The amendment was agreed to.

Mr. SHERMAN. I am in favor of the resolution; but it occurs to me that the Senate have no right to order money to be paid out of the fund designated. I think that can only be done by an act of Congress. We have control over our contingent fund, and I think the ordinary form of resolutions of this kind is to direct the payment of the money out of the contingent fund. I merely make this suggestion to the Senator from Oregon in order that he may consider the point.

Mr. WILLIAMS. I am not particularly advised upon the subject. I referred to the pay clerk of the Senate about this matter, and he advised me that the amendment of the resolution ought to be made so as to pay the money out of the compensation and mileage fund, and not out of the contingent fund.

Mr. SHERMAN. We have several times made the point on the House of Representatives that they had no right to pay their employés extra compensation without the consent of the Senate. They attempted to do it, and the Senate refused to allow it. I submit the point as a question of law; neither House can direct money to be paid out of the Treasury except in pursuance of law.

Mr. WILLIAMS. I am not quite clear that the suggestion made by the Senator from Ohio is correct. The law appropriates a certain amount of money for the compensation and mileage of Senators, and it seems to me it is proper for the Senate to say how that money shall be distributed among Senators. The res-

olution does not add anything to the appropriation, but simply directs how the money shall be paid out of the appropriation which has been already paid.

Mr. SHERMAN. I am not very clear about it.

Mr. WILLIAMS. If there be any question about it I will let the resolution lie over until to-morrow, and in the mean time look at the question.

The PRESIDENT *pro tempore*. The resolution will lie over.

Mr. WILLIAMS subsequently said: I move now to proceed to the consideration of the resolution in regard to Mrs. Foot. Senators are satisfied that the resolution is in proper form. It simply designates the person who shall receive a certain amount of money due out of the compensation and mileage fund already appropriated.

The resolution was passed.

#### LARCENY OF GOVERNMENT PROPERTY.

Mr. HENDRICKS. I move to take up for consideration House bill No. 604. It is one of general importance, but will not take a minute. I have postponed calling it up for some time at the request of one of the members of the Judiciary Committee of the House; but it is desirable to have the bill disposed of now.

The motion was agreed to; and the bill (H. R. No. 604) to define and punish certain crimes therein named was considered as in Committee of the Whole. The Committee on the Judiciary proposed to amend the bill by striking out all after the enacting clause and inserting as a substitute:

That if any person shall rob another, lawfully in the custody thereof, of any kind or description of personal property belonging to the United States, or shall feloniously take and carry away the same, the person so offending shall, on conviction, be punished by fine not exceeding \$5,000, or by imprisonment at hard labor not less than one nor more than ten years, or by both, at the discretion of the court.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill be read a third time. The bill was read the third time, and passed.

#### BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 599) relinquishing the claim of the United States to certain real estate in Washington city of which Caroline Hill died seized; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 600) granting lands to aid in the construction of a railroad and telegraph line from the city of Lawrence, in the State of Kansas, to the boundary line between the United States and Mexico, in the direction of the city of Guaymas, on the Gulf of California; which was read twice by its title, and referred to the Committee on the Pacific Railroad.

#### BILL RECOMMENDED.

On motion of Mr. WADE, the bill (S. No. 501) amendatory of an act to provide a temporary government for the Territory of Montana, approved May 26, 1864, was recommended to the Committee on Territories.

#### RECONSIDERATION OF A VOTE.

Mr. WILSON. I desire to enter a motion to reconsider the vote by which the bill (H. R. No. 811) for the relief of certain drafted men was indefinitely postponed.

The PRESIDENT *pro tempore*. The motion will be entered.

#### SURVEY OF UPPER MISSISSIPPI.

Mr. RAMSEY submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That five thousand copies of the report of Major General G. K. Warren of the survey of the Upper Mississippi river, be printed for the use of the Senate.



## CONSULAR FEES, ETC.

Mr. FOGG submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be requested to communicate to the Senate the several amounts of money reported as received for fees by the several American consuls general, consuls, consular and commercial agents, and all other agents of the Treasury Department in Europe during each of the four years preceding June 30, 1866; also the several amounts of money for salaries, compensation, and expenses of every description required to maintain such officers and agents during the four years above named.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message of the President of the United States, transmitting, in response to a resolution of February 6, copies of correspondence on the subject of grants to American citizens for railroad and telegraph lines across the territory of the republic of Mexico; which was ordered to be printed, and lie on the table.

## PAINTING FOR SENATE CHAMBER.

Mr. STEWART. I beg leave to offer the following resolution, and to ask for its present consideration:

*Resolved*, That the Committee on the Library be instructed to inquire into the expediency of contracting with Frank Buckser for two or more paintings for the panels of the Senate Chamber.

Mr. SUMNER. I object to that.

The PRESIDENT *pro tempore*. Objection being made to the consideration of the resolution, it must lie over under the rules.

## CLAIMS OF LOYAL TENNESSEANS.

Mr. PATTERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be directed to report to the Senate by whose authority the military commission was established in Nashville, Tennessee, during the war, for the adjudication of claims of loyal citizens of Tennessee for property taken for the use of the Army, together with the names of the commissioners and claimants, and the amount of the several claims adjudicated.

## ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 840) for the relief of the sureties of James T. Pollock, late receiver at Crawfordsville, Indiana, and the enrolled bill (H. R. No. 843) for the relief of Rufus C. Spalding, paymaster in the United States Navy; and they were signed by the President *pro tempore*.

## CUSTOMS LAWS.

Mr. CRESWELL. I move to take up House joint resolution No. 251.

Mr. GRIMES. I call for the regular order of business.

Mr. CRESWELL. This resolution is a mere formal matter, which will not take a minute.

Mr. GRIMES. I desire to know what in the opinion of the Chair is the regular order of business at one o'clock.

The PRESIDENT *pro tempore*. That is not a matter of opinion, because the rules specify that the unfinished business of the preceding day shall be the business in order at the expiration of the morning hour. Sometimes, however, when at that time business is pressing, resolutions and other matters of that kind, the Chair neglects to call up the special order precisely at the moment. The Chair has been derelict upon this occasion, inasmuch as now it is a few minutes past one o'clock. The unfinished business of yesterday is now regularly in order, being House bill No. 452.

Mr. CRESWELL. I hope the Senator from Iowa and the Senate will consent to have the joint resolution to which I have called attention disposed of. It will not take a minute I am sure. It is only to extend a commission which is about to expire.

Mr. GRIMES. I shall not object, with the understanding that it shall not displace the special order.

The PRESIDENT *pro tempore*. If there

be no objection, the Chair will entertain the motion of the Senator from Maryland, laying aside the special order informally for that purpose.

The motion was agreed to; and the joint resolution (H. R. No. 251) to extend the time for codifying the laws relating to customs, authorized by the joint resolution approved July 26, 1866, was considered as in Committee of the Whole. It proposed to continue in force the provisions of the joint resolution to provide for codifying the laws relating to customs, approved July 26, 1866, for a period of three months after the expiration of the present session of Congress.

The Committee on Commerce proposed to amend the resolution by striking out in lines six and seven the words "for a period of three months after the expiration of the present session of Congress" and in lieu of them to insert "until the 1st day of January, 1868."

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the joint resolution read a third time. The joint resolution was read the third time, and passed.

## LEAGUE ISLAND.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The special order is now before the Senate as in Committee of the Whole, being the bill (H. R. No. 452) to authorize the Secretary of the Navy to accept League Island, in the Delaware river, for naval purposes, and to dispense with and dispose of the site of the existing yard at Philadelphia. The Senator from Connecticut [Mr. FOSTER] is entitled to the floor.

Mr. FOSTER. Mr. President, at the time of the recess yesterday I was commenting upon one of the two propositions upon which I rested my opposition to this bill, the very great expense necessary to prepare this locality for the purpose contemplated, and in connection with that was remarking upon the estimate made by the Senator from Indiana, reading from a letter of the late Assistant Secretary of the Navy. That computed the expense of the necessary filling of this island at some nine hundred thousand or one million dollars. I was remarking that in my opinion that was altogether an inadequate amount for the purpose, and especially if the island be as large as its friends claim, to wit, some six hundred acres of land. The larger the island the worse in this point of view; for we have to create the island, that is, we have to create it so far as any necessary purpose can be accomplished upon it by putting up structures and making it available as a naval station. The expense of filling an island of six hundred acres even less than three feet over its whole surface would be much more than the amount estimated by the Senator from Indiana. But the depth of the filling named, something less than three feet, is very much less than the amount of the filling which will be necessary; and to show that I do not speak without authority on this subject I refer to the report of the board of officers appointed by the Secretary of the Navy in the year 1862 to make an examination of this and other sites. In their report, on the 5th page, they say:

"League Island is a reclaimed marsh, surrounded by a dry stone wall and embankment of earth, raised to exclude the river. A portion of the island was reclaimed many years since, and is known as the old meadow; we have no positive information on this point, but presume that at the time the wall and embankment was built all the land now reclaimed was embraced within the inclosure; subsequently, and about eighteen years since, as we are informed, the inclosure was extended so as to embrace an additional area, now known as the new meadow. According to a plan which has been submitted to the board by a committee from the Board of Trade, this old meadow contains two hundred and nineteen acres, and the new meadow one hundred and fifty-five acres. On the north of the island, and between it and the main, there is a channel which, we are told, was of sufficient depth in former days to float large ships-of-war; now it is a narrow and shallow channel, not sufficient to float vessels of any size used by the Navy. Large areas of marshes have formed on the east and west ends and on the north side of the island, and

the whole appearance indicates a constant and rapid accumulation from the immense deposits of the Delaware river. To raise the surface of this island to a height which would render it safe from the encroachment of high tides will require a filling of from nine to ten feet over the whole area; and if, as has been suggested, a line of wharf front be carried out to the twenty-three feet line, it will involve an additional filling of a space one mile long and averaging four hundred and eighty-one feet wide and nineteen feet deep. If this space is not filled, then the constant use of dredging machines will be required to maintain a sufficient depth of water to accommodate the vessels of the Navy. To furnish the materials for this immense filling, which will amount in the aggregate to several million cubic yards, it is said that an abundant supply can be had from Red Bank, on the opposite side of the river and from the gravel banks near the gas-works. There is probably an abundance of good material on the shores of New Jersey, but it must be purchased from the proprietors and transported across the river—a process which, in the opinion of the board, will involve an expenditure of at least one million dollars. Other sources of supply have been suggested, such as ashes from the city, cinders, ashes, slag, &c., from the furnaces, but we regard these sources as uncertain and the quantity limited, considering the immense quantity required to accomplish the object. The board is of the opinion that upon this point the advantages are vastly in favor of New London."

If we make any reasonable estimate, of the cost of the filling of that island if it be six hundred acres, (I say so much the worse for the Government and so much worse for the island,) nine or ten feet over the whole surface, the amount of expenditure is a startling sum.

On this same subject the committee of the House of Representatives, who went upon the ground and made a personal examination of this locality; also speak. They say on the 6th page of their report, made 12th May, 1864:

"League Island is situated at the confluence of the Schuylkill and Delaware rivers, a few miles from the settled portion of the city of Philadelphia, and about one hundred miles from the ocean. It is at present surrounded by a stone wall, backed by an embankment of earth, some ten or twelve feet high, which serves to exclude the waters of the river. The whole surface of the island is from three to four feet below the surface of the river at ordinary high water, and but for the wall referred to would be under water at each recurring tide."

This is only an island in the absence of a tide; the rest of the time it is river.

"*Topography*.—The soil is of the character generally found in the bottom lands of alluvial rivers; soft and spongy upon the surface, and gradually passing through various formations until a stratum of sand and gravel is reached. The borings of the 'commission' show a solid bed to be reached at an average depth of thirty-seven feet, lying on the old island at a depth of from twenty-five to thirty feet and on the new the depth of fifty-six feet. A recent examination by a gentleman connected with the Coast Survey reports results somewhat differing from the borings of the commission. But the committee cannot avoid the conclusion that the entire surface of the island, or so much as may be deemed necessary for naval purposes, must be filled and piled before it can safely receive such heavy structures as would be necessary for a first-class naval establishment. And in this conclusion they are confirmed by the testimony before them that the embankment and structures of the railroad in the vicinity upon the main land have settled from year to year, and required constant repairing; and from the fact that the foundations of Fort Delaware, upon an island not flowed by the tide, and though resting upon piles, settled in a few years to such an extent as to render its lower tiers of port-holes useless.

"The filling alone would involve an immense outlay, as the adjacent shores are on the level of the river, and in many cases below its surface; and there would seem to be no other recourse than the purchase and transporting by boats of the necessary material from the opposite shores of New Jersey, unless, as is claimed, the mud and alluvium excavated for docks should be used for that purpose—an expedient that would seem to your committee not only partial and inadequate, but very prejudicial to the usefulness and health of the locality. This filling alone, it has been estimated by the engineer of the Bureau of Yards and Docks, would cost not less than \$1,000,000; and this statement is even exceeded by that of Senator RIDGE, of Delaware, himself an experienced engineer and conversant with the locality, who estimated the expense at \$10,000 per acre, and without piling. If to this be added the expense of piling to secure solid foundations, an expense even more than that of filling, the outlay for preparation of site alone would probably be very much greater than the completing of a first-class navy-yard at New London. These difficulties are forcibly stated by the Secretary of the Navy in his annual report of 1862, in the following terms:

"The objections to it are its low alluvial soil, the cost of raising it to a proper grade, the depth it will be necessary to penetrate before reaching safe bottom, and the expense of piling on which to erect superstructures. These are weighty objections, and it will require no inconsiderable expense to overcome them."

"In addition to this large outlay, it is the opinion of competent engineers that the time requisite for the completion at this locality of a yard such as is contemplated would be from eight to ten years."

That is the description of this locality, first by the board of officers selected by the Secretary of the Navy, composing some of as respectable officers in the line of the Navy as any belonging to the service—some scientific men and some engineers; the other, the report of the Naval Committee of the House of Representatives, who went upon the ground and made, as I have before stated, a personal examination of the locality; and I think such a series of testimony as this will not be disregarded by this Senate. I certainly hope not.

I believe, then, Mr. President, that I have established, as I trust by satisfactory evidence, the first proposition I laid down, which was that it will cost more money to prepare properly League Island for a naval station and depot than to construct and complete all the necessary works for such an establishment at a fit and eligible site. I can show a calculation made on apparently a mathematical basis showing the cost of filling this island to be over twenty million dollars. The other proposition was that when completed it is a most unfit and ineligible site for the purpose contemplated, the objections to it being permanent and fatal.

A few words now upon that proposition. Supposing the amount necessary to prepare the place for a naval station to have been expended and the structures completed, what then is the character of the locality for a navy-yard? One objection, and a very strong one as it seems to me, is that this is a most unhealthy locality. A situation on the Delaware river, below Philadelphia, on the marshes and islands created by dredging the river, and piling up mud, must inevitably be unhealthy; and the evidence on that subject is perfectly conclusive. Such localities are not fit for human habitations. Intermittent fevers, fever, and ague, and the usual complaints generated by the malaria arising from marshes and from the mud left bare at low tide are prevalent there, especially during the season of late summer and autumn. This, in my opinion, is the reason why the city of Philadelphia has not extended itself in the direction of this island.

The city of Philadelphia has been increasing in population, in wealth, in manufactures, in the arts, in all which constitutes a great city for many years, and has extended itself in almost every direction with very great rapidity. Long may it continue to do so. Why, however, has it not extended in the direction of League Island, and why are there now some miles of unoccupied land between the inhabited city of Philadelphia and League Island? And why has not League Island been occupied by the merchants, the business men, the commercial men of that locality if it were so eligible a site for commercial purposes? Why has it remained a perfect waste as it is this day, a desolation? Its unhealthiness is among the causes; people will not go there and settle so long as the city can be extended in any other direction; and it has not extended in this direction for years, and will not unless a purchase is made by the Government and works are erected there which will compel men to reside there. Now, is it proper for this Government to make a purchase in a locality, or accept as a gift for a naval station, a site which is unhealthy, which people will not seek, and will not inhabit unless they are compelled to do so?

In addition to the unhealthiness of this site, its distance from the sea is a great objection to it. The House committee say in their report, from which I have just read, that it is about one hundred miles from the sea. Other gentlemen here have spoken of it as being between eighty and one hundred miles from the sea. It seems to be difficult to fix the precise locality of this island. I suppose that it is rather a fluctuating affair; but I had presumed that we could fix its locality nearer than the difference between eighty and one hundred miles from the ocean. The committee of the House of Representatives say

in what I have read that it is about one hundred miles from the ocean. Some gentlemen here have said eighty or a little over eighty miles. Let it be eighty or one hundred miles, it is too far. It is exceedingly desirable that our ships of war, especially of this class, should be nearer than eighty or one hundred miles to the main ocean. During the late rebellion, Mr. President, you and most of the members of this Senate remember the day of anxiety in this capital on a certain Sunday, which was made memorable by the action of the gallant little Monitor in Hampton Roads with a rebel frigate. None of us can have forgotten how almost every man in this capital held his breath during that day from apprehension and anxiety. What would have been the difference in the result as it respects this country, and as respects the deliberations in this Capitol this very day, if eight or ten hours of delay had intervened in the arrival of that iron-clad monitor at Hampton Roads? I will not speculate upon that matter. I will only say that we all know that it was a matter looked upon almost as among the direct interventions of Providence that that vessel arrived when she did. Had she arrived a few hours later the fate of our country and its present condition might be very different from what they are?

Mr. President, I am not about to indulge in any speculation as to the future; by no means do I wish to create any dark cloud of apprehension to rest upon us; but the idea of building a Navy supposes that we may have occasion to use it. If it shall become necessary in the course of events that the flag of our country shall be defended upon the ocean, and that our ports and harbors shall be defended by our iron-clads, it is all-important that those ships should be at hand upon the coast where an enemy will be found making the attack. If they are up our rivers hundreds or scores of miles away it may be quite impossible to get them to the ocean in time to save a city situated upon the coast from bombardment and ruin. Is it wise to place our iron-clad vessels so far from the coast that it will take a long time to get them where they may be needed for the salvation of the Republic?

In connection with this matter of distance from the ocean are the obstructions of navigation. The channel of this river between League Island and the ocean is crooked, and there are bars and other obstructions to prevent the ascent and descent of vessels of any considerable draught of water; and besides there is the shallow water. There is not depth of water at certain times of the tide to take up very many vessels that it may be important should be taken to this locality. But little more than twenty feet of water can be carried up at any stage of the tide, and not more than eighteen feet at mean low tide. That is not a sufficient depth of water to float very many vessels that we may not only have occasion to build but to repair; and the idea of having our naval depot at a station to which our vessels cannot go, and from which they cannot get to sea, would seem to be as preposterous a notion as the mind can entertain.

I know the idea is suggested that we must have this navy-yard located beyond the reach of attack from the shore, and that it is very desirable to place it inland so that it will not be subject to an enemy's attack. That argument is good within certain limits, but surely it is not worth while to press it too far; for if it were carried to the fullest extent we had better have our naval station at Salt Lake. There it would be quite out of reach of an enemy, and our ships could lie there with perfect safety; but they would not, I suppose, be particularly useful, and it would not be worth while to make Salt Lake a naval station and depot. Is it worth while to make a naval station and depot so far inland that although it is not positively inaccessible it is accessible only with difficulty and not accessible with ships of the size which it may be reasonable to suppose we shall have occasion to build and to repair?

In addition to the permanent objections on

account of the distance of League Island from the ocean, and the difficulty of navigation from the tortuous character of the channel and the shallowness of the water during a considerable period of the year, these difficulties are greatly increased by the freezing of the river and the accumulations of ice, especially at this locality. During the present winter there have been weeks and weeks when the Delaware river has been closed up by ice, and it is only within a very few days, if indeed it is yet true, that vessels can pass between League Island and the ocean. There has been an entire blockade of that locality by means of ice for weeks and weeks during the present winter; and if there had been occasion to use any iron-clad vessels belonging to the Navy which were at that point, I will not say that it was impossible to have cut them out of the ice and get them to the ocean, but it must have been attended with very great delay and very great expense; and I am by no means sure that it could have been accomplished within any such reasonable time as to have made the vessels available for any purposes that they might have been called for.

On this subject I refer again to the report of the House Committee on Naval Affairs, from which I have before quoted. Previous to reading, however, what that committee say in regard to the ice, I will read a few words on the points I have been commenting on, namely, the distance from the ocean and the depth of the water in the channel. The House committee say on page 6 of their report:

#### "DISTANCE.

"Another disadvantage is its distance from the ocean. The object aimed at is a yard for the repair and construction of iron-clad vessels and laying them up in ordinary when not in service; but experience has demonstrated that the monitor and iron-clad class of vessels, of all others, most need a clear harbor and a wide and unobstructed channel. Of all types of vessels they have the feeblest powers of locomotion. They mind the helm with difficulty, and are least manageable in narrow sea-room or in stress of weather. Their great bulk, their novel construction, their absence of sails on which to rely, and of space for the crew to work in, render them peculiarly unmanageable except in plain sailing, and under favorable conditions. The committee do not find that these conditions exist anywhere in the Delaware river, and particularly not in the vicinity of League Island. It is nearly one hundred miles from the ocean, up one of the most tortuous and difficult streams to navigate in the United States. An examination of the chart of the Coast Survey shows the channel everywhere narrow and intricate—to be in many places obstructed by bars and shoals from the Cape to the city of Philadelphia. The report of the commission before referred to states that 'large areas of marshes are constantly forming in the river and near the island itself, while the whole appearance indicates a rapid accumulation from the immense deposits of the Delaware.' From the hydrographic report of the Coast Survey in 1861 it appears that 'since the last survey there have taken place marked changes in the eastern channel abreast of the upper part of Camden, the bar from the upper end of Windmill Island having formed almost to Cooper's Point. The shoal formerly extending far below Windmill Island appears to have been much cut away. Important additions to the wharves are being made along the Philadelphia front.'

"The second portion of the survey comprised the river between Red Bank and Billingsport, including the bar and the approaches to Fort Mifflin. Changes have been developed in this vicinity."

"The third portion of the river surveyed was between Newcastle and Reedy Point, including the Bulkhead shoal and the approaches to Fort Delaware. Part of the shoal between Delaware City and Pea Patch Island has been cut away, and important changes appear to have taken place in the island. The small marshy patches known as Goose Islands have disappeared, in one case the channel having shifted nearly two miles from its original bed, and taking place of flats, upon which there were formerly not more than two feet of water."

"Those difficulties in practice have proved so formidable that the iron-clads Sangamon, Patapsco, and Lehigh were within the past year obliged to be towed to sea from the present yard, at an expense of \$250 per day each, and were two days in getting to the mouth of the river—an expense of \$500 for the down trip of each vessel for the single item of towage alone, an item which, in the aggregate, would amount in a single year to many thousands of dollars."

Then as to the depth of water the committee say:

#### "DEPTH OF WATER.

"Of a similar nature to the foregoing is the objection on account of the inadequate depth of water. This is very obvious upon a careful examination of the soundings, as indicated by the charts prepared by the coast survey. Opposite Hog Island, and just below League Island, the channel is very narrow and shoals to a depth of but eighteen feet at its deepest point at mean low tide. No vessel drawing more than eighteen feet can pass this point without wait-

ing for a rise of tide. Near Cherry flats, and opposite Wilmington, the channel draws but nineteen and a half feet. Below Newcastle, and in the neighborhood of the Pea Patch Islands, the channel has shifted from the east to the west side of the island, and in as many as three places shoals to nineteen and a half feet. Twenty-five to thirty miles below Newcastle it again shoals to twenty-one feet. The committee regard this as an almost insuperable objection to the Delaware for a great naval station. We have already more than nineteen vessels in our Navy which draw twenty feet of water and over, and some of these are the finest and most formidable in the American Navy; among them may be mentioned the Minnesota, Roanoke, Powhatan, Niagara, Wabash, Colorado, Susquehanna, Puritan, Decatur, and Dunderburg, of the steamer class, which draw from twenty to twenty-three feet of water, while some of the ships of the line draw from twenty-three to twenty-five feet.

"We are upon the threshold of a new era in naval architecture. No one can tell what the exigencies of the coming years may call for in the size and draught of naval vessels. The boasted iron-clads of England, the Minotaur, the Agincourt, the Northumberland, and Black Warrior draw twenty-five feet six inches. The French La Gloire, Normandy, and others, nearly twenty-six feet. And these Powers are now deepening their docks and constructing new ones for the purpose of receiving vessels drawing twenty-six feet of water.

"In this connection the statement of one of the first naval constructors of the Government, Mr. Delano, of the Brooklyn yard, was laid before us: That it was indispensable, to make any naval station first class, to have a depth of at least twenty-five feet of water at low tide."

"Your committee cannot believe it consistent with a prudent regard to the future efficiency of the Navy to establish for all time the great naval yard and depot of the country at a point to which vessels of a greater draught than eighteen feet cannot get, and from which they could not get to sea except in certain stages of the tide. And the nation might find reason to regret the acceptance of the 'munificent gift' in case a fleet chased by a superior force of the enemy should be unable to reach its rendezvous in the Delaware or put to sea from thence at short notice when its presence might be necessary at any other point threatened."

Then, as to the ice, the House committee say:

"ICE.

"In addition to the objections already considered is the damage and obstruction to navigation occasioned by ice, fast and floating, in the winter season, which, according to statements submitted to the committee, is a very formidable, if not insuperable, objection to the Delaware. The evidence upon this point comes from such a variety of sources, and upon authority so reliable, that it can hardly be discredited. It is very strongly stated by the commission appointed by the Secretary. The officers of the Atlantic Insurance Company, New York, state that 'the premium on risks to Philadelphia is increased during the winter months one hundred per cent. solely in consequence of the increased damage from ice in the Delaware.' Admiral Gregory testifies to having nearly lost the frigate *Raritan* there from that cause. And proof was submitted showing that the local offices at Philadelphia excepted the ice risk in their ordinary policies, sometimes declined to take it entirely, and always charged an extra premium for assuming it. A long list of vessels was also submitted from the marine offices of Philadelphia, which had been cut through or destroyed by ice in the Delaware bay and river within the past few years. And while the committee were investigating this subject, the United States gunboat *Galena*, ordered to join Admiral Farragut's fleet, in getting to sea from Philadelphia was so badly injured by the ice that she was towed to Baltimore, where she was detained a month for repairs, which cost the Government several thousand dollars, her voyage broken up at a time when her services were greatly needed by the country. It was also shown that the Pennsylvania Railroad Company had caused a survey to be made of League Island, with a view to adopting it as their depot for coal, and that it was finally abandoned after a report of their engineer, an extract from which the committee herewith submit as of very high authority."

Before reading that extract I will take leave to say that I suppose the Senate, in determining on a locality for a navy-yard and naval depot, will be governed in their action for the country by at least as high considerations as would control them in acting for themselves in their own business, and that any standard lower than that would be beneath us as legislators. Surely we will not select a spot which a business man of sagacity and good judgment would not select for the same purpose if it were a business of his own to be accomplished. Now we have the benefit of an examination of this locality, not, it is true, for a navy-yard and naval station, but for business purposes of a commercial and mercantile character, involving precisely the same interests and the same questions that are involved when we are considering whether to fix upon this as a naval station, and that not by an individual or a company of individuals at all prejudiced against this locality or who had any interest adverse to the locality, but by a company peculiarly

desirous, as we have every reason for believing, of building up the city of Philadelphia and adding to its already great wealth and great prosperity. This was the Pennsylvania Railroad Company, who thought of using this place as a depot for their coal, and I repeat it involved almost identically the same questions for a private enterprise that are now involved in the inquiry whether we shall take this island for a public purpose. They had a survey of the island by their engineer to determine whether it was a proper site for the purpose contemplated, and I read from his report:

"I trust that it may not be considered as overstepping the limits of the question intrusted to me if a few remarks bearing upon the navigation of the river during the winter season be presented as a point of great moment in comparing the sites at League Island with the Point House, and those immediately above it.

"You will perceive that the face of League Island is subjected to the full force of the flood tide from the long reach in the river, extending southwestwardly, the effect of which has been, as represented by the statements of those most familiar with our river and its winds, currents, and bars, to pile up the drifting ice upon the entire island shore-line; and, indeed, I have before me evidence to the effect that in all times of obstruction by ice vessels can be brought with much less difficulty through the Horseshoe channel than to League Island. It may be stated that an ice guard could be constructed that would relieve the front from the driving ice of the flood tide, but the effect of such break-water would be to cause deposits within the surface affected, thus subjecting you to a continued and heavy expenditure for dredging."

This is signed by "Strickland Kneass, civil engineer." This was some time ago, and League Island is still a waste and a desolation, and unless it can be palmed off upon the Government it will never be anything other than a waste and desolation, unless indeed the locality around Philadelphia should increase with such wonderful rapidity and spread over all the surrounding surface to such an extent that as a matter of necessity this mud flat shall be elevated to make a place, such as it will make, for human beings to live upon.

I think, then, Mr. President, that I establish the second proposition which I laid down, and that is, that after this place has been prepared for a naval station, after the works have been completed at this point, it is still a most unfit and ineligible place. If these two propositions are true; first, that it will cost more money to prepare it than it will to construct and complete these works elsewhere; and second, that when completed it is a most unfit and ineligible place, ought we to take it? Both the propositions I certainly substantiate by evidence of as high authority as can be produced in the Senate.

It seems to me the authority is unquestionable, conclusive; and in that state of facts, that the proposition of accepting this island for this purpose should ever be entertained seriously is most strange.

The idea that the honorable Senator from Indiana suggests, that these public works are to be distributed over the country and are not to be confined to any one locality, is very well if you apply the principle to proper cases; but if you apply the principle to this question of navy-yards I repudiate the notion altogether. The idea that any section of the country is entitled to have a navy-yard for the benefit of the locality I look upon as a monstrous fallacy. Are we to select a site for a naval station for the benefit of a locality? The idea will not bear consideration for a moment. At all events, I scout and scorn the notion that we are to select a naval station on the ground of benefit, or of a debt due, if you please, to the locality. Let the public works of the country, that may almost as well be in one locality as another, be fairly distributed over the country. If there be any advantage in having them in particular localities, give the different sections of the country the benefit of such establishments. That is fair, just, and equal; but the idea that we are to select a naval station on any such ground as that is not to be endured. We are to select a naval station where nature has provided the best place for it; and if all our naval stations are then thrown into one corner of the

Union, if that is the best place, there they ought to be. The idea of spreading them for the benefit of localities, when the public service requires them to be elsewhere, is neither patriotic nor wise.

I know it is suggested that New England has several naval stations. If she has more than the country requires, abolish them; and if it be shown here, while I have a seat in the body, that any one of the naval stations or navy-yards in New England is not required by the wants of the Government, I will vote to abolish it. I will continue by my vote no naval station in any section of the country merely for the benefit of the section. If the country does not want it, abolish it. I am not asking, and do not ask, that this navy-yard be located in one place or in another on the ground of preference for a section or advantage to a section. If Philadelphia is the best place for all the navy-yards in the country, let them all be there. If New York is the best place, let them be there. If Washington, if Norfolk, if Brunswick, if any other locality is the best, let the selection be made, and there let it be. The amendment of the honorable Senator from Massachusetts, which is now under consideration, proposes that this be done; that the board of gentlemen named in the amendment shall make a selection of a suitable place.

I am sorry that gentlemen speak of the fact that there are no navy-yards in the middle States, or no navy-yards in the southern States, or no navy-yards in the northern States, or no navy-yards in the western States. That is not an idea which we should encourage here. The question is, in the first place, does the country want a navy-yard at all; and if it does not, no matter how many good places there may be for one, none should be built. If the country does need a navy-yard, then the question is, where is the best place. Ascertaining that, the question is answered, and it is not answered by saying that there are other sections of the country that are patriotic that have not got any navy-yards. We do not build navy-yards as a reward for patriotism, or at least we should not. We should not be called on to make a selection, on the ground of the patriotic character of the people, but because of the natural advantages of the spot, and that question is easily determined by men of skill. The other is a question which will always be very difficult of solution.

The western States have no navy-yards. There is no navy-yard in the State of the honorable Senator from Indiana, a most patriotic State, a State having done as much in this war to save the country, to perpetuate our liberty and our Constitution as any other State in it. She did nobly and gallantly, but ought we to go and build a navy-yard in Indiana on that account? The Atlantic ocean happens to lie on the coast of New England and New York and on the border down to Cape Florida, and does not wash the shores of Indiana. I suppose we must have our ships built where they can be used. The idea that we are to distribute the building of them elsewhere according to the advantage that it may be to the people is an idea which I wish to wash my hands of altogether.

Now, as it respects the best location, I by no means undertake at present to say what the best location is. I only say, that from the evidence which I think I have adduced here, it is very clear that League Island is not only not the best location, but it is wholly unfit as a location; and if there are no other or better places—no, I will not make that supposition, because it is preposterous; but I was going to say that if there are no other and no better places we had better have no navy-yard at all. But, sir, there are other and better sites. There is no question upon that subject. This very city of Washington is on a noble river. We have a navy-yard here almost within call from the roof of the Capitol, a station that, so far as fresh water is concerned, and so far as all the advantages which are claimed for League Island are concerned, greatly surpasses League Island. Some of the objections to it are of



the same character, particularly its distance from the sea; but the objections on account of ice and depth of water are much less here. There is no difficulty about this locality; it is all prepared, and a very little additional expense would make the navy-yard at Washington perfectly fit and proper for the purpose contemplated. There are many other points on the Chesapeake bay eligible, desirable, and proper for the location of a yard of this description.

Then, again, in the State of the honorable Senator from New Jersey [Mr. CATTELL] there are no doubt many excellent points, and I am sorry that that honorable Senator has his eyes so strongly fixed on Philadelphia that he cannot look behind him over his State of New Jersey and see the many attractive points in that State, far superior to League Island in all the advantages which nature holds out for the location of a navy-yard. So, again, in the waters of the Hudson unquestionably there are points greatly superior to League Island. New London, of course, from my situation, I should not be apt to forget or overlook. I may, perhaps, be greatly prejudiced in favor of New London. I may think that the advantages of that location are greater than they really are. That is quite possible. Every Senator, I presume, is conscious of feeling somewhat more interested in his own home, the locality to which he belongs, than he does in other localities. And I am by no means so weak as to suppose that my impressions in regard to that locality must necessarily be exactly correct in all respects. I only say that it is entitled to have a fair hearing, a fair examination; and if its advantages are superior, quite paramount to those of any other site, I do insist that it should not be overlooked.

The only advantage talked about which is worthy of consideration at League Island, as compared with New London, is in the matter of fresh water and in having a supply of iron and coal nearer at hand than New London. So far as fresh water is concerned, by the expenditure of a very small amount in comparison with what will be required at League Island and a cove of fresh water can be prepared a few miles above the city of New London, into which vessels can be raised by means of a lock and kept in a large basin of fresh water of one hundred or more acres, perfectly safe and in perfectly still, quiet water at all seasons of the year, and that perfectly pure and fresh. At that locality a vessel could get into the ocean in the course of an hour's time at any season of the year without obstruction and without difficulty. I have a little map in my hand, which has been prepared by a very competent engineer, showing the locality and the situation, which, if members will take the trouble to look at, they will see that by an expenditure of money greatly less than will be required at League Island perfectly pure, fresh water will be obtained, and a basin for these vessels to lie in incomparably superior to anything which is talked about at League Island. Then, in connection with this same basin of fresh water dry docks can be prepared into which vessels can readily pass by their own gravity; here they may be built and pass out in the same manner, not subjecting them to the strain which they are always subjected to when they are launched, if launched in the ordinary way. Thus great expense and great risk will be saved. All this, I say, is perfectly within reach at New London, at an expense of some money, no doubt, but greatly less than the expense to be incurred at League Island before one single stone or one timber can be laid down for the erection of the necessary structures.

I trust, then, Mr. President, having taxed the patience of the Senate longer than I had intended, that I have at least shown what I attempted to show; in the first place, that the expense of preparing League Island for a naval station and depot is altogether too great for the country to incur; and in the next place, that after the site has been prepared and the

works completed, it will not be a fit and proper place for the vessels of the United States engaged in the naval service.

The amendment of the honorable Senator from Massachusetts does not propose even any delay in this enterprise. I have thought that perhaps some gentleman might object to it on the ground that we have been discussing this subject for some time and it is necessary that action should be taken, and that this amendment looks to delay. It is not obnoxious to that objection. It looks no more to delay than the bill before us does. The bill before us looks to delay to the extent of an examination. It provides:

That the said League Island, marsh adjacent, and Back Channel, with its shores as aforesaid, shall not be received or accepted until the title to the whole of the same, as herein described, is complete and indefeasible, nor unless the acceptance thereof shall be recommended by a board of officers to be appointed by the President.

So there is to be an examination and recommendation of this site by a board of officers appointed by the President of the United States. There is nothing, therefore, in the proposition of the honorable Senator from Massachusetts which will delay action on this subject except that it may be said it will take a few days longer to examine several sites than it will to examine one site. That is all the delay there can be, and I ask whether that ought to be an objection to the amendment. If League Island is to be examined, ought not the other sites be examined also, and to have the benefit of the opinion of the board in regard to their comparative merits? Is there any conceivable objection to that? If League Island is so superior, will not the officers who are appointed say so and make a short end of the matter? Will it not be better that there should be a delay of a few days or a few weeks even and have the whole subject examined, rather than the delay necessary to have only one location examined? I submit the matter, believing it will be for the best interest of the country that this amendment should be adopted and the examination made.

Mr. GRIMES. Mr. President, a few years ago, when this subject was under consideration, I expressed at considerable length the opinions I entertain upon it, and I am aware that if I were to attempt to do so again I should simply repeat what I then said. I shall therefore content myself on this occasion with a very brief statement of the case, as I understand it.

The Senator from Connecticut commenced his address to the Senate by expressing his extreme surprise that the Committee on Naval Affairs had reported so important a measure as this without accompanying the bill with a written report. This question has been before the Senate for four or five years. I supposed there was hardly any one who was not pretty familiar with its merits, and who had not already in a great degree made up his mind on the subject. Reports have been made in the House of Representatives for and against this measure. I wish the Senator to remember that, although he read from an adverse report made by the Naval Committee of the House, yet, at a subsequent session, that committee, composed I think of seven of the same members who constituted the committee that made the report from which he has read, reported the identical bill which is now under consideration in the Senate.

But if he was surprised at the Senate Committee on Naval Affairs reporting this bill without accompanying it with a written report, after the discussions that have been had in the Senate, after we had been enlightened by the eloquence and astuteness of the Senator himself in opposition to League Island, I should think it much more remarkable that we should be called upon now to vote for the amendment proposed by the Senator from Massachusetts without any basis upon which to predicate it. What is this amendment of the Senator from Massachusetts which we are now called upon first to vote on?

That Admiral David G. Farragut, Lieutenant Gen-

eral W. T. Sherman, and Mr. J. E. Hilgard be, and they are hereby appointed and constituted a commission to select a suitable site on or adjacent to the Atlantic coast for a naval station for the storage and repair and building of iron vessels and iron-clad vessels of the Navy, and for other naval purposes. And the Secretary of the Navy is hereby authorized and empowered to accept such selected site on behalf of the United States: *Provided*, The same shall be conveyed to the United States as a free gift, for their exclusive use and benefit, by a valid and indefeasible title. And the Secretary of the Navy is hereby further authorized to take possession of and occupy such site for the purposes herein indicated, and in the preparation thereof to use such amount of money as may be necessary out of any unexpended appropriations for the Navy.

It is not for me to suggest that such a proposition as this does not evince the highest degree of statesmanship; I am not authorized to say that it is not the wisest thing we could do; but I am prepared to say that it is the most extraordinary proposition that has ever come under the consideration of the Senate since I have been a member of this body. What does it propose? First, to select three men as commissioners, only one of whom confessedly knows anything about nautical matters. Perhaps neither one of the other two has ever been within a navy-yard, or has ever read or informed himself in regard to the necessities of the naval service. These three men are to be authorized to select a site on or adjacent to the Atlantic coast, without specifying the number of acres that shall be required, but simply such a site as in their opinion may be suitable for naval purposes; and then the amendment proceeds to authorize the Secretary of the Navy to expend an unlimited amount of money in preparing for a navy-yard such a site as these men may select.

Mr. President, I do not suppose the Senator from Massachusetts will claim a patent for this as a specimen of legislation made easy. Was there ever a case where Congress submitted such extraordinary authority to two men who were not all familiar with the subject they were directed to investigate, and then gave the head of a Department unlimited control over the Treasury of the United States? And to do what? To establish, if they choose, a new yard when the public service does not require one. Who has recommended a new yard? Nobody.

Nor will I designate this proposition as a sort of fishing proposition intended to catch the votes of all the Senators from the Atlantic States, from the State of Maine down as far as the State of Georgia, or to catch votes from the interior of the continent, because of the designation of a particular man as one of the commissioners. I will not presume that the Senator from Massachusetts would be influenced by any such consideration. Of course he is governed solely by lofty ideas of patriotism; I must suggest, however, to that Senator that this is an old acquaintance of mine. This same proposition, word for word, was submitted to the Committee on Naval Affairs for their consideration, and was rejected. The Senator from Massachusetts has acquired it second-hand.

The Senator from Connecticut seemed to be extremely surprised and astonished at a pamphlet, extracts from which were read by the Senator from Indiana, and which purported to be published by a New England man. Was there anything very extraordinary in the fact that such a pamphlet was published by some anonymous person? Are not such things very usual? Has not the Senator before read pamphlets published by persons who did not choose to disclose their names? I suppose the material question would be whether or not the truth was contained in the pamphlet. When my colleague upon the Committee of Naval Affairs, the Senator from Indiana, asked the Senator from Connecticut whether he doubted or denied the statements of fact contained in the pamphlet, the Senator from Connecticut acknowledged that he did not. It cannot be possible that the Senator from Connecticut was surprised that a New England man should extend his vision beyond the boundaries of New England, and see what were the qualities and the capacities of a tract of land within the jurisdiction of the State of Pennsylvania for naval purposes.

He also expressed his surprise at the pertinacity of the Secretary of the Navy in insisting that we should make this acquisition of League Island. I do not know that there is anything very extraordinary in that. It may be, and I rather think it is, that pertinacity is an element of Connecticut character, and especially am I inclined to think so when I remember that New London has been pertinaciously attempting to secure a navy-yard for sixty-five years. She made an effort to secure it in 1802, but her claims were rejected. In 1817 a board of eminent naval and military engineer officers were appointed to examine that site, and they reported against it. But the maggot has never been got out of her brain, and she has been insisting upon securing a naval depot and navy-yard at New London ever since that time. But if the Senator really wants to know why the Navy Department has been so pertinacious in regard to this matter I will tell him. It is the judgment of the Secretary of the Navy, based upon the opinions of the most skillful men, as he thinks, connected with the Navy, that the public interests require that this acquisition should be made. He believes, and I believe, that there is a vast loss every year to the Government of the United States because we have not acquired and occupied this territory for the purposes for which we now propose to obtain it. He believes that it is the most proper place in the country to deposit our iron naval vessels in time of peace; and this opinion is based upon the report of a board of officers familiar with our whole Atlantic coast.

The Senator read to us from a report of a board of naval officers appointed to investigate the adaptability of League Island and of New London for naval purposes, and I think the Senate will bear me out in the statement that from what he said no one would judge that there was any diversity of opinion in that commission on that subject. I think the Senator did not refer to the minority report or indicate that there was a minority report upon the subject; he invariably spoke of the commission as an entirety, giving their judgment against League Island. Now, sir, it is due to truth to say that there was a minority as well as a majority report. Basing my own opinion upon the two reports and the facts embodied in them, I have no hesitation in saying that the strongest arguments are in the minority report, written by that eminent man, Professor Baché, and against the majority report. That commission consisted of the present Admiral Stringham, Commodore Gardner, Captain Van Brunt, Mr. Sanger, Professor Baché, and Commodore Marston. Four of them were in favor of New London as against League Island; Professor Baché and Commodore Marston were opposed to New London and in favor of League Island.

When the report came to the Navy Department the arguments of the majority and minority were canvassed by the Secretary of the Navy and by naval officers who were called upon to assist him in forming a correct conclusion on the subject. He believed that the weight of the argument was with the minority; and hence he has insisted all the time up to the present moment that the public interests required that League Island should be secured rather than any other spot. In other words, he has stood to his original position, that we do not need another navy-yard; and I have yet failed to see a single naval officer of respectability who does insist or claim that we need another navy-yard. The great trouble with us is that we have too many navy-yards, and that those we have are too small. I told the Senate yesterday how they were originally selected. We have been enlarging them by adding to them from time to time, at immense expense, by the purchase of adjacent property, because we did not lay them out originally upon tracts sufficiently extensive to meet the demands of the country as the Navy increased and the commercial interests of the country increased.

Now, Mr. President, perhaps I have a little

advantage over the Senator from Connecticut in this matter. I did not commit myself in favor of League Island until I had made personal inspection of it. I have made several personal inspections, and I am free to say that upon no subject have I ever heard so many falsehoods uttered in my life as I have on the subject of League Island. I have heard persons tell me and people around me that a man could stand upon the soil of League Island and shake it like a strong man standing on a bog, and yet I have myself seen oak trees growing on the island as large as I ever saw grow anywhere. The truth is that League Island is a common low interval land, which probably has been formed in the course of the last six or seven hundred years by the confluence of the waters of the Schuylkill and the Delaware. I have a map of it before me. At low water it is three or four feet above the water, and at the extreme tide, which rises once or twice a year, perhaps if there were no embankments on the outside it would overflow. It is precisely like the land you find along all the streams where there is tidal water in any of the northern States. The soil is firm, and according to the report of Professor Baché, and I think everybody admits he is a skillful engineer, having been educated as such and devoted himself to that profession in the Army before he was placed at the head of the Coast Survey—it admits of as good constructions being raised upon it as the ground of any navy-yard we have, unless it be at Kittery and at Mare Island, where we have stone; and for some purposes, as for instance for the construction of works for the fabrication of arms and working with trip-hammers, it is infinitely better.

Now, it is proposed to secure this whole area and the banks on the outside of this channel, embracing some six hundred acres. The Senator from Connecticut has read to us a statement to the effect that it is going to cost more than a million of dollars to fill up this island. Sir, we do not propose to fill it all up at once. We only propose to fill it up as we go along, as we wish to extend the works, and I assert that it will be to our advantage that that ground is low instead of being high. What do we want of a navy-yard? What are the necessities of navy-yards at this time? Let me read to you an extract from the London News of last month, showing what Great Britain is doing in regard to navy-yards, and what we shall be compelled to do if we intend to occupy a first-class position as a naval power. I read from the "naval and military" column of the London News:

"CHATHAM, January 17, 1867.

"THE ENLARGEMENT OF CHATHAM DOCK-YARD.—This morning, Mr. Gabrielle, whose tender for the construction of the works for the enlargement of this dockyard, by the formation of the new basins, docks, factories, and other buildings, arrived at the dockyard, in order to make the necessary arrangements for the commencement of the works forthwith. The designs for the enlargement of the yard will necessitate the taking in of three hundred and eighty acres of the land adjoining the present establishment, by which the entire area of the dock-yard will be enlarged to nearly five hundred acres. Of this, seventy-four acres will be deep water space, consisting of three basins constructed on the natural line of creek, a branch of the Medway, which separates St. Mary's Island from the main land."

There is precisely such a position as we have at League Island, where we can excavate the back channel and make a basin of seventy acres for the deposit of your vessels in perfect safety.

"Of the three basins intended to be constructed, the largest will be the fitting-out basin, which will have a water area of thirty-three acres with a depth of thirty feet, and a wharfage frontage of five thousand eight hundred feet. The repairing basin will cover an area of twenty-one acres, and the factory basin with which it is connected an area of twenty acres each, with about four thousand feet of frontage. Connected with the repairing basin, which will open into the Medway nearly opposite Upnor Castle, will be four spacious docks, each four hundred and twenty feet in length, with a depth of water of twenty-eight feet six inches over the sill at high-water neaps. Adjoining the factory basin, which communicates with the other two, will be an extensive range of buildings covering an area of nearly twenty acres, and including steam-factories, smiths' shops, stores, fittings shops, and other establishments. The estimated outlay for the entire

undertaking is one million and a half sterling, which will probably be increased to two millions when the whole of the proposed works are completed. The works connected with the construction of the repairing and fitting basins will be first proceeded with."

That is a very immense work, and it is going to cost a very large sum of money. The time will come, and it is not very far distant, when we shall have to make preparations for establishing just as extensive navy-yards as they have in Great Britain. We made the preparation last winter in regard to our navy-yard at Kittery, in the State of Maine. We have secured a valuable island there, which, in the course of five or ten years, will be covered with constructions necessary to promote the naval interest. We now propose to secure this island in the Delaware and move the present navy-yard that is in the heart of the city of Philadelphia to it, and then to enlarge and extend it as the necessities of the service require. I say that it is to our advantage that the ground is low. Need I undertake to illustrate that and to prove it before the members of the Senate? I am borne out by the engineers who have examined it when I say that the earth which will be taken from the excavations for the basins will be amply sufficient to elevate the adjacent ground to the necessary height; and, as your engineers will tell you, the nearer you have your dumping ground to the place you are excavating the greater is the saving to you in the expense of excavation; whereas when you take your navy-yard to some other place where you have a granite or a hard pan formation the expense of preparing the grounds for basins will be immense.

But it is said that the soil on League Island is not adapted to naval constructions. Let Professor Baché and Commodore Marston answer this objection:

"7. *Adaptation of the site to the construction of permanent stone dry-docks, wet basins, piers, wharves, rolling-mills, forge shops, and other heavy works.*

"Either site is adapted to the construction of permanent stone docks, wet basins, piers, wharves, rolling-mills, forge shops, furnaces, and other heavy works.

"The foundations of heavy works at League Island must be piled; those at Winthrop's Point be cut from a high gravel hill, forty, sixty, or one hundred feet high, according to distance, with a hard gravel or a rocky basis. At the back of League Island is an arm of the river of two hundred feet in width in the average, and which not only contributes to the defense of the navy-yard site, but will serve for the provision of wharves for small docks, for depots of timber and other materials, giving thus a large additional front if needed. This passage may be readily defended if it is desirable to deepen it.

"League Island has all the advantages of an insular situation from this passage, without the disadvantages to which an island at a considerable distance from the main is exposed.

"While marshes have formed below the island, the channel ways have deepened, and the improvements proposed to be made at League Island, if conforming to correct principles of hydraulic engineering, will still further increase the depth of the river channels.

"League Island will probably be filled up in part, ample materials for which are found in the gravel of Red Bank, or of the main near the gas-works, or in the refuse of the city foundries and iron-works, and for the removal of which the owners of these establishments now pay, which can be brought by water to the island, and above all the ashes, slag, and other products of the forges, foundries, and furnaces, which also would be an expense to remove, and which will in time afford materials for the extension of the island over the present flats.

"Works producing one hundred and twenty to one hundred and fifty tons of iron per day furnish a vast amount of slag and other matters which accumulate in immense piles, as we have seen at the iron-works on the Schuylkill and Lehigh.

"Winthrop's Point must be cut down through hard diluvial gravel, and probably in part through rock. Should hard pan be met it will be even more difficult to remove than rocks.

"The subsoil of League Island is favorable for the driving of piles, a bed of diluvial gravel underlying the 'alluvial clay' at depths on the average of thirty-seven feet. In one spot upon the old island the borings of the commission reached gravel at twenty-five feet, and were carried on seven feet further with difficulty, reaching a stony bed at that depth. In the softest boring on the new part of the island the gravel was reached at fifty-six feet. These are all admissible depths for piling.

"The slag, ashes, and other refuse matters of furnaces and forges, which are now carried away from establishments near the wharves of the city of Philadelphia, could be transported by water cheaply to League Island if needed for filling in. We have ascertained that four private establishments at Philadelphia, with rolling and puddling furnaces, produce some four hundred and fifteen cubic yards of wastage per week."

Again, they say:

"5. Either site is adapted to the construction of docks and other appurtenances of a navy yard."

I suppose, Mr. President, that almost every member of the Senate has read this report of Professor Baché; and if so, I am perfectly willing to leave all the matters involved, so far as they are discussed at all by any members of the board, to the consideration of the body.

The Senator from Connecticut has read very copiously from the report of the Committee on Naval Affairs of the House of Representatives in 1864. It should be borne in mind, however, that that committee, at a subsequent session, reversed its action, and reported the bill now under consideration, when there was only a change of two members, I think, upon the committee. I think I am justified in saying that the report from which the Senator read was written by a citizen of New London, the place that sets itself up as a rival to League Island. I do not know that that should detract at all from the merit of the report or from the consideration that the Senate ought to give it; nor do I know that the fact which is alleged by some, though not here, that Professor Baché was born in the city of Philadelphia and lived there till he was sixteen years old, should detract from the consideration we ought to give to his report. On the other hand, the gentleman who was associated with him, Captain Marston, was a native and is recorded on the naval register as a citizen of the State of Massachusetts. Nor would I say that because Commodore Stringham is a citizen of New York—and New York seems to be arrayed against this proposition on account of her rivalry to Philadelphia—that fact should lessen the influence or the weight which his report ought to have upon the minds of the members of this body. These are considerations which, I trust, will not be entertained by any one. The question is, what are the facts as submitted by these two reports? I say that the weight of evidence, the strength of the argument is with the minority report, although numerically the strength is with the majority. My opponents say otherwise. Let the Senate decide.

The Senator has talked to us about the health of League Island. He told us that the evidence is very strong that the health of League Island is bad. I have heard no such evidence. There was a man who appeared before the Committee on Naval Affairs who told us that it was bad; and he told us some people had told him so. He was a citizen of New London. He did not live and never had lived in Philadelphia, or in that neighborhood. I know of no evidence, I have seen no evidence, the gentlemen representing New London and adverse to League Island have never adduced any evidence before the committee or before me individually, to show that League Island was unhealthy. I think the Senator from New Jersey [Mr. CATTELL] can give a sufficiently satisfactory reason to the Senate why it is that Philadelphia has grown north rather than toward League Island. He at any rate convinced me on the subject, and that it did not spring from the unhealthiness of the lower part of the city.

But it is said that the distance is too great from the sea, and the Senator undertook to illustrate that to us by giving a very graphic and eloquent account of the encounter between the Merrimac and the Monitor. I failed to observe the appropriateness of the illustration, although I admit that it was very elegantly said. It seems to me that it would have been as difficult to get the Monitor from New London to Fortress Monroe to attack the Merrimac as it was from Philadelphia.

It is said that the channel is tortuous and that vessels-of-war could not go to Philadelphia and return. I assert that we have not got a vessel-of-war and have never had a vessel-of-war that could not go without difficulty to Philadelphia and return at her leisure, provided she came with a high tide, which is the case in New York and Boston as well as Philadelphia.

Mr. President, other Governments have come to the conclusion that it is to their interest to seek insular positions for their navy-yards; and that is the great effort to-day of the British and French Governments. It was proposed two or three years ago to break up the Portsmouth navy-yard in England and locate it somewhere else because of its apparent indefensibility; but now they have determined to go on and expend some £20,000,000 in attempting to still further fortify it. This is urged by the most experienced and capable officers as an argument in favor of having a large establishment for workshops and so on at Philadelphia. But the Senator from Connecticut and his friends do not exactly see it in that light. I confess I do not agree with them. I think that Philadelphia should receive a greater consideration than she otherwise would from the fact that she is incapable of being attacked.

The Senator told us that the river was frequently obstructed by ice. The minority of the naval commission appointed to investigate this subject reported that once in forty years up to that time it had been so obstructed by ice as to prevent the navigation of the river and not oftener. I do not know that the Senator has any stronger testimony than that. I agree that the river above League Island, at what is known as the Horse Shoe, is occasionally obstructed by ice, and has been for a considerable time this year; but that is between the city of Philadelphia and League Island. I have seen gentlemen here this winter whose vessels have gone up as far as the Horse Shoe, and then been compelled to fall back and anchor abreast of League Island, and some have dropped down as far as Chester, but they had no difficulty in getting up as far as League Island. But, sir, the same argument applies to the Brooklyn navy-yard, to the Boston navy-yard, and to the Washington navy-yard as well as to the Philadelphia navy-yard. I undertake to say that there have not been five consecutive days in twenty-five years when a vessel-of-war could not without difficulty pass to and from League Island to the sea on account of any obstruction of the ice that might be in the river.

Now, Mr. President, let us look at the bill that we propose and compare it with the amendment proposed by the Senator from Massachusetts:

That the Secretary of the Navy be, and is hereby, authorized to receive and accept from the city authorities of the city of Philadelphia the title to League Island, in the Delaware river, and adjacent marsh land, including the whole of the creek known as the Back Channel, from the Schuylkill to the Delaware river, and all the riparian rights and privileges of said League Island, adjacent marsh, and Back Channel, together with so much of the opposite shore of the Back Channel from the Secretary of the Navy, as shall, in the opinion of the Government to have the sole and exclusive use of said Back Channel and both shores thereof; the said island and appurtenances to be held for naval purposes by the Government of the United States: *Provided*, That the said League Island, marsh adjacent, and Back Channel, with its shores as aforesaid, shall not be received or accepted until the title to the whole of the same, as herein described, is complete and indefeasible, nor unless the acceptance thereof shall be recommended by a board of officers to be appointed by the President.

Nothing can be done under this bill until a commission composed of naval officers shall report in favor of it.

Mr. FESSENDEN. Is not that the amendment?

Mr. GRIMES. No, sir, in the original bill. If gentlemen are not disposed to intrust this power to the President of the United States to select these naval officers I am perfectly content that competent men qualified to act in such a capacity as this shall be designated in the bill. I do not want to throw away the money of my constituents in a maelstrom where a vast amount of money will be expended without any good being accomplished by it. I do not want to break up the present navy-yard in Philadelphia. I believe that the public interests require that that navy-yard shall be extended. If a board of naval officers, to be appointed by us or by the President, shall report to us that League Island is not the

proper place for it, but that it had better be enlarged where it is by the expenditure of a vast amount of money in purchasing up the business property adjacent to it, I want to do it. But I do not want to send a roving commission all along up and down the country to try and find another navy-yard, and make the action of that committee final upon us, and then, when they have made a selection, authorize the Secretary of the Navy to put his hand into the Treasury of the United States and draw out money to an unlimited extent.

Mr. DIXON. This bill is final.

Mr. GRIMES. No, sir, not until a board shall have investigated it, and then it does not confer upon the Secretary the power to expend a dollar of money.

Mr. DIXON. The report is final.

Mr. GRIMES. The first check we have upon it is, that this board of naval officers must report in favor of it; second, when that report has been made it does not compel us to expend a cent; we shall have simply acquired the property. If we afterward conclude that we ought not to expend any money there, that the public interest will not be subserved by removing the present yard to this particular site, we have only got to say so and fail to make the appropriation. We are committed to nothing. We simply acquire the title to the land.

Mr. CATTELL. I am perfectly aware, Mr. President, that the anxiety of the Senate to dispose of this question will scarcely admit of their listening with any degree of patience to a further discussion of the subject; and in fact the very able manner in which the case has been presented by the gentleman from Indiana, [Mr. HENDRICKS], who has charge of this bill, and the explicit statements of the gentleman from Iowa, [Mr. GRIMES], chairman of the Committee on Naval Affairs, render it hardly necessary that I should occupy the time of the Senate to any very great extent. But, sir, of all the questions that have been presented to the Senate, this is the one with which I think I am most familiar. I have known this locality, League Island, from my boyhood up. I have been upon it many times. I am familiar with all the facts relating to the examinations which have taken place as to its adaptability as a location for a naval station; and I am prepared to stand here in my place as a Senator of the United States and to assert that in my opinion the declaration which has been made by the Assistant Secretary of the Navy, that the map of the world does not present so desirable a location for the establishment of a naval station, especially in reference to iron-clads as League Island, is true.

Mr. President, it is not a little remarkable that the only opposition that has been made against the establishment of this naval station, against the removal, as proposed by this bill, of the Philadelphia navy-yard from its present cramped position nearly in the heart of the city of Philadelphia, surrounded on all sides by buildings, endangered by fire, and totally inadequate to the wants of the naval service, to League Island, and against the acceptance as a free gift of this magnificent situation for a naval station, has come to us from the State of Connecticut. I have never heard of a remonstrance, I have never listened to an argument, I have never read a pamphlet on the subject that has not proceeded from this source.

Mr. FOSTER. If the honorable Senator will allow me, I can point him to various other sources. The New York Chamber of Commerce sent resolutions here—I did not take the trouble to read them, but resolutions of a very decided and pointed character. The merchants of New York sent a memorial here, a memorial planned I believe by Captain Nye, Captain Marshall, and several other gentlemen of the very highest reputation as ship-masters and commercial men of the city of New York and signed by a very large portion of the merchants and ship-owners of the city of New York. I think I could name many others to the gentleman.



Mr. CATTELL. I will inquire of the gentleman if those papers were sent to this session of Congress or not? I have not heard of them. Probably they were sent here at the last session.

Mr. FOSTER. They were not sent here at this session. The Senator undoubtedly has not heard of them; but I should consider it a very unsafe rule to assert that a thing never occurred because I did not hear of it.

Mr. CATTELL. I simply said so far as my own knowledge was concerned.

Mr. FOSTER. I understood the Senator to say that the opposition came solely from Connecticut.

Mr. CATTELL. So far as this session of Congress is concerned, speaking of the Senate, I have heard no remonstrance presented. None has been read in my hearing I am sure, or it would not have escaped my attention; and therefore I stated what I believed to be the fact so far as I was advised.

Mr. FOSTER. There has been none from Connecticut at this session; not one.

Mr. CATTELL. I will inquire of the gentleman whether the pamphlet which has been laid upon the desk of each Senator, entitled "Memorial of John R. Bolles and others remonstrating against the acceptance of League Island as a naval station," is not a pamphlet from Connecticut, and whether the gentleman whose names are attached to it are not residents of Connecticut?

Mr. FOSTER. They are not.

Mr. GRIMES. I am tolerably familiar with this subject, and I assert that the statement of the Senator from New Jersey is substantially correct; that all the opposition that has been made to the acceptance of League Island has come from Connecticut—not directly, but through the instrumentality of gentlemen doing business in New York, but residing in Connecticut, many of whom are known to me.

Mr. CATTELL. Now, Mr. President, while I am on this subject, having alluded to the paper which has been laid on my desk, and I presume on the desk of every Senator, signed by John R. Bolles, Robert H. McCurdy, William A. Haines, Thomas W. Williams, B. B. Thurston, W. H. W. Campbell, and George B. Lincoln, I desire to say that it contains some statements which are manifestly incorrect. I propose to call the attention of the Senate to a single one, and not to detain them by a detailed examination of the memorial. If I can show to Senators that there is one entire misrepresentation on this subject, it will enable them to judge of the value of the communication. On page 11 of this pamphlet will be found the following:

"By the proposition to remove the present navy-yard from Philadelphia to League Island is meant the establishment there of the great iron-clad navy-yard of the country. So all the recommendations of the Secretary of the Navy, the legislation of Congress on the subject, and all the reports clearly show that that locality is entirely unfitted for the purpose."

Here is a declaration in this pamphlet that all the recommendations of the Secretary of the Navy show that this locality is entirely unfitted for the purpose, when the fact is that in four successive annual reports the Secretary of the Navy has urgently presented this subject to Congress, and, in the language of the gentleman from Connecticut himself, has "pertinaciously" insisted that League Island should be accepted as the proper place for a naval station for iron-clads.

Mr. FOSTER. If the honorable Senator will pardon me, I wish to state that the paragraph which he has read was pointed out to me by the proof-reader. It is a mistake in the punctuation and printing. I will read it as it should be pointed, and will correct the mistake. As it stands it is a mistake, as the honorable Senator suggests. It should read thus:

"So all the recommendations of the Secretary of the Navy, the legislation of Congress on the subject, and all the reports clearly show."

There there should be a full stop. The next word should begin with a capital:

"That that locality is entirely unfitted for the purpose we believe, among others, for the following reasons."

That should be the punctuation without adding a word or putting a word in. It is simply a mistake of the proof-reader, or of the printer and not corrected by the proof-reader. It was pointed out to me, and I should have corrected it before if I had supposed any Senator did not see it.

Mr. CATTELL. Mr. President, there are other statements contained in this pamphlet and in similar documents on this subject upon which I should like to dwell, but it would be altogether too tedious for me to detain the Senate by an examination of them. The proposition now before the Senate is a very simple one. The navy-yard in the city of Philadelphia has been presented year after year by the Secretary of the Navy as insufficient for the purposes of a naval station at that point. In 1862, when the requirements of the naval service were more fully shown by the breaking out of the rebellion, the attention of the Secretary of the Navy was called to this subject, and of his own accord, without any intimation from Philadelphia or Philadelphians; he examined the fresh-water tributaries of the Atlantic in order to discover the most available situation for the establishment of a naval station for iron-clads. He selected League Island. The very first knowledge that Philadelphians had on the subject was from an application made by the Secretary of the Navy to the mayor of Philadelphia asking his intervention in procuring League Island for this purpose without having to pay for it an exorbitant price. The mayor of Philadelphia sent a communication to the councils on the subject, and when the councils discovered that it was the wish of the Government to acquire League Island, and when they recognized that the removal of the navy-yard from its present position would be a very decided advantage to Philadelphia, as I propose directly to show you, they passed a resolution offering as a free gift to the Government of the United States the very location which the Department had selected above all others as the most desirable—not one which had been pressed upon them by Philadelphia or Philadelphians, but a location which they themselves had selected after a thorough examination by Chief Engineer Wood and Assistant Secretary Fox. The city of Philadelphia, anxious to do a great thing for the Government, anxious to secure this station in part, of course, for the advantage of Philadelphia, and anxious more than all other things to remove the present navy-yard, as it stands across the line of their southern wharf front, in order to have that extension southward which they have been driven to seek northward, purchased, or agreed to purchase, this island at a cost of \$300,000, and offer it as a free gift to the Government of the United States.

Mr. President, I do not for a moment pretend to say that this site should be accepted if it is not entirely suitable for the purpose; nay more, if it is not the very best spot along the Atlantic sea-board, I think it ought not to be selected. No one has appeared here claiming that because Philadelphia is a patriotic city she comes asking the Congress of the United States to grant her this naval station as a boon. There have been no such representations made to the Congress of the United States, and I sincerely trust there will be none. Philadelphia has too much pride of character to ask the national Government to do a thing contrary to its interests as a boon to her. During the whole of this conflict she has been loyal, faithful, and true to the country; but she does not come here asking that you shall do anything for her as a boon. On the contrary, she comes tendering to you the very best location which can be found on the Atlantic sea-board for a naval station. She does not ask you to pay an exorbitant price for it; she offers it to the Government as a free gift, and simply asks your acceptance of it.

Will any gentleman on this floor tell me what evil is to come from the passage of this bill? It does not appropriate a single dollar; it does not arrange for a single procedure in regard to League Island, except simply the acceptance

of it by the Government of the United States as a gift. It does not appropriate even as much as will pay for the stamps which will be necessary to go upon the deed. It proposes that if a commission to be appointed on this subject shall approve of League Island, and shall report in its favor to the Secretary of the Navy, we will consent to receive from the city of Philadelphia a deed for this magnificent tract of six hundred acres of ground, and that then Congress in its wisdom shall do whatever it thinks best in the way of its improvement. It will be perfectly within the province of Congress, if the scientific men to be appointed shall report against it, to fail to make an appropriation to establish a naval station thereon. But I apprehend that when the merits of this location shall have been fairly understood by the Congress of the United States there will be no question on the subject.

It was a part of my purpose to read to you from the books which lie before me some testimony on this subject from very high officials, but I am sure that I should only weary the Senate by so doing. I am driven, therefore, by my own convictions of duty to the Senate to refrain from doing that, and shall content myself with a few simple statements.

The Secretary of the Navy, in his last four annual reports, has, in language as strong as he could command, urged upon the Congress of the United States the acceptance of League Island. In his report at the first session of the present Congress he states that work in our navy-yards has been very much retarded for want of room, and that especially in regard to the yard at Philadelphia this fact was true. And again in his report of this year he strongly urges upon the Congress of the United States the acceptance of League Island and the removal of the present yard from Philadelphia to the island. In addition to this, it has been examined by the Naval Committees of both Houses of Congress for several successive sessions. The Naval Committee of the House of Representatives visited the island during the last session of Congress, and I had the honor to accompany them on that visit. They returned from that visit in the very depth of winter, on the 16th or 17th of February, 1866, and reported in favor of the acceptance of League Island. The bill was presented to the House of Representatives, and it passed that body. It came to the Senate and was referred to the Committee on Naval Affairs. It was reported back favorably. At the request of the enemies of the bill during the present session it was taken from the table and re-committed. The gentlemen opposed to the acceptance of League Island appeared day after day before the committee and argued their case; and it was finally reported back again to the Senate with the recommendation of the committee that the bill do pass.

I trust that in the discussion of this question the point will be kept steadily in view that neither the Secretary of the Navy nor the Congress of the United States, at any time during the consideration of this subject, have proposed the establishment of another navy-yard. The wants of the naval service require a more extensive yard than any we now have; but all the recommendations of the Secretary of the Navy, and all the recommendations of the Naval Committees of both Houses of Congress have looked in the direction of removing the Philadelphia navy-yard to a location which will afford sufficient room to accomplish the purpose desired by the Secretary of the Navy. I suppose there would be no doubt as to the acceptance of League Island for these purposes were it not that objections have been made to it by those who are interested in carrying this proposed naval station to a different location.

I propose briefly to consider the objections which have been urged against League Island, and to endeavor by the statements and documents in my possession to show that they have no foundation in fact.

The distinguished chairman of the committee

on Naval Affairs has alluded to the fact that in this discussion great weight has been attempted to be given to the fact that a scientific commission appointed by the Navy Department have reported against League Island. In answer to that objection, I have simply to say that that commission were divided on the question as between New London and League Island in reference to a general navy-yard; but I submit that the entire commission admitted in their report, and I call the attention of the gentleman from Connecticut to the fact, and I propose to read from their report in support of my assertion that, so far as League Island was concerned as a naval station for iron-clads, the entire commission agree that it possesses advantages over New London. I propose to read to you now, Mr. President, from the report of the majority of the commission as to the quality of water near the site, whether fresh or salt, and its probable effect upon the bottoms of iron vessels when laid up for a length of time:

"The water of New London is salt, which is undoubtedly injurious to the bottoms of iron vessels; fresh water for laying up such vessels, when not wanted for active service, can be found a few miles higher up the river. Still this separation of the vessels from the immediate supervision of the officers of the yard would be inconvenient, and attended with additional cost in the necessary precautions for their protection and safe-keeping. This objection could be obviated by providing means for taking such vessels out of the water when not required for immediate service.

At League Island the water is fresh, and in this respect the board is of the opinion that the advantage is with League Island, so far as iron vessels are concerned."

The minority of the commission use still stronger language on this subject. They say:

"The water is perfectly fresh at League Island at all periods of the tide, and under all its variations and those of the winds. The site is therefore vastly superior to that at Winthrop's Point, where the water is salt at all times, especially for iron vessels. The bottom of an iron vessel fouled by a sea voyage would be cleaned, and perhaps the grass be killed, by remaining at League Island anchorage. The fresh water at League Island has little or no effect upon the iron of a vessel, while the salt water of Winthrop's Point corrodes the material more or less rapidly even when coated, and the coating itself is an expensive operation.

The spray from salt water in storms is very injurious to machinery near the sea-shore, and to this the works at New London would be exposed, while those at League Island would not."

The entire commission agree upon this point, that if the question was simply one of establishing a naval station for iron vessels, the fresh water (which is an indispensable requisite) at League Island would give it a decided superiority over New London.

The principal objection, however, which has been made to League Island is the bold assertion that it is a "mud flat;" that it is unfitted for a naval station on account of the want of proper foundations for the structures necessary to be erected; that it is a marsh; and the gentleman from Connecticut intimated that some of these days we might find it floating down toward Cape May. Sir, I said at the commencement of my remarks that I had been familiar from my boyhood with this island; and I have now to state here, in the presence of the Senate of the United States, that for the last forty years about two hundred and eighty acres of this island have been under cultivation; that at any period of the summer at which you will go there you will find fields of grass, fields of corn, fields of all the cereal productions growing upon this "mud flat," as it has been called by the gentleman from Connecticut. More than that, sir, upon this very island there are now growing oaks eighteen feet in circumference, which I have seen with my own eyes and which I have measured for myself.

Then, sir, as regards the lowness of League Island, the desk at which I sit in my office overlooks the Delaware river, and during the past twenty years I have seen some very heavy freshets upon that river, some of which have submerged almost the entire wharf-front of Philadelphia; and yet during the whole of those twenty years there has never been a single instance in which the water has risen

so high as to cover League Island. Not a single freshet that has occurred within the last forty years, since the embankment has been made around the island, has been of sufficient magnitude to submerge League Island.

There are on League Island seven or eight houses; all, or nearly all of them have cellars that are perfectly dry. There are growing upon this "mud flat," as it has been called, oaks and buttonwoods and maples of immense size. There are upon it stumps, the rings upon which have been counted by gentlemen, showing them to be three hundred years old. More than that, in order to show the utter fallacy of this argument, I beg to say that I have in my possession a paper which clearly shows that League Island was once a part of the main land; and I state here now, that the geological formation of League Island is precisely the same as that of the adjoining main land; that it is precisely the same as that of the river front in the city of Philadelphia; that it is precisely the same formation as that upon which a portion of the present navy-yard and its heavy structures stand; that it is precisely the same soil as that upon which the Pennsylvania Railroad Company have recently erected an enormous elevator capable of containing from eight hundred thousand to one million bushels of grain, and that all these structures have been made with only the ordinary care of laying foundations which is adopted in all localities where you do not build upon the solid rock.

I hold in my hand a statement—and I vouch for its accuracy—by Mr. W. C. Bridges, taken from the records, which proves that when the deed was made for the island, February 10, 1784, it was shown to be a part of the main land, and that the Back Channel of which so much has already been said has probably been worn within the last hundred years by the currents produced by the confluence of the two rivers, the Delaware and the Schuylkill, running back of this island. I will read this statement to the Senate:

"The first deed of conveyance from the Pennsylvania Land Company was to Thomas Brown, dated February 10, 1784, of 'all that tract of land situate within the county of Philadelphia, in the Province of Pennsylvania,' describing the same as 'containing two hundred and sixty-two acres, be the same more or less, bounded southward by the river Delaware, westward partly by the said river, and partly by the mouth of Hollander's creek; northward by a certain inlet, and northeastward by a sand bar and flats which join it to the said Greenwich Lands.'

"It will thus be seen that League Island was part of the main land in 1784.

I have the original deposition of Richard Renshaw, dated January 9, 1784, wherein he affirms that he has walked at low water from the main land at Greenwich to League Island, and the bar connecting them was some six inches above the surface of the river.

Mr. McClure, in his report to the city councils of Philadelphia, in his survey of a section of the Delaware river, states the fact that the narrow channel between League Island and the Pennsylvania shore was shoaling constantly at the upper end, and that he has seen it at very low water entirely bare. McClure also states in his report that the depth of water, at low water, opposite the Buttermilk tavern toward the Jersey shore, was as much as twenty-nine feet, and opposite the south end of League Island as much as thirty-seven feet.

Commodore Stewart in a letter to Charles Wharton, dated January 7, 1837, says: 'The piers and wharves that may be erected at League Island will constitute a valuable acquisition to that part of the Delaware for securing our commerce from ice in winter and for accommodating any vessels with a good harbor in all violent northerly and easterly gales, which the present wharf-front of the city does not afford.'

These statements, made nearly a century ago, show conclusively that League Island was once part of the main land. This is further proven by the fact that its geological formation, as shown by the borings made by an officer appointed at the request of the Navy Department, by Professor Baché, is precisely the same as that of the adjoining main land, precisely the same as that along the entire line of the southerly river-front of Philadelphia.

In order that this point may be cleared up as we go along, I beg to call the attention of the Senate to the fact that as there was a dispute in regard to the sufficiency of the foundations of League Island, while this question was receiving the attention of Congress, at the request of the Naval Committee of the Senate

and House of Representatives, Professor Baché detailed one of his assistants in the Coast Survey service to make borings on the island in various parts and to report the facts to him. I hold in my hand the report of Mr. George Davidson, who was the officer selected to do this work. I shall not detain the Senate by reading his report in detail, though it is exceedingly interesting. I will quote a few extracts therefrom, giving you simply the conclusions at which he arrives. He says:

"There are growing upon the island within the embankment eight fine oaks, five maples, eight ash, and sixteen button-balls, with possibly one or two hundred large willows. I made measurements of some of the trees, taken indiscriminately, with the following results: circumference of oaks, four feet above the ground, 124, 134, 134, 16, 184, 134, 13 feet; circumference of ash, four feet above the ground, 104, 94, 10 feet; circumference of button-balls, four feet above the ground, 84, 44, 74-5, 104-5 feet; circumference of maple, four feet above the ground, 112 feet.

With these facts before us, that there are now growing on this island trees of this magnitude, oaks eighteen feet in circumference, shown by an examination to be two hundred years old, that there are erected upon it seven or eight buildings with cellars, all of which are perfectly dry, eighteen or twenty barns and other out-houses for the protection of the cattle and the accommodation of the crops raised upon the island, is it to be imagined that we shall wake up one of these mornings and find this "mud flat" floating down toward Cape May? We have been very familiar with it in Philadelphia for many years. It has been a spot where some of us have been accustomed on summer afternoons to spend a few hours, enjoying the refreshing breezes which come from the Delaware; and we shall sadly miss it if, one of these days, in our ride out Broad street we shall find that this island has started afloat, and that it is somewhere between Philadelphia and Cape May.

Mr. President, it is just such attacks as these upon League Island that have created all this difficulty. It is these extravagant statements in regard to it that have caused all the trouble. There is something on this subject behind, which I cannot understand. There must be something of interested motives in the gentlemen who year after year stand at the door of Congress and oppose the acceptance of League Island as a naval station.

But, sir, what further does Mr. Davidson say on this subject? Recollect I am reading to you now from a report of an officer appointed by Professor Baché, at the request of the Department, to examine and officially report on this subject. He says:

"I cut into one of the oaks to determine approximately its age by the rings, and estimated it one hundred and sixty-two years old. At the same rate of growth the largest oak would be one hundred and ninety-two years."

Sir, this island has been anchored in its present position for a great while; and it will be remarkably strange if, after having been anchored long enough to grow these trees two or three hundred years old, it shall take a notion one of these days to start afloat and go down toward Cape May. Again, Mr. Davidson says:

"There are upon the island seven houses for residences, some with stone foundations, seven large barns, and about twenty cow-houses, out-buildings, &c. The stacks of chimneys for the houses are built directly upon the surface of the soil, and even the oldest is in good condition."

The conclusions to which this gentleman arrives, having been specially detailed for the purpose of examining this one point, the only point upon which the Naval Committee of either House have ever had any doubt in regard to League Island, are as follows:

"The borings and examinations which I have this day finished, and have herein described, establish the following conclusions."

I shall be glad if Senators who have any doubt on this subject of the solidity of the foundation of League Island will listen to the statements of an officer of repute and of standing, selected by Professor Baché, one of the purest men in official service in our country, to ascertain officially the facts and to report them to the Congress of the United States—

"1. That the surface soil averages about three and

a half feet in thickness over the whole island; that it is a stiff, yellowish, clayey material, easily out when wet, and very hard when dry."

This is the "mud flat," the "ooze," that gentlemen are describing, of which this island is composed. Even its alluvium, the surface soil, is composed of stiff, hard clay. Does that look like its being a "mud flat," a deposit made here by the two rivers? No, sir; I assert that it is a part of the main land, and that the back channel has been made during the last one or two hundred years by the action of the current at the confluence of these two rivers, the Schuylkill and the Delaware, and it is proven from the fact that its geological formation is precisely the same as that of the main land. And further, Mr. Davidson says:

"2. That beneath this surface soil there is a stratum of very fine sand, laminated in places with dark clayey matter. Where this lamination exists there is an average of twelve layers of each to the inch. This fine sand stratum reaches an average depth of about twenty-five or twenty-six feet over two thirds of the embanked part of the island. At the extreme eastern and narrow end of the island it is about forty-five feet in thickness.

"This stratum is not water bearing, although water is formed near the surface under the clayey soil. It is damp and compact.

"3. That beneath the fine sand stratum lies the coarse sand, gravel, and boulder stratum, which was passed through at No. 2 to the coarse sand stratum.

"4. That with such material it is not necessary to use any piling for such machine-shops and machinery as abound in Philadelphia, nor for machine-shops or buildings of the heaviest description."

I call the attention of the Senate to the fact that an officer of the Government of the United States, specially appointed to examine this subject of the sufficiency of the foundations of League Island, and who spent a month upon the island, boring to the depth of fifty or sixty feet, reports to his chief, and his chief reports to the Navy Department, and that comes to Congress, that with such material as he has found there, from actual observation and boring in various parts of the island, the soil is adapted, even without piling, to the heaviest structures that may be required there, with a single exception, which I will read:

"That proper foundations may be laid, on an average, about six feet below the surface of the fine sand stratum. That for the heaviest trip-hammers, for the heaviest trains of rolls, and for launching-ways, it may be necessary to drive piling to the stratum of sand, gravel, and boulders. This opinion, in my mind, amounts to conviction."

Mr. President, having given you the opinion of an officer specially appointed by the Government to examine this point and to report upon it; having made my own assertion here that League Island was originally a part of the main land, that it is not a reclaimed marsh, that it is simply low land, such as is found on the borders of most tidal rivers, especially in the middle States; that it is precisely the same kind of ground upon which your present navy-yard stands, and precisely the same kind of ground upon which the extensive buildings and wharf structures of Philadelphia are placed on the river front, I propose now to bring another witness into this case, one who has been quoted by the gentleman from Connecticut, and is quoted by the opponents of this measure in their pamphlets, and spoken of as high authority. It would afford me pleasure to read the entire letter which he has addressed to me; but I propose only to give to the Senate just so much of it as bears upon the subject of the sufficiency of the foundations of League Island. I read from a letter addressed to me by Strickland Kneass, the surveyor of the city of Philadelphia, a gentleman of the engineering profession, and of exceedingly high standing in his profession. He says:

"As to the navigation of the river from the island to the sea, you have better testimony than mine could be, or any I should present. As to the difficulty of erecting any structures that might be required for the purposes of a naval depot, I have never said aught that could be construed as condemnatory, and I now say that I know no reason why any structure, whether for ship-houses, machine-shops, machinery beds, store-houses, or even graving-docks should not be constructed with all confidence as to secure foundation. The borings made under the direction of the Government give satisfactory evidence for my assertion, and much experience in the use of piling and crib work confirms it."

"Irrespective of this outer front, there is what is

termed the Back Channel, which, with League Island as a navy-yard, would be most admirably adapted for the condition of a basin for vessels lying in ordinary or even preparing for sea, or from which to branch dry or graving docks, the size of which, taking the present bank of the island and the shore as the limit, would be two miles long and near a quarter of a mile wide.

"In preparing this for a basin it would be necessary to build a timber cribbing across it, and a lock-gate at each end, and then excavate the material to such depth as would be requisite for the draft of our naval vessels. Out of this could be excavated sufficient material to fill the entire surface of the island to such elevation as would be desired, so that the very construction of this grand basin would give material for filling the island. As to the quality of this material for such purposes of filling, I can say that I have constructed a number of wharves upon the Delaware front, and find that this material, as thrown upon the new wharf by the dredging-machine, in a very short time drains out and becomes a most admirable wharf surface, hard and compact. The large proportion of sand contained in the material on our river flats facilitates very greatly its being rapidly freed from the water; and once free, the permanency of the river banks shows its quality to resist the percolation of water when moved from its natural bed and made into a compact embankment.

"The filling of the island should estimate to cost about thirty cents per cubic yard upon so large a piece of work, therefore as it would require one thousand six hundred and twenty cubic yards to raise an acre of area one foot in elevation, we can compute the cost for raising an acre six feet at \$2,916; as to the cost of piling, it cannot be estimated per acre, as the piles would be placed only where it would be requisite to support the weight under the lines of walls, or under the bed-plates of machinery, a fair estimate would be six dollars each, or say for a building covering an acre seven hundred and twenty-six by sixty, the furnishing and driving eight hundred and forty piles would be \$5,040. These prices I give you as upon work of similar character completed lately under my supervision.

"As to the distance from the built-up portions of the city, I find that upon Broad street, which is rapidly becoming a most noble thoroughfare, straight as an arrow and twelve miles long, the buildings are now within two miles of the island, with a passenger railway at Washington avenue, ready to extend their line to the river so soon as the favorable action of Congress is obtained."

I beg you to remember, Mr. President, that I am reading now a letter from the gentleman who has been quoted by the gentleman from Connecticut as adverse to League Island as a naval station, a gentleman admitted to be of high authority by the opponents of this measure in the pamphlets which are before us. He concludes by saying:

"Its applicability for a navy-yard, so far as any required erections are concerned, I have personally no hesitation in approving; and as to its general fitness the remark made by his honor the Secretary of the Navy in my presence, that England would give the whole of Canada to secure such a location for her naval depot," is most convincing.

I attach a map to show the position of the island and the Back Channel basin, relative to the city improvement.

"Respectfully submitted,

"STRICKLAND KNEASS,  
"Chief Engineer and Surveyor, City of Philadelphia."

While I am upon this point in reference to the adaptability of League Island for a naval station, I hold in my hand a letter from Commodore Turner, who was in command of the iron-clads at this station for over a year, which I will read:

PHILADELPHIA, February 6, 1867.

MY DEAR SIR: As the question of the acceptance of League Island by the Government will soon, I presume, come up, I have thought a letter from myself, the officer commanding that station, to one of the delegates from this city, illustrating its adaptability to all the purposes of a great naval arsenal and building yard, would not be out of place or without effect. I claim to know as much about its capacity, facilities, and advantages as any one, as my service there has not only made me familiar with every feature of it, but I have been employed by the Government upon the very same sort of soil only a mile distant for several years, erecting the public buildings of magazine, shell-house and out-houses which stand upon the grounds of Fort Mifflin at present, where I piled and filled in wherever it was necessary.

In case of a transfer of this yard to League Island, the necessity of Navy officers connected with it, residing there at such personal inconvenience, would naturally prejudice them against it, and so far as my personal connection with it at present is concerned I should very much prefer going to sea. Therefore, I claim the utmost disinterestedness in stating my deep-rooted conviction that it would be a fatal error to allow such an opportunity to escape of receiving as a munificent gift a spot abounding in every advantage that could commend it to the public favor for such a place as we so much need at this moment for the construction of first-class iron vessels.

There are only three objections that its most bitter opponents have been able to urge against it, namely: its unhealthiness, the fear of being ice-bound, and the depression of the island below average tide. I shall dispose of them successively.

1. Its unhealthfulness, which is simply ridiculous, because the Philadelphia yard was subject to the same objections originally, of being surrounded by low swampy lands, is now as healthy as any one of our naval stations, made so, by the same process as would obtain at League Island, by drainage, reclaiming the land, and populating the district.

2. Interruption to navigation by ice, to which it may be answered that the same objection would be applicable to New York or Boston, when the ice forms so solidly as to make it at times both dangerous and impracticable to attempt to go in or out, and I may add that I have rarely known an occasion, even during our most severe winters here, that a vessel was detained more than a few days. Our tug-boats that were prepared for it have been going up and down this river during nearly the whole of the winter, which has been a very severe one, and the vessels of the fleet moored on the Delaware side of League Island, where the water is deep and the tide rapid, have retained their places without injury and even without a pier to protect them. Upon this point there is less to apprehend than at the Philadelphia yard, as the Horse Shoe, where the ice forms more than in any part of the river below, is above League Island, and the channel below always less obstructed than above.

3. The character of the soil of League Island and the depression of the surface below mean tides necessitating piling under heavy structures and filling in wherever a dry surface was required, to which it may be answered that almost at every one of our navy yards filling has to be done more or less in certain localities to gain a substantial foundation. It would be necessary at League Island wherever it was proposed to erect massive buildings, and of course only there. There would be no necessity whatever of elevating the surface anywhere excepting only where roads are to be made and buildings were to be erected. If I remember correctly, I raised the ground at Fort Mifflin on the magazine lot a little over two feet by filling in, after which the surface was as dry as any upland.

The banks around League Island of solid earth on the Delaware side, strengthened at particular points by a wall of retentment, kept in order by the owners of the property, have given a proper protection to the island. This objection I consider of minor account, and I do not know that it might not in some respects be claimed ever as an advantage, in building docks for ships and reservoirs for timber, that less earth would have to be removed and water carried through the island for various purposes with less expense and greater facility, although the Back Channel of itself affords an immense accommodation to purposes of that nature. I shall conclude this long letter by simply enumerating some of the advantages of League Island (as drawn from the report of the last board, of which Admiral Davis was president) for a great navy-yard, especially for the construction of iron vessels.

1. Fresh water so necessary for their preservation.  
2. Depth of water at the foot of Broad street, on the Delaware, nearly thirty feet at high water, while the Back Channel is sixteen feet at high water, which could be dredged out to gravel twelve feet deeper.

3. Proximity to a large city, whence supplies, materials, and labor could be obtained so readily.

4. Remoteness from the sea, inaccessibility to our enemy.

5. Facilities of obtaining iron and coal so near the coal and iron regions.

6. Isolated entirely from the surrounding country, inland. The Government by the proposed charter of presentation having the entire right to the western bank of the Back Channel.

7. And lastly, a donation or gift without reservation, costing nothing, and possessing everything almost that could be desired, if we had the power to command and to assemble in one spot the requisites to authorize its purchase.

These, sir, are some of the considerations which it seems to me must force themselves upon the mind of any impartial intelligent person who examines the subject in favor of securing this place while it can be had. I have read with pain and surprise several articles in the New York papers, written, I suppose, by interested persons, intended to mislead the public and to prejudice the island, some of them too silly to notice. I am sure there is not a representative in Congress who has the good and glory of his country at heart that would not, if he fully understood the subject, at once give his support to it. We are a great people, great in all the elements which make great nations, in education, wealth, enterprise, ingenuity, energy, intelligence, love of freedom and independence, proud of our place among the nations of the world, and determined to maintain it at every hazard and cost, as we have lately shown, and we must keep ourselves in a position and condition to assert our rights and to defend them, and for this purpose we must look to our defenses, to our armaments, to the material to construct them, and to some capacious appropriate locality adequate to our wants, combining all the requisites to enable us to develop our energy and ingenuity in that direction.

France and Great Britain are making immense strides toward the construction of a powerful iron fleet. We should keep pace with them, at least to the extent of being able to guard our coasts and ports with a class of vessels that would defy them, and nothing is more necessary at this moment, in view of the wants of the country, than just such a place as League Island. I trust no sectional feeling in Congress will embarrass the consideration of this subject.

It is, in my judgment, of such vital importance at this particular moment, from various considerations, that I hope it will receive the earliest attention of Congress. I have no interest whatever in the acceptance of League Island beyond that which must animate every lover of his country, namely, to secure to



it a place to build up and lay up very large fleets, which, for such a purpose, cannot be surpassed, if equaled, by any other locality in the length or breadth of the land.

The honorable Secretary of the Navy urges it; the Assistant Secretary, who has critically examined the ground, and who, from his professional knowledge is well qualified to judge, urges it. The board which was organized in July last to consider and report upon it emphatically indorsed its acceptance without hesitation or reservation; and it would be a sad reflection to be entailed upon us years hence that private and political interests or prejudices had snatched such a precious prize from the possession of the General Government.

I certify that the above is a true copy of a letter addressed by me to one of the Representatives in Congress from this city during the time I was commanding at League Island, about a year ago.

T. TURNER.

Commodore, United States Navy.

Commodore Turner was in charge of the iron-clads at League Island for a long time, and he had perhaps as good opportunities of coming to a proper conclusion in regard to this subject as any other person in the land.

Then in regard to the adaptability of League Island for a naval station, as regards its soil being fitted for the foundations of the proper structures, I have only to say that we have first its selection by Chief Engineer Wood and Assistant Secretary Fox, and their indorsement followed by the indorsement of the Secretary of the Navy; and it will be remembered that the Secretary of the Navy comes in contact constantly with all the prominent officers connected with the naval service, and that this has been a prominent subject of conversation among naval gentlemen for years. If he had been in error, it would have been corrected long ago by his contact with those officers. We have next a report in favor of League Island, bearing upon this very point by Professor Baché, one of the most eminent scientific men in the country, and who from the particular line of his profession is peculiarly qualified to form a correct judgment on this subject, and his report is concurred in by Commodore Marston. In addition to all this, we have the indorsement of a fresh board, of which Admiral Davis was chairman, who examined League Island and reported favorably; and we have a favorable report from the House Committee on Naval Affairs, who were personally present and examined the island for themselves. Then we have a report of the chairman of the Naval Committee of the Senate, who tells you that he has been three or four times upon the island and made personal examinations which has fully satisfied him.

I submit that when you add to all this such testimony as that which comes from Commodore Turner, and when you add to it the testimony which I have read from the first engineer of the city of Philadelphia, these extravagant assertions which are constantly being made in the Senate, that the foundations of League Island are insufficient for the establishment of a naval station, ought to cease. I repeat that the island was originally a part of the main land, that the borings under the supervision of the officer appointed for that special purpose show that it has precisely the same geological formation as the adjoining main land. We have also the positive statement of this officer, after a thorough examination, that its foundations are firm and sufficient for all purposes of a naval station, and his statement on this point is fully indorsed by Professor Baché, his chief. And I submit that it is quite time that these extravagant declarations, that the island is but a "mud flat," which some day or other may be found floating down the river on its way to Cape May, should be stopped.

I have before me, but I shall not detain the Senate by reading them, statements from some of the first engineers in the State of Pennsylvania, who expressly declare that the foundations at League Island are precisely such as are wanted for the purpose in view, and that piling will only be necessary in instances where the very heaviest structures, such as those for heavy trip-hammers, are required; and they further say that when you seek a foundation for such heavy structures, precisely the soil that you have upon League Island, after you pile it,

is just the foundation required for such structures, and that granite or rock is not desirable as a foundation for such structures.

I have before me abundant data, which if I had time I would present to the Senate, showing that the lowness of League Island, instead of being an objection, is really an advantage. As has been stated by the chairman of the Committee on Naval Affairs, that the necessary excavations for your docks and the necessary excavations for widening and deepening the Back Chappel, in order to make it one of the finest harbors for naval vessels to be found in the world, will produce material enough to fill up the island, and it will be absolutely convenient and economical to have a near dumping-place for the material; and besides, it will be the very best material that can possibly be found for filling up. I know it has been stated that this material is ooze; but I am sure if any gentleman will take the trouble of examining the report made by Mr. Davidson of his borings, he will be convinced that such is not the fact, and that the very soil which is deposited by the eddy which has been formed here by the confluence of these two rivers is absolutely a clay soil, and this fact has been stated over and over again by gentlemen who are conversant with the subject.

There is another objection to League Island which the Senator from Connecticut has dwelt largely upon, and that is, its distance from the sea. In my opinion that, instead of being an objection, is a decided advantage. We cannot afford to have a naval station of this magnitude very near to the sea-coast. On this point perhaps it is better not to state opinions of my own, but to give you high naval authority, and I therefore beg leave to read to the Senate a letter from Admiral Porter:

WASHINGTON, D. C., June 6, 1866.

DEAR SIR: Someone is quoting me as being opposed to the location of a navy-yard at League Island. I take the liberty of stating to you that this is not so. I have always been in favor of League Island. I consider the present navy-yard at Philadelphia a reproach to the country. We have not a single navy-yard that meets the requirements of the Navy. Some persons object to League Island owing to its distance from the sea. That is its chief merit; it is away from the attacks of an enemy. I hope that Congress will give us one decent navy-yard, and it can be done at League Island.

I remain, respectfully, yours,

DAVID D. PORTER.

Rear Admiral.

League Island is distant seventy miles from the sea; and in regard to the depth of the water I have only to say that ships of as great depth of water can be brought into the harbor of Philadelphia without difficulty as can be taken into New York. There is a depth of twenty-five feet of water, which is sufficient for the largest class of vessels belonging to our Navy. Vessels of the largest size have been built at the Philadelphia navy-yard, and, until the removal of that yard to League Island has been talked of, there never has been a question suggested or a doubt entertained as to there being the necessary depth of water in the Delaware. I submit, then, that there is no objection to League Island upon this point.

One other objection which is urged is the obstruction which is caused by ice. The Senator from Connecticut, in the course of his remarks, stated that for weeks and weeks during the present winter the navigation of the Delaware river had been obstructed from League Island downward. I am aware, as must be every Senator, that this has been a very severe winter; but the information of the Senator from Connecticut is not correct. There has been no difficulty, during all the severity of this winter, in the navigation of our river up to League Island. The difficulty has been between League Island and Philadelphia. The chairman of the Naval Committee has already described to you that the chief difficulty in the navigation of the Delaware river to Philadelphia on account of ice is at the Horse Shoe, which is above League Island. At this locality, during severe winters, the ice does gorge, and the navigation of the river is sometimes interrupted for brief periods, but nothing like so much as the enemies of this bill attempt to

show. I hold in my hand a letter written by a gentleman of Philadelphia, the president of one of the city banks, who has been for some years the lessee of League Island, which I will read:

PHILADELPHIA, February 5, 1867.

DEAR SIR: You know from accounts you have had that this winter has been unusually severe. In the neighborhood of Philadelphia the Delaware river much of the time has been closed from the Horse Shoe (above League Island) to the city. Vessels could come to the island when they could not reach the city. I have seen two of the Boston steamers at the island when they could not reach the city, and within the last two weeks twelve oyster boats landed their cargoes, not being able to get above the Horse Shoe during this late severe weather.

Yours, respectfully,

WILLIAM F. HUGHES.

Hon. A. G. CATTELL.

And I am informed by gentlemen, in whose testimony I place the fullest reliance, that there has been no time during the present winter when League Island has not been accessible from the mouth of the Delaware, and that no interruption could have taken place in the arrival or departure of steam vessels between that point and the sea during the severe weather through which we have just passed.

There is one other point on which I shall say a few words, and then relieve the Senate, for I am sure they are anxious that this subject shall be disposed of. Much has been said in regard to the unhealthfulness of League Island; and as this is an important point, I have taken some pains to endeavor to satisfy the Senate with regard to it, and I think I shall be able to do so. In the first place, let me say that I have been familiar with this location for twenty years myself, and never before this debate have I heard a rumor or a suggestion that League Island was unusually unhealthy. I have been upon the island every summer for many years past; I have seen the inhabitants living upon the island and have conversed with them freely, and I have never seen the slightest evidence nor heard a single word which would lead me to suppose that League Island was not as healthy as the shores of any tidal river in the middle States. Not only can I give you my personal observation on this point, but I beg to read a letter from Dr. Ward, the health officer of the city of Philadelphia:

HEALTH OFFICE, PHILADELPHIA,

SOUTHWEST CORNER SIXTH AND SANBORN STREETS,

February 5, 1867.

MY DEAR SIR: I am surprised to see that those who are opposed to the selection of League Island as a "naval station" representing it as very unhealthy. I am free to say, from personal observation, such is not the fact. I have attended professionally for some ten or twelve years nearly all the families who have resided on the island during that period, and am able to say that less disease has occurred there according to this population than in the built-up portion of this city. That League Island is a healthy location, no one who is familiar therewith can for a moment doubt. I regard it entirely so.

Yours, very respectfully,

E. WARD,

843 South Third street.

Hon. A. G. CATTELL, United States Senate.

On this point I beg leave also to read a letter of Mr. Hughes, the lessee of this island:

PHILADELPHIA, February 5, 1867.

DEAR SIR: I see that League Island has been attacked on account of unhealthfulness. I would state that I have been in possession of it for twenty-four years, and that the average population is thirty persons during each year for the whole time, and only five deaths have taken place during that long time, as follows: one from rupture of blood vessel, one from disease of kidneys, one from cancer, one from cholera, (several years ago, when it was in Philadelphia,) and one from typhus fever, and was the result of neglect. Commodore Turner, who has had charge of the iron-clads for fifteen months, stated that he never had charge of a healthier station, and referred to his report, and only one man was on the sick list, (and that only a sore limb.) His official report, I think, will show he had some ninety men. During the long time I have been connected with the island I have spent much of my time there, and am entirely satisfied that the location is perfectly healthy.

Yours, respectfully,

WILLIAM F. HUGHES.

Hon. A. G. CATTELL.

But, sir, I have testimony coming much closer to this point. I have a letter from Commander Irwin, who is in charge of the iron-clad fleet at League Island, on this very point:

LEAGUE ISLAND, February 6, 1867.

DEAR SIR: In answer to your inquiry as regards the health of League Island, I have to state that I

have resided there one year, having a very comfortable house, with dry cellars. During my residence the health of the men employed to take care of the iron-clads has been remarkably good, although they have been exposed at all times and in all weathers. Assistant Surgeon Simon reports but four cases of chills and fever during the past year. During that time we have had over two hundred men in our employ. In my opinion League Island is a very healthy locality, and is the very best site for a naval station that I have seen.

Yours truly,

JOHN IRWIN,

Commander United States Navy.

CHARLES DUTILL, Esq., President Pennsylvania Company Insurance Lives, &c.

But in order that there might be no mistake in regard to this matter, inquiries have been made of a family now living on the island, and who have lived there thirteen years. Surely, from the statement of the Senator from Connecticut, one would have supposed they ought to have been in their graves long ere this if they have been living there and breathing the miasmatic atmosphere of this terribly unhealthy locality:

LEAGUE ISLAND, February 5, 1867.

We, John and Margaret Horn, do hereby certify that we have lived on League Island since March, 1853; have raised seven children on said island, all of whom are now living and perfectly healthy, and that we, the said John and Margaret Horn, have always and are now blessed with most excellent health.

MARGARET HORN,  
JOHN HORN.

Witness: L. H. HILL.

Then I have given you upon this point of unhealthfulness the testimony of a physician practicing at League Island, who is also the health officer of Philadelphia; the testimony of Commodore Turner, the testimony of Commander Irwin, the testimony of the residents of the island. Is anything more wanted?

Mr. President, I am sure that the Senate is tired of the discussion of this question; I am aware that many of the members entertain the opinion that there are other and more important measures which ought to be now under the consideration of the body; and every moment that I have stood upon this floor talking upon this subject I have been embarrassed by the conviction that I ought not to occupy the time of the Senate. I have only to say, in conclusion, that from an intimate acquaintance with League Island, from a thorough and personal examination of it in all its parts, without the slightest interest other than to serve my country in the selection of the most available site, I stand here in the Senate to say that in my judgment League Island possesses more advantages and presents fewer objections than any site which can be found for a great iron-clad naval station on the Atlantic coast from the Bay of Fundy to the Gulf of Mexico. I acknowledge that there is a very wide difference between the statements of the Senator from Connecticut and my own on this subject; but I am willing to put myself upon the record here for the truth of what I say. Taking everything into consideration, considering the insular position of this locality, considering its extensive area, considering its immense water front; taking into view the fact that it has a back channel, which at a very moderate expense can be prepared so as to form a magnificent basin in which all the vessels of our Navy could find safe anchorage; taking into consideration the fact that the proposition is not for the establishment of another navy-yard, but simply the removal of the one we now have in Philadelphia from an inconvenient and cramped location to a better one; taking into view the fact that it is in the immediate vicinity of the coal-fields and iron-beds of the great State of Pennsylvania, and that it would be simply ridiculous to establish an iron-clad station three hundred or four hundred or five hundred miles away from those supplies; taking into consideration that it lies immediately adjoining a city that is noted for mechanics of the highest skill, especially in the metals; taking into consideration that it is offered as a free gift by the city of Philadelphia, and taking into consideration the further fact that no proposition is here made to appropriate a dollar, that nothing is asked of the Congress of the United States but to consent to receive

from the city of Philadelphia a gift of six hundred acres of ground which has been pronounced by the Secretary of the Navy, by the Assistant Secretary of the Navy, by Professor Baché, by Commodore Turner, by Admiral Porter, by scores and hundreds of others to be the very best location along the whole sea-board for this purpose—in view of all these considerations, surely the passage of this bill is but a very reasonable request.

Will the Senate of the United States, under these circumstances, refuse this munificent donation when the power is reserved to decide hereafter what shall be done with the island? The Congress of the United States reserves the right to appropriate not even a single dollar for it if the engineer-officers shall report that it is unfit for the purpose. Besides, it is evident that this change will give you from a million and a half to two million dollars, arising from the sale of the present navy-yard in Philadelphia, for the purpose of preparing this one. In view of all these considerations, I ask in the name of the interests of the nation and in the name of the interests of the Navy, why is it that this proposition shall be met with such malignant opposition on this floor? I submit, Mr. President, that the opposition to this bill arises from a disposition to draw attention away from this point, because there is a desire to fix this navy-yard at another locality. The opposition has sprung from that, and from that alone. The opposition has been sectional. If there is a disposition to establish another navy-yard, if a necessity shall be shown for a new and additional navy-yard, and if it shall be shown that New London is a proper place for it, and especially if two conditions shall be provided there, first, fresh water instead of salt; and second, to have the yard a few miles from the sea, so as to be easily made defensible, I shall not object to New London having its desired navy-yard. Her people deserve it for the pertinacity with which they have persisted on this subject; for, as the distinguished chairman of the Committee on Naval Affairs has said, they have pressed that site upon the attention of the Government since the year 1800. In 1802 a report was made, and again in 1817, at both of which times New London was rejected. In 1826 the question came up again in Congress, and New London was again rejected. For three generations the people about New London, conceiving that they had the only site along the Atlantic which was proper for a naval station, have been pressing it upon the attention of Congress; but they have never been able, except in one single instance, to get any commission or any department to recommend it.

I submit, Mr. President, that this question is a simple one. After all the discussions which have taken place, after all the examinations which have been had, the Senate of the United States is simply asked to agree to this bill from the House of Representatives accepting the title to League Island, provided that yet another board of officers shall approve it. I submit that it would be the height of folly for this Chamber now to refuse to accept such a proposition.

I regret, Mr. President, that I have detained the Senate so long, and that I have so poorly and so feebly stated the strength of this case. I have come far short of expressing the deep convictions of my own mind in regard to it. I have forborne to read from the mass of testimony which I have before me bearing upon the subject, because I have felt that I have already consumed too much of the time of the Senate when there are so many questions of momentous importance demanding its attention.

Mr. FOSTER. I do not, Mr. President, understand why the Senator from New Jersey should undertake to declare that the ground of opposition to the acceptance, as he says, of this munificent gift is simply a malignant opposition, based on sectional prejudices or partialities. I do not understand the reason for such a claim. I do not understand either why

that honorable Senator should undertake to say that the opposition here comes only from Connecticut, and that all the allegations in regard to League Island are slanders originated in the State of Connecticut, and either repeated by the Senators from that State, or if they come nominally through other sources, are really inspired from Connecticut; and in that connection the honorable Senator from Iowa took occasion to say, in reply to the suggestion that resolutions came here from the Chamber of Commerce of New York and the merchants of New York, that they had their inspiration from Connecticut, or from citizens of Connecticut who are living in New York, and therefore were tainted with Connecticut feeling.

Now, Mr. President, to quiet the honorable Senator from New Jersey on this subject, and to quote an authority which he will not charge with any partiality for Connecticut, or any other connection with Connecticut than what was perfectly proper for him to have, I beg leave to read a few words from a speech made in this Senate not long since. It was made in July, 1862; and in order that the honorable Senator may be perfectly possessed of any notion that it is of Connecticut origin, or that it was inspired by any citizen of Connecticut, I will tell him in the outset that I propose to read from the speech of Hon. John C. Ten Eyck, formerly a Senator of the United States from the State of New Jersey, in the Senate of the United States, on the 4th of July, 1862. I presume the gentleman has heard of him, and if not, he is remembered in this body as a Senator who well and worthily represented his State during the period that the State assigned to him the duty of sitting here as her Senator. Mr. Ten Eyck said in reply to some remarks made by the Senator from Iowa:

"I understood the Senator from Iowa to say that he considered the safety and permanency and future success of the Navy to depend upon the passage of this bill, and the acquisition of the title to this island in the Delaware river for the purposes designated. All I have to say upon that subject is, that if such be the case, Heaven save the Navy!"

Again:

"If all these things are to be regarded as naught, unless League Island, in the river Delaware, can be acquired for the purposes of the Navy, I repeat, Heaven save the Navy, and Heaven protect the glory of the Navy!"

A little further on he said:

"Why, sir, I live not far remote from League Island, only about seventeen miles from that place, and I assert that I believe there is not a foot of solid ground on the whole island."

I beg the honorable Senator from New Jersey to remark that that is no Connecticut slander. I do not assert that it is true, but I do not propose to stand here as the honorable Senator does, resting on my personal assertion either as to the unfitness of League Island or the fitness of New London: I read from what I deem to be authority, and am not disposed to put my personal character in issue here:

"It is low, meadowy, marshy land, and every foot that will be required for the public service in the construction of a navy-yard, for the building of houses, or for any other such purpose, will have to be made ground. So, although they may give you an island, they give you a spongy, marshy, meadowy soil, which must be made solid land before it can become useful or proper for the purposes designed by this bill, and it will not only cost \$200,000 for piling, dredging, filling, and excavating, but it will, perhaps, cost half a million or more."

Two hundred thousand dollars was mentioned because there was then a clause in the bill that proposed to accept this most magnificent gift and appropriate \$200,000 to make it fit to be received, so that we could enter the promised land and take it. And the honorable Senator who then represented the State of New Jersey—no, I will not say as well as the present Senator, because I will make no comparisons; they are odious; but who at that time did represent the State of New Jersey, and well represented it—said that it would cost more than half a million in effect to make the island so that it could be taken by the United States; and it seemed on the whole at that time so very remarkable an event to have in the same bill that proposed to accept a gift an

appropriation of \$200,000 to be expended so as to make it fit to be taken that that was stricken out, and it has never since appeared in the bill. We propose to take it now naked and alone. But further; this is not Connecticut authority and of course I shall be pardoned for reading it. Mr. Ten Eyck goes on to say:

"Why, sir, these islands there are pushed over in skiffs at high tide by sportsmen when shooting reed-bird and rail. The cost would be millions, perhaps, in order to make these islands available, according to the best information I have, for the purposes designed by this bill.

"Again: it is unnecessary that we should receive this island for the purpose designed. The Government now own in that neighborhood tracts of land suitable and appropriate for the purpose, where they can construct a navy-yard without its costing a dollar. The Government now own a valuable property at Fort Mifflin, just a little way below this island, with an extended water front. The Delaware river in winter is less obstructed by ice below the Schuylkill than above it. Besides this, the Government has seven acres of high land at the old Lazaretto, and more than one hundred acres of reclaimed marsh land. If it becomes necessary to move the navy-yard south of the city, it may be moved down to the Government property at Fort Mifflin, where there will be no necessity for piling and ditching and draining and filling and excavating and building walls for the purpose of making a site valuable for a navy-yard. And then, again, there is a road over the Schuylkill river by a bridge at Penrose Ferry direct to Fort Mifflin, while League Island is isolated, and if we accept this magnificent present we have yet to build a bridge in order to make it accessible from the main land. I assure Senators that there is some danger of their being carried away by this splendid lure of a magnificent present which the city of Philadelphia now offers to bestow upon the United States."

The idea of calling it "magnificent" is not original with the Senator, [Mr. CATTELL:]

"We not only shall have to make the soil for the purpose, but we shall have to build an extensive bridge and make a road over an extent of marsh in order to get there, when the Government owns land in the immediate neighborhood sufficient for the purpose, and fast and highland also. I submit to the Senate, if no appropriation is now required for this purpose, the second section having been stricken out of the bill, whether it is not manifest to every man that hundreds of thousands of dollars will hereafter be required to make this island available to the Government for the purposes designed. Pass the bill and the wedge will have been entered."

Listen to the honorable Senator from New Jersey and the honorable Senator from Iowa now, Mr. President. They tell you the bill does not take a dollar from the Treasury, it simply proposes to accept, if another board shall recommend it, this magnificent gift from the city of Philadelphia. Not a dollar from the Treasury, repeat both the honorable Senators; not a dollar unless Congress shall hereafter vote to appropriate it. That is true; but do we not all understand what is meant when that allegation is made? Is it not perfectly clear, as the honorable Senator from New Jersey, whose remarks I am quoting, (Mr. Ten Eyck,) said, this is simply the entering wedge. Pass the bill, accept the island, and then pass your millions of appropriations to make it fit for the purposes that it was accepted for. Is it proposed by the honorable Senators that the Government of the United States should accept this munificent gift and then not make use of it? Why should we accept it? Why, but to establish a naval depot there; and if you establish a naval depot there is it not to cost money and a vast sum of money? Does anybody doubt it? Why, then, undertake to press upon the Senate that you are voting away no money, and that there being no money in the bill it is idle to oppose it? The honorable Senator from New Jersey, whose words I have just quoted and I will quote his words again, said then what it is quite appropriate to say now—

"Pass the bill and the wedge will have been entered."

As this is not Connecticut authority, and as it is authority to which the honorable Senator from New Jersey will of course yield every respect, I must be pardoned for reading a few sentences more. I have no doubt it is pleasant to the honorable Senator to hear it because it is wholly free from any Connecticut influence or bias:

"What does the city of Philadelphia ask in exchange for this magnificent gift? I have heard

nothing. It does not appear on the face of the bill; it would not be wise that it should; but is the city of 'Brotherly Love' so full of kindness as its name implies? So fond and munificent that it will make a present of this island, valued at \$300,000, for no earthly return? No sooner shall we pass this bill than we shall have another proposition to cede to the city of Philadelphia the site of the present navy-yard. They want it for building purposes or some other return. There is a motive for this thing."

Mr. President, this is no Connecticut insinuation, no sly innuendo or slander of Philadelphia from Connecticut; it is from New Jersey, the good, glorious State of New Jersey, famed in revolutionary times, famed ever since, famed when she had Mr. Ten Eyck for her Senator, and famed now she has the honorable Senator, [Mr. CATTELL,] who vindicates the name and fame of his State so well here now:

"There is a motive for this thing; and although it does not appear on the face of the bill, yet it appears in the surrounding negotiations which have been set on foot for this purpose. We are to abandon all our works there, all our wharves, screw-docks, dry-docks, all our buildings, all our workshops, all our machinery is to be removed for the purpose of accepting this magnificent gift."

The honorable Senator's predecessor seemed to have a peculiar love for that expression, "magnificent gift." There is something noble in it:

"If the navy-yard at Philadelphia is not sufficiently extensive there is plenty of land connected with and adjoining it on the south which can be procured for the purpose of enlarging it, and I know that there has been a proposition in the city for some time past to acquire that adjoining property for the purpose of enlarging the yard. Let the yard remain where it is, and if it is not sufficiently extensive in its dimensions, let the property adjoining it, which can be obtained, be procured for the purpose."

"I am myself perfectly satisfied that it would be prejudicial and injurious, exceedingly so, to the Treasury for us to accept the gift of this island; and for that reason, and for that alone, I shall vote against this bill."

I trust the honorable Senator from New Jersey will believe after this that it is possible for a man to oppose this bill without having any sectional prejudice, any malignant hostility that induces him to make the opposition. If not, of course I must submit to the intimation that my opposition is merely sectional. The honorable Senator went on to assert that New London deserved a navy-yard. Now, Mr. President, I say that New London does not deserve a navy-yard. I assert distinctly that New London can make no claim on the ground of desert to having a navy-yard; not but that New London deserves just as much as any other town situated as she is; but no town, no State, deserves a navy-yard. I scout all such notions as that. If a navy-yard is to be built, I repeat what I said before, it should be built in the best place for it; and the place where nature has made the best provision for a navy-yard, where it will be most advantageous to the country, that is the place that deserves it, and no other place does deserve it. That is all there is about deserving in a navy-yard.

The honorable Senator from Iowa took occasion to remark that some gentlemen at some times had talked about the soil of League Island being spongy and shaling like a jelly, intimating that that came from men who knew nothing about the matter, probably from Connecticut. I will read a word or two on that point, therefore, from what was said by Mr. Ten Eyck at a subsequent session, January 24, 1863:

"I do not pretend to say that a portion of the land lying back from the river is not fast land, permanent to the soil, if it may be called soil; but all that which has the appearance of land lying upon the river immediately adjacent thereto is so spongy that if a man steps with his foot upon it it will shake like a jelly; and I am told they cannot find a bottom, let them go as deep as they may."

"I did not intend to make another allusion in relation to this proposition. I did not propose to take any further part in this debate. I only uttered spontaneously last session what my feelings were on the subject, based on information source, and from some knowledge of the character of the island myself, believing conscientiously that the Treasury of the United States would be sadly damaged by the acceptance of this gift, believing that it would be infinitely better and wiser on the part of the Government to make a purchase of fast land suitable and proper for such a construction than to receive this as a gift. Having said this much, I do not propose to say more."

And, Mr. President, perhaps it would be as wise for me, in the language of the Senator from New Jersey whom I have just been quoting, to say no more myself; and I should not say a word more if the honorable Senator from New Jersey and the honorable Senator from Iowa had not taken, as it seems to me, rather unwarrantable pains to show that the opposition to the passage of this bill arose either from sectional prejudice or sectional partiality. Senators of course have the right to avow their own motives for their support or opposition to any bill, but when they undertake to impute motives such as those to others they should have, I think, some other and better evidence of it than they can have in this case. I assert that I have no more desire to oppose this bill on the ground of sectionalism than I would have if I lived in the city of Philadelphia, not one jot or tittle; and I have no desire that this navy-yard shall be established at New London unless New London has claims in the way of natural advantages which make that a preferable location. I would not myself, if I did not believe that fact, vote for the appropriation of a dollar to place a yard there.

I only repeat that the amendment to this bill proposes to leave that point open and let this location be examined, and if the claims made by gentlemen have any real foundation in fact they will have an opportunity of verifying them. I have not attempted to assert the superiority of New London; I shall not assert it; but I say that if this board of officers, the board named in this amendment, or any other men who may be named, after examining New London and League Island, shall say that League Island is the preferable place I will vote for League Island if I am a member of the body, and I will not vote for New London nor will I urge its acceptance. I now only urge an examination into the matter, because the board, and the only board in our time appointed by the proper authority, who has made an examination of both locations, has given the preference very decidedly to New London. Under these circumstances, before this location is selected and decided upon by the Senate, I submit that it is fair that New London should also be examined if League Island is to be now examined; and then, if there are any of these objections, not being defensible, not being far enough from the ocean, want of fresh water, want of coal, or want of iron, to such an extent as to decide against New London and to lead to the decision that that ought not be selected, I will submit tacitly and as cordially as the gentleman from New Jersey will if the decision is against him; and I will not either then or at any time undertake of my own personal knowledge to make assertions in regard to the comparative merits of the two places.

The honorable Senator says that it would be preposterous to go away from the great State of Pennsylvania that has got so much coal and iron, some hundreds of miles away, to establish a navy-yard for iron-clad vessels. If it costs more money to fix the navy-yard at Philadelphia than it would to fix it at another location, and so much more that the interest on that money would carry all the iron and all the coal which Pennsylvania can produce to Connecticut or to Maine, I do not think it would be so preposterous an idea. The very interest on the money that it would cost to make League Island habitable, tenantable as a navy-yard, would carry all the coal and all the iron that is brought to the city of Philadelphia five hundred miles every year. It is not so very preposterous, therefore, and it so happens that Philadelphia is not the only place where coal and iron are found in the United States. Other localities have, I think, as great facilities for both these valuable commodities as Philadelphia.

But, sir, I will not enlarge. I rose that I might set the honorable Senator from New Jersey right, because I am sure it was not pleasant to him to think that the opposition to this bill was



purely sectional. He would much rather have it known that his predecessor in this body, honored and esteemed here, took the same ground that I do, and nobody supposed that he was actuated by sectional hostility.

Mr. DIXON. Mr. President—

Mr. WILLIAMS. With the consent of the honorable Senator, I move that the Senate proceed to the consideration of executive business.

#### EXECUTIVE SESSION.

The motion was agreed to; and after some time spent in executive session, the doors were reopened at ten minutes before five o'clock p. m., and the Senate, on motion of Mr. HENDRICKS, took a recess till seven o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (S. No. 545) for the relief of John F. Stewart, reported it without amendment.

He also, from the same committee, to whom was recommended the bill (H. R. No. 788) to establish and protect national cemeteries, reported it with amendments.

#### BILL INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 601) to amend an act approved July 28, 1866, entitled "An act to fix the compensation of certain collectors of the customs, and for other purposes," which was read twice by its title, and referred to the Committee on Commerce.

#### SOLDIERS' ORPHAN HOME.

Mr. WILSON. I move to take up House bill No. 848.

The motion was agreed to; and the bill (H. R. No. 848) to amend an act entitled "An act to incorporate the National Soldiers' and Sailors' Orphan Home," approved July 25, 1866, was considered as in Committee of the Whole.

Mr. WILSON. The bill was before the Senate on a former occasion and recommended to the Committee on Military Affairs. That committee report a substitute which is much shorter than the original bill. I do not think the original bill need be read.

The Secretary read the amendment, which was to strike out all of the original bill after the enacting clause and in lieu thereof to insert:

That the board of trustees of the Soldiers' and Sailors' Orphan Home shall hereafter consist of seven persons, a majority of whom shall constitute a quorum to do business; and D. K. Cartter, Henry D. Cooke, Amos B. Eaton, J. W. Alvord, Horatio Bridge, Byron Sunderland, and Franklin A. Dick are hereby declared to be the trustees of said corporation, and they and their successors shall have the entire control and management of all property, moneys, and other securities now held or used for the benefit of said corporation, or which shall hereafter belong to it; and the said board of trustees shall have power to fill any vacancies occurring by death, resignation, or otherwise.

Sec. 2. *And be it further enacted*, That immediately upon their organization the trustees shall elect a board of lady managers, consisting of thirteen persons, who shall have power to superintend and manage the internal affairs of the asylum, and to fill vacancies in their own board, to make their own by-laws, rules, and regulations, to hold their offices till the second Wednesday in January, 1868; their successors to be elected annually by the board of managers in the manner which their by-laws shall prescribe.

Sec. 3. *And be it further enacted*, That the surviving parent or legal guardian of any child placed under charge of said corporation may withdraw such child therefrom, and any minor over sixteen years of age, upon his or her request in writing, shall be discharged therefrom, at the discretion of the managers.

Sec. 4. *And be it further enacted*, That so much of the act to which this is amendatory as is inconsistent with this act be, and the same is hereby, repealed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be

engrossed and the bill read a third time. The bill was read the time, and passed.

#### DIRECT TAX IN WEST VIRGINIA.

On motion of Mr. VAN WINKLE, the Senate proceeded to consider the House amendment to the joint resolution (S. No. 90) to suspend temporarily the collection of the direct tax within the State of West Virginia.

The joint resolution as passed by the Senate was in these words:

*Resolved, &c.*, That the Secretary of the Treasury is hereby authorized and directed to suspend the further collection within the State of West Virginia of any part of the direct tax imposed by the act of August 5, 1861, until the 1st day of March next, unless the claims of the said State against the United States are sooner adjusted.

The amendment of the House of Representatives was to strike out all after the word "that" and insert:

The Secretary of the Treasury is hereby directed to ascertain the sum of money which shall have been assessed, according to law, when such assessment shall be completed by the direct tax commissioner for the State of Virginia, upon the whole of the real estate liable to tax within the present limits of said State as a part of the quota of the direct tax laid by the act of August 5, 1861, apportioned to the State of Virginia as then existing and bounded; and also the sum assessed upon the lands within the counties of Berkeley and Jefferson, which are now a part of West Virginia; and also to ascertain the remainder of said quota, which remainder shall thereupon be the quota of said tax apportioned to the State of West Virginia.

Sec. 2. *And be it further enacted*, That the State of West Virginia is hereby made liable to all the duties in relation to said direct tax which are imposed by law upon, and is entitled to all the privileges in the same relation which are by law allowed to, other loyal States: *Provided*, That no liability or burden whatsoever is hereby imposed or shall be imposed by said State, arising in any way out of said tax, upon lands included within the present limits of the counties of Berkeley and Jefferson, or upon the inhabitants as such, for the time being, within said limits, except upon terms accepted by a majority vote of legal voters resident within said limits.

Sec. 3. *And be it further enacted*, That the board of direct tax commissioners for the State of Virginia shall have and continue to have the same authority to assess and collect the before-mentioned direct tax in the counties of Berkeley and Jefferson as if those counties still formed a part of the State of Virginia.

Sec. 4. *And be it further enacted*, That the Secretary of the Treasury shall be authorized to refund to persons from whom money has been received without warrant of law, as in payment of dues under the direct tax laws, the sum so illegally collected; such refunding to be ordered on the presentation in each case of satisfactory evidence of the illegal collection.

Sec. 5. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized and directed to suspend the further collection within the State of West Virginia of any part of the direct tax imposed by the act of August 5, 1861, until the first day of March next, unless the claims of the said State against the United States are sooner adjusted.

Sec. 6. *And be it further enacted*, That section two of an act entitled "An act further to amend an act entitled 'An act for the collection of direct taxes in the insurrectionary States within the United States, and for other purposes,' approved June 7, 1862," approved March 3, 1865, be, and the same is hereby, repealed, and certificates of sale shall be received in all courts and places as *prima facie* evidence of the regularity and validity of said sale and of the title of purchaser or purchasers under the same, as provided in section seven of an act entitled "An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes," approved June 7, 1862.

The House also proposed to amend the title so that it will read, "Joint resolution to provide for the ascertainment and apportionment of the proper quota of the direct tax of 1861 to the State of West Virginia, and for other purposes."

The Committee on Finance proposed to amend the House amendment by striking out its first section and inserting in lieu thereof:

That in ascertaining the quota of the State of West Virginia of the direct tax imposed by the act of August 5, 1861, the Secretary of the Treasury is authorized and directed to charge the said State with such proportion of the said tax apportioned to the State of Virginia as the value of the real estate of the counties now composing the State of West Virginia, including Berkeley and Jefferson, bears to the value of all the real estate of the then State of Virginia, as ascertained by the assessment for State taxation of the real estate of the said State of Virginia in the year 1860.

Mr. VAN WINKLE. I wish to state for the information of the Senate that the resolution as it already stood made the State of West Virginia liable for any deficiencies of the assessors in assessing property in old Virginia, and this amendment is introduced for the purpose of curing that defect, and founding it upon the actual valuation of the property in the whole

State in 1860. I have a letter from the Treasury Department in which the writer says:

"I am directed by the Secretary of the Treasury to state that the substitute in question appears proper and equitable and has his full concurrence."

It has also the unanimous approbation of the Finance Committee.

The amendment to the amendment was agreed to.

Mr. VAN WINKLE. I wish to amend the amendment just adopted by adding at the end of it the words "giving credit to the State of West Virginia for such part of its proportion so ascertained as has been already paid." The tax for nearly the whole of two counties has been paid.

The amendment to the amendment was agreed to.

The next amendment of the Committee on Finance was to strike out the sixth section of the House amendment.

Mr. VAN WINKLE. The committee ordered that that section be stricken out for want of any information on the subject. The effect of retaining it is that a mere certificate of the sale, instead of a patent from the United States, is to be the title of the party.

The amendment to the amendment was agreed to.

Mr. VAN WINKLE. I move further to amend the House amendment by striking out the word "March" in the fifth line of the fifth section and inserting "June." This whole bill is founded on a little resolution which I got through the Senate last year suspending the collection of the direct tax in our State until the 1st of March; but now we are in this situation: the 1st of March is near at hand and the bill is not yet passed. I therefore move this amendment.

The amendment to the amendment was agreed to.

The House amendment, as amended, was concurred in.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The last vote disposes of the joint resolution.

Mr. VAN WINKLE. There is an amendment to the title.

The PRESIDING OFFICER. The Chair thinks it is not in the power of either House at this stage to amend the title.

Mr. VAN WINKLE. The House proposed to amend the bill, and I wish to amend their amendment.

The PRESIDING OFFICER. The House proposed to amend the title so as to read: "A joint resolution to provide for the ascertainment and apportionment of the proper quota of the direct tax of 1861 to the State of West Virginia, and for other purposes." That has been concurred in.

Mr. VAN WINKLE. And then they go on in the different sections to pursue the form of an act, beginning each section with the words "and be it further enacted." I now simply want the words "joint resolution" in the title changed to "an act," and that is the recommendation of the Finance Committee.

The PRESIDING OFFICER. The Chair thinks that it is not in the power of the Senate to change the title of a joint resolution to a bill in that way; but the difficulty can be remedied by striking out the word "enacted" and inserting "resolved" in the proper places.

Mr. VAN WINKLE. I understand that the joint resolution as passed by the Senate was amended by the House, and the Senate has amended the House amendment and adopted it as amended, and now the question comes up on the title.

Mr. GRIMES. I wish to inquire how the first line of the resolution or bill reads.

The SECRETARY. The original joint resolution reads, "Resolved by the Senate and House of Representatives," &c.

Mr. GRIMES. Is that changed by the House?

Mr. VAN WINKLE. They have changed it to a bill; but they have not changed the title

to correspond. I am willing that it should be in the form of a bill or joint resolution; I only want it congruous.

Mr. BUCKALEW. It would be a very absurd thing on our statute-book to have a joint resolution according to the title, and then to have the language of an act used. I suppose that we had better strain a point, and change it to a bill according to the House amendment.

The PRESIDING OFFICER. The Chair thinks the proper course is to strike out the word "enacted" where it occurs and insert the word "resolved."

Mr. VAN WINKLE. Very well.

The PRESIDING OFFICER. That course will be pursued if there be no objection. ["Agreed."]

#### NATIONAL THEOLOGICAL INSTITUTE.

Mr. MORRILL. I move that the Senate proceed to the consideration of Senate bill No. 590.

The motion was agreed to; and the bill (S. No. 589) to amend an act entitled "An act to incorporate the National Theological Institute," and to define and extend the powers of the same, was considered as in Committee of the Whole.

The bill proposes to change the name of the corporation chartered by the act of May 10, 1866, to that of the National Theological Institute and University; to add other corporators, and to allow the corporation to hold real estate to the value of \$250,000; and also to allow the corporation to confer degrees similar to those conferred by universities in the United States.

The Committee on the District of Columbia proposed to amend the bill by striking out the following words:

That Salmon P. Chase, Charles H. Howard, Samuel C. Pomeroy, and Henry D. Cooke be added to the original corporators of the same.

Mr. MORRILL. There seems to be no necessity for that provision, because the act to which this is an amendment provides for the addition of just such persons as the original corporators choose.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### STREET RAILWAYS.

Mr. MORRILL. I move to take up next for consideration Senate bill No. 570.

The motion was agreed to; and the bill (S. No. 570) extending the time for the completion of certain street railways, was considered as in Committee of the Whole.

The Committee on the District of Columbia proposed to amend the bill by striking out all after the enacting clause, and inserting the following:

That section seventeen of the act to incorporate the Metropolitan Railroad Company in the District of Columbia, approved July 1, 1864, be, and the same is hereby, still further amended so as to extend the time for the completion of their railroad line, except that part thereof between Seventeenth street and the Capitol, for three years from the 1st day of January, 1866.

Mr. MORRILL. In 1864 this corporation was created, and they were to complete their road in one year. They completed the essential part of it, that is to say, the road between the Capitol and the western terminus on Seventeenth street. They had a right to continue beyond here on Capitol hill, and this bill now extends the time for the completion of that branch for three years. That is the whole of it in substance.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### BAILIFFS AND CRIERS.

On motion of Mr. MORRILL, the bill (H.

R. No. 856) fixing the compensation for the bailiffs and criers of the courts of the District of Columbia, was considered as in Committee of the Whole.

The first section provides that the bailiffs and criers, who are required by the marshal or courts of the District of Columbia to attend upon the district, circuit, or criminal court of the District, shall be paid \$3 50 per day for each day's attendance, instead of two dollars, as now provided by law, commencing with the 1st of January, 1866.

The second section repeals so much of the act of Congress as limits the number of notaries public to thirty-five, and authorizes the supreme court of the District to appoint as many as they deem necessary for the public convenience.

Mr. MORRILL. I move to amend the bill by striking out the second section.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was agreed to.

It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time, and passed.

#### CLAIMS FOR ARMY SUPPLIES.

Mr. WILSON. With the permission of the Senator from Maine, I should like to call up a joint resolution which is lying on the table, merely for the purpose of having it referred to the committee.

Mr. MORRILL. I have no objection.

Mr. WILSON. I move that the joint resolution (S. R. No. 170) to facilitate the settlement of claims for quartermasters' stores and subsistence supplies furnished by loyal persons to the Army of the United States in the late rebellion be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

#### RELIEF OF DRAFTED MEN.

Mr. WILSON. I entered this morning a motion to reconsider the vote by which the bill (H. R. No. 811) for the relief of certain drafted men was indefinitely postponed. I ask that the question be now put on that motion.

The motion to reconsider was agreed to.

Mr. WILSON. I now move to recommit the bill to the Committee on Military Affairs and the Militia.

The motion was agreed to.

#### RAILROAD CONVENTION AT WASHINGTON.

Mr. MORRILL. I move to proceed to the consideration of Senate bill No. 264.

The motion was agreed to; and the consideration of the bill (S. No. 264) to grant certain privileges to the Alexandria, Washington, and Georgetown Railroad Company in the District of Columbia, was resumed as in Committee of the Whole, the pending question being the amendment of Mr. GRIMES to strike out "and First street west" after "Maryland avenue" in line thirteen.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### GOVERNMENT OF SOUTHERN STATES.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States, in which it requested the concurrence of the Senate.

Mr. SUMNER. I hope the Senate will proceed at once with the bill which has just come from the House of Representatives, at least so far as to have it read to-day. Let us have the first reading of the bill right off.

The PRESIDING OFFICER. The Chair will lay before the Senate for its first reading a bill from the House of Representatives.

The SECRETARY. A bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States.

Mr. McDUGALL. I object.

Mr. SUMNER. There can be no objection to the first reading. Now, the second reading of the bill, Mr. President.

The PRESIDING OFFICER. The bill will have its second reading, if there be no objection.

Mr. BUCKALEW. I object.

The PRESIDING OFFICER. The bill will lie over.

#### RIGHTS OF MARRIED WOMEN.

Mr. MORRILL. I move that the Senate proceed to the consideration of Senate bill No. 492, which was read on a former day.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 492) to protect the rights of married women, and for other purposes, in the District of Columbia.

The bill was ordered to be engrossed for the third reading, was read the third time, and passed.

#### INSURANCE AGENCIES.

Mr. MORRILL. I move next to take up for consideration Senate bill No. 477.

The motion was agreed to; and the bill (S. No. 477) to amend an act entitled "An act to continue, alter, and amend the charter of the city of Washington," approved May 17, 1848, was considered as in Committee of the Whole.

It proposes to amend the second section of the act approved May 17, 1848, so as to read, "to license, tax, and regulate agencies of all kinds of insurance companies, provided that the tax or license shall not exceed three fourths of one per cent. upon the cash premiums received."

The Committee on the District of Columbia proposed to amend the bill by striking out the words "three fourths of" before "one" in line eight; so as to read, "the tax or license shall not exceed one per cent. upon the cash premiums received."

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### LIMITED PARTNERSHIPS.

On motion of Mr. MORRILL, the bill (S. No. 128) authorizing limited partnerships in the District of Columbia, was considered as in Committee of the Whole. It provides that limited partnerships for the transaction of any mercantile, mechanical, or manufacturing business within the District of Columbia may be formed by two or more persons upon the terms, with the rights and powers, and subject to the conditions and liabilities prescribed in the bill. Such partnership may consist of one or more persons, who shall be called general partners, and who shall be jointly and severally responsible as general partners are by law, and of one or more persons, who shall contribute in actual cash payments a specific sum as capital to the common stock, who shall be called special partners, and who shall not be liable for the debts of the partnership beyond the fund so contributed by him or them to the capital; but the number of special partners shall in no partnership exceed six. The bill contains many details to carry out the purpose.

Mr. MORRILL. This is a bill of some little detail; it contains a number of sections to provide for the relations between general partnerships and special partnerships, in what are called limited partnerships. Such provisions are well known in many of the States. The provisions of this bill are taken chiefly from the statutes of New York upon this subject, which have been regarded as being as perfect and full as any. The bill substantially contains the provisions of the laws of the State of New York, which for many years have operated in that State to the general acceptance of the public. I do not know that anything more need be said in regard to the proposition.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

## SPECIAL JURIES FOR DISTRICT.

On motion of Mr. MORRILL, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 449) authorizing special juries in the District of Columbia. It provides that in any suit or action pending in the supreme court of the District of Columbia, and in any criminal prosecution pending in that court, either party to such suit, and the district attorney, or the respondent in any criminal prosecution, may apply to any of the judges for an order for a special jury for the trial of such suit or prosecution; and if it shall be made to appear to the satisfaction of the judges that an impartial trial of the suit or prosecution cannot be had by a jury selected within the District, the judges shall make an order that a special jury be drawn for the trial of such suit or prosecution, to be selected from such county without the District as such judges shall direct. The order is to direct the number of jurors to be drawn, and to name two persons to select the jurors, and upon the return of a certificate by the persons appointed of the jurors selected, the court is to issue a *venire* to the marshal of the District to summon the jurors so selected to attend upon a day named in the *venire*, and the court may specially assign a day for the trial of such suit or prosecution. From the persons so drawn and summoned a jury shall be selected by lot, and the same right of challenge may be exercised as by law is given in other cases. The marshal, for summoning such jurors, shall be entitled to fees now provided by law, and the jurors shall be bound to obey the summons, and the court may compel their attendance as if they resided within the District. The jurors shall receive — dollars for each day's attendance, and — cents per mile for travel. The costs occasioned by such special jury may by such court be ordered to be paid in whole or in part by the party applying therefor, and may be taxed and recovered, as costs, in whole or in part, as such court may direct.

An amendment was proposed by the Committee on the District of Columbia to insert after the word "District," in the fourteenth line, the words "in an adjoining State;" so as to read: "to be selected from such county without the District in an adjoining State as such judge shall direct."

The amendment was agreed to.

Mr. MORRILL. In order to perfect the bill, I move to fill the blank space in line twenty-nine with the word "three," so as to read, "three dollars for each day's attendance."

The amendment was agreed to.

Mr. MORRILL. And in line thirty, before the word "cents," I move to insert "ten," so as to read, "ten cents per mile for travel."

The amendment was agreed to.

Mr. McDOUGALL. Mr. President, there is a grave objection to this measure, if I have any understanding of what our system of Government is. This District of Columbia is a thing apart from all the States in this Union, and it seems to me a strange and extraordinary thing to propose that in determining causes at issue in the District of Columbia jurors should be drawn from States outside of the District. I should like to understand upon what principle, by what rule of governmental law, by what rule that belongs to our system of government, you can go out of the District of Columbia and bring in from foreign States, because for this purpose they are foreign, from communities outside of the District of Columbia jurors here to try causes in this District, which was intended to be an independent jurisdiction, subject alone to Federal law, and not governed by the laws of Virginia or Maryland or any other surrounding State. It seems to me a very strange proposition. That it is against fundamental law and that it is unconstitutional I have no doubt.

If Congress should say that for certain reasons particular causes might be sent into a county in the State of Maryland to be tried, because a jury could not be properly found here, that would be a different thing. Then

it would go to the judiciary in Maryland or in Virginia, or anywhere else; but I cannot possibly understand by what principle you can bring jurors from States outside of the District, which are independent jurisdictions, into this District to try causes here. This District was established at first, and is under the Constitution, a distinct and independent jurisdiction. I was not aware that it was the view of the majority of the committee that the chairman, who so well represents the committee, should report this bill, or I should have objected to it in committee.

Mr. MORRILL. It was reported before you were a member of the committee.

Mr. McDOUGALL. Then, being a member now, and being a Senator, I have the same right to object.

Mr. MORRILL. Certainly.

Mr. McDOUGALL. It would be a very strange thing, and a great departure from all law and from all principle and from all the rules that govern legislation and administration, and particularly the conduct of the judiciary, to bring in juries from Maryland or Virginia to try causes in the supreme court of the District of Columbia. If there be any reason to doubt that a fair trial can be had in the District of Columbia I think you may pass a law to send a particular cause, where that doubt arises, to the first jurisdiction, where a fair trial may be had, there to be tried by a judge and jury. Nothing other has ever been known to the common law of England or any other administration I have known or heard of or read of in our time or written in our language.

Mr. POLAND. I am not a member of the committee that reported this bill; but it has so happened that my attention has been called to this subject, and I have some acquaintance with this measure and with some of the reasons why such a measure is called up. The substance of the bill is to authorize the supreme court of the District of Columbia, in a cause where in their discretion a jury cannot be drawn in this District that will give the case a fair trial, to send out of the District and summon a jury from without the limits of the District of Columbia to try the case here.

My friend from California insists that we have no power to do this. I hardly understand the force of the Senator's argument on that subject. We have a right to make laws for this District, and to a certain extent Congress have a right to make laws that shall govern all over the United States. We make laws in reference to the drawing of jurors to attend in the district and circuit courts of the United States, and why we have not the power to send out of the limits of the District of Columbia to summon a jury to try a case here is more than I am able to understand.

It was a principle of the common law and a principle that is generally recognized in all the States of the Union, I believe, that criminal trials were to take place in the county where the offense was committed. This is the case in my own State: I presume this is the case generally in all the States of the Union.

Mr. McDOUGALL. Will the Senator allow me to ask him a question: what is the true interpretation of "a jury of the vicinage?"

Mr. POLAND. I will explain that. The reason for this requirement that the trial should be in the county where the offense was committed was that you were to get a jury who knew all about it. You must get a jury of the vicinity so as to get persons who were well acquainted with the transaction. I agree that that was the legal jury of the early common law; but the theory of the law in these latter days, as now administered by the courts of the United States and of every State in the Union, is precisely the contrary. The object and purpose of all laws now in relation to juries is to get persons who are not only entirely impartial, but who have no knowledge whatever in relation to the case or the transaction that they are called upon to try.

Now, I have been told by men who are ac-

quainted with the trial of cases in this District, I have been told by some of the judges of the court in this District, that wherever a man was put on trial for an offense, no matter what the form of the offense was, where the gist, the real *gravamen* of the crime against him was that he had stolen money out of the Treasury belonging to the Government, it was utterly impossible to get a jury within the limits of this District that would convict him, no matter what the evidence might be. Taking money belonging to the Government was not regarded here really as an offense, and a man could not be convicted for it. Then there are certain cases of a political complexion that come before the courts here: there are various suits pending now in the courts of this District brought for arrests and imprisonment that took place during the war; and I am told by those who have good means of knowing that it is utterly impossible that a jury should be drawn under any law that prevails here in this District by which a fair trial can be afforded to the officers of the Government in such cases.

I agree that the theory of the common law originally was as the Senator from California states. The original object was to get a jury as near the transaction as possible, those who knew all about it, but the law upon that subject and the reason of the law have been entirely reversed. In all the States a change of venue is allowed, by which either a civil or criminal case is sent from one county to another county to have the trial there. That is for the purpose of getting it into a community where there is nothing known of the subject, where there is no feeling or opinion on the subject. It seems to me that is an entire answer to the objection that is made here. Instead of sending the case abroad, to be tried by another court and jury, we bring a jury from abroad to try the case here. It seems to me that the provisions of this bill are eminently wise and just, and that it ought to pass.

Mr. McDOUGALL. Mr. President, I do not think the learned gentleman from Vermont, for whose opinions and judgment in the law I have the most profound respect, is exactly accurate in the terms used by him. The "jury of the vicinage" did not mean a person who knew all about the transaction. That was only the law of the hundred. When a man was picked up for breaking a pasture-ground or committing some common and small injury in the neighborhood he was attended to by the hundred; but the "jury of the vicinage" was a larger term than the judgment of the hundred, or I have forgotten altogether what little law I did read in my juvenile days. The "jury of the vicinage" involved this as distinct from the knowledge of the thing, that they knew the men; that is, if the Senator from Maine, the chairman of the District Committee, was accused of a foul action, the popular opinion of the whole neighborhood would know it was a falsehood, and would denounce it as such, and therefore he could not be fairly accused before the first magistrate. Consequent from that was the voice of the vicinage, so that when a man was accused he had the benefit of character, as he was known either for an evil or a good man. It is true that as years passed along that had to be changed; but the only change has been made by removing it, not from the vicinage, but where the immediate vicinage could be charged on oath with special prejudice from violent feelings or from some extraneous cause; then it might be asked that it should go to the next immediate vicinage. That is the law of the change of venue, and it has never gone in this country beyond from one county to another. There never has been a change of venue in this country, in my judgment, more than beyond one county.

The most desperate controversy that I remember now was when Judge Wilkinson had a controversy in Kentucky and killed his tailor, and they carried it into the adjacent county, Garrard county, I think. There never has been known a change of venue to carry a trial beyond the first adjacent county. This is start-



ing upon the principle of the right to bring in jurors from all parts of the United States.

Sir, this is not consistent with the common law; it is in violation of the common law. If old Lord Coke could rise here he would denounce all of you who affirm it, as being at the breaking up of the foundations of that ancient system upon which the liberties of the English and the American people rest. The right of trial by jury has been guarded with the most exact care. It is not the care of a century; it is the care of at least twelve centuries, changing from time to time as the necessities of the times transpired. It was well understood when our Government was established; it is well understood in England now, and should be well understood by us. It has been understood to be one of the bulwarks of American liberty, not national freedom, but individual liberty. The idea of the exercise of the power of bringing in jurors here to sit in the courts of this District from States abroad seems to me one of the most heinous violations of the principles of the right of trial by jury that has been suggested in history. I do not think there has been such a suggestion made in the period of English history, nor do I believe it has been made in the period of American history until now.

The power may exist; but oh, remember there is a vast difference between power and right. I endeavor only to exert the right. Power may exist in the multitude and may express itself through a mob; but among counselors and in Senate Chambers and in legislative halls the right should be considered. To bring in juries to try causes in the District of Columbia from abroad is an innovation on a great fundamental law as old and older than Runnymede, as old as doomsday book, ay, older than doomsday book, old as the ancient Saxons before they ever made their landing in England. And when you undertake to obtrude upon and infringe upon and overthrow those great principles you will find that there is an underlying sentiment and a great knowledge of truth in the heart of our people that will bring all of you into tribulation; and "tribulation" in ancient times was understood to be thrashing corn and wheat, and those who bring it about will be thrashed as they tribulated in ancient times.

Mr. HOWARD. Mr. President, I trust we shall be prepared to meet that great and terrible hour of tribulation which the Senator from California predicts will arise against us in case we pass this little bill; but I do not foresee any such terrors in the future as seem to haunt his imagination in case we pass this bill; nor do I see any ground whatever for the objections which the Senator raises upon the score of constitutionality against the passage of the bill.

Mr. McDUGALL. Will the Senator allow me to ask him one question?

Mr. HOWARD. Certainly.

Mr. McDUGALL. Is it not a departure from all legislation with which the Senator is acquainted?

Mr. HOWARD. No, sir.

Mr. McDUGALL. I know the Senator is a lawyer and has read all the law of former times and of our own country; and I ask him is it not an absolute departure from all previous law?

Mr. HOWARD. I do not regard it as a departure from the principles of the law, nor do I regard it as any departure from the practice of the Government in similar cases; but, on the other hand, it is in strict accordance with existing laws, as I shall show. We have under the Constitution the power of exclusive legislation over the District of Columbia. This is conceded; and we have precisely the same power over all lands that may be granted by the various States to the United States for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings. It may be best to read the whole clause, for it is very plain and very specific.

Congress shall have power—

"To exercise exclusive legislation in all cases whatsoever over such District (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings."

"Like authority" we may exercise within the limits of forts, magazines, dock-yards, and other buildings. Existing laws expressly authorize the district courts of the United States held in the various States to try cases of crime committed in forts, dock-yards, and other public places reserved for public uses by the United States; and it is a matter of almost daily occurrence that crimes committed in forts and dock-yards are tried and punished in the United States district courts within the States where the forts, &c., stand. Any other construction of this clause in the Constitution would lead to very great difficulty. A murder is committed within the limits of a tract of land used as a fort by the United States: would the Senator from California require that the jury for the trial of that offense should be taken from persons residing within its limits? In nine cases out of ten the thing would be utterly impossible, for there would be no persons residing there to serve as jurors for the trial of the offense. The practice of the Government has been, as I have already remarked, to try such offenses in the district court within the limits of the State, and to call a jury from every part of the district for the purpose of trying the offense committed within those limits.

How does that case differ from this? We have the same authority in respect to the District of Columbia that we have in reference to forts; and in the case of forts, as I have already shown, we take juries from every part of the district, and a district may be made up of one State or two States or three States or half a dozen States if Congress see fit so to do.

Mr. McDUGALL. Allow me to ask the Senator a question?

Mr. HOWARD. Certainly.

Mr. McDUGALL. Is not the jurisdiction of the Government over forts in the nature of military jurisdiction?

Mr. HOWARD. It is not by any means restricted to a military jurisdiction.

Mr. McDUGALL. Is not the jurisdiction of the Government over forts and arsenals in the nature of military jurisdiction, and is not the jurisdiction of the United States over the District of Columbia in the nature of civil jurisdiction as distinguished from military?

Mr. HOWARD. The honorable Senator asks me whether the jurisdiction over forts is not in the nature of military jurisdiction. What does the honorable Senator mean by the expression "nature of military jurisdiction?" Does he intend to deny, either directly or by implication, that over these forts Congress, under the Constitution, has exclusive jurisdiction, whether the jurisdiction be military or civil?

Mr. McDUGALL. Not at all.

Mr. HOWARD. The clause declares that Congress shall exercise "like authority," that is exclusive legislation "over forts," &c. If, then, it be competent for Congress by law to try a crime committed within a fort out of the limits of that fort and by a jury not taken from within those limits, it follows in my mind conclusively, the language being the same, that Congress has the power to try cases arising in the District of Columbia either in the District or out of the District if they see fit, and to call a jury for the trial of a crime from without the limits of the District upon the same parity of reasoning and for precisely the same reason. I do not see any constitutional difficulty whatever in the way.

As to the immediate motives that have led to the introduction of this bill, I know nothing of them. I take it for granted that the honorable Senator from Vermont has not spoken

rashly or inconsiderate when he says that it has become next to impossible to punish a certain description of crime committed within the District of Columbia by a jury called from within the District. If that be so, I think it behooves us to give this subject our serious attention and endeavor at least to call a jury who are not so infected by the plague common to the people of this District as to be incompetent to serve in such a case.

Mr. BUCKALEW. Mr. President, I suppose the Senate is hardly constituted in a proper manner this evening for voting upon contested questions. It will therefore be expedient, I think, to lay this bill over, or by common consent to dispose of it in some manner without submitting any contested point to a vote. But while the question raised by the Senator from California is up, I will say that in my opinion there is no question that this bill is an improper one, and that it violates a fundamental principle; and this can be made out, not by any argument founded upon the clause to which the Senator from Michigan has alluded, but by reference to the sixth article of the amendments to the Constitution of the United States, which reads in this manner:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law."

Now, sir, until you have a judicial district here including a portion of the State of Maryland, it will be impossible for you by a bill of this description to draw jurors from the State of Maryland for the purpose of a trial here. The thing is as plain as plain can be. Under the circumstances I will move that the bill be postponed for the present, and I believe that will conform to the views of the chairman.

Mr. MORRILL. I have no objection to the bill being laid aside.

Mr. HOWARD. I should be glad of a moment's opportunity to reply to the Senator from Pennsylvania with regard to the point which he makes arising under the sixth amendment to the Constitution; but I will not occupy the time of the Senate if the chairman of the committee desires to have the bill laid aside.

The PRESIDING OFFICER. The bill will be laid aside by unanimous consent; no objection being interposed.

#### DESTITUTE COLORED POPULATION.

Mr. MORRILL. I am instructed by the Committee on the District of Columbia to report a joint resolution, and I ask for its present consideration.

By unanimous consent, the joint resolution (S. R. No. 172) to provide temporary relief for the destitute colored population in the District of Columbia, was read twice and considered as in Committee of the Whole. It proposes to appropriate \$15,000 for the purpose stated, to be expended under the direction of the Commissioner of the Freedmen's Bureau.

Mr. FESSENDEN. Where does that measure come from? I should like to have an explanation of it.

Mr. MORRILL. I will make a statement in regard to this matter. I find by a report of the Freedmen's Bureau that there are between thirty-one and thirty-two thousand colored people in the District. Nearly half or quite half of them are persons who are supposed to be temporarily here, or here on account of the general disturbance in the country. They came in here from different sections of the country, and came here in every instance in a condition of destitution, and almost entire destitution, and they have subsisted by the charity of the Government and otherwise. The Freedmen's Bureau has been engaged during the last twelve months in sending these people into different sections of the country to work, and has disposed of between six and seven thousand of them in that way. The bureau is still engaged, and so is also a voluntary association,

at the head of which is a very estimable lady, Mrs. Griffith, in distributing these people into the communities in the several States; but there are still a large number of colored people in this District who are in a state of suffering and destitution, and there is no mode of relief. The corporate authorities of these cities do not feel—and I do not say that they ought to feel—that these people are properly chargeable upon them, and they make no provision for them. They are dependent, therefore, upon private charities abroad and such liberality as Congress sees fit to extend to them. Early last year, perhaps in March or April, Congress appropriated \$25,000. The bill originated then as now in the Senate, and upon a statement of facts relative to the general destitution of these people then as well as now. The bill as it passed the Senate appropriated \$25,000 for the benefit of the colored people in this District, but it was amended in the House so as to apply to the poor of the District, and the result has been, according to the report which I have in my hands, that the larger portion of it has been distributed to the white population in the District.

Mr. FESSENDEN. Who had the distribution of that fund?

Mr. MORRILL. It was under the Freedmen's Bureau. The language of the law was such as to cover "the poor of the District;" and therefore, although confided to the Freedmen's Bureau, the Commissioner of that bureau did not deem that he was at liberty to confine it to the freedmen, and so the charity has been distributed to the poor of this District. The poor of this city and the poor of Georgetown, as I am informed and believe, have shared very largely out of that fund. I have before me a partial report showing the distribution of the fund for a certain period, which shows, for a limited period, this result:

Relief afforded, on recommendation of visiting agents, for whites.....	\$3,421 22
Relief afforded, on recommendation of visiting agents, for colored persons.....	2,665 00

It was not the intention, originally, of the movers of that resolution that the money should be distributed generally to the poor of this District, for the obvious reason that the cities of Washington and Georgetown would hardly feel themselves complimented by an attempt of Congress to take charge of their poor. It would be the next thing to throwing the cities themselves upon the national Treasury to say that these cities are not capable to take care of their own poor; and yet this fund having been provided, I am told the poor here very generally resorted to it, and the result has been that only a small portion has gone to those for whom the appropriation was originally intended, who are destitute and suffering persons, for whom there is no regular charity here and no provision of law. They are waifs thrown on the surface here by the rebellion through which we have passed and the events that have succeeded it. They come here to local organizations which are to some extent unfriendly, and there is nobody to care for them. There is no relief for them except by an appeal to Congress.

The committee considered the matter, and put the appropriation at as low a figure as was possible. The amount last year was \$25,000; but it is believed that if this \$15,000 can be confined to the freedmen, the colored population who come in here from the States and are in a condition of destitution, it will with economy be sufficient to help them through this season of the year, and enable the bureau and the association to which I have referred to distribute them in the States and find positions for them, so that before another winter this large surplus population will be distributed through the country.

Mr. WADE. I think it was the understanding of the committee that this sum ought to be \$20,000, and I hardly see how the bureau can get along with less. Last year the appropriation was \$25,000, and I do not believe a similar

amount of money was ever better expended than that appropriation was. The white poor, who ought to be maintained by the white population of the District, came and participated in that fund. I understand that during the last year some five thousand colored people have been sent off to get homes where they have an opportunity to make provision for themselves by their own labor. An institution which accomplishes such results ought to be cherished, and I really do not know how we could get along without it.

All this arises from the abnormal state of things consequent upon the late war. I have no doubt that it will very soon subside, and that this is a mere temporary affair.

Mr. CONNESS. Let me ask at what date the appropriation was made last year?

Mr. MORRILL. The last of March or the first of April.

Mr. WADE. This winter has been a very hard one, and there is a great deal of suffering here. We see but very little of it unless we take pains to inquire or are on committees that bring us in contact with the vast amount of suffering there is here. I want to put the appropriation at as low a figure as possible; but I am afraid the amount named here is entirely too low.

Mr. MORRILL. I sympathize entirely with the Senator's feeling, and think we ought to have more.

Mr. WADE. I ask the Senator if, from all the inquiries he has made and all the knowledge he has, he believes \$15,000 will be enough to get along with?

Mr. MORRILL. I believe it would be a very small sum for the purpose. I should be glad to see it \$20,000.

Mr. WADE. I move to amend the joint resolution by striking out \$15,000 and inserting \$20,000.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

#### VAGRANT CHILDREN.

Mr. SUMNER. Senate bill No. 573, reported from the Committee on the District of Columbia, was under consideration the other day, and was informally laid aside. I now move that the Senate proceed with its consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 573) supplementary to the act incorporating the Newsboys' Home, and providing for the relief of certain minor children in the District of Columbia, the pending question being on the amendment proposed by Mr. JOHNSON, to insert as a new section, after section three, the following:

*And be it further enacted*, That when the said courts or magistrates shall discover from competent testimony that the children brought before them belong to parents who are members of some particular religious denomination or society, these children shall be handed over by the action of the courts or magistrates to the agent or committee of their respective religious denomination: *Provided*, If he well ascertained that the latter have made sufficient provision for the care and protection of such children: *And provided also*, That the parents or guardians of the children be immediately notified of such proceeding.

Mr. MORRILL. Those who were here on the former occasion when this bill was considered will recollect the character of this amendment; but as there are some Senators present now who were not here then, perhaps I ought to present a few words in explanation of the bill.

This bill is a bill to incorporate certain ladies as a body politic and corporate upon the principle of the distribution of a general charity. They are authorized by this bill to receive vagrant, indigent, and abandoned minor children into their care and custody and provide for them, and they are also authorized by this bill, if they find children indigent, vagrant, and abandoned, to bring them before the court, and if

they have no parents, upon evidence satisfactory to the court that such children are destitute, vagrant, or abandoned, the court shall be authorized to commit such children to the care and custody of this institution. That is the general scope of the bill. Now, the amendment is that whenever there is an attempt to bring such children before the court to procure such judgment, other parties may interpose, not the parents, not the guardians, not the legal custodians, not the legal representatives of the children, but anybody outside who feels interested on account of their religious notions, a religious society or denomination may interpose against this general charity and claim the children, and upon proof that the parents of the children are of their particular persuasion or mode of thinking these children shall be turned over to these persons and discharged from the custody of the law. That, I understand, is substantially the provision.

I said the other day all that I had to say about it. I will simply repeat that if the general charity we authorize here is laudable, if the care of the State may be invoked for destitute, abandoned, and vagrant children, and if it is proper for the State to look after such children and care for them, and we are satisfied that the incorporators in this bill are suitable and proper persons, then I think it is a very pertinent inquiry whether anybody for sectarian purposes should be authorized to interpose between the law and this general charity and dispossess the court of its jurisdiction, and dispossess these persons of the right to control this general charity. That is the whole of it.

Mr. McDOUGALL. Although I am a member of the Committee on the District of Columbia, it is understood by the chairman of the committee that I did not concur in reporting this bill. This charity was started originally as a charity for the newsboys of Washington. Now, sir, I regard the newsboys of Washington as a very respectable corporation, and I do not regard them as vagrants or as persons lost or abandoned. Many of the newsboys of this country have grown up into men of high value in public places and in commercial circles in the business of the country. This bill, then, is reducing a charity which was volunteered by some ladies here, with the aid of Congress, for the benefit of the newsboys of the city of Washington, to an institution for the vagrants, the small thieves, the loiterers, and the wharf-rats of the city of Washington upon the ground that they are abandoned boys. I know many newsboys about here that exhibit intelligence quite equal to their years, considering the advantages they have possessed. I have known newsboys to grow up into important men; and when we have started a charity for their benefit I do not care to assail it with any other one and to mix them with the common thieves and loafers and boys that are abandoned.

My idea is, that if you start a charity for the newsboys it should be for the benefit of newsboys; and if these charitable ladies wish the aid of the Government to carry on their charitable institution, so far as the newsboys are concerned, be it so; but if you want a house of refuge for young thieves, for vagrant boys, for those who have no homes and who live in barrels and under boxes and on the wharves, make a proper house of refuge for them, as there is in every civilized part of the country. But I am not disposed to have an association which was started here for the professed object of taking care of the newsboys of Washington commingled with and associated with all the crime, iniquity, and evil there may be among the juvenile population. That class should be put into a house of refuge. I am opposed to the whole bill for that reason, and the reason is patent to any one who will bestow a thought on the subject.

This was started as a charity to aid the newsboys, who are poor but many of whom are industrious. Many a newsboy in this city supports his mother and takes care of his

family by his acts of industry in the streets of Washington, and so they do in other cities. They are sometimes rather impudent boys, but they have intelligence and they have enterprise, and they earn their money by the sweat of their brow. They are not to be put in the class of abandoned children. They are not to be put in the class of those who pass along the streets and watch for an opportunity for a little thievery to get something for their breakfast or dinner; but a half dozen of them together get enough for something to eat, and they go into an old empty hoghead and eat it.

I know it is the idea of the Senator from Massachusetts [Mr. SUMNER] that these are all of the same class. I think very differently, for out of these same newsboys may be builded up as learned men as even the illustrious Senator from Massachusetts. Many of them, of course, may fail in this, but a few may succeed, and it is the success of the few that has established the strength and the glory of our Republic. That class of boys who early in the morning, at daylight, go out and give us the news of the day, industriously using their energies in order, perhaps, to bring home to their parents a little means for their daily bread, are not to be compared to paupers or wharf-rats or abandoned children; but that is the idea of this bill and I am utterly hostile to it. I shall call for the yeas and nays upon its passage.

Mr. JOHNSON. I offered an amendment to the bill on Saturday, and that is the amendment now under consideration. I said to the honorable member from Massachusetts at the time that it was my purpose to call for the yeas and nays on that amendment, and I shall be obliged to do it now; but I am very unwilling to do so, as I believe there is not a quorum present. I should prefer, therefore, to have the bill go over.

Mr. WILSON. If Senators propose to call for a division on this bill I hope it will be laid aside informally until the body is fuller than it is now, and in the meantime I have charge of half a dozen small bills which I should like to put on their passage.

Mr. JOHNSON. That course would be agreeable to me.

Mr. CONNESS. Before this bill is laid aside I desire to call attention to some of its provisions if it is to come up again. In its present shape I shall oppose it whenever it comes up. It provides that by a process of law children of both sexes may be arrested and committed to the care of this Children's Aid Society, and the officers of the society are authorized to execute "all writings that may be necessary to secure to the heads of families or others so selected the control and management of such children for the period therein set forth," without any limitation of time. In the first section they are authorized to arrest only minor children. Of course they can but arrest minor children. It seems to contemplate to make servants of them and nothing else. I do not wish to condemn any class of labor; but it is a bill that ought to be, as I think, more carefully considered. Provision should be made for binding them out to mechanic trades, that they may have an opportunity to rise in the world among men. It does not follow because a child of either sex is abandoned by its parents, or having no parents is left without any protectors, that therefore it is to be put in what may be considered the lowest rut of society, or the one from which it is most difficult to rise; that we shall take it and stamp it with inferiority so far as it may be done according to the formation of society. The main object of the bill is doubtless well enough; but I think the bill is objectionable in these regards, and I hope if it comes before us again that these matters will be attended to.

Mr. WILSON. I hope the bill will be allowed to go aside. We cannot have a division to-night.

Mr. SUMNER. I hope I may be allowed to make a brief explanation.

Mr. WILSON. Certainly.

Mr. SUMNER. The bill has for its title

that it is "supplementary to the act incorporating the Newsboys' Home;" the newsboys we understand to be minors; and further, "providing for the relief of certain minor children in the District of Columbia." Therefore, by its title it is only applicable to newsboys or certain minor children.

Mr. CONNESS. The title is not a part of the bill.

Mr. SUMNER. The Senator says the title is not a part of the bill. Very well; I now come to what is a part of the bill. The first section declares that the act incorporating the Newsboys' Home shall "be so enlarged as to embrace," what? "Minor children committed to their care;" and then it mentions the different classes of minor children. Then the second section says that "all persons in the District of Columbia who are unable to maintain their own minor children, or the minor children of others intrusted to them," &c., upon making application shall have the benefit of this act; and so it proceeds, section by section, being everywhere exclusively applicable to minor children and to none others. Then, finally, in the section to which I understood the Senator from California [Mr. CONNESS] to direct his criticism, the fifth section, it is provided that this society shall be fully empowered "to provide and care for the welfare of," whom? "All the minor children intrusted to them;" not children that are not minors, if there be any children not minors, not persons above minority, but minor children; so that the criticism of the Senator, if I understand it, that this might extend beyond the period of minority or be applicable to some others than minors, seems to me to fall to the ground.

But then, I understood him to go further and to complain that this bill seemed to hand over these children to an inferior condition in life. Well, sir, he makes a discovery on the text of this bill. The benevolent ladies who have this society in charge, certainly so far as I am aware of their purposes, had no such idea, nor does it seem to me that the language of the bill is susceptible of any such limitation as the Senator appears disposed to give it. It is that the society shall "provide and care for the welfare of all the minor children intrusted to them"—broad, capable language; very broad. Even the Senator could hardly supply from his affluence broader language. "And for this purpose"—what? "They may procure homes for them in the families of any competent person living in the United States." Is there anything there suggestive about the nature of the service? Certainly I never supposed that the service was to be limited to what was menial. Why not also what is mechanical? Why may they not be bound over to mechanics and inducted into the mechanic arts? Certainly the language is just as applicable to the mechanical arts as it is to what the Senator seemed to see in it, a menial pursuit.

It then goes on to say that they "may execute all writings that may be necessary to secure to the heads of families"—I take it, a mechanic may be a head of a family; in my part of the country they are, much to our pride—"or others so selected"—they may select persons who are not even heads of families, and give them, according to the bill "the control and management of such children for the period therein set forth;" that is, for some period set forth during the term of minority.

Mr. CONNESS. It does not say so.

Mr. SUMNER. Well, I understand that it does say so.

Mr. CONNESS. Will the Senator pardon me for a minute?

Mr. SUMNER. Certainly. I pardon the Senator always. [Laughter.]

Mr. CONNESS. It is a happy thing for myself and the country that we deal with a Senator so affluent in his generosity and disposition to pardon. But if the Senator while up had read the entire section, and it is but a very short one, and drawn upon the judgment of his co-Senators, and let them decide what the lan-

guage meant, it would not have occupied so much time as the honorable Senator did, when he has carefully avoided reading it.

Mr. SUMNER. Oh, no, I did not avoid it, the Senator will do me the justice to believe.

Mr. CONNESS. When I was up before I did not impute or say anything about the purpose of the benevolent ladies who have this institution in charge. I have no question about their purpose, and I said nothing about it. The Senator replied to what I did not say. Now, I will read the whole section. It is very brief:

That this society be fully empowered to provide and care for the welfare of all the minor children intrusted to them.

I suppose they cannot arrest anybody but a minor.

And for this purpose they may procure homes for them in the families of any competent person living in the United States, and may execute, under the seal of the corporation, all writings that may be necessary to secure to the heads of families, or others so selected, the control and management of such children, for the period therein set forth.

What does "therein" refer to? To the writings that are to have the corporate seal, of course.

Mr. SUMNER. Certainly.

Mr. CONNESS. Then suppose they put other conditions in. This law, so far as it is binding, binds the party thus bound out. The arrest and seizure of the person is in the minority of that person of course, but they are authorized by this law to bind them, and to insert therein any conditions they see fit. I have an amendment written that I should put in there; but I only called attention to it to show that it was rather carelessly worded. I did not rise to say anything about nor bring into question the purposes of the benevolent ladies who propose to take charge of orphans or necessitated children.

Mr. WILSON. By common consent it is understood that this bill cannot be acted upon to-night, and during the time it has taken up we could have passed half a dozen bills which it is necessary to act upon at this session. I do hope it will be laid aside.

The PRESIDING OFFICER. It can be laid aside by unanimous consent. Is there objection?

Mr. SUMNER. There is an objection; for while the attention of the Senator from California is directed to this bill I wish to have the benefit of his criticism. If he will suggest any language that will make the section clearer I shall be ready to accept it.

Mr. WILSON. I suggest that my colleague and the Senator from California have a consultation over this bill, and get it right. I have no doubt they will do so. I am very anxious to occupy a few minutes to put a bill on its passage.

Mr. CONNESS. As far as I am concerned I am perfectly willing to let the Senators from Massachusetts settle this matter between them—I mean the matter of precedence.

Mr. SUMNER. This is a bill in which many benevolent persons in Washington take a sincere interest; and I feel that it is a hardship that it should be exposed to jeopardy at this late day in the session.

Mr. GRIMES. It cannot be passed to-night.

Mr. SUMNER. Why cannot it be passed?

Mr. GRIMES. Because a division will be asked upon it.

Mr. WILSON. The Senator from Maryland [Mr. JOHNSON] gave notice that he should ask for a division, and it is plain it cannot be passed. We can act upon half a dozen other bills and save time by laying this aside.

Mr. McDUGALL. I assure the Senator from Massachusetts [Mr. SUMNER] that this bill cannot pass except on the severest criticism and with great controversy. I think it is radically wrong. In saying this I wish to say nothing as to the merit of the charitable ladies to whom he refers, and within whose jurisdiction he proposes to place all the orphan children of Washington; but there are propositions and



principles in it that cannot be passed without controversy, and I shall be one of the controversialists, if it shall last for a long controversy, I promise you that. It cannot be passed to-night.

Mr. SUMNER. Before the bill is laid aside I wish to call attention for one moment to the amendment of the learned Senator from Maryland. He proposes to submit to the courts, a question with regard to the religious denominations of the parents. Now, in introducing that proposition, the Senator will allow me to remind him he does not follow the authoritative precedents of his own State. Maryland is certainly a State which has never been ungenerous to the Catholics. She has no reason to be otherwise than generous to them, born as she is of an eminent Catholic, the first settler. But I have in my hand the Maryland statute on this very subject creating a society in Baltimore almost identical in purpose with that which it is proposed to create here.

Mr. JOHNSON. If the object of the honorable member is to inform me of what the statute of the State of Maryland is he may save himself that trouble; I know it already; and when the time comes to debate the particular amendment that I have offered I hope to satisfy the honorable member that that amendment should be adopted, notwithstanding that Maryland statute.

Mr. SPRAGUE and others. Let us have the Maryland statute.

Mr. SUMNER. Very well. Senators say, "Let us have the Maryland statute." I will not read it at length, but I have in my hand the sixth annual report of the Children's Aid Society of Baltimore, October, 1866, and in the appendix is a copy of the Maryland statute providing for the commitment to the custody of this society of "all minor children, whether male or female," and then empowering this society to bind these minor children, male or female, over to certain persons. Nothing is said about any intervention on account of the religious denomination of the parents. That is the Maryland statute, passed under Catholic influences, I doubt not. And now, if I understand my excellent friend on my left, [Mr. JOHNSON,] he comes here and tries to introduce into a statute of the United States a provision which calls upon the courts to discriminate with regard to the religious belief of the parents, which he does not find in the statutes of his own State, and, as he announced in what he said he said the other day, if not to-night, he makes his motion in the interest of Catholics, when the Catholics of Maryland found no such representation in the statutes of their own State.

I make this remark now even if this bill is to be laid aside. I am very sorry that this opposition has sprung up to this bill. It is very simple in its provisions. It is supplementary to one which has already been adopted by the Senate. There are many good persons here who take a sincere interest in it and who will be grieved very much at its failure. I wish the Senate could act upon it now.

Mr. WILSON. I move that this bill be informally laid aside for the purpose of taking up some other matters.

The PRESIDING OFFICER. It can be laid aside informally by unanimous consent.

Mr. McDUGALL. Let it be laid aside, not informally.

The PRESIDING OFFICER. The motion is that it be laid aside informally.

Mr. WILSON. Why will not the Senator from California allow this bill to pass over informally, as by a common understanding, as a vote cannot be taken upon it to-night, for the purpose of taking up bills that we can act upon and which it is important to act upon? I ask the Senator from California to let me have the floor for a few minutes.

Mr. McDUGALL. I want this bill to go over; but by laying it aside informally it may come up again.

Mr. WILSON. It may or may not come up.

Mr. McDUGALL. If the understanding

is that it shall not come up this evening again I shall not object.

Mr. WILSON. It will not come up any more this evening.

The PRESIDING OFFICER. If there be no objection, the bill now before the Senate will be laid aside, according to the suggestion, informally. It can be done by unanimous consent only. No objection being made, it is laid aside.

#### PRIZE MONEY TO SIGNAL CORPS.

Mr. WILSON. I move to take up the bill (H. R. No. 1128) to authorize the payment of prize money to certain officers and enlisted men of the Signal corps of the Army.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the proper accounting officers of the Treasury to pay to the officers and enlisted men of the Signal corps of the Army who were assigned to and performed duty on the fleet under command of Admiral D. G. Farragut, while the fleet was engaged in the action in Mobile bay, on the 5th of August, 1864, such sum or sums as prize money, to each of them respectively, as will be equal to what has been allowed in distribution to officers or sailors of the Navy of corresponding rank, the same as if their names had been in any case borne on the ship's books.

Mr. WILSON. I will simply say that these officers and men were on board Admiral Farragut's ship in Mobile bay, and by accident or neglect of the proper officer their names were not put on the list, and therefore they did not get the prize money to which by law they were entitled. They did their duty, and were entitled to it, and the Department so states. All we ask is that this error shall be corrected. There are only a few of them.

Mr. JOHNSON. Has not that money been distributed?

Mr. WILSON. It has been distributed, but the Government received one half of it, and it is proposed to pay these men out of that half. The Government gains by all these prizes one half, and these men were entitled to a share of the other half, but were left out by accident; and certainly they ought to be put on the same footing as others.

Mr. WILLIAMS. How much money does the bill appropriate?

Mr. WILSON. It cannot be but a very small sum, as there were very few of them. They were very important men on board; they were the signal men.

Mr. GRIMES. I have no objection to the principle of this bill, but I am fearful the Senator will not accomplish exactly what he wants. In the first place, the bill does not provide that the money shall be paid out of the naval pension fund, but paid out of the general Treasury. I apprehend it should be paid out of the naval pension fund.

Mr. FESSENDEN. Do you pay prize money out of the naval pension fund?

Mr. GRIMES. The naval pension fund is made up of the prize money. Then, again, the bill declares that these officers and men shall receive the same amount of prize money as has been allowed to officers or men of corresponding rank in the Navy. Now, I will inquire of the Senator if he can inform me what would be the corresponding rank of a private? Would it be a seaman, an ordinary seaman, or a landsman?

Mr. WILSON. I cannot tell. I suppose a private would be ranked the same as a sailor.

Mr. GRIMES. But the sailors are ranked in four different grades. They are seamen, ordinary seamen, landsmen, and boys.

Mr. FESSENDEN. The Department will settle that.

Mr. GRIMES. How will they settle it?

Mr. SPRAGUE. These men are all officers; I think there are no privates.

Mr. GRIMES. If there are no privates this objection is obviated; but the bill includes privates.

Mr. WILSON. It includes privates, and I suppose there are one or two privates interested in it. Wherever a signal officer has been placed during the war there have been one or two privates with him. The bill probably does not provide for over half a dozen men altogether.

Mr. GRIMES. I do not make any objection to the bill. I think if these men were on board of one of our vessels of war and ran the risk of their lives they ought to be paid the same as any other men. If the Senator will accomplish what he wants by the bill I am satisfied.

Mr. WILSON. I am told that the Department have settled one case on the same principle exactly. I do not think there will be any trouble about it. I think the Department will settle the question of rank.

Mr. FESSENDEN. It had better be paid out of the naval pension fund.

Mr. WILSON. I think it had better be taken out of the Treasury. The Government got one half the prize money.

Mr. FESSENDEN. But they paid it into the naval pension fund.

Mr. WILSON. This is a House bill, and if it is amended it will have to go back to the House. The Government got fifty per cent. of this prize money, and I think they can afford to pay these four or five men. I hope the bill will be put on its passage.

The PRESIDENT *pro tempore*. The Chair will put the question as soon as the debate ceases.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### DAVID'S ISLAND.

Mr. WILSON. I move to take up the House joint resolution for the purchase of David's Island.

The motion was agreed to; and the joint resolution (H. R. No. 263) for the purchase of David's Island, New York harbor, was considered as in Committee of the Whole. It is a direction to the Secretary of War to purchase, for the Government of the United States, David's Island, in Long Island sound, at the sum of \$38,500, in accordance with the terms and conditions of the lease of Simeon Leland, dated April 13, 1862, and renewed March 30, 1863, by which the island was leased to the United States.

Mr. WILSON. I will simply say that this island will cost \$38,500 and the Government has on it \$150,000 worth of buildings, and the Secretary of War is very anxious to have the purchase made. This large amount of property which we have there is of some value on the island, but of very little value if you move it away.

Mr. JOHNSON. What is it?

Mr. WILSON. Hospital buildings and other property we had there during the war. There cannot be any doubt that this resolution ought to pass. It has already passed the House of Representatives.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### PROPERTY AT HARPER'S FERRY.

Mr. WILSON. I now move that the Senate proceed to the consideration of the bill (H. R. No. 1131) to authorize the Secretary of War to convey certain lots in Harper's Ferry, West Virginia.

Mr. MORRILL. I should like to know how I got dispossessed. I thought I was entitled to go on with the District business. I gave way to the honorable Senators as I supposed, to allow a little resolution to be passed, but I seem to have been ousted.

Mr. WILSON. After this bill is passed I will yield to the Senator.

Mr. JOHNSON. I would prefer that the bill called up by the honorable member from Massachusetts should not be acted upon now. There is a difficulty I understand about the title, and before disposing of the bill it would

perhaps be well that that difficulty should be solved. I understand that the property was conveyed to General Washington in trust for the United States, and that that is the only title under which it is now held. The doubt which has been suggested is whether the United States have any authority to sell it, as that would destroy the purposes of the trust. I suggest, therefore, to the honorable member from Massachusetts to let the bill lie on the table for a day or two until we can ascertain the actual nature of the title.

Mr. WILSON. Very well. I withdraw the motion.

#### VOLUNTEER OFFICERS.

Mr. MORRILL. I entered yesterday a motion to reconsider the vote by which the Senate postponed indefinitely the joint resolution (H. R. No. 269) for the relief of certain officers of volunteers. I understand that the chairman of the Committee on Military Affairs has no objection to its reconsideration with a view to the further examination of the resolution. I therefore ask for action on the motion.

The motion to reconsider was agreed to.

Mr. MORRILL. I now move that the resolution be laid aside.

The motion was agreed to.

#### JUDICIAL PROCEEDINGS.

On motion of Mr. MORRILL, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 907) to amend the law of the District of Columbia in relation to judicial proceedings therein.

The bill contains twenty-three sections, regulating the practice of the courts in many matters of detail.

The Committee on the District of Columbia proposed to amend the bill by striking out in line six of section one the words "the final judgment of the appellate court" and inserting "all intervening damages and costs arising on the appeal;" so as to read:

That no appeal shall be allowed from the judgment of a justice of the peace, unless the appellant, with sufficient surety or sureties, approved by the justice, enter into an undertaking to satisfy and pay all intervening damages and costs arising on the appeal.

Mr. MORRILL. As the bill stands without the amendment, it required to authorize an appeal that the appellant should enter into a bond to pay the final judgment. The committee considered that a little severe. It would be equivalent, perhaps, in some cases, if not to an actual bar, to great hardship. A man might not be able to give a bond to pay the final judgment, and perhaps it would be rather severe that he should be required to do that. The committee considered that the rights of the succeeding party would be well enough secured if the appellant party was required to give bond to pay the intervening damages and costs. A plaintiff is proceeding against a defendant under process of law; the defendant has and ought to have a right of appeal; now he ought not to suffer a penalty, and the conditions of the bond ought not to be such as absolutely to deny him the right of appeal or make it a hardship. He ought not to be required, in order to secure the right of a trial in the appellate tribunal, to give a bond that he shall pay the final judgment against him, but he ought to be required, if he postpones it or delays it, to pay the intervening damages and the costs which arise in consequence of his appeal.

Mr. JOHNSON. I think the committee and the honorable chairman are mistaken as to the policy which ought to be adopted in relation to a measure of this description. The plaintiff who succeeds in his judgment very often loses the amount of the debt in consequence of the appeal, although the judgment is affirmed. A party has personal property which he disposes of in the interval between the rendition of the judgment below and the judgment of the appellate court. In Maryland we always require the appellant to undertake to pay the debt as well as damages, so as to place the plaintiff in the same situation as to

security when the judgment is affirmed as he is when the judgment is first rendered. It is not necessary, however, that there should be a bond executed at all. The party can appeal without a bond. The whole effect and operation of the bond is to stay execution. It operates as a *supersedeas*. But if this appeal is to operate as a *supersedeas* the plaintiff may lose his debt altogether, and may be unable, although he succeeds in affirming the judgment, to recover anything from the securities but the amount of the costs. I think the general law of the United States is the same, too, as prescribed by the act of 1789. There can be no *supersedeas* without the bond being executed; and the bond which operates as a *supersedeas* is a bond which binds the obligor to pay the amount of the debt as well as the intervening damages, provided the judgment is affirmed; and I rather think that is the better course; it will operate more beneficially in the whole than the opposite one, which the committee recommend for the adoption of the Senate. It has the effect unquestionably to produce delay. There will be an appeal in all cases, if a party is required only to give a bond for costs, and the use of the money may be worth more than six per cent. during the pendency of the appeal.

Mr. McDOUGALL. My recollection is not exactly the same with that of the Senator from Maryland. Upon error assigned, under the common law, the judge of the appellate tribunal, thinking there is reasonable ground of error, orders a *supersedeas* as a matter of course, until the case can be heard upon appeal. That was the old rule of the common law, and is the rule in most of the States. I do not know much about appeals from justices of the peace to the regular courts, but I know very well that on an appeal from the district and circuit courts of the various States to their appellate tribunals and to the Supreme Court of the United States, upon error assigned, a judge of the appellate court, seeing that there appears to be good cause of error, would at once order a *supersedeas*. There was no bond required further than that for damages and costs, and that would at once operate as a *supersedeas*. That is the principle of the amendment substantially.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read a third time, and passed.

#### DISTRICT SUFFRAGE.

Mr. MORRILL. I move now to take up House bill No. 1, to extend the right of suffrage in the District of Columbia.

The motion was agreed to.

Mr. MORRILL. That subject has had the consideration of the Senate, and therefore this bill is reported adversely. I move that it be indefinitely postponed.

The motion was agreed to.

#### JUSTICES OF THE PEACE.

Mr. MORRILL. I move now to take up for consideration House bill No. 571.

The motion was agreed to; and the bill (H. R. No. 571) to regulate proceedings before justices of the peace in the District of Columbia, and for other purposes, was considered as in the Committee of the Whole.

The Committee on the District of Columbia proposed to amend the bill by striking out in the third section the word "the," in line fourteen, and inserting "a;" and by striking out in line fifteen the word "is" and inserting "may be at the time;" so as to read:

Provided, Good and sufficient security be entered by a person or persons who may be at the time the owner of sufficient property.

The amendment was agreed to.

The next amendment was in section four, line two, to insert the words "original writs" before "civil," and after "criminal" to strike out "warrant;" so as to read:

That all justices of the peace may issue original

writs, civil and criminal, returnable before themselves.

The amendment was agreed to.

Mr. BUCKALEW. If I heard this fifth section correctly, it strikes me that a very singular expression is used—"unnecessary cruelty." I propose to make that read "wanton cruelty."

Mr. MORRILL. "Unnecessary severity" is the language.

Mr. BUCKALEW. I move to amend by inserting the words "and wanton" after "unnecessary."

Mr. MORRILL. I have no objection to that.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill be read a third time. The bill was read the third time, and passed.

#### CRIMES IN THE DISTRICT.

Mr. MORRILL. I move now that the Senate take up for consideration House bill No. 431.

The motion was agreed to; and the bill (H. R. No. 431) providing for the punishment of certain crimes therein named in the District of Columbia, and for other purposes, was considered as in Committee of the Whole.

Mr. MORRILL. I move to amend the bill by striking out the thirteenth section, in these words:

SEC. 13. And be it further enacted, That in all cases where attorneys are appointed by the court to defend prisoners on their trial, the court may order the payment of such fees for such defense as may be deemed reasonable, but in no instance to exceed twenty-five dollars.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time, and passed.

#### ALLEGHANY ARSENAL.

Mr. WILSON. I desire to take up a little bill from the House of Representatives which is recommended by the Secretary of War as necessary. It is a bill to authorize the purchase of certain lots of ground adjoining the Alleghany arsenal at Pittsburg, Pennsylvania. There is a spring on the land that the Government uses, and the Secretary of War recommends the purchase of the ground. I move to take up House bill No. 1141.

The motion was agreed to; and the bill (H. R. No. 1141) to authorize the purchase of certain lots of ground adjoining the Alleghany arsenal at Pittsburg, Pennsylvania, was considered as in Committee of the Whole.

It empowers the Secretary of War to accept the offer of the Saint Francis Hospital Society to sell to the United States certain lots of ground situate in the borough of Lawrenceville, Pennsylvania, numbered one, two, three, and four, containing about nine thousand six hundred square feet, and upon which is a spring supplying the arsenal with water; and appropriates \$3,800 to pay for the lots upon their conveyance to the United States by good and sufficient title in fee-simple.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### COPYRIGHT LAW.

Mr. CRESWELL. The Committee on the Library, to whom was referred the amendment of the House of Representatives to the bill (S. No. 491) amendatory of the several acts respecting copyrights, have instructed me to recommend that the amendment be concurred in.

The Secretary read the amendment, which was to insert at the end of line nine of the second section the words "to give a receipt for the same if requested and."

The amendment was concurred in.

On motion of Mr. BUCKALEW, the Senate (at ten o'clock and five minutes p. m.) adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, February 14, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON. The Journal of yesterday was read and approved.

## POST OFFICE APPROPRIATIONS.

Mr. KASSON, from the Committee on Appropriations, by unanimous consent, reported back the amendment of the Senate to House bill No. 918, making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1868, with a recommendation that the House concur in the amendment of the Senate.

The amendment of the Senate was as follows:

Add to the bill the following:

*And be it further enacted,* That the Secretary of the Treasury is hereby authorized to transfer two clerks from the third class to class four in the office of the Auditor of the Treasury at the Post Office Department; and a sum sufficient to pay the increased compensation required by said transfer for the remainder of the current year and the fiscal year ending June 30, 1868, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The amendment of the Senate was agreed to.

Mr. KASSON moved to reconsider the vote by which the amendment of the Senate was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

THOMAS J. FRAZIER.

Mr. DONNELLY, by unanimous consent, introduced a bill for the relief of Thomas J. Frazier; which was read a first and second time, and referred to the Committee of Claims.

## TENURE OF OFFICE.

Mr. SCHENCK. I ask unanimous consent to take from the Speaker's table Senate bill No. 453, regulating the tenure of certain civil offices. The House made certain amendments to that bill, the effect of which is to require that Cabinet officers shall not be removed from office except by and with the advice and consent of the Senate. The Senate have disagreed to those amendments. I now ask that the bill be taken up for the purpose of submitting a motion to bring the matter to an issue. I move that the House insist upon its amendments, and ask a committee of conference on the disagreeing votes of the two Houses.

No objection being made, it was ordered accordingly.

## LARCENY OF GOVERNMENT PROPERTY.

Mr. LAWRENCE, of Ohio. I ask unanimous consent to take from the Speaker's table an amendment of the Senate to House bill No. 604, to define and punish certain crimes. I desire to move that the House disagree to the amendment of the Senate, and ask a committee of conference.

Mr. LE BLOND. I object to the bill being taken up out of its regular order.

Mr. LAWRENCE, of Ohio. I hope my colleague will not insist upon his objection, at least until I have an opportunity to explain the object of the bill.

Mr. LE BLOND. I will hear what the gentleman has to say, and reserve my right to object.

Mr. LAWRENCE, of Ohio. This bill is simply one to define and punish the robbery and larceny of United States securities, and to punish the malicious obstruction of any railway on which are trains containing mail matter or other freight belonging to the Government. The Senate has made an amendment, and my object is to non-concur in the amendment and have a conference.

Mr. LE BLOND. Is the bill general in its application?

Mr. LAWRENCE, of Ohio. It is.

Mr. LE BLOND. It is confined to no particular locality?

Mr. LAWRENCE, of Ohio. Certainly not.

Mr. LE BLOND. I ask that the amendment of the Senate be read.

The amendment of the Senate was read, as follows:

Strike out all after the enacting clause, and insert: That if any person shall rob another, lawfully in the custody thereof, of any kind or description of personal property belonging to the United States, or shall feloniously take and carry away the same, the person so offending shall on conviction be punished by fine not exceeding \$5,000, or by imprisonment at hard labor not less than one nor more than ten years, or by both, at the discretion of the court.

Mr. LE BLOND. I withdraw my objection.

Mr. LAWRENCE, of Ohio. I move that the House disagree to the amendment of the Senate, and ask for a committee of conference. The motion was agreed to.

## IMPORTATION OF WINES.

Mr. RICE, of Maine, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas it is reported that the American consul at Cadiz, Spain, has improperly refused to certify certain invoices of wine shipped to the United States, and has thereby caused much needless inconvenience to importers; and whereas it is reported that some correspondence has taken place between the Spanish Government and the Government of the United States in relation thereto: Therefore,

*Resolved,* That the President of the United States be requested, if not incompatible with the public interest, to transmit to this House all papers, documents, and correspondence relating to the importation of wines from Cadiz, Spain, or having reference in any manner to the action of the American consul at Cadiz, in refusing to certify invoices of wines shipped from that port.

Mr. RICE, of Maine, moved to reconsider the vote by which the preamble and resolution were agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## MAIL SERVICE—CALIFORNIA AND OREGON.

Mr. HENDERSON. I ask that by unanimous consent Senate resolution No. 157, in relation to mail service between San Francisco, in California, and Portland, in Oregon, be taken from the Speaker's table for consideration at the present time. The bill has been examined by the Committee on the Post Office and Post Roads, and the chairman of that committee has authorized me to ask for its passage.

Mr. BIDWELL. I hope the proposition of the gentleman from Oregon will be agreed to. This bill can be passed in a few moments, and its passage is very important.

There being no objection, the House proceeded to the consideration of the joint resolution; which was read a first and second time.

The question being upon ordering the joint resolution to a third reading, it was read at length. It proposes to authorize the Postmaster General to employ ocean mail service between San Francisco, California, and Portland, Oregon, not less than three times per month, in continuation of the service from New York via Panama to San Francisco; provided the cost of the service shall not exceed \$25,000 per annum; and it is made the duty of the Postmaster General to advertise for bids for the performance of this service for at least thirty days in at least one newspaper published at San Francisco, and one at Portland, Oregon, and to contract with the lowest responsible bidder.

The joint resolution was ordered to a third reading, read the third time, and passed.

Mr. BIDWELL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ANTHONY AND EUBANK.

Mr. HISE. I ask unanimous consent to submit the following resolution relating to a subject which, with certain papers that I hold in my hand, I desire to have referred to the Committee of Claims:

*Resolved,* That the Committee of Claims be, and are hereby, instructed to inquire into the justice and validity of the claims of William Anthony and Carson Eubank, a firm with the name and style of Anthony & Eubank, against the Government of the United States for taking possession of their porkhouse, situated in the county of Sumner, State of Tennessee, on the Cumberland river, and its appurte-

nance, and appropriating the same for the use and benefit of the military forces of the United States, occupying as a military post the town of Gallatin, in said State, and that they report by bill or otherwise.

Mr. WILSON, of Iowa. I object.

The SPEAKER. The papers of the gentleman from Kentucky [Mr. Hise] in relation to this claim can be presented under the rule.

Mr. HISE. Very well; I will do that.

CHARLES O. ROWOHL.

Mr. TAYLOR, of New York, by unanimous consent, reported from the Committee on Invalid Pensions a joint resolution for the relief of the mother of Charles O. Rowohl; which was read a first and second time.

The question was on ordering the joint resolution to be engrossed and read the third time.

The joint resolution was read at length. It directs the Secretary of the Interior to pay to the mother of Charles O. Rowohl, deceased, late of company I, eighth regiment Kansas volunteers, eight dollars per month from the date of the death of her son to the time when she first received a pension under the general pension law.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TAYLOR, of New York, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## PUBLIC BUILDINGS IN NEW MEXICO.

Mr. CHAVES, by unanimous consent, presented the following memorial of the Legislature of the Territory of New Mexico, praying an appropriation by Congress for the completion of the capitol and penitentiary in that Territory; which was referred to the Committee on the Territories, and ordered to be printed:

*To the honorable the Senate and House of Representatives of the Congress of the United States:*

Your memorialists, the Legislative Assembly of the Territory of New Mexico, very respectfully represent that the last Legislative Assembly of this Territory unanimously addressed memorial to your honorable bodies, in regard to an appropriation being made to complete the capitol and penitentiary, which buildings have been commenced in Santa Fé, New Mexico, but not completed. We do now sincerely indorse said memorial, and pray your honorable bodies to make the necessary appropriation to complete said buildings, which if not finished at an early day the materials and work already done on said buildings will soon go to ruin. Criminals go unpunished for the reason that the criminal laws cannot be executed; and public peace and security cannot be secured without a penitentiary.

The Federal officers of the Government, as also the Legislative Assembly, are not able to procure suitable rooms for their officers, and the last for their meetings, without paying an exorbitant rent therefor, which in a few years will amount to a greater sum than that required for the completion of the capitol buildings.

Your memorialists further represent that the honorable Secretary of the Territory and superintendent of public buildings have made an estimate of \$9,500 for the repair of the Palace building belonging to the Government, which estimate has been forwarded to the honorable Secretary of the Treasury and the Register of that Department. This building is one of the oldest in the United States, and with the sum required it could be put in a good state of repair, and thereby save considerable rents which are now paid, and which would increase the value of the building much more than the sum asked for to repair it.

Your memorialists pray the favorable consideration of your honorable bodies in this matter; and, as in duty bound, will ever pray.

## RESOLUTION.

*Resolved by the Council of the Legislative Assembly, (the House of Representatives concurring therein,) That the honorable Secretary of the Territory be, and is hereby, required to forward certified copies of the memorials adopted by the last Legislature to his Excellency the President of the United States, to the honorable Secretary of the Treasury, to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States, to the chairmen of the Committees on Territories of the Senate and House of Representatives, and to Hon. J. FRANCISCO CHAVES, our Delegate in Congress.*

MIGUEL E. PINO,

President of the Council.

R. M. STEPHENS,

Speaker of the House of Representatives.

Approved, January 18, 1867:

W. F. M. ARNY,

Acting Governor.



UNITED STATES OF AMERICA,  
Territory of New Mexico.

J. W. F. M. ARMY, secretary and acting Governor of New Mexico, do hereby certify that the foregoing is a true copy of the original, which is on file in my office, as passed by the Legislative Assembly of the Territory of New Mexico at its present session.

In testimony whereof I have hereunto signed my name and affixed my official seal, this 21st day [L. s.] of January, A. D. 1867.

J. W. F. M. ARMY.

Secretary and Acting Governor of New Mexico.

Mr. CHAVES, by unanimous consent, presented two other memorials of the Legislature of New Mexico, relative to the same subject; which were referred to the Committee on the Territories, and ordered to be printed.

## WAR DEBTS OF LOYAL STATES.

The SPEAKER announced as the first business in order the unfinished business at the adjournment yesterday, being the motion to reconsider the vote by which the House, on the 15th of January last, recommitted to the select Committee on the War Debts of the Loyal States the bill (H. R. No. 998) to reimburse the States that have furnished troops to the Union Army for advances made and expenses incurred in raising the same.

Mr. BLAINE. This bill proposes to reimburse the States that have furnished troops to the Union Army fifty-five dollars for each man so put into the Army, regardless of the expense incurred by the State in putting the men there. It pays for the men put in rather than for the expenses incurred in putting them in, treating in that respect all the States alike. And I desire, without detaining the House, to make a test question on the vote to reconsider; and on that I demand the previous question.

Mr. McKEE. I should like to ask a question.

Mr. BLAINE. Certainly.

Mr. McKEE. Does this bill provide in this reimbursement that sums of money already paid shall be deducted; that is, sums already paid for arms, equipments, &c.?

Mr. BLAINE. The sums already paid have been paid under existing law. It does not make provision to deduct them, nor does it cut off any State from any claim which may be audited and paid under existing law. This is entirely extraneous.

Mr. DELANO. I should like to know what is the aggregate appropriation?

Mr. BLAINE. One hundred and fifteen million dollars in five per cent. bonds, the interest to be paid in currency and the bonds not to be negotiable until after July 1, 1867.

Mr. DELANO. This bill then proposes a very heavy appropriation for the purpose of the payment of these claims. The fact as to when these bonds are negotiable does not prevent them from increasing the obligations of the Government; and in the present condition of the country financially, I think the House ought to well understand what it is for.

I am aware, sir, this gives to the State of Ohio some thirteen million dollars. I represent in part that State, but Ohio is not the entire Union—only a portion of it. It is proper, therefore, the House should understand what this is before it makes this large expenditure of money.

I do not believe it is a measure we ought to enter upon now. There is not a State in the Union whose finances are not in a better condition than the finances of the Government of the United States. The time may come when the Government can assume this indebtedness and discharge it, but that time has not yet come.

There is now a large amount of unadjusted claims, some portion of which, with proper discrimination, will have to be paid. The demands of duty will require it. I hope, therefore, the House, before it assumes this debt, will see what it is doing and what necessity there is for it.

Mr. BLAINE. I will satisfy the gentleman: the unadjusted claims to which he refers will summarily and finally be adjusted by this bill. I need only call his attention to section three, which reads as follows:

Sec. 3. And be it further enacted, That each bond

issued in pursuance of this act shall have plainly printed or engraved thereon the words following, namely: "The bonds of which this is one are issued to the State of — in full reimbursement for expenses incurred by said State in the war for the Union. Said bonds are not negotiable until after the 1st day of July, A. D. 1867, and then only upon the indorsement of the Governor of the State. And said bonds are accepted by said State in full payment of all claims for expenses incurred or losses sustained in the war for the Union, either by the State or by any municipal corporation within the State."

Mr. DELANO. The provision of the bill to which the gentleman has just called my attention does not touch the subject to which I have adverted. What I allude to is this: during the progress of the rebellion, in the loyal and in the disloyal States, private property was taken for the use of the Army. It was sometimes in the way of property and perhaps sometimes in the way of money. It was taken from loyal persons, and went to support the Army. It went for subsistence supplies, quartermaster supplies, &c.; and these individual claims are not covered by the provision of this bill to which my attention has been called.

We know that they are already pressed upon us, and that in some form the question is to be met. I ask whether those claims do not create a demand upon the Government infinitely more potential than these claims in behalf of the States? I make no proposition in reference to these private claims, but only present the condition of the country, so that gentlemen may understand it before breaking into this large appropriation of \$115,000,000.

You have before you now, or will have shortly, the bounty bill, which will demand consideration perhaps over any other measure of this kind, and will take out of your Treasury, if I am not misinformed, some \$250,000,000.

Mr. BLAINE. I would ask the gentleman a question just at this point. Does not this \$115,000,000, which the gentleman says adds so much to the national debt, relieve by just that amount the local debt?

Mr. DELANO. I do not so understand it; if it does, say so in plain English and not in such an obscure way that there may be doubt about its interpretation. Now I am for the measure; I think it is one that we are compelled to go for; but it is a subject which can bear postponement. Better let the States wait than let men wait who have periled their lives for their country. I hope the gentleman will not press his bill; if he does, I hope the House will so dispose of it that the burden will not be laid at the present time on the finances of the country.

Mr. LE BLOND. Has this bill come before the House from any regular committee?

Mr. BLAINE. It came from a special committee appointed at the first meeting of Congress.

Mr. LE BLOND. Has it been referred to any standing committee at any time?

Mr. BLAINE. A special committee was raised for the purpose of considering it.

Mr. LE BLOND. Then I will vote to reconsider, with the understanding that it shall be referred to the appropriate committee for investigation, to be reported upon by that committee hereafter.

Mr. BLAINE. What will be the proper committee?

Mr. LE BLOND. I do not know of any that would be more appropriate than the Committee of Claims.

Mr. FARNSWORTH. The Committee of Ways and Means.

Mr. THAYER. I desire to ask the gentleman from Maine from what sources the number of men with which the States are credited in this bill has been obtained? My reason for asking is, I observe the bill credits my own State for 267,588 men, while by the report of the adjutant general of Pennsylvania the number furnished by that State was 362,284, which is exclusive of militia. The number therefore in the bill is at least 100,000 less than what is certified by the adjutant general.

Mr. BLAINE. No, sir, not a man less. This bill has reduced the number to the standard

of three years' service, and therefore while it is true that Pennsylvania furnished 362,284 men, when reduced to that standard it makes 267,588 men. There were a good many one-year, two-year, and nine-month men.

Mr. THAYER. Has the gentleman put the House in possession of the calculation by which his result is arrived at? It would be more satisfactory for us to go through the process by which these numbers have been arrived at.

Mr. BLAINE. I can answer it satisfactorily. The figures were furnished by the War Department upon a call for that information by this House. It is an official statement. Is that satisfactory?

Mr. THAYER. No; I am not satisfied.

Mr. RANDALL, of Pennsylvania. Will the gentleman from Maine yield?

Mr. BLAINE. For a question.

Mr. RANDALL, of Pennsylvania. I think the shortest way to dispose of this question will be the best. This bill proposes that the Federal Government shall assume a debt which it is in no manner by law or equity bound to pay, and I would remind the gentleman from Maine that the Treasury of the United States is not so flush at this time as to enable the Secretary of the Treasury to pay any such debt.

Mr. BLAINE. I only yielded for a question.

Mr. RANDALL, of Pennsylvania. The gentleman has cut me off in the middle of my argument. [Laughter.]

Mr. BLAINE. I yielded for a question, not for an argument. I have promised to yield a few moments to the gentleman from Ohio.

Mr. SCHENCK. My only object in rising was to make a proposition. This bill comes from a select committee created for the purpose of considering it. It is based upon a matter referred to that committee. It has been a long time before the House, the bill has been printed, and it has evidently passed in a great degree out of the minds of members of the House, who had turned their attention to it heretofore. I propose now, if it can be generally agreed to, that by common consent we reconsider and order the yeas and nays and lay the subject over to be voted upon at a future time.

Mr. BLAINE. What would that time be?

Mr. SCHENCK. Let it be some two or three days hence. I suppose we can do that by common consent and have the previous question called and seconded, so that the vote can be taken without debate.

Mr. WILSON, of Iowa. I shall object to that.

The SPEAKER. There are two bills ordered by unanimous consent to be considered after the morning hour, the indemnity bill and the bounty bill; and those bills cannot be displaced except by unanimous consent.

Mr. BLAINE. I of course care no more about this bill than any other gentleman in the House. It does not affect my State differently from anybody else's State, nor even quite so favorably as it affects some other States. All I desire is that the House shall be brought to a vote upon it. I care not particularly what that vote is, and the most direct way to reach that end is to consider the question of reconsideration a test question, and therefore I move the previous question upon the motion to reconsider.

Mr. BOYER. Will the gentleman allow me a few moments?

Mr. BLAINE. Yes, sir; as the gentleman is a member of the committee.

Mr. BOYER. I had made up my mind to cast my vote in favor of this bill; but the action of this House during the present week has changed my determination. This bill proposes that the Federal Government shall assume certain debts contracted by the States, which otherwise it would not be bound to pay. I think that if all the States were represented on this floor it would be a measure which would commend itself to this Congress for adoption; but the recent legislation of this House has shown a disposition on the part of the dominant majority here to exclude from representation for

an indefinite period, the southern States lately engaged in rebellion, and that without regard to their present disposition to obey in good faith the Constitution and laws of the United States.

Mr. BLAINE. I hope the gentleman will excuse me for interrupting. I know that I am obstructing the vital business of the session, and if he has anything to say on the bill itself I will yield to him willingly; but I cannot yield to allow him to go into a political argument on a side issue; I do not think that I am justified in doing so.

Mr. BOYER. I do not regard it as a side issue.

Mr. BLAINE. Well, I must be the judge of that in this case; and I now insist upon the previous question upon the motion to reconsider.

Mr. WILSON, of Iowa. I move that the motion to reconsider be laid on the table.

The SPEAKER. The effect of the motion to lay on the table the motion to reconsider will be to leave the bill before the committee.

Mr. BOYER. Do I understand the gentleman to refuse to yield to me as a member of the committee?

Mr. BLAINE. I will yield to the gentleman to make remarks upon the bill, but not to make a political harangue upon a subject which has no connection whatever with the bill.

The SPEAKER. No debate is in order upon the motion to lay the motion to reconsider on the table.

Mr. RANDALL, of Pennsylvania. I rise to a question of order. I desire to know whether a motion to lay the bill on the table would be in order?

The SPEAKER. It would not; because the bill is now before the select Committee on the War Debts of Loyal States, and is not yet before the House. If the motion to reconsider prevails, the bill will then be before the House.

The question was upon the motion of Mr. Wilson, of Iowa, to lay on the table the motion to reconsider, and being taken, upon a division there were—ayes 50, noes 61.

Before the result of the vote was announced, Mr. BLAINE called for tellers.

Tellers were ordered; and Mr. BLAINE and Mr. BOYER were appointed.

The House again divided; and the tellers reported that there were—ayes 54, noes 58.

Before the result of this vote was announced, Mr. WILSON, of Iowa, and Mr. FARNSWORTH called for the yeas and nays on the motion to lay on the table the motion to reconsider.

Mr. LE BLOND. I would suggest that the better way would be to agree to the motion to reconsider the vote by which the bill was recommitted. Then when the bill shall be again before the House it can be referred to a standing committee of the House.

Mr. WILSON, of Iowa. I think we better try it in this way.

The question was upon ordering the yeas and nays; and being taken, there were, upon a division—ayes thirteen.

Before the noes were counted, Mr. WILSON, of Iowa, called for tellers on ordering the yeas and nays.

Tellers were ordered; and Mr. WILSON, of Iowa, and Mr. FERRY were appointed.

The House again divided; and the tellers reported that there were—ayes twenty-four, noes not counted.

So (the affirmative being one fifth of the last vote) the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 72, nays 75, not voting 43; as follows:

YEAS—Messrs. Allison, Arnell, Baker, Beaman, Bidwell, Boyer, Bromwell, Bundy, Campbell, Chandler, Cobb, Cook, Cooper, Cullom, Davis, Defrees, Delano, Dodge, Dumont, Eckley, Eldridge, Farnsworth, Finck, Garfield, Glossbrenner, Aaron Harding, Abner C. Harding, Hawkins, Hise, Hogan, Holmes, Demas Hubbard, Hulburd, Ingersoll, Julian, Kasson, Kerr, Latham, George V. Lawrence, William Lawrence, LeBlond, Leftwich, Longyear, McCullough, McKear, Moorhead, Moulton, Niblack, Neill, O'Neill, Orth, Phelps, Samuel J. Randall, Rogers, Ross, Scofield, Shanklin, Shellabarger, Sloan, Spalding, Strouse,

Taber, Nathaniel G. Taylor, Thayer, Francis Thomas, Thornton, Upson, Andrew H. Ward, William B. Washburn, Wentworth, Williams, and James F. Wilson—72.

NAYS—Messrs. Alley, Ancona, Anderson, Baxter, Benjamin, Bergen, Bingham, Blaine, Blow, Broomall, Buckland, Reader W. Clarke, Darling, Dawes, Dawson, Deming, Dixon, Donnelly, Driggs, Eggleston, Farquhar, Ferry, Goodyear, Grinnell, Hart, Hayes, Higby, Hill, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Jenckes, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, Lynch, Marston, Marvin, Maynard, McClurg, McIndoe, McKee, Mercier, Miller, Morris, Myers, Nicholson, Paine, Perham, Pike, Plants, Price, William H. Randall, John H. Rice, Rollins, Sawyer, Schenck, Sitgreaves, Starr, Stokes, Nelson Taylor, Trowbridge, Van Aernam, Burt Van Horn, Hamilton Ward, Welker, Whaley, Stephen F. Wilson, Winfield, and Woodbridge—75.

NOT VOTING—Messrs. Ames, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Barker, Boutwell, Brandegee, Sidney Clarke, Conkling, Culver, Denison, Eliot, Griswold, Hale, Harris, Henderson, Hooper, Hotchkiss, Asahel W. Hubbard, Hunter, Jones, Loan, Marshall, Morrill, Newell, Patterson, Pomeroy, Radford, Raymond, Alexander H. Rice, Ritter, Rousseau, Stevens, Stilwell, John L. Thomas, Trimble, Robert T. Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, Windom, and Wright—43.

So the motion to lay on the table was not agreed to.

The question recurred upon the motion of Mr. BLAINE to reconsider the vote by which the House recommitted the bill to the select Committee upon War Debts of the Loyal States.

Mr. BLAINE. I call the previous question. The question was taken upon seconding the call for the previous question; and upon a division there were—ayes 53, noes 50.

Before the result of the vote was announced, Mr. RANDALL, of Pennsylvania, called for tellers.

Tellers were ordered; and Mr. RANDALL, of Pennsylvania, and Mr. SCHENCK were appointed.

The House again divided; and the tellers reported that there were—ayes 65, noes 56.

So the previous question was seconded. \*

The main question was ordered; and under the operation thereof the motion to reconsider was agreed to.

The bill recurred upon the motion to recommit the bill to the select Committee on the War Debts of the Loyal States.

Mr. BLAINE. As I have already stated, all I desire is to get a test vote on this question. I therefore withdraw the motion to recommit and call the previous question on the question of ordering the bill to be engrossed and read a third time.

Mr. RANDALL, of Pennsylvania. I move that the bill be laid on the table.

Mr. FARNSWORTH. I desire to inquire of the gentleman from Maine [Mr. BLAINE] whether the Government of the United States has not already paid to several States all the claims of this sort properly chargeable to the Government?

Mr. BLAINE. That is debating the general issue, which I do not propose to go into now.

Mr. FARNSWORTH. It is a fact.

Mr. BLAINE. Mr. Speaker, is debate in order?

The SPEAKER. It is not, except by general consent, as there are two undebatable questions pending—the demand for the previous question and the motion to lay the bill on the table.

Mr. BLAINE. I insist on the demand for the previous question.

Mr. RANDALL, of Pennsylvania. I call for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 62, nays 87, not voting 41; as follows:

YEAS—Messrs. Ancona, Delos R. Ashley, Baker, Beaman, Bidwell, Boyer, Bromwell, Campbell, Chandler, Cook, Cooper, Davis, Dawson, Defrees, Delano, Denison, Dodge, Eckley, Eldridge, Farnsworth, Finck, Garfield, Glossbrenner, Aaron Harding, Abner C. Harding, Hawkins, Hise, Hogan, Holmes, John H. Hubbard, James R. Hubbell, Hulburd, Julian, Kasson, Kerr, Latham, George V. Lawrence, LeBlond, Leftwich, Longyear, Marshall, McCullough, McKear, Moulton, Niblack, Neill, Orth, Samuel J. Randall, Ritter, Ross, Shanklin, Spalding, Taber, Nathaniel G. Taylor, Thayer, Thornton, Upson, Andrew H. Ward, William B.

Washburn, Wentworth, Williams, and James F. Wilson—62.

NAYS—Messrs. Alley, Allison, Anderson, Arnell, Baldwin, Baxter, Benjamin, Bergen, Bingham, Blaine, Boutwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cullom, Darling, Dawes, Deming, Dixon, Donnelly, Driggs, Dumont, Eggleston, Eliot, Farquhar, Ferry, Goodyear, Hart, Hayes, Higby, Chester D. Hubbard, Edwin N. Hubbell, Humphrey, Ingersoll, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, William Lawrence, Loan, Lynch, Marston, Marvin, Maynard, McClurg, McIndoe, McKee, Mercier, Miller, Morris, Myers, O'Neill, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, John H. Rice, Rollins, Rousseau, Sawyer, Schenck, Scofield, Shellabarger, Sitgreaves, Sloan, Starr, Stokes, Strouse, Nelson Taylor, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Welker, Whaley, Stephen F. Wilson, Windom, Winfield, and Woodbridge—87.

NOT VOTING—Messrs. Ames, James M. Ashley, Banks, Barker, Blow, Brandegee, Bundy, Conkling, Culver, Grinnell, Griswold, Hale, Harris, Henderson, Hill, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Hunter, Jenckes, Jones, Moorhead, Morrill, Newell, Nicholson, Phelps, Pomeroy, Radford, Raymond, Alexander H. Rice, Rogers, Stevens, Stilwell, Francis Thomas, John L. Thomas, Trimble, Warner, Elihu B. Washburne, Henry D. Washburn, and Wright—41.

So the House refused to lay the bill on the table.

The question recurred on seconding the demand for the previous question on ordering the bill to be engrossed and read the third time.

On the question, there were—ayes 48, noes 46.

Mr. SPALDING called for tellers.

Tellers were ordered; and Messrs. SPALDING and CULLOM were appointed.

The House divided; and the tellers reported—ayes 49, noes 63.

So the previous question was not seconded.

Mr. THAYER. I move that the bill be referred to the Committee of Ways and Means; and on that motion I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof, the motion was agreed to; there being—ayes 81, noes 47.

Mr. THAYER. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed, without amendment, bills and a joint resolution of the House of the following titles:

A bill (H. R. No. 1128) to authorize the payment of prize money to certain officers and enlisted men of the signal corps of the Army;

A bill (H. R. No. 1141) to authorize the purchase of certain lots of ground adjoining the Alleghany arsenal, at Pittsburg, Pennsylvania; and

A joint resolution (H. R. No. 263) for the purchase of David's Island, New York harbor.

The message further announced that the Senate had passed, with amendments in which the concurrence of the House was requested, bills of the House of the following titles:

A bill (H. R. No. 431) providing for the punishment of certain crimes therein named in the District of Columbia, and for other purposes;

A bill (H. R. No. 571) to regulate proceedings before justices of the peace in the District of Columbia, and for other purposes; and

A bill (H. R. No. 907) to amend the law of the District of Columbia in relation to judicial proceedings therein.

The message further announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 128) authorizing limited partnerships in the District of Columbia;

A bill (S. No. 492) to protect the rights of married women, and for other purposes, in the District of Columbia; and

A joint resolution (S. No. 172) for the temporary relief of the destitute colored population in the District of Columbia.

The message further announced that the

Senate had indefinitely postponed a bill of the House of the following title:

A bill (H. R. No. 1) extending the right of suffrage in the District of Columbia.

The message further announced that the Senate had agreed to the amendments of the House to a bill of the Senate of the following title:

A bill (S. No. 491) amendatory of the several acts respecting copyrights.

The message further announced that the Senate had agreed to the amendments of the House to a joint resolution of the Senate, No. 90, to suspend temporarily the collection of the direct tax within the State of West Virginia, with amendments, in which the concurrence of the House was requested.

#### ORGANIZATION OF NATIONAL MILITIA.

The SPEAKER announced as the first business in order during the morning hour reports of committees, beginning with the Committee on the Militia.

Mr. PAINE. From the Committee on the Militia, I report back, with amendments, the bill (H. R. No. 1145) to provide for organizing, arming, and disciplining the militia, and for other purposes.

Mr. Speaker, before the House proceeds to the consideration of this bill I will state, for the gratification of my friends who have business following the morning hour, that I shall make no speech upon the bill. I have spent much time in thinking about it, and I am unwilling to spend any more time in talking about it. I wish, however, to state the course which I should be glad to have pursued by the House in the consideration of this measure. It has been arranged between my colleague on the committee, the gentleman from Missouri, [Mr. NOELL,] and myself that the time occupied in the consideration of the bill shall be equally divided between the opponents and supporters of the bill.

After the bill is read I will ask the Clerk to read a brief statement of facts. Then I will yield what is left of the morning hour equally to the advocates and opponents of the bill, resuming the floor, however, ten minutes before the expiration of the morning hour for the purpose of demanding the previous question. If the previous question shall be seconded, I will then, to-day or to-morrow, in the morning hour, give as much time as may be required by the advocates and opponents of the bill, and will then ask for a vote. I will also yield the floor, not only for the purpose of opposing and supporting the bill, but for the purpose of moving amendments by those who are opposed to the bill as well as those who are in favor of it. To that end I ask unanimous consent that amendments desired to be submitted may be considered as pending, to be voted on in their order, notwithstanding the seconding of the previous question.

There was no objection to the last proposition, and it was ordered accordingly.

Mr. PAINE. I am glad of that, for otherwise I could not have allowed all the amendments to come in, if the previous question should have to be called, for want of time.

The SPEAKER. If this bill be not voted on to-day in the morning hour, it will go over till next Tuesday. It will take about forty minutes to read it.

Mr. PAINE. If there be no objection, the first reading of the bill can be dispensed with. The bill will not go over until next Tuesday, for I purpose to call the previous question before the morning hour expires.

Mr. ROSS. It is near the close of the session, and I think we had better move that the bill be laid on the table.

The SPEAKER. The gentleman from Wisconsin has the floor.

Mr. LE BLOND. I call for the reading of the entire bill.

The Clerk then read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all able-bodied male persons who shall*

have been born or naturalized in the United States, or shall have declared, according to law, their intention to become citizens thereof, or shall have actually voted at any State, territorial, county, or municipal election therein, and shall be residents of any of the States or Territories thereof, and not less than eighteen nor more than forty-five years of age, excepting only Indians not taxed, idiots, lunatics, and persons convicted of any infamous crime, shall be liable to enrollment in the enrolled militia, in accordance with the provisions of the twenty-seventh section of this act.

*Sec. 2. And be it further enacted, That the national guard of active militia shall consist of two regiments of infantry in each congressional district and Territory represented in the Congress of the United States and also such other forces of infantry, cavalry, and artillery as the respective States and Territories so represented may organize, arm, and equip, in accordance with the system prescribed in this act, all of which troops shall be organized of volunteers; and no person shall be an officer, non-commissioned officer, or private in said national guard who shall be disqualified for, or exempt from, enrollment in the enrolled militia, or shall ever have voluntarily borne arms against the United States, or shall have voluntarily given aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto, or shall have sought, or accepted, or attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility thereto, or shall have yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto; and there shall be no discrimination between white and colored persons under this act, but they shall respectively be entitled to separate company and regimental organizations, and the number of white and colored troops respectively armed, equipped, clothed, and paid by the United States in each congressional district and Territory under the provisions of this act shall be proportionate to the white and colored population thereof.*

*Sec. 3. And be it further enacted, That there shall be an Assistant Secretary of War, appointed by the President, by and with the advice and consent of the Senate, who shall be specially charged with the execution of all laws of Congress enacted to provide for organizing, arming, and disciplining the militia; and the Secretary of War shall detail for his assistance the necessary staff officers of the adjutant general's, quartermaster general's, and ordnance departments, and shall appoint the necessary clerks, and classify the same for payment, according to law.*

*Sec. 4. And be it further enacted, That the national guard shall be organized in accordance with the following provisions, namely: First. Each company of infantry, cavalry, and artillery shall, in pursuance of authority from the Governor of the State or Territory, be formed of the lawful number of persons, having all the qualifications prescribed by this act for enrollment in the enrolled militia and for enlistment in the national guard, who shall take and subscribe, in duplicate, the following oath or affirmation: "I do solemnly swear (or affirm) that I am a resident of the town, county, and State, or Territory, prefixed to my signature, and am in all respects qualified for enrollment in the enrolled militia and enlistment in the national guard, under the provisions of the act entitled 'An act to provide for organizing, arming, and disciplining the militia, and for other purposes;' that I have enlisted for a term of three years in the national guard, and that I have never voluntarily borne arms against the United States since I have been a citizen thereof, and have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto; and I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge my duties as a member of the national guard, so help me God;" which oath may be taken and subscribed before any justice of the peace, notary public, or other officer legally authorized to administer oaths in the district or Territory where such company shall be organized; and any person who shall falsely take such oath shall be guilty of perjury, and, upon conviction thereof in any Federal, State, or territorial court of competent criminal jurisdiction in such district or Territory, shall be punished by a fine not exceeding \$5,000, or by imprisonment in any penitentiary or jail of such State, Territory, or district not exceeding five years, or both, at the discretion of the court, and shall also be stricken from the roll of the national guard. Second. After said oath shall have been taken and subscribed by the members of any company, as aforesaid, they shall elect one captain, one first lieutenant, and one second lieutenant. Third. The officers so elected shall annex to the aforesaid oath their official certificate in duplicate, setting forth that they were severally elected officers of such company according to law, and showing the time and place of such election and the office to which each was chosen, and shall thereupon transmit one oath and certificate to the Governor of the State or Territory, and the other to the Assistant Secretary of War; and if no fraud or illegality shall appear in such organization or election the Governor shall commission the said officers and assign the companies so organized to regiments, brigades, and divisions,*

but not before a sufficient number of such companies shall have been organized to constitute, in accordance with the provisions of this act, regiments, brigades, and divisions, respectively; and after such regiments, brigades, or divisions shall have been so organized, respectively, the officers thereof may be elected or appointed, as provided in the sixth section of this act; and no militia in any State or Territory of the United States shall be organized or maintained except in pursuance of the provisions of this act; and the organization of companies, regiments, brigades, and divisions shall be that of the Army of the United States, but four regiments of infantry shall constitute one brigade, and two brigades one division; and those persons only shall be eligible to such commissions who shall have all the qualifications for enrollment in the enrolled militia and enlistment in the national guard as in this act prescribed.

*Sec. 5. And be it further enacted, That all persons who shall enlist in the national guard shall be held for a term of service of three years from the date of their muster-in, unless sooner discharged; and all commissioned officers shall hold their offices until the expiration of three years from the date of their original muster-in, unless sooner discharged; and all officers, non-commissioned officers, and privates who shall have honorably served until the expiration of such term shall, at their option, be exempt from further military service in time of peace, but shall be liable to enrollment thereafter in the enrolled militia until the age of forty-five years, and shall be eligible to commissions until fifty-five years of age; and any person who shall become an idiot or lunatic, or be convicted of any infamous crime, after muster into the national guard, shall be stricken from the rolls thereof; and officers, non-commissioned officers, and privates shall be exempt from duty in the national guard, in time of peace, when absent from the congressional district or Territory in which they shall have respectively enlisted, and may be discharged from service for disability by the Governor of the State or Territory.*

*Sec. 6. And be it further enacted, That all brigade and division officers shall be appointed and commissioned by the Governor of the State or Territory; and all commissioned officers of regiments and companies shall be elected by such regiments and companies, respectively, and commissioned by the Governor of the State or Territory; and all non-commissioned regimental and company officers shall be appointed by warrant of the regimental commander; and all elections to fill original or other vacancies, except the original elections of company officers, shall be held by ballot at such times and places and under such regulations as the Governors of the respective States and Territories shall prescribe; and if any company or regiment shall fail to fill an vacancy by election, the Governor of the State or Territory shall, without delay, fill the same by appointment; and in any election, the person having the highest number of votes cast for any office shall be elected; but the provisions of this section shall not apply to any State in which a different mode of appointment of officers of the national guard shall be prescribed by law.*

*Sec. 7. And be it further enacted, That vacancies in the ranks of any company may at any time be filled to the maximum number assigned by law thereto by volunteers, who shall have all the qualifications prescribed by law for enrollment in the enrolled militia and for enlistment in the national guard, and shall take and subscribe, in duplicate, the oath prescribed in the fourth section of this act before some officer authorized by the provisions of said section to administer the same, and shall be subject to all the penalties prescribed in said section for falsely taking such oath; and one of said duplicates shall be transmitted, without delay, through the regular military channels, to the Assistant Secretary of War, and the other to the Governor of the State or Territory.*

*Sec. 8. And be it further enacted, That, in addition to the officers provided for in the preceding sections of this act, there shall be in each State and Territory a commander-in-chief and an adjutant general of the militia therein; and the Governor shall be such commander-in-chief in each Territory, and also in each State, unless it shall be otherwise provided for by the constitution or laws of such State; and said adjutant general shall be commissioned by the Governor, and shall have the rank of brigadier general; and said officers shall receive for their services under this act, from their respective States and Territories, such compensation as may be provided by the laws thereof; and said commander-in-chief shall exercise all such authority over the militia, including the national guard, as is reserved by the Constitution to the States; but orders, returns, reports, and other official communications issued or received by the Assistant Secretary of War within the scope of his authority shall not be transmitted through said commander-in-chief or adjutant general of the militia; and it shall be the duty of said adjutant general, under the orders of said commander-in-chief, to train the national guard according to the discipline prescribed in this act; to inspect the same thoroughly at least once in each year; to receive the returns, reports, and other official communications provided for in this act; to transmit annually, in October, to the Assistant Secretary of War, for the information of the Government of the United States, three separate consolidated returns, one for ordnance and ordnance stores, one for camp and garrison equipage and clothing, and one for the adjutant general's department, and also a report of the inspections by him made, in obedience to the provisions of this act, which report shall show the discipline of the troops of the national guard within the State or Territory, their instruction in military exercises and duties, the state of their arms, clothing, equipments, and accoutrements of all kinds, the state of the division, brigade, regiment, and com-*



pany books, papers, and files, the zeal and ability of their officers, the condition of all public property, the fidelity and care of officers responsible therefor, and all other important matters affecting the efficiency of said troops.

SEC. 9. *And be it further enacted*, That in time of peace the national guard shall obey all orders issued by the Assistant Secretary of War in organizing and arming the militia within the scope of the powers conferred upon Congress over the militia by the Constitution, and shall obey all orders issued by the Governors of the respective States and Territories within the scope of the authority reserved by the Constitution to the States; and the Assistant Secretary of War and Governor of each State and Territory shall, without delay, furnish each other with copies of all orders issued by them, respectively, to the national guard in such State and Territory; and each State and Territory shall have power to provide for training the national guard therein according to the discipline prescribed in this act, and for calling forth the same to execute the laws thereof and suppress insurrections therein, and for the appointment of all officers of the same; but neither the Governor nor the adjutant general of the militia in any State or Territory, nor the Assistant Secretary of War, shall exercise any authority whatever over the national guard or any part thereof until they shall have respectively taken and subscribed the oath prescribed in the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862; and they shall each be subject to all the penalties prescribed by law for falsely taking said oath.

SEC. 10. *And be it further enacted*, That whenever any company of infantry shall have been lawfully organized and mustered into the national guard, the captain of each company shall draw, for its use, from the proper departments, on his requisitions, approved by intermediate commanders, and by the Governor of the State or Territory, and on the order of the Assistant Secretary of War, the following articles of public property, namely: for each non-commissioned officer, musician, and private, one rifle, (or musket,) one bayonet, with scabbard, waist-belt and belt-plate, one cartridge-box, with cartridge-box plate, shoulder belt and belt-plate, one cap pouch, one canteen, one wiper, one ball-screw, one knapsack, one canteen, one haversack, one coat, one cap, and one pair of trousers; for every fifteen non-commissioned officers, musicians, and privates, one tent, two camp-kettles, and five mess-pans; for the non-commissioned officers and musicians, fifteen non-commissioned officers' swords, with scabbards, belts, and belt-plates, one fife and one drum; for the commissioned officers, three swords, with scabbards, belts, and belt-plates, and two tents. But the provisions of this section shall only apply to two regiments in any one congressional district or Territory, and said issues shall be made to white and colored troops in the proportion fixed by the second section of this act.

SEC. 11. *And be it further enacted*, That whenever any regiment of infantry shall have been lawfully organized and mustered into the national guard, the commanding officer thereof shall draw, for the use of such regiment, and of the field, staff, and non-commissioned staff officers thereof, from the proper departments, on his requisitions, approved by the intermediate commanders, if there shall be any such, and by the Governor of the State or Territory, and on the order of the Assistant Secretary of War, the following articles of public property, namely: for each field and staff officer, one tent, one sword, with scabbard, belt, and belt-plate, one saddle, one bridle, and one pair of spurs; for each non-commissioned staff officer, one rifle, (or musket,) one bayonet, with scabbard, waist-belt and belt-plate, one cartridge-box, with cartridge-box plate, shoulder belt, and belt-plate, one cap pouch, one canteen, one wiper, one ball-screw, one knapsack, one canteen, one haversack, one coat, one cap, one pair of trousers, and one non-commissioned officer's sword, with scabbard, belt, and belt-plate; for the whole non-commissioned staff, one tent, two camp-kettles, and five mess-pans; for the regiment, one national color, one regimental color, four camp colors, and one field piece, with carriage, caisson, and equipments and implements; but the provisions of this section shall only apply to two regiments in any one congressional district or Territory, and said issues shall be made to the commanders of white and colored regiments as nearly as practicable in the proportion fixed by the second section of this act.

SEC. 12. *And be it further enacted*, That whenever any brigade shall have been lawfully organized the commander thereof shall draw, on his requisitions, approved by the division commander, if there shall be one, and by the Governor of the State or Territory, and on the order of the Assistant Secretary of War, from the proper departments, for the use of himself and his staff officers, each one sword, with scabbard, belt and belt-plate, one saddle, one bridle, one pair of spurs, and one tent; but the provisions of this section shall be restricted to one brigade for every two congressional districts of any State represented in the Congress of the United States.

SEC. 13. *And be it further enacted*, That whenever any division shall have been lawfully organized the commander thereof shall draw, on his requisitions, approved by the Governor of the State or Territory, and on the order of the Assistant Secretary of War, from the proper department, for himself and his staff officers, each one sword, with scabbard, belt and belt-plate, one saddle, one bridle, one pair of spurs, and one tent; but the provisions of this section shall be restricted to one division for every four congressional districts of any State represented in the Congress of the United States.

SEC. 14. *And be it further enacted*, That all public property issued under the provisions of this act to the national guard, including clothing, shall remain the property of the United States, always subject to

the control of the officer responsible therefor, and always in his actual possession when not in use in the active performance of military duty required or authorized by this act; and no such clothing or other property shall be used except in the performance of such duty, but the same shall be kept in the armories provided for in section twenty-one of this act, and shall be turned over by such officer to his successor in office, or to any other person legally authorized to receive the same; and every officer to whom such property shall be issued or turned over shall be responsible for the lawful use and careful preservation of the same, and if any officer, non-commissioned officer, or private, or other person shall, without good and sufficient excuse, injure, lose, damage, waste, or destroy any of such property, he shall be liable to the officer responsible therefor, and also to the United States for double damages and costs, recoverable in any Federal, State, or territorial court of competent jurisdiction; and if any person shall wantonly, maliciously, or willfully injure, lose, damage, destroy, or waste any of such property, or use the same, or permit it to be used at times or places or in modes not authorized by law, he shall be liable to indictment therefor in any Federal, State, or territorial court of competent criminal jurisdiction, and upon conviction thereof, to punishment by a fine not exceeding \$10,000, one half of which shall be paid to the informer, or by imprisonment in a penitentiary or jail of the district or Territory for a period not exceeding one year, or both, at the discretion of the court, and shall pay the costs of prosecution.

SEC. 15. *And be it further enacted*, That every commanding officer entitled to receive public property under the provisions of this act shall have authority to draw, from time to time, from the proper departments, on his requisitions, approved by intermediate commanders and by the Governor of the State or Territory, and on the order of the Assistant Secretary of War, such articles issued under the provisions of this act as shall be necessary to supply deficiencies; but only one cap, one coat, and one pair of trousers each shall be issued for the use of the same men, or their successors, in three years; and all public property issued under the provisions of this act shall be delivered by the United States at the headquarters of the divisions, brigades, regiments, and companies to which the same shall be issued.

SEC. 16. *And be it further enacted*, That the times and places for division, brigade, battalion, company, and squad drills, and other military duties and exercises, shall be fixed by each State and Territory by law, or by command of the Governor thereof, but if not so fixed in any State or Territory shall be such as the respective commanding officers of the national guard therein shall appoint; but there shall be in the aggregate not less than three days of such drills and other military duties and exercises in each year; and there shall also be in each brigade a brigade encampment, and in each detached regiment a regimental encampment, of five days in each year, commencing on the last Monday of September, for such drills and other military exercises and duties, at such places and under such regulations as the Assistant Secretary of War shall prescribe.

SEC. 17. *And be it further enacted*, That all commanders of companies shall make quarterly company returns to regimental headquarters on the 1st day of January, April, July, and October; and all commanders of regiments, brigades, and divisions shall make quarterly returns of their commands through the regular military channels, between the 1st and 10th days of the same months, to the Governors of their respective States and Territories, and also to the Assistant Secretary of War; and all officers responsible for public property shall make two separate quarterly returns thereof, one of ordnance and ordnance stores, and the other of camp and garrison equipage and clothing, which shall be forwarded in duplicate to the Assistant Secretary of War, and to the Governors of the respective States and Territories, between the 1st and 10th days of January, April, July, and October; and all of said returns shall be made under such regulations as the Assistant Secretary of War shall prescribe, upon printed blanks, which shall be furnished by him on requisitions made annually, or oftener if necessary.

SEC. 18. *And be it further enacted*, That all commanders of brigades and detached regiments shall make semi-annual inspections of their commands, by regiments or companies, at such times and places as the Assistant Secretary of War shall direct; and all commanders of divisions and detached brigades, and all commanders of detached regiments, shall, respectively, at the annual brigade or regimental encampments provided for in this act, inspect the troops, who shall also at such encampments be reviewed and mustered for payment; and reports of the inspections so made—showing the discipline of the troops, their instruction in all military exercises and duties, the state of their arms, clothing, equipments, and accoutrements of all kinds, and of the brigade, regimental, and company books, papers, and files; the condition, situation, and manner of taking care of all public property; the fidelity and care of all officers responsible therefor; the mode of enforcing discipline, and other important information concerning the troops, shall be without delay forwarded, through the intermediate commanders, to the Assistant Secretary of War and to the Governor of the State or Territory.

SEC. 19. *And be it further enacted*, That no officer shall be dishonorably dismissed or cashiered in time of peace except by sentence of a general court-martial; and no non-commissioned officer shall be reduced to the ranks in time of peace by a regimental commander without the approval of a superior commanding officer.

SEC. 20. *And be it further enacted*, That all officers, non-commissioned officers, musicians, and privates of the national guard, armed, equipped, and paid by

the United States in accordance with the provisions of this act, shall, while on duty at any muster, drill, parade, or encampment required by this act, and while going to and returning from the same, be privileged from arrest in all cases except treason, felony, and breach of the peace, and exempt from capitation taxes, from labor upon the public highways, and from the duty of attendance as parties or witnesses upon any Federal, State, or territorial courts.

SEC. 21. *And be it further enacted*, That each officer, non-commissioned officer, musician, and private shall receive from the United States two dollars per diem for the performance of military duty at the drills, encampments, and other exercises and duties provided for in this act; but such payment shall not in any case exceed ten dollars per annum; and each division, brigade, regimental, and company commander, when responsible for public property under the provisions of this act, shall, if not delinquent in the performance of any of the duties herein prescribed, receive from the United States fifty dollars per annum, in full compensation for his care of and responsibility for such property; and each regimental and company commander, when so responsible for public property, shall also receive the sum of fifty dollars per annum for the rent of an armory actually used for the safe-keeping of the same; and it shall be the duty of each commissioned officer to provide himself with the uniform prescribed in the regulations for the Army of the United States, and if not delinquent in the performance of this or any other military duty he shall receive from the United States, on account of clothing, twenty dollars per annum, and all of said payments shall be made annually, through the pay department, under such regulations as the Secretary of War shall prescribe, but the payments herein authorized shall be made only to the officers, non-commissioned officers, and privates of two regiments of infantry in each congressional district and Territory, and to the officers of the brigades and divisions into which such regiments may be organized under the provisions of this act; and no officers, non-commissioned officers, or privates shall be paid by the United States under the provisions of this act, in time of peace, except those to whom or for whose use public property of the United States shall have been issued, as in this act provided; and white and colored troops shall be paid as nearly as practicable in the proportion fixed by the second section of this act.

SEC. 22. *And be it further enacted*, That any officer, non-commissioned officer, or private who shall, without a sufficient excuse, in disobedience of any lawful order, neglect or refuse to perform military duty at any muster, drill, parade, encampment, or other exercise of his company, regiment, brigade, or division, shall, by order of his immediate commander, be fined two dollars for each day's absence, and such fine shall be stopped from the pay of the delinquent, or, by command of the officer imposing it, levied upon his personal property not exempt from execution by the laws of the State or Territory of the United States, by a commissioned officer, or sheriff, or constable, who shall sell the same at public auction to the highest bidder, after five days' written or printed notice of sale, posted in three conspicuous places in the township in which such delinquent shall reside or said property be found, and out of the proceeds of such sale the officer making the same shall pay said fine into the treasury of the State or Territory, and shall retain such fees and costs as shall be allowed by law to sheriffs or constables for sales of personal property on execution, and shall pay over the residue to the officer, non-commissioned officer, or private so fined; but upon any application made by any officer, non-commissioned officer, or private so fined, within five days after notice of such fine, the order imposing the same shall be forwarded to the immediate commander of the officer who shall have imposed it, who shall review the case, and his order in the premises shall be final, and shall be executed as above provided; and for all other offenses officers, non-commissioned officers, and privates shall be liable to punishment by court-martial, according to the laws of the several States and Territories, or the orders of the Governors thereof.

SEC. 23. *And be it further enacted*, That whenever any troops of the national guard shall be ordered into the service of the United States, according to law, or shall, according to law, become a part of the Army of the United States, upon a declaration of war by Congress, they shall be entitled to the same pay and allowances and to the same issues of commissary's and quartermaster's stores which shall be provided by law for troops of like arms in the regular service; and in case of wounds, injuries, disability, or death, suffered in the line of duty, all provisions of law for the regular Army in such cases shall be extended to them, their widows, children, and personal representatives.

SEC. 24. *And be it further enacted*, That it shall be the duty of the Assistant Secretary of War to see that this act and all other acts of Congress to provide for organizing, arming, and disciplining the militia are faithfully executed; to superintend the distribution and preservation of all ordnance and ordnance stores, camp and garrison equipage, clothing, and other public property issued to the national guard; to prepare and issue to the national guard blank enlistment oaths, muster-rolls, requisitions, reports, returns, and receipts; to see that proper receipts are taken for all public property issued to the national guard, and that all delinquents are promptly and diligently prosecuted; to present to Congress annually, before the first day of January, an abstract of the annual returns of the militia; to receive, through the regular military channels, from the officers of the national guard, the returns, reports, and other official communications required of them by law; to superintend the schools of the national guard, and to perform all other duties prescribed by law.

SEC. 25. *And be it further enacted*, That Congress may provide for calling forth the whole or any part of the national guard into the service of the United States to execute the laws thereof, when the execution of the same shall be obstructed by combinations or forces too strong to be overcome by the civil authorities, to repel invasion, and to suppress insurrections against the authority of the United States, and also to aid in the execution of the laws of any State, and the suppression of insurrection therein, on application of the Legislature, or of the Executive when the Legislature cannot be convened; and the national guard, or any part thereof, when so ordered into the service of the United States, shall be subject to the rules and articles of war and to the regulations of the Army; and any officer, non-commissioned officer, or private who, when so ordered into the service of the United States, shall neglect or refuse to report for duty therein, shall be liable to trial, conviction, and punishment for desertion by a general court-martial of the Army of the United States; and no part of the national guard, or of any other militia force in the United States, shall be called into active service except in pursuance of the provisions of this act or of authority to be hereafter granted by Congress.

SEC. 26. *And be it further enacted*, That whenever Congress shall declare war, such portion of the national guard as Congress shall by law provide shall become a part of the Army of the United States; and any officer, non-commissioned officer, or private, who shall refuse or neglect to report for duty therein in obedience to such law of Congress, shall be liable to trial, conviction, and punishment for desertion, by a general court-martial of the Army of the United States; and when peace shall be declared, either by an act of Congress or by a proclamation of the President made pursuant to an act of Congress, said troops shall, without unnecessary delay, be mustered out of the Army of the United States and into the national guard.

SEC. 27. *And be it further enacted*, That whenever, in time of war, Congress shall authorize an increase of the Army above the effective strength of the national guard, and the quota of any congressional district or Territory shall not be filled by volunteers within thirty days after the President's proclamation announcing such quota, the President, unless it shall be otherwise provided by law, shall cause the assistant assessors of internal revenue to enroll the militia in such district or Territory, and shall fill such quota by a draft from the enrolled militia thereof, under such rules and regulations, not inconsistent with the Constitution or laws, as he may prescribe; and the troops so raised by volunteering or draft, or both, shall have the company and regimental organization herein provided for the national guard; but their brigade and division organization shall be that of the regular Army; and when peace shall be declared, either by an act of Congress or by a proclamation of the President made in pursuance of an act of Congress, all troops raised in accordance with the provisions of this section shall be, without unnecessary delay, mustered out of the service of the United States; and the following persons shall be exempt from such draft, namely: Such as are rejected as physically or mentally unfit for the service; also,

1. The Vice President of the United States, the judges of the various courts of the United States, the heads of the various Executive Departments of the Government, and the Governors and judges of the several States.

2. The only son liable to military duty of a widow dependent upon his labor for support.

3. Where there are two or more sons of aged or infirm parents subject to draft, the father, or, if he be dead, the mother may elect which son shall be exempt.

4. The only brother of children not twelve years old, having neither father nor mother, dependent upon his labor for support.

5. The father of motherless children under twelve years of age, dependent upon his labor for support.

6. Where there are a father and sons in the same family and household, and two of them are in the military service of the United States as non-commissioned officers, musicians, or privates, the residue of such family and household, not exceeding two, shall be exempt.

7. Indians not taxed.

8. Persons convicted of felony; and no other persons shall be exempt.

SEC. 28. *And be it further enacted*, That the tactics, arms, accoutrements, equipments, uniform, colors, camp-colors, fies, drums, tents, camp-kettles, mess-pans, saddles, bridles, and spurs, and the regulations for guard duty, for the forms of guard mounting, inspection, review, and dress parade, and for courts-martial, funeral ceremonies, salutes, and honors paid by the troops to be observed by the national guard, shall be those lawfully prescribed for the regular Army.

SEC. 29. *And be it further enacted*, That it shall not be lawful for any troops of the national guard to hold any muster, drill, parade, encampment, or other meeting under arms, on the day of any election appointed by the laws of any State or Territory or of the United States; and any person guilty of a violation of the provisions of this section shall, upon indictment and conviction thereof before any Federal, State, or territorial court of competent criminal jurisdiction, be punished by a fine not exceeding \$1,000, or by imprisonment in any penitentiary or jail of the district, county, or Territory where the offense shall have been committed, for a period not exceeding one year, or both, at the discretion of the court, and shall pay the costs of prosecution.

SEC. 30. *And be it further enacted*, That all the powers, privileges, and duties conferred or imposed by the provisions of this act upon the Governors of States shall be exercised in each State by such person as shall, under the constitution and laws thereof, be the

commander-in-chief of the militia therein; and all provisions of this act relating to the Territories shall be equally applicable to the District of Columbia; and all provisions hereof relating to the Governors of Territories shall be equally applicable to the President, or other legally constituted chief executive officer of said District; but the powers and duties conferred and imposed by this act upon the Governors of Territories shall only be exercised or performed by such Governors of Territories as shall hold their offices by authority and in pursuance of some act or acts of the Congress of the United States.

SEC. 31. *And be it further enacted*, That from and after the passage of this act commissions in the Army of the United States shall be granted only to graduates of the United States Military Academy and of the schools of the national guard, and to officers, non-commissioned officers, and privates of the regular and volunteer military, naval, and marine forces, and national guard, of not less than one year's honorable service therein, and persons honorably discharged therefrom, after not less than one year's service therein.

SEC. 32. *And be it further enacted*, That the field pieces, carriages, caissons, equipments, and implements which shall be issued, under the provisions of this act, to regimental commanders, shall be used under their supervision for the instruction and practice of their commands in the tactics for light artillery prescribed for the Army of the United States; and with the approval of the brigade commander, the pieces and caissons of each brigade may be temporarily united in a four-gun battery, and served by volunteers or details from the respective regiments, under officers detailed by the brigade commander.

SEC. 33. *And be it further enacted*, That within eighteen months after the passage of this act four schools of the national guard shall be established at places most convenient for the several States and Territories, to be designated by joint resolution of Congress, within one year after the passage of this act, or by the President in case of the failure of Congress so to designate the same; and the course of instruction shall be the same as that prescribed for the United States Military Academy; and a sufficient number of competent instructors shall be provided by the Secretary of War, by the detail of officers of the Army of the United States, and the employment of civilians when necessary; and all said schools shall be under the superintendence of the Assistant Secretary of War; and within one year after two regiments of the national guard shall have been completely organized and mustered into service in any congressional district or Territory, four cadets, and in each year thereafter two cadets, shall be selected by competitive examination for said school from the officers, non-commissioned officers, and privates of the national guard of such district or Territory by a board consisting of a majority of the field officers and captains therein, at such times and places, and under such regulations, as the Assistant Secretary of War may prescribe; and at each annual selection of cadets, after the third, in any district or Territory, so many shall be selected as will make the whole number from said district or Territory equal to eight; and the pay and allowances and uniform of such cadets shall be the same as those of the cadets of the United States Military Academy; and after the said schools shall have been so located the Secretary of War shall, without unnecessary delay, purchase sites for the same, erect the necessary buildings, and purchase the necessary books, implements, and apparatus; and until such buildings shall be in readiness for use shall rent, in the localities designated for such schools, buildings for the temporary accommodation thereof on the most advantageous terms; and such cadets shall be admitted only between the ages of eighteen and twenty-one years, but any officer, non-commissioned officer, or private of the national guard, who has honorably and faithfully served not less than one year as an officer or enlisted man in the regular or volunteer military service, or Marine corps, or as an officer or seaman in the naval service of the United States in the late war for the suppression of the rebellion, and who shall possess the other qualifications prescribed by law, shall be eligible to appointment until the age of twenty-four years; and said schools shall be subject to such of the rules and regulations for the government of the United States Military Academy, not inconsistent with the provisions of this act, as the Assistant Secretary of War shall from time to time direct; but the academic year of said schools shall commence at least five months earlier than that of the United States Military Academy; and all appointments of cadets in the United States Military Academy shall be made from the schools of the national guard, as follows, namely: every such appointment for any congressional district shall be conferred upon the person of the highest capacity, merit, and qualifications, among the cadets of such district in one of the schools of the national guard, to be selected by the academic board of such school, and nominated to the Secretary of War under such regulations, not inconsistent with the provisions of this act, as he may prescribe; and three cadets in the United States Military Academy shall be annually appointed at large from each school, to be selected in like manner from the whole number of cadets therein; and the Assistant Secretary of War shall so apportion the cadets of the several districts and Territories that all the cadets from the same school; and all graduates of said school shall, after their graduation, serve three years in the national guard, or Army, Navy, or Marine corps of the United States.

SEC. 34. *And be it further enacted*, That in order to insure uniformity in the national guard the Secretary of War shall cause inspections of all the organizations thereof to be made once in two years by officers of the regular Army, detailed for that purpose, who

shall report upon their discipline; instruction in military duties and exercises; the state of their arms, clothing, equipments, and accoutrements of all kinds; the state of the division, brigade, regimental, and company books, papers, and files; the zeal and ability of their officers; the condition of all public property; the fidelity and care of officers responsible therefor; and all other important matters affecting the efficiency of said troops.

SEC. 35. *And be it further enacted*, That the salary of the Assistant Secretary of War, to be appointed under the provisions of this act, shall be \$5,000 per annum.

SEC. 36. *And be it further enacted*, That the following acts and parts of acts be, and the same are hereby, repealed, namely: "An act more effectually to provide for the national defense, by establishing a uniform militia throughout the United States," approved May 8, 1792; "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, and to repeal the act now in force for those purposes," approved February 28, 1795, except the sixth and ninth sections thereof; "An act additional to and amendatory of an act entitled 'An act concerning the District of Columbia,'" approved May 3, 1802; "An act in addition to an act entitled 'An act more effectually to provide for the national defense, by establishing a uniform militia throughout the United States,'" approved March 2, 1803; "An act more effectually to provide for the organization of the militia in the District of Columbia," approved March 3, 1803; "An act making provision for arming and equipping the whole body of the militia of the United States," approved April 23, 1808; "An act supplementary to an act entitled 'An act more effectually to provide for the organization of the militia of the District of Columbia,'" approved July 1, 1812; and all acts and parts of acts inconsistent with the provisions of this act; but no parts of acts repealed by the acts hereby repealed shall revive; and all State and territorial laws enacted to provide for organizing, arming, or disciplining the militia, or calling forth the same, or for organizing or maintaining troops in time of peace which shall conflict with the provisions of this act shall be inoperative after the expiration of ninety days from and after the passage of this act; and any person who shall thereafter attend any drill, parade, muster, encampment, or other military exercise as an officer, non-commissioned officer, or private of any militia or military organization except the national guard herein provided for, or the Army or Marine corps of the United States, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both, at the discretion of the court, and shall pay the costs of prosecution.

Mr. ROSS. I make the point that the bill is an appropriation bill, and must have its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. In what section does it make an appropriation?

Mr. ROSS. The Clerk did not read the number of the sections. I understood in one place it declares a certain sum shall be appropriated and paid out of the Treasury to the Secretary of War.

The SPEAKER. The Chair has examined the bill, and finds no appropriation in it.

Mr. PAINE. I am familiar with the bill, and I say there is no appropriation in it. I now move, by direction of the committee, the following amendments:

Section four, line sixty-one, after the word "respectively" insert "but company officers may be appointed in any other mode prescribed by law in such State or Territory," so it will read:

3. The officers so elected shall annex to the aforesaid oath their official certificate, in duplicate, setting forth that they were severally elected officers of such company, according to law, and showing the time and place of such election, and the office to which each was chosen, and shall thereupon transmit one oath and certificate to the Governor of the State or Territory and the other to the Assistant Secretary of War; and if no fraud or illegality shall appear in such organization or election the Governor shall commission the said officers and assign the companies so organized to regiments, brigades, and divisions, but not before a sufficient number of such companies shall have been organized to constitute, in accordance with the provisions of this act, regiments, brigades, and divisions respectively; but company officers may be appointed in any other mode prescribed by law in such State or Territory.

Section four, line sixty-nine, strike out from the word "but" to word "division" in line seventy, as follows:

But four regiments of infantry shall constitute one brigade, and two brigades one division.

Section five, at end of line twelve, after the following: "SEC. 5. *And be it further enacted*, That all persons who shall enlist in the national guard shall be held for a term of service of three years from the date of their muster in, unless sooner discharged; and all commissioned officers shall hold their offices until the expiration of three years from the date of their original muster in, unless sooner discharged; and all officers, non-commissioned officers, and privates who shall have honorably served until the expiration of such term shall, at their option, be exempt from further military service in time of peace, but



shall be liable to enrollment thereafter in the enrolled militia under the age of forty-five years, and shall be eligible to commissions until fifty-five years of age," add these words: "and shall not be disqualified therefor by wounds or disability incurred in the military, naval, or marine service of the United States."

Section eight, line four, after the word "militia" insert the words "and also such other officers of the staff of the commander-in-chief as shall be provided for by law;" so that it will read:

SEC. 8. *And be it further enacted*, That in addition to the officers provided for in the preceding sections of this act, there shall be in each State and Territory a commander-in-chief and an adjutant general of the militia and also such other officers of the staff of the commander-in-chief as shall be provided for by law therein, &c.

Section ten, line three, strike out the word "each" and insert in lieu thereof the word "such."

Section twenty-one, lines thirteen and fourteen, strike out the words "each regimental and company commander, whoso responsible for public property."

Section sixteen, lines fourteen and fifteen, strike out the words "Assistant Secretary of War" and insert in lieu thereof the word "Governor."

Mr. LE BLOND. I call the yeas and nays on agreeing to the amendments reported by the committee.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 101, nays 28, not voting 61; as follows:

YEAS—Messrs. Alley, Allison, Ancona, Anderson, Arnell, Baker, Baldwin, Banks, Benjamin, Bidwell, Bingham, Blaine, Blow, Bromwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Davis, Dawes, Deftrees, Deming, Dixon, Dodge, Dumont, Farquhar, Ferry, Glossbrenner, Grinnell, Abner C. Harding, Hart, Hawkins, Henderson, Hill, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Hunter, Ingersoll, Jenekes, Julian, Kelley, Kelso, Ketchum, Keontz, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McIndoe, McRuer, Mercut, Miller, Moorhead, Morrill, Morris, Moulton, Myers, O'Neill, Paine, Pike, Plan, P. Rice, John H. Rice, Rollins, Sawyer, Schenck, Schofield, Sloan, Spalding, Starr, Stokes, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, Upton, Van Aernam, Eurt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, William B. Washburn, Whaley, Stephen F. Wilson, Winfield, and Woodbridge—101.

NAYS—Messrs. Bergen, Campbell, Cooper, Dawson, Denison, Eldridge, Goodyear, Aaron Harding, Hise, Hogan, Edwin N. Hubbard, Kerr, Le Blond, Leftwich, Marshall, Niblack, Nicholson, Noell, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Taber, Thornton, Andrew H. Ward, and Wentworth—28.

NOT VOTING—Messrs. Ames, Delos R. Ashley, James M. Ashley, Barker, Baxter, Beaman, Boutwell, Boyer, Brandegee, Bundy, Chanler, Conkling, Culver, Delano, Donnelly, Driggs, Eekley, Eggleson, Eliot, Farnsworth, Finck, Garfield, Griswold, Hale, Harris, Hayes, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Humphrey, Jones, Kasson, McCullough, McKee, Newell, Orth, Patterson, Perham, Phelps, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Rousseau, Shellabarger, Stevens, Stillwell, Thayer, John L. Thomas, Trimble, Trowbridge, Elihu B. Washburne, Henry D. Washburn, Welker, Williams, James F. Wilson, Windom, and Wright—61.

So the amendments of the committee were agreed to.

#### BOUNTY BILL.

The SPEAKER. The morning hour has expired, and the gentleman from Ohio [Mr. SCHENCK] is entitled to the floor by the unanimous order of the House on the 29th of January, that the bounty bill reported by him should be taken up and made the special order after the morning hour. It is now reached in its regular order.

Mr. MORRILL. I wish to say that I shall be compelled to leave this city to-morrow morning, and I desire to make as much progress as we can with the tax bill. I therefore ask the gentleman from Ohio to yield to allow me to move that the House resolve itself into the Committee of the Whole upon the special order to-day.

Mr. SCHENCK. Mr. Speaker, under ordinary circumstances I could not possibly yield, nor can I now without a distinct arrangement by which an hour may be agreed upon within the next twenty-four in which we can get up the bounty bill. I understand the gentleman from Vermont is obliged to leave town on account of a threatened domestic affliction. It would be a violation of every sentiment of the heart to decline under such circumstances to give him the opportunity he desires before leaving, as he is compelled to go and leave the

tax bill in the hands of others who desire to spend a little time upon it. I yield, therefore, if I can have the unanimous consent that at some particular hour this evening or to-morrow this bill will be taken up.

The SPEAKER. Unless the House adjourns to-night on some unfinished business, there will be a morning hour to-morrow for private bills, and at the close of that the bounty bill will come up.

Mr. SCHENCK. I ask unanimous consent that when the House adjourns to-night nothing that shall come up shall interfere with the bounty bill.

The SPEAKER. The gentleman can ask unanimous consent that the House adjourn to-night on his bill; that will bring it up.

Mr. SCHENCK. I ask unanimous consent to that understanding.

No objection being made, it was so ordered.

Mr. SCHENCK. I now understand that it is agreed, by unanimous consent, that this bill will be considered pending when the House adjourns to-day, which will bring it up the first thing after the morning hour to-morrow; and therefore I give notice to all the friends of the soldiers to be here when the bill comes up.

The SPEAKER. The Chair will state that if to-morrow were not private bill day, the adjournment of the House to-day, leaving this bill pending, would bring it up to-morrow before the morning hour, but to-morrow being private bill day it will not come up until after the morning hour.

#### KENNEBEC AND PENOBSCOT RIVERS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, in compliance with the act of June 23, 1866, transmitting a report of the chief of Engineers relative to the survey and improvement of the Kennebec and Penobscot rivers; which was referred to the Committee on Commerce, and ordered to be printed.

#### PLATTSBURG HARBOR.

The SPEAKER also laid before the House a communication from the Secretary of War, in accordance with the act of June 23, 1866, transmitting a report of the chief of Engineers relative to the survey of Plattsburg harbor; which was referred to the Committee on Commerce, and ordered to be printed.

#### HELL GATE, NEW YORK.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, in compliance with the act of June 23, 1866, transmitting a report by the chief of Engineers relative to the survey of Hell Gate, New York; which was referred to the Committee on Commerce, and ordered to be printed.

#### COMMISSIONERS TO INDIAN TRIBES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, recommending that an appropriation of \$150,000 be made by Congress to enable the Department of the Interior to send commissioners to all the Indian tribes west of the Mississippi river; which was referred to the Committee on Appropriations, and ordered to be printed.

#### LAWS OF THE TERRITORY OF UTAH.

The SPEAKER also, by unanimous consent, laid before the House the laws of the Territory of Utah; which were referred to the Committee on Territories.

#### COAST SURVEY REPORT.

The SPEAKER also laid before the House the report of the Superintendent of the Coast Survey for 1866; which was laid on the table, and ordered to be printed.

Mr. LAWRENCE, of Ohio, submitted the following resolution; which was referred to the Committee on Printing, under the law:

*Resolved*, That there be printed of the report of the Superintendent of the Coast Survey for the year 1866 four thousand extra copies for the use of the House of Representatives, and one thousand copies for distribution from the office of the Coast Survey.

#### LIGHT-HOUSES.

Mr. LONGYEAR, from the Committee on Commerce, by unanimous consent, reported a bill to authorize the building of light-houses therein mentioned, and for other purposes; which was read a first and second time, and ordered to be printed and recommitted.

#### ENROLLED BILLS AND JOINT RESOLUTION.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 491) amendatory of the several acts respecting copyrights;

Joint resolution (H. R. No. 263) for the purchase of David's Island, New York harbor;

An act (H. R. No. 1128) to authorize payment of prize money to certain officers and enlisted men of the Signal corps of the Army;

An act (H. R. No. 918) making appropriations for the service of the Post-Office Department during the fiscal year ending June 30, 1868, and for other purposes; and

An act (H. R. No. 1141) to authorize the purchase of certain lots of ground adjoining the Alleghany arsenal, at Pittsburg, Pennsylvania.

#### EVENING SESSION.

Mr. MORRILL. I move that the House take a recess from half past four o'clock to half past seven o'clock this evening, to resume at that time, in the Committee of the Whole, the consideration of the tax bill.

The motion was agreed to.

#### TAX BILL.

Mr. MORRILL. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and resumed the consideration of the special order, being bill of the House No. 1161, to amend existing laws relating to internal revenue.

The CHAIRMAN. The Clerk will proceed with the reading of the bill for amendments.

Mr. SCHENCK. Before the Clerk resumes the reading of the bill I desire to offer an amendment, to come in at the end of line thirty-nine, as follows:

That if any collector or assistant collector, assessor or assistant assessor, inspector, district attorney, marshal, or other officer, agent, or person, charged with the execution or supervision of the execution of any provisions of this act, shall demand or accept, or attempt to collect, directly or indirectly, as payment or gift or otherwise, any sum of money or other property of value, for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of any provisions of this act, except as expressly authorized by law so to do, he shall be held to be guilty of a misdemeanor, and shall for every such offense be liable to indictment and trial in any court of the United States having competent jurisdiction; and on conviction therefor shall be fined in double the sum or value of the money or property received or demanded and be imprisoned in the penitentiary for a period not less than one year nor more than ten years.

Mr. ALLISON. I ask the gentleman to yield to me for a suggestion. His amendment if adopted should be made to apply not only to this act, but to the act of which this is amendatory.

Mr. SCHENCK. I will modify my amendment in accordance with the suggestion of the gentleman from Iowa, [Mr. ALLISON,] by inserting at the proper place the words "or of the acts of which this is amendatory."

Now, it is well enough to remember that, while we are with a sharp stick after the distillers who violate the law, there is probably a little fraud and wrong upon our own side. Now, within my own personal knowledge we have in the State of Ohio agents of the Government who go about and arrest right and left persons charged with violating the law, and then offer to accept black-mail to compromise and adjust these charges in a private and per-



sonal way. I propose that any action of that kind shall be made highly penal; that any agent or officer of the Government who shall be guilty of such an act shall be punished by imprisonment in the penitentiary, besides being fined twice the amount of the sum attempted to be compromised.

Mr. HARDING, of Illinois. I would suggest to the gentleman from Ohio [Mr. SCHENCK] that it should also be provided that these persons should upon conviction be dismissed from office. We now have men holding office who, at least in public opinion, are guilty and have been for some years.

Mr. SCHENCK. I take it for granted that we can hardly find a Secretary of the Treasury who will permit a man to continue to hold office after he has been sent to the penitentiary. The penalty which I propose is confinement in the penitentiary. I leave no alternative to the court.

Mr. HARDING, of Illinois. That only reaches the subordinate, not the principal officer.

Mr. SCHENCK. It applies to every officer guilty of the offense.

Mr. HOOPER, of Massachusetts. I would suggest that the amendment of the gentleman should precede and not follow this clause.

Mr. SCHENCK. Very well; I have no objection.

Mr. ROSS. I move to amend this amendment by adding to it a proviso that for a second offense the party guilty of the crime shall be tried by a court-martial or military commission without the benefit of the writ of *habeas corpus*. [Laughter.]

The CHAIRMAN, (Mr. BOUTWELL.) The Chair rules the amendment to the amendment out of order.

The amendment of Mr. SCHENCK was then agreed to.

Mr. ALLISON. I propose that the committee return to section five of this bill, which was passed over in Committee of the Whole last night.

No objection was made.

The section was as follows:

Sec. 5. And be it further enacted, That if it shall at any time be ascertained that the manufacturer of any article upon which a tax is required to be paid by means of a stamp shall have sold or removed for sale any such articles without the use of the proper stamp, in addition to the penalties now imposed by law for such sale or removal, it shall be the duty of the proper assessor or assistant assessor, upon such information as he can obtain, to assume and estimate the amount of the tax which has been omitted to be paid, and to make an assessment therefor, and certify the same to the collector; and it shall also be the duty of the proper assessor or assistant assessor in like manner to assume and estimate the amount of taxes which may be due from any manufacturer of distilled spirits on account of any spirits manufactured by him upon which the tax has not been paid, and to make the proper assessment therefor, and the subsequent proceedings for collection shall be in all respects like those for the collection of taxes upon manufactures and productions.

Mr. ALLISON. I move to amend this section by inserting after the words "it shall be the duty of the proper assessor or assistant assessor" the words "within a period of not more than two years after such removal or sale."

The amendment was agreed to.

Mr. ALLISON. I move to further amend the section by striking out the words—

And it shall also be the duty of the proper assessor or assistant assessor in like manner to assume and estimate the amount of taxes which may be due from any manufacturer of distilled spirits on account of any spirits manufactured by him upon which the tax has not been paid, and to make the proper assessment therefor.

The amendment was agreed to.

Mr. DARLING. I ask unanimous consent to return to the first clause of section nine, which now reads as follows:

That section twenty-two be amended by striking out, after the words "assistant assessor," and before the word "actually," the words "four dollars for every day," and inserting in lieu thereof the words "five dollars for every day."

The CHAIRMAN. That can be done only by unanimous consent.

Mr. MORRILL. I will say that I think the amendment which the gentleman from New

York [Mr. DARLING] proposes to offer, as I understand it, is one that should be adopted, as there is some confusion as to whether those assistant assessors shall be allowed their pay for Sundays. Many of them have to work on Sundays; I do not know why they should not be paid for the work they do.

No objection was made.

Mr. DARLING. I now move to insert after the words "five dollars a day" the words "including Sundays."

Mr. GRINNELL. My impression is that if that amendment shall be adopted every man or almost every man will find it convenient to work on Sundays, and thus it will open the door to temptation to do work on Sundays which might be done on other days, and add largely to the cost of collecting the revenue. Now, those who work on Sundays are the exceptions and not the rule. Adopt this amendment and they will be the rule and not the exceptions.

The amendment was not agreed to.

The Clerk read as follows:

That section seventy-nine be amended as follows: in paragraph four, by striking out the following words: "in quantities of more than three gallons at one and the same time to the same purchaser, or." In paragraph five, by striking out the following words: "in quantities of three gallons or less." In paragraph sixteen, strike out "\$100" and insert in lieu thereof "\$500." In paragraph thirty-one, by adding thereto the following: "Provided, That no special tax shall be required of any person for the manufacture of butter and cheese. In paragraph thirty-two, by inserting after the word "garden" and before the word "who" the words "or traveling on foot and peddling fruits, vegetables, pies, cakes, and confectionery."

Mr. MORRILL. I move to amend by adding after the paragraph just read the following:

That section ninety be amended by inserting after the word "cigars," and before the first proviso in said section, the words "and all proceedings relating to forfeiture and sale of distilled spirits shall apply to tobacco, snuff, and cigars."

Also, in the second proviso, after the words "that manufactured tobacco" insert "or," and after the word "snuff" immediately following, strike out the words "or cigars, whether of domestic manufacture or imported." Also, in the latter part of said proviso, after the word "tobacco," wherever it occurs, insert the word "or" and strike out the words "or cigars" wherever they occur.

These paragraphs have, by some error in arranging the bill, been printed on page 12, though they more properly belong here.

The amendment was agreed to.

Mr. McKEE. I move to amend by inserting after the amendment just adopted the following:

That section seventy-nine be amended as follows: In paragraph four strike out \$100 and insert in lieu thereof \$500.

This is intended to apply to the wholesale dealers of liquor, who under the present law are taxed simply in the sum of \$100. I suppose that the object of the committee and of the House is to raise revenue for the Government. Now, a tax of \$100 on a wholesale dealer of liquor amounts simply to nothing. These wholesale dealers can just as well afford to pay, and will just as readily pay, a tax of \$500 as a tax of \$100. I hope the chairman of the Committee of Ways and Means will give this amendment his assent.

Mr. MORRILL. I cannot do so. This bill is for the purpose generally of reducing revenue. In the ordinary business of the country it is not proposed to increase taxation. The wholesale dealers are all subject to a tax of more than \$100, provided their business exceeds a certain sum. They are subject to a tax of one dollar on every \$1,000, beyond a certain amount.

On agreeing to the amendment of Mr. McKEE, there were—ayes 33, noes 47; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Messrs. McKEE and ALLISON.

Mr. McKEE. I would like to state the effect of this amendment.

The CHAIRMAN. That cannot be done now without unanimous consent.

Mr. SPALDING. I object.

The committee divided; and the tellers reported—ayes 46, noes 53.

So the amendment was rejected.

Mr. McKEE. I am satisfied that members have not understood this proposition, and I ask that a vote may be taken on it in the House.

The CHAIRMAN. That proposition cannot be entertained now.

Mr. HOOPER, of Massachusetts. I think the committee understand distinctly the effect of the proposition. It is to reduce the tax on the large dealers and raise the tax on the small ones.

Mr. SCHENCK. I move to amend by striking out in the paragraph last read the following words:

Provided, That no special tax shall be required of any person for the manufacture of butter and cheese.

Mr. Chairman, I am very sorry that my colleague and friend from the nineteenth district of Ohio [Mr. GARFIELD] is not here to defend his butter and cheese, representing as he does what in Ohio we call "Cheesedom." My reason for offering this amendment is that when other manufacturers are compelled to take out a special license I do not see why an exemption should be made in favor of those who manufacture butter and cheese. I can very readily understand that where a farmer makes butter and cheese, just as he makes sausages and a great many other things incidentally to the carrying on of his farm, he should not be treated as a manufacturer.

There are in my own State, in that part particularly, a great many persons who, without owning farms, manufacture into butter and cheese the milk and cream brought up to them and purchased for that purpose from the neighboring farms. It is in fact a great manufacturing business; so large, indeed, though I do not vouch for the fact, somewhere in the Western Reserve, in Ohio, this business being carried on upon top of a hill, a saw-mill is turned by the buttermilk below. [Laughter.]

I do not know it is carried on extensively anywhere; but I do know it is hard for a man who manufactures shoes, leather, or anything else, who is taxed and compelled to pay for a license for the privilege of doing so, to see the wealthy manufacturer of cheese pass without paying any license at all, while perhaps carrying on a business a hundredfold more extensive than the man who is taxed in all shapes.

The gentleman from Vermont [Mr. WOODBRIDGE] suggests the clause stand as it is, and insert "from the products of his own dairy farm." Something of that sort is proper, or else the large manufacturers of cheese will escape.

Mr. MORRILL. I rise to oppose the proposition of the gentleman from Ohio. It is true, so far as representations have come before the Committee of Ways and Means, they have come from the State of Ohio, that is in regard to this tax; and it is also true we have from the start gone upon the principle of leaving the agriculturists nearly without any tax at all, and it is to carry out that principle this provision has been inserted. A great many farmers manufacture more than one thousand dollars worth of butter and cheese. Now, then, if the law is not amended, they will be compelled to take out a license as manufacturers.

But suppose they do not manufacture for themselves and are compelled to carry their milk one, two, three, and four miles to a manufacturer, a sort of joint stock company, I think they should be exempted.

I was surprised that the gentleman from Ohio should rise to make a motion to strike out. The amount received from this source is very small. There are several manufacturers in New York. I believe there are more in New York than in any other State. There are a considerable number in Ohio and further west. They put their milk to profitable use, and I wish to encourage them. If these manufacturers are suffered to increase they will relieve the women, for everywhere these man-

ufacturers are established it takes the milk from the cow at once and relieves the women.

Mr. SPALDING. I move to strike out the last word of the proviso.

My friend from the Dayton district [Mr. SCHENCK] calls for the Representative from cheesedom, and regrets that his colleague from the nineteenth district [Mr. GARFIELD] is not present. I suppose he will accept me as a substitute, as I represent a portion of the country coming under that designation. I hope my friend has no special point to make against cheesedom for what is past. I will promise him everything in the future.

Sir, I have received from many of the farmers in my district a protest against the imposition of a manufacturer's tax upon these men who make butter and cheese. It occurs to me you may with as much propriety impose a manufacturer's tax upon the man who produces wheat and raises cattle for market as upon the farmer who produces butter and cheese, or apple-butter, my friend says, the product of his orchard.

The chairman of the Committee of Ways and Means has declared, and I think very properly, at this time it is not policy to tax the products of the farmer; and these are the products of the farmer, although there is some mechanical manipulation entering into the production of butter and cheese. Where curd or milk is gathered from a multitude of farmers it is made by a process of machinery. And, sir, I think the wholesome rule for us to adopt is to carry out the principle sought to be ingrafted by the Committee of Ways and Means, to prohibit a manufacturer's tax upon the production of butter and cheese, and I hope it will be adopted.

Mr. HUMPHREY. Mr. Chairman, if there is any class of people or any branch of industry that can bear taxation it is that which is affected by this proposition. The chairman of the Committee of Ways and Means suggests that this interest needs encouragement. If he lived in the city where he paid from sixty to seventy cents a pound for butter and from twenty to twenty-five cents a pound for cheese I think he would be quite satisfied they were getting all the encouragement they needed. I undertake to state another fact, in regard to which I have no doubt the gentleman from Vermont will agree with me, that there is no branch of the agricultural interest of our country that has prospered so much and increased so greatly within the last two or three years as this very branch.

Mr. MORRILL. Does the gentleman desire to have the products of the farms increased so that they will be compelled to pay higher prices?

Mr. HUMPHREY. I desire to have them pay a little of the tax that the consumers who have to buy their butter have already saddled upon themselves. I am in favor of having these farmers, who are now exempt from taxation more than any class of men, do something—and this is a very small amount—for the purpose of relieving the burdens that the great consuming interest of the country has already upon its shoulders.

This business has attained such a magnitude in my own part of the State of New York that to-day the interest is a separate and distinct one from the farmers, as much as that of the conversion of wheat into flour. These manufacturing establishments are springing up and doing the whole of this business, and I see no reason why we should undertake to encourage these men or this branch of business, which is already encouraged by the enormous profits which it is making, while we require the shoemaker, the butcher, and men of almost every other calling who consume these products to pay a license. I hope this proposition will be stricken out, or if it is desirable that it should be retained, I hope the amount will be reduced for the benefit of the farmer, who from his own cows makes, say \$500 worth. That might do, but as it is, it seems to me the proposition is a most unjust one. Either strike it out or so modify it as to have it do justice to all interests.

Mr. SPALDING withdrew his amendment to the amendment.

Mr. SCHENCK. I propose to withdraw my amendment and offer this as a modification:

Insert at the close of the proviso after the word "cheese" the words "when the same are made from the products of his own dairy farm, and do not exceed \$500 per annum."

Mr. SPALDING. It has come in already; it is \$1,000 now.

Mr. SCHENCK. This particular product?

Mr. SPALDING. Exactly; it is \$1,000 now.

Mr. SCHENCK. Not \$1,000 on cheese. I do not understand the \$1,000 relates exclusively to cheese, but to general products. I do not wish to be misunderstood about this matter. I do not want my colleague who is present [Mr. SPALDING] nor my colleague who is absent [Mr. GARFIELD] to understand that I am making an attack on cheesedom.

Mr. SPALDING. Allow me to explain the present position of the law. These manufacturers are required to take out manufacturer's licenses when they make more than \$1,000 worth.

Mr. SCHENCK. Very well; make it \$1,000.

Mr. SPALDING. I prefer your amendment simply to confine it to his own dairy.

Mr. SCHENCK. For the purpose of gratifying the gentleman I will leave out the part limiting the amount, and provide that these persons shall be exempt only where their cheese and butter are made from the products of their own dairy.

Mr. SPALDING. I think that will be satisfactory.

Mr. SCHENCK. I believe you now tax bakers and sausage-makers and all others who follow a regular branch of manufacturing industry. My object is to reach those who follow as a branch of manufacturing industry the business of making butter and cheese. That is a very large branch of industry, and there is no reason why any one who follows it as a branch of manufacturing industry should be exempt, as you exempt farmers for the production of that which is in fact the growth of their own farms, merely the form and shape of it being changed for market.

Now, I have no idea of attacking the interests of "cheesedom," far from it. Whether there be any connection between butter and cheese and political questions I will not attempt to determine; but I know that where they make the most cheese and butter in Ohio they are sounder, politically, than in other parts of the State.

Mr. GARFIELD. The cream of the State.

Mr. SCHENCK. Well, the cream and the skim-milk together. [Laughter.] Now, I propose by this amendment I have offered to reach only the manufacturer, the large manufacturer, the same as we would any other manufacturer.

Mr. GARFIELD. I have but a word or two to say on this subject. I trust the committee will not follow the lead of my distinguished and vigorous colleague [Mr. SCHENCK] on this matter, and for this reason: it has been decided by the Commissioner of Internal Revenue that a person who raises a certain amount of farm products in the form of cheese or butter, unless the law specifies to the contrary, is a manufacturer, and as such must take out a special license, or, as we now term it, must pay a special tax. Now, by the law of last year we declared that in case his manufacture of these articles did not exceed \$1,000 a year the farmer should be exempt from tax.

But it is found that a very large number of farmers throughout the country manufacture annually each a little more than \$1,000 worth. If the law is left as it now is, and a farmer should happen to manufacture \$1,010 worth of butter and cheese, he would have to pay the special tax; while the farmer who manufactured \$990 worth would pay no tax at all. We have adopted as a general principle the principle of not taxing agricultural products which form the necessities of life; and I

have no doubt Congress is ready to reverse its legislation hitherto against those articles.

The question was then taken upon the amendment of Mr. SCHENCK, and it was not agreed to.

Mr. RANDALL, of Kentucky. I move to amend by inserting after the words "five hundred dollars" the following:

Provided, That distillers who manufacture less than one hundred barrels per annum shall pay \$100.

The question was taken upon the amendment; and upon a division, there were—ayes 26, noes 57; no quorum voting.

Tellers were ordered; and Mr. RANDALL, of Kentucky, and Mr. GARFIELD, were appointed.

The committee again divided; and the tellers reported that there were—ayes 42, noes 57.

So the amendment was not agreed to.

Mr. WARD, of Kentucky. I move to amend this paragraph by striking out the following:

In paragraph sixteen strike out "\$100," and insert in lieu thereof "\$500."

I understand the object of this bill to be to raise revenue at reduced rates of taxation. This is not a temperance bill, and I understand the chairman of the committee, [Mr. MORRILL] who reported the bill, to say that his purpose was to reduce instead of increasing the tax. Yet, strange to say, this provision proposes to raise the tax on distillers from \$100 to \$500.

Now, what will be the effect of that? The amount of \$100 was so large a tax that the small distillers, who made good, honest whisky, could not afford to pay it. If you raise it to \$500 you will confer a monopoly upon the large distillers, destroy all the small manufacturers, and cut off the revenue to the extent of the tax upon all the liquor that could be made by the small distillers. And while the manufacture will all be in the hands of the large distillers, it should be borne in mind that the quality bears a fair inverse proportion to the quantity manufactured.

Instead of encouraging the manufacture of pure good whisky, made by the little distillers, whisky which a man can drink regularly three times a day and live to be a hundred years old, you allow the monopolists to make a sort of liquor that will poison and kill a man at the distance of a hundred feet. What propriety can there be in this? The man with small means ought to be put upon an equal footing with the man of large means. One man has as good a right to make one hundred barrels of whisky in a season as another has to make five thousand barrels in a season. I know how this thing operates. [Laughter.] I am inclined to think, Mr. Chairman, that these gentlemen understand it also, or they would not take the hint so quickly.

In my own district, sir, whisky is manufactured extensively. The county in which I reside will, it is estimated, pay a million and a half of dollars into the Treasury this season upon the manufacture of whisky. But this proposition will cut out all the smaller manufacturers. It will greatly reduce the quantity manufactured in my own section of country. It will largely diminish the revenue of the Government; and it will condemn all you gentlemen, who smile when I say that I understand this proposition, to drink rank and poisonous whisky instead of consuming the pure and wholesome article.

Mr. ALLISON. Mr. Chairman, I desire to say a word or two in regard to this clause of the bill. The Committee of Ways and Means desired very much to protect our friends in Kentucky and others similarly situated in the manufacture of whisky by means of their small distilleries. But from the experience which has been had in the administration of the law with reference to distilled spirits, it is perfectly apparent that, unless we adopt more stringent provisions on this subject, it will be impossible for the Government to raise anything like the adequate amount of revenue from this source. Notwithstanding the fact that there have been manufactured during the last year from sixty

to ninety million gallons, which ought to have yielded the Government from one hundred and twenty to one hundred and eighty million dollars, the Government has received from this source but twenty-nine millions.

Now, sir, one means whereby we seek to prevent fraud is by requiring each man who manufactures distilled spirits to procure a license for that purpose, so as to cut off illicit distillation by those who have no license whatever. Therefore the committee have deemed it prudent to recommend that the license for distillers shall be increased to \$500 instead of \$100, as now provided by law. I am aware, Mr. Chairman, that this provision will operate harshly upon a class of small distillers who may be worthy men; but on this question of raising revenue the interests of these men must yield to the public necessity, which requires that the Government shall raise a large amount of revenue from this source, thus relieving the great producing and manufacturing interests of the country from onerous and burdensome taxation. I hope, therefore, that the House will sustain the Committee of Ways and Means in their efforts to make a stringent law on this subject of whisky.

Mr. SLOAN. Mr. Chairman, I move *pro forma* to amend the amendment by striking out the last word. I am disposed, Mr. Chairman, to aid the Committee of Ways and Means so far as I can in their effort to make a stringent law to prevent fraud in the manufacture of whisky. But I believe that committee were at the last session of Congress laboring under a great delusion, and I think that delusion is not yet dispelled. The legislation adopted at their instance during the last session proceeded upon the principle that if we would crush out all the small manufacturers of whisky and monopolize the manufacture in the hands of the large concerns we would prevent fraud. I think the result has been this: while the small distillers were permitted to go on and manufacture, they defrauded the Government out of about one half the tax; and since the manufacture has been concentrated in the hands of the large manufacturers they defraud the Government out of the whole tax. With this experience, it seems to me it is about time that we should reverse our system and abandon the policy of trying to crush out the small manufacturers.

Why, sir, when the tax was but twenty cents per gallon we derived an annual revenue of \$28,000,000, and when the tax was put up to two dollars a gallon, under this system of concentrating all this business in the hands of large manufacturers, I understand we only get about eighteen million dollars of revenue, while one hundred and fifty million to one hundred and sixty million dollars is lost to the revenue through the frauds perpetrated upon the Government by these large manufacturers. I want the House to understand that.

Mr. MORRILL. Mr. Chairman, I believe the gentleman who has just addressed the House is somewhat under a delusion himself. I am not aware that the Committee of Ways and Means has yet been able to concentrate this business in the hands of any one; but I am aware in large places that these small distilleries with no license run stills in garrets and cellars. They not only do not pay any tax upon their whisky, but they do not even pay a license tax.

Mr. MAYNARD. How is it, if they evade this \$100 tax, they will not also evade a tax of \$500, five times as much?

Mr. MORRILL. We propose so far as possible to increase the risks, so as to deter men from any violation of the law; and as one step in that direction we put the amount of the license tax so high that the man who runs a ten-pot distillery will not go into the illicit business with a heavy penalty like that we impose hanging over him.

We have changed the law, and now impose not only fine, but imprisonment. We think that parties cannot afford to run the risk.

The question in regard to the amount of revenue collected does not concern the small dis-

tilleries any more than the large ones. If the gentleman were arguing against the tax of two dollars a gallon I could conceive such reference would be pertinent.

Mr. THAYER. I ask the gentleman from Vermont if the statement of the gentleman from Wisconsin, in reference to the amount of revenue collected, is correct?

Mr. MORRILL. It is not absolutely correct.

Mr. THAYER. Is the disparity so great as \$18,000,000?

Mr. MORRILL. The amount we have received under the largest tax is a little larger than we received under any other.

Mr. SLOAN, by unanimous consent, withdrew his amendment to the amendment.

Mr. DARLING. I move to strike out "\$500" and insert "\$1,000."

Mr. Chairman, in the course of investigation by my committee in New York, Philadelphia, and Brooklyn, we have discovered that in New York and Brooklyn alone there are four thousand illicit distilleries, and the fact stands upon record only one hundred licenses were taken out in New York and seventy-one in Brooklyn. And, sir, a great many of those licenses have been given to distilleries that have not returned forty gallons for one month, which paid eighty dollars tax, while \$125 was paid to the inspector. This being so, how then are they supported but by fraud? In the district of Brooklyn, before September, 1866, there were nearly one hundred licenses taken out, and the same number continued on after September, but only thirty-three took out licenses. These illicit distilleries formed a part of that "ring" in which the officers of the Government were implicated with Devlin & Co. These illicit distilleries only paid into the Treasury of the Government \$3,300, when according to their capacity of production they should have paid \$20,000 per day.

Now, sir, I contend the only way in which the Government is going to enforce its revenue and to suppress these illicit distilleries is to surround and hedge in the manufacture with all the instruments of power we possess, by the imposition of large license tax, enacting severe regulations, and requiring short periods for inspection and report.

Mr. GARFIELD. Let me ask the gentleman a question.

Mr. DARLING. Yes, sir.

Mr. GARFIELD. Is it true, as I have heard reported, this Devlin & Co. are now under indictment and yet are still selling alcohol for a little more than two dollars a gallon when the tax is four dollars? Is that true?

Mr. DARLING. They have been selling alcohol, but that is the product of whisky which they got from illicit distillers, and as it takes about two gallons of proof whisky to make one gallon of alcohol, of course the tax on the alcohol would be about four dollars, but really the tax is only two dollars.

Mr. GRINNELL. I would suggest whether, instead of it being Devlin & Co. who are doing this cheating, it is not Devil & Co. [Laughter.]

Mr. DARLING. As I did not see the horns nor tail I cannot answer that question. [Laughter.]

[Here the hammer fell.]

Mr. BROMWELL. It seems to me, Mr. Chairman, that the gentleman from New York proposes to lay a further tax on honest distillers who take out licenses in order to punish the men who transact business without a license. I ask him if these men do not distill now in spite of the law without a license? Now, what will be the effect to raise the license on the men who do take it out? Will there not be still greater inducement for men to distill illicitly? The gentleman says there are four thousand illicit distillers. What is the cause of it? It is a want of honesty somewhere. Will the addition of \$400 to the cost of the license increase the vigilance or honesty of the inspectors? Is it not because the men who are appointed to look after these things have gone hand in hand with illicit manufacturers that we have to complain? How, then, can the

additional tax to be imposed on the men who have violated no law affect the conduct of the agents of the Government and the illicit manufacturers? It seems to me if nothing can be done to guard against illicit manufacture now, when the inducements are less than they would be under this proposition, nothing can be done in the future by such an amendment as this.

Besides, every time that a new embarrassment is laid on the small manufacturer he is driven from the business, and it only tends to monopolize the business. It goes into fewer hands, that have more money to buy up the agents, and in the end the community have to pay much higher prices, while the manufacturer pockets more money in proportion to what the Government gets. The result is a greater degree of demoralization and dishonesty on the part of the manufacturers.

Now, if this amendment was one which looked at the character and morals of these men, at infusing more vigilance and honesty into these agents, I would favor it. The gentleman from Iowa speaks of providing every protection against this illicit business. What protection is it against the fraud of A that B is taxed the more? What protection is it against frauds if you tell a man that he must pay \$400 more for a license?

[Here the hammer fell.]

Mr. MORRILL. I think we have discussed this subject far enough, and I move that the committee rise for the purpose of terminating debate on the pending paragraph.

The question being put, there were—ayes 47, noes 26; no quorum voting.

Tellers were ordered; and Messrs. MORRILL and McKEE were appointed.

The committee divided; and the tellers reported—ayes 53, noes 50.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BOWWELL reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 1161, to amend existing laws relating to internal revenue, and had come to no resolution thereon.

#### CLOSE OF DEBATE.

Mr. MORRILL. I now move that when the House again resolves itself into the Committee of the Whole on the state of the Union all debate on the pending paragraph be terminated in ten minutes.

Mr. McKEE. On that I demand the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division, there were—ayes fourteen.

Before the noes were counted, Mr. McKEE called for tellers.

Tellers were ordered; and Messrs. MORRILL and McKEE were appointed.

The House divided; and the tellers reported that there were—ayes thirty-five, noes not counted.

So (the affirmative being more than one fifth of the last vote) the yeas and nays were ordered.

Mr. WILSON, of Iowa. I would suggest to the gentleman from Vermont [Mr. MORRILL] that in order to avoid the delay of taking the yeas and nays he agree to let the gentleman from Kentucky [Mr. McKEE] have all the time till the recess.

Mr. MORRILL. I have submitted that proposition to the gentleman from Kentucky [Mr. McKEE] and he has declined to accept it.

Mr. McKEE. So far as I am individually concerned I should not want more than ten minutes; but there are other gentlemen who desire to be heard, and therefore I am opposed to the proposition to close all debate upon the pending paragraph in ten minutes.

The question was taken; and it was decided in the affirmative—yeas 63, nays 59, not voting 69; as follows:

YEAS—Messrs. Alley, Allison, Baldwin, Baxter, Benjamin, Blaine, Boutwell, Broome, Cobb, Cook, Darling, Dawes, Deming, Dixon, Dodge, Eliot, Farquhar, Garfield, Grinnell, Abner C. Harding, Hogan,



Holmes, Hooper, John H. Hubbard, Ingersoll, Kellogg, Ketcham, Ladin, William Lawrence, Longyear, Lynch, Marston, Marvin, McKuer, Mercur, Miller, Moorhead, Morrill, Myers, O'Neill, Orth, Paine, Porham, Price, Alexander H. Rice, John H. Rice, Rollins, Scofield, Shellabarger, Sloan, Spalding, Nelson Taylor, Trowbridge, Upton, Burt Van Horn, Hamilton Ward, Warner, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, and Winfield—63.

**NAYS**—Messrs. Ancona, Anderson, Arnell, Delos R. Ashley, Baker, Barker, Bergen, Bingham, Boyer, Bromwell, Buckland, Campbell, Cooper, Davis, Dawson, Delane, Bekley, Eldridge, Finck, Aaron Harding, Hawkins, Hayes, Higby, Hill, Hise, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Koontz, George V. Lawrence, Le Blond, Leftwich, Marshall, Maynard, McClurg, McKee, Niblack, Nicholson, Noel, Phelps, Platts, Samuel J. Randall, William H. Randall, Ritter, Ross, Shanklin, Sitgreaves, Stokes, Strouse, Taber, Nathaniel G. Taylor, Thayer, Thornton, Robert T. Van Horn, Andrew H. Ward, Whaley, and Williams—59.

**NOT VOTING**—Messrs. Ames, James M. Ashley, Banks, Beaman, Bidwell, Blow, Brandegee, Bundy, Chandler, Reader W. Clarke, Sidney Clarke, Conkling, Culom, Culver, Deftoes, Denison, Donnelly, Driggs, Dumont, Eggleston, Farnsworth, Ferry, Glossbrenner, Goodyear, Griswold, Hale, Harris, Hart, Henderson, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Hulburd, Jonckes, Jones, Julian, Kasson, Kerr, Kuykendall, Latham, Loan, McCullough, McIndoe, Morris, Moulton, Newell, Patterson, Pike, Pomeroy, Radford, Raymond, Rogers, Rousseau, Sawyer, Schenck, Starr, Stevens, Stilwell, Francis Thomas, John L. Thomas, Trimble, Van Aernam, Elihu B. Washburne, Henry D. Washburn, Welker, Wentworth, Woodbridge, and Wright—60.

So the motion that all debate upon the pending paragraph of the tax bill be closed in ten minutes was agreed to.

#### ENROLLED JOINT RESOLUTION SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (S. R. No. 157) in relation to ocean mail service between San Francisco, in California, and Portland, in Oregon.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed without amendment bill of the House No. 452, to authorize the Secretary of the Navy to accept League Island, in the Delaware river, for naval purposes, and to dispense with and dispose of the site of the existing yard at Philadelphia.

#### TAX BILL.

Mr. MORRILL. I move that the rules be suspended, and that the House now resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union (Mr. BOUTWELL in the Chair) and resumed the consideration of the special order, being House bill No. 1161, to amend existing laws relating to internal revenue.

The CHAIRMAN. All debate upon the pending paragraph has been ordered by the House to close in ten minutes. The pending question is upon the motion of the gentleman from New York [Mr. DARLING] to increase the tax on distillers from \$500, as proposed by the Committee on Ways and Means, to \$1,000.

Mr. MORRILL. The committee is probably unaware of the effect which will be produced by the proposed change in the existing law. I will therefore call attention to the two provisos which will remain unchanged should the amendment be adopted. The first proviso is as follows:

*Provided, That distillers of apples, grapes, or peaches, distilling or manufacturing fifty and less than one hundred and fifty barrels per year from the same, shall pay fifty dollars; and those distilling or manufacturing less than fifty barrels per year from the same shall pay twenty dollars.*

That will remain unchanged even if the proposed amendment be adopted. The next proviso is as follows:

*And provided further, That no tax shall be imposed for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical and chemical or scientific purposes which has been used in those processes.*

Now, after having made these provisions in relation to the distillers of grapes, apples, and

peaches, I think we may be quite content to raise the amount of license tax upon those who distill alcohol from molasses or grain.

Having said all that I desire to say upon the subject, I will yield the remainder of my time to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. As all debate is to be stopped upon this paragraph in a few minutes, I will say very briefly, of course, what I desire to say upon this subject.

The House having settled the principle that where persons carry their milk, the product of their farms, to an establishment to be made into cheese and butter, he shall not be exempt from taxation. I now wish to extend that principle to other things.

In my district we produce a great many grapes, which are manufactured into wine. Our wine-makers are all obliged to take out a license as manufacturers. At the proper time I shall move to amend by inserting after the word "butter" the words "hominny, brooms, cider, bread, sausages, sauerkraut, wine."

[Laughter.]

Mr. SPALDING. I suggest to my colleague that he add butter-milk.

The hour of half past four o'clock p. m. having arrived, the Speaker resumed the Chair, and the House took a recess till half past seven o'clock.

#### EVENING SESSION.

The House reassembled at half past seven o'clock.

#### TAX BILL.

Agreeably to order, the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and resumed the consideration of the bill (H. R. No. 1161) to amend existing laws relating to internal revenue.

The pending question was upon the amendment of Mr. DARLING, to strike out in line forty-six the words "five hundred" and insert in lieu thereof the words "one thousand," so as to make the tax to be paid by distillers \$1,000.

The CHAIRMAN. Under the order of the House five minutes remain for general debate on the pending paragraph.

Mr. WARD, of Kentucky, obtained the floor.

Mr. RANDALL, of Pennsylvania. With the consent of the gentleman from Kentucky, I desire to make a suggestion to the gentleman who has charge of this bill. There is manifestly not a quorum present; and as this is an important section I would suggest that it be passed over for the present, to be considered when a quorum shall be here, and that we proceed now with that portion of the bill to which there is no objection.

The CHAIRMAN. Is there objection to the suggestion of the gentleman from Pennsylvania?

Mr. McKEE. I object.

Mr. WARD, of Kentucky. Mr. Chairman, I have listened to the reasons urged by various gentlemen with reference to the amount of license to be required of distillers; and I confess that the reasons which have been presented are in my judgment wholly insufficient to justify the House in rejecting the amendment which I have presented. The gentleman from New York [Mr. DARLING] seems to think that the license ought to be increased as a sort of penalty upon men for practising frauds upon the revenue. I would suggest to him that if he wants to punish frauds upon the revenue he had better attach the penalty to that clause which imposes the punishment for the violation of the law. By imposing this excessive charge for a license, the man who has never violated the law and has no purpose to violate, it is required to pay a penalty. You impose the penalty upon the innocent in order to punish the guilty. I desire to suggest also that it is the certainty of punishment, not its severity, which insures the execution of a law. It is the universal experience of all men that when you impose extraordinary penalties, the law is

always difficult of execution, and the penalty is seldom inflicted.

I pass on to consider for a moment the reasons urged by the distinguished chairman of the committee [Mr. MORRILL] who reported this bill. For his financial ability I entertain the highest respect, and I know that it is deservedly held in high esteem by the House; yet the reasons which he has urged in this case are, it seems to me, utterly insufficient to justify the House in voting against my amendment. Now, what is it? He urges in this amendment an imposition of \$500 as a license tax instead of \$100, as provided by existing law. Well, let us see how it works in figures. As I remarked before the recess, I come from a locality where the people are engaged extensively in the manufacture of whisky. If this amendment to charge \$500 for license be adopted you will cut off at least ten small distilleries in my own county that will make on the average fifty barrels a season, five hundred barrels at forty gallons a barrel, twenty thousand gallons in all, from which, at two dollars a gallon, you derive \$40,000 of revenue. Adopt this amendment, and what do you get in the shape of revenue? You reduce the number of distilleries in that county to about ten or fifteen, and you get \$400 in addition to the present license tax, or \$6,000 in all. You lose \$40,000, and in return only get \$6,000.

The gentleman's allusion to apples, peaches, and grapes was only a begging of the question. There is no sort of grain which enters into that manufacture. It does not touch the small distilleries.

You reduce the revenue by this amendment. What else do you do? You create a monopoly besides reducing the revenue, and you poison the whole universal earth with mean whisky; and besides that, as is suggested, you open the door to fraud. It does seem to me the amendment is obviously improper.

It appears, Mr. Chairman, whenever any deficiency happens in the revenue you fall back upon whisky manufacturers. What have they done that they should be made the scapegoat for everybody on the face of the earth who wants to get rid of some liability?

Mr. SCOTFIELD. They can stagger under a pretty heavy load. [Laughter.]

Mr. WARD, of Kentucky. If you keep this amendment in, you will have such an infernal whisky that it will depopulate your party. [Renewed laughter.]

The question recurred on Mr. DARLING's amendment, to strike out "\$500" and insert "\$1,000."

The amendment was rejected.

The question then recurred on the amendment of Mr. WARD, of Kentucky, to strike out "\$500" and leave the license tax at \$100 as now.

The committee divided; and there were—ayes 44, noes 15; no quorum voting.

Mr. GARFIELD demanded tellers.

Tellers were ordered; and Mr. GARFIELD and Mr. WARD, of Kentucky, were appointed.

The House again divided; and the tellers reported—ayes 49, noes 30; no quorum voting.

Mr. GARFIELD. I withdraw my opposition, but shall ask for a vote in the House.

The amendment was considered as adopted.

Mr. ELIOT. I have an amendment which the Committee of Ways and Means do not object to. Page 8, line forty-nine, after the word "cheese" insert, "or of any tender of wind-mills for grinding grain."

The amendment was disagreed to.

Mr. SCHENCK. I move to insert before the word "cheese," the words "hominny, brooms, cider, bread, sausages, sauerkraut, and wine." [Laughter.]

The amendment was adopted, with the understanding there should be a vote on it in the House.

Mr. McKEE. I move on page 8, line forty-five, after the word "less" to insert:

That section seventy-nine be amended, as follows: In paragraph five strike out the words "twenty-five dollars" and insert "five hundred dollars."

It is in relation to the tax on retail dealers and coffee-house keepers.

The committee divided, and there were; ayes 19; noes 50—no quorum voting.

The Chairman ordered tellers; and appointed Mr. WARD, of Kentucky, and Mr. ALLISON.

The committee again divided; and the tellers reported—ayes 19, noes 79.

So the amendment was rejected.

Mr. DARLING. I move on page 8, line forty-five, after the word "less," to insert:

In paragraph eighteen, section seventy-nine, strike out "twenty-five dollars," wherever it occurs, and insert "five hundred dollars."

The amendment was disagreed to.

Mr. HOOPER, of Massachusetts. I move to insert after the word "cheese" the words "from skippers of fishing vessels," commonly called "market fishermen."

The amendment was disagreed to.

The Clerk read as follows:

That section ninety-four be amended as follows: Strike out in the paragraph relating to gas the words "and until the 30th day of April, 1867."

Mr. HUMPHREY. I move to strike out the paragraph just read. I would like to hear from the chairman of the committee what reason can be assigned for extending relief to the gas company at the expense of the consumers? Last year, when the tax bill was passed, it was claimed that the expense of making gas was very great. There were some companies in New York that had placed themselves under a contract to furnish gas for a certain period of time, and it was thought no more than just by a majority of this House that they should be relieved. The relief, however, was obtained at the expense of the consumer. Now, the manufacture of gas can be carried on for considerable less than it could be a year ago. It was thought necessary last year to relieve certain companies from their contracts, under which they claimed they were suffering. Now it seems to me if we are to look to the interest of the consumers rather than the interest of gas companies we had better visit some portion of the burden of this tax bill upon the owners of stock in these corporations that are paying from fifteen to forty per cent. dividends every year. I think we had better bestow our attention to the relief of the people rather than the relief of wealthy corporations. I hope, unless some good reason can be given, that the committee will strike out this provision and make these companies pay their own tax instead of putting it all on the consumer.

Mr. GARFIELD. I wish to say to the gentleman that the reasons which induced the committee to introduce this amendment were the same that induced them to report the same proposition last year, when the House chose to insert this limitation. I will state briefly what the facts were.

In a very large number of cities and villages of the United States the gas companies had been organized on certain conditions; for instance, that they should furnish the gas at certain fixed rates. They were organized under a contract. Now, there have been fluctuations in the price of gold, and in many instances it has cost a great deal more to make their gas than it did before the war when their contracts were made. It was found that while they were bound by their contract or by the act of incorporation to furnish gas at the same rate they furnished it before the war, the rise in the price of gold had made it very difficult for them barely to live. Now, the Government of the United States comes in and adds the Federal tax over and above all their other taxes and burdens, and in many instances, especially in the case of small companies in villages, it actually made the tax upon them so heavy that with their other expenses they were actually losing money every month.

Now, as we by law had changed the condition of their contract for furnishing gas, it was deemed no more than just that we should also by law authorize them to tax the addition upon their consumers. The committee is perfectly well aware that in some of the large cities

where the manufacture of gas is very profitable, perhaps this works injustice to the consumer and gives more profit to the gas companies than they ought to get. But if we do not allow this to be done in the law as we have here proposed, it is a very heavy burden upon a very large number of smaller companies, especially in the villages.

Mr. HUMPHREY. Will the gentleman inform us what State imposes any prohibition upon the price of gas furnished by gas companies?

Mr. GARFIELD. My own State, and I understand also the State of New York. It was stated before the committee that in many States they were chartered by special act, and their charter limited the price at which they should furnish the gas.

Mr. HUMPHREY. Allow me to state that in New York there is no law limiting it. There is one company in the city that has a prohibition upon it, which was made because it asked for another franchise. The State gave it another franchise, but imposed upon it the condition that they should sell the gas at a certain price.

Now, there is not a single company in the State of New York that is thus limited except this one. The other companies are prohibited simply because this one is compelled to sell its gas at a certain price. And to-day the stock of this company is worth in the market more than two hundred per cent.

Mr. GARFIELD. I wish to say that I have just expressed the reasons which induced the Committee of Ways and Means to take the action they have. We have brought the subject before this House, and do not make the slightest point upon it, except to state the fact. We simply feel that when we have placed a wrong burden upon a company we ought to take off that wrong as far as we are able.

Mr. SCHENCK. I move to amend by striking out the words "strike out." I do this for the purpose of saying that this strikes me as an old acquaintance. Last year a bill was reported here making a most odious and atrocious distinction in favor of gas and railway companies against all others, by permitting them to charge their tax over against their consumers and patrons; thus making it a tax upon the people and not a tax at all upon the companies and their business. We defeated that distinction at the last session. Here it is now revived again, and I hope it will be again defeated by this Congress.

What is the pretense for this proposed action? Why, that these gas companies are limited by law in the amount of their charges. Is not the rate of interest on money loaned limited? The Legislature permits a man to charge six or seven per cent. upon promissory notes or upon money loaned. And yet you charge him a tax upon his income arising from that source; and that tax comes out of the man who receives the interest. Now, if when you charge him a tax upon his income from interest you allow him to add so much more to the interest, he would not care how much you charged him.

The idea should be to charge these gas companies and their business, and not charge the people. But the provision as here reported has been so contrived as to make the people pay the tax. I do not know that the Committee of Ways and Means have introduced the same relief for railroad companies as they did last year. But I repeat that this is an atrocious, odious, and infamous distinction attempted to be made, by which certain companies shall escape the tax entirely and make the people pay the tax for them. I hope that no such legislation will be permitted by this House this year.

Mr. DAVIS. I have heard the agrarian sentiments uttered by the gentleman from Ohio [Mr. SCHENCK] too often upon this floor to be alarmed by their expression at this time. I say that we are here, as the Congress of the United States, to do justice to capital invested for the benefit and for the interest of the people and of the communities of this country. And I wish to remind the gentleman from Ohio,

and every other gentleman in this House, that corporate capital is invested in gas companies and in railroad companies to accomplish great public purposes which cannot be accomplished by individual capital. Now, I ask gentlemen to tell me of a single instance in which private enterprise is engaged in production, manufacture, or anything else, where it may not impose upon the purchaser of the articles of its production, which it sells in the market, any tax which is imposed upon it by the Government.

Now, I undertake to say, although I have not one dollar of interest in the world in the gas companies of this country, that there is no gas company whose price is limited by its charter or by contracts made with cities or other corporations to \$2 50 per thousand feet, which is the case with many gas companies, than can live up to its contract. I will take, for instance, the Manhattan Gas Company of New York city: that company has a capital of \$4,000,000, and has been going on under a contract with the corporation of the city of New York and the limitations in its charter supplying its consumers for the last two years. And the operations of that company for the last year, the year 1866, show that without receiving one single cent upon the capital invested, which is \$4,000,000, it has made a profit of sixty-six cents on its business over its expenses.

Mr. HUMPHREY. What is the stock of the company worth?

Mr. DAVIS. I do not care what it is worth.

Mr. HUMPHREY. Is it not worth two hundred and twenty per cent. on the dollar?

Mr. DAVIS. I venture to say it is not worth any such sum.

Mr. HUMPHREY. Is it not so quoted by the brokers?

Mr. DAVIS. I am not here as a stock-jobber at all; that is a business in which the gentleman from Buffalo [Mr. HUMPHREY] is more interested than I am. I undertake to say that there is not a single stock company in the State of New York whose stock is worth any such sum.

Now, sir, there is a gas company in the city of Pittsburg whose report I have before me; and by this report it appears that this company supplies the city with gas by contract at \$1 60 per thousand feet. For sixteen million feet of gas furnished by the company to the city the company receive \$2,625, while the tax on that quantity is \$4,000. The result is, that the company pays about thirteen hundred dollars for the privilege of furnishing the city with gas for nothing.

A MEMBER. Why do they not apply to the Legislature?

Mr. DAVIS. The company has applied to the Legislature; and the same narrow, mean, petty opinions which are expressed by the gentlemen from Ohio [Mr. SCHENCK] operate upon the Legislature to prevent the company from getting any relief.

Now, sir, I wish to meet this question as an American legislator, looking to the interests of the whole people and to every interest of capital, whether invested by private individuals or by public corporations.

[Here the hammer fell.]

Mr. SCHENCK. I withdraw the amendment to the amendment.

Mr. DELANO. I move *pro forma* to amend the amendment by striking out the last word of the paragraph. I desire to call the attention of the Committee of Ways and Means to a proposition which I desire to submit whenever a suitable opportunity may offer. The law as it now stands allows gas companies to charge over the tax to their consumers. On the 1st of April next this privilege will expire; and the proposition is now made to strike out from the existing law the words providing for the limitation, so that this privilege shall be permitted to continue.

Now, Mr. Chairman, I am not prepared to adopt the conclusion that it would be wise to allow that privilege to all the gas companies in

the country indefinitely. I would, therefore, prefer an amendment which I shall offer, should the proposition to strike out be voted down, providing that this privilege shall be allowed to those companies only whose consumption does not exceed one hundred and fifty thousand feet per month. Those who know anything about this matter know that where companies manufacture gas largely the business is exceedingly profitable, and the stock of such companies is valuable. But gas has become such a necessary convenience that it is manufactured in many of the smaller towns of the country; and the companies manufacturing it in those towns can with difficulty sustain themselves.

I hope, therefore, that the House will consider this question, looking to the interest of the consumer and to the interest of these small companies, and will reject the amendment proposing to strike out the clause of the bill, and will afterward adopt the amendment which I have already indicated and which I shall offer. If this amendment be adopted our small interior towns of three or four thousand inhabitants can enjoy the benefits of gas at a moderate price. Unless some such modification be adopted we shall break up or very seriously embarrass these small companies.

Mr. MOORHEAD. I desire to suggest to the gentleman from Ohio [Mr. DELANO] to add to his amendment, when offered, the following words, "and those companies that are limited by their charter as to the price of gas."

Mr. DELANO. I accept the gentleman's suggestion.

Mr. DAVIS. I suggest to my friend from Pennsylvania [Mr. MOORHEAD] that in regard to a company that is not limited in its charter as to the price of gas, neither the Legislature nor this Congress has a right to interfere. Hence the amendment suggested would amount to nothing. It is only where there is a limitation that Congress can interpose for relief.

Mr. ALLISON. I was about to suggest to the gentleman from New York the proposition, as modified, will leave the question with this proviso stricken out.

Mr. DELANO, by unanimous consent, withdrew his amendment.

Mr. EGGLESTON. I move to strike out the word "gas." I feel under obligations to my distinguished friend from New York, [Mr. HUMPHREY.] I intended to make the motion myself. I made a fight on this question last winter. You will recollect distinctly, the gentleman from Massachusetts [Mr. HOOPER] will recollect, that the only way exception was made in this bill of gas and railroad companies was on the theory they wanted to get the State Legislatures to act in their behalf at home. On that theory and that theory alone was it allowed them to be an exception. It was on that theory we made the limit the 1st day of April, 1867. We supposed that would be sufficient.

Mr. DAVIS. I desire, in answer to the gentleman, to say it was distinctly stated during the last session it was useless to go to the Legislatures of many of the States for relief, because there was the same local prejudice against corporations there as here.

Mr. EGGLESTON. If my distinguished friend has corporations in his own State which are so odious to his own people who know all the facts that they will not bear them there, I should like to know how he can make an argument for us to bear them here. The Manhattan Company to which my distinguished friend alluded, I understand did go to the Legislature and have a bill passed for its relief, but the Governor of that State vetoed it.

Mr. DAVIS. The one-man power against the people.

Mr. EGGLESTON. I ask whether we are going to set aside Governor Fenton's knowledge? I ask whether our party is going to put itself again upon the record as legislating in favor of corporations and against the people? I hope not.

My distinguished friend from Ohio [Mr. SCHENCK] has well illustrated this subject. He

has told you this is a tax upon the consumer and not a manufacturer's tax; and there is no article taxed in this way but this one. Take a man who manufactures pig iron, and suppose he has a contract to keep a foundry running for five years, with one hundred tons a day at a certain stipulated price, have you not the same right to say that man shall put the manufacturer's tax upon that article because he has a contract?

Mr. DAVIS. Allow me to say we have frequently done so. We have interposed between the contractor and the purchaser.

Mr. EGGLESTON. I do not wish to consume the time of the House. I know about this subject of gas companies, and if I consulted my own interest I would go for this measure. It is to my pecuniary interest to vote for this, but I cannot vote for it because I know it is wrong. I know the principle is wrong, and that we ought not to do this thing. No man should allow his interest, be it much or little, to carry him away in a matter of this importance. I do not think we ought to do wrong in favor of the corporation and against the individual. I do not think we ought to let the corporation stand aside when the individual manufacturer is compelled to pay the tax.

[Here the hammer fell.]

Mr. PLANTS. I do not propose, Mr. Chairman, to make a speech, but I have a compromise that I think will satisfy every person. Add at the end of line fifty-six: "And that every person liable to be charged with any tax whatever shall be permitted to make his next neighbor pay it." [Laughter.]

Mr. WILLIAMS. I should like to ask two questions. Have we the power to alter the charter of a State corporation and to declare it may do what the law of its life prohibits it from doing? That is the first question, and it is a very important one. The next question is this: whether it be constitutionally competent or morally possible for the Congress of the United States to make a contract for any man?

Now, if I know anything about this subject, and I think I do, a contract made by this Congress is not the contract of the parties, and therefore within the legal intendment is no contract at all. What is it? If I recollect the legal definition, a contract is an agreement between two or more persons upon sufficient consideration to do or not to do a particular thing. Now the Constitution aside, I would like to know whether the bargain with a company which we make is the contract of the parties. In other words, is it competent or possible for us to do this thing? Why, what may the parties say? *Non in hæc fœdera veni.* "I did not make the contract." How is it that you undertake to interfere in a hard case by a sort of equitable power? These are serious questions, and if there is any gentleman on this floor who can answer them I would like to hear the answer.

The CHAIRMAN. Debate on the amendment is exhausted; and the amendment is withdrawn.

Mr. DAWES. I renew it simply for the purpose of making an inquiry of the gentleman on the committee who had charge of this matter at the last session. I would like to know what was the reason why this was limited in the law to the 30th of April, 1867.

Mr. HOOPER, of Massachusetts. In answer to the inquiry, I will say that the agents of these companies came before the committee and complained that at the late period at which we had this subject under consideration they had not an opportunity to apply to their State Legislatures for this relief—that they were controlled by their State Legislatures, and not being aware that this question was to be decided in Congress they asked that the time might be put off for the enforcement of this tax until the period named in the law, in order to give them an opportunity to make the application to the Legislatures for the relief which they asked of Congress. I think I have answered the inquiry.

Mr. WILSON, of Iowa. I desire to put a question to the gentleman, and that is: what reason do they give for asking the enactment of the provision of this bill suspending or repealing that limitation to the 30th of April, 1867?

Mr. HOOPER, of Massachusetts. I think I stated the reason—that it was too late to get an amendment of their charter from the State Legislature. The action of Congress they said was taken after their Legislatures had adjourned, leaving them no opportunity to apply to those Legislatures for relief.

Mr. WILSON, of Iowa. Have not all these Legislatures been in session this winter?

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. DAWES. I renewed it, and these gentlemen have been speaking in my time.

Mr. MOORHEAD. I rise for the purpose of endeavoring to set this matter straight before the committee, and I want to reply to my colleague, who represents pretty much the same constituency that I do.

Mr. WILLIAMS. On the constitutional question? [Laughter.]

Mr. MOORHEAD. The gentleman has made a constitutional argument. It will be recollected by some that I had an argument with him on the law of *post limine* some time ago, and I do not know but he got a little advantage of me on that debate. [Laughter.] I do not propose now to go into the discussion of the constitutional question, but I would like to ask him and the committee whether when Congress puts this tax on a corporation in Pennsylvania it has not a right to relieve them. Why should they look to the State? The State Legislature does not put it on them.

I desire to have read some extracts from the charter of the Pittsburg Gas Company, showing that they are bound to furnish a large amount of gas for the public lamps free of charge, and are limited to \$1 60 per thousand feet for gas furnished to other consumers. Now Congress has imposed upon them a tax of twenty-five cents a thousand feet. Deduct that from \$1 60 and you have left \$1 35, at which price, as everybody knows, they are not able to manufacture and furnish gas. No company can produce at that price and make any profit. I hope, therefore, that this limitation to the 30th of April, 1867, will be stricken out, or if that is not done that the amendment of the gentleman from Ohio will be adopted. I now ask that the Clerk may read the extracts from the charter which I send up to the Clerk's desk.

Mr. BROMWELL. I would like to ask the gentleman from Pennsylvania [Mr. MOORHEAD] a question.

Mr. MOORHEAD. I want to have this paper read before I answer any question. I would call the attention of my colleague [Mr. WILLIAMS] to the fact, that it is all plain, straight English; there is no Latin in it. [Laughter.] My colleague got off some Latin, as I understood it; but I was not near enough to be able to hear it very distinctly, and could not tell exactly what it was.

The Clerk read as follows:

"Extracts from charter of Pittsburg Gas Company.—They shall also have the power to regulate the price of gas furnished to private consumers, but such price shall not exceed \$1 60 for each one thousand cubic feet of gas, and they shall make and prescribe proper rules and regulations for the supply thereof."

"That the said company shall also furnish all the gas required for consumption in the public street lamps, market houses, council chambers, and public offices of the city at the following rates; that is to say, any quantity not exceeding twelve and one half millions cubic feet of gas annually free of charge, and any excess over that quantity that may be required annually, at a rate not exceeding seventy-five cents for each one thousand cubic feet of gas in such excess, the price of such excess so furnished, together with the cost of constructing, erecting, and keeping in order the public lamps and burners in the streets, shall be paid to the company quarterly by the city corporation."

Mr. ALLISON. I would like to ask my friend a question.

Mr. MOORHEAD. I will hear the question.



Mr. ALLISON. If this tax is an onerous burden upon this company, why does not the city of Pittsburg relieve the company from this contract to furnish gas to the city free of charge?

Mr. MOORHEAD. The company is obliged to do so by the terms of its charter, and the city of Pittsburg cannot relieve the company of these terms. Besides, the people of the city who have to pay the taxes of the city will not consent to that.

I now move that the committee rise, for the purpose of closing debate on this paragraph.

Mr. DELANO. Will the gentleman withdraw that motion for the purpose of allowing me to read an amendment which I propose to offer at the proper time?

Mr. MOORHEAD. I will withdraw the motion for that purpose.

Mr. DELANO. I give notice that at the proper time I shall move the following amendment:

Amend section ninety-four as follows: insert after the words "fixed by law," the following: "and whose consumption does not exceed an average of one hundred and fifty thousand feet per month, and whose net profits did not for the preceding year exceed ten per cent. per annum on the capital stock actually paid in."

Mr. SCHENCK. I ask that the Clerk read, for information of the committee, an amendment to the amendment of my colleague, [Mr. DELANO,] which I propose to offer. I do not desire to make any remarks upon it at this time.

Mr. DELANO. I suppose it is one of my friend's witticisms.

The Clerk read as follows:

And provided also, That in those States where the rate of interest on money loaned is limited by law, the lender of money shall be allowed to collect of the borrower any amount of tax charged on his income derived from interest on money so loaned.

Mr. DELANO. It is as I expected. [Laughter.]

Mr. MOORHEAD. I now move that the committee rise for the purpose of closing debate. The motion was agreed to.

So the committee rose; and the Speaker *pro tempore* (Mr. ORTH) having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 1161, to amend the existing laws relating to internal revenue, and had directed him to report that they had come to no resolution thereon.

Mr. MOORHEAD. I move that when the House again resolve itself into the Committee of the Whole on the state of the Union on the special order, all debate upon the pending paragraph be closed in five minutes.

The motion was agreed to.

Mr. MOORHEAD. I now move that the rules be suspended, and that the House again resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and resumed the consideration of the special order, being House bill No. 1161, to amend the existing laws relating to internal revenue.

The CHAIRMAN. By order of the House all debate upon the pending paragraph of this bill will terminate in five minutes.

The pending question was upon the motion of Mr. HUMPHREY, to strike from the paragraph amendatory of section ninety-four of the present law the following:

Strike out in the paragraph relating to gas the words "and until the 30th day of April, 1867."

Mr. GARFIELD. In closing the debate upon this subject I desire to say but a few words, and then I will leave it to the determination of this committee. There were two classes of companies to which the Committee of Ways and Means had reference in recommending this proposed amendment of the existing law. The first class embraces those companies who are limited by their charters in reference to the price they are allowed to

charge consumers of the gas they manufacture. The second class embraces those who, two or three or more years ago, made contracts, to run ten years perhaps, to deliver gas at a certain price. We have now come in, and by our legislation have changed the terms of their contracts. The State Legislatures could not change those contracts; they could not by anything they might do relieve these companies; and therefore we felt that we who have changed the terms of those contracts were bound to afford them relief by taking from them this additional burden.

Now, one word more. One gentleman who has spoken here to-night [Mr. EGGLESTON] has said that the great principle of our revenue law is that the manufacturers ought themselves to pay the tax upon their commodities. I answer the gentleman that all manufacturing establishments, the price of whose products is not restricted by law, charge the tax over to the consumers. If we impose a tax upon the manufacture, for instance, of any kind of implement, that tax is at once added to the price charged for the implement; and thus the purchaser pays the tax. In the cases we have now under consideration the companies are limited either by their contracts made five, six, or ten years ago, or by the terms of their charters, and they cannot charge this tax over, unless we permit them to do so by the provisions of our law.

Now, Mr. Chairman, I am not disposed to favor in the least degree monopolies, but I am opposed to doing wrong to a corporation for no other reason than that it is a corporation. While there are gas companies in the United States that do not deserve this relief and ought not to have it, there are many that ought to have it, and we do these companies wrong if we do not grant it.

Mr. BRÖMWELL. I desire to ask the gentleman a question. If, in his opinion, the Legislature of the particular State cannot take this burden off a gas company, what authority has this Congress to do it? And I also ask him what difference there is in the position of a gas company that is bound by a contract made several years ago and the position of a man who has lent his money ten years ago and is waiting to collect it, or any other business man who has made contracts which he must execute, although they may be unprofitable to him?

Mr. GARFIELD. I can answer the gentleman I think very distinctly. Where a gas company has made a contract a year or two ago, running, for instance, ten years, the Legislature of the State cannot change the terms of the contract if it is between the gas company and a municipal corporation. But when we come in and impose a tax, we do in point of fact change the contract, unless we adopt such a provision as the Committee of Ways and Means recommend.

The amendment of Mr. HUMPHREY was agreed to.

Mr. DELANO. I move to amend by inserting in lieu of the provision just stricken out the following:

That section ninety-four be amended by adding thereto the following proviso:

Provided, That gas companies whose consumption does not exceed an average of one hundred and fifty thousand feet per month, or whose net profits do not for the preceding year exceed ten per cent. per annum on the capital stock actually paid in, may charge the tax to consumers.

Mr. SCHENCK. I now move to amend the amendment by adding the following additional proviso:

Provided also, That in those States where the rate of interest on money loaned is limited by law, the lender of money shall be allowed to collect of the borrower any amount of tax charged on his income derived from interest on money so loaned.

Mr. THAYER. I rise to a point of order, and submit that this amendment is not germane to the subject under consideration.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SCHENCK. My amendment is the same in principle as the other.

The amendment of Mr. DELANO was not agreed to.

Mr. SCOFIELD. I move to amend by adding the following:

Also in the paragraph relating to petroleum, commencing "on illuminating, lubricating, or other mineral oils," strike out the word "twenty" wherever it occurs and insert "ten."

I am not going to discuss the amendment, for I know everybody understands it. I went before the Committee of Ways and Means and endeavored to get them to reduce the tax from twenty cents a gallon, as it now stands, on refined rock-oil, and although they are reducing everything else they refused to do it. I wish the sense of the House on the proposition, and I suppose that sense does not need any illumination from me.

Mr. GARFIELD. I hope this amendment will not prevail. I know my friend has always given us illumination on this subject whenever we came to it year after year. He will recollect that we relieved crude petroleum from tax; and, sir, many persons have thought, and now think, it should bear some tax. Indeed, an effort has been made to restore that tax. This refined article is very valuable. It is a thing that is produced in large quantities, and the price is low, lower than before. We have the monopoly of the world. It furnishes a large amount of our exchange with other nations, and has brought in a handsome revenue to the Treasury last year. I hope no change will be made in the bill in this respect.

Mr. SCOFIELD. The charge for freight on this article is very heavy. Although the demand is coextensive with the world, still the charge for freight is heavy, and the article itself is so volatile, no cask or package yet being found that will prevent its leaking, it is so subject to fires and accidents of almost every kind that you cannot carry it from the place of production without a large percentage of loss. If the tax were to come out of the people I represent I would not say a word, but all the members here are more interested in it than I am, the freight on the article making it come high with them, while we get it in the neighborhood so low we can afford to pay the tax.

Mr. GARFIELD. I will add one word, showing the amount of revenue we have received from this article, and which the gentleman now proposes to cut off. In the year 1863, at the beginning of this production, we received a revenue of \$3,000,000; in 1864 it was \$2,250,000; in 1865 it was again \$3,000,000; in 1866 it rose to five and one third million dollars.

Mr. SCOFIELD. Can you not be liberal to such an extensive customer?

Mr. GARFIELD. We took off a dollar a barrel on crude petroleum which goes abroad. If this tax were made lower it would simply be a decrease in the revenue.

Mr. SCOFIELD. There never yet has been any tax on the article sent abroad, whether crude or refined. The very reason we have been able to send it abroad is because there is no tax on it.

Mr. GARFIELD. Is there any competition?

Mr. SCOFIELD. Any amount of competition abroad. I do not mean of course from just this kind of article, and especially has there been great competition since the expiration of the patent for making oil from shale, except in reference to that class of consumers who can pay a little higher price for a better article.

Mr. GARFIELD. In 1865 we exported twenty-three million eight hundred thousand gallons, while in 1866 we exported sixty million gallons, almost three times as much as in the year 1865.

The amendment was rejected.

The Clerk read as follows:

Also, strike out the paragraph commencing "on oil, naphtha, benzine, benzole" down to the words "ten cents per gallon," inclusive.

Mr. SCHENCK. I move to add at the end of line fifty-nine the following:

But if any person shall mix for sale naphtha and illuminating oil, or shall sell or keep or offer for sale such mixture, or shall sell or offer for sale oil made

from petroleum for illuminating purposes at less temperature or fire-test than one hundred and ten degrees Fahrenheit, such persons shall be held to be guilty of a misdemeanor, and on conviction thereof by indictment or presentment in any court of the United States having competent jurisdiction shall be punished by imprisonment for a term of not less than six months nor more than three years.

Mr. CHAIRMAN, I will explain this amendment in a very few words. Naphtha now pays a tax of ten cents a gallon, while illuminating oil pays a tax of twenty cents a gallon. The consequence is that naphtha, being a cheap article, is mixed with illuminating oil, and people, unconscious of the fact they are buying a different article, purchase this fraudulent article, for it is such, a mixture almost as explosive as gunpowder. Now, there is no objection to taking off the tax from naphtha, because though not fit to be mixed with illuminating oil, yet it in some degree supplies the place of spirits of turpentine and enters largely into the arts as raw material. It is useful for many other purposes, and ought to have either a low tax imposed upon it or none at all. But just in proportion as you make it cheap by taking the tax off you increase the temptation to mix it with illuminating oil and make a compound which is destroying lives and property. The only way therefore, I think, is to take the tax off or reduce it and make the article cheap for legitimate purposes, but punish the use of it severely when mixed with illuminating oil. I have had my attention attracted to this matter, and have communicated with persons familiar with this subject, and I find this is about the only practical way of heading off that practice.

Mr. HOOPER, of Massachusetts. This amendment is a very proper one.

Mr. HUMPHREY. The amendment should be so modified that only those who sell knowingly shall suffer the penalty. As I understand it, the penalty would attach to the retailer.

Several MEMBERS. They all know it.

Mr. HUMPHREY. They may not all know it.

Mr. SCHENCK. I suppose the *scienter* would be taken into consideration by any court; but I will insert the word "knowingly," so that it will read: "shall mix for sale or knowingly offer for sale."

Mr. ALLISON. The proviso is proposed to be attached to a paragraph just stricken out of the original law.

Mr. SCHENCK. I believe the gentleman is right. I will therefore have to withdraw my amendment and offer it at some other place.

Mr. SCOTFIELD. I move to strike out this paragraph:

Also, strike out the paragraph commencing "on oil, naphtha, benzole, benzine," down to the words "ten cents per gallon," inclusive.

And to amend the original law by inserting in it "five cents" instead of "ten cents;" so that it will read as follows:

On illuminating, lubricating, or other mineral oils, marking not less than thirty-six nor more than fifty-nine degrees Baumé's hydrometer, the exclusive product of the refining of crude oil produced by a single distillation of coal, shale, asphaltum, peat, or other bituminous substances, not otherwise provided for, five cents per gallon.

It is proposed to take the tax off from coal oil that is distilled largely in New England from Nova Scotia coal or shale, which can be had for nothing, and upon which there is no tariff. There is a large manufactory in Boston of this oil, which is called kerosene, and which is so valuable that it has led the country people to apply that name to the whole class of rock and coal oils. Many have taken the trade-mark of this one manufactory and applied it to all these oils.

Mr. HOOPER, of Massachusetts. I call the gentleman's attention to the fact that he has mistaken the section of the original law to which this paragraph in the bill applies. It is the section immediately following the one he has cited, as follows:

On oil, naphtha, benzine, benzole, or gasoline, marking more than fifty-nine degrees Baumé's hydrometer, the product of the distillation, redistillation, or refining of crude petroleum, or of crude oil produced by a single distillation of coal, shale, peat, asphaltum, or other bituminous substances, a tax of ten cents per gallon.

Mr. SCOTFIELD. I believe the gentleman is right.

Mr. GARFIELD. A single suggestion. There is no illuminating oil marked more than fifty-nine degrees Baumé's hydrometer; all above that is of the nature of gasoline and substances that are not used for illumination at all. This oil, naphtha, above fifty-nine degrees we propose to put on the free list.

Mr. SCOTFIELD. Then I understand the tax on illuminating oil distilled from coal and shale is retained.

Mr. GARFIELD. It is not touched, except the product marking more than fifty-nine degrees.

The Clerk read as follows:

Also, [amend section ninety-four by striking out the paragraph relating to "sugars and sugar refiners," and insert in lieu thereof the words "on all sugars produced from the sugar-cane, and not from sorghum or imphee, other than those produced by the refiner, a tax of one cent per pound; on refined sugars, and on the products of sugar refineries, not including sirup or molasses, a tax of two per cent. *ad valorem*; Provided, That every person shall be regarded as a sugar-refiner, and pay the taxes required by law, whose business it is to advance the quality and value of sugar upon which a tax or duty has been paid, by melting and recrystallization, or by liquoring, claying, or other washing process, or by any other chemical or mechanical means, or who shall by boiling or other process advance the quality or value of molasses, concentrated molasses, or melado, upon which a tax or duty has been paid."

Mr. WARD, of Kentucky. I move to amend by striking out these words:

On all sugars produced from the sugar-cane, and not from sorghum or imphee, other than those produced by the refiner, a tax of one cent per pound.

The CHAIRMAN. This portion of the bill is being read by paragraphs for amendment. The paragraph referred to by the gentleman from Kentucky [Mr. WARD] having been read and passed by, it would not now be in order, without unanimous consent, to move to strike it out.

Mr. WARD, of Kentucky. The Clerk read the paragraphs very rapidly; and I supposed all relating to sugars was to be considered as one paragraph. I ask unanimous consent of the committee to return to the paragraph I have quoted for the purpose of enabling me to move to strike it out.

Mr. GARFIELD. I object.

The Clerk read as follows:

Also, [amend section ninety-four,] in the paragraph relating to wood screws, by striking out the word "ten" and inserting "five,"

Also, by striking out the paragraph relating to "gunpowder" and inserting in lieu thereof the following: "on gunpowder, canister powder, five cents per pound; sporting powder, in kegs, one cent per pound; blasting powder, in kegs or casks, one half cent per pound."

Also, in the paragraph relating to "copper and brass tubes," by striking out the words "five per cent. *ad valorem*," and inserting in lieu thereof the words "one fourth of one cent per pound."

Mr. GARFIELD. I have here an amendment upon which the Committee of Ways and Means have agreed, which I desire to move in reference to the last paragraph read by the Clerk. I move to strike out the paragraph just read, and to insert in lieu thereof the following:

Also, [amend section ninety-four,] by striking out the paragraph commencing "on copper and brass tubes," and inserting in lieu thereof "on copper and brass tubes, nails, or rivets, one fourth of one cent per pound."

Mr. KASSON. I wish the gentleman from Ohio [Mr. GARFIELD] would state the reasons for so essentially reducing, as I understand he now proposes to do, the tax upon those articles made of brass and copper, among which are many articles of luxury.

Mr. GARFIELD. It is not a reduction of the tax at all, but a simple transfer from an *ad valorem* to a specific tax. Under the existing law these articles now pay an *ad valorem* tax of five per cent. It was thought that we would be more certain to get the tax if we made it specific. We therefore propose that it shall be one fourth of one per cent. per pound, which will be about equal to an *ad valorem* tax of five per cent.

Mr. KASSON. It is precisely upon that point that I think the gentleman is in error. I think the *ad valorem* tax is decidedly to

be preferred, as these articles approach what may properly be called articles of luxury, such, for instance, as gas-fixtures, chandeliers, &c. The amendment he proposes would reduce the tax imposed under the existing law. I cannot of course go into the details, but my information is sufficiently accurate to justify me in making that statement.

Mr. GARFIELD. The Committee of Ways and Means made a careful estimate, and not only not intending to reduce the tax on these articles, they were of the opinion that the amendment I have proposed, instead of reducing it, if any change would result from its adoption, would cause a slight advance upon the present tax. And I believe all will agree that when we make a tax specific we can more certainly get it paid. The articles embraced in this paragraph include tacks, nails, rivets, and a large number of things, the exact valuation of which it would be very difficult to ascertain, in order to determine an *ad valorem* tax upon them. But you can very easily determine the tax when it is by the pound. It seems to me that it is a much simpler, safer, and better way for the Government to levy the tax in the way proposed in the amendment. The Committee of Ways and Means have considered this subject very carefully, and I hope the amendment will be adopted.

Mr. DARLING. I am opposed to the proposed amendment, and I will state how, in my judgment, it will operate if adopted. Copper or brass tubes of a highly finished character of say the length of two or three feet may cost perhaps one dollar and a half, two dollars, or three dollars each. When so finished they are very light, and would not weigh more than one or two pounds each at the most; therefore the tax proposed by this amendment would not exceed a quarter or a half a cent each, while under the existing law, at five per cent, it would amount to ten or fifteen cents each. Under the plan adopted here a year ago in respect to iron tubes, there has been a great evasion of the revenue, so that, as I am informed, one house in Philadelphia has realized a profit of over one hundred thousand dollars. I endeavored last year to get the law amended in that respect, but I failed. I hope Congress will not perpetuate it this year. Light pipes taxed so much per pound escape the tax almost entirely, while heavy pipes taxed by the pound are taxed very oppressively. The light-finished work should pay a percentage, and not pay by the pound. I could illustrate this further if it were necessary, but I presume it is not necessary. The only true and equitable way of taxing manufactured articles of this kind is to impose an *ad valorem* tax.

Mr. GARFIELD. What the gentleman states may be the fact. It is possible that the Committee of Ways and Means has fallen into a mistake in reference to this matter. I have simply sought to represent the action of the committee. In this case I ask unanimous consent that this paragraph may be passed over to be considered hereafter. I think it quite likely that the gentleman from New York may be entirely correct in his statement.

The CHAIRMAN. If there be no objection this paragraph will be passed over to be considered hereafter.

There was no objection.

The Clerk read the following:

Also, by striking out all from the words "cigarettes or small cigars," in the first paragraph relating to cigars, down to the words "twenty per cent. *ad valorem* on the market value thereof," in the last paragraph relating to cigars, inclusive, and insert in lieu thereof the following:

On cigarettes, cigars, cheroots of all descriptions, made of tobacco or any substitute thereof, the market value of which, including the tax, is not eight dollars per thousand, a tax of two dollars per thousand; when exceeding eight dollars per thousand in market value, including the tax, a tax of eight dollars per thousand.

Mr. MYERS. I move to amend by striking out all after the word "therefore" in line ninety-three down to the word "thousand," inclusive, in line ninety-seven, the part stricken out being the following:

The market value of which, including the tax, is not over eight dollars per thousand, a tax of two

dollars per thousand; when exceeding eight dollars per thousand, in market value, including the tax, a tax of eight dollars per thousand," and add the words "a tax of five dollars per thousand."

I have for several years used my efforts to have abolished what I deem a very injudicious mode of collecting the revenue from tobacco and cigars, and sought to bring about the adoption of a specific tax upon the leaf. I have believed heretofore, and I believe now, that this is a fairer and better way of imposing the tax. It is better for the Government, because it would yield double the amount of revenue now derived from this source; and also better for the party who is obliged to pay the tax. I do not believe that if levied in this way the burden would fall first on the producer—the argument so strenuously urged against the proposition; the manufacturer would pay it as the article came out of bond. The adoption of this system would, in my judgment, obviate the incentive to fraud which has existed and still exists under our laws. But in reference to this matter I was somewhat in the position of the jurymen who found that the eleven other fellows were very obstinate indeed, and so concluded to yield gracefully.

As I cannot bring the House to my views in that respect, what I desire to accomplish by this amendment is the next best thing; and if we cannot get a specific tax upon the raw material, upon the leaf, let us have a specific tax upon the manufactured article. I agree with my friend from Ohio [Mr. GARFIELD] that the *ad valorem* system is pernicious and furnishes an incentive to fraud. And I not only hold this in theory both in tariff and tax laws, but wish to carry it out in practice. From year to year the Committee of Ways and Means bring in bills which they tell us every time are perfection. Yet year after year they come here and, by proposing numerous amendments, admit they have been wrong. On this question the system proposed in the bill of the committee very nearly follows the system of the last act. It proposes an *ad valorem* duty; it holds out an inducement to the manufacturer of cigars to put his cigars down below eight dollars in value in order to lessen the tax; and it, to say the least, tempts the inspector and assessor to value them below eight dollars. The committee on frauds in relation to the revenue have ascertained with respect to tobacco, and more especially in regard to whisky, that there have been immense frauds upon the Government. But I am not willing to charge this fact upon the people as a "national disgrace," while we who have the framing of the laws can in a great measure prevent the incentive to fraud.

If we did not allow the transshipment of whisky from one port to another within the United States or removal for redistillation without payment of tax when it leaves the bonded warehouse, we should not lose as we do \$20,000,000 annually in that way. If we did not allow bonded warehouses to exist in the same building with distilleries we should not lose \$20,000,000 more for that reason. If we did not direct inspectors to be paid by distillers and placed with them without check, where the bonded warehouse adjoins the distillery, and let the distillers keep possession of the certificates of tax paid, we should not lose \$10,000,000 more by the branding of barrel after barrel with the same serial numbers.

If we change this law from an *ad valorem* duty and say that on all cigars there shall be a specific tax of five dollars, we certainly in a measure take away the temptation to such demoralization and fraud in respect to this article, prevent a great loss, and secure a legitimate income. I believe it is the best thing, and the cigar manufacturers and journeymen cigar-makers, tobacco dealers, and growers of the country petition for it. I send up to the Clerk one of these petitions from Philadelphia, and ask that the Clerk read it.

The Clerk read as follows:

To the Honorable the Senate and House of Representatives in Congress assembled:

We, the undersigned, cigar-manufacturers, jour-

neymen cigar-makers, dealers in cigars, growers of and dealers in seed-leaf tobacco, would most respectfully represent to your honorable bodies that the present internal revenue law on cigars has proved to be utterly impracticable, as demonstrated by the present depressed condition of every branch of industry and trade connected therewith.

The present law, being both specific and *ad valorem*, affords such opportunities for fraud that our business will soon pass entirely into the hands of irresponsible men and fraudulent combinations unless a radical change is soon effected.

We have two hundred and forty collection districts, with the subdivisions under assistant assessors and inspectors. Most of these officers are unacquainted with the prices and values of cigars, and therefore we find numberless frauds and great diversity of assessments resulting therefrom. In some districts cigars are passed at two dollars; in others at four dollars, nine dollars, and ten dollars, for about the same grade of goods; while in the finer grades of goods we find greater discrepancies, and we have reason to believe that many seed and Havana cigars are passed as clear seed, paying only a nominal tax, while the true amount would be from three to four times greater. Such discriminations can only result disastrously to the general interest of our business, and under such the honest manufacturer cannot exist. We would therefore pray your honorable bodies to change the present tax to a specific tax of not more than five dollars per thousand on all domestic cigars, and that the stamp be made a revenue stamp, sold by the collector only to the licensed manufacturers in his district, with proper guards and checks to prevent frauds and counterfeits. Believing that the Government will find the revenue greatly increased thereby, and the law much more simple and practical, we solicit for our petition the favorable consideration of your honorable bodies.

Mr. DEMING. I am told that under the rule I cannot rise to advocate the proposition presented by the gentleman from Pennsylvania [Mr. MYERS] without making a *pro forma* amendment. I therefore move to strike out from his amendment the word "cigars." My purpose, however, is to coincide with him thoroughly in the views he has expressed in regard to what should be the true nature of a tax on cigars; and I was about to say that I congratulate him and the great interest which he represents in Pennsylvania for having at this session arrived at the very kind of tax which I advocated at the last session, and which that interest, united with other tobacco interests in the country, so strenuously opposed.

This matter of an internal revenue tax is comparatively a new thing with this Congress. We never entered upon a system of internal revenue tax until the war commenced. It is therefore novel and intricate, and all theories, all experimenting ought to be abandoned. The only light to guide us which we can safely invoke in this matter is the light of experience. And what light does experience throw upon the taxation of cigars? We commenced in the Thirty-Eighth Congress with a graduated schedule of specific rates and a graduated schedule of *ad valorem* rates upon cigars. But that provision proved to be an utter and abominable abortion. Accordingly, the very next report we received from the Commissioner of Internal Revenue contained advice to discard the whole system as a mistake, and adopt the only true system, namely, that of specific rates on cigars. He also informed us that under this mixed system of an *ad valorem* tax and a specific tax upon cigars innumerable frauds were perpetrated, and that the honest manufacturer was sacrificed to the fraudulent.

We therefore, upon mature consideration, at the next session of that Congress, adopted the rate of ten dollars per thousand upon all kinds and classes of cigars, and the testimony, coming from all sources, as contained in the report of the Commissioner of Internal Revenue presented to this Congress, is that no tax which has been levied has been so fruitful of revenue and so satisfactory to the manufacturer as the specific rate of ten dollars per thousand.

That brings us down in the history of this tax to the last session of the last Congress. Then for the purpose of encouraging—no, I will not say for the purpose, but an amendment was introduced, the effect of which was, and designed to be, to encourage the manufacture of cheap cigars and discourage the manufacture of dear ones. Without learning anything or profiting at all from the experience of the past, we resorted to the old system

again, and adopted a mixed rate of *ad valorem* and specific duties upon cigars. Gentlemen now present will remember I warned them at the time that if that provision was adopted we should have the same parties coming here at this session of Congress invoking us to return to the specific rate.

Now I represent a district which ranks sixth in the Union in the amount of internal revenue paid upon cigars alone. There are five districts which exceed mine, namely: the first district of Pennsylvania, the first district of California, the first district of Ohio, a district in Maryland, and another in Missouri. This interest, once the most flourishing and thriving of all, is now prostrated by the mistaken rule which you have adopted enabling fraudulent manufacturers to succeed against the honest manufacturer. The true system is to come back to the specific rate of duties which we found to work so well in practice, and which I find in the last report of the Commissioner of Internal Revenue is thus alluded to:

"The tax of ten dollars per thousand upon all domestic cigars imposed by the act of March 3, 1855, was more uniformly paid than the tax under any previous law. Fewer cigars escaped taxation and there was no opportunity for fraud when their full number was returned to the assessor."

[Here the hammer fell.]

Mr. ALLISON. I desire to say a few words upon this subject of the tax upon cigars. There is no subject that has presented itself for the consideration of the Committee of Ways and Means which has given us more trouble than this question of the tax upon cigars. We have had more difficulty in adjusting the tax upon cigars than perhaps upon any other article except distilled spirits. Now, I can very well understand why cigar manufacturers desire a uniform tax upon cigars of five dollars per thousand. Of course the result of that would be that the manufacturer who imports his tobacco from Cuba and manufactures it into cigars in this country would pay a tax of but five dollars per thousand upon cigars, which if imported already manufactured would pay a tariff duty of from thirty to forty dollars per thousand.

The Committee of Ways and Means believed that the *ad valorem* system adopted partially at the last session of Congress was ineffectual; and in accordance with the recommendation of the Commissioner of Internal Revenue they have proposed in this bill the adoption of a specific tax; and in order that the cigar manufacturers in Ohio, Indiana, Illinois, Missouri, and other parts of the West may not be completely crushed out by those who manufacture cigars in the district of the gentleman from Connecticut [Mr. DEMING] and in other districts, we have proposed two specific rates in this bill. One rate is intended to apply to the cheap cigars of two dollars per thousand, while the other rate is intended to apply to all cigars valued at not more than eight dollars per thousand, including the tax.

Mr. MYERS. Will the gentleman explain how those rates are specific?

Mr. ALLISON. They are regulated by the market price or value of the cigars.

Mr. MYERS. Would not they depend upon the knowledge or the skill which the customer or the assessor may exercise?

Mr. ALLISON. Not at all. And I would call the attention of gentlemen to another provision affecting this subject of cigars. The old provision authorized the transportation of cigars in bond, whereby a thousand cigars might be appraised at one price in Louisville, and at another and a very different price in New York or Philadelphia, thus giving occasion for endless difficulties in the settlement and adjustment of the tax. This bill provides that the tax shall be paid by the manufacturer upon the sale of the products of his manufacture. Therefore I think that by this provision we have substantially guarded against the frauds which were practiced under previous laws; and we have also provided rates of taxation whereby those who manufacture cheap cigars in the West can continue to do so out of the cheap tobacco that is raised there.



I object to the amendment of the gentleman from Pennsylvania [Mr. MYERS] because it will tend to reduce the revenue derived by the Government from this tax. A tax upon cigars of five dollars per thousand, in my opinion, is not high enough. I would myself prefer a uniform tax of ten dollars per thousand, which, I have no doubt, would yield us more revenue than any other rate of tax. But I find my distinguished friend from Ohio, [Mr. SCHENCK,] who fought that specific rate so vigorously and successfully at the last session of this Congress, is again fighting the committee upon the subject at this session. Therefore, to reach the class of manufacturers in the West, we have provided a lower rate of duty for those cigars.

Mr. INGERSOLL. I move that the committee now rise.

The motion was agreed to.

So the committee rose; and the Speaker *pro tempore* (Mr. ORTH) having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union, pursuant to the order of the House, had had under consideration the Union generally, and particularly the special order, being House bill No. 1161, amending the existing laws relating to internal revenue, and had directed him to report that they had come to no resolution thereon.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed without amendment bills and a joint resolution of the House of the following titles:

An act (H. R. No. 1146) giving an additional pension to Samuel Downing, one of the last survivors of the revolutionary war;

An act (H. R. No. 1056) for the relief of Samuel Worster;

An act (H. R. No. 1055) for the relief of John Moreau, of Machias, New York;

An act (H. R. No. 1054) for the relief of Hiram Hedrick;

An act (H. R. No. 1052) granting a pension to Mrs. Jane Clements; and

A joint resolution (H. R. No. 206) in relation to pensions of the widows of revolutionary soldiers.

It further announced that the Senate had passed bills of the House of the following titles, with amendments, in which he was directed to ask the concurrence of the House:

An act (H. R. No. 1045) for the relief of Daniel Frederick Bakeman, a revolutionary soldier;

An act (H. R. No. 1058) for the relief of the minor children of Solomon Long;

An act (H. R. No. 1044) for the relief of John Grey, a revolutionary soldier; and

An act (H. R. No. 788) to establish and protect national cemeteries.

It further announced that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 513) granting a pension to Patrick Meehan;

An act (S. No. 580) granting a pension to Charles N. Weiss;

An act (S. No. 554) granting a pension to John Carter;

An act (S. No. 512) for the relief of Kennedy O'Brien;

An act (S. No. 498) granting a pension to Mrs. Josephine Slocum;

An act (S. No. 497) granting a pension to Mrs. Adeline M. Gould;

An act (S. No. 558) for the relief of Mary Smith, of Johnson county, Tennessee, widow of Alexander D. Smith, deceased;

An act (S. No. 556) for the relief of Caroline McGee, of Green county, Tennessee, widow of Lemuel McGee, deceased;

An act (S. No. 514) for the relief of Charles Appleton;

An act (S. No. 715) granting a pension to Mrs. Ernestine Becker; and

An act (S. No. 594) to provide for the payment of compound-interest notes.

Mr. INGERSOLL. I move that the House now adjourn.

The motion was agreed to; and accordingly (at nine o'clock and fifty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. BUCKLAND: The petition of H. S. Wenner, A. T. Barnes, and 41 others, citizens of Tiffin, Ohio, for the repeal of the five per cent. tax on manufactures.

By Mr. CLARKE, of Ohio: The petition of John G. Wilson and others, of Fayette county, Ohio, remonstrating against reducing the national currency, &c. Also, the petition of Darius Waters, and others, of Fayette county, Ohio, remonstrating against reducing the national currency, &c.

By Mr. COBB: The petition of citizens of Monroe, Green county, Wisconsin, for removal of the five per cent. tax on manufactures.

By Mr. ELIOT: The petition of C. A. Holmes and others, cigar manufacturers and dealers, praying for specific tax on domestic cigars.

By Mr. FARNSWORTH: The petition of citizens of Sycamore, Illinois, for repeal of five per cent. tax on manufactures.

By Mr. FERRY: The memorial of George E. Steele, William Steele, E. E. Kirkland, D. B. Spencer, and 18 others, citizens of Homestead, Renzie county, Michigan, praying for inquiry into the official conduct of Andrew Johnson, acting President of the United States, and for his impeachment if proven facts shall justify the same.

By Mr. HISE: The petition of Anthony & Eubanks, of Allen and Simpson counties, Kentucky, for compensation for their property used by the Government during the late war.

By Mr. KASSON: The petition of citizens of Guthrie county, Iowa, against further curtailment of the currency, and against further restrictions on national banks.

By Mr. LYNCH: The petition of E. E. Bourne and others, asking a modification of the postal laws, so as to allow postage on pamphlets, papers, documents, and books forwarded to historical societies to be paid on delivery, and that postage on such pamphlets, &c., to such societies be reduced fifty per cent.

By Mr. MORRIS: The petition of H. A. Metcalf, Esq., of Ontario county, New York, and many others, praying that the present Congress may pass a tariff bill substantially retaining that portion of House bill No. 718 which relates to wool and woollens, which passed the House at its last session.

Also, four like petitions, largely signed, from York, Livingston county, New York.

By Mr. PERHAM: The petition of Sally Allen, widow of Isaac Allen, for arrears of pension.

By Mr. SPALDING: The petition of numerous citizens of Lake county, Ohio, for an increased tariff on wool.

By Mr. UPSON: The petition of Terriere & Strong and 177 others, citizens of Buchanan, Berrien county, Michigan, praying for the removal of the five per cent. tax on manufactures.

Also, the petition of G. L. Askins and 36 others, citizens of Allegan county, Michigan, praying for an amendment of the Constitution, so that there shall be no inequality recognized by law on account of race or color.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, February 15, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### ENTRY AND CLEARANCE OF VESSELS.

Mr. BLAINE, by unanimous consent, introduced a bill to authorize the entry and clearance of vessels at the ports of Booth bay and St. George, Maine; which was read a first and second time, and referred to the Committee on Commerce.

#### CONSTITUTIONAL AMENDMENT.

Mr. WILSON, of Iowa, by unanimous consent, submitted the following resolution:

*Resolved*, That the Secretary of State be directed to inform this House what States now represented in Congress have ratified the amendment to the Constitution proposed to the several States by the Thirty-Ninth Congress, and sent notice of such ratification to the State Department, in addition to the States named in his letter of the 15th February, instant, communicated to the House by the President in his message of the 6th instant, in response to a resolution of the House of the 4th instant, calling for information relative to the ratification of said amendment by the States.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

#### ORDER OF BUSINESS.

Mr. SCHENCK. I call for the regular order.

The SPEAKER. The business in order during the morning hour is the call of committees for reports of a private nature, and the Committee of Claims is entitled to another morning hour. On the last private bill day the House had under consideration and left undischarged a joint resolution reported by the gentleman from Massachusetts [Mr. WASHBURN] from the Committee of Claims, entitled "Joint resolution (H. R. No. 254) for the relief of Almanson Eaton, receiver of public moneys for the land office at Stevens's Point, Wisconsin." The question is on ordering the joint resolution to be engrossed and read a third time.

The joint resolution, which was read at length, provides that the Secretary of the Interior, the Secretary of the Treasury, and the proper accounting officers in their Departments, in settling the accounts of Almanson Eaton, receiver of public moneys for the district of lands subject to sale at Stevens's Point, Wisconsin, shall, upon satisfactory evidence being made and filed, allow and credit to Eaton the sum of \$2,092.72, the amount of public money destroyed by fire in the burning of the offices, books, papers, and public money of the register and receiver at Stevens's Point, Wisconsin, on the night of December 29, 1865.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ELIZABETH F. CHIPMAN.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported, with a recommendation that it pass, a bill for the relief of Mrs. Elizabeth F. Chipman, widow of Major Charles Chipman, deceased; which was read a first and second time.

The question being on ordering the bill to be engrossed and read a third time, it was read at length. It proposes to direct the Secretary of the Treasury to pay to Mrs. Chipman \$125, for a horse lost by her husband in the military service August 18, 1863.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported adversely upon the following, which were laid on the table: petition of Victor Denver; petition of Lord & Eveleth; a bill (H. R. No. 863) for the relief of Alonzo Hyde; a bill (H. R. No. 723) for the relief of John T. Taylor, late postmaster at Gallatin, Missouri; and joint resolution for the relief of Mary Johnson, of Belmont county, Ohio.

#### ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 206) in relation to the pensions of widows of revolutionary soldiers;

An act (H. R. No. 452) to authorize the Secretary of the Navy to accept League Island, in the Delaware river, for naval purposes, and to dispense with and dispose of the site of the existing yard at Philadelphia;

An act (H. R. No. 1125) granting an addi-

tional pension to Samuel Downing one of the last surviving soldiers of the revolutionary war;

An act (H. R. No. 1146) for the relief of Mrs. Elizabeth Fletcher;

An act (H. R. No. 1052) granting a pension to Mrs. Jane Clements;

An act (H. R. No. 1054) for the relief of Hiram Hedrick;

An act (H. R. No. 1055) for the relief of John Moreau, of Machias, New York; and

An act (H. R. No. 1056) for the relief of Lemuel Worster.

MRS. SUE MURPHY.

Mr. WASHBURN, of Massachusetts. I am directed by the Committee of Claims to report back adversely Senate bill No. 418, for the relief of Mrs. Sue Murphy, of Decatur, Alabama.

The SPEAKER. That bill, by unanimous consent of the House, on motion of the gentleman from Tennessee, [Mr. MAYNARD,] was referred to the Committee of the Whole House on the Private Calendar. It has gone to the Committee of Claims by mistake.

Mr. WASHBURN, of Massachusetts. I ask that the adverse report also go upon the Private Calendar.

There was no objection, and it was ordered accordingly.

#### ADVERSE REPORTS.

Mr. WASHBURN, of Massachusetts, from the same committee, also reported adversely on the following cases; and they were severally laid on the table: Petition of J. B. Fellows & Co., of Mobile, Alabama, for indemnity for forty-seven thousand six hundred and sixty pounds of cotton sold at New York by the Government, May 13, 1865, for \$14,298 in gold; claim of George W. Graves and John Creamer, of Baltimore, Maryland, for compensation for the loss of the schooner Fanny Davis, &c.; and petition of F. P. Salas, for return of duty upon imported goods.

Mr. WARD, of New York, from the same committee, also reported adversely on the following cases; and the same were laid on the table: An act (H. R. No. 954) authorizing the Secretary of the Treasury to examine and settle the claim of William M. Ellis & Brother; petition of William Milner, jr., and others, of Danville, Montour county, Pennsylvania, asking for relief for said William Milner, jr.; petition of Reuben Porter and Frederick Schade, of Tennessee, in behalf of citizens of Knoxville, for compensation for the loss of a church destroyed by General Burnside's army; and petition of Mrs. Mary A. Filler.

J. T. JACKSON.

Mr. WARD, of New York. I am directed by the Committee of Claims to report back adversely the bill and papers in the case of J. T. Jackson, and move that they be laid upon the table.

Mr. RITTER. I hope that will not be done.

Mr. WARD, of New York. It is a claim for provisions furnished to the Army in Kentucky. This man Jackson was a resident of that State, and was directed by the commander of an organization known as the "Home Guard" to furnish it with provisions, and this claim is for compensation for the provisions so furnished.

Mr. Speaker, I am asked to move that this case be referred to the Committee of the Whole House on the Private Calendar.

Mr. DELANO. I hope that will be done, as the business of that committee will not justify us in taking up the morning hour with this matter.

Mr. RITTER. I do not see why this should not be taken up at this time.

Mr. WARD, of New York. I demand the previous question.

The House divided; and there were ayes 43, noes 18; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. WARD, of New York, and Mr. RITTER.

The House again divided; and there were—ayes 75, noes 22.

So the previous question was seconded.

Mr. RITTER demanded the yeas and nays on ordering the main question.

Mr. LE BLOND. I wish to make a suggestion.

Mr. WARD, of New York. Oh, no.

Mr. RITTER. I withdraw the demand for the yeas and nays.

Mr. LE BLOND. If the committee will not assign any reason why this case should be reported on adversely I will call the yeas and nays.

On ordering the yeas and nays there were—ayes ten.

Mr. LE BLOND. I call for tellers.

Tellers were ordered; and the Chair appointed Messrs. LE BLOND and WARD, of New York.

The House divided; and the tellers reported—ayes twenty-four.

So the yeas and nays were ordered.

Mr. DELANO. Allow me to make a suggestion. There is a large amount of business in the hands of the Committee of Claims that ought to be brought before the House this morning. The claim that is now occupying the attention of the House is of but small amount. The committee have acted upon it; they may have erred, but they think it is not meritorious. I beg of the gentleman from Ohio to allow this to be withdrawn and go back to the committee, and let us go on with our other business and accomplish something this morning. If that is done I will take the case in my own hands, hear it patiently again, and if I can report upon it favorably I will take the earliest opportunity to do so.

Mr. LE BLOND. One word in explanation of the course I have taken.

Mr. DELANO. I have no objection to the gentleman's course. Time is precious.

Mr. LE BLOND. I have no knowledge of the merits of this case, but the committee have reported upon it adversely without assigning a single reason why they do so.

Mr. DELANO. Will the gentleman accept my proposition?

Mr. WARD, of New York. Mr. Speaker, I have the floor and I propose to say a word. There was no desire on the part of the committee to smother this claim, nor was there any desire on their part to report against it without assigning reasons for so doing. I made the report at the request of the committee, and was about assigning reasons for it when I was interrupted by the chairman of the committee with the suggestion that it would take a great deal of time, that there were more important matters pressing, and we had better refer this case to the Private Calendar in order that it might come up in its order and be properly considered.

Mr. RITTER. Does the gentleman yield to me? The chairman of the committee agreed I should occupy ten minutes in explanation of the bill and then have a vote upon it.

Mr. DELANO. I hope the gentleman from New York will allow that as the shortest way of getting out of the difficulty.

The SPEAKER. The Chair will state that there is no bill on the Clerk's table—nothing but a petition. If it is not a bill it can be referred to the Committee of the Whole, or any committee of the House, but it cannot be passed.

Mr. WARD, of New York. If it is simply a petition I ask leave to withdraw the report.

The SPEAKER. The previous question having been ordered, it can only be withdrawn by unanimous consent.

No objection being made, it was accordingly withdrawn.

MARY J. DIXON.

Mr. McKEE, from the Committee of Claims, reported adversely on Senate bill No. 503, for the relief of Mrs. Mary J. Dixon, of Alexandria, in the State of Virginia, widow of the late Turner Dixon, deceased; which was laid on the table.

JOSEPH H. J. RUTTER.

Mr. McKEE, from the same committee, reported a bill for the relief of Joseph H. J. Rutter, of Baltimore, Maryland; which was read a first and second time.

The bill directs the Secretary of the Treasury to pay \$500 in full for services rendered by the claimant in the secret service of the United States, during the months of April, May, June, and July, 1861.

Mr. ROSS. I believe that contains an appropriation and will have to go to the Committee of the Whole.

The SPEAKER. It is an appropriation bill, and the gentleman having raised objection it must go to the Committee of the Whole.

ALEXANDER F. PRATT.

Mr. DELANO, from the Committee of Claims, reported back Senate bill No. 485, for the relief of Alexander F. Pratt, with a recommendation that it do pass.

The bill directs the Secretary of the Treasury to pay the claimant \$530 in full for pursuing and capturing one Elijah J. Janner, convicted of counterfeiting United States coin.

The amendment reported by the committee strikes out \$530 and inserts in lieu thereof \$300.

The amendment was agreed to; and the bill, as amended, was read the third time, and passed.

Mr. DELANO moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARLES CLARK.

Mr. DELANO, from the Committee of Claims, also reported back Senate joint resolution No. 146, for the relief of Charles Clark, marshal for the District of Maine, with a recommendation that the same do pass.

The question was upon ordering the joint resolution to be read a third time.

The joint resolution was read at length. It authorizes the Secretary of the Interior, in the settlement of the accounts of Charles Clark, marshal of the United States for the District of Maine, to allow him credit for such sum of public money as was in his charge as marshal, not to exceed \$3,028, as the Secretary may be satisfied was burned in said marshal's office in the custom-house building at Portland, Maine, on the 4th of July last.

The joint resolution was then read the third time, and passed.

Mr. DELANO moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. ELIZABETH R. SMITH.

Mr. DELANO, from the Committee of Claims, reported back Senate bill No. 451, for the relief of Mrs. Elizabeth R. Smith, with a recommendation that the same be indefinitely postponed.

The SPEAKER. The Chair will suggest that the usual practice of the House is to lay matters upon the table, instead of pursuing the usual practice of the Senate to indefinitely postpone them.

Mr. DELANO. Then I move that it be laid on the table.

The motion was agreed to.

Mr. TAYLOR, of Tennessee, subsequently said: I move to reconsider the vote by which Senate bill No. 451 was laid on the table. I make this motion for the purpose of having the bill referred to the Committee of the Whole on the Private Calendar.

Mr. DELANO. I have no objection to that.

The SPEAKER. If there be no objection the vote laying the bill on the table will be regarded as reconsidered, and the bill will be referred to the Committee of the Whole on the Private Calendar.

There was no objection; and the bill was referred accordingly.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate insisted upon their disagreement to the amendments of the House to the bill of the Senate No. 453, regulating the tenure of certain civil officers, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon; and have appointed Mr. WILLIAMS, Mr. SHERMAN, and Mr. BUCKALEW to act as conferees on the part of the Senate.

The message further announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 598) for the relief of William H. Harmon;

A bill (S. No. 602) granting a pension to Ezra B. Gordon;

A bill (S. No. 421) to authorize the construction of a submerged tubular bridge across the Mississippi river at the city of St. Louis;

A bill (S. No. 581) granting a pension to Oliver W. Cannon;

A bill (S. No. 584) for the relief of Elias Beale, late captain of company H, eighth regiment Tennessee volunteer infantry;

A bill (S. No. 535) for the benefit of Mrs. Jerusha Page;

A joint resolution (S. R. No. 421) for the relief of Martha McCook; and

A joint resolution (S. R. No. 167) for the relief of certain enlisted men of the seventh regiment of West Virginia volunteers.

THOMAS W. FRY, JR.

Mr. DELANO, from the Committee of Claims, also reported a joint resolution for the relief of Thomas W. Fry, jr., late captain and assistant quartermaster at Alton, Illinois; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The preamble of the joint resolution states that on the 11th of May, 1865, at the city of Alton, Illinois, the office and safe of Thomas W. Fry, jr., captain and assistant quartermaster of volunteers, was burglariously entered and robbed of the sum of \$10,815 09 of public money of the quartermaster's department of the United States Army, then and there properly in the custody of said quartermaster, and for which he was and is lawfully responsible; also, that it appears that said robbery was perpetrated without the fault or neglect on the part of said officer.

The joint resolution, therefore, directs the proper accounting officers, in settling the amount to be allowed to Thomas W. Fry, jr., late captain and assistant quartermaster of volunteers, to allow to him such sums as may be satisfactorily proven to have been stolen at the time and place stated in the preamble.

Mr. PRICE. I would ask if there is any report in this case?

Mr. DELANO. A report was prepared by the gentleman from Indiana, [Mr. WASHBURN,] a member of the committee, in whose hands this case was placed. He has been called away from the city, and I have reported the case for him. I will send his report to the Clerk's desk to be read.

The Clerk read the report.

Mr. PRICE rose.

Mr. DELANO. I am afraid I shall have to allow this joint resolution to go on the Private Calendar if its consideration is to take much time.

Mr. ORTH. I hope not.

Mr. PRICE. I do not desire to occupy more than three minutes of time.

Mr. DELANO. Very well.

Mr. PRICE. I called for the reading of the report because I wished to ascertain whether the party who seeks this relief had made use of all means in his power for the preservation and safe-keeping of this money. Again and again we are called upon to relieve parties who have been in possession of the public money and public property. Now, I think the

danger is that we are not sufficiently careful. I know nothing of this case beyond what is disclosed in the report; but I do know that in the city of Alton there are a great many good vaults in which this money might have been safely kept. I do know, in addition, that in other cities of the same size where there have been places where money could be safely kept it has been the custom for paymasters and quartermasters of the Army to keep their moneys in such places. If this money had been so kept it would not have been lost, and the Government would not have been called upon to sustain that loss. I want to say that, although I have great confidence in the ability and integrity of the Committee of Claims, yet I think too much vigilance cannot be exercised in reference to claims of this kind; and in my opinion we ought not to extend relief to parties who might have kept the public money safely and have not done so.

[Here the hammer fell.]

Mr. DELANO. I agree fully with all that the gentleman has said. The views which he has expressed are, I believe, entertained by all the members of the committee and have guided them in their action.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ORTH moved to reconsider the vote by which the joint resolution was passed: and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## COMPENSATION FOR BOATS LOST.

Mr. DELANO. Mr. Speaker, I report back from the Committee of Claims House bill No. 178, entitled "An act to amend section two, chapter one hundred and twenty-nine of public acts of 1849," with a recommendation that it pass. It is a bill the passage of which is required by the public interest.

The question being on ordering the bill to be engrossed and read the third time, it was read at length. It provides that the section named in the title of the bill be so defined as to include only such boats as have been actually destroyed by the public enemy while in the Government service during the war of the rebellion; and it is provided that in all cases where a boat, steamer, or other vessel in the Government service by impressment or contract shall have been destroyed by the public enemy without the fault of the owner or his agent, the actual loss sustained shall be paid by the Secretary of the Treasury, after the account and claim shall have been duly examined, audited, and allowed by the proper accounting officers of the Treasury.

Mr. DELANO. The object of this bill is to interpret a section of the existing law, to obviate a construction which has led in some instances, to large expenditures of money. I call the previous question.

The previous question was seconded and the main question ordered.

Mr. STOKES. I would like to hear the bill again read.

Mr. LE BLOND. I would suggest that the Clerk also read the section which this bill proposes to construe.

Mr. DELANO. I shall have to withdraw this bill if it is to consume much time.

Mr. LE BLOND. Let the gentleman make a brief explanation.

Mr. DELANO. The section of the enacting law with regard to boats, &c., used in the conveyance of the Government property is liable to an interpretation which makes heavy drains upon the Treasury. The object of this section is to limit and control the present law so that boats only lost by destruction by the enemy during the war shall fall within the scope of existing law. That is the purpose of the bill, and I am satisfied it ought to pass.

Mr. NOELL. Does it provide for boats impressed into the Government service and lost during the time they were in that service?

Mr. DELANO. It expressly provides for them.

Mr. NOELL. Does it exclude payment for boats lost by capture of the enemy?

Mr. DELANO. It limits the present law to such cases.

Mr. NOELL. Does it also provide for boats destroyed by our own troops?

Mr. DELANO. It does not touch that question.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DELANO moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JAMES J. HUDNELL.

Mr. THORNTON, from the Committee of Claims, reported a joint resolution for the relief of James J. Hudnell; which was read a first and second time.

The Secretary of the Treasury is directed, in the settlement of the accounts of James J. Hudnell, collector of the sixth congressional district of Kentucky, to credit him with the sum of \$1,900 for money lost by him in Petersburg, Boone county, Kentucky, on the 16th August, 1866.

Mr. FARNSWORTH. Is there any report in the case?

Mr. THORNTON. There is a report, but perhaps I can explain it in a few words. The claimant was collecting money in that district and while in attendance at Petersburg, forty miles from any bank, he deposited his money in a banking-house to which he was recommended and where the community mainly deposited their money. The bank safe was broken open during the night and his money was stolen as well as that of others. It is proved by the assistant assessor, as well as by half a dozen others, that this money was so deposited and stolen; and there is ample proof of the integrity of this party.

Mr. FARNSWORTH. If I mistake not there was a special law providing these deposits should not be made in State banks.

Mr. THORNTON. This was a private bank and not a State bank. There was no bank nearer than Covington.

Mr. FARNSWORTH. It seems to me this is not consistent with the action of the committee at the last session in the case of a deputy collector in my own district, who was also county treasurer. He deposited money in the safe provided by the county for the safe-keeping of its funds—some five or six hundred dollars of Government funds. That safe was blown open and the robber carried off the money. This case was referred to the Committee of Claims and they reported against it. If it is not as strong a case as the one now pending I cannot see it.

Mr. THORNTON. There is a difference between the two cases. In the case the gentleman refers to there was no proof, but only the statement of the claimant, as to the amount of money lost, while in this case there is abundant proof. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. THORNTON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILWAUKEE AND ROCK RIVER CANAL COMPANY.

Mr. SLOAN, from the Committee of Claims, reported back Senate joint resolution No. 102, construing and giving effect to the joint resolution entitled "A resolution for the relief of the State of Wisconsin," approved July 1, 1864, with the recommendation that it do pass. The joint resolution provides that the reso-



lution for the relief of the State of Wisconsin, dated July 1, 1864, be so construed as to entitle the Milwaukee and Rock River Canal Company to reimbursement, out of the canal land fund therein mentioned, for the amounts which are proved to have been paid out by it for interest in carrying on the work mentioned in said former resolution in the same manner as for other sums by it expended. Also for the amount which is proved to have been expended by it in necessary repairs and management of the canal after the date of the resolution, but before the date of the settlement made thereunder, provided said company shall not receive more than the amount of the residue of the trust fund arising from the sale of the canal lands charged against the State in the settlement and not heretofore paid over to said company; and the Secretary of the Department of the Interior shall complete the settlement by making said further allowance to the company up to the amount of the residue of the canal lands fund, and the same shall be paid to the company out of any moneys in the Treasury not otherwise appropriated.

Mr. ROSS. I raise the point of order that it is an appropriation bill. It is rather an obscure bill, and I think it ought to go to the Committee of the Whole.

Mr. SLOAN. I hope the gentleman will not insist upon his objection. It can be easily explained.

Mr. ROSS. I withdraw my point of order.

Mr. UPSON. I renew it.

The SPEAKER. The bill goes to the Committee of the Whole on the Private Calendar.

L. C. HOUCK.

Mr. SLOAN, from the same committee, reported a bill for the relief of Colonel L. C. Houck, of Tennessee; which was read a first and second time.

The bill recites that whereas the Secretary of War authorized the claimant to raise a regiment of infantry in February, 1862, and he proceeded to organize the third regiment of East Tennessee militia, and in doing so expended \$1,868 20, therefore the Secretary of the Treasury be authorized and directed to pay to him the said sum.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SLOAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE W. ASHBURN.

Mr. THORNTON, from the Committee of Claims, reported a bill for the relief of George W. Ashburn; which was read a first and second time.

The bill directs the Secretary of the Treasury to pay \$3,888 77 to the claimant in full for his equal part of the proceeds of certain property seized and condemned as the property of one Frederick Stewart, in the year 1863, in the State of Tennessee.

Mr. BENJAMIN. I raise the point of order, that it is an appropriation bill.

The SPEAKER. It contains an appropriation, and must therefore go to the Committee of the Whole.

By unanimous consent, the accompanying report was ordered to be printed.

RELIEF OF CONTRACTORS FOR WAR VESSELS.

Mr. SLOAN, from the same committee, reported back Senate bill No. 220, for the relief of certain contractors for the construction of vessels of war and steam machinery, with an amendment to strike out all after the enacting clause and insert in lieu thereof the following as a substitute:

That the Secretary of the Navy is hereby authorized and directed to investigate the claims of the following contractors for building iron and iron-clad vessels of war and steam machinery for the same, namely: T. F. Rowland, Harrison Loring, Zeno Secor & Co., the Novelty Works, Posey, Jones & Co., William Perrine, James B. Eads, George W. Quintard, Z. & F. Secor, William Perrine and Z. & F. Secor,

Alexander Swift & Co., and Niles Works, Snowden & Mason, Donald McKay, Miles Greenwood, McCord & Bestor, Donahue, Ryan & Secor, A. W. Denmead & Sons, the Stover Machine Company; and said investigation to be made upon the following basis: he shall ascertain the additional cost which was necessarily incurred by each contractor in the completion of his work by reason of any changes or alterations in the plans and specifications required, and delays in the prosecution of the work occasioned by the Government, which were not provided for in the original contract, but no allowance for any advance in the price of labor or material shall be considered unless such advance occurred during the prolonged time for completing the work, rendered necessary by the delay resulting from the action of the Government aforesaid, and then only when such advance could not have been avoided by the exercise of ordinary prudence and diligence on the part of the contractor; and from such additional cost, to be ascertained as aforesaid, there shall be deducted such sum as may have been paid each contractor for any reason heretofore, over and above the contract price; and shall report to Congress a tabular statement of each case, which shall contain the name of the contractor, a description of the work, the contract price, the whole increased cost of the work over the contract price, and the amount of such increased cost caused by the delay and action of the Government as aforesaid, and the amount already paid the contractor over and above the contract price.

Mr. SLOAN. I present a report accompanying the bill, which I ask to have read.

The Clerk proceeded to read the report, and before concluding the morning hour expired, and the bill went over until the next morning hour.

By unanimous consent, the substitute and report were ordered to be printed.

Mr. McKEE gave notice of the following amendment as a substitute, which, by unanimous consent, was ordered to be printed:

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and hereby is, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the contractors of vessels-of-war and steam machinery, on contracts made by the Navy Department during the years 1862 and 1863, the actual cost to each contractor incurred, over and above the contract price, and allowance for extra work, which cost was the result of delays, caused by the order of the Department, either from changes in plans and specifications, or from delays in furnishing the same: *Provided,* That none but those which have given satisfaction to the Department shall be considered.

SEC. 2. *And be it further resolved,* That in the adjustment of these claims the Secretary of the Navy is authorized and directed to appoint a board of three competent persons to examine into and report upon each separate case, as provided in the first section, and the award of losses so ascertained shall be paid to the claimants by the Secretary of the Treasury without further authority than that given in this resolution.

SEC. 3. *And be it further resolved,* That the payments hereby authorized to be made shall be in full for all claims on the part of said contractors, and no moneys shall be paid until each party to whom an award is made shall execute to the Secretary of the Treasury a receipt in full, and releasing all claims against the Navy Department for further compensation on account of said contract or alterations thereto.

Mr. WOODBRIDGE gave notice of the following amendment as a substitute, which, by unanimous consent, was ordered to be printed:

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be authorized to pay, out of any money in the Treasury not otherwise appropriated, to the contractors of the following vessels the amounts awarded by the board appointed by the Secretary of the Navy, under a resolution of the Senate of March 9, 1865, namely: Onondaga, G. W. Quintard contractor, \$35,203 91; Tecumseh, Z. & F. Secor contractors, \$119,020 57; Mahopac, Z. & F. Secor contractors, \$119,020 57; Manhattan, W. Perrine & Z. Secor contractors, \$119,020 57; Catawba, A. Swift & Co. contractors, \$114,009 94; Onocota, A. Swift & Co. contractors, \$114,009 94; Manayunk, Snowden & Mason contractors, \$71,569 42; Naubuc, William Perrine contractor, \$36,363 44. Also to pay Miles Greenwood \$94,659 44, being the amount lost in building the Tippecanoe on account of alterations and additions made by the Navy Department. Also to Charles W. McCord \$47,287 16, and to George C. Bestor \$57,958 82, being amounts lost in building the monitors Etihad and Shiloh respectively; said losses being caused by alterations and additions ordered by the Navy Department.

SEC. 2. *And be it further resolved,* That the Secretary of the Navy be authorized and directed to appoint a competent board of not less than three persons to examine all contracts of ships-of-war and steam machinery, made by the Navy Department during the years 1862 and 1863, and where the losses have been sustained by the interference of the Government, that the Secretary of the Treasury is hereby authorized and directed to pay the amounts awarded by said board out of any money not otherwise appropriated.

Mr. INGERSOLL gave notice of the following amendment as a substitute, which by unanimous consent was ordered to be printed:

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is hereby authorized and directed to pay to Charles W. McCord twelve per cent. upon the contract price of the monitor Etihad, and to George C. Bestor twelve per cent. upon the contract price of the monitor Shiloh, the said amount to be in full for losses incurred on account of alterations and enlargements ordered on said vessels by the Navy Department, the same to be paid out of any money in the Treasury not otherwise appropriated.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill of the following title, in which the concurrence of the House was requested, namely:

A bill (S. No. 605) to amend the twenty-first section of an act entitled "An act further to prevent smuggling, and for other purposes," approved July 18, 1866.

#### THE CONSTITUTIONAL AMENDMENT.

The SPEAKER laid before the House a communication from the Governor of the State of New York, transmitting a copy of a joint resolution of the Legislature of that State ratifying the proposed constitutional amendment; which was laid upon the table, and ordered to be printed.

#### PARIS EXPOSITION.

Mr. ELDRIDGE presented a memorial of the Legislature of the State of Wisconsin in relation to the Paris Exposition; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

#### WISCONSIN RAILROAD LAND-GRANT.

Mr. ELDRIDGE also presented a memorial of the Legislature of the State of Wisconsin, for a grant of land to aid in the construction of the Green Bay and Lake Pepin railway; which was referred to the Committee on Public Lands, and ordered to be printed.

#### EVENING SESSION.

Mr. HOOPER, of Massachusetts. I move that the House take a recess this day from half past four to half past seven o'clock p. m., for the purpose of resuming the consideration of the tax bill at the evening session.

The SPEAKER. It requires unanimous consent to order that the evening session shall be devoted to the consideration of any particular subject. But the order for a recess can be made by a majority.

Mr. HOOPER. Very well; I submit the motion for a recess.

The motion was agreed to.

#### LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for Mr. DIXON, of Rhode Island, for one week.

Mr. TRIMBLE asked and obtained leave of absence for one week for himself.

Mr. ECKLEY asked and obtained for himself indefinite leave of absence.

#### EQUALIZATION OF BOUNTIES.

Mr. SCHENCK. I now call for the regular order.

The SPEAKER. The first business in order is the consideration of House bill No. 836, reported from the Committee on Military Affairs with an amendment, being a bill to equalize the bounties of soldiers, sailors, and marines, who served in the late war for the Union.

The bill is as follows, the amendment of the committee being inclosed within brackets:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, instead of any grant of land or other bounty, there shall be allowed and paid to each and every soldier, sailor, and marine, who faithfully served as such in the Army, Navy, or marine corps of the United States, and who has been, or who may hereafter be, honorably discharged from such service, the sum of eight and one third dollars per month, or at the rate of \$100 per year, as hereinafter provided, for all the time during which such soldier, sailor, or marine actually so served, between the 12th day of April, 1861, and the 19th day of April, 1865. And in

the case of any such soldier, sailor, or marine, discharged from the service on account of wounds received in battle, or while engaged in the line of his duty, the said allowance of bounty shall be computed and paid up to the end of the term of service for which his enlistment was made. And in case of the death of any such soldier, sailor, or marine, while in the service, or in case of his death after the discharge and before the end of his term of enlistment, if discharged on account of being wounded, as provided, the allowance and payment shall be made to his widow if she has not been remarried, or if there be no widow, then to the minor child or children of the deceased who may be under sixteen years of age.

SEC. 2. *And be it further enacted*, That in computing and ascertaining the bounty to be paid to any soldier, sailor, or marine, or his proper representatives, under the provisions of this act, there shall be deducted therefrom any and all bounties already paid, or payable under existing laws, by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, so that in no case shall the aggregate amount of bounty allowed and paid from all sources exceed eight and one third dollars for each month of actual faithful service, or at the rate of \$100 per year. And in the case of any sailor or marine to whom prize money has been paid, or is payable, the amount of such prize money shall also be deducted, and only such amount of bounty paid as shall, together with such prize money and any other bounty paid or payable by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, amount in the aggregate to the sum allowed by this act.

SEC. 3. *And be it further enacted*, That no bounty, under the provisions of this act shall be paid to or on account of any soldier, sailor, or marine who served as a substitute in either the Army or Navy, or who was a captured prisoner of war at the time of his enlistment, nor to any one who was discharged on his own application or request, prior to the 9th day of April, 1865, unless such discharge was obtained with a view to reenlistment, or to accept promotion in the military or naval service of the United States, or to be transferred from one branch of the military service to another, and such person did actually so reenlist or accept promotion, or was so transferred. And no bounty shall be paid to any soldier, sailor, or marine discharged on the application or at the request of parents, guardians, or other persons, or on the ground of minority.

SEC. 4. *And be it further enacted*, That every petition or application for bounty made under the provisions of this act shall disclose and state specifically, under oath, and under the pains and penalties of perjury, what amount of bounty, either from the United States or from any other source, and what amount of prize money, if any, has been paid or is payable to the soldier, sailor, or marine, by whom or by whose representatives the claim is made.

SEC. 5. *And be it further enacted*, That whenever applications shall be made by any claimant, through any attorney or agent, the post office address of the claimant shall be furnished, giving the name of the county and State in which it is situated, and the amount of commission or fee which the attorney or agent is to receive for his service in the settlement of the claim, which charges in no case shall exceed the sum of five dollars; and every such application shall be accompanied by the written affidavit of the attorney or agent, that he has not charged nor agreed for, and will not accept, more than such sum of five dollars for his services in the case. The Paymaster General or proper accounting officer of the Treasury, upon ascertaining the amount due, shall cause to be transmitted to such claimant the full amount thereof, less the fee to be paid to the attorney or agent, which fee shall be paid to the said attorney or agent in person, or transmitted to such address as the attorney may direct.

SEC. 6. *And be it further enacted*, That any attorney or agent who shall receive from any claimant a sum greater than five dollars for the prosecution of any claim under the provisions of this act, upon conviction thereof, shall pay a fine not to exceed the sum of \$1,000, or imprisonment for a term not less than one year, or both, as the court or jury may adjudge, and shall be forever thereafter excluded from prosecuting claims of any nature whatever against the Government of the United States.

SEC. 7. *And be it further enacted*, That in case the payments shall be made in the form of a check, order, or draft upon any paymaster, national bank, or Government depository in or near the district wherein the claimant may reside, it shall be necessary for the claimant to establish, by the affidavits of two credible witnesses, that he is the identical person named therein; but in no case shall such checks, orders, or drafts be made negotiable until after such identification.

SEC. 8. *And be it further enacted*, That it shall not be lawful for any soldier, sailor, or marine to transfer, assign, barter, or sell his discharge, final statement, descriptive list, or other papers, for the purpose of transferring, assigning, bartering, or selling any interest in any bounty under the provisions of this act; and all such transfers, assignments, barters, or sales heretofore made are hereby declared null and void as to any rights intended so to be conveyed by any such soldier, sailor, or marine.

SEC. 9. *And be it further enacted*, That, in any case where a person entitled to receive payment of bounty under the provisions of this bill shall make application therefor, or where such application shall be made by the proper representatives of such person, being deceased, and the discharge of such person has been lost, it shall be competent for the accounting officers to receive, in lieu of the actual production of such discharge, proof of the actual loss of the same and secondary proof of its issue and contents, to-

gether with proof of the identity of the claimant or person deceased, under such rules defining the character and form of the evidence as the Paymaster General shall prescribe.]

SEC. 10. *And be it further enacted*, That no adjustment or payment of any claim of any soldier, sailor, or marine, or of his proper representatives, under the provisions of this act, shall be made unless the application be filed within two years from the passage of the act; and the settlement of accounts of deceased soldiers, sailors, and marines shall be made in the same manner as now provided by law.

SEC. 11. *And be it further enacted*, That sections twelve, thirteen, fourteen, fifteen, and sixteen of an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, approved July 23, 1866, are hereby repealed; but if any money shall have been paid to any person under the provisions of said sections so repealed, the amount thereof shall be deducted in each case by the proper accounting officer from any sum to be allowed under this act. And any application made for allowance of bounty under the said act of July 23, 1866, with all the evidence and papers submitted therewith, shall be taken and considered as filed under the requirements of this act, and shall be used hereunder for the benefit of the applicant, as far as the same may be applicable.

Mr. SCHENCK. For convenience I will ask that the bill, with the amendment reported by the committee, be regarded as together forming the bill to be acted on by the House.

No objection was made.

Mr. SCHENCK. By the intervention of a vast amount of business we have been kept so long from the consideration of this bounty bill that it may be well for me to inform gentlemen that they will find the bill upon their files as House bill No. 836, Printer's number 207. As I intend to occupy but a portion of my time, I will state in the first place, by way of explanation, that this bill is precisely the one which was reported by the Committee on Military Affairs to the House at its last session, passed by the House and sent to the Senate. It did not receive the favorable action of the Senate, or perhaps any action at all in that body. Subsequently the same bill was passed, with the section stricken out which provides for taking into account local bounties to soldiers, in determining what shall be done in order to equalize their bounties; and that was made as an amendment to the appropriation bill. It was not agreed to by the Senate. Subsequently there was passed, as an amendment to an appropriation bill, some four or five sections, providing additional bounties to soldiers; which sections constitute the present law upon that subject. This bill, then, is precisely the bill first reported, and matured by various amendments, and which passed the House at the first session of this Congress, with two additions, which I will now indicate to the House. The first is the ninth section of this bill, which is as follows:

SEC. 9. *And be it further enacted*, That in any case where a person entitled to receive payment of bounty under the provisions of this bill shall make application therefor, or where such application shall be made by the proper representatives of such person, being deceased, and the discharge of such person has been lost, it shall be competent for the accounting officers to receive in lieu of the actual production of such discharge, proof of the actual loss of the same and secondary proof of its issue and contents, together with proof of the identity of the claimant or person deceased, under such rules defining the character and form of the evidence as the Paymaster General shall prescribe.

The other amendment is one which is intended to adapt this bill to the condition of things which will exist by the repeal of the present law, should this bill become a law. It is as follows:

SEC. 11. *And be it further enacted*, That sections twelve, thirteen, fourteen, fifteen, and sixteen, of an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, approved July 23, 1866, are hereby repealed; but if any money shall have been paid to any person under the provisions of said sections so repealed, the amount thereof shall be deducted in each case by the proper accounting officer from any sum to be allowed under this act. And any application made for allowance of bounty under the said act of July 23, 1866, with all the evidence and papers submitted therewith, shall be taken and considered as filed under the requirements of this act, and shall be used hereunder for the benefit of the applicant as far as the same may be applicable.

The object of this is manifest. While we propose to repeal the existing bounty law, constituting a part of the appropriation law of last

year, there is a provision that whatever may have been already paid under that law in any case shall be taken into account in any adjustment of bounty made under this bill, if it should become a law; with the further provision, in order to save expenses to applicants, that whatever papers they may have filed under that law, so far as they are applicable, may be used under this, if it becomes a law, without the applicants being compelled to renew their application, and being thus subjected to additional expense.

Here, then, is presented for the consideration of the House the bill which met its approval in the first session of this Congress, and which we think ought then to have received the assent of the Senate and become a law. Instead of this, however, we have upon our statute-book another law on the subject of bounties, resting upon an entirely different principle. This bill is one proposing to equalize to a certain degree the bounties of soldiers. The law as it now stands does not propose any equalization of bounties, but provides for additional bounties to be given to those who have already received, or are by law entitled to receive, certain bounties. For instance, the twelfth section of the appropriation law, the first section having any relation to the subject of bounties, provides:

"That each and every soldier who enlisted into the Army of the United States after the 19th day of April, 1861, for a period of not less than three years, and having served the time of his enlistment has been honorably discharged, and who has received, or is entitled to receive, from the United States, under existing laws, a bounty of \$100, and no more; and any such soldier enlisted for not less than three years, who has been honorably discharged on account of wounds received in the line of his duty," &c., "shall be paid the additional bounty of \$100 hereby authorized."

The next section provides that any soldier who has enlisted for a period of not less than two years, who has received or is entitled to receive under existing laws a bounty of \$100, shall be entitled to fifty dollars additional.

Thus it will be perceived that the present law is not a law for equalization at all. It is a law for granting additional bounties to those who have received or are already entitled to receive certain bounties. The bill which we propose differs from this in principle, being a bill proposing to equalize bounties. How do we arrive at it?

I will state briefly the one leading idea which pervades the whole bill and distinguishes it particularly as a bill seeking to accomplish, as far as may be practicable, this object of equalization. It is well understood that neither the condition of the Treasury nor any claim which may properly be presented to that effect can justify Congress in attempting to bring every soldier up to the level of advantage occupied by those who received the largest bounty. Some soldiers received \$1,000, \$1,200, \$1,500 bounty from various sources. It is utterly impracticable to adopt a bill which would bring every man up to that standard which would really be equalization. But it is perceived that without this, what seem to be the just expectations of the soldiers may be in some degree met by establishing some standard up to which we shall bring all the soldiers. The standard which has been adopted by the Committee on Military Affairs, after full consideration of this subject in all its aspects, and which met the approval of the House at the last session, is a standard which would secure to every soldier a bounty of as much as \$100 for every year's service, or \$8 33 per month. The committee, adopting this as the standard, have reported the bill now under consideration, proposing that every soldier who has received less than this sum, or who has received nothing at all, whether by any existing law entitled to bounty or not, shall be brought up to that standard. Thus this is really a bill proposing equalization of bounties, not, like the present law, an act to pay additional bounties to those who have already received certain bounties or are by law entitled to receive them. Now, how do we accomplish this? We per-

sonify the United States as the *alma mater* of all the soldiers. She calls her soldiers about her and says to them, "You have received your pay; some of you have received bounty in greater or less sums; some of you none at all. You have had secured to yourselves and families pensions. We now say to you, although you have had, or ought to have had, and will yet have the funds secured to you by contract with the Government, there is something more we feel capable of doing and desire to do for you, and that is to provide not one of you shall complain you have not received, during the time you served, whether short or long, and gives you in the way of bounty, gratuity, gift from the Government, \$8 33 per month." Then the Government having brought these men around it, each one is asked, "Let me know, my man, how much you have had over and beyond your pay, over and beyond what the law has already secured to you or given to you; and if it be more than at the rate of \$100 per year you cannot complain if we add no more to it. If it be less than \$100, then we mean to bestow as much upon you as will bring you up to a level." That is the whole principle pervading this bill.

What objections are made to it? From certain quarters of the country it is said to be objectionable because it takes into account bounties paid by States, cities, counties, towns, local bounties as they are called, and, it is suggested, bounties offered by voluntary associations. I admit that is the case, and I admit that makes it objectionable to some persons and some Representatives upon this floor, representing the interests of their constituents connected with this matter. But let us look into the policy of the thing. Mark, it is not a bill for additional bounty, but a bill to equalize bounties, a bill the leading idea of which is not to give much or more to those who have already received much, but to take care of those who have received nothing at all or less than the amount the Government feels able to give to each. Following up that principle, it matters not where the soldier came from, it matters not to the public interest from what quarter these bounties have come, the object is, every man, by a generous and liberal Government, shall be provided for so as to be brought up to a certain standard in the amount of the gift now having reference to equalization.

But gentlemen say the effect of this is to take the money paid by the States, cities, counties, towns, and voluntary associations in the shape of bounty, and give the General Government the advantage of it. The reply to that is, in some shape or other, it all comes out of the people. We cannot bring all up to the same standard. The General Government ought to help these who have had less than this sum or nothing. If they have obtained more from other quarters, it becomes a question between them and those from whom they have obtained it.

Suppose you do not follow this principle up to its consequences, what then? Here is a man who has received \$1,000, it may be, and upward, by successive enlistments. He has had from some State, county, city, or voluntary association some five hundred or one thousand dollars more. He has received altogether one thousand or fifteen hundred dollars in bounty. What is claimed? That no man who has served as long as he has, suffered possibly more, and has had less than \$100 bounty, shall not have this \$100 unless he also can receive it. I say, so far as the soldier is concerned it is not a favorable position in which to put him.

Then as to the State, county, and town bounties, if you take that principle and give to one soldier who has received one thousand or fifteen hundred dollars bounty, and to the soldier who has received nothing but this \$100, will not this last soldier go back to his State, county, or city, and claim, the General Government having equalized the bounties, they shall also equalize them?

By this bill we save the counties, towns, and States to which the soldiers may return from claims of that kind. The very language of the bill disposes of that whole matter, and would, as we all know, meet with the sanction, approbation, and acceptance of the soldiers themselves. It begins with this language:

That, instead of any grant of land or other bounty, there shall be allowed and paid to each and every soldier, sailor, and marine, who faithfully served as such in the Army, Navy, or Marine corps of the United States, and who has been, or who may hereafter be, honorably discharged from such service, the sum of eight and one third dollars per month.

This, then, without dwelling longer on that in the way of argument, is my answer to the proposition. I know there is plausibility in the objection that is made, but I say it is only plausible. I say that this bill, as a general adjustment of the whole matter, while it makes the condition of those who have been liberal to the soldiers no worse than it is now, carries out the idea of taking care of those who have received little or nothing, without feeling that we are constrained at the same time to give to those who have had more.

To come back to the point, therefore, with which I started, it is an equalization. If we adopt the idea that we are to pay without reference to other bounties from other sources, it becomes just like the present law, no longer an equalization bill, but a mere additional bounty bill, which is the object we seek to avoid. Now, then, keeping in view the idea that we say to the soldiers, "We wish to bring each of you up to a particular standard to which we feel the Government is capable and has the means of going, and having fixed the standard at \$100, we propose to give to every one of you who has received less than \$100 a year that much;" then to whom do we give it? By the present bounty law a man may have served an interval of two or three years or during the whole war and get no benefit of the law. He must be a man who was enlisted three years and got his hundred dollars, or his two years and got his fifty dollars. He must be one who has had a bounty already secured to him by law, so as to get an additional one. We hold that to be all wrong, and therefore have adopted the simple principle that to every man who served faithfully and has been honorably discharged, no matter how he came into the service, there shall be given, if he has been honorably discharged, a bounty proportioned to the length of the time of his service. If he has been in service one month he gets \$8 33; if three months, \$25; if a year, \$100; if two years, \$200. It is intended to cover all soldiers, sailors, and marines for whatever time they served as enlisted men.

Now, I had brought to my attention yesterday a case of this kind. A soldier who was entitled to receive the bounty under the existing law said to me, "I have a companion enlisted from my own State who served nearly three years; a month longer than I did, and who was as good a soldier as I. He was badly wounded and disabled, as I never was, and yet he receives nothing under the present bounty law, while I am entitled to \$100. I have already had something like \$1,200 and he had nothing; having enlisted at an early day when no bounties were given. He served and was discharged, and afterward reenlisted as a volunteer; and though his aggregate service was greater than mine he does not come within the provisions of the law." That case illustrates what we want to get rid of. It illustrates the propriety of following out, not only the idea of equalization, but giving to every man in proportion to the length of his service.

There is another class of cases—soldiers who were promoted to become officers, but by reason of accepting commissions are cut off from the bounty under the existing law. Now, we say that is wrong; we say that for the time they acted as enlisted men, they ought to receive bounties, if they have not already received them; and we have secured that to them by this bill. I give this as another illustration of the necessity of a rule of this kind.

Now, I will wait for propositions which gentlemen have to make, and then I will submit this whole bill for the action of the House, which I hope will be speedy. For that purpose I propose to demand the previous question upon the bill and see whether the House will sustain me in pressing it to a vote. Now, I ask gentlemen to bear in mind two or three propositions which I have attempted to illustrate. In the first place, the present bounty law operates most unequally; it gives more to those who have already had too much, and gives nothing to those who have not had anything in the way of bounty. The present law is a law for additional bounties; and not like this, a bill for the equalization of bounties. This bill proposes to establish a fair standard and bring those who are below up to it; but it proposes to give nothing to those who are already above the standard. In this way this bill proposes to equalize bounties according to the length of service, whether that service be short or long. These are the leading ideas of the bill.

Mr. BENJAMIN. Will the gentleman yield to me for a moment?

Mr. SCHENCK. I will.

Mr. BENJAMIN. I understand the gentleman to say that he proposes to call the previous question upon this bill, which would shut out all amendments to it. Now, I have an amendment which I desire an opportunity to offer to this bill. I ask the gentleman to let it be read by the Clerk.

Mr. SCHENCK. I will hear the amendment read.

The Clerk read as follows:

Amend section one, by inserting after the words, "or Marine corps of the United States," the following: "including those recognized by Congress in the act entitled 'An act making appropriations for completing the defenses of Washington, and for other purposes,' approved February 13, 1862, and including those borne on the rolls as slaves."

Mr. BENJAMIN. I can explain in a very few words the purpose of that amendment.

Mr. SCHENCK. Very well; I will yield to the gentleman three minutes of my time for that purpose.

Mr. BENJAMIN. We have a class of troops in Missouri, and there is another similar class in the State of Maryland, to whom the amendment has reference; troops who were mustered into the service of the United States in 1862, and whom the Department up to this time has ruled out from the benefits of our bounty laws; both the original law authorizing the troops to be raised, and also the law authorizing the additional bounty. And the Department also rules out all those who have been enlisted during the war, that are upon the rolls as slaves. It is for the purpose of including these troops—volunteers that were mustered into the service of the United States during the term of their enlistment, and were honorably discharged from that service. The object is to bring them within the provisions of this bill. I am aware that the gentleman from Ohio [Mr. SCHENCK] entertains the opinion that they are included in the provisions of the bill as it stands. Now, I wish to make that so certain that there shall be no dispute about it, and that the Department may have no chance to cavil over the payment of the bounties to these men who are as much entitled to them as are any volunteers who entered the service of the United States during the rebellion.

I have the law before me which refers to these troops and the manner in which they were raised; but perhaps it is not necessary that I should have it read. I shall now merely repeat that I desire to have this amendment incorporated into the bill, for the purpose of making it sure that these troops shall not be excluded as they have been heretofore. If the previous question is sustained amendments are cut off, and there is of course no chance of this amendment being made to the bill. I trust, therefore, if the previous question is demanded the House will refuse to second it.

Mr. SCHENCK. I shall in a few words, in reply to the gentleman from Missouri, [Mr.



BENJAMIN,] explain to him and to the House why I do not accept his amendment; and I trust the explanation I shall offer will induce him not to oppose, as he threatens, the demand for the previous question. This bill as it now stands provides for every man for whom he makes an appeal. Every man who has served and been honorably discharged, no matter who he may be, gets paid under the provisions of this bill. It includes the very men for whom he speaks. But the gentleman from Missouri says a decision has been made already. True; but the decision was under a law entirely different in its language from this one.

While this bill proposes to pay every one who served and who has been honorably discharged, the law as it now exists provides for the payment of additional bounty to those who have been enlisted in the Army of the United States, and who under existing laws have received or are entitled to receive certain bounties. No wonder, therefore, the decision is against them under the present law. But the decision cannot be against them under this bill should it become a law, because this takes them up and provides for them, for the very reason that they are not now entitled to receive any bounty. The gentleman, therefore, is arguing from the present law to this bill, when they are entirely dissimilar, and intended to be so. This bill, if it shall pass, will provide for these very men for whom he makes an appeal. The present law does not provide for them, because they are not entitled to receive additional bounty until by law they are made entitled to receive bounty.

Mr. BENJAMIN. Then what objection can the gentleman have to my amendment?

Mr. SCHENCK. Simply this objection: if I open this bill to his amendment the flood-gates will be opened to all other amendments. I can inform the House that there are fifty members here who are no doubt wiser than the Committee on Military Affairs, at least in their own opinion, each one of whom desires to offer an amendment.

I will now yield for five minutes to the gentleman from Tennessee, [Mr. STOKES,] and I shall insist upon his being strictly confined to that limit.

Mr. STOKES. I shall promise not to exceed the time, and shall probably conclude before the expiration of the five minutes. I desire to say that I shall support this bill reported by the gentleman from Ohio, [Mr. SCHENCK,] believing it to be right and just. It is a bill to equalize the bounties payable to the Federal soldiers. It will be remembered that, in the last session of Congress, just at the close of the session, we had a bounty bill, as it was termed, tacked by the Senate as an amendment upon the civil appropriation bill, and connected also with the compensation bill. I voted against that civil appropriation bill with those two amendments. I voted against it because, while it professed to equalize the bounties of soldiers, it did not equalize them and did not give the soldiers equal justice. I agree with the gentleman from Ohio [Mr. SCHENCK,] that every man who served in the Army ought to be paid at the rate of \$8 33 per month, and I am in favor of any measure that will equalize the bounties and will give to each man his equal share of justice. It is for this reason that I voted against the bill of last session, because it did not equalize the bounties; and to-day I shall vote for this bill because it does equalize the bounties.

In the northern States, when regiments were organized, men enlisted for three years and were mustered in the same day. But this was not the case in the State I have the honor in part to represent. In Tennessee men had to wend their way out of the mountains to get inside the Federal lines, and there was no regularity about the mode of enlistment. Some would come in this week, some next week, some the week after, just as they could make their escape. Some were enlisted for three years, and served only twelve months; while others served the entire time.

I desire that the bill of the gentleman from Ohio should pass, because it will equalize bounties and do equal justice to each and every soldier; while as the law now stands gross injustice is done to a large number. As far as regards Tennessee, it does injustice to three fourths, I may say, of the men who enlisted from that State. I opposed the proposition to give fifty dollars to those who served two years and \$100 to those who served three years. Under that law there are men who cannot get the \$100 bounty, because they lacked one day of serving three years, and the man who lacks one day of serving two years is also deprived of his bounty, although he may have done more service for the Federal Government than another who has received the \$100 or the fifty dollars. I shall not detain the House longer. I desired merely to make these remarks in order to have it put on record that I have been guilty of no inconsistency in having voted against the bill of last session, because it did not equalize bounties, while to-day I support the bill of the gentleman from Ohio, because it does equalize bounties.

Mr. SCHENCK. I now yield to the gentleman from New Hampshire, [Mr. ROLLINS,] that he may explain an amendment which he desires to offer. I do not yield to allow it to be offered.

Mr. ROLLINS. As the gentleman declines to allow my amendment to be offered, I trust that the House will refuse to second the previous question, so that I may have an opportunity to present the amendment, the effect of which I will now state.

I desire to move to strike out so much of the second section as proposes that in estimating the bounty to be paid under this bill, the bounties paid by any "State, county, city, town, or other municipal organization or by any voluntary association," shall be deducted. I am opposed to this deduction. I see no more reason for this deduction than for a deduction of the money we have paid to the families of soldiers absent in the Army. We have spent large amounts in this way in supporting the families of our soldiers. If some States or local organizations have been liberal and patriotic enough to pay additional bounties to their soldiers, why should these bounties be deducted from the amount now to be paid by the United States? I see no reason for it. Why should States like New Hampshire and other eastern States, who have paid their soldiers liberal bounties, be now required to assist in making up deficiencies in this respect on the part of other sections of the country?

[Here the hammer fell.]

Mr. SCHENCK. I yield a few minutes to the gentleman from New York, [Mr. WARD,] that he may indicate an amendment he would like to offer.

Mr. WARD, of New York. Mr. Speaker, when I voted for this bill before I did it with much reluctance, because of the section providing that all bounties paid by any county, city, town, municipal organization, or voluntary association shall be deducted from the amount of bounty to be paid. Now, Mr. Speaker, in New York the towns and counties and local associations generally were very liberal to the soldiers. Most of the New York soldiers received, either at the time of their original enlistment or upon reenlistment, contributions from local associations of some kind. Now, if this bill passes its effect will be that soldiers who enlisted from localities where the people were not liberal and gave little or nothing to volunteers in the way of contributions by local associations will receive bounties; while those who enlisted from localities like those in the State of New York and some of the eastern States, and who received liberal contributions from local associations, will obtain nothing. I believe that under this bill not one in twenty of the soldiers from the State of New York will receive a dollar of bounty.

Now, I ask the gentleman from Ohio to allow us to submit to the House, by way of amendment, the question whether or not those local

bounties shall be deducted. The amendment which I desire to offer is to strike out all after the word "State," in the sixth line of the second section, down to and including the word "years" in the eleventh line; and again, to strike out all after the word "State," in the sixteenth line, down to and including the word "association" in the seventeenth line. The words which I propose first to strike out are the following:

County, city, town, or other municipal organization, or by any voluntary association, so that in no case shall the aggregate amount of bounty allowed and paid from all sources exceed \$8 33 for each month of actual faithful service, or at the rate of \$100 per year.

The language which the second portion of the amendment proposes to strike out is this:

County, city, town, or other municipal organization, or by any voluntary association.

I ask the gentleman from Ohio whether he will allow this amendment to be offered.

Mr. SCHENCK. No, sir.

Mr. WARD, of New York. Then I hope the House will vote down the previous question, and allow an opportunity to test the opinion of the House on this question.

Mr. SCHENCK. I now yield to the gentleman from Pennsylvania, [Mr. O'NEILL,] who wishes to indicate an amendment which I cannot consent that he shall offer.

Mr. O'NEILL. The amendment which I desire an opportunity to offer is to insert after the word "marine," in the fifth line, the words "seaman, coal-passer, and fireman;" so that the bill will include "every soldier, sailor, marine, seaman, coal-passer, and fireman who faithfully served as such in the Army, Navy, or Marine corps of the United States, and who has been, or who may hereafter be, honorably discharged from such service." These men, to whom I propose to extend the benefits of this bill, are men who, though not enlisted, served in the Navy and rendered service as important as that done by the fighting men, for on our naval vessels they helped to keep the steam up.

The SPEAKER. Does the gentleman from Ohio yield to permit that amendment to be offered?

Mr. SCHENCK. I do not. I only consented that the gentleman should state it. I will reply to the gentleman that every soldier, sailor, and marine is now provided for by the bill.

Mr. BANKS. I ask the gentleman to yield to me for three minutes.

Mr. SCHENCK. I will after I have called the previous question.

The amendments which have been stated are only about one tithe of what have been indicated to me; and they certainly indicate the propriety of testing the question whether the House will take this bill, which they have once passed in its present shape, with the single exception of providing for lost discharges. I am willing to submit that question to the House under the demand for the previous question, and to cut off all possibility of amendment I move that the bill be recommitted.

The SPEAKER. No amendment is pending.

Mr. SCHENCK. I demand the previous question. But I desire to have a clerical error corrected in line six, page 3, to strike out "nine" and insert "nineteen."

There was no objection, and the correction was made accordingly.

Mr. DAVIS. The gentleman from Ohio was not able at the last session to tell with any accuracy what amount of money this bill will take out of the Treasury. I wish to know whether he can inform the House with any greater degree of certainty than he was able to at the last session what amount will be required under this bill?

Mr. SCHENCK. It is difficult to say, as the accounting officers differ widely; some say \$600,000,000, others \$400,000,000, and others \$250,000,000. The committee have satisfied themselves the provisions for bounty under this bill, with the restrictions as to those who are the representatives of deceased soldiers, will reduce it to something between seventy-five and one hundred million dollars. That is

our opinion, from all the data we have to calculate from. I now yield to the gentleman from New Hampshire.

Mr. MARSTON. I ask the chairman of the committee whether he can state to the House what is the estimate of the War Department if local bounties be stricken out?

Mr. SCHENCK. That is one of the data upon which we calculated. If they are taken out it will run up to \$450,000,000.

Mr. BLAINE. Four hundred and eighty-five million dollars.

Mr. SCHENCK. Under the bill as it now stands we bring it down to from seventy-five to one hundred million. I now yield to my colleague.

Mr. FINCK. Mr. Speaker, I intend to support this bill, although it does not contain all the provisions I desire to have in it.

I call attention to that part of the third section which excepts from the provisions of this bill all persons captured prisoners of war at the time of their enlistment. Suppose a man conscripted in the confederate States was taken a prisoner of war and afterward enlisted in the service of the United States, why should he not receive bounty under the bill?

Mr. SCHENCK. There would be a difference of opinion on that. We enlisted into our service a good many men captured as prisoners from the rebel army who were desirous to get into the service, some from high motives of patriotism, and others to get rid of their imprisonment. It was necessary to put them on the footing; they received as much bounty as they were entitled to in being allowed to renew their allegiance and fight on the right side.

Mr. FINCK. If these men were honorably discharged from our service, ought not they to receive bounty?

Mr. SCHENCK. I do not think that follows; but I have not time to go into an argument on the subject. We thought it not advisable to give bounty to those who came from the rebel side.

I understand I have nine minutes left, and I yield three minutes to the gentleman from Massachusetts.

Mr. BANKS. I listened to the statement of the gentleman from Ohio with pleasure, and had he confined himself to the arguments in favor of the bill I would not have said a word. But he says opposition to this measure is opposition to the soldier. It is not so. The gentleman can propose nothing for the soldier I will not sustain. When they say the amendment we ask gives \$450,000,000, I care nothing at all about it. I will vote \$450,000,000 or \$850,000,000 for the soldier. His claim is the bottom claim; there is none deeper, none stronger, none more just. But the objection to this bill is as against the States and not as against the soldiers. The State I represent has paid these bounties, and now it is called upon to pay the bounties of soldiers of other States. The State of New York has paid its bounty, and now it is called upon to pay one fifth of the bounties that are given to the soldiers of other States. And so has Pennsylvania. The argument of the gentleman, in his effort to press this measure through, would seem to imply that half the States of the Union are against the soldier. Nothing can be more unjust to them than that idea.

[Here the hammer fell.]

Mr. TAYLOR, of Tennessee. Will the gentleman from Ohio allow me two minutes?

Mr. SCHENCK. Yes, sir.

Mr. TAYLOR, of Tennessee. I wish simply to call the attention of the House to the third section and to show the hardship that it works to a very large number of the finest soldiers of the Union Army. It is known to every gentleman from the border States, and especially to those from East Tennessee that thousands of Union men were conscripted into the rebel army, who went to the front, were put into the battle, and gave themselves up as prisoners of war, because they were fighting under duress against their country. They went immediately into the Union Army and there

fought until the close of the war. They were compelled to enter the rebel army and escaped rather than have the reproach of fighting against their country. I regard it as an act of the highest merit that they fought through the remainder of the war with the halter, as it were, around their necks, for the flag of their country. Now, they are cut off from the provisions of this bill, though they are as gallant and worthy soldiers as ever lifted an arm in the defense of the Government.

[Here the hammer fell.]

Mr. SCHENCK. I must occupy the little remainder of my time myself, partly to correct misapprehensions. As regards the argument relating to the States, let me say that there is no injustice done to the States by this bill. It does not propose to pay back under any circumstances to any of the soldiers what the States have already given them, so the State is no worse off for taking into account what it has paid. Somebody has paid the money, and it has come out of somebody by taxation or otherwise. It is not proposed to wipe out all that has been done and begin anew to equalize their pay, either up or down, with reference to the States. If this bill passes the State of Massachusetts will stand precisely where she stands now, having done nobly by her soldiers, having done so well by them that they do not need perhaps so much from the General Government. The General Government proposes by a bill of this kind to come in and say to the soldiers, "Some of you have received compensation and gratuities far beyond what you contracted for; some of you have received very little in the shape of bounties, and some of you have received nothing at all. Those of you who have fared badly who have received neither from the Government nor from the States nor counties nor towns nor associations as much as \$100 a year, we mean to equalize by bringing your pay up to that standard." This whole thing is a matter of bounty, of generosity; it is a gift made to the soldiers, based upon the ground that we think the soldiers deserve more than has been paid to them under contract. We do not want to hold them to the strict terms of the contract. Whenever, therefore, we find one who has only been paid according to the terms of the contract, who from no source has received anything more, we propose to come forward generously and say to him, "You have been hardly treated, at least not so well treated as many others, and we, being the guardians of the general Treasury, propose to make that pay up to you in a certain degree if we can. Therefore we enact a law of this kind."

Now, I admit that this bill, if it becomes a law, will provide mainly and almost entirely for the soldiers who enlisted in 1861 or 1862, and will not benefit much others who entered the Army when large bounties were being given. Those men of 1861 and 1862 are the very men, sir, that we desire to provide for. They are the men who rushed to the standard of their country at the beginning of the war, because there were patriotic impulses in their bosoms; the men who made haste to enlist in the ranks and who cheerfully hazarded all that they were worth and all that they had in that great trial to which they were called. Now, sir, I demand the previous question.

Mr. WARD, of New York. I desire to ask the Speaker a question. If we vote down the previous question will the bill then be open to amendment?

The SPEAKER. It will.

Mr. WENTWORTH. If we vote down the previous question will it then be in order to make a motion to refer this whole subject to the Committee of Ways and Means to see where we are to get the money?

The SPEAKER. The motion would then be in order.

The question was then taken upon seconding the demand for the previous question; and there were—ayes 56, noes 60.

Before the result of the vote was announced, Mr. SCHENCK demanded tellers.

Tellers were ordered; and Mr. SCHENCK and Mr. TAYLOR, of New York, were appointed.

The House divided; and tellers reported that there were—ayes 74, noes 72.

So the previous question was seconded.

The question was upon ordering the main question to be now put.

The question was taken; and there were—ayes, 67, noes 65.

Mr. ROLLINS called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 76, nays 85, not voting 29; as follows:

YEAS—Messrs. Allison, Arnell, Delos B. Ashley, James M. Ashley, Baker, Barker, Bidwell, Bingham, Blaine, Brownell, Buckland, Bundy, Campbell, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cooper, Cullom, Delano, Dixon, Donnelly, Eggleston, Eldridge, Farnsworth, Finck, Garfield, Grinnell, Abner C. Harding, Hawkins, Hayes, Henderson, Higby, Hill, Chester D. Hubbard, James R. Hubbard, Ingersoll, Jenckes, Kasson, Kerr, Kuykendall, Latham, William Lawrence, Le Blond, Lettwith, Loan, Longyear, Marshall, Marston, Maynard, McKee, McKuer, Moulton, Niblack, Paine, Plants, Price, William H. Randall, Ross, Rousseau, Sawyer, Schenck, Shellabarger, Stigroaves, Spaulding, Stillwell, Stokes, Strouse, Nathaniel G. Taylor, John L. Thomas, Thornton, Upson, Welker, Whaley, James F. Wilson, and Windom—76.

NAYS—Messrs. Alley, Ames, Ancona, Anderson, Baldwin, Banks, Baxter, Beaman, Benjamin, Bergen, Blow, Boutwell, Boyer, Broomall, Chanler, Darling, Davis, Daves, Dawson, Deftrees, Deming, Dodge, Eliot, Farquhar, Ferry, Glossbrenner, Goodyear, Griswold, Aaron Harding, Hart, Hise, Holmes, Hooper, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburd, Humphrey, Hunter, Julian, Kelley, Kelso, Ketcham, Laffin, George V. Lawrence, Lynch, Marvin, McClurg, Mercier, Miller, Moorhead, Morris, Myers, Newell, Nicholson, Noell, O'Neill, Orth, Patterson, Perham, Pike, Rice, Rogers, Rollins, Alexander H. Rice, John H. Rice, Nelson Taylor, Thayer, Francis Thomas, Trowbridge, Van Arman, Burt Van Horn, Hamilton, Ward, Warner, William B. Washburn, Wentworth, Williams, Stephen F. Wilson, Winfield, and Woodbridge—85.

NOT VOTING—Messrs. Brandegee, Conkling, Culver, Denison, Driggs, Dumont, Eckley, Hale, Harris, Hogan, Hotchkiss, Asahel W. Hubbard, Jones, Koontz, McCullough, McIndoe, Morrill, Phelps, Pomeroy, Radford, Raymond, Ritter, Shanklin, Trimble, Robert T. Van Horn, Andrew H. Ward, Elihu B. Washburne, Henry D. Washburn, and Wright—29.

So the main question was not ordered.

During the roll-call,

Mr. HAWKINS said: I have been requested to state that Mr. KOONTZ, of Pennsylvania, is absent from his seat on account of indisposition.

The vote was announced as above recorded.

Mr. ROLLINS. I now move to amend the second section of this bill by striking out after the words "United States" where they first occur the words "or by any State, county, city, town, or other municipal organization, or by any voluntary association, so that in no case shall the aggregate amount of bounty allowed and paid from all sources exceed eight and one third dollars for each month of actual faithful service, or at the rate of \$100 per year." Also by striking out after the words "United States" where they again occur the words "or by any State, county, city, town, or municipal organization, or by any voluntary association." The section, if amended as I propose, will read as follows:

Sec. 2. And be it further enacted, That in computing and ascertaining the bounty to be paid to any soldier, sailor, or marine, or his proper representatives, under the provisions of this act, there shall be deducted therefrom any and all bounties already paid, or payable under the existing laws, by the United States. And in the case of any sailor or marine to whom prize money has been paid, or is payable, the amount of such prize money shall also be deducted, and only such amount of bounty paid as shall, together with such prize money and any other bounty paid or payable by the United States, amount in the aggregate to the sum allowed by this act.

And now I call the previous question on the bill and amendment.

Mr. KASSON. Before the previous question is called, I ask the gentleman from New Hampshire [Mr. ROLLINS] to allow me a few moments, as the point involved in his amendment has not yet been debated at all.

Mr. ROLLINS. I must insist upon the call for the previous question.

Mr. KASSON. Then I hope the call for the previous question will be voted down.

Mr. STEVENS. I desire to ask the gentleman from New Hampshire a question. Does his amendment include that part of this bill which relates to the present bounty law?

Mr. ROLLINS. It only refers to that portion of the bill relating to the deduction of local bounties.

Mr. STEVENS. I desire to offer an amendment striking out that part of this bill repealing the present bounty law.

Mr. ROLLINS. I am willing to allow that amendment to be offered, if I can do so, and retain my right to call the previous question.

The SPEAKER. By general consent the amendment can be offered and considered as pending, to be voted upon after the previous question shall be seconded.

No objection was made.

Mr. STEVENS. I move, therefore, to strike out the eleventh section of this bill.

The section was as follows:

SEC. 11. *And be it further enacted*, That sections twelve, thirteen, fourteen, fifteen, and sixteen, of an act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes, approved July 28, 1866, are hereby repealed; but if any money shall have been paid to any person under the provisions of said sections so repealed, the amount thereof shall be deducted in each case by the proper accounting officer from any sum to be allowed under this act. And any application made for allowance of bounty under the said act of July 28, 1866, with all the evidence and papers submitted therewith, shall be taken and considered as filed under the requirements of this act, and shall be used hereunder for the benefit of the applicant as far as the same may be applicable.

The SPEAKER. The amendment will be considered as pending.

Mr. SHELLABARGER. Will the gentleman from New Hampshire [Mr. ROLLINS] yield to me for a moment?

Mr. ROLLINS. I will do so.

Mr. SHELLABARGER. I desire to move an amendment to the bill, and I will explain my purpose in so doing. As the bill now stands, all soldiers who have gone to the expense of making applications for the \$100 bounty of last year, and who are about to get their money, will be set back by the provisions of this bill, and be obliged to wait until they make new applications before they can receive their money. I propose to so amend the bill that such amounts as they would be entitled to receive under the provisions of this bill may be paid to them under their pending applications, and not require them to incur the expense and delay of making new applications.

Mr. ROLLINS. I am willing that amendment shall be offered.

The SPEAKER. The amendment can be offered, and considered as pending.

Mr. SHELLABARGER. The amendment I desire to offer is to add to section eleven of this bill the following:

And all applications which have been made for bounties under the act of July 28, 1866, by persons who are entitled to bounty under this act shall be acted on and payments made thereon under this act the same as if it had not been passed: *Provided*, That no person shall be paid a greater amount than he is entitled to under this act.

Mr. BENJAMIN. Will the gentleman from New Hampshire [Mr. ROLLINS] allow me to make a suggestion to him?

Mr. ROLLINS. I will hear the suggestion.

Mr. BENJAMIN. I suggest to him to allow to be offered the amendment I indicated some time since.

Mr. ROLLINS. What is that amendment?

Mr. BENJAMIN. It is to amend section one, after the words "or Marine corps of the United States," by inserting:

Including those recognized by Congress in an act entitled "An act making appropriations for completing the defenses of Washington, and for other purposes," approved February 13, 1862, and including those borne on the rolls as slaves.

Mr. ROLLINS. I have no objection to that amendment.

The SPEAKER. The amendment will be regarded as pending.

Mr. TAYLOR, of Tennessee. I ask the gentleman from New Hampshire [Mr. ROLLINS] to permit me to move to amend section three of this bill by striking out the words,

"or who was a captured prisoner of war at the time of his enlistment." The object of that amendment will be to bring within the provisions of this bill a large class of soldiers along the border States who are not included within the bill as it now stands.

Mr. ROLLINS. I cannot yield for that amendment.

Mr. KASSON. I now ask the gentleman, as he has not yet yielded to anybody to oppose his amendment; to yield to me five minutes to oppose it.

Mr. ROLLINS. The friends of this measure, as it was reported, have certainly had their full share of time this morning.

Mr. KASSON. Not upon that point.

Mr. SCHENCK. Much more than half of my time was yielded to those who opposed the bill.

Mr. ROLLINS. I must insist upon the previous question.

The question was taken upon seconding the call for the previous question; and upon a division there were—ayes 53, noes 50.

Before the result of the vote was announced,

Mr. KASSON called for tellers.

Tellers were ordered; and Mr. ROLLINS and Mr. KASSON were appointed.

The House again divided; and the tellers reported that there were—ayes 77, noes 60.

So the previous question was seconded.

The main question was then ordered.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, joint resolution (H. R. No. 173) for the relief of Ober, Nanson & Co., merchants of New York.

The message further announced that the Senate had insisted upon its amendments to the bill (H. R. No. 604) to define and punish certain crimes therein named, had agreed to the conference asked by the House, and had appointed Messrs. HENDRICKS, HARRIS, and CRESWELL, as conferees on the part of the Senate.

#### EQUALIZATION OF BOUNTIES—AGAIN.

The SPEAKER. The previous question having been seconded and the main question ordered, the gentleman from Ohio [Mr. SCHENCK] who reported this bill is now entitled to an hour to close the debate.

Mr. SCHENCK. I yield a portion of my time to the gentleman from Iowa, [Mr. KASSON.]

Mr. KASSON. Mr. Speaker, I rise to meet an objection which one or two gentlemen from the eastern States, and one or two, I believe, from Pennsylvania, have urged against the bill as reported from the Committee on Military Affairs; and also to present a point, which I vainly sought from the gentleman from New Hampshire [Mr. ROLLINS] an opportunity to present, as to the effect of his proposition, which seeks to put in writing the objection urged in argument by other gentlemen.

It is stated that the effect of the bill as reported by the Committee on Military Affairs, is to charge this additional bounty, for the benefit of soldiers of other States, as a tax upon the States of the East that have already paid large State, county, and other local bounties. Now, sir, the gentlemen from New Hampshire and Massachusetts have failed entirely to perceive the converse of their proposition. It is admitted that in many of the poorer States of the Union soldiers have enlisted without any State or local bounty, and in some instances without any national bounty. Now, when we are about to take care of these patriotic soldiers who have had nothing or almost nothing in the way of bounty, it is boldly proposed by these same objecting gentlemen to go into the western States and tax them to pay two or three hundred dollars a head to the men in the eastern States who have already received \$800, \$1,200, or \$1,500. These gentlemen from the eastern States, in their efforts to convince the House that the proposition of the Committee on Military Affairs is unjust, turn round and

apply the identical rule to which they object; but they propose to make it bear on the poorer States who have not been able to pay these bounties, nor found it necessary to pay them to secure volunteers. And on this proposition the gentleman from New Hampshire undertakes to force the previous question upon the House without allowing a single word of explanation to those who oppose it.

I desire to call the attention of the House to the fact that the amendment which the gentleman proposes is utterly destructive of the principle of the bill, and will inevitably defeat it or any similar measure on which it may be ingrafted, and, as is suggested by a gentleman near me, will add hundreds of millions to the expenditure proposed by the law of last session—for the gentleman from Pennsylvania [Mr. STEVENS] has proposed that we shall not repeal that law. The expenditure now proposed will, therefore, be cumulative upon that authorized by the law of last session. This proposition will utterly defeat every effort to equalize as far as possible the bounties among the soldiers of the United States. If this amendment should prevail the bill cannot under any circumstances be passed in this House; hence I am compelled to believe that the object of some of the gentlemen who support the amendment is not at all to befriend the soldier, but so to alarm the people of this country, so to embarrass the Treasury of the United States, as to prevent one dollar being paid to any soldier of the United States under this bill. I ask gentlemen from these wealthy States who, by the action of their Legislatures and by agents appointed by them, went early in the war to the poorer States and by bounties paid there (until checked by law) deprived us of the more thinly-settled States of fair opportunity to fill up our own quota—I ask them not to tax these same States to pay from one hundred to four hundred dollars to soldiers to whom they have already paid these enormous bounties ranging from five hundred to fifteen hundred dollars.

I call the attention of gentlemen to the fact that in this very bill you refuse to pay the substitute anything at all, though he actually served for one or two years. On what principle do you do it? It was because the substitute was paid a bounty by the man whom he represented. Why not extend the principle to the substitute who received this bounty upon the same ground you insist your soldiers who received ten or fifteen hundred dollars shall also receive this bounty? I submit to the House the effect of the amendment is utterly destructive to the bill and will insure its defeat. It simply repeats the process of last session, which was not equalization of bounties at all.

I further submit to the House that you only postpone the day of equalization by every act of this kind. For there is perpetually coming up a cry from the soldiers of the country to equalize these unequal benefits to which they are continually pointing; and this bill attempts to accomplish their wish.

This presents, Mr. Speaker, all that I intended to say to the House. I call attention to the fact that the majority of this House were for the bill as it is in all essential points. If it were not for the Missouri delegation, who wished to incorporate an amendment, the main question would have been put.

I am obliged to the gentleman from Ohio for having yielded to me.

Mr. INGERSOLL. I protest against Illinois being included in the gentleman's list of poor States.

Mr. ROUSSEAU. I wish to ask the gentleman from Iowa a question. I ask whether the effect of the amendment offered by the gentleman from New Hampshire is not to pay to the soldier who has already received \$1,200 as much as to the soldier who did not receive one cent?

Mr. KASSON. That is the fact; for it strikes out that clause of the bill which proposes to deduct *pro tanto* the bounties already paid.



Mr. ROLLINS. I wish to ask the gentleman from Iowa a question.

Mr. KASSON. Certainly.

Mr. ROLLINS. I ask whether this bill will deprive Iowa or any other western State of the privilege of paying to their soldiers the same amount that the eastern soldiers have received? If the western States desire now to deal as liberally with their soldiers as the eastern States have done my amendment will not prevent them. We have paid our soldiers these bounties, and they can do the same thing if they please.

Mr. KASSON. As I feel under great obligations to the gentleman from New Hampshire I gave him the time he asked of me in view of the courtesy he refused to extend to me a while ago. But I will answer him by saying it is not the first time a rich man went to a poor man and said he had no objection to the poor man building a palace. After the wealthy States have paid out their thousands they now come and say to the less wealthy States we do not object to your paying your soldiers as much. That, sir, is no answer. Our soldiers, as stated by the gentleman from Ohio, entered the Army through motives of patriotism, and did not wait for any high bounties, and are entitled to the benefits of this bill.

Mr. SCHENCK. I now wish to say a word or two myself. We have reported a bill to equalize bounties. The gentleman from New Hampshire proposes an amendment which will convert it into a bill making bounties more unequal than they are now. If his amendment prevails, I, for one, shall feel constrained to vote against the bill when molded into that shape. The bill we propose is designed to give to those who have received little or nothing something to bring them up to a certain standard. The bill, as the gentleman from New Hampshire would make it, would give to every man without reference to what he had before. What is the consequence? The man who has had \$400 or \$1,000 or \$1,500 beyond his pay is to get \$100 a year more; the man who has received nothing whatever beyond his pay is to get \$100. Now, this keeps up the inequality as it exists. Therefore I repeat that if the amendment prevails it will have the effect to make this a bill to prevent bounties from being paid, and not to bring men nearer to each other by taking a common standard.

The gentleman from Pennsylvania [Mr. STEVENS] wishes a vote also upon a further amendment to strike out the repealing clause, leaving the present law to stand as it is, and then to pass this bill, with not only that amendment but the amendment of the gentleman from New Hampshire, which he says he approves. What will be the effect of that? You will have one law giving additional bounty to those who have already received bounty, and then another law which, under the false name of equalization, will give additional bounties to everybody, including those who receive it under the existing law. What was therefore unequal before, if the amendment of the gentleman from New Hampshire and that of the gentleman from Pennsylvania should prevail, would become still more unequal and still more a muddle, a mixture, having no regard to putting men upon the same footing.

I have received since we have been discussing this bill a letter, which I will ask the Clerk to read as a part of my remarks, addressed to me by a soldier, stating how this law will operate upon himself, who has never received any bounty, if we leave it standing as it is now, and resort to no expedient for equalization such as is here proposed.

The Clerk read as follows:

WASHINGTON, D. C., February 17, 1867.

GENERAL: I have the honor to state that I have served as an enlisted man in the late war two years, three months, and sixteen days, and have never received any bounty whatever, national or otherwise.

The bounty law of July 28, 1866 makes no provision for me, and this is why I write.

It seems unjust that I should have served over two years and not get one cent of bounty, local or gov-

ernmental, while others got bounty for a shorter time.

June 30, 1861, I enlisted in the old twenty-fifth Ohio volunteers. With that regiment I served in the field through the first terrible winter of the war, and through the Cheat mountain campaign, and was honorably discharged for disability April 15, 1862. During this period of service I participated in the battles of Greenbrier, Alleghany mountain, Huntersville, and Monterey, West Virginia, &c.

My next term of service was in company D, seventh Veteran Reserve corps, commencing 29th September, 1863, and ending 20th March, 1865, during which time I was one of the defenders of Washington when Early made his attack on this city, July, 1864.

Each time I was honorably discharged for disability contracted in the field and not at the rear.

The statements I make are corroborated in the War Department records.

It was my misfortune and not my fault that I enlisted just at the times when I could get no bounty. That proves that I did not think of my private gain.

Why should I not get the bounty for the two years and more that I served?

If I had enlisted in 1862 and served two years I would have received \$200 bounty, and if I had waited till the winter of 1863 I would have received \$400 from the Government.

Suppose all soldiers had waited till 1862 or 1863 for these large bounties, the result would have been better to themselves but not so well for the Government.

As the present bounty provisions do not meet my case, nor as I believe many other cases, I respectfully, but urgently, beg you to use your very powerful influence in procuring the enactment of some law apportioning bounty according to the number of months of service.

I am, general, very respectfully, your obedient servant,

JOHN M. ASHFIELD,

Late private company I, twenty-fifth Ohio volunteers.  
Gen. R. C. SCHENCK, House of Representatives, Washington, D. C.

Mr. ROLLINS. Will the gentleman yield?

Mr. THAYER. Will the gentleman allow me—

Mr. SCHENCK. I do not mean to parcel out the time to the opponents of the bill. That letter illustrates the condition of things which, if the bill be amended as now proposed, gentlemen seek to perpetuate, namely, inequality of bounty—nothing to those who have had nothing—and whatever you give, give it to those who have had much.

Now, sir, what is the present condition of this bill? The friends of the bill as it is were, as was very apparent, in a majority. The gentleman from Missouri [Mr. BENJAMIN] desired to change the language of the first section of the bill so as to provide for certain Missouri troops, some of whom were slaves. I replied to that, as I say now, that the language of this bill covers all. It provides for every soldier, sailor, and marine who has ever served for any length of time whatever and was honorably discharged. In their anxiety, however, friends of the bill as they were, to get an amendment of that kind, they voted with those that were for emasculating the bill and making it an unequal one, as is proposed now by the gentleman from New Hampshire, and we are all at sea again.

Now, I trust this matter will be fully understood. There is no objection to the amendment proposed by the gentleman from Missouri, [Mr. BENJAMIN,] except the single objection that it is wholly unnecessary. It neither adds to nor takes from anything in the bill; it leaves it as it was. Therefore, when it comes to a vote I shall vote for the amendment, if it will gratify the gentleman. But I shall vote against the amendment of the gentleman from New Hampshire, [Mr. ROLLINS,] and the amendment indicated by the gentleman from Pennsylvania, [Mr. STEVENS.] If either of those amendments should prevail, the bill will not be worth the paper it is written upon, for it will simply perpetuate the inequalities which we want to get rid of, and to remedy which we have reported this bill.

I will now yield the floor first to an opponent of the bill, the gentleman from New Hampshire, [Mr. PATTERSON,] and then I will yield to one or two others. I now yield to the gentleman from New Hampshire for five minutes.

Mr. PATTERSON. The gentleman from Iowa [Mr. KASSON] complains that the amendment of my colleague [Mr. ROLLINS] is objectionable, in that it would destroy the underlying principle of the bill. Now, I think that is the principal virtue of the proposed amend-

ment of my colleague. What is the principle of the bill? It is one not of equality, but of inequality. If you will refer to the opinion expressed by William Wirt upon the payment of the interest of the war debts of 1812 you will find this sentiment expressed:

"The principle is this: the United States are bound by the relation which subsists between the General and State governments to provide the means of carrying on war; and as a part of the business of war to provide for the defense of the several States. When the United States fail to make such provisions and the States have to defend themselves by means of their own resources, the expenditure thus incurred forms a debt against the United States which they are bound to reimburse. If the expenditures made for such purpose are supplied from the Treasury of the State, the United States reimburses the principal without interest."

Now, look at this point: the eastern States have advanced large bounties to their soldiers. This bill comes forward and asks us to assist the western States, among others the State of Ohio, from which the gentleman [Mr. SCHENCK] comes who is chairman of the committee which reported this bill, to pay bounties to their soldiers. We do not claim that the soldiers should not have their bounties equalized. We merely claim that if Ohio has not heretofore paid a bounty equal to that which New England has paid, she should put her hands into her own pockets and pay it as we have done. If you look to simple justice in this matter, the bill should provide that the General Government should reimburse to the eastern States, which have overpaid the bounty, the surplus of bounty which would be required by this bill.

But the gentleman talks about the rich States of the East. That comes with a very bad grace from the gentleman from Iowa [Mr. KASSON] or from any gentleman from the rich States of the West, whose soil and mountains are teeming with wealth. The people of the New England States, the eastern States, have had to wring from the poverty of our soil by their industry and perseverance the wealth they possess. Now, is there any justice in our being called upon to vote, not only our own bounties, but to come forward and pay a tax to pay bounties to the soldiers of these rich western States?

[Here the hammer fell.]

Mr. SCHENCK. I now yield for five minutes to my colleague on the other side, [Mr. LE BLOND.]

Mr. LE BLOND. In reply to the gentleman who has just taken his seat, [Mr. PATTERSON,] I would say that it comes with an ill-grace from the New England States to claim what that gentleman claims. Why, sir, the very wealth they possess they have wrung from the West by high tariffs. And if by that means they have acquired wealth, they may thank the West for it and not the impoverished soil of which he speaks.

Now, let me say one word more. I understand, from the vote already cast upon this proposition, that it is a contest in this House between the West and the East, between labor and wealth. The vote already taken has indicated that such is the issue; and we shall see when the final vote comes whether the East is to control the West in regard to all legislation.

Now, sir, I am in favor of this bill as reported by the Committee on Military Affairs. I support it because it equalizes bounties, and not to create inequality, which the gentleman from the East are proposing to bring about. Sir, these gentlemen have no right to complain. The purpose of the bill is simply to bring the soldiers of the West as nearly as possible on an equality with the soldiers of the East. Is there any injustice in this? It is entirely just; it is precisely what ought to be done. The soldiers of the West and the East are alike the soldiers of the Union, and the whole Union, and not of any specific locality or community, and for a local purpose. They were soldiers for the whole Union, and should receive equal pay, unless the soldiers of the East were more patriotic and rendered better service in the field than the western soldiers, and none, I apprehend, will claim it.

But gentlemen say, "We have paid large bounties during the war." I say in reply, suppose you have done so, and I do not dispute it, this bill is not for the purpose of reimbursing individuals, counties, or States; it is for the purpose of bringing about as nearly as possible an equalization of bounties among the soldiers. But, sirs, if you have voluntarily paid money to save yourselves from the draft, you have no right now to say that you will not equalize bounties but that your soldiers have more than the West.

But, Mr. Speaker, there is another question arising in this case, and it might as well be met now as at any other time. A large number of the gentlemen who are opposing this bill oppose it, I believe, with a view to break it down. While they set up here the pretext that they are the warm friends of the soldier, the course they are pursuing is one well calculated, and I am led to believe designed, to kill this bill, not to bring about an equalization of bounties; for that is well provided for in the bill as it stands. I want this fact understood; for it has been said here repeatedly that it will take millions upon millions of dollars to carry out this equalization of bounties, and that the Treasury cannot sustain such a draft upon it. When gentlemen, holding this view, oppose a bill equalizing bounties, their object must be to break it down altogether, if not in this House in the Senate. I hope, sir, that the House will act discreetly upon this question, and will pass the bill as reported by the committee.

Mr. SCHENCK. I now yield five minutes to the gentleman from Iowa, [Mr. GRINNELL.]

Mr. GRINNELL. Mr. Speaker, there are three positions taken by the gentlemen who support this bill which cannot be gainsaid. The first is that the western States proposed to be benefited by the bill furnished in proportion to their population a larger number of soldiers to put down the rebellion than the other sections of the country. The second position is that we of the West in furnishing soldiers labored under much greater disadvantages than other sections. Our people were engaged chiefly in rural pursuits. They were occupied in the cultivation of new farms and in the development of new industries. They were not wealthy. They were acting under the disadvantages of pioneers, and our counties and our States could not afford to pay volunteers the immense bounties which were paid by the eastern States. The third position is that the eastern States are, considering their population, richer in accumulated capital as three to one than the western States. If the older States with their large means have acted liberally, we commend them for their liberality. They had the capacity to pay largely where we had not.

Now, sir, you will find in regard to volunteers from the West thousands and tens of thousands of cases in which men have served less than three years; but not having served quite the required time, on account of the muster out or sickness, have received no bounty at all. Now, is it magnanimous, is it just to these States to come forward and say that you will impose this immense burden of millions on the less wealthy States, whose soldiers made the greatest sacrifice and the people paid according to ability? Sir, if I felt myself at liberty to make what might be considered an invidious comparison between one section and another, I might do it with great justice in favor of the western States. It is known as a fact few of our soldiers deserted. It will be found by reference to the records that desertions among the troops from the eastern States and middle States were as three to one compared with the desertions from the soldiers raised in our rural communities, which is no reproach to the States, but to those who accepted the bounties and escaped. In this view of the case we have furnished more real soldiers. We furnished those who were truer, those who did the most substantial work in putting down the rebellion.

Mr. DAWES. Will the gentleman allow me to say—

Mr. GRINNELL. I cannot yield to the gentleman unless with the understanding that the interruption shall not come out of my time. But I will say to him that the people of Massachusetts are rich and benevolent, and they should not seek to impose an unjust burden upon the newer and poorer communities of the West. I appeal to the gentleman from Massachusetts, and others from the older States, to recognize the justice of coming forward now and seeing that men who did not serve quite three years, but who acted the part of good soldiers, shall be entitled to bounty. There are many of this class who, because they have not served for the full three years, have received no bounty whatever, while others, serving no more faithfully and doing no more real work in putting down the rebellion, have received bounties of hundreds or a thousand dollars. It is just to those who left their new prairie farms and came back to find the prairie fires had destroyed their buildings and their last rail. Why deprive our poor men of this pittance? It is unworthy of the gentlemen and the powerful States which had a surplus population for the Army. It is unworthy of the country to deprive these men, because their soldiers have received a thousand dollars or more, at once from the abundance of their friends, given, I grant, with a nobler patriotism. Let this bill pass unamended, and it will reach a large class of the noblest soldiers and many who were compelled by disease to leave the service.

[Here the hammer fell.]

Mr. SCHENCK. I have an old bargain to yield to the gentleman from Illinois, but I ask him to be as brief as possible, as I understand we must dispose of this bill before half past four o'clock.

Mr. BROMWELL. The bargain of which the gentleman has spoken is more than a day old, and I regret what I had to say has been forced back until after the previous question has been seconded. Seeing the manner in which the debate has been running and the manifest danger to the bill of delay, I shall at present say nothing on this occasion of what I intended to say. I am thankful to the gentleman from Ohio, however, for having at last allowed me an opportunity to make this explanation. I intend to vote for the bill, and I would not now if I had an opportunity attempt to clog it with amendments to get up an excitement, to do which there seems to be some disposition. I hope, therefore, although this measure does not come up to the desires of all the members, it will be allowed to pass without further question. If there be defects they can be remedied by future legislation.

Mr. SCHENCK. I yield the floor and demand the vote.

Mr. BENJAMIN'S amendment was adopted.

The question then recurred on the amendment of Mr. ROLLINS; and being taken, it was decided in the negative—yeas 75, nays 84, not voting 31; as follows:

YEAS—Messrs. Alley, Ames, Ancona, Baldwin, Banks, Baxter, Beaman, Bergen, Blaine, Boutwell, Boyer, Broomall, Chanler, Darling, Davis, Dawes, Dawson, Deming, Dixon, Eliot, Ferry, Glossbrenner, Goodyear, Griswold, Hart, Holmes, Hooper, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburd, Humphrey, Hunter, Jenckes, Julian, Kelley, Ketcham, Latham, George V. Lawrence, Lynch, Marvin, McCullough, McKuer, Mercer, Miller, Moorhead, Morris, Myers, Newell, Nicholson, O'Neill, Patterson, Perham, Pike, Samuel J. Randall, Alexander H. Rice, John H. Rice, Rollins, Scofield, Starr, Stevens, Taber, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, William B. Washburn, Stephen F. Wilson, Winfield, and Woodbridge—75.

NAYS—Messrs. Allison, Anderson, Arnell, James M. Ashley, Baker, Benjamin, Bingham, Blow, Bromwell, Buckland, Bundy, Campbell, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cooper, Cullom, DeForest, Delano, Eggleston, Eldridge, Farnsworth, Farquhar, Finck, Garfield, Grinnell, Aaron Harding, Abner C. Harding, Hawkins, Hayes, Henderson, Higby, Hill, Hise, Hogan, Chester D. Hubbard, James R. Hubbell, Ingersoll, Kasson, Kelso, Kerr, Kuykendall, Latham, William Lawrence, Le Blond, Leftwich, Loan, Longyear, Marshall, Maynard, McClurg, McIndoe, McKee, Moulton, Niblack, Noel, Orth, Paine, Plants,

Price, William H. Randall, Ritter, Ross, Rousseau, Sawyer, Schenck, Shanklin, Shellabarger, Spalding, Stillwell, Stokes, Strouse, Nathaniel G. Taylor, Thornton, Upson, Robert T. Van Horn, Andrew H. Ward, Welker, Wentworth, Whaley, Williams, James F. Wilson, and Windom—84.

NOT VOTING—Messrs. Delos R. Ashley, Barker, Bidwell, Brandegee, Conkling, Culver, Denison, Dodge, Donnelly, Driggs, Dumont, Eckley, Hale, Harris, Hotchkiss, Asahel W. Hubbard, Jones, Koontz, Marston, Morrill, Phelps, Pomeroy, Radford, Raymond, Rogers, Sitgreaves, Sloan, Trimble, Elihu B. Washburne, Henry D. Washburn, and Wright—31.

So the amendment was rejected.

The question then recurred on the amendment of Mr. STEVENS.

Mr. STEVENS. The other amendment having failed, I do not ask that mine be adopted.

The amendment was disagreed to.

Mr. SHELLABARGER'S amendment was adopted.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ELDRIDGE demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 92, nays 69, not voting 29; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, James M. Ashley, Baker, Beaman, Benjamin, Bidwell, Bingham, Blow, Bromwell, Buckland, Bundy, Campbell, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cooper, Cullom, Darling, DeForest, Delano, Donnelly, Eggleston, Eldridge, Farnsworth, Farquhar, Ferry, Finck, Garfield, Grinnell, Abner C. Harding, Hawkins, Hayes, Henderson, Higby, Hill, Hogan, Chester D. Hubbard, James R. Hubbell, Humphrey, Hunter, Ingersoll, Jenckes, Julian, Kasson, Kelso, Kerr, Kuykendall, Latham, William Lawrence, Le Blond, Leftwich, Loan, Longyear, Marshall, Maynard, McClurg, McCullough, McIndoe, McKee, Morris, Moulton, Niblack, Noel, Orth, Paine, Plants, Price, William H. Randall, Ross, Rousseau, Sawyer, Schenck, Shellabarger, Spalding, Stillwell, Stokes, Nathaniel G. Taylor, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Robert T. Van Horn, Hamilton Ward, Walker, Wentworth, Whaley, James F. Wilson, and Windom—92.

NAYS—Messrs. Alley, Ames, Ancona, Baldwin, Banks, Barker, Baxter, Bergen, Blaine, Boutwell, Boyer, Broomall, Chanler, Davis, Dawes, Dawson, Deming, Dodge, Eliot, Glossbrenner, Goodyear, Griswold, Aaron Harding, Hart, Hise, Holmes, Hooper, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburd, Kelley, Ketcham, Latham, George V. Lawrence, Lynch, Marvin, McKuer, Mercer, Miller, Moorhead, Myers, Nicholson, O'Neill, Patterson, Perham, Pike, Samuel J. Randall, Alexander H. Rice, John H. Rice, Ritter, Rollins, Scofield, Shanklin, Starr, Stevens, Strouse, Taber, Nelson Taylor, Thayer, Van Aernam, Burt Van Horn, Andrew H. Ward, Warner, William B. Washburn, Williams, Stephen F. Wilson, Winfield, and Woodbridge—69.

NOT VOTING—Messrs. Delos R. Ashley, Brandegee, Conkling, Culver, Denison, Dixon, Driggs, Dumont, Eckley, Hale, Harris, Hotchkiss, Asahel W. Hubbard, Jones, Koontz, Marston, Morrill, Newell, Phelps, Pomeroy, Radford, Raymond, Rogers, Sitgreaves, Sloan, Trimble, Elihu B. Washburne, Henry D. Washburn, and Wright—29.

So the bill was passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

UNITED STATES COURT IN RHODE ISLAND.

Mr. SCHENCK. I move to proceed to business on the Speaker's table.

The motion was agreed to.

The House accordingly proceeded to business on the Speaker's table, the first business being the consideration of the amendment of the Senate to House bill No. 643, to alter the places of holding the circuit courts of the United States for the Rhode Island district.

The amendment of the Senate was concurred in.

Mr. JENCKES moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATIONAL CAPITAL INSURANCE COMPANY.

The next business on the Speaker's table was the consideration of the amendments of the Senate to House bill No. 234, to incorporate the National Capital Insurance Company.

Mr. INGERSOLL. I move to refer the amendments to the Committee for the District of Columbia.

The motion was agreed to.

PAUL S. FORBES.

The next business on the Speaker's table was the consideration of the amendments of the Senate to the amendments of the House to joint resolution of the Senate No. 99, for the relief of Paul S. Forbes, under his contract with the Navy Department for building and furnishing the steam sloop-of-war Idaho.

The amendments of the Senate, which were of a verbal character, except the last one providing that the sum paid shall be in full discharge of his contract with the Navy Department, were concurred in.

Mr. PIKE moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN J. SOHAN.

The next business on the Speaker's table was the consideration of the amendment of the Senate to House bill No. 1053, granting an increased pension to John J. Sohan.

The amendment of the Senate, providing that the pension be paid out of the naval pension fund, was concurred in.

Mr. PERHAM moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BANKRUPT BILL.

The next business on the Speaker's table was the consideration of the amendments of the Senate to House bill No. 593, to establish a uniform system of bankruptcy throughout the United States.

Mr. JENCKES. Most of these amendments are merely formal and verbal. The select committee on the subject of the bankrupt law have had the subject under consideration, and have instructed me to move to concur in all but one.

Mr. BLAINE. We cannot pass that bill now.

Mr. JENCKES. I can explain the amendments in five minutes. I move a concurrence in all except the twenty-sixth; on that I call the previous question. They are in groups.

The SPEAKER. If the gentleman resumes his seat and reserves the right to speak after seconding the previous question, a hostile motion to lay on the table might be carried.

Mr. JENCKES. I will waive the call for the previous question, and explain the amendment. The first five of these amendments form one group. The first amendment takes the power of appointment of registers in bankruptcy from the circuit courts and vests it in the district courts of the United States. The other four amendments following are to make the bill symmetrical with that amendment. On the whole this is deemed an improvement. The amendments, numbering from six to eleven, provide for the framing of the rules and code of practice under this bill by the justices of the Supreme Court instead of by the commissioners to be appointed by the Chief Justice, as provided in the bill as it passed the House. The amendments following the sixth and seventh are for the purpose of making the bill symmetrical with the principal amendment. The courts remain in session till June, and can easily perform the duty themselves, so that the rules of practice and the code will be established under the authority of the highest tribunal of the United States, and will be uniform in every district of the United States.

The twelfth amendment provides that every person filing a voluntary petition in bankruptcy shall add to the oath required by the House bill, of the truth of the subject-matter and statements of his petition, a brief oath of allegiance; not a test oath, but simply the common oath of allegiance.

The thirteenth and fourteenth amendments relate to the mode of appointing assignees, and do not vary that feature of the House bill at all. They simply require a majority of the number of creditors as well as of the value of the claims involved.

The fifteenth amendment is in relation to the provision for prosecuting, to remedy upon the bonds of the assignees. The provision is made by the Senate amendment more direct and simple than it is by the House bill. It provides that any aggrieved person may sue upon the bond for his own benefit.

The sixteenth amendment strengthens the exemption clause. The House bill provided that such property in the States as was exempt from levy upon execution should also be exempted from the effect of this act. In some of the States this exemption clause extends to other proceedings than levy upon execution. The words inserted by the Senate are "property exempted on other process or order of any court." It therefore strengthens the provision which the House insisted upon, to exempt the homestead and other property secured in different States.

The seventeenth, eighteenth, and nineteenth amendments of the Senate simply change the phraseology of the House bill relating to the manner in which the wife of the bankrupt may be examined in court. It does not change the meaning of the House bill in the least.

The twentieth and twenty-first amendments of the Senate relate to the discharge of the bankrupt. They strike out the clause "that no discharge shall be granted to the debtor the third time bankrupt."

The twenty-second and twenty-third amendments relate to the mode of the trial of the validity of the bankrupt's discharge after it has been granted. No change is made in the meaning of the bill by these amendments; but simply a briefer phrase is employed, and probably one more clear.

The twenty-fourth and the twenty-fifth amendments of the Senate are merely formal, striking out unnecessary words.

The twenty-sixth amendment is the one upon which I ask for a separate vote.

The twenty-seventh and twenty-eight amendments are purely formal.

The twenty-ninth amendment limits the application of the bill to the business of moneyed or commercial corporations.

All the amendments of the bill, except the twenty-sixth, are unimportant, and merely formal or verbal. I move that all the amendments of the Senate be concurred in except the twenty-sixth, upon which I shall ask a separate vote. And upon that motion I call for the previous question.

Mr. ALLISON. I would inquire of the Chair if it will be in order to call for a separate vote upon any amendment after the previous question is seconded?

The SPEAKER. It will.

Mr. STEVENS. I move to lay the amendments of the Senate upon the table.

The SPEAKER. That motion, if successful, will carry the bill to the table.

Mr. STEVENS. Very well.

Mr. FINCK. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 63, nays 65, not voting 62; as follows:

YEAS—Messrs. Arnell, Baker, Barker, Benjamin, Blaine, Boutwell, Bromwell, Broomall, Campbell, Cobb, Cook, Cullom, Delano, Eldridge, Eliot, Farquhar, Finck, Garfield, Abner C. Harding, Hawkins, Hayes, Hill, Chester D. Hubbard, Ingersoll, Julian, Kelso, Kerr, Latham, George V. Lawrence, William Lawrence, Le Blond, Leftwich, Loan, Marston, Maynard, McClurg, McKee, Mercer, Miller, Niblack, Nicholson, Noell, O'Neill, Orth, Patterson, Perham, Price, William H. Randall, Ritter, Rollins, Sawyer, Schenck, Shanklin, Shellabarger, Starr, Stevens, Stokes, Nathaniel G. Taylor, Andrew H. Ward, William B. Washburn, Welker, Whaley, and Stephen E. Wilson—63.

NAYS—Messrs. Ames, Ancona, Anderson, James M. Ashley, Baxter, Beaman, Bergen, Boyer, Buckland, Bundy, Sidney Clarke, Cooper, Darling, Davis, Dawes, Dawson, Deming, Dodge, Donnelly, Farn-

worth, Ferry, Glossbrenner, Grinnell, Griswold, Hart, Higby, Hogan, John H. Hubbard, Humphrey, Hunter, Jenckes, Kasson, Kelley, Ketcham, Laffin, Longyear, Lynch, Marvin, McKuer, Moorhead, Morris, Newell, Paine, Alexander H. Rice, John H. Rice, Ross, Scofield, Spaulding, Strouse, Taber, Nelson Taylor, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, Wentworth, Williams, James F. Wilson, Windom, and Woodbridge—65.

NOT VOTING—Messrs. Alley, Allison, Delos R. Ashley, Baldwin, Banks, Bidwell, Bingham, Blow, Brandegee, Chanler, Reader W. Clarke, Conkling, Culver, Dofrees, Denison, Dixon, Driggs, Dumont, Eckley, Eggleston, Goodyear, Hale, Aaron Harding, Harris, Henderson, Hise, Holmes, Hooper, Hotchkiss, Asabel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Jones, Koontz, Kuykendall, Marshall, McCullough, McIndoe, Morrill, Moulton, Myers, Phelps, Pike, Plants, Pomeroy, Radford, Samuel J. Randall, Raymond, Rogers, Rousseau, Sitgreaves, Sloan, Stillwell, John L. Thomas, Thornton, Trimble, Elihu B. Washburne, Henry D. Washburn, Winfield, and Wright—62.

So the motion to lay on the table was not agreed to.

During the roll-call,

Mr. O'NEILL said: My colleague, Mr. MYERS, left the House within half an hour on account of indisposition.

Mr. HILL said: My colleague, Mr. HENRY D. WASHBURN, is still absent by leave of the House. I presume if he was here he would vote against the proposition to lay on the table.

The result of the vote was announced as above recorded.

Before the call of the roll had been concluded, the time fixed by order of the House for taking a recess, half past four o'clock p. m., arrived.

At the conclusion of the call (at fifteen minutes before five o'clock p. m.) the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (S. R. No. 146) for the relief of Charles Clark, marshal of the United States for the district of Maine; when the Speaker signed the same.

GOLD AND SILVER MINING STATISTICS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, inclosing a preliminary report of James W. Taylor, special commissioner for the collection of statistics relative to gold and silver mines and mining east of the Rocky mountains, including the Alleghany gold districts of Virginia, North Carolina, South Carolina, Georgia, and Alabama; which was ordered to be printed, and referred to the Committee on Mines and Mining.

LEAVE TO PRINT.

Mr. LEFTWICH asked and obtained leave to have printed, as part of the debates, remarks on the bill to provide for the government of the insurrectionary States.

PREVENTION OF SMUGGLING.

On motion of Mr. LONGYEAR, by unanimous consent, the bill (S. No. 605) entitled "An act to amend the twenty-first section of an act entitled 'An act further to prevent smuggling, and for other purposes,'" was taken from the Speaker's table, read a first and second time, and referred to the Committee on Commerce.

ALEXANDRIA CANAL.

Mr. INGERSOLL, by unanimous consent, introduced a bill relating to the Alexandria canal; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

Mr. DAVES moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.



## PACIFIC RAILROAD.

Mr. KASSON, by unanimous consent, submitted the following resolution:

*Resolved*, That the Secretary of the Interior be directed to communicate to this House a statement of the rules by which the beginning point for the claim of the Union Pacific Railroad Company and of the Central Pacific Railroad Company of California, for additional bonds from the United States for the construction of said railroad between the eastern base of the Rocky mountains and the western base of the Sierra Nevada mountains, is ascertained and adjusted under the eleventh section of the act approved July 1, 1862, relating to said road.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

## PENSIONS TO SOLDIERS OF 1812.

Mr. WHALEY, by unanimous consent, presented a joint resolution of the Legislature of the State of West Virginia, asking the passage of a law granting additional pensions to the surviving soldiers of the war of 1812; which was referred to the Committee on Invalid Pensions, and ordered to be printed.

## WEST VIRGINIA AGRICULTURAL COLLEGE.

Mr. WHALEY also, by unanimous consent, presented a joint resolution of the Legislature of the State of West Virginia, asking an additional appropriation of land to aid in establishing an agricultural college; which was referred to the Committee on Agriculture, and ordered to be printed.

## ROADS AND BRIDGES IN WEST VIRGINIA.

Mr. WHALEY also, by unanimous consent, presented a joint resolution of the Legislature of the State of West Virginia, asking an appropriation by Congress to aid in rebuilding certain roads and bridges destroyed during the late war; which was referred to the Committee on Appropriations, and ordered to be printed.

## WISCONSIN MAIL ROUTE.

Mr. PAINE, by unanimous consent, presented joint resolutions of the State of Wisconsin, memorializing Congress for the establishment of a mail route therein designated; which was referred to the Committee on the Post Office and Post Roads.

## STEAMSHIP SERVICE TO SANDWICH ISLANDS.

Mr. McRUER, by unanimous consent, from the Committee on the Post Office and Post Roads, reported back House bill No. 1089, to authorize the establishment of ocean mail steamship service between the United States and the Sandwich Islands, with amendments, and moved that they be printed, and recommitted.

The motion was agreed to.

Mr. TROWBRIDGE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## BANKRUPT BILL.

The House resumed the consideration of the unfinished business, being the amendments of the Senate to the bankrupt bill.

Mr. JENCKES. I move that the House non-concur in the amendments, and ask for a committee of conference.

Mr. WILSON, of Iowa. I think they ought to be referred to the Committee on Banking and Currency.

Mr. JENCKES. They have been before that committee.

Mr. WILSON, of Iowa. Few members have had an opportunity to examine these amendments.

Mr. DAVES. I suggest to the gentleman this disposition of his bill; it is evident he cannot command a majority of the House to go for these amendments; it took all the gentleman's skill to command a majority of the House for the bill as it was sent to the Senate; I submit if he expects to carry the bill into law we ought to non-concur without proposing a committee of conference, and let the other branch understand they must adopt the bill as it came from the House. It is as much as the

gentleman can ask of the friends who have stood by him to vote for the bill as it went from the House. I make the suggestion to the gentleman as a friend of the bill and one desirous of voting for it if I can.

Mr. JENCKES. Very well; I move to non-concur; and on that motion I demand the previous question.

Mr. BLAINE. Is it the intention to have a vote on the amendments to-night?

Mr. JENCKES. Only on the motion to non-concur to send them back to the Senate.

Mr. WILSON, of Iowa. If the motion to non-concur be voted down, will it not be in order to move to refer them to the Committee on Banking and Currency?

The SPEAKER. It will.

The House divided; and there were—ayes 36, noes 30; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. PRICE and Mr. SPALDING.

The House again divided; and the tellers reported—ayes 55, noes 44.

So the previous question was seconded.

Mr. WILSON, of Iowa, demanded the previous question on ordering the main question to be now put.

Mr. ROLLINS called for tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The SPEAKER ordered tellers on the question; and appointed Mr. ROLLINS and Mr. RANDALL.

The House divided; and the tellers reported—ayes 57, noes 42.

So the main question was ordered to be now put.

Mr. WILSON, of Iowa, moved that the amendments be laid on the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 60, not voting, 75; as follows:

YEAS—Messrs. Alloy, Arnoll, Baker, Bingham, Blaine, Boutwell, Brownell, Broomall, Campbell, Rander W. Clarke, Cook, Cullom, Deftrees, Eggleston, Eldridge, Abner C. Harding, Hawkins, Hayes, Chester D. Hubbard, Ingersoll, Julian, Kerr, Kuykendall, George V. Lawrence, William Lawrence, Le Blond, Leftwich, Lonn, Maynard, McKeluz, McKee, Merour, Miller, Myers, Niblack, O'Neill, Orth, Paine, Patterson, Porham, Plants, Price, Samuel J. Randall, William H. Randall, Rollins, Sawyer, Schenck, Shellabarger, Starr, Stokes, Andrew H. Ward, William B. Washburn, Welker, James F. Wilson, and Stephen F. Wilson—55.

NAYS—Messrs. Allison, Ames, Ancona, James M. Ashley, Baxter, Benman, Buckland, Cooper, Darling, Davis, Daves, Deming, Denison, Dixon, Dodge, Eliot, Farnsworth, Ferry, Aaron Harding, Hart, Higby, Hooper, John H. Hubbard, Edwin N. Hubbard, James R. Hubbard, Hulburd, Humphrey, Jenckes, Kasson, Kelley, Laffin, Longyear, Marvin, McRuér, Moorhead, Morris, Nicholson, Pike, Alexander H. Rice, John H. Rice, Ritter, Rousseau, Scofield, Silgroaves, Spalding, Strauss, Taber, Nelson Taylor, Thayer, Francis Thomas, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, Wentworth, Williams, Windom, and Woodbridge—60.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Baldwin, Banks, Barker, Benjamin, Borgen, Bidwell, Blow, Boyer, Brandegee, Bundy, Chanler, Sidney Clarke, Cobb, Conkling, Culver, Dawson, Delano, Donnelly, Driggs, Dumont, Eckley, Grinnell, Griswold, Garfield, Glossbennor, Goodyear, Grinnell, Finck, Hale, Harris, Henderson, Hill, Hise, Hogan, Holmes, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Hunter, Jones, Kelso, Ketcham, Koontz, Latham, Lynch, Marshall, Marston, McCullough, McIndoe, Morrill, Moulton, Newell, Noell, Phelps, Pomerooy, Radford, Raymond, Rogers, Ross, Shanklin, Sloan, Stevens, Stilwell, Nathaniel G. Taylor, John L. Thomas, Thornton, Trimble, Van Aernam, Elihu B. Washburne, Henry D. Washburn, Whaley, Winfield, and Wright—75.

So the House refused to lay the amendments of the Senate upon the table.

The question recurred on the motion to non-concur in the amendments of the Senate, and they were non-concurred in.

Mr. JENCKES moved to reconsider the vote by which the amendments of the Senate were non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## CODIFYING CUSTOMS LAWS.

The next business on the Speaker's table was the consideration of the amendments of

the Senate to House joint resolution No. 251, to extend the time for codifying the laws relative to customs, authorized by the joint resolution approved July 26, 1866.

On motion of Mr. DEMING, the amendment of the Senate, extending the time till the 1st of January, 1868, was concurred in.

## SOLDIERS' AND SAILORS' ORPHANS' HOME.

The next business on the Speaker's table was the consideration of the amendment of the Senate to House bill No. 848, to amend an act entitled "An act to incorporate the National Soldiers' and Sailors' Orphan Home," approved July 25, 1866.

On motion of Mr. WELKER, the amendment of the Senate, to strike out all after the enacting clause and insert a substitute, was concurred in.

Mr. SCHENCK moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HOOPER, of Massachusetts. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole.

The motion was disagreed to.

## BAILIFFS AND CRIERS IN THE DISTRICT.

The next business on the Speaker's table was the consideration of the amendment of the Senate to House bill No. 856, fixing the compensation for the bailiffs and criers of the courts of the District of Columbia.

The amendment of the Senate was to strike out the following section:

*And be it further enacted*, That so much of the act of Congress as limits the number of notaries public to thirty-five is hereby repealed; and the supreme court of the District may appoint as many as they deem necessary for the public convenience.

Mr. INGERSOLL. I move that the House concur.

Mr. LE BLOND. In what respect does that change the original law?

Mr. INGERSOLL. It allows the appointment of notaries to be made by the supreme court of the District. It changes the original law.

Mr. LE BLOND. Is that the only change?

Mr. INGERSOLL. That is the only change, I believe.

Mr. LE BLOND. Were they not appointed before by some other tribunal—by the President?

Mr. INGERSOLL. I believe they were. It also changes the number as well as the mode of appointment.

The SPEAKER. The Senate has stricken out that provision.

Mr. LE BLOND. That is what I wanted to know. I am informed that the President appoints them.

The SPEAKER. That is exactly the effect of the amendment.

Mr. FARNSWORTH. Do I understand that the effect of the amendment of the Senate is to leave the appointment with the President, where it was before? Then I hope the House will not concur. [Laughter.]

The question being put, there were—ayes 32, noes 32; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. FARNSWORTH and LE BLOND.

The House divided; and the tellers reported—ayes 36, noes 62.

So the amendment of the Senate was non-concurred in.

Mr. MAYNARD. I move a committee of conference.

The motion was agreed to.

## JUDICIAL PROCEEDINGS IN THE DISTRICT.

The next business on the Speaker's table was the consideration of the amendment of the Senate to House bill No. 907, to amend a law of the District of Columbia in relation to judicial proceedings therein.

The amendment of the Senate, which was verbal, was concurred in.

Mr. MAYNARD moved to reconsider the

vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JUSTICES OF THE PEACE IN THE DISTRICT.

The next business upon the Speaker's table was the consideration of amendments of the Senate to bill of the House No. 571, to regulate proceedings before justices of the peace in the District of Columbia, and for other purposes.

Mr. WELKER. The amendments of the Senate are merely verbal. I hope they will be concurred in by the House.

The amendments were agreed to.

Mr. WELKER moved to reconsider the vote by which the amendments of the Senate were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CRIMES IN THE DISTRICT.

The next business on the Speaker's table was the amendment of the Senate to House bill No. 431, providing for the punishment of certain crimes therein named in the District of Columbia, and for other purposes.

The amendment of the Senate was to strike out the following section:

SEC. 13. *And be it further enacted*, That in all cases where attorneys are appointed by the court to defend persons on their trial, the court may order the payment of such fee for such defense as may be deemed reasonable, but in no instance to exceed twenty-five dollars.

Mr. WELKER. I hope that amendment will be concurred in.

The amendment was concurred in.

Mr. WELKER moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DIRECT TAX IN WEST VIRGINIA.

The next business on the Speaker's table was the consideration of amendments of the Senate to the amendments of the House to the joint resolution of the Senate No. 90, to suspend temporarily the collection of the direct tax within the State of West Virginia.

The first amendment of the Senate was to strike out all of section one of the House amendment after the enacting clause, and insert in lieu thereof the following:

That in ascertaining the quota of the State of West Virginia of the direct tax imposed by the act of August 5, 1861, the Secretary of the Treasury is authorized and directed to charge the said State with such proportion of the said tax apportioned to the State of Virginia as the value of the real estate in the counties now composing the State of West Virginia, including Berkeley and Jefferson, bears to the value of all the real estate of the then State of Virginia, as ascertained by the assessment for State taxation of the real estate of the said State of Virginia in the year 1860, giving credit to the State of West Virginia for such part of its proportion so ascertained as has been already paid.

Mr. ALLISON. I move the House concur in that amendment.

The amendment was concurred in.

Several verbal amendments were also concurred in.

The last amendment was to strike out all of section six, as follows:

SEC. 6. *And be it further enacted*, That section two of the act entitled "An act further to amend an act entitled 'An act for the collection of direct taxes in the insurrectionary States within the United States and for other purposes,' approved June 7, 1862," approved March 3, 1865, be, and the same is hereby, repealed; and certificates of sales shall be received in all courts and places as *prima facie* evidence of the regularity and validity of said sales and of the title of the parties or purchasers under the same as provided in section seven of an act entitled "An act for the collection of direct taxes in insurrectionary States within the United States, and for other purposes," approved June 7, 1862.

Mr. ALLISON. I move that the House non-concur in that amendment.

Mr. BINGHAM. I wish to make an inquiry of the gentleman from Iowa [Mr. ALLISON] before the question is taken upon this amendment. I desire to inquire of him whether the effect of the section just read, if it is retained

in the bill, is not to make valid the several sales made of property for the non-payment of taxes in the insurrectionary States?

Mr. ALLISON. I presume the effect of that section would be to make the certificate of such sale *prima facie* evidence of title.

Mr. BINGHAM. If that be the case then I hope the section will be retained.

The SPEAKER. The question is, Will the House concur in the amendment of the Senate in striking out the section just read?

The question was taken, and the amendment was non-concurred in.

Mr. ALLISON. I move to reconsider the various votes upon the amendments of the Senate; and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ALLISON. I move that a committee of conference be asked upon the disagreeing votes of the two Houses upon this bill.

The motion was agreed to.

#### MINOR CHILDREN OF SOLOMON LONG.

The next business upon the Speaker's table was the amendment of the Senate to House bill No. 1058, for the relief of the minor children of Solomon Long.

The amendment of the Senate was to strike out all after the enacting clause and insert the following:

That the Secretary of the Interior be, and is hereby, authorized and directed to place upon the pension rolls the names of the children under sixteen years of age of Solomon Long, deceased, who was a private in company E, fifth regiment Kentucky cavalry volunteers, under the provisions of existing laws in similar cases, to take effect from and after the passage of this act.

The question was upon concurring in the amendment of the Senate.

Mr. PERHAM. I move that the amendment of the Senate be referred to the Committee on Invalid Pensions.

Mr. MAYNARD. I hope the gentleman from Maine [Mr. PERHAM] will withdraw that motion. I can assure him that the amendment of the Senate does not materially change the effect and purpose of the bill as passed by the House.

Mr. PERHAM. Upon that assurance of the gentleman I withdraw my motion to refer.

The amendment of the Senate was then concurred in.

The amendment of the Senate to the title, to make it read "An act for the relief of the children of Solomon Long, under sixteen years of age," was also concurred in.

#### JOHN GRAY.

The next business upon the Speaker's table was the consideration of amendments of the Senate to House bill No. 1044, for the relief of John Gray, a revolutionary soldier.

The amendment of the Senate was read, as follows:

In line four strike out the words "Commissioner of Pensions," and insert in lieu thereof the words "Secretary of the Interior."

Mr. PRICE. I move that the amendment of the Senate be concurred in.

The motion was agreed to.

Mr. PRICE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DANIEL FREDERICK BAKEMAN.

The next business on the Speaker's table was Senate amendment to the bill (H. R. No. 1045) for the relief of Daniel Frederick Bakeman, a revolutionary soldier.

The amendment of the Senate was read, as follows:

In line one strike out the words "Commissioner of Pensions" and insert in lieu thereof the words "Secretary of the Interior."

Mr. PRICE. I move that the amendment of the Senate be concurred in.

The motion was agreed to.

Mr. PRICE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NATIONAL CEMETERIES.

The next business on the Speaker's table was Senate amendments to the bill (H. R. No. 788) to establish and to protect national cemeteries.

The amendments were read.

Mr. DEMING. These amendments are merely verbal, and I move that the House concur.

The motion was agreed to.

Mr. DEMING moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PENSION BILLS REFERRED.

On motion of Mr. PERHAM, Senate bills and joint resolutions of the following titles were taken from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions:

An act (S. No. 535) for the benefit of Mrs. Jerusha Page;

An act (S. No. 581) granting a pension to Olivia W. Cannon;

A joint resolution (S. No. 171) for the relief of Martha McCook;

An act (S. No. 602) granting a pension to Ezra B. Gordon;

An act (S. No. 558) for the relief of Martha A. Smith, of Johnson county, Tennessee, widow of Alexander D. Smith, deceased;

An act (S. No. 497) granting a pension to Mrs. Adeline M. Gould;

An act (S. No. 498) granting a pension to Mrs. Josephine Slocum;

An act (S. No. 512) for the relief of Kennedy O'Brien;

An act (S. No. 554) granting a pension to John Carter;

An act (S. No. 513) granting a pension to Patrick Meehan;

An act (S. No. 580) granting a pension to Charles N. Weiss;

An act (S. No. 515) granting a pension to Mrs. Ernestine Becker;

An act (S. No. 514) for the relief of Charles Appleton;

An act (S. No. 556) for the relief of Caroline McGee, of Greene county, Tennessee, widow of Lemuel McGee, deceased; and

An act (S. No. 538) for the relief of the widow and children of Henry E. Morse.

Mr. BINGHAM. I ask unanimous consent that the Committee on Invalid Pensions have leave to report these bills on next Wednesday evening.

There being no objection, leave was granted.

Mr. PERHAM. I ask unanimous consent that the committee have leave to report at the same time any other bills which they may be ready to report.

Mr. DAVIS. I object.

#### ALCOHOL FOR SCIENTIFIC INSTITUTIONS.

On motion of Mr. PATTERSON, by unanimous consent, joint resolution (S. R. No. 103) to provide, in certain cases, for the removal of alcohol from bonded warehouses free from internal tax, was taken from the Speaker's table and read a first and second time.

The question being on ordering the joint resolution to a third reading, it was read at length.

The joint resolution provides that the Secretary of the Treasury be authorized to grant permits to curators of incorporated or chartered scientific institutions to withdraw alcohol in specified quantities from bond without payment of the internal revenue tax on the same, or on the spirits from which the alcohol has been distilled, for the sole and exclusive purpose of preserving specimens of anatomy, physiology, or of natural history belonging to said institutions. The curators, on applying for such permit, are to file a bond for double the amount of the tax on the alcohol to be withdrawn, with two good and sufficient sureties, who shall not be officers of the institution making application; the bond and sureties to be approved by the Commissioner of Internal Revenue, and conditioned that the whole quantity of alcohol so

withdrawn from bond shall be used for the purpose above specified and for no other, and that the curators shall comply with such other requirements and regulations as the Secretary of the Treasury may prescribe. If any alcohol so obtained shall be used by any curator or other officer of said institution for any purpose other than that above specified, the curators, officers, or sureties are to pay the tax on the whole amount of alcohol withdrawn from bond, together with a like amount as a penalty in addition thereto.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

#### FOUNDRY METHODIST EPISCOPAL CHURCH.

Mr. INGERSOLL, by unanimous consent, moved to take from the Speaker's table Senate bill No. 506, to authorize the trustees of the Foundry Methodist Episcopal Church to sell and convey square No. 235, in the city of Washington.

The motion was agreed to.

The bill was accordingly taken up, and read a first and second time.

The bill provides that Presley Simpson, James W. Barker, Edward Owen, David A. Gardner, Nathaniel Mullikin, William J. Sibbey, Daniel D. T. Leech, Edward F. Simpson, and Richard T. Morsell, trustees of the Foundry Methodist Episcopal Church, in the city of Washington, in the District of Columbia, and their successors in office, be authorized and empowered to sell and convey a certain square of ground in said city, known and distinguished on the ground plan thereof as square No. 235, now held by said trustees in trust for said church, and lately used, in part, as a burial ground, free and discharged of and from any trust, express or implied, now existing, or which may hereafter, before the execution of a conveyance of said square, exist, in said trustees, or their successors, whether by virtue of the deed originally conveying the same to the trustees of said church, or by virtue of any deed or deeds, certificate or certificates, or any writing or writings whatever, by said trustees or their predecessors, conveying any lot or lots, site or sites, in the part of said square used as a burial ground as aforesaid, and free and discharged of and from any and every right, title, and interest, legal and equitable, now existing in any lot holder in said burial ground, under any contract with said trustees or their predecessors; provided, however, that the said trustees or their successors shall, out of the proceeds of such sale, remove or cause to be removed the dead that are now interred in said ground, and give them decent sepulture in some public cemetery outside the corporate limits of the city of Washington.

The bill was then ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TAX BILL.

Mr. HOOPER, of Massachusetts. I move that the rules be suspended, and that the House now resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOWRELL in the chair,) and proceeded to the consideration of the special order, being House bill No. 1161, to amend existing laws relating to internal revenue.

The pending paragraph was read as follows;

On cigarettes, cigars, and cheroots of all descriptions, made of tobacco or any substitute therefor, the market value of which, including the tax, is not over eight dollars per thousand, a tax of two dollars per thousand; when exceeding eight dollars per thousand, in market value, including the tax, a tax of eight dollars per thousand.

The pending amendment, submitted by Mr. MYERS, is as follows:

Strike out in line ninety-three all after the word "therefor" and insert "five dollars per thousand;" so it will read:

On cigarettes, cigars, and cheroots of all descriptions, made of tobacco or any substitute therefor, five dollars per thousand.

Mr. PAINE. I move to strike out the last word.

Mr. Chairman, I hardly know whether I am in favor of the amendment or the section as it now stands. I do not understand it, and I wish some member of the committee would explain it.

This section provides the tax shall be two dollars a thousand on all cigars, the value of which including the tax shall be less than eight dollars a thousand; and the tax shall be eight dollars a thousand on all cigars the value of which including the tax shall be eight dollars a thousand. Now, suppose the cigars are worth six dollars exclusive of the tax, I am at a loss to know whether two dollars or eight dollars is to be paid. On cigars worth three dollars a thousand if you add two dollars tax, then including the tax they fall below eight dollars. I want gentlemen to tell me what this means, whether cigars worth less than six dollars without the tax are to be taxed two dollars or eight dollars.

I do not ask what this paragraph means, for it does not mean anything. It is ambiguous. I ask what the gentlemen who drew the bill meant by it? What do they expect of the officers in the execution of the law?

Mr. MYERS. Let the gentleman adopt my amendment and he will avoid all ambiguity.

Mr. PAINE. Perhaps I shall be obliged to do so unless this can be explained. I withdraw my amendment to the amendment.

Mr. DARLING. I renew it. I am opposed to the pending amendment. In the first place I wish to strike out the whole of that paragraph and insert in lieu of it a substitute that I have prepared. The select committee that has had charge of the investigation of revenue frauds embraced within the scope of their investigation the manufacture of cigars as well as whisky, and we found very great frauds existing through defects in the present law. We found a defect in the matter of appraisement, the manufacturer being in fact the appraiser of his own cigars.

Now, sir, under the present bill as amended all the cigars made in these large cities, and I do not know but throughout the country, will be sold at eight dollars and no higher. They will be sold through intermediate agents, who by their sales establish the market value, and all the tax you will ever get upon domestic manufactured cigars will be two dollars under this bill. Now, every man knows that for a cigar that pays a tax of less than one cent the consumer has to pay a whole cent. The fraction of a cent which this bill proposes to impose does not inure to the benefit of the Government, but to that of the manufacturer altogether. The consumers are not benefited by that discrimination, because the manufacturer puts upon the price of the cigars not eight tenths or two tenths of a cent, but the whole cent. Why, then, should not the Government collect the whole cent, seeing it does not take out of the pockets of the consumer any more than if a less tax is imposed?

Following out that argument, I contend that the tax should be ten dollars a thousand, because nobody will get cigars any cheaper if you tax them less, and the Government might as well have the benefit of the addition of two dollars a thousand. Tax your home-made cigars, that is cigars made of tobacco raised in Connecticut, Ohio, Pennsylvania, or elsewhere in the United States, and impose a tax on the imported leaf. Abolish your present laws which require the putting on of stamps and the giving of bonds, which are a fruitful source of fraud. Provide internal revenue stamps of suitable denominations to be used by inspectors which shall indicate the quantity of cigars, and let them all be paid for

when they are affixed. If this amendment is voted down I shall then submit mine.

Mr. INGERSOLL. I suggest that the gentleman have his amendment read for information.

Mr. DARLING. I will do so. I propose that cigars made of American tobacco be taxed all alike, while in reference to those made of foreign tobacco they will have to pay a tariff duty.

The amendment proposed to be submitted by Mr. DARLING was read as follows:

Strike out the pending paragraph of the bill and insert in lieu thereof the following:

The tax upon cigars shall be at the uniform rate of ten dollars per thousand, and shall be collected in the following manner: The Commissioner of Internal Revenue shall provide stamps of suitable denominations to be used by inspectors of cigars, which stamps shall be furnished to and sold by collectors of internal revenue; and each and every of said stamps shall indicate the amount paid therefor, which amount shall be deemed and taken as the tax or duty upon the cigars contained in any box or package on which said stamp may be placed. Such stamp shall be canceled by the inspector when he affixes it to the box or package, in the manner now provided by law for canceling cigar stamps: *Provided*, That no stamp shall be sold to any person not a manufacturer of cigars, and only to such manufacturers as are within the district of the officer selling the stamps. And all cigars offered for sale by manufacturers, not contained in boxes or packages properly stamped as herein directed, shall be liable to seizure and forfeiture. And all proceeds beyond the tax due shall inure to the informer.

Mr. KASSON. This is an old question, I remember, for several years in connection with the laws relating to internal revenue. With a view to something practical upon which there could be harmony of action I had prepared an amendment to the clause now before the House, which rests upon the same principle, and, I believe, seeks to accomplish the same object with this exception. I do not enter at all into the details for the purpose of carrying it into effect, as has been done by the gentleman from New York, [Mr. DARLING.] I call the attention of the Committee of Ways and Means to the amendment which I propose.

As I understand the amendment of the gentleman from Pennsylvania, [Mr. MYERS,] he proposes to change the tax from an *ad valorem* to a specific tax of five dollars per thousand. I move to make it ten dollars per thousand. The sense of the Committee of the Whole can be taken upon changing the tax from a valuation to a specific tax. I understand that many members of the House and some of the members of the Committee of Ways and Means have been in favor of this for several years.

The simple fact is that under the valuation system of taxation the dishonest always take precedence and get the advantage of the honest; the honest man bears the burden of the tax, while the dishonest man escapes from it. But by the system I propose you will establish a common level grade of one cent per cigar, which the manufacturer must pay as the internal revenue tax. The difference in the market value of the cigar will then depend entirely upon the quality of the tobacco of which it is made. Now, it is for the interest of the consumer as well as of the manufacturer that this system of taxation should be adopted. On the question of count there is opportunity neither for evasion of conscience nor evasion of fact. It is a simple matter to determine how many cigars there are. But the more grades you establish for valuation the more temptation there is presented for perjury and dishonesty. All revenue bills up to the present time that depend upon valuation have been but a continual series of experiments.

Now, it seems to me that every step which Congress takes should be in the direction of a specific tax, for that will remove temptation, and necessarily avoid the dishonesty that flows from the temptation. When this is done, I apprehend there will be no difficulty in so adjusting the import duties upon tobacco and cigars as to accomplish the purpose of the House. When the tax depends simply upon count, upon the number of the cigars to be taxed, there is almost an impossibility of any fraud upon the revenue.



As the amendment of the gentleman from New York [Mr. DARLING] is not immediately before the Committee of the Whole for action, but merely pending until other amendments shall have been disposed of, I suggest that for the purpose of taking the sense of the committee the question be taken upon the question of a specific rather than a valuation tax. And to meet some of the views expressed here, I will move to amend the amendment of the gentleman from Pennsylvania [Mr. MYERS] by striking out "five dollars" and inserting "ten dollars."

The question was upon the amendment of Mr. KASSON to the amendment of Mr. MYERS.

Mr. DAWES. It is very evident that there is something wrong in the nature of our legislation in reference to this article of cigars, from the fact that every returning session of Congress we find it necessary to change or abandon the plan we adopted at the previous session. Now, I apprehend it is true that no theory of political economy laid down in the books will apply to this article of cigars, for the reason that those who cheat in reference to it do not cheat according to rule, [laughter,] and we must therefore apply our experience to the matter of legislating upon that subject, and be guided by that alone.

Now, it has so resulted that the mode heretofore adopted has proved the ruin of the manufacturers of cigars both in the West and in the East. Although there was apparently a struggle here in the House at the last session between the West and the East, and a sort of compromise was made between them, I think it is the testimony of the West as well as of the East that for some reason or other the legislation then adopted has extinguished almost entirely this particular branch of industry in both sections.

Now, Mr. Chairman, just so far as we resort to the *ad valorem* principle we invite frauds upon the revenue; and just so far as we adopt the system of specific taxation we check fraud. The amendment proposed by the gentleman from Pennsylvania is entirely specific in its character; and so, it is true, is the amendment to it proposing to raise this tax to ten dollars. But it must be apparent to everybody that a specific tax of ten dollars will ruin this branch of industry in some parts of the country, and will be more than it can stand in those parts of the country where it can best stand it—I mean the localities where the high-priced cigars are manufactured. Now, while we should endeavor to rely, if possible, entirely upon the specific taxation, we must fix it at such a point that this branch of industry can live in the various sections of the country manufacturing cigars of different values. It will not do to put the tax at just as high a figure as can be borne by the highest-priced cigars manufactured, because by this operation you extinguish the whole industry where the cheap cigars are made. On the other hand, it will not do to fix the tax so low as to deprive the Government of revenue merely for the benefit of the manufacturers of cheap cigars. We must find a medium.

My objection to the provision of the bill as it stands is that the system of classified duties is but another mode of *ad valorem* taxation. Under the provision of the bill I apprehend that all cigars manufactured will be appraised at the lowest rates. The highest rate will be but a shield under which the frauds will be committed. I have not time, Mr. Chairman, to discuss the feasibility of the system of stamps; but I apprehend that it is utterly impracticable. If the boxes are required to be stamped the same boxes will be filled and refilled without restamping; and if we require a stamp to be attached to the cigar the system will be found equally impracticable or inefficient.

[Here the hammer fell.]

Mr. HOOPER, of Massachusetts. Mr. Chairman, I beg leave to call attention to the fact that the proposition now presented has been tried before. It proposes that we shall go back rather than go forward. I admit that everything

we have tried heretofore has proved a failure. We now propose to make only two distinctions. We propose, in the first place, that cigars of the lower quality, made generally of tobacco grown at the West—and any one who knows anything about smoking can readily distinguish these from the better article—we propose that this lower quality, not exceeding in value eight dollars per thousand, including the tax, shall pay a tax of two dollars per thousand.

Mr. KASSON. Are there in point of fact any cigars worth no more than six dollars per thousand?

Mr. HOOPER, of Massachusetts. Oh, yes, large quantities of them are manufactured.

Mr. KASSON. Where are they sold?

Mr. HOOPER, of Massachusetts. They are sold everywhere. They can be found about this city.

Mr. KASSON. I never found any.

Mr. HOOPER, of Massachusetts. Oh, no; the gentleman never smokes cigars of this quality, but many others do.

Mr. Chairman, on behalf of the Committee of Ways and Means, I move to amend by striking out all after the word "thousand," in line ninety-five, down to and including the word "thousand" in line ninety-seven, and inserting in lieu thereof the following:

On cigarettes, cigars, and cheroots of all descriptions made of tobacco or any substitute therefor, exceeding eight dollars per thousand in market value, including the tax, a tax of eight dollars per thousand.

I ask that this amendment may be adopted, leaving the section open to such amendments as may afterward be offered.

Mr. SCHENCK. The amendment just offered, as I understand it, simply puts in another shape what is already in the bill. The struggle, I presume, must be between the bill as it now stands or as just proposed to be modified, dividing cigars into two classes, and so far at least adhering to the policy adopted by Congress at the last session; and on the other hand, a return to the dead-level tax.

The gentleman from Massachusetts [Mr. HOOPER] has very properly admonished his colleague [Mr. DAWES] that, instead of proceeding to try a new experiment, he is upon the retrograde track, and is going back to what has been experimented upon and which I undertake to say utterly failed. I will in a word give the gentleman my view of the reason why it failed.

Allusion has been made to the difference between the quality of the tobacco raised in the West and Northwest and in Pennsylvania, and the tobacco raised farther East, saying nothing at present of any imported tobacco, the protection against which can only be by a tariff. There is that difference; and as I represent more tobacco than any man on this floor, certainly more than any man in my State, I profess to know something about it.

Now, sir, we tried this dead-level tax, and what was the effect? While we had a discriminating tax, while we had cigars classified, we were making nine million cigars per annum in the county in which I live. Within twelve months after that experiment was tried there was not a cigar made there. Throughout my county, throughout my district, the tobacco interest was perfectly prostrate before that system. That was the reason we came here and demanded a change of system. Yet the gentleman asks us who tried this system to go right back to it. It was because it was a uniform tax. I do not care whether it is five, ten, or fifty dollars, a dead-level tax is what I object to, making a high-price cigar pay as much and no more than a low-price cigar. It is an unjust discrimination against the manufacture of the low-price cigar.

What is a dead-level tax? By it you may prevent frauds. I admit it. As you make the classification you must make the law more stringent. You have more care and trouble in the execution of it. I admit that it is an incident to it. If on the other hand you have a dead-level tax and make no classification, you crush out altogether the manufacture of

low-price cigars, and consequently destroy a great industrial interest throughout the whole extent of the country. So gentlemen must understand our opposition is not on the ground that it is five, ten, or fifty dollars, but it is against the policy of the same uniform tax on cigars of all grades.

[Here the hammer fell.]

Mr. INGERSOLL. I move as an amendment to the amendment the following, to come in at the close of the amendment:

And the inspectors of cigars are hereby required to brand on the box the taxable value of the cigars.

I insist, Mr. Chairman, if we incorporate a provision of this kind into the law it will protect the public against fraud as well as the internal revenue, that the taxable value of the cigar as estimated, upon which the manufacturer must pay tax, must be branded on the box. If a graduated scale of prices is adopted you obviate the objection of the gentleman from Ohio and all others who are in favor of the graduated scale, and at the same time you protect the interest of the manufacturer of the poorer quality of cigars.

And, sir, you do no injustice to any other manufacturer. Why? You make the manufacturer pay tax in proportion to the value of the article manufactured. If the manufactured article be worth fifty dollars a thousand he pays tax accordingly, but if the manufactured article be worth only five dollars the tax is less in proportion. At the same time, it seems to me, you prevent the fraud that is committed under the present law.

Mr. ALLISON. What will be the effect of branding one box two dollars a thousand and another box eight dollars a thousand, and then putting in the eight-dollar box a cigar worth only two dollars a thousand?

Mr. INGERSOLL. I will answer, although I have not given this subject the attention I would if I had time to consider it. A box of cigars when inspected and branded requires a Government stamp, which extends clear around the box. When that box has been opened it ceases to be of value until refilled and rebranded with the date when the brand was made and a new stamp upon it. If he uses the old box to put higher-price cigars in it it will be branded anew with the value of the cigars it then contains.

I presume, however, Mr. Chairman, this section will be reserved for future consideration, not only by the Committee of the Whole, but by the Committee of Ways and Means.

Mr. KASSON. I withdraw my amendment for the present.

Mr. MYERS. Mr. Chairman, I rise to oppose the amendment, and to again advocate the amendment which I proposed in the first instance. Members of the committee refresh the memory of members of the House that we have had already a specific duty of the kind proposed. So we have; and the distinguished gentleman from Ohio [Mr. SCHENCK] says that he represents perhaps as many tobacco-manufacturers as any gentleman in this House.

Mr. SCHENCK. I said tobacco-growers.

Mr. MYERS. Very well; tobacco-growers. But there is higher authority yet than his for the system which we ought to adopt. I have before me the report of the Commissioner of Internal Revenue, showing what our experience has been upon this subject, and I will read from it a brief paragraph:

"The tax of ten dollars per thousand on all domestic cigars imposed by the act of March 3, 1855, was more uniformly paid than the tax under any previous law. Fewer cigars escaped taxation, and there was no opportunity for fraud when their full number was returned to the assessor. The different qualities of tobacco and the varying costs of manufacture in different parts of the country induced a change at the last session of Congress in the mode of taxation, with which I believe neither the manufacturers nor the revenue officers are fully satisfied."

What, then, is the difficulty? It is not in the system of specific taxation, because on all hands it is admitted that is the best system. The difficulty is this: that in 1855 we imposed, as the gentleman from Massachusetts has well

said, too high a duty. I am opposed to the rate of ten dollars a thousand, because the poorer classes of tobacco and the smaller class of manufacturers would then have to pay too much. But, if we impose five dollars a thousand, which is only half a cent on a cigar, surely that is not too much; and it makes the tax specific, and avoids those avenues to fraud which are opened by the other system. I hope the sense of the House will come to that result.

Mr. HOGAN. Will the gentleman from Pennsylvania allow me to ask him a question? Mr. MYERS. Yes, sir.

Mr. HOGAN. Is there no difference between a cigar costing fifty dollars a thousand and one made for and used by the masses of the laboring people of this country costing five dollars a thousand?

Mr. MYERS. I represent a district having in it that smaller class of manufacturers who have been referred to. There is a difference; seldom so great except where the foreign leaf is used; but when the difference comes close upon the lower amount named by the committee in this bill, eight dollars—as for example cigars worth twelve dollars a thousand—there is a temptation to the inspector, the assessor, and the manufacturer to put that class of cigar at the lower valuation of eight dollars, which pays a tax of but two dollars under the proposed law.

Mr. SCHENCK. I wish to ask a question of the gentleman in simple arithmetic: what is the percentage of a five-dollar tax upon a fifty-dollar cigar? Is it not ten per cent.?

Mr. MYERS. I believe it is.

Mr. SCHENCK. Well, five dollars upon a five-dollar cigar would be one hundred per cent.

Mr. MYERS. That is easy enough to answer. But the fact is, we have derived as much revenue in 1865 from this source as in 1866, and the Commissioner says we ought to return to the specific system. That done, we can collect as much from a lower and less onerous tax.

The CHAIRMAN. The time for the debate on the pending amendment is now exhausted.

Mr. RANDALL, of Pennsylvania. I wish to say a few words while the gentleman are preparing their amendments. I do not profess to know much about the manufacture of cigars—

The CHAIRMAN. The debate is not in order. The gentleman from Illinois [Mr. INGERSOLL] moves to amend the proposed amendment as follows, by adding thereto the words:

And that it shall be the duty of all inspectors of cigars at the time of inspection to brand upon each box inspected the tax to be paid thereon.

Mr. INGERSOLL. I withdraw the amendment, that it may be renewed by the gentleman from New York.

Mr. DAVIS. I renew the amendment. It appears to me there is one point in this discussion which has been overlooked. The cigars that are made of American tobacco are generally not of the first quality. They are not of the kind which command forty, fifty, or sixty dollars a thousand in the market. And, therefore, if we shall protect the manufacturer by a tariff on tobacco, which is imported into this country from abroad, we shall obtain a duty which will enable us to realize from this tax on cigars all we ought without doing injustice to any of those engaged in the manufacture. Now, I believe I understand something about the character of the tobacco which is raised in different parts of the country, for I have been rather an inveterate smoker for some thirty years. I have smoked cigars all over the land, and on the banks of the Ohio I have used cigars made from that kind of tobacco which claims the protection of my friend from the third district of that State, [Mr. SCHENCK;] and I believe that is a kind of tobacco that never will produce a cigar for which a gentleman will desire to pay any very considerable price. But if gentlemen are anxious to smoke cigars of that character they can afford to pay a tax of one cent on a cigar, which will make very little difference to the

price. Now, sir, by pursuing the course I have indicated, of taxing the tobacco brought into this country to be manufactured, we can equalize this whole system—we get all the revenue we ought to receive, and nobody who is engaged in the manufacture of tobacco of any quality is injured. I therefore believe, looking to the facility of collecting the tax, that the rate of five dollars a thousand on all classes of cigars will produce more revenue to the Government, along with a tax on foreign importations, and that it will prevent vast frauds on the country, for we know that fraud is incident to any *ad valorem* system, and especially to that which is proposed to be established by this bill. I think we should adhere to the system of specific duties just as far as we may, and I believe this plan will give us more revenue than any other which can be adopted.

Mr. RANDALL, of Pennsylvania. As I said a moment ago, I do not pretend to know anything about the manufacture of cigars of my own personal knowledge. I have, therefore, made careful inquiry of those who do, and the result of that investigation has brought me to this conclusion: that the proposition of the committee is the proper one for the House to adopt. There should be a discrimination, in my judgment, from all I have been able to learn, between high-priced and low-priced cigars. That discrimination being necessary, I think that Congress should not put so enormous a tax as five dollars upon a low-priced cigar, but that, if possible, the bulk of the revenue should be raised from a tax of eight dollars on the highest-priced cigars. I think that if that system is continued, and the committee's course is approved, the revenue derived by the Government from this source will be increased.

Moreover, I would say that you cannot in any way provide entirely against fraud. Rascals will break one law as well as another. And if we are going to discriminate at all, it is much better we should discriminate in favor of poor cigars, because it is the poor who smoke them, and poor manufacturers make their livelihood by them; while, on the other hand, by putting a heavy tax on a poor cigar you inflict a great hardship on the poor manufacturers.

Mr. McRUER. I move that the committee rise, for the purpose of closing debate.

The motion was disagreed to.

The CHAIRMAN. Does the gentleman from New York withdraw the amendment?

Mr. DAVIS. I do.

Mr. EGGLESTON. I renew it. The cigar manufacturers of the city of Cincinnati, every one of them I believe, have petitioned this Congress in favor of a uniform rate of taxation on manufactured cigars; and I beg to say that the argument of my distinguished colleague from the third district [Mr. SCHENCK] does not apply to the manufacturer. I know that the cigar-making interest in the first district of Ohio paid to this Government last year \$126,000, being the second district in the United States in point of yielding revenue from that source. They paid that amount for the manufacture of cigars, and they are now in a state of prostration. And the reasons are these: the sharpers in the city of New York have so managed that they cheat the Government by manufacturing cigars without paying any tax.

But I do not care how you arrange the law; I do not care how many guards you place about it, they will thwart your design and bring about such a consternation in New York as will enable them to monopolize the trade, and that will injure the operations of the cigar-makers in the West.

And the only secure means of protection is to give us a uniform rate of taxation upon cigars. If you will put all cigars under a tax of ten dollars per thousand we can all bear it; only let it be uniform. If it is not exactly right we can amend it by and by; but give us a uniform rate now, and to that extent you will be right.

Now, I hope that members will look at this

subject as they ought. I have no interest in the matter only to protect the Government and the manufacturer of the cigars. The manufacturer will purchase his tobacco where he can buy the best article and buy it the cheapest. What is the tax of a half cent on a cigar? Gentlemen say such a tax is oppressive to the poor man. Who is it that expects to get a cigar at less than five cents? And will any one object to paying a half cent tax upon a cigar? That is all stuff. Give us a uniform rate, and the poor man and all will be protected.

Mr. WASHBURN, of Massachusetts. I have but few remarks to make upon this question. The gentleman from New York [Mr. DAVIS] has intimated that he has examined this question thoroughly, and therefore he is one of the few members of the House who feel that they are thoroughly acquainted with it.

Now, one thing is certain: when the gentleman from Ohio [Mr. SCHENCK] says that we have tried the plan of specific duties and have given it up because it is a failure, members should bear in mind that those who were charged with the execution of the law, and had the collecting of the tax upon cigars, have ever told us that so far as the revenue to the Government was concerned there should be a specific tax if we desire to promote the interest of the Government in that regard, and they have all told us that if we resorted to the *ad valorem* system of taxation the interest of the Government ever would suffer, as it ever has suffered, under such a system.

Now, I appeal to members upon the Committee of Ways and Means, who say they understand this subject so thoroughly, to look at the statistics given us by the Commissioner of Internal Revenue, who shows that a specific tax is best for the interest of the Government. If the rate proposed is not high enough then put it higher.

The gentleman from Ohio [Mr. SCHENCK] says that in the Connecticut valley tobacco is raised which is worth twice as much as the tobacco which is raised in the West. Admit it; but you cannot make cigars out of the tobacco alone that is raised in the Connecticut valley; that tobacco alone will not make cigars that are worth the selling. But that tobacco is sent to New York; and the constituents of the gentleman from Ohio raise tobacco which is also sent to New York, and the two are used together for the purpose of making cigars. But the Connecticut seed-leaf tobacco alone is not fit for cigars; it is used entirely for the wrappers.

But the gentleman asks, if you have a specific tax, do not the high-priced cigars pay just the same tax that is paid by the low-priced cigars? Not at all, you have a tariff duty of fifty cents per pound upon all tobacco which is imported. Any person who has examined the subject knows that the best cigars cannot be made altogether out of American tobacco. The importer pays a duty of fifty cents per pound upon tobacco; it takes twenty-four pounds of tobacco to make a thousand cigars. He therefore pays into the Treasury twelve dollars per thousand upon his cigars to begin with; and that is paid in gold, which at the present rate is equal to some sixteen dollars in currency. That tobacco is then manufactured into cigars, and an additional and specific duty of five dollars per thousand is paid to the Government. Thus it will be seen that a thousand of the best cigars yield a revenue to the Government of over twenty dollars per thousand. Let your specific tax then be five dollars per thousand, and your cheap cigars, made altogether of American tobacco, will pay a duty of five dollars per thousand, while your best cigars will pay to the Government over twenty dollars per thousand. It is not correct, then, that the manufacturer of the best cigars, under a specific tax, pays the same revenue to the Government that is paid by the manufacturer of the cheaper cigars. The Connecticut seed-leaf tobacco is used only for wrappers; and for the fillings of our best cigars foreign tobacco is imported,

upon which is paid a tariff of fifty cents per pound, of which it takes twenty-four pounds to make a thousand cigars.

Mr. CLARKE, of Ohio. I move as an amendment to the amendment the following:

Strike out the whole paragraph and insert in lieu thereof the following:

On cigarettes, cigars, and cheroots of all descriptions, made of tobacco or any substitute therefor, the market value of which, excluding the tax, is not over five dollars per thousand, a tax of two dollars per thousand; and when the value thereof, excluding the tax, shall exceed five dollars per thousand, a tax of five dollars per thousand, and an *ad valorem* tax of ten per cent. upon the value thereof above five dollars per thousand.

The CHAIRMAN. As this amendment is to strike out the whole paragraph and insert a substitute, it will not be in order till the pending amendments are disposed of.

Mr. CLARKE, of Ohio. Well, for my present purpose, I will, in order to explain my views on this question, move a *pro forma* amendment to the amendment, to strike out the last word.

Mr. Chairman, I hold it is not a sound principle to adopt any law which we acknowledge to be bad because it may be difficult to enforce another law which we admit to be better.

In reference to this matter of taxation we ought to assess the tax fairly and justly, and then provide the most efficient means within our power for enforcing the collection of this tax. There is no fairness in imposing a tax of five or ten dollars per thousand on cigars worth only three or four dollars per thousand, and then imposing on the higher-priced cigars, worth thirty, forty, or fifty dollars per thousand, a tax the same as or very little larger than that levied upon the low-priced article. By such a system you throw money into the rich man's hands and take it out of the pockets of the poor. Many families in the country occupy themselves during the winter in the manufacture of cigars from tobacco which they raise themselves; and the cigars which they make are worth perhaps less than five dollars. To require that on these cigars the same tax shall be paid as on city-manufactured cigars worth ten or fifteen cents a piece is outrageous.

The amendment which I propose to offer will make our taxes operate with something like equality. The low-priced cigars will pay a comparatively low tax, while the more costly cigars will pay a higher tax. This is the principle by which our tariffs have always been regulated. The eastern manufacturer is not protected by as high a duty on coarse articles as upon finer fabrics. The tariff is regulated according to the price of the article; and the same principle has been embodied heretofore in our revenue laws.

The mere fact that it is difficult to enforce a particular kind of legislation is a very insufficient argument for rejecting a good law and adopting a bad one. I trust that my amendment, when we shall have an opportunity to vote upon it, will be adopted.

Mr. DAWES. I rise to oppose the amendment of the gentleman from Ohio, [Mr. CLARKE;] and I would inquire how we can benefit the manufacturers of the low-priced cigars by adopting a system under which the manufacturers of the high-priced cigars may be able fraudulently to bring their cigars into the market at the lowest tax? All experience has shown that under this *ad valorem* system the manufacturer of high-priced cigars can cause his cigars to be undervalued so as to get them taxed at the lowest rate. Nothing can be so fatal to the manufacturer of low-priced cigars as such a system. As has been already remarked by other gentlemen, the honest manufacturers of cigars, the men who intend to conform to the law, ask to have a uniform system under which everybody is obliged to pay one tax.

As has been shown by my colleague [Mr. WASHBURN, of Massachusetts,] the high-priced cigars made of foreign tobacco are compelled to pay the tariff duty in addition to the tax; hence there is no soundness in the argument that these cigars will have an advantage under

a uniform specific tax. Under such a system the manufacturer of the low-priced cigar or the raiser of tobacco from which such cigars are manufactured will have no reason to complain. Cigars of that quality will find their market among those who desire to use them, and the manufacturers will prosper unless they are crushed by the competition of those who evade the tax. It is strange to me that men here should expect to benefit their constituents by adopting a system which all experience shows is best calculated to serve the purposes of men who seek to evade the law and pay no tax whatever.

Now, it seems to me these men of all others, as the gentleman from the Cincinnati district [Mr. EGLESTON] has well said, should be in favor of the specific uniform tax as the only one that cannot be evaded.

Mr. CLARKE, of Ohio. I wish to ask the gentleman whether he desires to have a specific tax upon cigars merely for the purpose of a tax for revenue?

Mr. DAWES. I do not wish to make the manufacturer of cheap cigars pay more than he ought to, and to let the maker of high-price cigars escape. I want the House to adopt a method that will obtain from every one who makes cigars revenue for the Government.

Mr. HOOPER, of Massachusetts. I move that the committee rise for the purpose of closing debate on the pending paragraph.

The motion was agreed to.

The committee accordingly rose; and Mr. DAWES having taken the chair as Speaker *pro tempore*, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 1161, to amend existing laws relating to internal revenue, and had come to no resolution thereon.

#### CLOSING DEBATE.

Mr. HOOPER, of Massachusetts. Pending a motion to go into committee, I move that all debate on the pending paragraph of the tax bill in the Committee of the Whole on the state of the Union be closed in five minutes after its consideration shall be resumed.

The motion was agreed to.

#### TAX BILL.

Mr. HOOPER, of Massachusetts. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and resumed the consideration of the special order, being House bill No. 1161, to amend existing laws relating to internal revenue.

The CHAIRMAN stated that debate on the pending paragraph, by order of the House, was closed in five minutes.

Mr. HOOPER, of Massachusetts. I yield the five minutes allowed for debate to the gentleman from Ohio.

Mr. SCHENCK. Mr. Chairman, at the proper time I intend to offer the following amendment:

Strike out of the bill from the ninety-second to the ninety-seventh line, inclusive, and insert as follows:

In the third paragraph, relating to cheroots, cigarettes, and cigars, insert between the words "twenty per cent. *ad valorem* on" and the words "the market value thereof" these words, "the excess over twelve dollars of."

The object is to leave the law we passed at the last session just as it is, with the exception of amending it to make it what it was intended to be, that is: the higher rate with the addition of twenty per cent. *ad valorem* shall not be put on the whole value of the cigar, but only on the excess over twelve dollars. That was what the House passed at the last session, except they made it forty per cent. *ad valorem*, and the Senate cut it down to twenty per cent. *ad valorem* on the excess over twelve dollars.

What is the history of this matter? Gentle-

men seem not exactly to have remembered it. The original tax upon cigars was by classification, making them into some three or four classes. That was found to result in a great deal of fraud to the revenue. Then they resorted to a dead-level tax of ten dollars. That crushed out the larger proportion of the tobacco interest in the country. Last year we went back to the classification system again, and because people did not enjoy wealth and recover from the injury they had sustained by reason of the previous tax within a month or a few weeks they manifested discontent.

The present law has never yet been fairly tried. What was the difficulty with that classification? Why did it not produce revenue? On certain cigars the manufacturers made a sham sale all over the country. They avowed it. They made a sham sale in this wise: they sold the cigars at prime cost to their journeymen, and then bought them back from the journeymen, and entered that as the market value, and paid tax accordingly. It was done all over the country. It became necessary to stop it; and when we came back to the classification of cigars we introduced certain amendments to prevent those sham transactions from being continued. If you will but persevere in the law as this House passed it, making an *ad valorem* tax only upon the excess above twelve dollars, you will try the experiment fairly that we sought to try then. I think it will be well to wait a year, or some months at least, and see if it will not work well. We have tried both, and they have failed.

The CHAIRMAN. Debate is exhausted on the pending paragraph, and the question will be now taken on the amendment.

Mr. INGERSOLL. I withdraw my amendment.

The question recurred on the amendment of Mr. HOOPER, of Massachusetts, to strike out the words "when exceeding eight dollars per thousand in market value, including a tax of eight dollars per thousand," and insert in lieu thereof the following:

On cigarettes, cigars, and cheroots, of all descriptions, made of tobacco or any substitute therefor exceeding eight dollars per thousand in market value, including the tax, a tax of eight dollars per thousand.

The amendment was agreed to.

The next question was on the amendment offered by Mr. MYERS to strike out that part of the paragraph just amended and insert in lieu thereof the following:

On all cigarettes, cigars, and cheroots of all descriptions made of tobacco, or any substitute therefor, five dollars per thousand.

On agreeing to the above amendment, there were—ayes 39, noes 38; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. HOOPER, of Massachusetts, and MYERS.

The committee divided; and there appeared to be a majority in favor of the amendment; but there was no quorum voting.

Mr. DAWES. I suggest that the vote be taken in the House, as there is evidently not a quorum present, and it seems to be the sense of the House that there should be a uniform tax. I suggest that the Committee of Ways and Means yield and allow the amendment to be adopted without a quorum, and have a vote on it in the House.

Mr. SCHENCK. I object, unless it is understood that we can have a vote on other amendments in the same way. I have some amendments.

Mr. THAYER. I object to debate.

Mr. PRICE. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker *pro tempore* having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union, having had under consideration the state of the Union generally, and particularly the special order, being House bill No. 1161, had come to no resolution thereon.



## LEAVE OF ABSENCE.

Mr. JENCKES asked and obtained leave of absence for one week.

And then, on motion of Mr. DEFREES, (at ten o'clock p. m.,) the House adjourned.

## PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. HUBBARD, of Connecticut: The petition of the Gilbert Manufacturing Company, and others, of Winsted, Connecticut, praying for a removal of the five per cent tax imposed on manufacturers.

By Mr. O'NEILL: Petitions signed by over 100 prominent merchants, underwriters, ship-masters, and pilots of the city of Philadelphia, praying that a permanent light-house may be placed on Cross-ledge shoals, as the light-boat is removed from that place during the winter season, rendering navigation exceedingly hazardous; that the ice harbor at Reedy Island be extended for the accommodation of the larger class of vessels now trading at Philadelphia, and that the piers there be repaired; also, that another harbor for winter protection be made at Liston's Point, in the Delaware bay.

Also, the petition of Dr. George B. Wood and John H. Packard, officers of the College of Physicians of Philadelphia, asking that the importation of books, maps, &c., for libraries, colleges, and other literary institutions be continued free of duty.

By Mr. PAINE: The memorial of the Board of Trade of Racine, Wisconsin, in favor of an extension of the piers and the improvement of the harbor at Racine.

Also, the petition of Lieutenant Michael Mangan, company E, sixth Wisconsin infantry, for pay, &c. Also, resolutions of Wool-Growers Association of Wisconsin, in favor of tariff on imported wool.

By Mr. WILSON, of Iowa: The remonstrance of citizens of Keokuk, Iowa, against legislation depreciating or unsettling the established national currency.

By Mr. WARD, of New York: The petition of citizens of Hammondsport, New York, asking for the impeachment of the President.

By Mr. WOODBRIDGE: The petition of paymaster's clerks of United States Army on duty at New York city, for increased compensation.

## HOUSE OF REPRESENTATIVES.

SATURDAY, February 16, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Clerk proceeded to read the Journal of yesterday, but before concluding, on motion of Mr. STEVENS, the further reading was dispensed with.

## CIVIL APPROPRIATION BILL.

Mr. STEVENS, from the Committee of Ways and Means, reported a bill making appropriations for sundry civil expenses of the Government for the year ending June 30, 1868, and for other purposes; which was read a first and second time, made the special order for Tuesday next after the morning hour, and from day to day until disposed of, and ordered to be printed.

## INVALID PENSION APPROPRIATION BILL.

Mr. STEVENS: I beg leave to report back from the Committee of Ways and Means the Senate amendments to House bill No. 903, making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1868, with a recommendation that the House concur in the same.

The amendments were concurred in.

Mr. STEVENS moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## SUFFRAGE IN THE DISTRICT.

Mr. MORRIS, by unanimous consent, submitted concurrent resolutions of the State of New York, heartily approving the action of Congress in passing the suffrage bill for the District of Columbia over the President's veto; which were laid on the table, and ordered to be printed.

## PERSONAL EXPLANATION.

Mr. STEVENS. I ask consent to make a word of personal explanation.

Mr. DAWSON. I object.

## CORRUPT COMBINATIONS OF MEMBERS.

Mr. WENTWORTH. Mr. Speaker, I rise to a question of privilege, involving, as I be-

lieve, the honor, purity, and independence of this House. Should the Speaker concur with me, that it is a question of privilege which I shall present in the form of a preamble and resolution, at this late hour of the session I will make no remarks, but simply ask the Clerk to read what I have sent to his desk. When he has done so, I shall call the previous question.

The Clerk read as follows:

Whereas the President of the United States has been impeached by a member of this House of high crimes and misdemeanors, and the Committee upon the Judiciary have been instructed to examine into the facts upon which said impeachment was based, with power to send for persons and papers, and report them to this House in order, if thought warrantable, that the President may be arraigned for trial thereon by the Senate; and whereas while the Committee on the Judiciary are examining witnesses with relation to said high crimes and misdemeanors of which the President has been impeached, with a view of making a report to this House for its disinterested action, it has for some time been rumored and has at last been asserted in public newspapers, that certain members of this House who are bound to act impartially upon the report of said committee when presented, are now holding, and have been for some time holding, private meetings with a view to a corrupt bargain, whereby, in violation of their oaths, they have pledged and are pledging themselves in advance to act adversely to said report if unfavorable to the President, and also to act adversely to certain other measures pending before this House to which they have heretofore been favorable, provided the President himself will do certain things to which he has heretofore declared himself hostile, and refrain from doing certain things to which he has heretofore declared himself favorable: Therefore,

Resolved, That the Committee on the Judiciary be instructed to inquire whether any such meetings have been held for any such corrupt purposes, what members of this House have attended the same, what persons besides members of Congress have attended them, what persons have carried communications from those members to the President, and from the President to them, and what has been the nature of such communications; and also, that said committee report at the earliest practicable day the result of their inquiries, and that they also report such resolutions for the action of the House as they may deem necessary for the preservation of its honor and independence.

Mr. ELDRIDGE. I would inquire of the Chair how this resolution came before the House?

The SPEAKER. The gentleman from Illinois [Mr. WENTWORTH] presents it as a question of privilege. The Chair will rule upon the question.

Mr. ELDRIDGE. I ask the gentleman to allow me to move an amendment.

The SPEAKER. The Chair will first rule whether this involves a question of privilege.

Mr. WENTWORTH. The Chair will notice that the charge involved is that of "corrupt combinations" on the part of certain members of this House.

The SPEAKER. The Chair will first rule upon the question of privilege. The Chair rules that this is unquestionably a question of privilege. The resolution states that it is rumored that certain members of this House have been guilty of corrupt bargaining, acting in violation of their oaths, and that they have changed their views from corrupt motives. Although the resolution states that "it is rumored," still when a member rises in his seat and states that it is so rumored, and introduces a resolution for an inquiry into the facts introduced, he of course makes himself the responsible author of the charge. The Chair, therefore, decides that it is a question of privilege.

Mr. WENTWORTH. I call the previous question.

Mr. ELDRIDGE. Will the gentleman yield to me for a moment?

Mr. WENTWORTH. I cannot yield; it is too late in the session for debate.

Mr. ELDRIDGE. I do not desire to debate; I merely want to move an amendment so as to include any members on the other side who may have held meetings and made corrupt bargains for the purpose of bringing about the impeachment of the President. [Loud cries of "Order!" "Order!"]

The SPEAKER. No debate is in order pending the call for the previous question.

The question was taken upon seconding the previous question; and upon a division there were—ayes 44, noes 21; no quorum voting.

Tellers were ordered; and Mr. WENTWORTH and Mr. ELDRIDGE were appointed.

The House again divided; and the tellers reported that there were—ayes seventy-five, noes not counted.

So the previous question was seconded.

The question was upon ordering the main question to be now put.

Mr. HILL. I move to lay the preamble and resolution on the table.

Mr. WENTWORTH. Upon that motion I call for the yeas and nays.

Mr. MAYNARD. I would ask the gentleman from Illinois [Mr. WENTWORTH] if he repudiates the principle that—

"While the lamp holds out to burn  
The vilest sinner may return?"

[Laughter.]

Mr. HILL. For the purpose of saving time, as the motion to lay on the table may not prevail, I will withdraw the motion to lay on the table, and allow the vote to be taken directly on the adoption of the preamble and resolution.

The question recurred, "Shall the main question be now put?"

Mr. ANCONA. I call for the yeas and nays. The yeas and nays were not ordered.

The main question was ordered; which was upon agreeing to the resolution.

Mr. ANCONA. I call for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 80, nays 40, not voting 70; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnell, Baxter, Benjamin, Blaine, Blow, Broomall, Buckland, Bundy, Chandler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Davis, Dawes, Delano, Deming, Dodge, Donnelly, Dumont, Eggleston, Eliot, Grinnell, Abner C. Harding, Hart, Hayes, Higby, Holmes, John H. Hubbard, Ingersoll, Julian, Kelley, Lathin, Latham, George V. Lawrence, William Lawrence, Longyear, Lynch, Marston, McClurg, McKee, Mercer, Miller, Moulton, Newell, O'Neill, Orth, Paine, Perham, Plants, Price, William H. Randall, John H. Rice, Rollins, Sawyer, Seefeldt, Shanklin, Shellabarger, Sloan, Spalding, Stevens, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, and Windom—80.

NAYS—Messrs. Ancona, Delos R. Ashley, Baker, Baldwin, Bergen, Bidwell, Boutwell, Campbell, Cooper, Dawson, Defrees, Eldridge, Farquhar, Finck, Glossbrenner, Goodyear, Griswold, Aaron Harding, Hawkins, Henderson, Hill, Hise, Edwin N. Hubbell, Humphrey, Jenckes, Kerr, Maynard, McIndoe, Mo-Ruer, Nickols, Nicholson, Noel, Samuel J. Randall, Ritter, Sitgroves, Stokes, Taber, Nathaniel G. Taylor, Andrew H. Ward, and Winfield—40.

NOT VOTING—Messrs. James M. Ashley, Banks, Barker, Beaman, Bingham, Boyer, Brandegee, Brownell, Calkins, Culberson, Culver, Darling, Denison, Dixon, Driggs, Eckley, Farnsworth, Ferry, Garfield, Hale, Harris, Hogan, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, James R. Hubbell, Hubard Hunter, Jones, Kasson, Kelso, Ketchum, Koontz, Kuykendall, Le Blond, Lettowich, Loan, Marshall, Marvin, McCullough, Moorhead, Morrill, Morris, Myers, Patterson, Phelps, Pike, Pomeroy, Radford, Raymond, Alexander H. Rice, Rogers, Ross, Rousseau, Schenck, Starr, Stillwell, Strouse, Nelson Taylor, Francis Thomas, Thornton, Trimble, Elihu B. Washburne, Henry D. Washburn, Whaley, Williams, Woodbridge, and Wright—70.

So the resolution was adopted.

Mr. LE BLOND, who was not present during the roll-call, stated that had he been present he would have voted in the negative.

Mr. WENTWORTH. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

Mr. WILSON, of Iowa. I appeal to the gentleman to hear a suggestion before the question is taken on laying on the table the motion to reconsider.

Mr. WENTWORTH. In consequence of the pressure of business—the tariff bill, the internal revenue bill, &c.—I have pledged myself to members around me to consume as little time as possible with this question. There remain only three days of the session this side of the President's veto.

Mr. WILSON, of Iowa. Then I will address an inquiry to the Chair. If the motion to reconsider should not be laid on the table, but adopted, will it not be in order to amend the resolution so as to provide for an inquiry

by a select committee instead of the Judiciary Committee?

The SPEAKER. That would be in order.

Mr. WENTWORTH. The Judiciary Committee have charge of this whole subject.

Mr. WILSON, of Iowa. We have no charge of this subject, and it would be impossible for us to attend to it. I hope that the motion to reconsider will not be laid on the table. Let us have a select committee, with the gentleman from Illinois [Mr. WENTWORTH] as chairman.

On the motion to lay on the table the motion to reconsider, there were—ayes 80, noes 50; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. SPALDING, and Mr. WILSON of Iowa.

The House divided; and the tellers reported—ayes 29, noes 71.

So the motion to reconsider was not laid on the table.

The motion to reconsider was agreed to.

The question then recurred on the adoption of the resolution.

Mr. WILSON, of Iowa. I move to amend the resolution by striking out "the Committee on the Judiciary" and inserting "a select committee of three."

Mr. HILL and others. Say "one."

Mr. McRUER. I move to amend the amendment by striking out "three" and inserting "one."

Mr. WILSON, of Iowa. I demand the previous question.

Mr. FARQUHAR. I move that the resolution with the pending amendments be laid on the table.

The motion of Mr. FARQUHAR was not agreed to.

The previous question was seconded and the main question ordered.

On agreeing to Mr. McRUER's amendment to the amendment, there were—ayes 78, noes 80.

Mr. COBB. I call for the yeas and nays.

The yeas and yeas were ordered.

The question was taken; and it was decided in the negative—yeas 64, nays 69, not voting 57; as follows:

YEAS—Messrs. Ames, Ancona, Anderson, Baker, Baldwin, Benjamin, Bergen, Bidwell, Blow, Bundy, Cooper, Darling, Davis, Dawes, Dawson, Defrees, Deming, Donnelly, Dumont, Finck, Glossbrenner, Goodyear, Hawkins, Hayes, Henderson, Hill, Hise, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hunter, Ingersoll, Jenckes, Ketcham, Laffin, Latham, George V. Lawrence, Marshall, Maynard, McIndoe, McKee, McRuer, Nicholson, Noell, Pike, Samuel J. Randall, John H. Rice, Ross, Rousseau, Shanklin, Sittes, Spaulding, Stilwell, Nathaniel G. Taylor, Nelson Taylor, Thayer, Thornton, Robert T. Van Horn, Andrew H. Ward, Warner, William B. Washburn, Williams, Windom, and Winfield—64.

NAYS—Messrs. Alley, Allison, Arnell, James M. Ashley, Barker, Baxter, Beaman, Bingham, Blaine, Boutwell, Bromell, Broomall, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Eggleston, Eldridge, Eliot, Farquhar, Ferry, Grinnell, Aaron Harding, Abner C. Harding, Hart, Higby, Holmes, John H. Hubbard, Humphrey, Julian, Kelley, William Lawrence, Longyear, Lynch, Marston, McClurg, Merour, Miller, Moulton, Myers, Newell, Niblack O'Neill, Orth, Paine, Porham, Plants, Price, William H. Randall, Ritter, Sawyer, Scofield, Shellabarger, Sloan, Stokes, Strouse, Francis Thomas, John L. Thomas, Hamilton Ward, Welker, Wentworth, James F. Wilson, Stephen F. Wilson, and Woodbridge—69.

NOT VOTING—Messrs. Delos R. Ashley, Banks, Boyer, Brandegee, Buckland, Campbell, Conkling, Cullom, Culver, Delano, Denison, Dixon, Dodge, Driggs, Eckley, Farnsworth, Garfield, Griswold, Hale, Harris, Hogan, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Hulburd, Jones, Kasson, Kelso, Kerr, Koontz, Kuykendall, Le Blond, Leftwich, Loan, Marvin, McCullough, Moorhead, Morrill, Morris, Patterson, Phelps, Rogers, Rollins, Raymond, Alexander H. Rice, Rogers, Rollins, Schenck, Starr, Stevens, Taber, Trimble, Elihu B. Washburne, Henry D. Washburn, Whaley, and Wright—57.

So Mr. McRUER's amendment to the amendment was rejected.

During the vote,

Mr. SCOFIELD stated that his colleague, Mr. KOONTZ, was confined to his room by illness.

The vote was then announced as above recorded.

The question then recurred on the amendment of Mr. WILSON, of Iowa, and it was agreed to.

The preamble and resolution as amended were adopted.

Mr. WILSON, of Iowa. I desire to say that in moving the amendment I did not intend to have myself put upon this special committee, but for the purpose of relieving my committee and myself from this additional labor.

Mr. WENTWORTH. I move that the committee have power to send for persons and papers.

The motion was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER subsequently announced the appointment of Messrs. WENTWORTH, WARD of New York, and GLOSSBRENNER to constitute the select committee.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. SCHENCK, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of H. C. Dave, relative to prize money for officers and men of the Signal corps on Admiral Farragut's fleet; and also the papers in the case of J. Thomas Turner.

#### E. BROWN.

On motion of Mr. SCHENCK, by unanimous consent, the Committee of Claims was discharged from the further consideration of the papers in the case of E. Brown, and leave was also granted for their withdrawal from the files of the House.

#### REPORT ON MINING STATISTICS.

Mr. SCOFIELD, by unanimous consent, submitted the following resolution; which was read, and under the law referred to the joint Committee on Printing:

*Resolved*, That five thousand copies of the letter of the Secretary of the Treasury of February 13, 1867, transmitting a report by James W. Taylor, special commissioner for the collection of mining statistics east of the Rocky mountains, be printed for the use of the House.

#### CHARLES PITCHER.

Mr. COOK, by unanimous consent, introduced a bill for the relief of Charles Pitcher; which was read a first and second time, and referred to the Committee of Claims.

#### SYMPATHY FOR THE GREEKS.

Mr. TAYLOR, of New York, by unanimous consent, presented joint resolutions of the State of New York, expressive of sympathy for the Greeks, now struggling for freedom; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

#### GRANT OF LANDS FOR CALIFORNIA CANAL.

Mr. McRUER, by unanimous consent, from the Committee on Public Lands, reported back House bill No. 906, granting lands to aid in the construction of a canal in the State of California; which was ordered to be printed, and recommitted.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CONGRESSIONAL GLOBE.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Clerk of the House be directed to furnish to the publishers of the Globe at each session of Congress a list of the members of the House of Representatives, with their post office address, and the number of the seats occupied by the same.

#### EVENING SESSION FOR DEBATE.

Mr. STEVENS. I move that there be an evening session this evening for debate only in Committee of the Whole on the state of the Union, as several gentlemen desire to speak who have been crowded out by the pressure of business.

The motion was agreed to.

#### ENROLLED BILL AND JOINT RESOLUTIONS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 506) to authorize the trustees of the Foundry (Methodist Episcopal) church to sell and convey square No. 235, in the city of Washington;

Joint resolution (S. R. No. 163) to provide in certain cases for the removal of alcohol from bonded warehouses free from internal tax; and

Joint resolution (S. R. No. 99) for the relief of Paul S. Forbes, under his contract with the Navy Department for building and furnishing the steam screw sloop-of-war Idaho.

#### CONTRACTS FOR WAR VESSELS.

The SPEAKER stated the first business in order in the morning hour was the consideration of Senate bill No. 220, for the relief of certain contractors for the construction of vessels-of-war and steam machinery, Mr. SLOAN being entitled to the floor.

Mr. DELANO. I ask my colleague on the Committee of Claims to yield to me.

Mr. SLOAN. Certainly.

Mr. DELANO. I ask the Clerk to read a resolution I send up.

The Clerk read as follows:

*Resolved*, That the Secretary of the Navy be requested to organize a board of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels-of-war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price and allowance for extra work, and report the same to the Senate at its next session. None but those that have given satisfaction to the Department to be considered.

Mr. DELANO. I want the House to understand that acting under this resolution a committee was appointed in the Senate to investigate these claims, and that that committee reported that the cost of the structures embraced in the resolution over and above the contract price was \$2,883,000. The committee went further, and recommended an allowance to the contractors of \$2,267,000, a duty not assigned to them by the resolution, as the House will observe by its terms. Acting under the report made by this committee, the Senate passed a resolution giving to these several contractors twelve per cent. on the contract price of their structures; which twelve per cent. amounted in the aggregate to \$1,267,000. I want the House to bear in mind that the report of the naval board undertook to give the entire cost of the vessels over and above the contract price, and went upon the basis that whether the contract was a profitable one or not the Government was bound to make it a profitable one, or was bound at least to pay all that it cost the contractors to build, without reference to whether they had acted judiciously or wisely in making the structures.

The Senate did not adopt this report of the naval board but took an arbitrary rate for damages of twelve per cent. on the amount of the contract price. Now, many of these contracts—fifteen of them for wooden double-enders—were let at a uniform price of \$75,000 each, and the contractors claimed as damages, some of them \$3,000, and some of them \$17,000 under the same contract and for the same work. The result was to give a uniform rate of increase to each of these contractors without reference to the actual amount that might be due, without reference to the question whether their losses were the result of fault on the part of the Government or themselves.

Upon this resolution of the Senate the committee have made a report which I desire the House to examine before it acts upon this important subject, embracing as it does a large sum of money. I find this morning on our tables a bill in the interest of the contractors. The proposition made by the committee is not in print, or was not, and has not been laid on our tables, nor has the report made by the committee been laid on our tables; but by

private enterprise, which seems to be in advance of the Government, the proposition of the contractors in competition with the report of the committee is before the House.

I do not propose this morning to go into the merits of this case. I suggest to the House that it should be possessed of the views of the committee and of the proposition that the committee have submitted to the House before it undertakes to act upon this case. I do not know by whose enterprise or by what authority this bill has been laid on the tables of members, which does not come from the committee. There is not before the House any proposition to take the place of the proposition of the committee. Certain amendments are read for information and ordered to be printed, but none have been offered to the House. I therefore move, if it is in accordance with the views of my colleague on the committee [Mr. SLOAN] who has this bill in charge, that it be deferred until next Friday. Then I understand it will be in order and will stand where it does now, and during the intermediate time the facts of the case as presented by the committee can be examined by members.

The SPEAKER. The Chair will state that if this bill is postponed until Friday next at the commencement of the morning hour, it will come up at that time unless there should be some business unfinished at the expiration of the morning hour, which will precede it, or unless it is interrupted by some privileged question.

Mr. DELANO. It will be in order, I understand, on Friday or Saturday either?

The SPEAKER. Unless it is interrupted by privileged motions.

Mr. INGERSOLL. Will the gentleman allow me to ask a question?

Mr. DELANO. I cannot, as I am holding the floor only by the indulgence of my colleague on the committee.

Mr. McKEE. I intended to make a report from the minority of the committee yesterday, but was cut off by the expiration of the morning hour. I ask my colleague on the committee to yield to me for that purpose now.

Mr. SLOAN. I yield for that purpose.

Mr. McKEE. I proposed an amendment yesterday, and I only wish to say, just at this point, that so far as the report of the Committee of Claims in regard to this case is concerned I fully concur in it. But I offered a substitute for the bill agreed upon by the majority of the committee, following out, as I think, the spirit of the report itself.

One word in regard to the motion proposed to be made by the chairman of the committee to postpone the consideration of this case. The case has been before the Committee of Claims since about the last of May, 1866, and if it is postponed now it will be readily seen that it will go over till the next Congress. Those men who are here as claimants before the Government, demanding what they consider to be their just rights, have been before the nation and before Congress now for three long years. If there is anything just in their claim it is time it was disposed of; if not, then let the House say so, and let them go home and attend to their other business.

Mr. SLOAN. I desire to say—

Mr. INGERSOLL. I rise to a question of order. I wish to make the inquiry of the Chair, as to the probability, in his opinion, of the House ever having it in its power to act upon this bill if it is postponed to-day?

The SPEAKER. That is not a question of order. But the Chair, in accordance with his uniform practice of stating to the House the effect of any given motion upon the public business, will state that if this bill is postponed until Friday next it will be reached at the commencement of the morning hour, unless the morning hour of to-day shall expire with some business pending unfinished. But it will be subject to interruptions by reports of committees of conference or motions to go into Committee of the Whole for the purpose of considering appropriation bills and other

privileged motions, which are very numerous near the close of the session.

Mr. INGERSOLL. Then postponing this bill means its death.

Mr. SPALDING. It ought to be its death.

Mr. INGERSOLL. I want the House to understand the effect of the motion.

Mr. SPALDING. The bill is one of no merit.

Mr. SLOAN. I concur in the proposition which has been made by the gentleman from Ohio, [Mr. DELANO.] to postpone the further consideration of this subject until next Friday; for the reason that the report of the committee, and the resolution which it reported as a substitute for the Senate bill, have but just been printed and laid upon our desks. There are very few if any of the members of this House who have seen either the report or the resolution reported as a substitute.

But we find that a bill printed by some one has been laid upon the desks of all the members of this House; we found it upon our desks when we came in this morning, and I find that the opinion prevails quite extensively around me that this printed bill which members find upon their desks is the bill reported by the committee. Now, I desire to say that that bill is not the one reported by the committee; its printing, so far as I know, was not ordered by the House. But it is a bill printed by some party outside of the House and laid upon the desks of members.

Hence it is proper that the members of this House should have an opportunity of reading the report of the committee and ascertaining the provisions of the substitute reported by the committee before they take action upon the subject. The only objection which can be made to that course, in order that this matter should be acted upon understandingly by the House, is made by the gentleman from Kentucky, [Mr. McKEE,] to wit: that the delay may jeopardize the hearing of the matter at this session. But after the explanations which the Speaker has made, that if this subject is postponed until next Friday it will come up in regular order immediately after the reading of the Journal or at the commencement of the morning hour, it can then be considered, and there will be ample time to dispose of it on Friday and Saturday.

Mr. WOODBRIDGE. Will the gentleman yield to me for a moment?

Mr. SLOAN. For a moment; yes, sir.

Mr. WOODBRIDGE. I sincerely hope the motion of my friend from Ohio [Mr. DELANO] will not prevail. I think if the members of the House understood the effect of that motion they would not vote for it. Here are certain gentlemen preferring a claim against the Government for vessels which in the early part of the war they furnished for the Navy of the United States.

Mr. SLOAN. I cannot yield for a discussion of the merits of this motion.

Mr. WOODBRIDGE. Will the gentleman yield to me a few moments by and by?

Mr. SLOAN. I will, if the motion to postpone shall not prevail. I desire to say that I am informed I was mistaken in saying that the substitute reported by the committee has been printed. I am told that it is not yet printed, or at all events it has not yet been distributed to members.

As this is an important subject, it seems to me that it is eminently proper that it should be postponed until next week, when we can consider it understandingly and dispose of it. I trust that motion will prevail. I call the previous question on the motion to postpone.

Mr. WOODBRIDGE. Will the gentleman yield to me for a moment?

Mr. UPSON. I must decline to yield to have this matter discussed at this time.

Mr. WOODBRIDGE. Then I hope the call for the previous question and the motion to postpone will be voted down.

Mr. SPALDING. I hope not.

On seconding the call for the previous question, there were—ayes 46, noes 38; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. WOODBRIDGE and DELANO.

The House divided; and the tellers reported—ayes 64, noes 50.

So the previous question was seconded.

The main question was ordered, which was on the motion of Mr. DELANO, to postpone the further consideration of the bill until Friday next at the commencement of the morning hour.

On the question there were—ayes 65, noes 50.

Mr. INGERSOLL called for the yeas and nays; and also called for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. INGERSOLL and SPALDING were appointed.

The House divided; and the tellers reported—ayes twenty-nine, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 67, not voting 46; as follows:

YEAS—Messrs. Alley, Ames, Ancona, Arnell, Baker, Beaman, Bidwell, Bingham, Boutwell, Brantledge, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Daves, Dawson, Delano, Donnelly, Eliot, Farquhar, Finch, Glossbrenner, Grinnell, Aaron Harding, Hawkins, Hise, Holmes, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulbard, Humphrey, Jenckes, Julian, Kelley, Kelso, Korr, Ketcham, Latham, William Lawrence, Leftwich, Loan, Lynch, Marshall, Maynard, McClurg, McIndoe, Mercer, Miller, Nicholson, O'Neill, Orth, Paine, Plants, Price, Samuel J. Randall, John H. Rice, Ritter, Rollins, Sawyer, Scofield, Shanklin, Sheilabarger, Sloan, Spalding, Stokes, Thayer, Thornton, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, and Windom—77.

NAYS—Messrs. Anderson, Delos R. Ashley, Barker, Baxter, Benjamin, Bergen, Blaine, Blow, Bundy, Campbell, Chanler, Cook, Cooper, Cullom, Darling, Davis, Deming, Dodge, Dumont, Eggleston, Ferry, Goodyear, Griswold, Abner G. Harding, Hart, Hayes, Henderson, Higby, Hill, Hogan, Edwin N. Hubbell, INGERSOLL, Kasson, Kuykendall, George V. Lawrence, Le Blond, Longyear, Marston, Marvin, McKee, McRuer, Morris, Moulton, Myers, Newell, Niblack, Noell, Perham, Pike, William H. Randall, Rogers, Rousseau, Schenck, Sitgreaves, Stillwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, John L. Thomas, Robert T. Van Horn, Andrew H. Ward, Whaley, Stephen F. Wilson, Winfield, Woodbridge, and Wright—67.

NOT VOTING—Messrs. Allison, James M. Ashley, Baldwin, Banks, Boyer, Brownell, Conkling, Culver, Deftrees, Denison, Dixon, Driggs, Eckley, Eldridge, Farnsworth, Garfield, Hale, Harris, Hooper, Hotchkiss, Asahel W. Hubbard, James R. Hubbell, Hunter, Jones, Koontz, Lafin, McCullough, Moorhead, Morrill, Patterson, Phelps, Pomeroy, Radford, Raymond, Alexander H. Rice, Ross, Starr, Stevens, Francis Thomas, Trimble, Trowbridge, Elisha B. Washburne, Henry D. Washburn, Wentworth, Williams, and James F. Wilson—46.

So the motion to postpone was agreed to.

During the roll call,

Mr. ASHLEY, of Ohio, said: I desire to announce that on this question I have paired with the gentleman from Iowa, [Mr. WILSON.] If present, he would vote against this claim, while I would vote for it.

The result of the vote was announced as above stated.

Mr. WARD, of New York, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER announced as the next business in order during the morning hour reports of a private nature from committees, beginning with the Committee on Commerce.

#### ASYLUM FOR THE DEAF AND DUMB.

Mr. JULIAN, from the Committee on Public Lands, reported back adversely a bill (H. R. No. 941) granting land to the Kansas Asylum for the Education of Deaf and Dumb Persons; and moved that the bill be laid on the table.

The motion was agreed to.

#### JAMES M. ENGLISH.

Mr. JULIAN, from the Committee on Public Lands, reported adversely upon the petition of James M. English, of English Center, Pennsylvania, praying Congress to grant him a warrant for a tract of land eighteen miles square in some of the valleys of the Rocky mountains,



to be selected by him; and the petition was laid on the table.

#### SWAMP LANDS IN ILLINOIS.

Mr. JULIAN also, from the Committee on Public Lands, reported adversely upon the petition of the board of supervisors of La Salle county, Illinois, praying for an amendment to the act approved September 28, 1850, entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits;" and the petition was laid on the table.

#### HOMESTEADS.

Mr. JULIAN also, from the Committee on Public Lands, reported adversely upon the petition of Simeon Jones and others, late officers of the United States Army and Navy, praying for an amendment of the act of June 21, 1866, concerning homesteads; and the petition was laid on the table.

#### FOX AND WISCONSIN RIVER IMPROVEMENT.

Mr. HOLMES. I am directed by the Committee on Public Lands to report back House joint resolution No. 219, extending the time for the completion of the improvement of the Fox and Wisconsin river with the recommendation that it do pass.

Mr. THAYER. I make the point of order that this is not a private matter.

Mr. SLOAN. I ask the gentleman to hear me a moment.

Mr. THAYER. I must decline to withdraw my objection. My committee has not had an opportunity to be called for many weeks.

Mr. SLOAN. We only desire action by our Legislature, and this resolution is for that purpose.

Mr. THAYER. I must decline to withdraw my objection. It is the only way, probably, in which I can reach my committee.

The SPEAKER. The joint resolution is not of a private nature and cannot be reported on this day.

#### LAND TITLE IN SANTA CLARA, CALIFORNIA.

Mr. McRUER, from the Committee on Public Lands, reported back a bill (H. R. No. 878) to quiet title to land in the town of Santa Clara, in the State of California, with a recommendation that it be passed.

The question being on ordering the bill to be engrossed and read the third time, it was reported at length.

The bill provides that all the right and title of the United States to the land situated within the corporate limits of the town of Santa Clara, in the State of California, as defined in the act of the Legislature of that State incorporating said town, be relinquished and granted to the corporate authorities of said town and their successors, in trust, for and with authority to convey so much of said land as is in the *bona fide* occupancy of parties upon the passage of this act, by themselves or tenants, to such parties. This grant is not to extend to any reservation of the United States, nor prejudice any valid adverse right or claim, if such exist, to the land or any part thereof, nor preclude a judicial examination and adjustment thereof.

Mr. McRUER. This is a bill of the same nature as a bill which passed at the last session in relation to Benicia and Santa Cruz. The report states briefly all the circumstances, and I hope it will be passed. I demand the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. McRUER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MILO D. CODDING.

Mr. TABER, from the same committee, reported adversely upon the petition of Milo D. Coddington; and the same was laid on the table.

#### CARRYING THE MAILS.

Mr. McRUER. I am directed by the Committee on the Post Office and Post Roads to report back House bill No. 620, to repeal the fourth section of an act approved March 25, 1864, and an act approved January 20, 1865, to provide for carrying the mails.

Mr. THAYER. I make the point this is a public bill.

The SPEAKER. It is a public bill, and cannot be reported on this day.

#### NEWSBOYS' HOME.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back House bill No. 1142, to amend the act entitled "An act to incorporate a 'Newsboys' Home,'" and also for the relief of abandoned children in the District of Columbia, with the recommendation that it do pass.

The first section of the bill provides that the name of the Newsboys' Home be changed to that of the "Newsboys' Home and Children's Aid Society" of the District of Columbia, and that the powers and duties of the president and board of managers be enlarged, so that they may receive such vagrant, indigent or abandoned minor children as may be committed to their custody as hereinafter provided for; also, at their discretion, they may receive from parents or others charged with the maintenance of minor children, whom said parents and other persons have not the means of maintaining, the children of such parents and children under the care of such other person as is hereinafter provided.

The second section provides that said association be fully empowered to provide and care for all such minor children in such manner as they may deem proper, so as best to secure their welfare, food, clothing, mental and moral training; and for this purpose they may provide homes in the families of competent persons anywhere within the United States, and convey such minor children to said homes, and execute, under the seal of said corporation, proper writings, securing to the heads of families or others so selected the control and management of said children for the period therein set forth, and which shall also secure to said children proper maintenance, care, and education. And said writings, so executed, shall secure to such persons the exclusive custody and care of such children, for the period named, against the claim and interference of all persons whomsoever.

The third section provides that upon complaint in writing, on oath, of any reliable person, all courts and magistrates of said District, authorized by law to issue process, are empowered to cause to be brought before them all destitute or abandoned minor children and the minor children of beggars or vagrants, and of all others who have not the means or who refuse to support and maintain such minor children, or abuse them, so that they can be shown to be destitute or abandoned, vagrant, or abused, to be dealt with as provided for in this act, for which purpose they may subpoena witnesses and hear the allegations of the parties in interest, and in proper cases made by the proof to commit such children to the custody and care of the Newsboys' Home and Children's Aid Society; and said commitment shall vest the exclusive control of such children in said association for the full period therein named, to the exclusion of all other persons whomsoever; and said courts and magistrates shall keep a proper record of all such cases, when for any causes the persons before them are committed to the Newsboys' Home and Children's Aid Society, showing the name, age, sex, and length of time of such commitment. And it is made the further duty of said courts and magistrates to report each year to the supreme court of the District of Columbia all such cases. It is also made the duty of the marshal, his deputies, and all police officers, constables, and bailiffs of the District of Columbia to execute all processes authorized by this act which shall come to

them severally. The supreme court of said District shall also prescribe the proper forms to be used by the courts, magistrates, and other officers of the District, to carry this act into execution and fix the time when the annual report shall be made, hereinafter provided for, and shall also establish a table of fees for the services required to be performed, which shall be paid as other costs in like cases in the District are now paid.

The fourth section provides that all persons in the District of Columbia, the parents of minor children, or charged with the maintenance of minor children, whom they are, for want of means, unable to maintain, may, upon making that to appear to the satisfaction of the president and board of managers of the Newsboys' Home and Children's Aid Society, by writing properly executed to said president and board, transfer to them the care and custody of such minor children for the full period of time for which persons stand charged with the maintenance of such minor children, and such written transfer shall vest the custody of such minor children in said Newsboys' Home and Children's Aid Society against all persons whomsoever; further, when so committed such parents or guardians shall have no power to interfere with such children, or disturb said society, or any person to whom said society may bind or otherwise dispose of said children, either in this District or elsewhere, and any interference with said children or other children committed to said society may be punished by the criminal court or justices of the peace in the United States by a fine not to exceed twenty dollars or imprisonment not to exceed thirty days; but any parent or guardian may apply to said criminal court or said justices of the peace in any complaint they may desire to make as to said society dealing with said children.

The fifth section provides that it shall be the duty of the president and board of managers of said association to keep a full and complete record of its doings and proceedings under this act, which shall at all proper times be accessible to all persons for information. They shall also, annually, report to the supreme court of said District the number of children received, indicating whether by regular commitment or voluntary transfer, with the name, age, sex, and disposition of the same, with a summary of the success and prosperity of said association. They shall also have power to establish proper and necessary by-laws for the transaction of business and the regulation of the affairs of the association, and to do all the necessary acts and things to accomplish the full objects of this aid.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### NICHOLSON PAVEMENT.

Mr. INGERSOLL, from the same committee, reported a bill to authorize the paving of a portion of Pennsylvania avenue and Fifteenth street west, with the "Nicholson pavement;" which was read a first and second time.

Objection being made that the bill made an appropriation, the bill was, under the rule, referred to the Committee of the Whole House on the Private Calendar.

#### NAVAL APPROPRIATION BILL.

Mr. STEVENS, from the Committee on Appropriations, reported a bill making appropriations for the naval service for the year ending the 30th of June, 1868; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for Wednesday next after the morning hour.

#### ALEXANDRIA CANAL, ETC.

Mr. INGERSOLL, by unanimous consent,

introduced a bill relating to the Alexandria canal, and also a bill establishing a hospital in the District of Columbia for sick and disabled colored people and others; which were severally read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

WILLIAM B. TODD.

Mr. MAYNARD, from the Committee for the District of Columbia, reported back House bill No. 1001, for the relief of William B. Todd, with an amendment striking out provision for the payment of interest.

The amendment was agreed to, and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

GREAT FALLS ICE COMPANY.

Mr. INGERSOLL, from the Committee on the District of Columbia, reported back Senate bill No. 64, to incorporate the Great Falls Ice Company of Washington, District of Columbia, with a recommendation that it do pass.

The Clerk proceeded to read the bill; but before concluding the morning hour expired, and the bill went over till Friday next.

Mr. DELANO. Some gentlemen here are very anxious to have up a bill that was placed on the Private Calendar. I therefore move that the Committee of the Whole be discharged from the consideration of the same, and that it be acted upon now.

The SPEAKER. To-day after the morning hour was assigned for the consideration of reports from the Committee on Commerce. Does the gentleman from Massachusetts yield to the gentleman from Ohio?

Mr. ELIOT. I must insist on the regular order.

ADVERSE REPORTS.

Mr. ELIOT, from the Committee on Commerce, reported adversely on House bill No. 430, to authorize the Secretary of the Treasury to change the name of certain vessels; and the same was laid on the table.

Also, on the petition of William Slamm, to change the name of the steamer *Circassia* to *Abraham Lincoln*; which was laid on the table.

Also, on the petition of the Cincinnati and Memphis Steam Packet Company; which was laid on the table.

Also, on the petition of Harvey T. Litchfield, for the change of the name of the steamer *Emeline*; which was laid on the table.

JAMES G. SMITH.

Mr. ELIOT, from the same committee, reported the following joint resolution; which was read a first and second time:

*Resolved by the Senate and House of Representatives, etc., That the Secretary of State be, and he is hereby, authorized and directed to cause to be procured and presented to Captain James G. Smith, master of the brig *Victoria*, of Yarmouth, Nova Scotia, a gold chronometer, in token of appreciation by the Government of the United States of his humane and successful efforts in rescuing from death the master, officers, crew, and passengers on board the brig *E. H. Feder*, of Philadelphia, wrecked at sea on the morning of January 22, 1867.*

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REVENUE-CUTTER SERVICE.

Mr. ELIOT, from the same committee, reported back House bill No. 899, in relation to the revenue-cutter service, with amendments.

The bill appropriates as follows:

For the expenses of the revenue-cutter service during the last half of the current fiscal year, from and after the 31st day of December, 1866, \$630,000.  
For the expenses of the said service for the fiscal year ending June 30, 1868, \$1,360,000.

To enable the Secretary of the Treasury to purchase, for the said revenue-cutter service, the steam-tug D. A. Mills and the steam-tug *Mosswood*, \$28,000.  
For the construction and equipment of eight schooners for the said service, designed to take the place of the steam cutters heretofore authorized to be sold under the act approved April 20, 1866, \$211,000; and so much of the said act of April 20, 1866, as authorized the proceeds of the sales of the said steam cutters to be expended in the purchase or construction of other vessels, is hereby repealed.

Mr. LE BLOND. I believe that is an appropriation bill.

The SPEAKER. It is.

Mr. LE BLOND. Should it not go to the Committee of the Whole?

The SPEAKER. According to the usage of the House, when a day is assigned to a committee for reports, if there are any bills reported containing appropriations they may be considered in Committee of the Whole on the same day. If the gentleman prefers it the bill will be considered in Committee of the Whole.

Mr. ELIOT. Let it be considered as in Committee of the Whole under the five-minute rule.

No objection being made, it was so considered.

Mr. ELIOT. I have no desire to say anything on this bill, unless some gentleman proposes to make an inquiry, except this: that it does not call for the expenditure of one dollar that would not be expended if this bill should not be passed. The object of the bill is rather to transfer to a different and distinct account the whole of the expenses of the revenue-cutter service, to take them from the present account, which is mixed up with all the other revenue customs. As the law now stands there is annually appropriated a large amount of money for the general collection of the revenue customs, and in that amount all the expenses of the revenue-cutter service are included.

This does not call for any additional appropriation or any additional expense. It simply provides a way by which the Secretary of the Treasury may keep the accounts of the revenue-cutter service distinct from the accounts concerning customs generally. With the exception of the two items in the bill for the payment of two steam tugs which the Secretary of the Treasury has authority to purchase, and which, in fact, he has purchased, but for which no appropriation has been made, and for one other purpose, there is no money called for by this bill that would not be wanted in the regular appropriation bill.

As the law now stands the Secretary of the Treasury has authority to sell certain steam vessels which have been built and used in the revenue service; but he states that he cannot sell those vessels until some arrangement is made for the procurement of sailing vessels to take their place. The law now requires that all moneys derived from the sale of these steam vessels shall be applied to the purchase of sailing vessels. This bill repeals that part of the old law, and simply provides a mode of payment for the sailing vessels which the Secretary is called upon to purchase.

Mr. PIKE. Let the Clerk read the two items to which the gentleman from Massachusetts [Mr. ELIOT] refers.

The Clerk read as follows:

To enable the Secretary of the Treasury to purchase for the said revenue-cutter service the steam-tug D. A. Mills, and the steam-tug *Mosswood*, \$28,000.

For the construction and equipment of eight schooners for the said service, designed to take the place of the steam cutters heretofore authorized to be sold, by the act of April 20, 1866, \$211,000; and so much of the said act of April 20, 1866, as authorizes the proceeds of the sale of the said steam cutters to be expended in the purchase or construction of other vessels is hereby repealed.

Mr. PIKE. If I understand it there is an appropriation of \$211,000 to build eight schooners.

Mr. ELIOT. That is so.

Mr. PIKE. Can the gentleman state what is to be the character of these schooners?

Mr. ELIOT. A law has already been passed authorizing the sale of these steam vessels, the money to be derived from the sale to be applied

to the procurement of sailing vessels. That is the law now.

Mr. PIKE. It is only within three or four years that some six large steam cutters have been built at a very great expense; I do not know how much. But they are vessels of some three or four hundred tons each, and involving a very large expense. The machinery of those vessels has been altered and arranged, and they are now in capital working condition.

Now, here is a proposition to dispose of the whole of them, and replace them with sailing vessels; so that we are to go back to the system of sailing vessels which we had prior to the introductory of their steam vessels. It seems to me that the revenue-cutter service should be performed by steam vessels. A large portion of that service consists of rescuing vessels that are in stress of weather on our coasts; that is shipwrecked vessels. For that purpose steam vessels only are useful. And for the detective service steam vessels are certainly much better than ordinary vessels. Now, I would inquire of the gentleman who has charge of this bill, why it is that it is now proposed to go back again to sailing vessels?

Mr. ELIOT. In reply to the inquiry of my friend from Maine, [Mr. PIKE,] I would say to him that that has already been done; Congress has already required by law the sale of these steam vessels. But the Secretary says that he finds it would not subserve the interests of the service to sell those vessels until arrangements are made to supply their places. And it has been found by the experience of the Department that these expensive steam vessels are not calculated for the work required of them; they draw too much water, and cannot enter the shallow waters where smugglers go. And because of that it was determined some time ago to sell those vessels, and the Secretary was authorized to do so. This bill merely authorizes the Secretary to procure sailing vessels before these steam vessels are sold. And then it is provided that the money to be derived from the sale of the steam vessels, instead of being applied as the law now directs, to the purchase of sailing vessels, shall go into the Treasury.

Mr. PIKE. I desire to say that I am informed by one of the most intelligent men in the revenue service that these steam vessels, which at any rate are as good as new, are well fitted to be changed into sailing vessels. If the gentleman from Massachusetts knew who was my informant he would not raise this objection. I suppose the gentleman from Massachusetts is familiar with the construction of the *Mahoning*, the *Ashuelot*, and other vessels of that class. Now, this gentleman tells me that it is very easy indeed, without one dollar's expense to the Treasury, to convert these into sailing vessels by taking out the machinery, which can be disposed of for a larger sum than is requisite to make the change.

I will state further that this whole matter illustrates to my mind the necessity of an entire change in the management of this service. This whole revenue-cutter service should, in my view, be taken from its present position, where it is under the control of some clerk in the Treasury Department, who determines matters of this sort according to his own whims, and apparently changes this service from steam to sailing vessels and from sailing to steam vessels according to his own caprice. This service should be under the control of a board of naval officers, or at any rate some experienced officers of the Light-House Board, so that we might have some responsibility and some uniformity in relation to the management of this service.

Mr. ELIOT. The gentleman from Maine [Mr. PIKE] does not present any reason why this bill should not be passed. The objection which he makes ought to have been made before we ordered those vessels to be sold. The gentleman states that these immense steam vessels can be converted into sailing vessels suitable for this service. Now, I know something about this matter, and I take it upon myself to

say that the gentleman's informant is mistaken when he undertakes to state that these large steamers, which were made for a certain purpose, for which they were regarded as valuable during the war, can be converted at no expense into sailing vessels. The cheapest way to do this work is to follow in the exact line marked out in this bill. If there has been any wrong, the wrong was in the beginning, and is not to be corrected by the criticisms which my friend from Maine makes now.

Mr. PIKE. The building of these vessels was a very good job, and I have no doubt that the selling of them will also be a very good job.

Mr. ELIOT. Well, that is very easy to say.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill entitled an act (S. No. 85) for the relief of Alexander F. Pratt; when the Speaker signed the same.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 1053) granting an increased pension to John J. Sohan;

An act (H. R. No. 643) to alter the places of holding the circuit courts of the United States for the Rhode Island district;

An act (H. R. No. 481) providing for the punishment of certain crimes therein named in the District of Columbia, and for other purposes;

An act (H. R. No. 571) to regulate proceedings before justices of the peace in the District of Columbia, and for other purposes;

An act (H. R. No. 788) to establish and to protect national cemeteries;

An act (H. R. No. 848) to amend an act entitled "An act to incorporate the National Soldiers' and Sailors' Orphan Home," approved July 25, 1866;

An act (H. R. No. 903) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1868;

An act (H. R. No. 907) to amend the law of the District of Columbia in relation to judicial proceedings therein;

An act (H. R. No. 1044) for the relief of John Gray, a revolutionary soldier;

An act (H. R. No. 1045) for the relief of Daniel Frederick Bakeman, a revolutionary soldier;

An act (H. R. No. 1058) for the relief of the children of Solomon Long under sixteen years of age;

Joint resolution (H. R. No. 173) for the relief of Ober, Nanson & Co., merchants of New York; and

Joint resolution (H. R. No. 251) to extend the time for codifying the laws relating to customs, authorized by the joint resolution approved July 26, 1866.

#### SEAMEN ON UNITED STATES VESSELS.

Mr. ELIOT, from the Committee on Commerce, reported back adversely a bill (S. No. 419) entitled "An act repealing an act entitled 'An act repealing certain provisions of law concerning seamen on board public and private vessels of the United States,' approved June 23, 1864," and moved that the bill be laid on the table.

The motion was agreed to.

#### SOUTHERN LIGHT-HOUSES.

Mr. DODGE, from the same committee, reported a bill to authorize changes in the location of lights and other aids to navigation on

the southern coasts of the United States; which was read a first and second time.

The bill provides that in the reestablishment of lights and other aids to navigation which have been injured or destroyed on the southern coasts of the United States, pursuant to an act approved July 2, 1864, making appropriations for sundry civil expenses for the year ending the 30th of June, 1865, and for other purposes, the Light-House Board shall have power; with the approval of the Secretary of the Treasury, to make such changes in the location of said lights or other aids to navigation as may be made necessary by alteration of channels or obstructions.

It further provides this shall not be considered as authorizing any expenditure of the public money beyond what has been appropriated for that purpose.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DODGE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MARYLAND COLLECTION DISTRICTS.

Mr. ELIOT, from the same committee, reported back Senate bill No. 847, to change certain collection districts in Maryland and Virginia, with amendments.

The bill provides in the first section that the districts of Oxford and Vienna in the State of Maryland be, and the same are hereby abolished, and the office of collector of both said districts is hereby discontinued.

The second section provides, that the district of Oxford, in said State, shall be annexed to the district of Baltimore, and all that part of the district of Vienna in said State bordering on the sea-coast, and all the waters which flow into the sea, or bays on the east side of said district of Vienna be, and the same are hereby, annexed to the district of Cherry Stone, in the State of Virginia; and that all the residue of said district of Vienna be, and the same is hereby, made a new district, to be called the eastern district; and that the collector of said eastern district shall receive an annual salary of \$1,200, and shall reside at Crisfield, which shall be the port of entry for said new district.

The third section provides that the offices of surveyor at Snow Hill and of deputy collector at Annamasset be, and the same are hereby, discontinued, and that the collector of the district of Cherry Stone shall hereafter reside at Accomac Court-House, which shall be the port of entry for the district.

The fourth section provides that all acts and parts of acts inconsistent with this act are hereby repealed.

The amendments of the committee were read, as follows:

In section three, line nine, after the word "Annamasset" insert the following: "and Deal's Island." Strike out of section three the following words: And that the collector of the district of Cherry Stone shall hereafter reside at Accomac Court-House, which shall be the port of entry for the district.

Mr. PHELPS. Upon what report is the bill founded?

Mr. ELIOT. This bill was passed upon by the Senate, and after its passage the Committee on Commerce in the House had an interview with the Senator who was instrumental in its passage in the Senate, and upon his statements and also from information gathered at the Treasury Department they were satisfied it ought to pass with the amendments proposed.

I will yield to the gentleman from Maryland, a member of the committee, who is more intimate with the locality than I am.

Mr. J. L. THOMAS. I will state for the information of my colleague that the only alteration this bill makes is in consolidating some of the smaller ports on the Eastern Shore of Maryland. It establishes a port of entry at a place to which a new railroad has been constructed through Delaware and Maryland, as well as abolishing the smaller ports referred to. Mr. Sargent, the Comptroller

of the Customs, has written a letter recommending that the change should be made as beneficial to the Treasury Department.

Mr. PHELPS. I wish to inquire further whether there are any statistics going to show that the entries at the ports which are proposed to be abolished have been at all diminished since they were originally established?

Mr. ELIOT. I have no statistics which I can furnish for the information of the gentleman, but this question has received sufficient examination on the part of the committee to satisfy them that the condition of business there does not require the keeping up of these ports, and they have therefore recommended that they be discontinued, thus saving this expense to the Government.

The amendments were agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### IMPROVEMENTS IN VESSELS.

Mr. ELIOT, from the same committee, reported a joint resolution authorizing examinations of improvements in vessels, and for other purposes, in aid of navigation and for protection of life and property at sea; which was read a first and second time.

The joint resolution authorizes the Secretary of the Treasury to cause examinations to be made of inventions and improvements in the construction of boilers of vessels, machinery, and other apparatus designed for the use on board merchant vessels and intended to secure greater security of life and property at sea. It also appropriates \$10,000 for the purpose stated, directing the Secretary of the Treasury to submit a report to Congress making recommendations of appropriate legislation necessary.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PORT OF CAMDEN, NEW JERSEY.

Mr. O'NEILL, from the Committee on Commerce, reported back House bill No. 1062, relative to the port of Camden, New Jersey, with a recommendation that it do pass.

The bill annexes the port of Camden to the collection district of Philadelphia; provides for the appointment of an assistant collector, who shall reside at Camden, but shall act in conformity to such instructions and regulations as he shall from time to time receive from the collector at Philadelphia, and fixes his compensation at \$1,500 per annum in lieu of all commissions and fees.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. O'NEILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DIRECT IMPORTATIONS.

Mr. O'NEILL, from the same committee, submitted an adverse report on the bill to encourage commerce and internal trade by facilitating direct importations; and the same was laid on the table, and ordered to be printed.

The report is as follows:

The Committee on Commerce, to whom was referred the bill "to encourage commerce and internal trade by facilitating direct importations, reports that in its opinion there should be no action upon the important purposes sought to be accomplished



by its provisions this session, and asks that it be discharged from its further consideration.

The bill, with a petition from the Board of Trade of Philadelphia, was introduced upon leave of the House by Hon. LEONARD MYERS, of Pennsylvania, and subsequently a memorial from the Board of Trade of Boston, urging the passage of the bill, was presented by Hon. A. H. RICE, of Massachusetts.

The committee fully realizes the great convenience and facility that would be afforded to merchants and business men in places distant from the ports of entry to which their importations would come should this legislation be granted, and only now is not ready to act on account of the want of time to properly examine it, and to consult with great care and deliberation with the Treasury Department. The change desired by the memorialists is radical, and the bill proposes to make material modifications in the customs regulations of the country. Always desiring to accommodate trade to the greatest degree, and at the same time to guard the proper collection of duties for the benefit of the revenue, this report is made, not in any way with a view of retarding the passage of the bill even temporarily. Many of the members of the committee look with great favor upon its provisions, but think that in a matter of such great magnitude, the business men of the country and the Department under whose supervision this subject comes should have ample opportunity to investigate it, so that the experience of those to whom it designs to give facilities in their importations and the Government officials may bring their experience and judgment to bear upon the principles involved, and thus aid the committee at no far distant day in suggesting to the House a well-matured bill.

CHARLES O'NEILL,

Sub-Committee of the Committee on Commerce.

#### NAVAL COAL DEPOT.

Mr. O'NEILL, from the same committee, reported adversely on House bill No. 1100, to facilitate the establishment of a naval and marine coal depot on the eastern shore of New Jersey, and for other purposes; which was laid on the table.

#### USURY LAWS.

Mr. O'NEILL, from the same committee, offered the following resolution; which was referred to the Committee on Printing under the law:

*Resolved*, That two thousand copies of the memorial of the Philadelphia Board of Trade, praying for the abolition of legal restrictions upon the commerce in money, with the report of a special committee of their executive council upon the usury laws, May 21, 1866, and the testimony submitted in said report, be printed for the use of the House.

#### CHANGE OF NAMES OF VESSELS.

Mr. O'NEILL, from the same committee, reported back, with an amendment, Senate joint resolution No. 159, authorizing the Secretary of the Treasury to permit the owners of the yacht Mayflower to change the name of the same to Sylva.

The amendment, which was to authorize a register to be issued to the steam yacht Glance, was agreed to. The title was also amended to correspond.

The bill, as amended, was ordered to be read a third time; and was accordingly read the third time, and passed.

Mr. O'NEILL moved to reconsider the vote by which the bill was passed and the title amended; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### LIGHT-HOUSES.

Mr. LONGYEAR, from the Committee on Commerce, reported back House bill No. 1166, to authorize the building of light-houses therein mentioned, and for other purposes, with an amendment in the nature of a substitute.

The substitute provides for the building by contract of light-houses at the following points: Trowbridge Point, Thunder Bay, Michigan; Mendota, on Lake Superior, Michigan; Santa Cruz, California; Braddock's Point, Georgia; Cambahee bank, Georgia; Tybee Island Knoll, Georgia; and Morris Island, South Carolina. Also for rebuilding the light-house at Deep-water shoals, in James river, Virginia; for rebuilding light-house tower and keeper's dwelling at Saint Simons, Georgia; for rebuilding Wolf Island beacon-lights and buildings connected therewith, in the State of Georgia; for rebuilding Sapelo Island light-house and beacons, in the State of Georgia; and for building three light-house and buoy steam-tenders.

It further provides that the light-house board proceed to make a survey, or if a survey has

been made at Crossledge shoal, or at some other point in the Delaware bay in the neighborhood of said shoal, to report on said survey to be made, or which has already been made, to the next Congress, upon the feasibility of erecting thereon a permanent light-house, and an estimate of the amount necessary to be appropriated therefor.

It further provides that no contract shall be made except after public advertisement for proposals in such form and manner as to secure general notice thereof; and the same shall only be made with the lowest responsible bidder therefor, upon security deemed sufficient in the judgment of the Secretary.

It further provides that from and after the passage of this act the Secretary of the Treasury be authorized and empowered to regulate and fix the salaries of the respective keepers of light-houses in such manner as he shall deem just and proper; provided that the whole sum shall not exceed an average of \$600 to each keeper.

The substitute was agreed to; and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LONGYEAR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PREVENTION OF SMUGGLING.

Mr. LONGYEAR, from the same committee, reported back Senate bill No. 605, to amend the twenty-first section of an act entitled "An act further to prevent smuggling, and for other purposes," approved July 18, 1866, with an amendment.

The amendment of the committee was to add the following proviso:

*Provided*, That this section shall not apply, or be held to apply, to anyone where the said towing, in whole or in part, is within or upon foreign waters: And provided further, That any foreign railroad company or corporation, whose road enters the United States by means of a ferry or tug-boat, may own such boat, and it shall be subject to no other or different restrictions or regulations in such employment than if owned by citizens of the United States.

The amendment was agreed to; and the bill, as amended, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. LONGYEAR moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### BOOTH BAY AND ST. GEORGE, MAINE.

Mr. LONGYEAR, from the same committee, also reported back House bill No. 1167, to authorize entry and clearance of vessels at the ports of Booth bay and St. George, Maine, with a recommendation that the same do pass.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LONGYEAR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### FORT GRATIOT RESERVE, MICHIGAN.

Mr. LONGYEAR, from the same committee, also reported back House bill No. 607, to amend an act granting the right of way over the military reserve at Fort Gratiot, Michigan, with a recommendation that the same do pass.

The bill provides for amending the original act by inserting in the proviso after the word "wood" the words "or fire-proof;" so that it shall read:

That all buildings to be erected upon said reservation shall be of wood or fire-proof.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LONGYEAR moved to reconsider the vote by which the bill was passed; and also

moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NATIONAL BUREAU OF INSURANCE.

On motion of Mr. LONGYEAR, the Committee on Commerce were discharged from the further consideration of sundry petitions for the establishment of a national bureau of insurance; and the same were referred to the Committee on the Judiciary.

#### WINONA AND ST. PETER'S RAILROAD.

Mr. DODGE, from the Committee on Commerce, reported back Senate bill No. 494, for the relief of the Winona and St. Peter's Railroad Company, with a recommendation that the same do pass.

The bill was read. It provides for refunding to the company the sum of \$3,424 28 in gold, being the amount of additional duties paid by it on railroad iron under the joint resolution approved April 29, 1864, increasing temporarily duties on imports.

Mr. ROSS. I would like to hear some reason for passing this bill.

Mr. DODGE. This bill has been carefully examined by the Committee on Commerce. The facts in the case are these: this company purchased and shipped from New York five hundred tons of railroad iron, expecting that it would reach Milwaukee in time to be entered at the rate of \$22 50 per ton. During its transit Congress passed a law for a temporary increase of the duties at the rate of fifty cents per hundred pounds. This iron was caught in the ice, and did not arrive at Milwaukee until after the new law went into force. After a careful examination of the case the committee have thought it proper that the company should be allowed to enter that iron at the rate of duty in force at the time it was shipped from New York.

Mr. LE BLOND. This seems to be a proposition to make Congress an insurance company against accidents.

Mr. DODGE. Not at all.

Mr. LE BLOND. That is a risk which the company took, and which all shippers take; and I see no reason for an exception being made in this case.

Mr. DODGE. This iron was imported under the old rate of duty, and while in transit it was overtaken by this act of Congress temporarily increasing the duties.

Mr. DONNELLY. I understand that this iron was imported into the country under the old law. The increase of duty accrued upon it simply by what may be called the act of God—the detention of the iron on its way to Milwaukee in consequence of the lake freezing. The iron was actually in the country while the old law was still in operation, and I think it but an act of justice that this money should be returned to the company.

Mr. ROSS. What the gentleman has stated only shows that the Almighty is on the side of the Government instead of on the side of the railroad companies, and I think we ought to take advantage of it. [Laughter.]

Mr. DODGE. I call the previous question.

Mr. ROSS. Will the gentleman yield to me to make a motion to refer this bill to the Committee of Claims?

Mr. DODGE. I cannot yield for that purpose.

Mr. BAKER. If the gentleman from New York [Mr. Dodge] will not yield for that purpose, then I move to lay the bill on the table.

The SPEAKER. That motion would not now be in order, because the gentleman from New York is entitled to the floor. As soon as he yields the floor that motion will be in order.

Mr. PIKE. Will the gentleman allow me a moment?

Mr. DODGE. For what purpose?

Mr. PIKE. I desire to offer an amendment authorizing the Secretary of the Treasury to afford relief in other cases of a similar character. I know of one instance where a vessel was obliged to put back under stress of weather and had to repair, in consequence of which it

did not arrive in this country until a short time after the new law went into operation. Now, it appears to me that it would be but right to allow the Secretary to do justice in such cases.

Mr. DODGE. I think that this is a very peculiar case and a very meritorious one, and I therefore must insist upon my call for the previous question.

Mr. STEVENS. With the consent of the gentleman from New York, [Mr. Dodge,] I desire to say a word on this subject. Several years ago, when I was on the Committee of Ways and Means, a question of this kind came before us. We found that there were very numerous cases of this kind, in which shipments had been made under the old law; but by reason of stress of weather or some other circumstances had been prevented from getting into port before the new law went into operation. We then decided that the parties in these cases had taken their chances and must bear the consequences. It was found that if we allowed all such claims the amount drawn from the Treasury would be enormous; and we did not see why any single claim should be paid unless all were paid. I think this question should not now be opened. The passage of this bill would contravene a rule which, as I understand, this House has already adopted and practiced.

Mr. DODGE. As I understand the facts of this case, this iron came into the port of New York under the old duty, and was allowed to be shipped from there in bond, with the privilege of paying the duty when it arrived at its destination. While in transit the iron was delayed by the freezing of the lake. Meanwhile the new duty went into operation and was imposed on this iron. This bill is to refund the additional duty thus paid.

Mr. BROMWELL. I desire to inquire whether these parties would not have received all the benefits of the risk if they had been successful in getting the iron to its destination in time?

Mr. EGGLESTON. The difficulty was that they allowed the lake to freeze up. [Laughter.]

Mr. DONNELLY. As there seems to be no written report on this case from the committee of this House, I call for the reading of the report made by the Senate committee.

The Clerk read as follows:

The Committee on Finance, to whom was referred the memorial of the Winona and Saint Peter's Railroad Company, an incorporation of the State of Minnesota, have had the same under consideration, and find that this company imported in the fall of 1863 five hundred tons of railroad iron, which was landed in New York and shipped for Milwaukee, under bond to pay the duty then imposed by law within sixty days, the time allowed for its transit. By the usual course of navigation it should have arrived at Milwaukee that fall; but, by the early closing of navigation, it was detained at Oswego. It seems, from the papers on file, that the company made various efforts to pay the duty, both at Milwaukee and New York; but the collector at each port refused to receive the duties while the iron was *in transitu*. The duty was then \$13 50 per ton. Subsequently, by the joint resolution of April 29, 1864, duties on imported goods were increased fifty per cent. for sixty days, thus imposing a duty on this iron of \$21 25 per ton, while by the general tariff act, which took effect July 1, 1864, the duty on railroad iron was sixty cents per hundred pounds, or \$13 44 per ton. The iron arrived at Milwaukee on the 21st of June, 1864, and, in addition to the duty imposed by law when the iron arrived in New York, there was imposed an additional duty under the joint resolution of the sum of \$3,424 20, which sum was paid by the petitioners under protest.

Your committee are of opinion that the additional duty provided for by the joint resolution of April 29, 1864, was not applicable to goods actually *in transitu* within the United States and under bonds providing for the payment of the specific rate of duty then imposed by law. At all events, your committee think it inequitable upon the facts stated to exact the increased duty when the importation was complete before the passage of the joint resolution, and when parties interested had tendered the duties imposed by law and were guilty of no laches.

Your committee, therefore, recommend the passage of the following bill.

Mr. DODGE. The House will have observed from the reading of the report that this case is not at all analogous to the cases referred to by the gentleman from Pennsylvania, [Mr. STEVENS.] This iron actually arrived at the port of New York when the duty was \$13 50 per ton. During its transit to Milwaukee the

duty was increased to \$21 25 per ton; and consequently when it arrived at its destination it was obliged to pay the increased duty. Hence this proposition for relief. I insist on the previous question.

On seconding the call for the previous question, there were—ayes 52, noes 29; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. Dodge and Ross.

Mr. DODGE. I will not press this bill to a final vote now, but, as the gentleman from Illinois [Mr. Ross] desires to move the reference of the bill to the Committee of Claims, I will permit him to make that motion.

Mr. ROSS. I move that the bill be referred to the Committee of Claims.

The motion was agreed to.

#### COLLECTION DISTRICTS IN NORTH CAROLINA.

Mr. DODGE, from the same committee, reported back Senate bill No. 399, with the recommendation that it do pass.

The bill was read *in extenso*.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DODGE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PETER CLARK AND GEORGE MACKAY.

Mr. DODGE, from the same committee, reported back the petition of Peter Clark and George Mackay, to transfer to them on suitable terms Governor's Island, in the harbor of New York; and the same was laid upon the table.

#### RIVER AND HARBOR BILL.

Mr. EGGLESTON reported back House bill No. 1154, making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law, and for other purposes, with a substitute.

The substitute was read *in extenso*.

Mr. EGGLESTON. I will state for the information of the House that the substitute is the same as the original bill, with the exception of improvements estimated for and recommended by the proper Department.

I move to amend the bill on page 6, after line one hundred and eighteen, by inserting the following:

For completing the improvement of the navigation of Kennebec river, Maine, between Shepherd's Point and Augusta, \$30,000.

This comes under the same category as the other improvements included in the substitute. Estimates have been made for this work, and it has been recommended by the War Department.

The amendment was agreed to.

Mr. EGGLESTON. Several gentlemen ask me to yield to them to offer amendments, but I am afraid if we commence amending the bill now we will have no bill at all which we can get through the House.

Mr. INGERSOLL. I ask the gentleman from Ohio whether or not under the provisions of this bill the Secretary of War will have authority to continue the surveys of the Illinois river?

Mr. EGGLESTON. All the authority given last year to survey the Illinois river is continued in this bill, but no authority is given to the engineer department or to the Secretary of War to survey the route of a canal from the headwaters of the Illinois river. There is, however, as I have already stated, provision made for the survey of the Illinois river.

Mr. HARDING, of Illinois. I ask the gentleman from Ohio to yield to me for the purpose of offering the following amendment:

After line one hundred and forty-four, page 7, insert the following:

*Provided*, That the Secretary of War shall, before expending the appropriations made for the improvements of navigation at the rapids of Mississippi at Rock Island and the Des Moines rapids, carefully review the surveys and plans reported, and cause the works to be done at the place and in the manner demanded in his discretion by the public interests.

Mr. EGGLESTON. I would not like to yield for the purpose of having any of these amendments offered, as I think they are all dangerous to the passage of the bill. I will say, however, in regard to this amendment, that what the gentleman wants is now substantially in the bill. It does not provide that the Secretary of War shall have it made on the Iowa side of the river. It appropriates for the improvement of the Des Moines rapids. If you can satisfy the Secretary of War that the other side of the river is best, he has power to so make the canal. I decline to let the amendment be offered.

Mr. ROSS. I ask the gentleman from Ohio to allow me to move an appropriation of \$100,000 for the improvement of the Illinois river.

Mr. EGGLESTON. I cannot do it. I will only say that one third of the entire appropriations in this bill are for the improvement of the waters of the State of Illinois. The committee have carefully investigated this matter, and I think it best to take the bill as it came from the committee.

Mr. STEVENS. How much is contained in the bill?

Mr. EGGLESTON. About four million eight hundred thousand dollars.

Mr. MILLER. Will the gentleman yield to allow me to offer an amendment?

Mr. EGGLESTON. I will hear it read.

Mr. MILLER. I wish to move to insert the following as an additional section, and I will only say that it passed the House of Representatives in July, 1866:

*And be it further enacted*, That the Secretary of War be, and is hereby, authorized and required to cause a survey to be made, by competent engineers, of the Susquehanna river from the Chesapeake bay to the southern line of the State of New York, and also a survey from the said line to Lake Ontario, with a view to ascertain the practicability of a communication by steamboats from the Chesapeake bay to said lake, and to report accordingly; and also, if any part of said route is deemed practicable, then to cause to be made an estimate of the probable costs of the work and report the same. And also examine and report whether the west branch of the Susquehanna river, or any part of it, can be made practicable for steamboat navigation.

Mr. EGGLESTON. I cannot yield for that to come in. It contemplates a ship-canal from the Susquehanna river to Lake Ontario, which will run through one of the spurs of the Alleghany mountains.

Now, I want to make one statement for the benefit of those who think this appropriation is very large, and that is that every dollar which is asked for is recommended by the War Department, and the engineer has been very careful and minute in his estimates. There is nothing in it made up by members of Congress or any committee or company, but it is all upon the authority of the Secretary of War and the engineers of the War Department. I believe it is better for us to take the bill as it now is, and I will therefore call the previous question.

Mr. GARFIELD. Allow me to ask if the bill makes any change in the appropriation for the harbors on Lake Erie?

Mr. EGGLESTON. There is no change. Ohio is all right, and so are all the other States. [Laughter.]

Mr. DEMING. Will the gentleman allow me to ask if the committee have taken into consideration a bill which I introduced for the improvement of the navigation of the Connecticut river? If not, I would esteem it a great favor if I can be permitted to introduce it as an amendment.

Mr. EGGLESTON. I certainly have never seen it; I do not think it has been before the committee. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the substitute was agreed to, and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. EGGLESTON. I call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. ROSS. I demand the yeas and nays on the passage.

On ordering the yeas and nays there were—ayes twelve.

Mr. ROSS. Tellers on the yeas and nays. Tellers were refused—ayes thirteen.

So the yeas and nays were not ordered.

The bill, as amended, was then passed.

Mr. EGGLESTON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### PRESIDENTIAL VACANCY.

Mr. BOUTWELL. I call up the motion to reconsider the vote of the House by which House bill No. 2, to amend the act declaring the officer who shall act as President of the United States in case of vacancies in the office both of President and Vice President, approved March 1, 1792, with the amendments, was recommended to the Committee on the Judiciary.

The bill was read. It provides that in case of removal, death, resignation, or inability both of the President and Vice President of the United States, the President of the Senate *pro tempore*, and in case there shall be no President of the Senate, then the Speaker of the House of Representatives for the time being, and in case there shall be no Speaker of the House of Representatives, then the Chief Justice of the Supreme Court of the United States, and in case there shall be no Chief Justice, then the justice of the Supreme Court of the United States who shall have been the longest commissioned, shall act as President of the United States until the disability be removed or a President shall be elected.

The question was upon the motion to reconsider; and being taken, it was agreed to.

The question recurred upon the motion to recommit the bill and pending amendment to the Committee on the Judiciary.

Mr. BOUTWELL. I withdraw the motion to recommit. And before the amendment of the committee is read I ask leave to make some verbal alterations in it.

No objection was made, and the amendment was modified accordingly.

The question was upon agreeing to the amendment of the committee as modified by Mr. BOUTWELL.

The amendment, as modified, was to add to the bill the following:

Sec. 2. *And be it further enacted*, That whenever the offices of President and Vice President shall both become vacant, the Secretary of State shall, if the Senate and House of Representatives, by concurrent resolution, so request and direct, forthwith cause a notification thereof to be made to the Executive of each State, and shall also cause the same to be published in at least one of the newspapers printed in each State, specifying that electors of President and Vice President of the United States shall be appointed in the several States, on the Tuesday next after the first Monday in the month of November then next ensuing: *Provided*, There shall be the space of sixty days between the date of such notification and the said Tuesday. But if there shall not be the space of sixty days between the date of such notification and the said Tuesday, and if the term for which the President and Vice President last in office were elected shall not expire on the 3d day of March next ensuing, then the Secretary of State shall specify in the notification that the electors shall be appointed on the Tuesday next after the first Monday in the month of November, in the year next ensuing, at which time the electors shall accordingly be appointed; and the electors shall meet and give their votes on the first Wednesday in December next ensuing after the appointment of electors as aforesaid, and the proceedings and duties of the said electors and others shall be pursuant to the directions prescribed by law.

Sec. 3. *And be it further enacted*, That whenever the office of President and Vice President shall both become vacant when Congress is not in session, it shall be the duty of the officer discharging the duties and powers of the office of President forthwith to issue a proclamation convening both Houses of the Congress of the United States.

Mr. ROSS. Will the gentleman yield to me to offer an amendment?

Mr. BOUTWELL. I will hear it.

Mr. ROSS. I desire to amend the section in relation to the succession to the office of President by providing that in case of vacancy

General Grant shall appoint some military officer not below the rank of brigadier general. [Laughter.]

Mr. BOUTWELL. I cannot yield for that amendment.

Mr. THAYER. Will the gentleman yield to me for a moment?

Mr. BOUTWELL. I will.

Mr. THAYER. I introduced the original bill to which the amendment of the committee is offered. I have not examined carefully the two sections proposed to be added by the committee; but in reference to the proposed third section, I would suggest to the gentleman from Massachusetts [Mr. BOUTWELL] that some time should be fixed within which Congress shall be convened in the contingency which is there contemplated. Otherwise, under that section, the person performing the duties of President, although required to issue his proclamation forthwith, may make the convening of Congress as remote as he pleases. I suggest that in that particular it would perhaps be well to amend the section so as to require the acting President to convene Congress without unnecessary delay, or to limit the time within which it must be convened.

Mr. BOUTWELL. It does not occur to me that such an amendment will be necessary.

Mr. THAYER. I do not think in a matter of such magnitude much should be left to the discretion of an officer placed in such a situation. I think the provisions of the act should compel him to convene Congress with as little delay as possible.

Mr. BOUTWELL. I do not think it is necessary; but I am willing the gentleman should offer his amendment.

Mr. THAYER. I move to amend the amendment by adding after the words "convening both Houses of the Congress of the United States" the words "within sixty days after assuming the duties of President of the United States;" and upon that I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment to the amendment was agreed to.

Mr. BIDWELL. I would inquire of the gentleman from Massachusetts, [Mr. BOUTWELL,] if the President to be elected under this law will hold this office for four years, or for the unexpired term?

Mr. BOUTWELL. This bill does not provide for an election of President except where Congress shall order it. If Congress does not order an election, then the person succeeding to the office will continue during the remainder of the term.

Mr. LAWRENCE, of Ohio. I would suggest to my colleague upon the Committee on the Judiciary [Mr. BOUTWELL] a further amendment. This bill provides for the succession to the office of President in case of vacancy, and it provides that the person so succeeding shall continue in office until a President shall be elected. Now, I suggest that the words "and qualified" should be added to the first section. A President might be elected and never present himself to be qualified; yet this bill determines the tenure of office upon the election.

Mr. BOUTWELL. I have no objection to that amendment.

Mr. LAWRENCE, of Ohio. I move to amend the first section by adding the words "and qualified."

The amendment was agreed to.

The question recurred upon the amendment of the committee as amended.

Mr. BOUTWELL. I call the previous question upon the bill and amendment.

The previous question was seconded and the main question ordered.

The question being on the amendment, as amended, it was agreed to.

The bill, as amended, was ordered to be engrossed and read the third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOUTWELL moved to reconsider the

vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SPEAKER'S TABLE.

Mr. McRUER. I move that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

#### PACIFIC COAST RAILROAD COMPANY.

The first business on the Speaker's table was the bill (S. No. 183) entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the waters of the bay of San Francisco to Humboldt bay, in the State of California."

The pending question was upon ordering the bill to a third reading.

Mr. DAVIS. I desire to inquire whether this bill has been reported from or examined by any committee of this House?

Mr. McRUER. It has been examined by the Committee on Public Lands, and in behalf of that committee I am about to offer an amendment in the form of a substitute.

Mr. SPALDING. Has the bill been before the Committee on the Pacific Railroad?

Mr. McRUER. It has not been.

Mr. CHANLER. I wish to inquire of the gentleman from California [Mr. McRUER] whether this grant is likely to include any of the quicksilver or copper mines in California?

Mr. McRUER. No mineral lands are granted by the bill.

Mr. CHANLER. Do I understand the gentleman to say that the bill contains a special provision excluding from the grant any quicksilver or copper mines.

Mr. McRUER. In the substitute which I am about to propose we have inserted the provision usually inserted in all these bills granting lands for railroads: a provision excepting from the grant all mineral lands except coal and iron lands.

Mr. SPALDING. How much land will this grant take?

Mr. McRUER. If all this land should be unoccupied by homesteads or by preemption, I think it would take about two million acres.

Mr. SPALDING. I suppose there is enough land there to foot the bill?

Mr. McRUER. I am directed by the Committee on Public Lands to offer the following amendment, on which I call the previous question.

Strike out all after the enacting clause, and insert the following:

That S. G. Whipple, George Noble, James W. Henderson, Charles Minturn, Daniel Lobdel, George Yost, T. W. Miller, Benjamin Schenk, Joseph Woods, E. L. Gould, Samuel F. Butterworth, L. L. Robinson, J. F. Robinson, George A. Youle, John M. Carter, George Field, C. N. Kenny, Frederick Graffie, Lewis Cooper, Robert Drantz, J. B. Watson, and all such persons who shall or may be associated with them, and their successors or assigns, are hereby created and appointed a board of commissioners for the purposes and objects in this bill set forth. Within six months after the passage of this act they shall form a corporation, under the laws of the State of California authorizing the formation of corporations for the purpose of constructing and maintaining railroads in said State; said corporation to be called the Pacific Coast Railroad Company. That said Pacific Coast Railroad Company, when duly formed under the laws of California, shall become the owners of all the rights, properties, and privileges conferred by this act, and the office of said board of commissioners shall thereupon cease and determine: *Provided*, That the Legislature of the State of California shall first designate and approve of said company, so formed, as the proper company to receive the grant herein made for the purpose of aiding the construction of said road. The said corporation is hereby authorized and empowered to lay out, locate and construct, furnish, equip, maintain, and enjoy a continuous railroad and telegraph line, with the appurtenances, from a point in Sonoma or Marin counties on the waters of the bay of San Francisco, by the most feasible route, to be selected by the said corporation, to Humboldt bay, in the State of California, and maintain a ferry from the point of termination to the city of San Francisco, and is hereby vested with all the powers and privileges and immunities necessary to carry into effect the purposes of this act.

Sec. 2. *And be it further enacted*, That the right of way through the public lands be, and the same is hereby, granted to said Pacific Coast Railroad Company, its successors and assigns, for the construction of a railroad and telegraph line as proposed; and the right is hereby given to said corpora-



tion to take from the public lands adjacent to the line of said road material for the construction thereof. Said way is granted to said railroad to the extent of one hundred feet in width on each side of said road where it may pass through the public domain; also, all necessary ground for station buildings, workshops, depots, machine-shops, switches, side-tracks, turntables, and water-stations.

Sec. 3. *And be it further enacted*, That there be, and is hereby, granted to the Pacific Coast Railroad Company, subject to the conditions heretofore recited, its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the route of said line of railway, every alternate section of public land, not mineral, designated by odd numbers, to the amount of ten alternate sections per mile on each side of said railroad line, whenever on the line thereof the United States have a full title, not reserved, sold, granted, or otherwise appropriated, and free from preemption or other claims or rights at the time the line of said road is definitely fixed and a plot thereof filed in the office of the Commissioner of the General Land Office; and whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, or covered by private land grants, or occupied by homestead settlers, or preempted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, on the line of said road within thirty miles of the same, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers: *Provided*, That the word mineral, when it occurs in this act, shall not be held to include iron or coal.

Sec. 4. *And be it further enacted*, That whenever said Pacific Coast Railroad Company shall have ten consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated, the President of the United States shall appoint three commissioners, whose compensation shall be paid by said company, to examine the same, and if it shall appear that ten miles of said road and telegraph line have been completed in a good and substantial manner, and in all respects as required by this act, the commissioners shall so report to the Secretary of the Interior, and patents of lands, as aforesaid, shall be issued to said company, confirming to said company the right and title to said lands, situated opposite to and continuous with said completed section of said road, unless said lands are covered by the exceptions and reservations of this act, upon the final completion of said road and telegraph. And from time to time, whenever ten additional miles shall have been constructed, completed, and in readiness as aforesaid, and verified by the commissioners to the President of the United States, then patents shall be issued to said company, conveying the additional sections of land as aforesaid; and so on as fast as every ten miles of said road is completed as aforesaid.

Sec. 5. *And be it further enacted*, That said Pacific Coast railroad shall be constructed in a substantial and workmanlike manner, with all the necessary draws, culverts, bridges, viaducts, crossings, turnouts, stations, and watering-places, and all other appurtenances, including furniture and rolling stock, equal in all respects to railroads of the first class, when prepared for business, with rails of the best quality, manufactured from American iron. And a uniform gauge shall be established the entire length of the road; and there shall be constructed a telegraph line, of the most substantial and approved description, to be operated on the entire route: *Provided*, That said company shall not charge higher rates to the Government of the United States or their authorized officers or agents than they do individuals for like telegraphic service. And the said railroad shall be and remain a public highway for the use of the Government of the United States free of all toll or other charges upon the transportation of any property or troops of the United States, and the same shall be transported over said road at the cost charge and expense of the corporation or company owning or operating the same when so required by the Government of the United States.

Sec. 6. *And be it further enacted*, That the President of the United States shall cause the lands to be surveyed for twenty miles in width on both sides of the entire line of said road, after the general route shall be fixed, and as fast as may be required by the construction of said railroad; and the odd sections of land hereby granted shall not be liable to sale or entry or preemption after said line is located, except by said company, as provided in this act; and the reserved alternate sections shall not be sold by the Government at a price less than \$2 50 per acre when offered for sale.

Sec. 7. *And be it further enacted*, That each and every grant, right, and privilege herein are so made and given to and accepted by said Pacific Coast Railroad Company upon and subject to the following conditions, namely: that the said company shall, within two years from the approval of this act, survey said route and file with the Secretary of the Interior a plot showing the location of the road from the waters of the bay of San Francisco to Humboldt bay; and that the said company shall commence the work on said road within two years from the approval of this act by the President, and shall, within three years, complete not less than ten miles and not less than ten miles each succeeding year, and shall construct, equip, furnish, and complete the whole road by the 4th day of July, A. D. 1876: *Provided*, That the construction of any thirty miles within three years shall be construed to conform to the above condition.

Sec. 8. *And be it further enacted*, That the United States make the several conditional grants herein, and that the said Pacific Coast Railroad Company accept the same, upon the further condition that if

the said company make any breach of the conditions thereof, and allow the same to continue for upward of one year, then in such case the grant hereby made and all rights and franchises created by this act shall vest in the State of California and be disposed of by the Legislature of the said State to such company or association as it may designate, and upon such terms and conditions, not inconsistent with the provisions of this act, as may, in the judgment of the said Legislature, insure the speedy construction of said road.

Sec. 9. *And be it further enacted*, That all the people of the United States shall have the right to subscribe to the stock of the Pacific Coast Railroad Company until the whole capital is taken up, by complying with the terms of subscription.

Sec. 10. *And be it further enacted*, That the acceptance of the terms, conditions, and impositions of this act by the said Pacific Coast Railroad Company shall be signified in writing, under the corporate seal of the said company, duly executed pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within one year after the passage of this act and not afterward, and shall be deposited in the office of the Secretary of the Interior.

Sec. 11. *And be it further enacted*, That the said company is authorized to accept to its own use any grant, donation or loan, power, franchise, aid or assistance which may be granted to or conferred upon said company by the Congress of the United States, by the Legislature of any State, county, or municipal corporation, or by any corporation, person, or persons, and said corporation is authorized to hold and enjoy any such grant, donation, loan or power, franchise, aid or assistance to its own use for the purpose aforesaid.

Sec. 12. *And be it further enacted*, That unless the Pacific Coast Railroad Company shall obtain bona fide subscriptions to the stock of said company to the amount of \$400,000, with ten per cent. paid within two years after the passage and approval of this act, it shall be null and void.

Sec. 13. *And be it further enacted*, That Congress may at any time, having due regard for the rights of said Pacific Coast Railroad Company, add to, alter, amend, or repeal this act.

Sec. 14. *And be it further enacted*, That lots in villages, towns, and cities shall not be subject to the provisions of this act.

Mr. McRUER. Mr. Speaker, I desire to say in regard to this bill that it came from the Senate to this House March 1, 1866, and was referred to the Committee on Public Lands. That committee at the last session of Congress had it under consideration for several months. The bill has been amended in many particulars but the amendments are all of a restrictive character. This road is about two hundred and forty miles in length, extending from the bay of San Francisco to Humboldt bay, along the coast line of California. Along that whole distance, except within a few miles, there is not a navigable river or any means of transporting anything which this land is capable of producing to any market. This road for about sixty or seventy miles goes through a rich and fertile valley in which there is not within the limitation of this grant one single acre of public land. The company are compelled to construct this—

Mr. WARD, of New York. I ask the gentleman from California whether the first section of this bill does not give the commissioners named the power of creating corporations in California? If that be so, I would like the gentleman to tell me what authority this Congress has to confer any such power?

Mr. McRUER. This bill makes a grant of land to a corporation created under the general corporation law of the State of California, and I will tell the gentleman that this is no new thing.

This road, Mr. Speaker, for about one hundred and seventy-five miles, runs through an unsettled country, and it is unsettled because the people up to this time have been without facilities for the purpose of carrying anything to market. The land has not been worth anything, and although in some parts there is a rich growth of timber, it never will be worth settlement until there are some artificial means of communication with the markets.

If there has been any propriety in granting lands to aid in the construction of railroads anywhere, if there has been any propriety in making these grants to Illinois, to Iowa, to Missouri, or Kansas—

The SPEAKER. The hour of half past four having arrived the House by order takes a recess until half past seven o'clock this evening, and this bill goes over till Monday next, after the morning hour.

## EVENING SESSION.

The House at half past seven o'clock p. m. resumed its session.

## MESSAGE FROM THE SENATE.

A message was received from the Senate of the United States, by Mr. FORNEY, its Secretary, notifying the House that that body insisted upon its amendment to the amendment of the House of Representatives to Senate joint resolution No. 90, to suspend temporarily the collection of the direct tax within the State of West Virginia, striking out the sixth section of the amendment of the House, disagreed to by the House, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. VAN WINKLE, Mr. HOWE, and Mr. DAVIS conferees on its part.

It further announced that the Senate insisted upon its amendment to House bill No. 356, fixing the compensation for the bailiffs and clerks of the courts of the District of Columbia, disagreed to by the House, agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. MORRILL, Mr. CONNESS, and Mr. PATTERSON conferees on its part.

## PRESIDENT'S MESSAGE.

Under the order of the House made this morning the House, as in Committee of the Whole on the state of the Union, (Mr. BENJAMIN in the chair,) proceeded to the consideration of the President's annual message, Mr. MERCUR being entitled to the floor.

Mr. MERCUR. Mr. Chairman, motion is said to be a natural condition of all matter. Progress appears to be a law of the world's nature. Much of its past civil progress has been through bloody revolutions. It seems to require a violent upheaving of society to enable it to break loose from the errors or oppressions which encircle it. Our generation and our own people have lately given a striking illustration. During the four years of bloody struggle through which we have just passed more was done toward securing the true principles of democracy than had been done in the half century which preceded it. A revolution of sentiment ends not with the laying down of hostile arms. It was a preëxisting sentiment, hostile to our Government and its institutions, which put arms into the rebels' hands. That evoked a counter opposition. The loyal masses were not content to oppose an equal force only, so that each belligerent should occupy his former ground at the end of the war; each sought to advance. The mighty strength of true democracy has been stirred to its very foundation. We are passing through a great revolution; we have not yet reached the end. True, the millions of Union soldiers are no longer in arms, but have returned to their peaceful avocations; yet still the conflict goes on. The antagonism of minds believing in different forms of government still exists. The old leaven which caused the masses of the South to rise up in rebellion has not been eradicated. Each day's journal gives evidence of outrages as barbarous as those which preceded the open conflict in arms. As war against our institutions existed before the firing upon Fort Sumter, so it has existed since the surrender of the rebel armies.

Nor is it confined within the limits of that portion of our country which was in open rebellion. The men of the North who sympathized and fraternized with the rebels while they were in arms now seek to excuse them and embrace them as brothers guilty of no crime. These men during the war saw nothing on the part of our Government but "executive usurpations" and "constitutional violations." They wanted the war so conducted on our part as not to destroy the rebel armies nor wound their fine sensibilities. In truth, they did so far influence the action of our Government that the war for some year and a half was so conducted as to do the rebels the least

possible injury. This was manifested, in part, by a refusal to use the brawny arm of the colored man, and by the sedulous care with which the property of the rebel citizen was protected. As during the conflict of arms every effective effort toward putting down the rebellion was denounced as a violation of the Constitution, so now every effort toward securing the just fruits of our victories is in like manner denounced by the same class of men. With them the Constitution is to be most liberally construed when invoked to screen rebels; but when loyalty and liberty seek protection then it is to receive a strict construction. They would have the rebels restored to all their former relations under the Constitution as if they had been guilty of no crime nor forfeited any rights.

On the contrary, I hold that they have been guilty of the highest crimes and forfeited many of their rights under the Constitution; not only their rights as individuals, but their rights as organized communities. In the incipient stages of the rebellion as well as during its bloody progress they did not act as individuals only, but as States. In fact, they called into exercise and used all the legislative, executive, and judicial powers of their several States. Acting as States they, so far as they could, withdrew from the Union; as States they changed their laws and constitutions; as States they confederated together and formed a new constitution, a new national union; as States they elected members of Congress and Senators to that new confederate government; acting through that government thus formed they levied taxes, made loans, conscripted men, raised large armies, and for four years waged a bloody war against the Constitution and Government of the United States.

But, say their hair-splitting apologists, they did all this contrary to law; our Constitution and laws forbade it. Their acts had no binding force, hence we must treat all those acts and deeds as if they had never been committed.

Grant that they were all contrary to law; grant that our Constitution and laws expressly forbade them, and that they were of no binding force as against us; yet it by no means follows that we must treat the wrong-doers as if they had committed no crimes. A man has no right to steal your horse; the laws forbid it; yet, in fact, notwithstanding his absence of right, the prohibition of law and the penalties provided against it, he may steal it. By so doing he acquires no legal right to the horse. You may reclaim it wherever found and again reduce it to your possession. But that does not wipe out the thief's offense. He still remains amenable to the law, liable to all its penalties; none the less a felon. As a thief is subject to the punishment inflicted upon those guilty of larceny, so is the rebel who levied war against our Government subject to the punishment inflicted for treason.

No one, however, now proposes to inflict upon the masses of those who are guilty of treason the high punishment prescribed by law. It is one thing to inflict positive punishment upon a rebel; it is quite another thing not to give him a representation in Congress which he voluntarily relinquished and spurned. The one calls into exercise the active vindication of law, the other merely withholds that which he has abandoned and taken an oath not to enjoy under our Government. I desire, however, to have it distinctly understood that I am opposed to a universal amnesty. In my judgment some few at least of the prime movers and controlling spirits of the rebellion ought to be tried for their treason, ought to be convicted, and ought to be punished. Thus treason should be made odious. A loyal national sentiment pleads for it; the best interests of humanity require it; justice demands it.

This, however, lies with the executive and judicial branches of the Government to enforce. The laws heretofore enacted by Congress have fully provided a way for the trial and punishment of all such offenders. There the duties

of Congress cease. Where they cease the duties and powers of the Executive begin. The President, says the Constitution, "shall take care that the laws be faithfully executed." Upon him, then, acting through his executive officers, is imposed the obligation of bringing offenders to trial and enforcing the sentences of the courts against them.

We, however, now have another duty to perform. It is to provide the manner in which the people residing in those portions of the country lately in rebellion shall have a restored representation in Congress. Those formerly in authority there voluntarily relinquished that representation. For several years they persisted in depriving themselves of it. They formed new political relations wholly inconsistent with its exercise; they enacted new governments in direct hostility to ours; they wholly repudiated and set at defiance our Constitution and the laws passed in pursuance thereof. It is with that whole people we now have to deal; not so much with the territory which they occupy, as with the inhabitants who dwell thereupon.

Our brave soldiers and seamen did their duty in the bloody conflicts of battle; we must now do ours. The military power of the Government subdued the rebels in arms; Congress must now provide for their restoration to a new-born civil life; not in any vindictive spirit, but "with charity toward all, and with malice toward none," ought we to provide for a restoration. We must not, however, so far extend our charity to those who sought to destroy our Government and dismember the fair proportions of our country as to forget the wants or overlook the rights of loyal men. Nor must we forget those living principles of man's equality which underlie this Government, and which have been reaffirmed in the crucible through which we have just passed.

Article four, section four, of the Constitution declares—

"The United States shall guaranty to every State in this Union a republican form of government."

This clause of the Constitution has received judicial construction showing that the power therein given is lodged in Congress.

The difficulties in regard to the "Dorr government" in Rhode Island in 1841 and 1842 gave rise to the case of *Luther vs. Borden*, which was argued in the Supreme Court of the United States, and is reported in 7 Howard's United States Reports, page 1. The section which I have just cited came under consideration. In the opinion of the court, delivered by Chief Justice Taney, he says:

"Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For, as the United States guaranty to every State a republican form of government, Congress must necessarily decide what government is established in a State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority, and its decision is binding upon every other department of the Government."

Then, if Congress is to decide "what government is established in a State," and if Congress is to secure "to every State a republican form of government;" if Congress, by the admission of Senators and Representatives, recognizes the "character" of a State; and if the "decision" of Congress in all these respects "is binding upon every other department of the Government," it necessarily follows that all power given to the Government is vested in Congress.

The constitutional powers of Congress over those districts lately in rebellion have been so fully and ably argued by others upon this floor that I shall not weary you, nor surfeit the country, with any extended argument upon that point. I shall consider the power of Congress to impose terms upon those people who sought to destroy our Government as established—established not only to the satisfaction of a large majority of the members of this body,

but also to the satisfaction of the people whom they represent.

The Opposition party is persistent in asserting that during, or in consequence of, the rebellion the people of the South lost none of their constitutional rights, and that by the cessation of arms they were immediately restored to all those rights which they had prior to the war. Its members in this House and elsewhere appear to have forgotten that new principles were evolved during the war, that some of them culminated in the enunciation and adoption of those constitutional amendments which abolished slavery. In all their labored arguments they ignore that radical change in the nation's fundamental law. Industrious in their labors of exhuming the resolutions of 1798, and adroit in reciting the doctrines of Calhoun based upon them, they seem oblivious to the amended charter of freedom and the rights flowing therefrom:

"ART. 13. SEC. 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction."

"SEC. 2. Congress shall have power to enforce this article by appropriate legislation."

There stands that bright token of liberty, the glory of this generation, and the pride of the Republican party who made it a part of the organic law. As time shall roll into the distant ages of the future, an American citizen will point to it with the same pride that an Englishman now does to the Great Charter which the barons wrung from King John at Runnymede.

By its adoption slavery was legally as fully wiped out, eradicated, and destroyed as if it had never existed as a blight upon our institutions. I have said such was its legal effect, but the framers of this constitutional amendment well knew that slavery was so interwoven with the laws and customs of the States in which it had existed that the mere declaration that it should no longer exist, although a constitutional declaration, would not of itself give to those heretofore enslaved the just and fair protection which its letter and spirit affirmed. They knew that the several States, in which it had existed, could not be relied upon to secure the reasonable and just incidents of freedom. Hence the second section gave "Congress the power to enforce this" amendment, according to its true intent and spirit, "by appropriate legislation."

Here, then, is a new constitutional power which Congress has acquired since the rebellion, and which we are now called upon to exercise.

I submit now, that what might be adjudged a republican form of government under one constitution, might under another be far from it. In other words, in construing our Constitution, regard must be had to the character and spirit of the whole instrument. Nor should the expositor be confined to an examination of the instrument itself alone, but he must look beyond it. He must consider the genius, ruling ideas, progress, and existing sentiments of the great masses of the people governed by it. The Constitution is not to receive that technical construction or interpretation which a learned lawyer gives to a statute or to a common law instrument; but it is to receive such a fair, just, and natural interpretation as will carry out the great principles of the Government, and secure and protect the rights of the masses for whose benefit it was made.

The Constitution of the United States is the people's fundamental law. In the suppression of the rebellion; in the abolition of slavery; and in the recent elections, they have given it form and construction, which not only legislators, but Presidents and judges will do well to notice and to heed.

As long as our national Constitution recognized slavery, Congress could with no justice or sound logic affirm that any State government was not "republican in form" because it denied a large class, which it held in bond-

age, political rights. Now the case stands upon a different foundation. By the Constitution all men are made free. By the provisions of the civil rights bill all persons born within the jurisdiction of the United States, or duly naturalized, are made citizens. Hence the form of any State government must now be viewed, and must now be tested, by the whole of our national Constitution and the recognized rights under it. So viewed, and so tested, no State government can, in my judgment, be truly recognized as republican in form, which permanently disfranchises, by reason of race or color, either a majority or a large proportion of its adult male citizens who have been guilty of no crime. Conceding that the right of suffrage is neither a natural nor civil right, yet it is so necessary to protect and secure a citizen in the enjoyment of his civil rights, that in a Government like ours, based upon the will of the people, it is difficult to separate it from civil rights.

The constitutional amendments passed by Congress at its last session are so just in their requirements, so mild in their provisions, that no person ought to object to their adoption by reason of their imposing too severe terms upon those lately in rebellion. With some reason loyal men may complain, that they do not go far enough, that they do not adequately punish rebels, nor sufficiently protect the rights of all loyal men of the South; yet mild and just as they are, their provisions and requirements are spurned by those people lately in rebellion. The masses of the loyal North last autumn declared, that nothing short of the recognition of the principles therein contained would bring peace and security to the nation. We must not disregard that great popular verdict rendered by the people. There must be no yielding up any of their securities, no abandonment of any of their essential requirements. The affirmation of citizenship and of equality of civil rights; the withholding from States a representation based upon loyal men who, as a class, are disfranchised; the temporary exclusion from office of leading perjured rebels; the repudiation of the rebel debt, and a pledge for the payment of the loyal debt, incurred in putting down the rebellion, must not be waived nor rendered uncertain. They are essentially necessary to protect the liberties of our people and to make their rights secure.

I understand civil liberty, under our form of government, to be something more than what Coleridge defined painting to be: "Painting," said he, "is a something between a thought and a thing." Our civil liberty is not thus circumscribed. It is both a thought and a thing. It rests, not in the mind alone, but reaches out its numerous tendrils and clasps as with hooks of steel, the substantial realities of man's existence. As mind and matter are united in man, so are thought and thing in civil liberty. Liberty is insecure, it is of no value, until it becomes a right; not merely asserted as an abstract right, but affirmed as a positive, practical, and living right. It must be incorporated into law which will protect and enforce it.

I am free to confess, that the constitutional amendments now pending before the States do not give all the protection and security which I think due to the loyal people of both the North and the South. Unable last session to get all the securities I desired, I accepted and voted for them. In my judgment the general sentiment of the North during the recent elections was, that if the rebel States would adopt these amendments in good faith, and send loyal men, they ought to have a restored representation in Congress. So believing, and desiring to assist in carrying out the people's will, I have stood ready to thus vote. Instead, however, of adopting them; instead of giving their assent to the correctness of the principles therein enunciated, they have rejected them with scorn. If now, with all their anxiety to have a representation upon the floors of Congress, they will not subscribe to those principles for the purpose of gaining admission, is

any man so insane as to believe they would adopt them after they were admitted? Certainly not.

If a majority of the representative men of the South, who enjoy the elective franchise, are determined to continue to stand in opposition to our Government; if they continue to manifest no sympathy with the genius of our institutions; if they can so control and direct the majorities of those to whom they give the right of suffrage as to exclude from official position all loyal men of the South, then indeed they are still in rebellion. They have changed their weapons, but their object is the same. That object, that purpose is to undermine the very foundation upon which this Government rests. They not only ignore the doctrine that our Government derives its just powers from the consent of the governed—not of the few only, but of the many—but they seek to pervert its powers and make it an engine of wrong and of oppression. The numerous murders of colored men, the frequent assassinations of loyal white men, attest the bitter and disloyal sentiment which still rankles in the heart of the unreconstructed rebels. Kindness and executive pardons have failed to subdue their hostile sentiments. Loyal white men are driven from their homes by social and political ostracism, as well as through fear of injury to their persons and their property.

Every loyal citizen is entitled to protection by his Government. We cannot afford to deny it to ours. The golden opportunity is now presented of bringing back our Government to those grand truths proclaimed in the Declaration of Independence; not holding them as "glittering generalities," but as principles imbedded in the hearts of our people; so that we may have in fact, what we have heretofore had in name, a free Government. If we now suffer this occasion to pass unimproved, a century may roll around before so favorable a one is again presented.

We are told, however, by gentlemen in the Opposition, that there is no constitutional power to deny to any rebel State a representation in Congress. It recalls to my mind the declaration so often made at the inception of the rebellion; a declaration made not only by the head of the Democratic party, but running down through all grades to its most ignorant member. It was, "There is no power in the Government to coerce a State."

The loyal, Union-loving people of the nation answered that assertion. They said we will coerce all persons who are in rebellion in any State, even if they include its entire population. That word was made good. So now the loyal people have said, we can and will deny to rebel States a representation in Congress until they come with constitutions and laws in harmony with our amended Constitution. Unless Congress is recreant to its trust that word will also be made good.

As the Sabbath was made for man and not man for the Sabbath, so civil government was created for the benefit of mankind, and not mankind for the benefit of government. Constitutions and laws are but the instruments which the people have formed, to be used in securing their rights and in protecting them in the enjoyment thereof. As the habits and necessities of a people change, so should their legislation and organic laws change. To deny this, is to check all progress in civil government. In the earlier periods of the world's history, those organic changes were made through the bloody throes of revolution. In framing the Constitution of the United States our forefathers sought to avoid all necessity for those convulsions which deluge a country in blood. Hence they incorporated in the instrument itself, a peaceful method by which it could be changed. They arrogated to themselves no perfection of human wisdom through which they sought to bind future generations. They framed it to suit their then existing wants and necessities, but reserved the right, and pointed out the manner, in which they and their posterity might change it. Thus it is allotted to

each generation to make such changes as the advancing civilization of the world requires.

The disdain, with which the governing classes of the South have rejected the mild requirements of the pending constitutional amendments, proves them unfit and unsafe to shape the legislation of this country.

In my judgment the time for other and additional action has now arrived. We must look beyond those classes. The disloyal should no longer be permitted to act the part of the dog in the manger. Now, they neither enjoy the full benefits of our representative Government, nor permit loyal people in their midst to enjoy them. They seem to have forgotten that their every system of slavery has been weighed in the balance by the great popular heart of the nation and has been found wanting; that time nor eternity will not restore it. It has been cast into that vortex where—

"Though the mills of God grind slowly  
Yet they grind exceeding small;  
Though with patience He stands waiting  
With exactness grinds He all."

It is criminal in us if we suffer loyal citizens of the South to be much longer thus deprived of their full rights. They have a right to demand speedy action. While we talk and procrastinate, they suffer. The disloyal, basking in the sunshine of executive sympathy and executive favor, have again raised their heads, and are now consolidating their power. I see no other course left but to give enfranchisement and power to the loyal masses of their citizens. Let the test be loyalty, not race nor color. It is the lowly, the humble, the down-trodden, who most need the protecting arm of the Government. Wealth and high order of intelligence usually secure protection to their possessors; the poor and the ignorant require the aid of the ballot for their protection.

The rights of labor and muscle must not be overlooked nor disregarded. They lie at the very foundation of our national prosperity and our continued existence as one nation. When the unity of our nation was assailed by the recent rebellion; when the peril was so great that every loyal family was compelled to give up some of its loved ones to fill the depleted ranks of our armies; when the conscript submitted himself to the military authorities for examination, no such interrogatory was put to him as "Can you read and write?" nor that other interrogatory, "Does any colored blood flow in your veins?" Neither ignorance of letters; nor race nor color afforded any ground for exemption; vigorous manhood fixed his liability.

Whoever was required to risk his life in the defense of our Government, whoever was required to raise his stalwart arms to oppose that mighty rebellion, has, in my judgment, a sufficient educational qualification to enable him to take a part in shaping the future of that nation whose unity his valor helped to preserve.

I trust, therefore, that the bill this House has lately passed, providing for a restoration of civil government in Louisiana, may become a law; and if found to work well, that its substantial provisions may be extended to all the disorganized communities of the South. Those civil governments, which the President has assumed to establish, are of no binding force. Let the citizens, who are now without any adequate protection, be temporarily protected by our military power. That power should be carefully yet firmly exercised. Rebels must not arrogantly dictate what a loyal people must do; they must be taught that every person who is protected by the ample folds of our flag must love its stars or fear its stripes.

It is my earnest desire that the time may soon come when there shall be such a state of facts existing in all the States lately in rebellion as will admit of their representation being restored; but I do not want to see their Representatives come back here exhibiting that sense of arrogant superiority which was formerly manifested on this floor. When they take their seats let it be with no assumption



of superiority, no admission of inferiority; let it be with sentiments of political equality and of national unity.

By one general test and rule we should fix and determine under what requirements a restoration shall be had. Let us scrape away all the unsound accumulations begotten by slavery till we come to the solid rock, and build anew; then permanency will be given to the structure in which harmony and justice shall commingle. Do not let us subject the people of this nation to a multiplicity of brilliant operations like that which characterized the experiments of a French surgeon. It is related of the late Sir Astley Cooper that on visiting Paris he was asked by the surgeon *en chef* of the empire how many times he had performed a certain wonderful surgical operation. Sir Astley replied that he had performed the operation thirteen times. "Ah," said the Frenchman, "but, Monsieur, I have done him one hundred and sixty times." After looking into the amazed expression of Sir Astley's face he added: "How many times did you save his life?" "I," said the Englishman, "saved eleven out of thirteen. How many did you save out of one hundred and sixty?" "Ah, Monsieur, I lose dem all, but de operation was very *brillante*!"

So every attempt made to reconstruct without recognizing man's equality may be brilliant to the eyes of those who govern, but fatal to the rights of the people. Any compromise which ignores the rights of a loyal citizen is unworthy of the civilization of the age. There should be no compromise of any of the essential rights of citizenship. Several compromises have been made with slavery in our past history, but perfidy has marked their paths. We must not forget that the destiny of this nation is now to be shaped. Principles are now to be settled which will leave their impress upon countless ages of the future. No veneering spread over great national wrongs, no ignoring the fundamental rights of all our citizens, can faithfully represent the deeply-seated convictions of the American people. The conflict of arms through which the nation has passed, the treasures expended, and blood shed by the people in defense of their cherished rights and institutions, must not have been in vain. The civil arm of this Government must give logical effect to the sturdy blows struck by our brave soldiers in their many bloody conflicts. If it fails to protect the fair and natural fruits of the victory won by the sword it will be false to the great principles of liberty and justly merit the condemnation of the civilized world. I, however, have an abiding faith that the people, who could preserve their institutions against the criminal weakness of a Buchanan and the machinations of a Johnson, will transmit them unimpaired to posterity.

Mr. Speaker, I yield the remainder of my time to the gentleman from New York, [Mr. DARLING.]

Mr. DARLING. I understand the gentleman from Pennsylvania has only ten minutes left. As that is not sufficient for my purpose I decline to go on this evening; and with his permission I yield to the gentleman from Indiana.

Mr. DUMONT, and Mr. TAYLOR of Tennessee, addressed the House. [Their remarks will be published in the Appendix.]

At the conclusion of Mr. TAYLOR's remarks, Mr. KERR obtained the floor, and moved that the House adjourn.

The motion was agreed to; and thereupon (at ten o'clock and thirty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. BUNDY: The petition of Colonel J. H. M. Montgomery, for one year's additional pension, which is recommended by Joseph Hunt, Alexander Logan, Caleb W. Cherington, John C. Vauden, S. A. Nash, and William Waddle, the county officers of Gallia county, Ohio.

By Mr. CULLOM: A petition, signed by numer-

ous citizens of Sangamon county, Illinois, calling upon Congress to prevent by necessary legislation the further withdrawal of the national legal tenders; also, to refrain from passing a law requiring the national banks to redeem in the city of New York.

By Mr. DODGE: Resolutions of the Chamber of Commerce of the State of New York, in regard to the land sold by the city to the Government for building suitable accommodations of the revenue service at the Battery, and asking Congress to make the proper appropriations to carry out the object.

By Mr. FAIRSWORTH: The petition of citizens of Rockford, Illinois, against the curtailment of the currency.

Also, the remonstrance of citizens of Rockford, Illinois, against any law depreciating or unsettling the national currency.

By Mr. GARFIELD: The petition of 122 citizens of Youngstown, Ohio, asking for the repeal of the five per cent. tax on manufactures.

By Mr. GOODYEAR: The petition of Effie J. Harvey, praying for a pension on account of her late husband, Clinton D. Harvey, who died from disease contracted in the naval service of the United States.

By Mr. HUBBELL: The petition of John McElroy, and 108 others, citizens of Delaware, Ohio, praying that the five per cent. tax imposed upon manufactures be removed.

By Mr. INGERSOLL: The remonstrance of F. Fuller, Charles E. Grant, L. E. Conger, E. L. Chapman and 67 others, business men of Galesburg, Illinois, protesting against any legislation depreciating or unsettling the established national currency.

By Mr. O'NEILL: The petition of the officers of the Athenaeum, of Philadelphia, asking that all books, maps, &c., intended for libraries, colleges, and other public institutions be continued on the free list, as a tariff upon them would be attended with disastrous results in the diffusion of useful knowledge.

By Mr. PAINÉ: Remonstrance of F. T. Smith and others, citizens of Fox Lake, Wisconsin, against legislation depreciating or unsettling the established national currency.

Also, the petition of citizens of Kalamazoo county, Michigan, for the establishment of a certain mail route.

Also, the petition of Lydia L. Perham, for pension. Also, the petition of certain citizens of Michigan, for the establishment of a new mail route.

By Mr. PERHAM: The memorial of M. Wescott, for pension to the minor child of Enosh B. Whittemore.

By Mr. SCHENCK: The petition of manufacturers of Hamilton, Ohio, praying for the removal of the five per cent. tax on manufactures.

Also, the petition of citizens of Dayton, Ohio, remonstrating against any legislation depreciating or unsettling the established national currency.

#### IN SENATE.

THURSDAY, February 14, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.

On motion of Mr. GRIMES, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### LEAGUE ISLAND.

Mr. GRIMES. I move that the Senate postpone all prior orders, and proceed to the consideration of the bill (H. R. No. 452) to authorize the Secretary of the Navy to accept League Island, in the Delaware river, for naval purposes, and to dispense with and dispose of the site of the existing yard at Philadelphia.

Mr. CHANDLER. I hope the regular order of business will be pursued—the presentation of memorials, reports, &c.

Mr. POMEROY. I desire to present the credentials of my colleague and have him sworn in this morning.

Mr. GRIMES. That can be done after this motion is put.

Mr. CONNESS. I hope before the motion is put that we shall be allowed to present memorials and bills.

Mr. GRIMES. If the Senate will agree to take the bill up I shall then be perfectly willing that it be informally laid aside until all the morning business is disposed of.

Mr. CONNESS. Very well.

Mr. POMEROY. I have no objection to its being taken up if we can then proceed with the morning business.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa.

The question being put; there were on a division—ayes 17, noes 8; no quorum voting.

Mr. GRIMES called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 16; as follows:

YEAS—Messrs. Brown, Buckalew, Cattell, Conness, Creswell, Fessenden, Fowler, Freloughusen, Grimes, Henderson, Hendricks, Johnson, Kirkwood, Lane, Morgan, Morrill, Saulsbury, Stewart, Williams, and Yates—20.

NAYS—Messrs. Anthony, Chandler, Dixon, Foster, Howard, Howe, Nesmith, Patterson, Pomeroy, Ross, Sherman, Sprague, Sumner, Trumbull, Wade, and Wilson—16.

ABSENT—Messrs. Cowan, Cragin, Davis, Doolittle, Edmunds, Fogg, Guthrie, Harris, McDougall, Norton, Nye, Poland, Ramsey, Riddle, Van Winkle, and Wiley—16.

So the motion was agreed to.

#### CREDENTIALS.

Mr. POMEROY presented the credentials of Hon. Edmund G. Ross, elected a Senator by the Legislature of the State of Kansas to fill the vacancy occasioned by the death of Hon. James H. Lane. The credentials were read, and the oaths prescribed by law were administered to Mr. Ross, and he took his seat in the Senate.

Mr. ROSS presented the credentials of Hon. Samuel C. Pomeroy, elected a Senator by the Legislature of Kansas for the term of six years, commencing on the 4th day of March, 1867; which were read, and ordered to be filed.

#### PETITIONS.

Mr. WILSON presented the petition of Joseph Segar, praying for compensation for property taken for the use of the Government by order of Major General Butler, in May, 1861, at Roseland, near Old Point Comfort, Virginia; which was referred to the Committee on Claims.

He also presented the petition of Isabella M. Boyle, praying that a pension may be granted to her husband, James Boyle, formerly a private in company H, seventeenth regiment Massachusetts volunteers, who became disabled in the service and is now insane; which was referred to the Committee on Pensions.

#### REPORTS OF COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred the bill (H. R. No. 974) to indemnify Abial Morrison for property destroyed by hostile Indians in Washington Territory, in the years 1855 and 1856, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

Mr. WADE, from the Committee on Territories, to whom was recommitted the bill (S. No. 404) to regulate the selection of grand and petit jurors in the Territory of Utah, and for other purposes, reported it with an amendment.

He also, from the same committee, to whom was recommitted the bill (S. No. 501) amendatory of an act to provide a temporary government for the Territory of Montana, approved May 26, 1864, reported it with an amendment.

Mr. NESMITH, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 158) for the relief of Daniel Ellis, reported it with an amendment, and submitted a report, which was ordered to be printed.

Mr. LANE, from the Committee on Pensions, to whom was referred the petition of Ezra B. Gordon, submitted a report, accompanied by a bill (S. No. 602) granting a pension to Ezra B. Gordon. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the joint resolution (S. No. 165) to refer the claims of the trustees of A. G. Sloo to the Court of Claims, reported it without amendment.

Mr. VAN WINKLE, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 965) declaring Clinton bridge, across the Mississippi river, at Clinton, in the State of Iowa, a post route, reported it without amendment, and submitted a report; which was ordered to be printed.

Mr. MORRILL, from the Committee on Commerce, to whom the subject was referred, reported a bill (S. No. 604) to amend an act entitled "An act making appropriations for the repair, preservation, and completion of certain public works heretofore commenced

under authority of law, and for other purposes," approved June 23, 1866; which was read, and passed to a second reading.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the memorial of A. W. Walker, asked to be discharged from its further consideration; which was agreed to.

#### PRINTING OF A BILL.

On motion by Mr. CRESWELL, it was

*Ordered*, That the bill (S. No. 157) to protect children of African descent from being enslaved, in violation of the Constitution of the United States, be printed for the use of the Senate.

#### BILL INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 603) to authorize the establishment of ocean mailsteamship service between the United States and the Hawaiian Islands; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

#### NEW YORK HARBOR.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to communicate to the Senate the report of General Newton, of the United States Engineers, in relation to the encroachments on the harbor of New York.

#### LEAGUE ISLAND.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 432) to authorize the Secretary of the Navy to accept League Island, in the Delaware river, for naval purposes, and to dispense with and dispose of the site of the existing yard at Philadelphia, the pending question being upon the following amendment, proposed by Mr. SUMNER, as a substitute for the bill:

That Admiral David G. Farragut, Lieutenant General W. T. Sherman, and Mr. J. E. Hilgard be, and they are hereby, appointed and constituted a commission to select a suitable site on or adjacent to the Atlantic coast for a naval station for the storage, repair, and building of iron vessels and iron-clad vessels of the Navy, and for other naval purposes. And the Secretary of the Navy is hereby authorized and empowered to accept such selected site on behalf of the United States: *Provided*, The same shall be conveyed to the United States as a free gift, for their exclusive use and benefit, by a valid and indefeasible title. And the Secretary of the Navy is hereby further authorized to take possession of and occupy such site for the purposes herein indicated; and in preparation thereof to use such amount of money as may be necessary out of any unexpended appropriations for the Navy.

The PRESIDENT *pro tempore*. Upon this question the Senator from Connecticut [Mr. DIXON] is entitled to the floor.

Mr. GRIMES. With the permission of the Senator from Connecticut, I desire to say—

Mr. DIXON. Does the Senator wish to make a speech? If not, I would rather go on.

Mr. GRIMES. I was going to give the Senator the benefit of a letter that was alluded to in the letter of Commodore Turner, of the existence of which I was not conscious until yesterday.

Mr. DIXON. I am willing that the Senator shall go on if he wishes to do so.

Mr. GRIMES. No; I do not care about it.

Mr. DIXON. Mr. President, as I listened yesterday to the imploring and almost pathetic tones in which the Senator from New Jersey [Mr. CATTELL] urged upon the Senate the acceptance of this "munificent gift" on the part of the city of Philadelphia, I was struck with the deep anxiety which is manifested by the representatives of that city on the floor of the Senate that the gift should not be declined. The ordinary rules that govern human nature seem to be reversed in this instance. We have had heretofore importunate petitioners. The importunity now seems to be on the part of the giver, who trembles with anxiety lest the gift should not be received. We have a short method sometimes with beggars who are importunate and who will not take a denial; but what shall we do when the benefactor will not take "no" for an answer? Sir, there was once a wise old man, who lived long before

League Island had been deposited by the ooze of the Delaware and the Schuylkill at the confluence of the two rivers, who gave us a word of caution as to the propriety of our keeping aloof from those who press upon us gifts, especially when the gift is a thing which the receiver does not want and the donor is very anxious to get rid of.

Now, sir, League Island is only two miles from the city of Philadelphia, and there seems to be a very great anxiety on the part of Philadelphia, and a natural anxiety I should consider it, that the gift of that island should be received. What is the character of the gift? If it were a very desirable point with reference to the situation of Philadelphia at present, should we find that, sitting as she does between the Schuylkill and the Delaware, she had grown in all directions, north and west, until she has become the second city in the Union, but had never grown in that direction, why is it that that portion of the suburbs of Philadelphia is not inhabited except that it is not habitable? You will find similar low lands surrounding the city of New York and other cities. Some cities are compelled to use similar lands on account of their peculiar location; but as a general thing you find that when not habitable they are not inhabited. Even the suburbs of the city of New York on the opposite side of the river are in that condition. In the city of Boston, on account of its peculiar position, they have been obliged to reclaim and make land for the growth of the city. We find, however, that the city of Philadelphia has extended in all other directions, but shrinks from this unhealthy region, as a tree puts forth its spreading branches in all directions toward the light, but shrinks from a noxious shade.

The Senator from New Jersey told us yesterday that it was a custom sometimes on the part of the citizens of Philadelphia to resort to this island of a summer afternoon in order to enjoy the healthful breezes that fan that charming spot. That is a picture which I think never existed except in his own imagination. It may possibly be that there are some shades there, but I do not think the heated citizens of Philadelphia of a summer day flock there in vast numbers. They do not recline with Titrus under the beeches of League Island. The Senator himself very properly selects the city of Philadelphia for the place of his business. He is wise in so doing. He in that way gives an advantage both to himself and to the city. But does he seek his suburban residence on League Island, where he says the healthful breezes are so balmy and inviting of a summer afternoon? No, sir; he vastly prefers the somewhat arid and sandy plains of Camden.

The city of Philadelphia is peculiarly fortunate in the advocacy which this League Island scheme receives. She has virtually three, and I do not know but I might say four, representatives here. In addition to the two able Senators from Pennsylvania, there is the Senator from New Jersey, who resides one half the time in Philadelphia during business hours, and during his hours of leisure in New Jersey, who is here as the advocate, almost the representative, and in fact takes upon himself the character of a witness for the interests of Philadelphia; so that we may say she is thrice happy, *terque beatus*, and I do not know but I may say *quaterque* when we add the Senator from Iowa, [Mr. GRIMES,] who also seems to take so deep an interest for Philadelphia.

I do not complain of this in the slightest degree. It is not unnatural that the city of Philadelphia should desire that League Island should be taken by the Government, accepted as a "munificent gift," that great expense should be laid out upon it, and that at some future and proper time she may ask the General Government to give her, in return for the six hundred acres of League Island, the small modicum of land which is now used as a navy-yard in the city of Philadelphia. Why, sir, it would be ungracious if the General Government would not do it. If Uncle Sam should

receive this "munificent gift," and he should be requested by and by to give up to the city of Philadelphia the land now occupied by the navy-yard, it would be almost ungracious and unkind should he refuse to do so; and I do not know that it would be unreasonable if such a request should be made. How can we refuse so slight a return for a gift so munificent?

But, sir, I find, in examining this subject, some things which strike me as peculiar. In the first place, I will say that the proposition is very skillfully presented to the Senate—I will not say artfully, but skillfully presented. We are told that there is no intention of establishing an additional navy-yard; that it is only desired that the present location of the Philadelphia navy-yard shall be changed to another. This disguise, it seems to me, cannot conceal the real intention. Every Senator knows that the real question here presented is whether the great iron navy-yard of the United States, rendered necessary by the use of iron-clad vessels, and which it is supposed must at some time be established, shall be located at League Island or not; whether, in preference to all other locations in the country, that shall now be definitely chosen. That is the real question before the Senate. It is useless, therefore, to say that Congress is only requested to decide that the navy-yard in Philadelphia shall be removed and enlarged. We cannot avoid the real issue. We may as well look at it as it is. The question is whether we are prepared to say that of all the places on the whole coast of the Atlantic, from Maine to Florida, League Island is the place for the navy-yard which is to be built for iron-clad vessels.

Now, sir, how happens it that this question is here at all? It is a little surprising that this question is before the Senate on this occasion. Senators who have occupied their seats for four years will remember that we have already had a discussion on this subject and a virtual decision. The question was once before presented to the Senate, and the Senate decided that a commission should be appointed, and that that commission should examine League Island, New London, and other sites that might be presented, and report to the Navy Department. How was that commission appointed? It was appointed by the Secretary of the Navy. He certainly is not an enemy of this project, and it could not be supposed that he had appointed men who were adverse to his views. I do not suppose for a single instant that any improper motive governed the appointment of that commission; but this I may properly say, that if there was any leaning on the part of the commission, it was not against League Island and in favor of any other site. It was appointed by the Navy Department, the strongest friend of this proposition. What were the commission to do? They were to examine the sites presented and to report. They have examined and reported. What was that report, and what has been the effect of it? What attention has been paid to it? Has the Navy Department paid the slightest attention to that report? I think if the report had been the reverse of what it was the honorable Secretary of the Navy would have paid some regard to it. It seems to me that the Senate of the United States, having concurred with the House of Representatives in requiring the appointment of a commission to examine and report whether League Island was the proper place for this navy-yard, are called upon to pay some respect to the report itself, at least to consider what it was.

But here we are presented with a proposition for another commission, and to report upon what? To examine the whole coast as before? To let us know what is the best position? No, sir; to examine one, and only one; and I think I may safely say, without any disrespect to the Secretary of the Navy, whom I believe to be a very correct and honorable man, especially in his political views, that a sure thing will be made of it this time; I may say that with safety, because the bill itself requires him to confine his examination, if any examination is to be made,

to one point. Why is that, sir? Why not allow what the Senator from Massachusetts proposes to be done? The Senator from Iowa says it would be a roving commission. Well, sir, I should suppose that roving was the very mode by which a commission could ascertain what was the best site; but the commission, under this bill, are not to rove abroad; they are to confine themselves to this one position, League Island, and if they are of opinion that that should be selected, then the question is closed.

I have no doubt that the Secretary of the Navy will appoint this commission with reference only to their qualifications to decide the question; but if he should be so unfortunate as to find that the commission are adverse to his views and opposed to League Island, what then? That will be the second commission that have reported, and then I suppose the whole subject will be dropped, and Congress will be called upon again to appoint another commission, and so on until a commission is found that shall decide in favor of League Island; for I will say that the persistency, I might say the obstinacy, with which certain men connected with the Government seem bent upon selecting this position of League Island in preference to any other is really somewhat surprising, quite as much so as some of the other points to which the Senator from New Jersey alluded, and to which I shall call the attention of the Senate in a moment.

The Secretary of the Navy overlooks entirely the report of his commission. He appointed suitable officers of the Navy and they submitted to him their report. In his very next report submitted to Congress the Secretary utterly ignored that. He went on as if no report had been made. He insisted upon his former views; and the subject now comes before Congress, and Congress is urged and implored to accept this "munificent gift" against the opinion of the commission appointed in accordance with the vote of both Houses of Congress.

Now, sir, what was that report? Attention has already been called to it, and it is unnecessary for me to dwell upon it at any very great length at this time. Who were these gentlemen who were appointed by a solemn vote of both Houses of Congress to examine, first, League Island, then New London, and then any other point which might be presented as a suitable location? Commodore Stringham, Commodore Gardner, Commodore Van Brunt, Engineer Sanger, Captain Marston, and Professor Baché. It so happens—of course it was entirely accidental, but it so happened—that three of the commission either were residents of, or natives of, Pennsylvania, and not a single man had any connection, by residence, or birth, or relationship, or consanguinity, or in any other way whatever, with New England. Their feelings and prejudices, if they had any—I know they had none; but if they had any—were in favor of Philadelphia as the location to be chosen. They made a report of very great ability. They exhausted the whole subject. They divided their inquiries into fifteen different heads. What was the final result to which they came? What was the opinion which they gave Congress on the subject? The Senator from New Jersey says "it was not unanimous, but the vote of the commission stood four to two." The Senator says the minority had the advantage of the argument.

Well, sir, it is very possible that you might appoint a committee consisting of six men, five of whom should be very capable men of judging, practical men, and yet not so keen in argument as the sixth, and if his argument is supposed to be a little abler than the others, then, according to the Senator, you must not regard the weight of character nor of opinion, but must look at the theoretical reasoning and skill in argument entirely. But I think that the Senator is entirely mistaken in regard to the argument. If I am any judge, these gentlemen not only outnumbered the minority of the board, but they outweighed them in argument. The result to which they came was this:

"Resolved, That, in the opinion of the board, the

public interests will not be promoted by acquiring the title to League Island for naval purposes."

That is definite, distinct, decided, and without qualification. That was the opinion of these four naval officers against the other two on that board, the only board ever appointed by act of Congress to make a decision on this subject. They went on further and added:

"Resolved, That the harbor of New London possesses greater advantages for a navy-yard and naval depot than any other location examined by this board."

I do not propose to dwell at any very great length upon that, for I am not here to-day as the peculiar advocate of New London. I do not wish nor expect the Senate to decide at this time upon the merits of that place. That is not the question before the Senate. The Senate may think that League Island does not combine all the advantages which are required, and which may be found somewhere on our three thousand miles of coast, for a navy-yard, without coming to the conclusion that New London does combine all those advantages. Possibly some other place may be found. I agree entirely with my colleague in his remarks yesterday, that Washington city itself is a far better place for this navy-yard than League Island. That is my opinion. I have no doubt that other places may be found, I think they are numerous, if the investigation could be extended. Certainly there is no very great pressure for time on this subject, for the Secretary of the Navy has seized time by the forelock and has placed our iron-clad ships at League Island. There they are safe and sound, imbedded in ice, locked up, secure from attack and useless for defense, and have been for six weeks past at League Island utterly helpless and utterly useless. If that catastrophe to which you, sir, alluded yesterday had taken place within the last six weeks our iron-clads would have been unable to move for any purpose from League Island. There is, therefore, no very great pressure as to time. League Island has fast in her icy chains the iron-clads already, and they will remain there at least until the Delaware river shall thaw and liberate them from their icy bondage. I observed that the Philadelphia papers a few days ago expressed great hope that eighty vessels that were ice-locked at Newcastle would soon be able to reach Philadelphia, but the wind happened to change to the northwest, the ice remained in the Delaware, and there they are yet.

It would be trespassing upon the patience of the Senate if I were now, after the exhaustive speech on this question which my colleague has made, to dwell upon the details of the report of the commission appointed to investigate this subject. All that can be said has already been said upon it. Senators will find if they will glance at that report that all the questions were carefully considered and minutely inquired into and examined: first, as to the adequate depth of water at or near the site; second, facility of ingress and egress; third, security from attack by an enemy and facility and economy of defenses; fourth, security from violent winds at sea, and from ice whether fast or moving; fifth, ample accommodations for safe anchorage; sixth, abundant space for the erection of all buildings, docks, and basins that may be required for a first-class establishment; seventh, adaptation of the site to the construction of permanent stone dry-docks, &c.; eighth, topography of the site; ninth, mean range of the tides and exposure of the site to freshets and overflows; tenth, set of currents about the site, and their effects; eleventh, facilities for procuring most rapidly supplies and stores of all kinds; twelfth, abundant supply of good fresh water; thirteenth, facilities for procuring workmen of all classes; fourteenth, quality of the water near the site, whether fresh or salt; fifteenth, health of the vicinity. Every single point which can arise was carefully examined by that impartial board, leaning, if at all, in favor of Philadelphia, and as the result of their investigations they reported to the Secretary of the Navy that in their opinion the public interests would

not be promoted by acquiring the title to League Island for naval purposes.

Now, sir, it would seem that that decision should have some weight. It would seem that there should be an end of this matter; at least it would seem that there should be another inquiry. It would seem that if that decision was to be entirely ignored and set at naught, it should not be done without going at least through the form of inquiring still further; but that is not proposed. As I have said, the bill before us requires that no examination shall be made whatever except of League Island. The Senator from Massachusetts has offered an amendment to it. The Senator from Iowa has taken occasion to find fault with the statesmanship of the proposition of the Senator from Massachusetts. The Senator from Massachusetts can defend that proposition for himself. The Senator from Iowa says it includes nothing; it does not require any proper examination. Why, sir, as you yourself said yesterday, it includes all that the bill itself includes, and a little more. It goes as far as the bill does; it requires everything that the bill requires; and I think it goes a step further.

If the Senate should entertain some doubts on this question, and should come to the conclusion that it was best to ascertain whether some objections made against League Island were proper to be considered, I can conceive of no mode by which that examination can be better made than by this proposition of the Senator from Massachusetts. Who are the commission proposed in it to inquire into the subject? The Senator from Iowa says they are not naval men. Sir, it does not require naval men to consider this question. It requires men of good sense; it requires men who can decide whether a particular place is a proper and safe point for a navy. A man does not need to understand navigation for that. If he is a practical business man, and has eyes in his head, and can see whether land is land and water is water, he is competent to decide that question. We propose, therefore, that the distinguished men named in the amendment shall be appointed to examine the whole country, to visit the whole coast if necessary, to visit the different points proposed, and to give us their opinion. It has already been shown that there is ample time for this examination.

Now, sir, when they do that what will they find? It is true there has been something said of the propriety of selecting New London as one of the proposed sites. It strikes me that the true manner of considering this question is not with regard to local interests in any manner whatever. I would if I could have this question considered in the light of the unity of the whole country, as if there were no such thing as State lines. I am not very much of a centralist, but upon this question I am willing to ignore all State lines and State divisions. What is the best location for an iron-clad navy-yard in the United States without reference to that parallelogram on the map which is called Pennsylvania, and without reference to that still smaller space on the map which is called Connecticut? Leave them out of the question. I regret that all the Representatives of the State of Pennsylvania in a body voted in the House of Representatives for this measure. I should prefer that they could view it and that we could view it in Connecticut as a national question, but still I do not complain of them; I do not blame them. I know what human nature is. I know that the people of Pennsylvania, and particularly in the neighborhood of Philadelphia, are anxious to have this great navy-yard there; and it is not surprising that the people of Philadelphia should share this anxiety; but that ought not to have the slightest influence upon the mind of any Senator, and it cannot have. What if New London does desire this navy-yard? What if Philadelphia also desires it? Of course they desire it. They would be somewhat different from human beings elsewhere if they



did not; but that cannot have any weight upon our minds.

True it is that New London is proposed. Nature has been peculiarly kind to that locality. In a great many respects it is in point of fact—and I may say it without a boastful spirit with regard to my own State—the very best harbor on the face of the globe. That is the truth. Nature has given to the State of Connecticut at New London a stream which penetrates the main land in such a manner as to make the best harbor in the world, not equaled by the bay of Naples, not equaled by the harbor of New York, not equaled by any harbor so far as I know anywhere on the globe. Why, sir, if that harbor had been in France or in England, with an estuary penetrating ten miles into the main land with a depth of forty feet of water to its perpendicular bank, and with feasible ground sloping down to it in every direction, with a natural foundation for every kind of heavy buildings, do you suppose that Napoleon or the British admiralty board would have neglected it? Do you suppose that Napoleon would have laid out millions of money to make artificial harbors as he has done in France? Do you suppose the English Government would have neglected it? No, sir; it would have been seized upon hundreds of years ago and devoted to the purpose of a great national naval station, a use for which nature seems evidently to have designed it.

The Senator from New Jersey says, by way of complaint as I understand him, that Connecticut urged this place sixty years ago as a site for a naval station and naval depot. It is very true that the people of Connecticut at an early day saw its advantages; and, but for the fact that Connecticut is a small State, with very little political influence, it would have been selected as a naval station long ago. If we had acted on this subject with a spirit of national unity and not with reference to State divisions New London would have been selected first of all. No man can visit that place and see those capacious waters and that peculiarly adapted ground to this purpose without saying at once it is the spot of all others for a naval depot. I had the honor of accompanying the commission when they visited New London. I sailed up the river with them. I had seen it often before, but my attention was never so particularly called to its advantages for this purpose as on that occasion; and I perceived at once the effect upon their minds of ocular demonstration. I say to you, Senators, you cannot go there without being convinced. Go there this moment in imagination, and what do you see? Do you see an ice-bound river as you see at Philadelphia, although in a northern clime? No, sir. New London is a northern city, not with southern principles, but with a southern climate. The Gulf stream deflects somewhat toward the coast, and the breezes from the Gulf stream come around Montauk Point and up by Fisher's Island; and standing there you may feel its influence on a winter day, keeping the water in a state of liquefaction when rivers far south as the Potomac are crossed by heavy teams, and when Boston and New York harbors are closed with ice. That is a natural blessing for which Connecticut ought not to be condemned. She has not many such blessings, I agree. Nature has not been kind to her in all respects; but she has been extremely kind to her in the gift of this harbor unequalled on the continent.

The Senator from New Jersey says nothing stands in the way of this little job of taking League Island for this navy-yard, as desired by Philadelphia, but Connecticut. She is reproached. She stands in the way. "What business has she there at such a time?" Why, sir, Connecticut asks nothing. You yourself, sir, showed yesterday that the strongest and most convincing argument which has been made on this subject was made by a Senator from New Jersey, who not long since occupied one of these seats, and who was by all of us highly respected, who lives within seventeen

miles of League Island, but not near enough to transact business in Philadelphia and represent the city of Philadelphia as well as the State of New Jersey. I do not mean by this in the slightest degree to reproach the Senator from New Jersey. What he is doing he is doing conscientiously; but I think, after the interest he has manifested, it was a little unkind of him to reproach Connecticut. When he was employing his earnest zeal for the interests of those whom he in part represents on the Camden side of the river, he certainly ought to have had the charity to suppose that the Senators from Connecticut were actuated by as pure motives as himself.

Now, sir, this is not an overwrought description of the natural advantages of New London. In truth, it is impossible to draw a picture of the peculiar advantages of that position which shall come anywhere near their true merits. I wish the Senators who desire to act on this question, with a view to the good of the whole country and for all future time, could visit the spot. I wish they could go there as that commission went. I care not what were their prejudices, they would be convinced. Let them sail up the Delaware river; let them come to an island in the Delaware two miles from Philadelphia, uninhabited and uninhabitable. The Senator from New Jersey says there are seven houses there, and some of them have cellars; and he alleges that diluvial region has some ten trees on its whole extent of six hundred acres. I never doubted that League Island was sufficiently fertile. That was not the objection. We never claimed that it was "a barren waste, wherein no salutary plant takes root, no verdure quickens." That is not the objection to it. It is quite too fertile; the noxious vegetation there is perhaps too luxuriant for the health of its few inhabitants. That rather is the difficulty. I have never doubted that if a tree took root there it would expand in the course of years; and no doubt that island has been there for even a longer time than the Senator stated. We never denied that there were some portions of solid matter there. The Senator mistakes what those of us who believe League Island to be an unfit place think with regard to it. I have no doubt that that island has been there probably ever since the period of the flood. The deposit of the ooze at the junction of those two rivers would not make an island of six hundred acres in any short period of time. It is true, as the Senator has said—that is, I take it for granted it is true, because he says so—that a portion of that island has been washed down to Cape May since the recollection of man.

He tells us that the back entrance or the back channel has been cut through within, I think, a period of a hundred years; so that some portion of it has departed, and undoubtedly the formation of the land is such that it is liable at any day to be washed away by the currents as that portion was. Now, sir, when you arrive there what do you find? You need a firm foundation. What do the commission say? They say that League Island is a reclaimed marsh. They say that it is now saved from submersion by the Delaware river by a dyke or wall, and that at high tide a very large portion of it is two, three, or four feet below the water. That may not be true of the whole island. There may be a small portion of it never covered by water. They say that an immense expense must be laid out to make it a proper position for a navy-yard; and I may as well at this time say a word on the subject of that expense.

I have here a pamphlet written by a friend of this proposition, and to show that he is an honest man he states that he is a native of New England, proof presumptive, I agree, that he is so. He gives us his opinions with regard to it, and answers, as he thinks, the objections. I will not refer to what the commission say, but I will take the statement of this friend of the proposition. He says:

"To raise the island three feet above high-water mark would require about three million six hundred thousand yards of earth."

He is wrong upon his own statement, for I have taken the trouble to go through the arithmetical calculation myself, and I find it will take five million two hundred and twenty-seven thousand cubic yards. He then says that this may be done at twenty-five cents per cubic yard. There is not a Senator who has not had experience enough on his own property to know that it is utterly impossible to carry and deposit a cubic yard of earth for twenty-five cents. It cannot be done. I think it would cost four times what he has stated. In my opinion, to lay the quantity of earth he states upon the island and to distribute it as must be done would cost at least a dollar a cubic yard. If it cost that, then it would cost to make this gift acceptable \$3,600,000, according to his estimate, but according to my estimate it would be \$5,227,000. But suppose we divide it; suppose it can be done for one half the amount I have stated—and no man would contract for it at that price if he had the soil close at hand, and if it could be given to him—it would cost \$2,600,000 to make this gift capable of being used. That does away with all the advantages of this position on account of its vicinity to coal and iron, for the interest of this money would more than transport throughout all time all the coal and iron that the Government would require for this navy-yard.

There is no escape from this. It is useless for the Senator from New Jersey to talk about League Island being of the same geological formation as the main land there. Why, sir, we know without inquiry—every man who has ever seen alluvial soil at the confluence of two rivers where the land and the water mingle and form an ooze, knows that it must be a place, as the former Senator from New Jersey stated in his remarks, where if a man puts his foot in it is difficult to get it out. That will be the case with us. If our Government should get its foot into that position, in my judgment he will never be able to extricate it. The United States may receive this gift; they may pour out treasure there; there will be no end to the enormous expense which will be entailed; and, after all, the position will be utterly unfitted for a navy-yard. This is not an assertion; this is an opinion not founded upon the report of the commission, but upon the statements of the friends of the measure.

Mr. President, it would seem that there ought to be some very strong reasons presented to induce the Senate at this stage of the session, in hot haste, to decide to tie their hands for all time on this question; for I say here, without fear of contradiction, that the passage of this bill at this time is tying the hands of the Government for all time to come. Upon what will you decide afterward? You accept the gift of this island. What is the understanding? That it is accepted for naval purposes. If the honorable Senator from Iowa has some doubt whether it will be wise to go on with work on the island, it is far better to settle that doubt now. Let us settle it before we decide to take the property, not accept the title before we make up our minds that it is an acceptable piece of property.

But, sir, when you have accepted it; when you have lavished upon it untold sums of money; when you have decided that the iron-clad navy-yard shall never be on the Potomac river, nor at New London, nor on the Hudson, nor at Perth Amboy, but at League Island; when you have laid out three, four, or five millions upon it, what have you? I wish the Senate, before they take definite action on this question, to consider for a moment what you have when you have got it. I say to the Senate it is utterly worthless for the purpose intended when received, and when it has been prepared for its purposes by the expenditure of millions. When you have done all, you have got a place which is utterly worthless for your purposes, and why?

In the first place, it is a position which is liable, some say once in forty years, some once in ten years, but in my belief at least once in six years—it has happened twice within the last six

years—to be entirely closed by ice for a period of at least four weeks. Is this a trifling consideration? Why, sir, I need not dwell upon it to the Senate. A navy-yard which you cannot approach by water and which you cannot leave by water for one tenth of the entire year is utterly worthless for the purposes of a navy-yard. That I think is a position which cannot be denied. Will the Senator from New Jersey deny the fact? Will he say that the present is an extraordinary winter? Well, sir, the winter when this bill was discussed before was an extraordinary winter, and the very same fact occurred. I stated then, and without denial by my friend from Pennsylvania [Mr. COWAN] at that time, that the Delaware river was frozen up, and people were crossing on the ice with heavy teams at this very point where you propose to have a navy-yard, where your vessels shall be always on the alert and ready at the least threatening of war, in at least two weeks at the longest time, to be able to defend New York; for it only takes the British or French Government two weeks to send vessels to New York. Is it an unsupposable case that in case of war our iron-clads might be locked up for six weeks at League Island, while France and England concentrate their whole naval force upon New York? Will anybody say that is impossible? It could have been done this very winter, or else the Philadelphia papers are edited by men who are utterly untruthful with regard to the state of the river. They say so themselves.

It seems to me that when I state these facts to the Senate, it ought not to be replied to me that the facts are worthless and should have no weight because I happen to live in Connecticut and New London wants a navy-yard. Admit it; suppose it were so; does that alter the character of the fact that the Delaware river for six weeks during the last winter has been entirely inaccessible at League Island for any species of craft that needs water to carry it? There might be possibly an invention of an ice-boat that I see has been used in western waters that might reach it, but there is no other mode except by land.

That, then, is the character of this location with regard to ice and accessibility by water in the winter season. If you say that this will only happen once in ten years or once in forty years we all know how uncertain are such averages. You may form a general average which will answer for a series of centuries, and say that such a thing happens only once in ten years; but the ten years may be consecutive. A thing may happen for ten consecutive years and not again happen for a century; though I do not believe there has been a decade in this century—there has certainly not been since my recollection, for I have had some occasion to know the fact myself—that Philadelphia has not been ice-locked in this manner.

But then, when the river is open and you have water, you need a certain amount of water. You must have depth. Now, I state to the Senate and to the country that the depth of water in the Delaware river, although not quite as insufficient as it would be in the Connecticut river, is utterly insufficient; there is not water enough. This "munificent gift" which the Senator insists on our accepting will be utterly valueless after we have expended all our money upon it for the purpose of a navy-yard for want of water, the very first essential. Let us see what the depth of water is. Mr. Fox—I beg pardon; I do not know whether Mr. Fox is the writer or not—but the writer of this pamphlet says:

"We are invited to go to New London and build up a straight open harbor with deep water."

He makes depth of water an objection. I think he must have seen no objection of that kind to be raised to League Island, as it is to New London. True enough it is; and if that is an objection we admit it; we have deep water. The harbor of New London has an average depth of forty feet of water. Why does Mr. Fox make this objection? Simply because New London has it and League Island has it

not. Let me read to the Senate what the naval commission, speaking on this subject of deep water, and also the depth of water required by armor-clad ships, not only the English and French, but our own, say, and see whether when we have accepted this "munificent gift," and laid out three millions of money upon it at the least calculation, we have got anything of any kind of value. I call the attention of the Senate to this point. The Naval Committee of the House of Representatives say:

"Depth of Water.—Of a similar nature to the foregoing is the objection on account of the inadequate depth of water. This is very obvious upon a careful examination of the soundings, as indicated by the charts prepared by the Coast Survey. Opposite Hog Island, and just below League Island, the channel is very narrow, and shoals to a depth of but eighteen feet at its deepest point at mean low tide. No vessel drawing more than eighteen feet can pass this point without waiting for a rise of tide. Near Cherry flats, and opposite Wilmington, the channel draws but nineteen and a half feet. Below Newcastle, and in the neighborhood of the Pea Patch Islands, the channel has shifted from the east to the west side of the island, and in as many as three places shoals to nineteen and a half feet. Twenty-five to thirty miles below Newcastle it again shoals to twenty-one feet. The committee regard this as an almost insuperable objection to the Delaware for a great naval station.

"We are upon the threshold of a new era in naval architecture. No one can tell what the exigencies of the coming years may call for in the size and draught of our naval vessels. The boasted iron-clads of England, the Minotaur, the Agincourt, the Northumberland, and Black Warrior, draw twenty-five feet six inches. The French La Gloire, Normandy, and others nearly twenty-six feet. And these Powers are now deepening their docks and constructing new ones for the purpose of receiving vessels drawing twenty-six feet of water.

"In this connection, the statement of one of the first naval constructors of the Government, Mr. Delano, of the Brooklyn yard, was laid before us: 'That it was indispensable, to make any naval station first-class, to have a depth of at least twenty-five feet of water at low tide.'

"Your committee cannot believe it consistent with a prudent regard to the future efficiency of the Navy to establish for all time the great naval yard and depot of the country at a point to which vessels of a greater draught than eighteen feet cannot get, and from which they could not get to sea except in certain stages of the tide. And the nation might find reason to regret the acceptance of the 'munificent gift' in case a fleet chased by a superior force of the enemy should be unable to reach its rendezvous in the Delaware, or to put to sea from thence at short notice, when its presence might be necessary at any point threatened."

Donald McKay, the eminent ship-builder of Boston, says on this subject of deep water:

"If we are going to compete with France and England for a sea-going iron-cased fleet, we must have vessels to draw from twenty-four to twenty-six feet of water at least. The naval ports of France and England are not limited in draft of water, and their docks are now being altered and new ones constructed to receive these iron-cased vessels, which draw twenty-five to twenty-seven feet."

You see it stated, therefore, by this commission that an objection exists to League Island, as I have already intimated, on account of the inadequate depth of the water. They stated that there is but eighteen feet of water at the deepest point just below League Island at mean low tide; that opposite Wilmington the channel has but nineteen and a half feet; that below Newcastle the channel has shifted from the east to the west side of the island, and in as many as three places shoals to nineteen and a half feet. I call the attention of the Senate particularly to the statement of Mr. Delano, one of the constructors at the Brooklyn navy-yard, that "it was indispensable to make any naval station first class to have a depth of at least twenty-five feet of water at low tide." What, Senators, are you doing? For what are you acting? For to-day, for last year, for the last century, or for the future? A new era has opened in naval architecture and in naval defense, and we are acting for all time. What is the French Government doing? What is the draught of water of the English armor-plated ships? Here is a list of some of those vessels:

	Draught. Feet. In.
Black Prince.....	26 3/4
Royal Oak.....	25 10 1/2
Caledonia.....	25 10 1/2
Ocean.....	25 10 1/2
Minotaur.....	25 8
Achilles.....	16 3/4
Royal Alfred.....	25 10 1/2
Agincourt.....	25 8
Northumberland.....	25 8

Others have been built within the last two years, namely:

	Draught. Feet. In.
Zealons.....	26 00
Lord Hyde.....	26 6
Lord Warden.....	16 6
Bellerophon.....	26 00
Heracles.....	26 00
Turkestan (for the Turkish Government).....	26 00

Here are the names and draught of some of the iron-clad ships of France.

	Mean Draught. Feet. In.
Magenta.....	26 00
Solferrino.....	26 00
Couronne.....	25 00
La Gloire.....	25 6
Invincible.....	25 6
Mermaid.....	26 00
Flandre.....	25 00
Gauloise.....	25 00
Guyenne.....	25 00
Heroine.....	25 00
Magnanime.....	25 00
Provence.....	25 00
Revanche.....	25 00
Savoie.....	25 00
Surveillante.....	25 00
Valreureuse.....	25 00

I admit that our iron-clads will be perfectly defensible from attack if you desire to place them where the English and French iron-clads cannot reach them. You have that place of perfect security at League Island. Place them there and no ships which draw over eighteen feet of water can ever approach them. If the security of the vessels themselves is desired by the Senate, then I agree that League Island is a well-chosen place. League Island will be perfectly secure from attack on all sides except by land. No ships can ever reach our iron-clads there. The La Gloire, the Royal Oak, the Minotaur, the Agincourt, and the Northumberland may cross the ocean in vain; we have no fears; we have our iron-clad vessels safe from all their attacks. That will be assured.

Now, one word as to the defensibility of the point where they are located. It is said that we cannot defend them at New London. I had supposed that they were to defend themselves, and not only themselves, but the whole country; but it seems that they must be in a defensible position. Why, sir, what are they for, what are we laying out this vast expense for iron-clads for, if they need to be defended? If that is the case we had better surcease from building them altogether. I take it, "the blood of Douglass can defend itself;" the iron-clads can at least defend themselves. If they cannot, New York and Philadelphia are liable at any day to be laid waste. Suppose you have a fleet of iron-clads at New London, and a fleet of iron-clads approaches them from England, and the cry is raised throughout the country that they are not defensible, they must have forts, they must have fortifications to defend them against the British attack, are they to lie there helpless? I think they are not to lie there to be bombarded by the British iron-clads, but they are to sally out and commence the attack themselves, to traverse our whole coast. That is their duty, not to lie there to be defended. I look to them as our defense, not as the object of defense. So much on that point.

Sir, it is almost incredible—if I had not seen I could not believe it—that Senators should stand here and urge us to accept as a naval station for iron-clads a place which all the testimony goes to show, and nobody contradicts it, has at low water at certain times but eighteen feet of water, and at the most nineteen feet, when your iron vessels draw from twenty-five to thirty feet. I have no doubt that great improvements will be made in iron-clads hereafter, that they will be made much larger and require much more water, enough, I have no doubt, to test the whole depth of water at New London. I think the time will come when you will need forty feet, perhaps fifty feet. I do not know how high the draught may go. The Senator from New Jersey smiles. He may think me extravagant in stating the draught of water by large vessels. They will require at least twenty-six feet, and that is enough for my purpose to-day to show that this place that is now proposed to be taken is

unapproachable and inaccessible by iron-clads of the largest size now known.

I am compelled to be very desultory in my remarks. I find on looking over these pamphlets some other testimony on subjects to which I have alluded, and to which I will return with the permission of the Senate; and first, with regard to this question of the ice in the Delaware river: I wish the Senate to be kind enough to listen to a letter from Mr. Kneass, a civil engineer of Philadelphia, and also a letter from Admiral Gregory, from which some information can be obtained on this subject.

"In addition to the objections already considered is the damage and obstruction to navigation occasioned by ice, fast and floating, in the winter season, which, according to statements submitted to the committee, is a very formidable if not insuperable objection to the Delaware."

"And while the committee were investigating this subject the United States gunboat *Galena*, ordered to join Admiral Farragut's fleet, in getting to sea from Philadelphia, was so badly injured by the ice that she was towed to Baltimore, where she was detained a month for repairs, which cost the Government several thousand dollars, and her voyage broken up at a time when her services were greatly needed by the country. It was also shown that the Pennsylvania Railroad Company had caused a survey to be made of League Island, with a view to adopting it as their depot for coal, and that it was finally abandoned after a report of their engineer, an extract from which the committee herewith submit of very high authority:

"I trust that it may not be considered as overstepping the limits of the question intrusted to me if a few remarks bearing upon the navigation of the river during the winter season be presented as a point of great moment in comparing the sites at League Island with the Point House, and those immediately above it.

"You will perceive that the face of League Island is subjected to the full force of the flood-tide from the long reach in the river, extending southwardly, the effect of which has been, as represented by the statements of those most familiar with our river, and its winds, currents, and bars, to pile up the drifting ice upon the entire shore-line; and, indeed, I have before me evidence to the effect that in all times of obstruction by ice vessels can be brought with much less difficulty through the Horse Shoe channel than to League Island. It may be stated that an ice-guard could be constructed that would relieve the front from the drifting ice of the flood-tide, but the effect of such breakwater would be to cause deposits within the surface affected, thus subjecting you to a continued and heavy expenditure for dredging."

"STRICKLAND KNEASS, Civil Engineer."

Here is the letter of Admiral Gregory on the same subject:

NEW YORK, January 31, 1863.

SIR: In answer to your inquiries respecting the preference of New London for a naval depot to other positions contemplated, I have to say that having seen the report of the board of officers who recently investigated the subject, I fully agree in the conclusion they arrived at, and from an experience of fifty-four years in the service, during which time I have had many opportunities of gaining a knowledge of such matters, I am of the opinion that New London is a proper and eligible position for the purpose. In 1843, fitting out the frigate *Raritan*, at Philadelphia, I was obliged to leave there on the 1st of December, and bring the ship to New York on account of ice, at great hazard, which nearly occasioned the loss of the ship.

I am, with respect, your obedient servant,  
F. H. GREGORY.  
JOHN R. BOLLES, Esq., Washington.

That is testimony of the very highest importance with regard to the danger of vessels from ice. I have a vast amount of other testimony on the subject. I have contemporaneous testimony. I have the statements from the Philadelphia papers, and I can show conclusively that for a large portion of every severe winter that position is inaccessible on account of ice, and not only inaccessible, but the vessels themselves are exposed to very great danger from the breaking up of the ice.

Now, sir, if it has been conclusively shown that a very large sum of money must be expended upon this place to make it of such a character that it will sustain large and heavy structures and be fit for a navy-yard; and if it has also been shown that after this money has been expended the place itself is unfit on account of the danger to which vessels would be exposed there from ice, and their disability either to reach or leave the place on account of the ice; and, in addition to that, that at the very best of times, when the channel is entirely unobstructed by ice, there is not a sufficient amount of water for the purposes required, it might seem that the case was closed, and that

it would be utterly useless to ask a body like this, the Senate of the United States, legislating for the whole country, to locate an iron-clad navy at that position for the purpose of doing some favor or advantage to the people living in the neighborhood. I do not understand that Philadelphia sets up any very great claim on account of loyalty or anything else in regard to character; but if she does, it would be far better for this country if Philadelphia would send in her bill on that subject, and that it should be paid, even if it should amount to five or ten millions dollars. Philadelphia asks nothing of that sort. I do not believe that the high-minded people of Philadelphia wish this spot to be selected, unless it is the best spot for the purpose in the United States. No doubt they would be gratified if the Senate of the United States should come to the conclusion that it is the best spot. I do not charge that anybody is here asking favors of the Government. They implore us to accept a gift; but I think we had better decline such a gift, and not accept it.

But, sir, the point, and the only point for the Senate seriously to consider is, whether this should be the chosen spot. To decide upon that question requires careful examination, requires time, requires that all the surrounding circumstances should be considered; that we should know whether the spot when we get it is desirable; whether it is a fit place for human residence. The Senator from Iowa told us in the debate some years ago that he inquired of some of the residents there and they told him it was healthy.

Mr. GRIMES. Oh, no; I did not say so.

Mr. DIXON. I well remember that the Senator told us some four years ago that when he was upon this spot he inquired of some of the residents, and they said it was a healthy place. Sir, did you ever know a spot on the face of the globe, however pestilential or malignant, the malaria might be, the inhabitants of which did not claim that it was the best on the face of the earth in regard to health.

Mr. GRIMES. I never said that.

Mr. DIXON. Perhaps it was the Senator from Pennsylvania, [Mr. COWAN,] but I think the Senator from Iowa is mistaken in his recollection. I think the Globe will show that the Senator has forgotten his remarks. It is of no importance whether it is so or not; but my recollection is that he told us that when he was on the ground he inquired of the people there, and they told him it was healthy.

Mr. GRIMES. The Senator is mistaken. I did not say that I made any such inquiry, although I believe the fact to be so, that it is healthy.

Mr. DIXON. Some Senator, and I think it was the Senator from Iowa, said that when he visited this place and saw the inhabitants who live in the seven houses that are erected on that island, within two miles of Philadelphia, with cellars, surrounded by eight or ten trees, they told him that it was a healthy location. I remember that at the time I was struck with the remark, and thought it not strange that the people should say so. In the first place, they knew that the illustrious individual that was addressing them was a Senator of the United States; that he was there on that mission of mercy to them, to locate, if possible, an iron-clad navy in that neighborhood. Is it to be supposed that they would tell him that it was unfit for human beings to live in, and that they lived there because dire necessity compelled them to do so? No, sir; they said it was a healthy spot, just as the people of all countries, however pestilential, however sickly, consider themselves the favored people of Heaven in regard to location. It is one of the evidences of the kindness of Divine Providence that every man is pretty well suited to the place where he is. But, sir, the fact is shown that it cannot be a healthy location, whatever may be the testimony of the inhabitants, from its formation, from its character, and it is shown by the fact that it is shunned, as I have already said, by the people of Philadelphia.

They do not live there. It cannot be healthy for any but amphibious animals. For them undoubtedly it is, but for human beings who need a dry, upland soil, and are not so constituted as to grow healthy upon miasma, it cannot be a desirable place.

But, sir, I do not consider that by any means the greatest objection to it. That might in a certain degree be obviated. The objections are of a higher character. They are objections which cannot be obviated. I do not say that the United States, by the expenditure of millions of dollars, could not elevate that soil so that it might become comparatively healthy. I think very doubtful whether, after a great expense had been laid out in piling, the soil might not prove to be of such a character as to furnish a very imperfect foundation after all. But suppose it could be; the difficulties in the way of your acceptance of this island for the purpose intended are of a character which cannot be obviated by any expense or degree of labor. You cannot dredge out the channel of that river and make it sufficient in depth. Nature forbids it. You cannot obviate the difficulty of ice in the winter. That is an impossibility. Nature forbids that. There are those two defects which utterly forbid, as it seems to me, the decision of the Senate at this time of binding force upon the acceptance of this position.

Now, then, what is proposed? I do not ask the Senate at this moment even to consider the question whether New London shall be accepted. I might do so. I might, I think, make out so strong a case for New London that if the Senate were really to apply their minds to that question and decide it they would decide in its favor. But I prefer to defer that to some future period when it may be necessary for us to decide it. I can then show you—I have the means of showing you here—that there is no obstacle in the way of the selection of New London on account of fresh water or on account of salt water which cannot be obviated at very trifling expense. An abundance of fresh water can be procured.

With regard to the water in which the vessels shall lie, I have this to say: I do not think that water of any description is very useful to the iron with which a vessel is clad, whether it be fresh or salt. Some effect is produced undoubtedly upon iron by fresh water or by salt water. It would be better, in my judgment, and that is the opinion of experts, if the vessels could be out of the water entirely, if they could be raised in dry-docks, and not exposed to the oxidation occasioned by the action of the water; much less damage would be occasioned than by the action of the water.

Every possible means that can be desired of raising vessels out of the water and placing them in a position where they would not be subject to the action of the water on the iron at all can be furnished at New London, as the charts I have here show, and as the papers before the Senate show. I have not the time nor the strength to go into that question, nor do I think it necessary, because, as I said, that is not the question before the Senate. It is not for the Senate to say to-day that New London shall be the place, or even may possibly be the place. It is for the Senate to say, if they say what I think they ought to say, that every point supposed to be favorable and desirable shall be examined; that men capable of reporting upon it shall give their opinion of the question to the Senate, although we might ask that that should not be repeated, for it has already been done. One commission have decided against League Island. The Department insist upon taking that place without reference to that report, and utterly disregardful of it. We say now, before the action of the Department is made decisive and conclusive on that subject, give time for another examination. I do not see how in acting on this question as judges this body can come to any other conclusion. It is utterly useless to talk about the interest Connecticut may have in the question or the interest of New Jersey



or the interest of Pennsylvania. I trust I have divested my mind entirely of any influence of that character. To be sure I confess I should be gratified if it should turn out that the Senate on examination should be of opinion that New London is the proper place; but I hope I never would vote for it unless I believed it was so.

Why should not this inquiry be made? Why not investigate the subject? Why urge on this purpose? Where is the immediate haste? I confess I do not see it. Suppose six months should elapse. We do not propose to go into the expense of building iron-clads at present. Why, then, come to an immediate decision which shall bind the Government? Sir, I think the public interest would be far better subserved by an examination and inquiry like that proposed by the Senator from Massachusetts; and I shall therefore vote for his amendment.

Mr. POMEROY. Mr. President, I know I ought not to occupy any of the time of the Senate on this bill.—There are other bills that I think of more pressing importance which are awaiting our consideration. If the bill which came from the House of Representatives yesterday could be considered, I would not occupy a moment upon this bill. I do not know that it is possible to consider that measure until this is disposed of, although I would much prefer to enter upon the consideration of that bill at once.

I desire, however, before this vote is taken, to have it distinctly understood that this is no question confined to Connecticut. From the discussion we had yesterday the Senate might conclude that this was a mere contest between Connecticut and some other State or some other locality. I have no particular interest in it, nor have the people of my State. The people of Iowa and of the western States have no particular interest in it as States, but they are a part of the United States, and we are Senators of the United States as well as of our States, and questions of this character affect us all. I suppose that we in proportion to the weight we have in the country have an equal interest.

I have been surprised that this question was supposed to have any distinctive influence and bearing upon New London or Connecticut. I looked the bill through, and I could not find an allusion to Connecticut or New London. I have some objections to this bill, and my opposition to it would be just as strong if Connecticut or New London had never been spoken of. The question here is whether we shall accept League Island, and in my judgment that involves the other question, of making it the great naval station and depot of this country. If it does not mean that, then I have no objection to taking it. If I thought the bill was as harmless as has been intimated, that the only question was what the Senator from New Jersey yesterday said, whether we would take a magnificent donation like the gift of six hundred acres of League Island, and there was nothing to follow it, I would say yes, take it of course; take everything they want to give us. If that is all there is in it, why occupy any time upon it? Why is there any objection to taking it?

But every Senator, I apprehend, believes that behind this there are to be appropriations sufficient to make it a great naval station, a place to build as well as to keep vessels. If it was only designed to store the iron-clads we have got now, any place in fresh water, I suppose, would answer that purpose. Senators tell us that League Island is a very good place for that; but I am certain that what is intended by this measure, and what the country means, is to find some place to build ships as well as to keep them. The time has come when we are to be and make ourselves a naval Power among the nations of the world, and to do this we must build ships, not only equal, but superior, if possible, to those of the other naval Powers of the globe. In accepting a place for such a location as that, the question with us is whether it is a suitable place for us to build a

great naval station and to construct vessels that will contend with any in the world.

Although we do not know absolutely what is before us in the future, yet the shades of the future are sufficiently developed to make us believe that hereafter the accomplishments in naval science will far eclipse and be greatly in advance of anything we have had in the past. We can all remember when if a vessel was built of sufficient magnitude and capacity to draw fifteen or twenty feet of water it was called an immense structure. But now a vessel drawing no more water than that would not be considered worth bringing into a contest if there was to be a naval fight. It is only a few years ago since we contemplated the question of applying steam to our war vessels, and especially of making iron-clad vessels, and since that system has been discussed the country has adopted it. The magnitude of these vessels cannot be contemplated. To be sure, this year they will build them drawing twenty-two, twenty-five, or twenty-six feet of water. Ten years from now unquestionably they will build them drawing thirty or forty feet. If we are to pursue the line on which we have commenced, and I know of no reason why it should not be pursued, the question will yet be, what nation can present the largest iron-clad vessels with the heaviest armament.

If we are going to establish a naval station with any such ideas calculating to meet the wants of the country and the world, it is of the first and greatest importance to us to see that we have it located where we can accomplish this object. I have no prejudices against League Island. My argument would apply just as well against any station on a river that is not navigable for this class of vessels. I would not have it up the Hudson, nor up the Potomac, nor up the Delaware, unless it was accessible to the class of vessels that we propose to build.

And here I ought also to remark that in building vessels the most experienced builders never build them until the timber composing the hull has been seasoned in salt water. I see from the report that in the French navy-yards the timber composing the hulls of their vessels is seasoned in salt water from two to five years before they build. If that is valuable, and I suppose it is, or it would not be used, it is preposterous in us to think of constructing a navy-yard where there is no salt water and where this kind of seasoning cannot be had.

Then there is another fact that ought not to be lost sight of: the rivers of this country are diminishing year by year. I went to the library to get a work on this subject that has been lately published; but I was not able to get it. The title of the work is "Man and Nature," showing that the rivers of the world are diminishing year after year and from generation to generation. The fact is accounted for in this way: as you cut off the forests of the country, and as you subject the land to agriculture, the evaporation is either greater or the soil absorbs more of the rain. At any rate, the fact exists, demonstrated clearly by French and English experience, that the rivers of the world are diminishing. It is said upon very good authority that eighty years ago the Delaware itself was large enough to take the Great Eastern up to Philadelphia. It could not take the Great Eastern up there now. The Hudson river, at any rate, is diminishing year by year. The Potomac is not as good for navigation now as it was when Washington was laid out. Everybody knows that. The banks of the river fall in; the river flows wider and not as deep; the channel is filling up. Let this process continue for fifty years or one hundred years more, as it undoubtedly will, and nothing that you could call a vessel of war could get up to League Island.

I will not speak of such obstacles as the ice, &c. I do not know whether those obstacles really exist or not. It is sufficient for me to state that the nature of the river is such that you cannot get a vessel there of the magnitude

we propose to build; and if establishing a navy-yard there is not in order to build as well as to store iron-clads, I do not know what the bill is for. If the bill simply means that we are to accept League Island and not make a naval station of it, then there is no use of this contest; but I take it for granted that every Senator and the country understands that in accepting League Island, we accept it for the purpose that the country anticipates, and that has been under discussion here for three or four years, and that is to have one great naval station where we can store and build our Navy, not only to make it equal to any in the world, but to make it superior, so that we can contend for all future time with any nation that may choose to contend with us. The war demonstrated that our most successful armament was in those iron-clads and monitors that were almost wholly submerged. It is no object to build a steamer in the air. We must build it so that it will go in and under, if need be, the water, at least go deep into the water. You cannot plate one with the thickness that is now required unless it does draw an amount of water that was not contemplated by us when we first commenced building.

Mr. GRIMES. I will inform the Senator that none of them draws seventeen feet of water.

Mr. POMEROY. I am not talking about vessels built on the spur of the moment during the war. I am talking about vessels that have got to be built to make the Navy of the United States equal to the navies of the world.

Mr. GRIMES. Does the Senator know what the vessel said to be the strongest vessel and the heaviest armored vessel in the world, the Dunderberg, draws?

Mr. POMEROY. I do not know; I am not informed. I know from the reports made to us what the vessels built in France and in England draw. There has been an account read this morning from the desk showing that they are building vessels drawing from twenty-five to twenty-six feet.

Mr. GRIMES. Not one of which has ever been able to get as far as Lisbon; and not one of which can go to sea to-day. The Dunderberg, built by Mr. Webb, and claimed to be the strongest and most substantial and powerful ship in the world, only draws twenty feet.

Mr. POMEROY. I am not talking about any particular vessel. For the purposes of my argument I do not talk about any vessels built in the world to-day. I am only showing that we are in the course of improvement.

Mr. GRIMES. I suppose the Senator is alluding to that ship described by Washington Irving as coming into the harbor of New York, which was fifty feet long, fifty feet broad, and fifty feet deep. [Laughter.]

Mr. POMEROY. I am only contending that if we continue to progress in the science of naval architecture as we have done for the last fifty years, no one can tell what we may be required to build in the course of the next fifty years; and I say it is preposterous, I may almost say ridiculous, to fasten upon this country a naval station that will not answer the purpose of building such a class of steamers when we are required to build them. There has been nothing that I can remember on this subject but an advance and increase. We have increased the speed, increased the size, and increased the draught. Suppose you fasten us to a naval station where you have got only from eighteen to twenty-two feet of water. Your Navy would be safe up there, but the question is whether the country would be safe; whether it would answer the purpose for which we built a Navy; whether our cities could be protected; whether our country could be safe with its vessels stored eighty miles up a river. Of course foreign vessels could not reach them; neither could we reach them.

My point is that we ought to build a station of this character where it is accessible to any mammoth ship that we may choose to build in the future, or that any nation of the world may build. That is a conclusive argument with

me on this question against accepting League Island for this purpose. If the Senator from Iowa and the Committee on Naval Affairs and the Secretary of the Navy wish us to accept League Island for other purposes, let us accept it; I have no objection to that. But if the bill means that it is to be followed up by appropriations of \$2,000,000 and then of \$5,000,000 and then of \$8,000,000 and finally of \$20,000,000, until we have drained the Treasury of this country as low as we dare to do, to build more ships and to give strength to the naval power on this continent, then I say I protest, and the people of every State in this country have a right to protest, against putting this proposed naval station where it will be inaccessible and impossible to get to and from it with such a class of ships as we must build. There are already afloat in the world iron-clad vessels that draw more than thirty feet of water. Whether they are the strongest or not of course must be determined by use hereafter. I protest against the acceptance of League Island for a naval station of the character of which I am speaking, because it will be impossible to use it for that purpose; and therefore to accept it and make appropriations for it is wrong in itself as well as not useful for the country.

I desire also to add that in the future, as in the past, I suppose we must make the armaments of our vessels equal to the emergencies that may arise. We found at the beginning of this rebellion that we had not anything that would answer the emergency, and we went to work and made it, not as good, not as efficient, not as powerful as we would have done if we had had the leisure and time and means to anticipate what we had to make and to do it earlier. We are now enjoying a repose, and it is a time that the nation intends to devote to preparing for the future, and to that end it is contemplated to build an iron-clad navy that will cope with any Power in the world.

I repeat it is a conclusive argument against League Island to say that it is impossible to construct and get away from there vessels of this character. I will not go into the argument to show that they may be constructed cheaper elsewhere. I presume there are places where they can be constructed cheaper; at any rate there are places where they can be constructed and removed after construction. If vessels of the character of which I speak were constructed at League Island they could not be removed to the ocean. But as I see that the Senator from Ohio intends to call up another measure in which I feel a deeper interest than in almost any other, I shall not pursue this argument, presuming that this bill is to be laid aside, and that we are to proceed to the consideration of a bill that ought not and cannot be delayed. If the Senator from Ohio purposes to bring up that measure, I will desist from any further remarks.

Mr. WADE. I move to postpone this bill and all prior orders, and proceed to the consideration of House bill No. 1162.

Mr. GRIMES. I am exceedingly sorry to be placed in the position that I shall be, of voting against the motion of the Senator from Ohio if he presses it to a vote. I am anxious to get this question off our hands. It has been in my keeping, or in the keeping of the Committee on Naval Affairs, for four years. It was under consideration at the last session, and has now been brought nearly to a vote. The public interests, in my conviction, demand that something shall be done; and I cannot consent, anxious as I am that the Senator's bill shall come up, to lose an opportunity to get a vote upon this. I understand there is nothing to be said by anybody in favor of the proposition now under consideration. If those who are opposed to it choose to take up time in speaking in opposition to it, I am not responsible for that, nor is the Committee on Naval Affairs.

Mr. WADE. I was exceedingly loath to interfere with this bill which has been so long on the tapis. I was in hopes that we should have come to a vote on it and decided it before; and we were told this morning that

about half an hour would be all the time that would be necessary to conclude it. But we know how these things progress in this body. This bill seems to be afloat now as a debatable matter before the Senate, and I do not see any reason to suppose it will not take four or five days before we can come to a vote upon it; and there are other measures of such pressing importance that it will not do for us to trifle away our time upon anything else. I know that the country will hold us justly responsible for our conduct, if we omit these weightier matters and fritter away our time on measures that can be got along with at some other time. I feel under the necessity, as I have assumed the charge of the Louisiana bill, to see that it suffers no delay at my hands. I shall insist on the motion, unless I can be assured that a vote will be immediately taken on this bill.

Mr. GRIMES. I desire to say that I have trifled away with none of the time of the Senate, nor have those who are in favor of this proposition. It has been in our keeping, as I said before, a long time, and at the instance of those who are opposed to it it has been postponed from day to day with their approbation, and frequently upon their suggestion. It is true that I supposed we would dispose of this question within an hour when it was taken up this morning. The Senator from Connecticut informed us yesterday that he would not speak more than twenty minutes. If gentlemen propose to go on and repeat the arguments that have been listened to by the Senate all through the last four years on this subject I cannot be responsible for it; I cannot check it, I cannot stop it.

Mr. RIDDLE. I desire to say to the Senator from Iowa that I wish to be heard on this subject. I shall not detain the Senate more than twenty minutes.

Mr. POMEROY. I hope there will be no understanding, and there cannot be, that this question must be taken now, because none of us have got half through yet. I hope the motion of the Senator from Ohio will prevail, and that we shall proceed to consider that measure that cannot be dispensed with.

Mr. CONNESS. It is hardly concealable that this is an attempt to destroy this bill by simply consuming time. I think the Committee on Naval Affairs of this body is entitled to a vote on this bill. I think it has been under consideration for a longer period and has consumed somewhat more of the time of the Senate than it should have done. The bill to which the honorable Senator from Ohio refers is of the first importance; I feel as deep an interest in it as he can, but I hope we shall come to a vote upon this bill. If the honorable Senator from Kansas has anything further to say—though I rather think he has exhausted the subject—I am willing to hear him to the end; but let us get to a vote.

Mr. BUCKALEW. It is not very often that we are occupied in the questions that are local to my State; it is very rare indeed. This bill is of local interest to all our people and to all the members in both Houses who represent them. In order, however, to save valuable time, both the members from Pennsylvania in this body are willing in this debate to waive the ordinary privilege, the privilege which under other circumstances they would exercise to discuss this measure and to reply to those arguments which have been submitted against it. For my own part I have never intended to say anything more since the subject was taken up for the last time than to submit a few observations, not occupying five minutes, of an explanatory character, to explain to my people at home the reasons why my colleague and myself have not entered more largely into this debate. The circumstances are peculiar, and in order to facilitate the business of the Senate and that this measure shall not be an obstruction to other measures of legislation or a cause of offense to any gentlemen who desire other measures to be taken up, we have adopted the course which I have

mentioned. I think, however, it would be a very unreasonable thing if the Senate should refuse now, when the debate must be pretty well spent, when it cannot be possible that a very considerable period of time will be occupied in further discussion, to put this measure to a vote after listening to whatever of debate is yet to take place upon it. It cannot be protracted; and then, when we have heard it, let us decide the question and decide it finally.

Mr. WADE. I am very loath to interpose anything against the action of the Senate upon this subject; but it has been discussed here for three or four years constantly, and pamphlet after pamphlet has been issued, commission after commission has reported, and all the light that will ever be emitted on this subject is in possession of the Senate now, and has been for a long time. We have heard the able champions of both sides of this controversy now for three or four years, saying I presume all that can be said on either side. Now, if I could have any assurance in the Senate that in three quarters of an hour, say by three o'clock, the vote should be taken, I would withdraw my motion and permit it to be taken. But if the discussion is to continue in the unfathomable sea of debate on which we have embarked, if we are to float on the ocean of debate that is usual here on all such questions, it is perfectly obvious that we shall not come to a vote probably in three or four days, and then where would our great measures of legislation be? They would stand defeated, and we should be responsible for their defeat. I cannot place myself in that position, and I will not.

Mr. COWAN. Let us have five minutes.

Mr. WADE. I will give you more than five minutes; but I want some assurance.

Mr. COWAN. I trust we can come to a vote immediately. I think nobody desires now to discuss it. The argument must be exhausted.

Mr. WADE. If I can get an intimation from the Senate that they will give us a vote by three o'clock, I will withdraw my motion; but if there is no indication of that, and gentlemen all around say that they are going into debate, I feel constrained to stand by my motion, and I hope the Senate will stand by my motion, and take up the bill I have indicated.

Mr. FOSTER. I am not disposed to sit silently under the imputation that those who are opposing this bill have taken up all the time, and that they are planning some scheme to defeat action upon it, and that the friends of the bill are very magnanimously refraining from debate so as not to waste the time of the Senate upon this bill. I repeat now what I said yesterday, that taking the time of the Senate that has been occupied on this bill from the beginning, more time has been taken by the friends of the bill than by its opponents; and when the honorable Senator from Pennsylvania, indeed both the honorable Senators, but especially the one on my left, [Mr. BUCKALEW,] speaks of the friends of the bill having refrained from debate, and that the Senators from Pennsylvania are now refraining from debate, I do not quite understand it. Are not other gentlemen refraining from debate just as much? Does not the honorable Senator from Kansas intimate that he is desirous of taking up time on this subject particularly, but deeming other subjects more important he refrains? Does not the honorable Senator from Delaware intimate a disposition to speak on this bill, limited, it is true, to a short period of time? I do not quite understand why it should be thrown out here that those who oppose this bill are taking any course that is not quite in accordance with parliamentary practice and senatorial dignity and propriety. I see no cause for it. I certainly will not undertake to vindicate the honorable Senator from Ohio from being a party to any design to postpone action on this bill. He of course will take care of himself on that and on all other subjects. I can only say that so far as I am aware of any opposition to this bill, it is none other than that which is legitimate, fair, honest, patriotic,

having a due regard to the wants of the country and the necessities of the Treasury.

Mr. RIDDLE. Mr. President, what is the exact question before the Senate?

The PRESIDENT *pro tempore*. The motion of the Senator from Ohio, to postpone all prior orders and proceed to the consideration of the bill named by him.

Mr. HENDRICKS. Mr. President—

Mr. GRIMES and others. Let us vote.

Mr. HENDRICKS. I do not choose to let the vote be taken until I make a remark. I do not think the Senator from Ohio has charged any negligence in trying to bring this bill before the Senate to a vote. I should think it rather unreasonable to require us to go into the consideration of the bill which the Senator from Ohio proposes to call up at this time. That bill came to the Senate yesterday, and has not been printed in the Senate. It was printed during its progress in the House of Representatives, but whether printed as it passed I am not prepared to say. I believe not. I am informed that the amendments made to the original bill in the House have never been printed. I am told that the bill that was laid on our tables yesterday is not the bill as passed. I have not had an opportunity of looking into it, and I think the proposition would be a very unreasonable one to take it up now anyhow, independently of the position of the League Island bill.

Mr. SHERMAN. The only object that could be accomplished by taking up now the bill referred to by my colleague would be to have the second reading of the bill. I think that ought to be granted, and then it could go over. The Senator from Indiana or some Senator on this side of the House gave notice that he intended to resist its different stages, and I think as the first and second readings of the bill are usually matter of form, and it has had its first reading, its second reading can be had and then any objection will throw it over. I am disposed to vote for this motion to give my colleague an opportunity of having the second reading of the bill, and then he can make a motion to refer or to pass the bill.

Mr. HENDRICKS. I objected yesterday to the passage of the bill in less than fifteen minutes after it came from the House.

The PRESIDING OFFICER. (Mr. HARRIS in the chair.) The question is on the motion of the Senator from Ohio, [Mr. WADE.]

Mr. WADE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 17, nays 25; as follows:

YEAS—Messrs. Chandler, Cragin, Dixon, Foster, Howard, Howe, Morgan, Poland, Pomeroy, Ross, Sherman, Sumner, Trumbull, Wade, Williams, Wilson, and Yates—17.

NAYS—Messrs. Brown, Buckalow, Conness, Cowan, Creswell, Davis, Doolittle, Fessenden, Fowler, Grimes, Harris, Henderson, Hendricks, Johnson, Kirkwood, McDougall, Morrill, Nesmith, Norton, Patterson, Ramsey, Riddle, Saulsbury, Stewart, and Van Winkle—25.

ABSENT—Messrs. Anthony, Cattell, Edmunds, Fogg, Frelinghuysen, Guthrie, Lane, Nye, Sprague, and Wiley—10.

Mr. SPRAGUE, when his name was called, stated that he had paired with Mr. WILEY.

So the motion to postpone was not agreed to.

Mr. RIDDLE. I believe the amendment now pending is the amendment of the Senator from Massachusetts, [Mr. SUMNER.]

The PRESIDING OFFICER. That is the question before the Senate.

Mr. RIDDLE. I ask that it may be read. My health not being very good I have not been in the Senate for the last two days and have not heard it.

The Secretary read the amendment of Mr. SUMNER.

Mr. RIDDLE. Mr. President, I shall vote for that amendment; and at the same time that I shall vote for it I am frank to say that it is with a view of defeating the bill. I may in the course of the few remarks I shall make repeat something that has been said, and not be able to answer things that have been said on the other side, because, as I stated before, I have not been able to attend the sittings of the Senate for the last two or three days.

Sir, there is nothing more apparent to my mind than that we need no new naval depot now. It may appear strange to Senators and doubtless will that I, living within fifteen miles on an air-line of League Island, and having some of my property in the vicinity, should oppose League Island as a naval depot; but I tell Senators that, while it would benefit some constituents of mine, it would be money sunk in the mud, which would never be available. I speak of what I do know. I have seen League Island fifty times to the once that any Senator on this floor has seen it. If there is to be a naval depot upon the Delaware, put it down where you can have deep water and the protection of Fort Delaware; put it at Newcastle, where your vessels can ride in twenty-five feet of water and fresh water at that.

I dislike to oppose League Island, but why do I oppose it? League Island is three or four miles below Philadelphia. I am talking practically, and I am talking as a man who has had some experience in the construction of works of this kind, and I say to the Senate to-day that if League Island should be taken as a naval station the money expended on it will not be less than \$50,000,000, and all you spend will be wasted. Why? Let us know the reason why. League Island, as was remarked by one of the Senators to-day, would at high tide, but for the protection of the embankment, be four feet under water. The Senator from Iowa remarked that he had seen large trees growing there: so have I seen large trees growing in sand banks and in swamps. I will tell him what I know of League Island, that when it is not frozen up you can take your hand and push a fence-rail down without any trouble and not reach the bottom. I speak of what I do know. When you get down a few feet further you strike gravel. What are piles worth if you strike gravel? If you could get forty-five feet of log the piles would hold, as they do at the Gunpowder and Bush river bridges; but the experience at League Island will be that which occurred at the Susquehanna when they attempted first to build a bridge at Havre de Grace. When they attempted to pile for the piers there they struck gravel, and the first freshest that came washed the piers away, and finally they had to coffer-dam.

Go for fast land, as you term near League Island, and where do you find it except at Red Bank, in the State of New Jersey? Go anywhere along there on the Pennsylvania shore and it will cost \$10,000 an acre to put that land above high water; and where are you to get places for the buildings to be erected for your artisans and for your machinists? Why did the Pennsylvania Central, the Philadelphia and Erie, and the Philadelphia, Wilmington, and Baltimore railroad companies build a dock at New Castle to which to transport their iron and coal, and not stop at League Island, and thus save twenty miles of line? The reason is, Senators—I am sorry that I have to say it, but I feel it to be my duty to do so, although it may oppose the interest of some of my people—League Island is liable to be ice-bound. This year it has been for two months literally ice-bound. While the monitors were anchored there, four-horse wagons loaded with wood were crossing the Delaware river five miles below League Island; and one of the most prominent papers in the city of Philadelphia, which came to me a few days ago, stated that eighty vessels which had been detained at New Castle were only then able to start for Philadelphia. If you are going to have an ice-bound navy-yard, as the Senator from Connecticut says, League Island will be an admirable place for it.

As to piling a place like League Island it is an absurdity, as men who have had any experience know. Let me give you an instance: Fort Delaware was constructed by one of the most scientific engineers in the United States, the present General Delafield, when he was in the prime of life. He piled it as well as he could, but when it was constructed it settled until the lower casemates were down to the water-line, and were of course useless. You

cannot pile an island made up of such deposits as this so as to make it sustain a heavy structure. It is a matter of impossibility; and it is, as I have said, utterly impossible in a winter like this to reach League Island during the severe months.

Now, sir, we have enough navy-yards in this country for present purposes at which we can deposit these monitors. They have proved to be a failure except for defense; they are certainly not fit for offensive purposes. Why not distribute them among the different navy-yards and around the different cities where defense is needed and wait for the time, when the necessity for it arises, to indicate a proper point for your great naval depot? Where can a better site for such purposes be found than here at the Washington navy-yard? You can deposit at that yard now half of your iron-clads and have them protected.

Under these circumstances why saddle this country, which is now groaning under the burden of debt, with an additional indebtedness of \$50,000,000, not demanded by the exigencies of the times, not required by public policy, and absolutely condemned by every principle of political economy? If Senators can give me a reason why this vast expenditure of money should be laid out on this island, when there is not a sufficient depth of water to transport to it our large vessels, I should be glad to hear it. I certainly cannot see any.

I thought, Mr. President, that I should be able to address the Senate more fully on this subject, but I find that in the condition of my health I am unable to speak longer. I have already stated my main objections to League Island in brief. I am unable to continue.

Mr. GRIMES. I hoped that I should not be called upon to say a single word further, and I would not rise now if the Senator from Delaware had not made a statement which seems to involve a question of veracity between himself and myself.

Mr. RIDDLE. Not at all.

Mr. GRIMES. I state upon my reputation as a man and as a Senator that I have been three times upon League Island, and I went there and examined it before I reported in favor of it or before I committed myself in any way in favor of it. While I say that there may be portions of the island back near the rear channel where there is a boggy piece of ground, yet I assert that there are three or four hundred acres of that land which is just as firm land as the land in the neighborhood of the Smithsonian Institute in this city; that crops are growing upon it; that houses are built upon it. I was told the cellars were dry. If the Senator makes the statement that a fence rail can be driven down upon any portion of that land it is not in accordance with the facts.

Mr. RIDDLE. I did not mean to raise a question of veracity with the distinguished Senator from Iowa; but I should like to state one fact to him. The western channel at League Island will not float a sloop at low water, a sloop drawing four feet of water. When the Ironsides, the noblest vessel of our Navy, was anchored or hitched to the wharf at League Island and took fire, two tugs came to her relief, and they found her aground, and she could not be drawn off.

Mr. GRIMES. Nineteen or twenty of the iron-clads are now in that very channel of which the Senator speaks, and I have a communication written this morning by Admiral Davis, who is well known, I take it, to all members of this body, and favorably known wherever his name is heard, in which he says:

"I was on a board (chairman) for laying up the iron-clads after the war, and I then reported to the Department that the first commission which made the majority and minority report, and differed in so many other things, agreed unanimously in this one, that League Island was the proper place for laying up the iron-clads."

So much for that.

Mr. RIDDLE. I have perfect confidence in Admiral Davis; but I think the statement is incorrect. If you will take the Coast Survey



map you will find that there are only four feet of water in the western channel at low tide. I had the map here, but it seems to have been lost or mislaid.

**THE PRESIDING OFFICER.** The question is upon the amendment of the Senator from Massachusetts, [Mr. SUMNER,] on which the yeas and nays have been ordered.

**Mr. SAULSBURY.** I desire to state that I have paired off with the Senator from Rhode Island, [Mr. ANTHONY.]

**Mr. SPRAGUE.** I desire to state that I have agreed to pair off with the Senator from West Virginia, [Mr. WILLEY.] If I were at liberty to do so I should vote for the amendment.

**Mr. VAN WINKLE.** I will state in this connection that my colleague is necessarily absent from the city.

The question being taken by yeas and nays, resulted—yeas 15, nays 25; as follows:

**YEAS**—Messrs. Cragin, Davis, Dixon, Foster, Harris, Henderson, Howe, Nesmith, Patterson, Pomeroy, Riddle, Sumner, Trumbull, Wade, and Williams—15.

**NAYS**—Messrs. Brown, Buckalew, Cattell, Chandler, Conness, Cowan, Creswell, Doolittle, Fessenden, Fowler, Grimes, Hendricks, Howard, Johnson, Kirkwood, Lane, McDougall, Morgan, Morrill, Ramsey, Ross, Sherman, Stewart, Van Winkle, and Wilson—25.

**ABSENT**—Messrs. Anthony, Edmunds, Fogg, Frelinghuysen, Guthrie, Norton, Nye, Poland, Saulsbury, Sprague, Willey, and Yates—12.

So the amendment was rejected.

**Mr. FOSTER.** I move to amend the bill on the second page, twentieth line, by inserting after the word "thereof" the words "after a thorough examination made by them," and by inserting after the word "officers," in the twentieth line, the words, "not less than five." It now reads, "nor unless the acceptance thereof shall be recommended by a board of officers to be appointed by the President." If amended as I propose, it will read, "nor unless the acceptance thereof, after a thorough examination made by them, shall be recommended by a board of officers, not less than five, to be appointed by the President."

**Mr. GRIMES.** I have not the slightest objection to that proposition, and I should not make any opposition to it but for the fact that the result of adopting the amendment will be to cause the bill to go back to the other House, where it will be very doubtful whether it can be reached. I do not want the President or the Secretary of the Navy to appoint a board unless it shall be composed of eminent persons, and I think at least five men ought to be selected as commissioners to decide the question. So far as I may have influence with them I should advise the adoption of that course. But the only effect of the amendment now will be to send the bill back to the House and render it doubtful whether it can be reached there.

**Mr. FOSTER.** That objection of the honorable Senator will apply to every bill that is before us. We cannot amend any bill, then, at this stage of the session, because if we do so it will necessitate the sending of the bill back to the House and the bill may not be acted upon there. Are we to adopt that as a principle of legislation during the residue of the session? If so, I of course have nothing to say; but if we are not, I object to applying it to this bill, and see no reason why it should be applied to this bill rather than to all other bills.

The honorable Senator says there is no objection in principle to the amendment, and the only objection is because it will make it necessary to send the bill back. I submit that on a matter of so much importance as this, where there is so much difference in the statements of men who are conversant with this locality, so that the honorable Senator from Iowa seemed to think there was an issue of veracity made up between him and another honorable Senator—where on the one side it is asserted by honorable Senators that this locality has not been interrupted by ice during the whole winter, and where on the other side it is asserted that it has been obstructed by ice for two

months—where I say there are statements so utterly contradictory as these are, we ought to have this island accepted, if it be accepted, not by the recommendation of a board of officers that may be selected by a party who has already prejudged the case, but a board of officers who by the bill shall be required to make a thorough examination of the ground. I think honorable Senators have discovered one officer of the Navy who has been there who is in favor of League Island; there may be another and another; and if such men are selected by the President or the appointing power, no doubt this island will be accepted; this "munificent gift" will be received. I know the honorable Senator from Iowa does not wish anything of this kind to be done. I am sure the Senate do not wish it to be done. Why leave it, then, as a matter of accident whether it shall be done or not? Why not put it in the bill and make it certain? It is admitted that five is not an improper number. The bill as it stands merely says that there shall be a board, but that expression is indefinite. Two may make a board. Surely there can be no reasonable objection to this amendment, except that it will cause the bill to go back to the House, and that is fatal to every amendment that may be proposed to every House bill now.

**THE PRESIDING OFFICER.** The question is on the amendment of the Senator from Connecticut.

**Mr. POMEROY** called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 18, nays 22; as follows:

**YEAS**—Messrs. Cragin, Davis, Dixon, Fessenden, Foster, Harris, Henderson, Howe, Lane, Nesmith, Patterson, Pomeroy, Riddle, Sherman, Sumner, Trumbull, Wade, and Williams—18.

**NAYS**—Messrs. Brown, Buckalew, Cattell, Chandler, Conness, Cowan, Creswell, Doolittle, Grimes, Hendricks, Howard, Johnson, Kirkwood, McDougall, Morgan, Morrill, Ramsey, Ross, Stewart, Van Winkle, Wilson, and Yates—22.

**ABSENT**—Messrs. Anthony, Edmunds, Fogg, Fowler, Frelinghuysen, Guthrie, Norton, Nye, Poland, Saulsbury, Sprague, and Willey—12.

So the amendment was rejected.

**Mr. DAVIS.** I am myself a good deal suspicious of this bill. I do not know when the City of Brotherly Love ever offered such a munificent gift to the Government before. I believe that that people are about as careful of their interests as any other people in the country, and it seems to me that they could have no purpose in making such a munificent gift to the Government unless they expected some return or some equivalent in some way. I should like to know what is the *quid pro quo* that is expected. Can the Senator from Indiana who has charge of the bill tell me?

**Mr. HENDRICKS.** I suppose I might say that the city of Philadelphia would be glad to have the site of the present navy-yard for the commercial purposes of the city. I understand that the city would be glad to have that yard removed to this island. I am not aware of any other interest the city has in the subject.

**Mr. DAVIS.** I see at once the solidity of the advantage which the City of Brotherly Love expects from the transfer of the navy-yard to this League Island; but from what has been said, both officially and in debate here, I am rather inclined to think that it would be better for the Government to make a gift of the property upon which the present navy-yard is located to the city gratuitously, and to have the naval depot established at a proper position.

I have no prepossessions one way or the other in regard to the proper site for the establishment of this naval depot. I am inclined, though, from everything that has been said in this debate, to believe that we have a better site for such a depot in this city than anywhere else, certainly greatly preferable to the site of League Island. I do not believe that an intelligent man of business, if he had occasion to make some such establishment as this a great depot, a great emporium, would ever think of selecting League Island as a proper position for an

improvement of that kind. I believe myself that the Washington city navy-yard is peculiarly adapted and a most proper place for this depot. I recollect that some twenty-six or twenty-seven years ago I saw the Mississippi and the Missouri floated to the navy-yard at Washington city, and both of those ships were then drawing twenty-two feet of water, as I was informed. I believe, from everything that has been said, there is not a sufficient depth of water at League Island for a depot for iron-clads. I think there is an ample depth of water at the navy-yard in this city. This city is the metropolis of the nation. The Government ought to endeavor to build it up; they ought to endeavor to build it up by constructing here all the improvements that the public service requires, and for which the position furnishes facilities.

I am induced to come to the conclusion that League Island is a most unfit position for the establishment of such a depot, and I will vote against any measure that has a tendency to locate it there.

**Mr. HENDERSON.** The Senator from Delaware has made a statement in regard to the blocking of the river below League Island by ice. I should like to ask the Senator from Iowa what information he has on that subject: whether it is a usual thing that the river is blocked below League Island. That fact was stated by the Senator from Delaware, which I was not aware of before. He tells us that for near two months this winter the Delaware river has been blocked up and teams have been crossing it on the ice. It is certainly a very remarkable place to build a navy-yard at, if that statement be true.

**Mr. DIXON.** I happen to have in my hand the Chronicle of the 11th of February, 1867, in which I find this dispatch:

PHILADELPHIA, February 10.

After the heavy rain last night the weather suddenly became cold, the mercury falling twenty-four degrees. To-day is clear with strong northwest wind. The ice in the Delaware has broken up and is blown on to the Jersey shore. Eighty vessels, anchored at Newcastle, Delaware, will be here to-morrow.

Those vessels had been waiting for the ice to break up, and they had accumulated to the number of eighty. This is a statement of a fact in a paper which I happen to find.

**Mr. GRIMES.** The Senator from Missouri has put to me a question which I can perhaps best answer by reading to him from the statement made by Professor Baché and Commodore Marston, who were members of the first commission, and who took pains to examine the whole matter thoroughly. I presume the Senator knows the character of Professor Baché.

**Mr. HENDERSON.** Very well.

**Mr. GRIMES.** He investigated the subject thoroughly, and in the minority report he and Commodore Marston say:

"League Island has the advantage of Winthrop's Point in less exposure to violent winds and sea, and Winthrop's Point has the advantage in less exposure to ice, though the first advantage is one of constant action, and the other one which takes effect once in forty years. The less width of the Thames at Winthrop's Point (only one thousand and sixty yards, or two tenths of a mile) is probably more than balanced by the water being salt."

That is the reason it does not freeze there, "the water being salt."

"By the meteorological registers kept at Philadelphia it appears that a sufficiently cold winter to close the Delaware occurs but once in ten years, and that the river is closed but once in forty years."

"When ice makes in the Delaware in extremely cold winters, it is deposited on the Horse Shoe shoal."

The Horse Shoe shoal is above League Island and below Philadelphia—

"and, breaking up, passes in the direction of the currents to the New Jersey shore, and thence, in a gentle, undulating curve, to the lower end of League Island. The testimony of pilots shows that the breaking up of ice is never a serious matter on the shores of League Island. It is usually honey-combed and rotten before moving. The ice-boat is, with rare exceptions of extremely cold winters, say once in forty years, able to keep the Delaware open; in ordinary winters its use is not required; and in the coldest on record in eighteen years it was able to make way through the ice on any day of the season, one of these years including the severest winter on record."

I understand the fact to be that this has been an extraordinarily cold year. Not only has the Delaware river been frozen, but so has New York harbor; and persons have crossed between Brooklyn and New York on the ice. Boston harbor has been closed where we have another navy-yard, and that is frequently closed. It is only a few years ago that they had to cut a channel there to let one of the Cunard steamers from East Boston down into the bay. This has been an extremely cold winter. The vessels alluded to in the Chronicle, an extract from which has been read, meeting obstructions up at the Horse Shoe shoal fell back to a point below. The best authority I can give I suppose is this report of Professor Baché and Commodore Marston.

Mr. HENDERSON. The statement was that it was frozen below.

Mr. RIDDLE. I think I can answer the Senator from Missouri. I was not aware until the Senator from Iowa made his remarks that I was so old.

Mr. GRIMES. Allow me a word more. I desire to state further that the Senator from New Jersey read letters yesterday showing that oyster boats had been depositing their cargoes on League Island during the whole winter.

Mr. HENDERSON. I was aware that such statements had been made, and hence it seemed to me a most remarkable statement that wagons had been crossing on the ice for a month at a time below League Island.

Mr. GRIMES. Very remarkable indeed.

Mr. HENDERSON. I should like to hear from the Senator from Delaware what information he has on the subject.

Mr. RIDDLE. I give practical information. I tell you what I know. I have seen in my short life time wagons passing over the Delaware just above Chester, which is fifteen miles below League Island. The Horse Shoe bend, to which the Senator from Iowa alluded, is not above League Island. It is just at the north of League Island, branching out from the northern portion of League Island and stretching over to the New Jersey shore.

Mr. CATTELL. I speak within bounds when I say that I have been up and down the river hundreds of times, and I distinctly state here that League Island, as will be seen by reference to every chart of the river that was ever drawn, is entirely below the Horse Shoe bends where the difficulty occurs with the ice, and that during this winter vessels have been able to go up as far as League Island, though not up perhaps to the Horse Shoe bend, and then they have usually returned either to Marcus Hook or to Newcastle, because there are Government piers erected there for the protection of them against floating ice. They drop down that bar; and that is the explanation of the statement which has been read.

Mr. JOHNSON. How far below League Island?

Mr. CATTELL. Marcus Hook is about eight or nine miles below League Island. League Island is entirely below the Horse Shoe, where the great difficulty and obstruction in the Delaware river is. This I state on my own veracity and reputation.

The bill was reported to the Senate without amendment.

Mr. ANTHONY. I desire to offer an amendment, and I shall not detain the Senate by making any remarks upon it. It is the same amendment which was offered in committee and lost by a very small vote. It is to insert after the words "board of officers," in line twenty-one, the words "of not less than five," and to insert in line twenty, after the word "recommend," the words "after a thorough examination made by them." I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 26; as follows:

YEAS—Messrs. Anthony, Cragin, Davis, Dixon, Foster, Harris, Henderson, Lane, Nesmith, Patterson, Poland, Pomeroy, Riddle, Sherman, Sumner, Trumbull, Wade, and Williams—18.

NAYS—Messrs. Brown, Buckalew, Cattell, Chandler, Conness, Cowan, Creswell, Doolittle, Fogg, Fowler, Grimes, Hendricks, Howard, Johnson, Kirkwood, McDougall, Morgan, Morrill, Norton, Ramsey, Ross, Saulsbury, Stewart, Van Winkle, Wilson, and Yates—26.

ABSENT—Messrs. Edmunds, Fessenden, Frelinghuysen, Guthrie, Howe, Nye, Sprague, and Willey—8.

So the amendment was rejected.

The bill was ordered to a third reading, and was read the third time.

Mr. FOSTER. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 17; as follows:

YEAS—Messrs. Brown, Buckalew, Cattell, Chandler, Conness, Cowan, Creswell, Doolittle, Fogg, Grimes, Hendricks, Howard, Johnson, Kirkwood, Lane, McDougall, Morgan, Morrill, Norton, Patterson, Ramsey, Ross, Sherman, Stewart, Van Winkle, Wilson, and Yates—27.

NAYS—Messrs. Anthony, Davis, Dixon, Fessenden, Fogg, Foster, Harris, Henderson, Nesmith, Poland, Pomeroy, Riddle, Saulsbury, Sumner, Trumbull, Wade, and Williams—17.

ABSENT—Messrs. Cragin, Edmunds, Frelinghuysen, Guthrie, Howe, Nye, Sprague, and Willey—8.

So the bill was passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the joint resolution (S. No. 157) in relation to the ocean mail service between San Francisco, in California, and Portland, in Oregon; and also that it had passed a joint resolution (H. R. No. 280) for the relief of the mother of Charles O. Rowohl, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 918) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1868.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were signed by the President *pro tempore*:

A joint resolution (S. No. 157) in relation to ocean mail service between San Francisco, in California, and Portland, in Oregon;

A bill (S. No. 491) amendatory of the several acts respecting copyrights;

A bill (H. R. No. 918) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1868, and for other purposes;

A bill (H. R. No. 1128) to authorize the payment of prize money to certain officers and enlisted men of the Signal corps of the Army;

A bill (H. R. No. 1141) to authorize the purchase of certain lots of ground adjoining the Alleghany arsenal, at Pittsburg, Pennsylvania; and

A joint resolution (H. R. No. 263) for the purchase of David's Island, New York harbor.

#### TENURE OF OFFICE.

The message also announced that the House of Representatives insisted upon its amendments to the bill of the Senate (S. No. 453) regulating the tenure of certain civil offices, disagreed to by the Senate, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. R. C. SCHENCK, of Ohio, Mr. THOMAS WILLIAMS, of Pennsylvania, and Mr. J. F. WILSON, of Iowa, managers of the same on its part.

On motion of Mr. WILLIAMS, the Senate insisted on its disagreement to the House amendments, and agreed to the conference asked by the House.

The PRESIDENT *pro tempore* was authorized to appoint the conferees on the part of the Senate; and Messrs. WILLIAMS, SHERMAN, and BUCKALEW were appointed.

#### RECONSTRUCTION OF LOUISIANA.

Mr. WADE. I now move to take up House bill No. 1162.

Mr. SUMNER. What is the title of that bill?

Mr. WADE. The title is "A bill for the reestablishment of civil government in the State of Louisiana."

Mr. SUMNER. That is an excellent bill.

Mr. WILLIAMS. I wish to move that the Senate proceed to the consideration of House bill No. 1148.

The PRESIDENT *pro tempore*. The motion of the Senator from Ohio has priority.

Mr. WADE. I am anxious to have both of these bills passed, and I have but very little choice as to which shall be taken up first. I have studied them both, and I think they are both most excellent bills. I am not going to antagonize one with the other; and if the Senator from Oregon will press his against all opposition, so as to put it through as soon as may be, I shall not care if his goes first.

Mr. TRUMBULL, Mr. HOWARD, and Mr. SUMNER. Louisiana first.

Mr. FESSENDEN. I do not think it is worth while to have a discussion as to which bill it is best to take up first; but if gentlemen want it we can have it. I am decidedly of the opinion that the better bill to take up first is the bill reported from the Reconstruction Committee originally, and which has passed the House and which has been called up by my friend from Oregon. The other bill got precedence of it in the House by accident. I think that with an amendment to that bill it is about as perfect a remedy as anything that can be produced at the present time, and, in my judgment, we had better proceed with it.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio to take up the bill named by him.

The motion was agreed to.

The PRESIDING OFFICER. The bill will now have its second reading.

The SECRETARY. A bill (H. R. No. 1162) for the reestablishment of civil government in the State of Louisiana.

Mr. SHERMAN. Since the bill has now had its second reading and a single objection will carry it over, I propose that we take up the bill to provide for the payment of the compound-interest notes.

Mr. WADE. I think my colleague is entirely wrong in supposing that a single objection carries the bill over.

Mr. SHERMAN. It cannot be passed to-day.

Mr. TRUMBULL. But it can be considered to-day.

Mr. SUMNER. It can be discussed.

Mr. SHERMAN. I know; but we cannot make any progress probably in the discussion to-day. We have gone probably as far with this bill as we can go to-day; and now I should like to have the bill to which I have referred taken up and disposed of.

Mr. WADE. Has the Louisiana bill been read a second time?

The PRESIDING OFFICER, (Mr. HARRIS.) It has had its second reading, and may now be acted on as in Committee of the Whole; but it cannot be read the third time to-day.

Mr. SHERMAN. If I have the floor, I move now to take up Senate bill No. 594.

Mr. TRUMBULL. I hope that will not be done. Let us dispose of this.

Mr. HENDRICKS. I ask the Senator from Ohio to withdraw his motion for a moment, so that the bill called up by his colleague may be ordered to be printed.

Several SENATORS. It has been printed.

Mr. HENDRICKS. I understand not. I understand that the printed copy which is on our tables is not the bill as it passed the House, and I am told it has not been printed by the Senate.

Mr. POMEROY. I am informed by the Clerk that it has been printed.

Mr. SUMNER. Before the Louisiana bill passes from before the Senate I wish to submit an amendment to it consisting of three sections that I desire to have printed.

The PRESIDING OFFICER. The amendment of the Senator from Massachusetts will be received informally.

Mr. SUMNER. I send it to the Chair, stating that at the proper time I will offer it, and in the mean time I ask to have it printed for the use of the Senate.

The PRESIDING OFFICER. The order to print will be entered, no objection being made.

Mr. WILLIAMS. I move to take up House bill No. 1143, to provide for the more efficient government of the insurrectionary States, so that it may have its second reading.

The PRESIDING OFFICER. The Senator from Ohio [Mr. SHERMAN] has already made a motion to take up another bill.

Mr. SHERMAN. I withdraw that motion for the present, to allow the Senator from Oregon to have the formal second reading of the bill.

Mr. JOHNSON. Has it been read at all?

Mr. WILLIAMS. Yes, sir; it was read yesterday.

The PRESIDING OFFICER. The question is on postponing the further consideration of House bill No. 1162, which is now before the Senate, for the purpose of taking up the bill mentioned by the Senator from Oregon.

Mr. TRUMBULL. I hope that will not be done at this moment. While we have up the bill with regard to Louisiana, let us progress with it as far as we can. The Senator from Massachusetts has already suggested an amendment which has not been read, and I do not know what it is. It may cover the same ground which I think ought to be covered by an amendment. I am very much in favor of the general principles of the bill in reference to Louisiana, and am also in favor of the other bill that has been reported by the joint Committee on Reconstruction, though I desire to see both bills amended in some respects. I think the Louisiana bill should be amended so as to extend somewhat the right of suffrage. As I understand that bill, it excludes from voting all persons who have taken part in the rebellion, but provides that private soldiers who were engaged in the rebellion may, on going before the United States court and making it appear to the court that they acted as private soldiers, and did nothing inconsistent with ordinary warfare, receive a certificate which will entitle them to vote. Now, every Senator who reflects for a moment will remember that the United States court meets in but one place in Louisiana, the city of New Orleans, and has, I think, but two terms a year. It would be manifestly very inconvenient and improper to require citizens all over the State of Louisiana, who would be entitled to vote and take part in the reorganization of the State, to go to New Orleans for the purpose of obtaining a certificate. If I understand the bill rightly, they would have to do so in order to qualify themselves to vote. I think in that respect the bill ought to be amended.

My object in saying this now is to call the attention of the Senate to this point. It is desirable to pass the bill, and whatever amendments are to be presented may as well be proposed to-day and be ordered to be printed, and then we shall have them all before us to-morrow, if it goes over till to-morrow, and we can read the other bill also to-day. My only object is to hasten action on the subject. I presume there are other amendments which will be suggested besides those named by the senator from Massachusetts. I do not know how much ground his amendment covers; but it seems to me it is desirable to get whatever amendments are intended to be proposed to both bills before the Senate as soon as possible.

Mr. SHERMAN. The Senator from Oregon simply desired to call up the bill and have a formal reading of it. It is not open to amendment until after a second reading.

Mr. TRUMBULL. It is open to amendment now.

Mr. SHERMAN. The bill of the Senator from Oregon is not open to amendment.

Mr. TRUMBULL. The other one is, the one before us.

Mr. SHERMAN. I hope we shall have the formal reading of both these bills to-day and then let them go over until to-morrow, when they will be open for amendment and debate.

Mr. TRUMBULL. Then you lose a day.

Mr. SHERMAN. No. No progress can be made to-day with either bill, because no action can be had. I desire to pass another bill to which I think there will be no objection, or which at least will not excite much discussion.

Mr. TRUMBULL. We could act on this amendment to-day.

Mr. SHERMAN. No; I do not want to act upon any of these amendments without having them printed, so that we may be able to see them and understand them.

Mr. TRUMBULL. If they are going to be printed they may as well be proposed to-day.

Mr. SHERMAN. Let any Senator who desires to present an amendment submit it to-day and have an order made for printing it.

Mr. WADE. Mr. President, I see around me intimations that lead me to fear the defeat of both these bills. I perceive that many members have criticised them far enough to have prepared a great many amendments. Now, sir, there is nothing more evident than that if gentlemen indulge their own preferences in every respect, and criticise these bills as carefully as they would do in the early part of the session, we may just as well abandon them at once. I tell you it is impossible for us to pass these bills if we follow the ordinary course of business here. Unless Senators consent to defer somewhat to the circumstance, it is impossible to get through with these bills. According to the ordinary way of doing business each of them would take three weeks. The perfect storm of amendments that seems to be threatened all around indicates that there is really no expectation of passing them, for certainly no man acquainted with the way we do business expects that we can get through with them if we offer amendments and debate them as we do in ordinary cases.

Now, sir, I wish to say again that I do not propose to antagonize one of these bills with the other. I am in favor of them both. If I am to express my choice, I must say that I like the Louisiana bill rather the best; but then I am for both and they must both pass, and I hope in order to secure that result we shall all restrain our fancies a little in the matter of amendments. I might see things that if I were to draw a new bill I would alter, perhaps, for the better, though probably I should not make very great headway at it at last.

The bill which the Senator from Oregon desires to take up meets my approbation very well. I do not think it is complete, but I like the bill and it must pass also, I hope. I do not want to take time by antagonizing the one with the other. Some of our friends are very anxious to take up one first and then the other. To me that is a matter of total indifference provided I am satisfied that whoever begins this fight will persevere in it, as I intend to do myself when I take charge of a bill, for as soon as we fairly begin the battle I shall not give the Senate much peace until it is ended. I think that is the intention of the Senator from Oregon in regard to his bill, and with that understanding I am perfectly willing, if I can do so with the consent of the Senate, to waive the Louisiana bill, and let his bill be taken up and read and considered first for aught I care. I want them both to pass.

Mr. SUMNER. I am in favor of each of these bills. Each is excellent. One is the beginning of a true reconstruction; the other is the beginning of a true protection. Now, in these rebellious States there must be reconstruction and there must be protection. Both must be had, and neither must be antagonized with the other. The two should go on side

by side the guardian angels of this Republic. Never was Congress called to consider measures of more vital importance. I am unwilling to discriminate between the two. I accept them both with all my heart, and am here now to sustain them by my constant presence and vote.

But, sir, what we know as the Louisiana bill came into this Chamber first; it was first made familiar to us; it has precedence. On that account it seems to me it ought to come up first; it ought to lead the way. I am not going now to say that it is better than the other, or that the other is better than the Louisiana bill. Each is good; each is almost as good as we could have it; and yet, I doubt not, each is susceptible of amendment. The Senator from Maine has already foreshadowed an important amendment on the bill reported by the committee of which he is chairman; I have already sent to the Chair an amendment, which at the proper time I may venture to move on the other bill; but I desire to make one remark with regard to amendments. I am so much in earnest for the passage of these bills that I shall cheerfully forgo any amendment of my own if I shall find that it is the general sentiment of those who are truly in earnest for the bills that we ought not to attempt amendments. If, however, amendments seem to be preferable, then I shall propose those which I have sent to the Chair.

One of my amendments—indeed there are three sections in the proposition I have submitted—contemplates the abrogation of all the rebel legislation, beginning with the ordinance of secession and including all the legislation of the rebel Legislatures, empowering, however, the Governor and provisional council to keep alive certain acts which the necessities of the case shall seem to require, if there be any such. Another section annuls all intermediate decrees of courts, giving, however, certain powers in that matter. And still a third section which I propose requires another oath to support a republican form of government, and in the terms of that oath I have undertaken to set forth what at this moment we should require of all persons in the rebel States as articles of faith before they can be admitted to the privileges of citizenship.

These are the amendments which I have sent to the Chair; but I have said that I regarded the passage of both of these measures as of paramount importance and not to be endangered by any amendments at this late stage of the session. If, therefore, amendments shall not seem to be preferable, I shall postpone such as I have to some other occasion, hoping that I may ingraft them on some other measure.

Mr. FESSENDEN. The bill which the honorable Senator from Oregon has in charge is a bill that originated with him. He proposed it to the Senate, and by the Senate it was referred to the Committee on Reconstruction. It is a bill predicated on the principle of giving military government to the States which formed the late confederate States, an idea which I have always supposed to be the correct idea as applicable to those States until they become in a better condition. That bill was found in the Committee on Reconstruction at the time the bill which was under debate so long in the other House suggested by Mr. STEVENS, was referred to that committee. The Committee on Reconstruction took the military government bill of the Senator from Oregon and substituted it for the other bill; and I believe those members of the committee who were present—some were not present—were unanimous in recommending the measure. It was prepared with very great care; it was submitted to a sub-committee and by that sub-committee carefully worded. It was satisfactory to the House with the exception of a single phrase, and with the exception of that phrase, after some debate it was passed, and passed with great unanimity.

In the meantime, while that bill was under discussion, a bill was reported from the select Committee on the New Orleans Riot, propos-



ing a measure applicable only to the State of Louisiana, and in the shape in which that bill was passed by the House it applies only to the State of Louisiana. I agree with the Senator from Illinois that that bill is defective in one or two particulars, but I will not discuss that question. At any rate it is narrow in its application, and it is a matter of serious doubt whether if passed it should go beyond the State of Louisiana. It was not so intended when it was proposed; it was not so decided by the House, but was rather regarded as in the nature of an experiment than otherwise. If we adopt it in that shape, it is but a local measure, having a comparatively narrow application. On the contrary, this bill proposed by the Committee on Reconstruction applies to all the States which were in rebellion, and I believe it is as reasonable and perfect as any bill of the kind can be made. I think, however, that the amendment proposed by one of my colleagues in the House, and which was voted for by a majority of our friends there, when it comes to be read and considered by Senators will commend itself to their minds. I think that is as complete and makes as complete a system, when taken in connection with the bill, as could possibly be offered now.

At this late period of the session the question arises which of these bills is it best to take up first? It makes no difference which was first presented here. The question is, which is it advisable for us to consider first, the one which has the general application to all these States or the one that has merely a local application. I have no doubt upon that subject, and therefore I suggested to my friend from Ohio, and he seems in what he has stated to have come to the same conclusion, that the serious important question was to pass one, and he has intimated that he would not antagonize the Louisiana bill with the bill reported from the Committee on Reconstruction. I am in favor of both bills, but I should be very glad to see an amendment made to each. I have no doubt but that if we amend either of the bills, when it goes back to the House it can be passed there *instantly*, because the majority in that body have the power, if they choose to exercise it, to pass a bill of this description at once, and I have no doubt it can be passed. At any rate what opposition will be made to the one would be made to the other. It is important that the bill of the honorable Senator from Oregon should have its second reading to-day, in order to save one day of time at least, and I hope it will be taken up for that purpose.

Mr. WILLIAMS. I did not anticipate any objection to the second reading of this bill; and if there be any question of precedence between the two bills, it appears to me that, according to all usage, the bill to which I have called attention should be first considered.

Mr. WADE. Will the Senator give way to me for a moment?

Mr. WILLIAMS. Certainly.

Mr. WADE. I find there is doubt in the minds of our friends about the priority of these bills. I have no anxiety on that point. My only desire is to have one of them considered and proceeded with. To accommodate all I will move now that the bill which was taken up on my motion be postponed until to-morrow.

Mr. SHERMAN. It will be postponed until to-morrow by the other motion.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio, [Mr. SHERMAN.]

Mr. SHERMAN. I withdraw that motion to enable the Senator from Oregon to get a formal second reading of his bill. I suppose it will be done without debate.

The PRESIDING OFFICER. The motion of the Senator from Ohio is withdrawn.

#### GOVERNMENT OF SOUTHERN STATES.

Mr. WILLIAMS. Then I move that the Senate now proceed to the consideration of House bill No. 1143.

The motion was agreed to; and the bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States was read the second time by its title.

Mr. WILLIAMS. I now move to offer an amendment which I propose to offer to the bill, which I ask to have printed, that it may be laid upon the table.

The PRESIDING OFFICER. No objection being made, the order to print will be entered.

#### ORDER OF BUSINESS.

Mr. SHERMAN. I now move to take up Senate bill No. 594.

Mr. CHANDLER. I hope that motion will not prevail. I have been trying for several weeks to get up House bill No. 344, to incorporate the Niagara Ship-Canal Company. I gave notice that I should antagonize it against any bills except appropriation bills, and I wish to have it taken up now.

Mr. SHERMAN. This bill is from the Committee on Finance, and ought to be acted on promptly. I do not think it will excite discussion; but if it does it ought to be passed at any rate.

Mr. CHANDLER. I shall ask for a vote on taking up House bill No. 344. I therefore move to lay on the table the motion of the Senator from Ohio, for the purpose of taking up that bill.

Mr. SHERMAN. It is not in order to lay my motion on the table; it must be put.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio to postpone the bill now before the Senate and take up the bill mentioned by him.

Mr. CHANDLER. I hope the Senate will not do it.

Mr. TRUMBULL. Before we act upon that motion I should like to understand whether the two bills which have had their second reading have been printed as they passed the House. I should like to know, because I perceive that some gentlemen have raised that objection. If they are not, they ought to be.

The PRESIDING OFFICER. The Chair is informed that both bills have been printed since they came to the Senate as passed by the House. The question is now on the motion of the Senator from Ohio.

#### COMPOUND-INTEREST NOTES.

The motion was agreed to; and the bill (S. No. 594) to provide for the payment of compound-interest notes was read the second time, and considered as in Committee of the Whole.

It proposes to authorize the Secretary of the Treasury, for the purpose of redeeming and retiring any compound-interest notes outstanding, to issue temporary loan certificates in the manner prescribed by section four of the act entitled "An act to authorize the issue of United States notes and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862, bearing interest at a rate not exceeding three per cent. per annum, principal and interest payable in lawful money on demand. These certificates of temporary loan may constitute and be held by any national bank holding or owning them, as a part of the reserve provided for in sections thirty-one and thirty-two of the act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864; but not less than two fifths of the entire reserve of such bank shall consist of lawful money of the United States, and the amount of such temporary certificates at any time outstanding is not to exceed \$80,000,000.

Mr. SHERMAN. I am directed by the Committee on Finance to move to amend the bill in line twenty-four by striking out "eighty" and inserting "one hundred," so as to make it read, "that the amount of such temporary certificates at any time outstanding shall not exceed \$100,000,000."

Mr. TRUMBULL. I did not know that this bill was to come up to-day, and did not anticipate its being called up at this hour. I wanted to propose an amendment, which I have not now prepared, that instead of issuing other indebtedness for these compound-interest notes as they fall due, provision should be made to take them up by paying for them out of the Treasury of the United States. I do not believe we should continue to keep in the Treasury one hundred and thirty or one hundred and forty million dollars, and that is what we have been doing. We had that question up the other day, and now here is a bill continuing that state of things. When the question was under consideration some days ago we were told by Senators of the Finance Committee that there was no way of relieving the Treasury of this large amount of money which had been kept in its vaults because our indebtedness was not due. Now, some indebtedness is about to fall due, and provision is being made by the bill to issue other indebtedness in place of it, instead of paying it off as it becomes due. I did hope the Finance Committee would have devised some way by which the amount in the Treasury should be reduced; but it seems they are not disposed to do so, but introduce a bill to issue \$80,000,000 of indebtedness in lieu of that which is to come in; and now they propose in the Senate to increase it to \$100,000,000. I am not prepared at this time to propose an amendment. I was not aware that this subject would come up to-day. I hope the bill may go over and not be acted upon at this time.

Mr. SHERMAN. The purpose of this bill is to provide in part for the payment of the compound-interest notes. I have an official statement of them, from which it appears that the total amount of principal is \$143,064,640, and of the interest on maturity is \$27,701,921—in all \$170,826,561. The statement is as follows:

Date of issue.	Estimated outstanding.	Interest at maturity.	Total.	Date of maturity.
June 10, 1864	\$6,000,000	\$1,164,313 78	\$7,164,313 78	June 10, 1867
July 15, 1864	7,000,000	5,886,915 19	12,886,915 19	July 15, 1867
Aug. 15, 1864	32,283,000	7,619,463 42	39,902,463 42	Aug. 15, 1867
Sept. 15, 1864	17,400,000	3,376,469 42	20,776,469 42	Sept. 15, 1867
Oct. 15, 1864	13,300,000	3,784,019 78	17,084,019 78	Oct. 15, 1867
May 15, 1865	90,665,000	19,340,122 13	110,005,122 13	May 15, 1868
Aug. 15, 1865	14,499,640	2,283,949 92	16,783,590 92	Aug. 15, 1868
Sept. 15, 1865	15,600,000	2,425,663 71	18,025,663 71	Sept. 15, 1868
Oct. 15, 1865	6,400,000	1,241,924 71	7,641,924 71	Oct. 15, 1868
June 10, 1865	2,000,000	388,104 59	2,388,104 59	June 10, 1868
July 15, 1865	2,000,000	388,104 59	2,388,104 59	July 15, 1868
Aug. 15, 1865	2,000,000	388,104 59	2,388,104 59	Aug. 15, 1868
Sept. 15, 1865	1,000,000	194,052 30	1,194,052 30	Sept. 15, 1868
Oct. 15, 1865	\$143,064,640	\$27,701,921 95	\$170,826,561 95	Oct. 15, 1868

Statement of estimated outstanding compound-interest notes and interest due thereon to date of maturity.

It thus appears that prior to January next provision must be made for \$119,000,000 for these notes. Several modes have been suggested: first, by the application of the gold and currency on hand; second, by accruing receipts from the revenue; third, by the sale of bonds; fourth, by issuing more legal tenders or stopping the payment of the \$4,000,000 a month of legal tenders now authorized by law; or fifth, by a temporary arrangement with the national banks, such as is proposed by this bill. A few remarks on each of these will explain the action of the Committee on Finance.

I have before me an official statement of the currency and gold on hand on the 8th of February. It as follows:

Statement showing the balance of coin and currency, and places where held, subject to draft of Treasurer of the United States, from the account as made up to February 8, 1867.

	Date of return.	Coin.	Currency.	Total.
Treasury United States, Washington.....	February 1.	\$2,851,780 55	\$901,500 88	\$3,753,371 43
Assistant Treasurer, Boston.....	February 1.	7,983,610 94	1,176,611 39	9,160,222 33
Assistant Treasurer, New York.....	February 1.	75,419,503 93	15,309,373 31	90,728,877 24
Assistant Treasurer, Philadelphia.....	February 1.	2,332,963 64	663,207 46	2,996,171 10
Assistant Treasurer, St. Louis.....	February 1.	554,478 96	-	554,478 96
Assistant Treasurer, San Francisco.....	January 5.	612,338 81	-	612,338 81
Assistant Treasurer, New Orleans.....	January 19.	230,976 81	129,746 97	360,723 78
Assistant Treasurer, Charleston.....	January 26.	8,847 27	137,652 37	146,499 64
Assistant Treasurer, Denver City.....	January 19.	7,051 86	-	7,051 86
Depository United States, Baltimore.....	February 1.	1,262,343 00	9,553 90	1,271,896 90
Depository United States, Buffalo.....	February 1.	36,735 29	15,208 37	51,943 66
Depository United States, Cincinnati.....	February 1.	525,176 48	872,866 48	1,398,042 96
Depository United States, Louisville.....	February 1.	67,183 47	148,796 98	215,980 45
Depository United States, Pittsburgh.....	February 1.	19,921 30	86,748 96	106,670 26
Depository United States, Chicago.....	February 1.	-	266,930 15	266,930 15
Depository United States, St. Paul.....	February 1.	19,882 63	12,216 92	32,129 55
Depository United States, Santa Fe.....	January 12.	1,750 00	26,649 38	28,399 38
Depository United States, Omaha.....	-	10 00	8 99	18 99
Depository United States, Olympia.....	November 30.	775 75	-	775 75
Depository United States, Oregon City.....	December 8.	470 00	112,836 47	112,836 47
Depository United States, Mobile.....	January 19.	82,701 07	-	82,701 07
Depository United States, Little Rock.....	January 19.	-	12,230 49	12,230 49
National banks.....	February 1.	-	26,845,060 36	26,845,060 36
Assay office of the United States, New York.....	-	3,452,513 00	-	3,452,513 00
Mint of the United States, Philadelphia.....	-	744,654 16	-	744,654 16
Mint of the United States, San Francisco.....	-	1,235,000 00	-	1,235,000 00
Mint of the United States, Denver City.....	-	8,100 00	-	3,100 00
Less overdraft of coin, depository, Chicago...	-	97,458,773 92	-	144,185,693 75
	-	72,235 67	-	72,235 67
Sundry suspended items in currency.....	-	-	46,726,919 83	144,113,423 03
	-	-	1,003,879 84	1,003,879 84
	-	-	47,730,799 67	145,117,307 92
Less overdraft of currency, as follows :				
Assistant Treasurer, San Francisco.....		\$466,926 02		
Assistant Treasurer, St. Louis.....		426,126 36		
Assistant Treasurer, Denver City.....		12,790 40		
Depository United States, Olympia.....		7,494 35		
Depository United States, Mobile.....		9,580 30		
Coin*.....	-	\$97,886,508 25		
Currency.....	-	-	\$46,807,882 15	
Total, coin and currency.....	-	-	-	\$144,194,390 40

\* In this amount of coin is included \$19,992,980 due on gold certificates outstanding.

I certify this statement to be correct:

F. E. SPINNER, Treasurer of the United States.

TREASURER'S OFFICE, WASHINGTON, February 12, 1867.

From this it appears that the currency nominally on hand is \$46,807,882 15. But from this balance there should be deducted the debt now actually due and which may be called for at any moment, amounting to \$15,717,293 47. It consists of the following items:

Texas indemnity bonds.....	\$371,000 00
Seven-thirty Treasury notes, act July 17, 1861.....	32,300 00
Loan of April 15, 1842.....	61,768 68
Treasury notes, prior to 1867.....	104,511 04
Treasury notes, December 23, 1857.....	2,600 00
Treasury notes, December 17, 1860.....	600 00
Treasury notes, March 2, 1861.....	3,600 00
Temporary loan, coin.....	1,200 00
Five-twenty two-year Treasury notes.....	1,610,570 00
Temporary loan.....	13,526,143 75
	\$15,717,293 47

This leaves about thirty millions on hand available for current payments. The Senator from Illinois complains that this balance is too large, but when it is remembered that this amount is about the receipts of one month from internal revenue, that it is deposited by the collectors with designated depositories from Maine to California, and can only be drawn against as official notice of the deposit comes to the Treasurer through the offices of internal revenue, it is obvious that a large balance must exist. What this balance ought to be must be left to the Treasurer. No one can be more exact and careful than General Spinner, and no one has more of the confidence of the country. These balances are drawn against by him as closely as possible. They must vary in amount as the current revenue falls short of or exceeds the current expenditure. Experience has shown that from twenty to thirty millions is absolutely necessary as a sinking balance while the revenue is collected from a country so large as ours. It is manifest that this balance cannot be largely diminished

while the fluctuations of both revenue and expenditure may, within a month, exhaust all that is subject to draft.

Mr. TRUMBULL. I should like to inquire of the Senator from Ohio how much of this money is in the hands of the national banks on which they are speculating?

Mr. SHERMAN. I can tell the Senator how much is in the hands of the national banks. I cannot answer the last part of the question as to what they are speculating on.

Mr. TRUMBULL. How much have they a right to use?

Mr. SHERMAN. Not one dollar of the public funds. The money is ordinarily drawn as soon as it is reported in the ordinary course. The amount scattered in the various depositories is \$26,000,000.

Mr. TRUMBULL. Is that in the banks?

Mr. SHERMAN. In the banks scattered all over the country.

Mr. TRUMBULL. That is what I wanted to know: is there \$26,000,000 of Government money in the national banks?

Mr. SHERMAN. That is the amount. I will send the statement to the Senator and he can see for himself.

Mr. TRUMBULL. Did I understand the Senator to say that the national banks made no use of this money?

Mr. SHERMAN. As a matter of course this money goes into their ordinary deposit accounts, but it is drawn as rapidly as the deposit of it is brought to the attention of the Treasury Department here.

Mr. TRUMBULL. I understand the Senator from Ohio on that point; but I understand him also to be in favor of keeping up that amount all the time; never getting below \$26,000,000.

Mr. SHERMAN. Not at all.

Mr. TRUMBULL. Then I misunderstood the Senator. I understood him to say it was necessary to keep at least one month's revenue on hand which he estimated at about twenty-nine or thirty millions; and this is deposited all the time in these banks.

Mr. SHERMAN. The Senator must be aware that a collector of internal revenue deposits money in a national bank, at Chicago for example; he notifies his chief of the deposit and the amount of the deposit; in the ordinary course it comes finally to General Spinner, the Treasurer of the United States, and is drawn upon; that draft goes back; and in the course of this operation considerable time is consumed; the money mean time is with the public depository; and the Treasurer of the United States holds nearly twice the amount of bonds in his hands to secure these deposits that the aggregate deposits amount to.

Mr. JOHNSON. Are not those bonds to cover the currency?

Mr. SHERMAN. No, to cover these identical deposits.

Mr. TRUMBULL. I dislike to interrupt the Senator from Ohio; but do I understand him to say that there is on deposit in the national Treasury an amount equal to that which is held by the national banks?

Mr. SHERMAN. Certainly; more bonds than the banks have Government deposits.

Mr. TRUMBULL. I happen to know, unless the thing has been changed lately, of a bank which had more than five times as much Government money in its vaults as it had given security to the United States for.

Mr. SHERMAN. That may be so with individual banks.

Mr. TRUMBULL. That was the point of my question. I wished to know whether the Senator meant to say that there was deposited by each national bank in the Treasury security equal to the amount of money belonging to the Government which it had on deposit. Unless there has been a change very recently, that is not the case with some banks to my knowledge.

Mr. JOHNSON. In this city they have had from five to seven millions of Government money.

Mr. TRUMBULL. And what was the security that they gave?

Mr. JOHNSON. Nothing like that.

Mr. TRUMBULL. So I have understood.

Mr. SHERMAN. I have no doubt that in some of the national banks deposits have been made larger than the amount of security, but the whole amount of Government deposits in the national banks is much less than the amount of bonds deposited as security. I have a statement before me showing that the national banks now have in the hands of the Treasurer to secure these deposits United States bonds to the amount of \$86,015,950. The amount of deposits in the national banks, including unpaid drafts, that is drafts on their way, is \$26,845,060, so that the amount of security is about ten millions more than the amount of deposits.

Mr. JOHNSON. That is the aggregate; but that does not show that there is not in some banks a great deal more than the securities they have given.

Mr. SHERMAN. Certainly not; and both of the Senators I suppose will see that that is a matter which cannot always be regulated, because the collector at Chicago, for example, may deposit \$1,000,000 on a particular day; he is bound to deposit as he receives. He may receive large amounts and consequently deposit more than that particular bank has security for. That is unavoidable from the nature of the transaction.

As for the coin on hand, its amount is governed by other causes. It is received mainly in New York from duties on imported goods. The amount on hand is \$97,386,508, of which \$19,992,980 belongs to individuals, and may properly be excluded from our consideration, leaving about seventy-seven millions available for the public service. Ought this to be applied

to the payment of current debts? The Secretary is authorized to sell it, and has done so to a limited extent, but is not required to do so. If the Senator from Illinois [Mr. TRUMBULL] is right, Congress ought by law to direct its sale on application. In that way interest might be saved; but there are weighty reasons why this accumulation of coin ought to be retained. About ninety millions of coin will be required prior to the 1st of January next to meet the interest of the debt and maturing gold bonds. If this amount is received from duties the present large balance can be maintained; but, for reasons I stated on a previous occasion, we cannot expect our large revenue from customs to continue.

We ought not to run any risk of a deficient supply of gold to meet the public engagements. But even if we are mistaken in the falling off in the revenue, the large amount of gold on hand acts as a balance-wheel to maintain the public credit and to prepare for specie payments. If it was sold it might depreciate for a time the market value of gold, but an advance would then be inevitable, and its price and that of all other commodities would be subject to speculative fluctuations and combinations. This view is taken by the best financial authorities in the country and is evidently the opinion of the House of Representatives, which refused to direct the sale of this gold. My own conviction is, that this gold should be retained until the public debt is funded, and should then be applied so as to give additional value to our paper money, and as soon as possible to form a solid basis for the resumption of specie payments.

If I am correct in this view we cannot rely upon more than \$20,000,000 of the money on hand to meet the compound-interest notes. Can they be paid out of the accruing revenue? The extraordinary amounts required for the payment of printing and claims growing out of the war, the ordinary expenditures and the limited diminution of the legal tenders authorized by law will exhaust all our revenue. Whatever balance our present revenue laws produce caught at once to be remitted by repealing oppressive internal taxes. Nothing can be clearer than the folly of attempting to now reduce largely the public debt. And it is equally clear that we should not contemplate an increase of the funded debt. When the holders of the seven-thirty notes avail themselves of their privilege to fund their debt into gold bonds, the funded debt of the United States will be \$2,084,000,000. It must be a very grave necessity that would induce me to authorize its increase, and for one I intend never to lose sight of the necessity of reducing the rate of interest on this debt to a rate similar to that paid by other great commercial nations. Fortunately the public debt will be in such form, maturing in short periods, that we may avail ourselves of the privilege of paying it off by the sale of bonds at a lower rate of interest. Until then we ought not to compel the Secretary of the Treasury to sell gold bonds to meet the compound-interest notes. He has power to do it under the law, and must and will do it if he has no other revenue, and it is to avoid this very necessity that the bill under consideration becomes necessary and expedient.

I said it has been proposed to meet the compound-interest notes by the issue of new legal tenders or by stopping the reduction of those now outstanding. This would be to pay a debt drawing interest by the arbitrary substitution of one that does not pay interest. We must never lose sight of the fact that a legal-tender note is only a forced loan without interest, and to the extent that it is worth less than a gold dollar it is a falsehood on its face. Governments are compelled to resort to such measures when their existence is threatened. We rightfully and properly resorted to legal tenders during the war and our people gladly accepted our promises, but only upon the principle that as soon as the national danger was over that we would make our promise good by paying a real dollar for our promised dollar. We can

with as much propriety establish legal tenders for our whole national debt as we can for our compound-interest notes. The maximum of legal tenders has been reached and passed. The reduction of the present volume of legal tenders is another matter. Contracts have been made upon the amount of legal tenders now fixed by law.

The reissue of the present notes is simply a delay of their payment. This was contemplated by all who receive them. The Government may properly determine the time when it will finally pay off and cancel this form of its indebtedness, but it certainly is bound to give to these notes all the value possible. They are only valuable for circulation as money passing from hand to hand. Their value is diminished by the vast amount in circulation. As the amount is reduced they will approach the standard of gold. When they reach that standard, and are readily convertible into gold they are the most convenient form of money that can be desired. Surely the Government ought to reduce the volume of this currency slowly but firmly until that standard is reached. For this reason the Committee on Finance are of opinion that the discretionary power conferred upon the Secretary of the Treasury to reduce this currency at the rate of \$4,000,000 a month ought not to be taken from him. It is not mandatory but discretionary. As one member of that committee I would far prefer to take from him the power to issue gold bonds except in the process of funding the seven-thirties. This is a power far more likely to be abused.

It now only remains for me to state why this bill furnishes the most feasible mode of retaining a portion of the compound-interest notes. It will be perceived that we only provide for \$100,000,000, leaving the balance to be paid from cash on hand and current receipts. The reason is that three per cent. loan certificates would only be held by national banks—the low rate of interest precluding their use by other bankers. By the national bank act all national banks are required to keep on hand from fifteen to twenty-five per cent. in "lawful money," a portion of this reserve may be kept in deposit banks in cities and in clearing-house certificates. The compound-interest notes are "lawful money" for the principal of them, and though they cannot be counted as a part of the reserve to redeem their notes they may be for their deposits. The result is that \$82,000,000 of them are held by national banks—upon their payment the banks would have to hold in their stead an equal amount of "lawful money" in greenbacks—thus making a sharp contraction that would seriously embarrass the business community; or the country banks could transfer the sums now held in compound-interest notes to the deposit banks in New York and receive interest on them. These deposits would be loaned to bankers and brokers and furnish fresh facilities for speculative operations.

Under these circumstances the banks are willing to take a Government security payable on demand at a low rate of interest, provided that this deposit may be counted as a part of their reserve precisely to the same extent that a similar deposit with a city bank would be. The effect of this arrangement is to reduce the interest on the compound-interest notes from six per cent. to three, and to transfer a portion of the bank reserves to the Treasury of the United States. The Committee on Finance became satisfied after a full examination of the matter that the arrangement is a favorable one for the Government and a reassuring and steady one to the business community. And this is the opinion of the Secretary of the Treasury, who writes as follows:

"This proposition meets with my entire approbation. It will relieve me from all anxiety on account of the compound-interest notes, and will provide for them in such a way as not to derange the business and finances of the country."

"I commend it to the consideration of the Finance Committee, and hope they will report favorably upon it without delay."

"Very respectfully,  
H. McCULLOCH, Secretary."

I therefore trust the Senate will pass it without further delay. We have heard all that can be said about it, and it should be acted upon before we become involved in the discussion of the reconstruction bill.

The amendment was agreed to.

Mr. TRUMBULL. I do not know that it is of any use to make opposition to this bill reported from the Finance Committee. I am not prepared at this hour with the amendment which I would like to move, which would be to pay off these compound-interest notes with the money that is in the Treasury, or at least a portion of them, instead of exchanging one species of indebtedness for another. If the Senate think proper to pass the bill without affording me an opportunity to move an amendment, it is for them to say so. I shall not take up any time.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### NIAGARA SHIP-CANAL.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House bill No. 344, to incorporate the Niagara Ship-Canal Company.

Mr. BUCKALEW. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. LANE. If it is in order, I desire now to submit a motion that the Senate take a recess till seven o'clock, this evening having been set apart by a previous resolution for the consideration of pension bills. If this bill is taken up now it may lead to a protracted debate.

Mr. CHANDLER. I hope the Senate will take up this bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from Michigan.

The motion being taken by yeas and nays, resulted—yeas 20, nays 14; as follows:

YEAS—Messrs. Cattell, Chandler, Conness, Fogg, Foster, Frelinghuysen, Grimes, Howard, Howe, McDougall, Morrill, Patterson, Pomeroy, Ramsey, Ross, Sprague, Stewart, Sumner, Trumbull, and Wade—20.

NAYS—Messrs. Brown, Buckalew, Davis, Fessenden, Harris, Henderson, Kirkwood, Lane, Morgan, Sanbury, Sherman, Van Winkle, Williams, and Wilson—14.

ABSENT—Messrs. Anthony, Cowan, Cragin, Creswell, Dixon, Doolittle, Edmunds, Fowler, Guthrie, Hendricks, Johnson, Nesmith, Norton, Nye, Poland, Riddle, Willey, and Yates—18.

The PRESIDING OFFICER. The bill (H. R. No. 344) to incorporate the Niagara Ship-Canal Company is before the Senate as in Committee of the Whole.

Mr. CHANDLER. I am willing to allow a vote to be taken on the bill without debate. It is a bill that has been very thoroughly debated, and I presume every member of this body has made up his mind as to how he will vote upon it. It is a bill of great importance, not only to the Northwest, but to New England and to every portion of the country. If the Senate will take a vote, I will not make any remarks about it.

Mr. LANE. I move that the Senate take a recess till seven o'clock, for the purpose of disposing at that time of pension bills.

Mr. RAMSEY. I suggest to the Senator that he modify his motion, so as to provide that at half past four o'clock we take a recess. It is only a quarter past four now.

Mr. LANE. Very well. I will modify my motion in that way. I move that at half past four o'clock to-day the Senate take a recess till seven o'clock.

The motion was agreed to.

Mr. HOWARD. I ask for the reading of the amendment proposed by the Committee on Commerce at the close of the bill with regard to the section requiring the assent of the State of New York before the bill shall go into effect.

Mr. FESSENDEN and others called for the reading of the bill.



The PRESIDING OFFICER. The bill will be read.

Mr. HOWE. I do not think the Senator from Michigan wishes to hear the bill read.

The PRESIDING OFFICER. The Senator from Maine asked to have the bill read.

Mr. FESSENDEN. I do not want to act on a long bill like this without knowing what it is.

Mr. HOWE. Before the bill is read I wish to inquire whether the amendment in the twenty-eighth section was adopted at the last session. I am told the amendments were all acted upon.

The PRESIDING OFFICER. The Chair so understands.

Mr. HOWARD. I think there is no necessity for reading the bill. It has been once read, and we understand it very well.

Mr. KIRKWOOD. I should like to ask whether the bill is about to be read as it has been amended, or as it was originally reported.

The PRESIDING OFFICER. It will be read as it stands amended.

Mr. KIRKWOOD. I understand that it has not been printed in the amended form.

The PRESIDING OFFICER. The bill has not been printed as amended. The bill has been acted upon by the Senate as in Committee of the Whole; and several amendments have been offered and discussed, and several have been adopted.

Mr. FESSENDEN. When was that done? The PRESIDING OFFICER. At the last session of Congress.

Mr. FESSENDEN. The bill with the amendments ought to be printed, so that we may see what they are.

Mr. HOWARD. I am quite sure the bill has been printed as reported by the Committee on Commerce at the last session.

The PRESIDING OFFICER. The Chair is informed that after the bill was reported amendments were made to it, and those amendments have not been printed.

Mr. FESSENDEN. I move that the bill be laid upon the table and printed with the amendments, so that we can see what it is. I cannot vote upon a bill of that sort without knowing something about it.

Mr. CHANDLER. The amendments are printed.

Mr. HOWARD. I hold in my hand the bill on which the Senate acted at the last session, with the amendments printed.

Mr. FESSENDEN. In what stage is the bill now?

The PRESIDING OFFICER. In Committee of the Whole. The Chair is informed that amendments have been made since the bill was reported by the Committee on Commerce, which have not been printed.

Mr. HOWARD. Those amendments, if my memory is not very much at fault, were few, and can be very easily indicated, and their effect upon the bill very readily understood, and I do not think it will be necessary to reprint the bill for that purpose. The principal amendments agreed to by the Senate, as reported by the Committee on Commerce, are printed in this copy which I hold in my hand. A few modifications were made and some additional amendments agreed to in the Senate, but I think they were very few.

Mr. FESSENDEN. I have no recollection of it at the present time. I attended somewhat to this bill when it went along at the last session, but I do not know how it stands now. I should like to see the bill with the amendments that have been made, or at any rate to have time to look at and consider them in manuscript, if the Senate is unwilling to have them printed, so that I may know how the bill stands. It is impossible for the members to remember exactly how the bill stands. I have forgotten entirely what its provisions are. I believe it appropriates some millions of dollars, but it has been so long since the bill has been before us that I have forgotten its details. I think it would be only just and wise to let the

bill lie long enough to give us an opportunity to understand how it stands.

Mr. CHANDLER. It has lain here for two years.

Mr. FESSENDEN. But it has not been taken up at this session.

Mr. CHANDLER. I think the Senate will bear me witness that I have been, in season and out of season, trying to get it up.

Mr. FESSENDEN. I will bear witness to that, but it has not been taken up hitherto at this session; and therefore Senators are not exactly fresh in their recollections of it. I am not, and I wish to understand it.

Mr. CHANDLER. The Senator can in five minutes, ay, in one minute, go to the desk and read every amendment that has been made.

Mr. FESSENDEN. It would hardly be practicable for every Senator to go to the desk and take time in that way. I think we ought to have an opportunity to understand what the bill is.

Mr. CHANDLER. Unless we can get action on this bill now, we shall lose it for this session. If we allow this chance to go by, I fear it may be the end of the bill. I hope that the Senate will act upon it now. The amendments made by the Senate can be read in two minutes, and I ask that they be read.

The PRESIDING OFFICER. The reading of the bill itself was called for by the Senator from Maine.

Mr. CHANDLER. I hope the Senator will withdraw that call. The bill has been read at length before.

Mr. FESSENDEN. I cannot do that, for I have no idea of voting on a bill until I know what it is.

Mr. MORRILL. I suggest to the honorable chairman of the Committee on Commerce that we have agreed to take a recess at half past four o'clock; it is now within five minutes of that time, and it is impossible to make any progress with the bill in that time.

Mr. CHANDLER. But the amendments can be read between now and half past four o'clock.

Mr. MORRILL. As there is a desire to have the bill printed, I suggest whether it will not be a matter of economy to allow the bill to lie on the table and be printed? Certainly we can make no progress in it now, when we have agreed to a recess at half past four o'clock, and we are within four minutes of the time.

Mr. HOWARD. This bill was passed by the House of Representatives on the 1st of May, 1866; it came into the Senate on the 2d of May, and was referred to the Committee on Commerce in this body. On the 12th of June that committee reported it back with amendments. During last session the bill was taken up in the Senate, read through, and considered, and the Senate concurred in almost all the amendments of the Committee on Commerce.

Mr. CHANDLER. In all.

Mr. HOWARD. Yes, in every one of these amendments except the last one, which was to strike out this section:

That this act shall not take effect unless the Legislature of the State of New York shall within one year from the date hereof give its assent thereto.

Upon that amendment I believe the Senate did not act, but the consideration of it was dropped for the time being; and it is now before us in precisely the same condition that it was at that time. It has been fully read from beginning to end.

The PRESIDING OFFICER. The Chair is informed that the last amendment was agreed to by the Senate. Is the reading of the bill insisted upon?

Mr. FESSENDEN and others. It is.

The PRESIDING OFFICER. The Clerk will proceed to read the bill.

Mr. TRUMBULL. I suggest that it is within two minutes of the time when we are to take a recess, and the bill cannot be read through in

those two minutes. I move, therefore, that the bill as amended be printed, so that we shall have it by to-morrow.

Mr. FESSENDEN. That is the better way.

Mr. HOWARD. I hope that motion will not be agreed to by the Senate.

Mr. GRIMES. I believe it can be printed by to-morrow.

Mr. HOWARD. It has been printed with the amendments, and is now here; and the Senate has made no new amendment to this bill, but has concurred in the amendments recommended by the Committee on Commerce, with the exception of the last amendment which I have read. There is no necessity for reprinting this bill at all.

Mr. FESSENDEN. Does not my friend see that it cannot possibly be touched to-night, and to-morrow he may be troubled with the same motion to print unless he agrees to it now? If he agrees to it now we shall have the bill printed and on our tables to-morrow.

Mr. HOWARD. Will my friend from Maine tell me what necessity there is or can be for reprinting this bill?

Mr. TRUMBULL. Allow me to answer the question of the Senator from Michigan. I have just looked at the bill at the desk, and I find that there are manuscript amendments to it. And some of the text of the bill as printed has been stricken out.

Mr. HOWARD. The amendments are immaterial.

Mr. TRUMBULL. They may be immaterial, but Senators insist on seeing them. We shall lose nothing by printing them. Why not consent to have the bill printed with the amendments, so that we may have it here in the morning?

The PRESIDING OFFICER. The question is on the motion to print.

Mr. CHANDLER. I hope that this motion—

The PRESIDING OFFICER. The hour of half-past four o'clock having arrived, the Senate will now take a recess until seven o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at seven o'clock.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in obedience to law, a report of the superintendent of the Coast Survey, showing the progress of that work during the year ending November 1, 1866, accompanied by a manuscript map of the progress brought up to date; which was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 14th instant, information in relation to the Sand Creek massacre, in November, 1864; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, accompanied by reports to the Indian Bureau, giving information in relation to the temper, conduct, and purposes of the Indian tribes on the southern frontier, and recommending an appropriation for the Indians west of the Mississippi river; which was referred to the Committee on Indian Affairs, and ordered to be printed.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of an appropriation for the erection of a penitentiary in that Territory, and praying that authority may be given to the Secretary of the Treasury to cause the stone in the present unfinished penitentiary to be used in finishing the capitol building, and that the site of the present penitentiary may be sold and a new site selected

where there is a sufficient supply of water; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of an appropriation for the completion of the capitol building in that Territory; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of an appropriation for the completion of the capitol and penitentiary buildings in that Territory; which was referred to the Committee on Territories.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House disagreed to the amendment of the Senate to the bill (H. R. No. 604) to define and punish certain crimes therein named, asked a conference on the disagreeing votes of the two Houses, and had appointed Messrs. WILLIAM LAWRENCE of Ohio, Mr. F. E. WOODBRIDGE of Vermont, and Mr. A. J. ROGERS of New Jersey, managers at the conference on its part.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 280) for the relief of the mother of Charles O. Rowohl was read twice by its title, and referred to the Committee on Pensions.

#### NATIONAL CEMETERIES.

Mr. WILSON. If the Senator from Indiana will allow me a few minutes I should like to have taken up and put on its passage the bill to establish and protect national cemeteries.

Mr. LANE. I yield for that purpose.

Mr. WILSON. Then I move to take up the bill (H. R. No. 788) to establish and to protect national cemeteries.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. WILSON. The bill was some days ago read at length and was recommitted to the Committee on Military Affairs, and they have reported it with various amendments.

The PRESIDENT *pro tempore*. The amendments reported to the bill by the committee will be read in their order.

The first amendment of the committee was in section one, line three, after the word "cemeteries," to strike out the words "in the States lately in rebellion and in the District of Columbia."

The amendment was agreed to.

The next amendment was in section one, line seven, after the word "fences," to strike out the rest of the section down to and including the word "that" in the second section, in the following words:

And hereafter such cemeteries shall be laid out in sections, to contain not less than two hundred nor more than three hundred graves, and to each section there shall be erected a marble or granite monument on which shall be inscribed the name of each soldier buried in such section, with his rank, number of his regiment, his company, and State.

SEC. 2. *And be it further enacted, That,*

*And to insert the words "and to cause."*

The amendment was agreed to.

The next amendment was in section two, line two, to strike out the word "shall" and to insert the word "to," and in the same line, after the word "small," to strike out the words "marble or cast iron;" and in line three, after the word "headstone," to insert "or block," and after the word "grave," to insert "inscribed."

The amendment was agreed to.

The next amendment was in section two, line five, after the word "party," to strike out the words "inscribed on the monument. And national cemeteries already established shall be made to conform, as far as practicable, to the foregoing plan," and to insert in lieu thereof:

In a register of burials to be kept at each cemetery and at the office of the quartermaster general, which

shall set forth the name, rank, company, regiment, and date of death of the officer or soldier; or, if unknown, it shall be so recorded.

The amendment was agreed to.

The first section of the bill, as thus amended, the second section being consolidated with it, reads as follows:

That in the arrangement of the national cemeteries established for the burial of deceased soldiers and sailors, the Secretary of War is hereby directed to have the same inclosed with a good and substantial stone or iron fence; and to cause each grave to be marked with a small headstone, or block, with the number of the grave inscribed thereon, corresponding with the number opposite to the name of the party in a register of burials to be kept at each cemetery and at the office of the quartermaster general, which shall set forth the name, rank, company, regiment, and date of death of the officer or soldier; or, if unknown, it shall be so recorded.

The next amendment was in section [three] two, line one, to strike out the word "said;" in line two to strike out the word "erect" and insert "cause to be erected;" in line five to strike out the word "detail" and insert "appoint;" in line six to strike out the word "sergeant" and insert "superintendent who shall be selected from enlisted men of the Army, disabled in service, and who shall have the pay and allowances of an ordnance sergeant;" in line eleven to strike out the word "and" and also the word "said" before the word "Secretary," and after the word "Secretary" to insert "of War;" in line thirteen to strike out the word "colonel" and insert "major;" and in line seventeen to strike out the words "sections and," and also the words "full and;" so that the section will read:

SEC. [3] 2. *And be it further enacted, That the Secretary of War is hereby directed to cause to be erected at the principal entrance of each of the national cemeteries aforesaid a suitable building to be occupied as a porter's lodge; and it shall be his duty to appoint a meritorious and trustworthy superintendent who shall be selected from enlisted men of the Army, disabled in service, and who shall have the pay and allowances of an ordnance sergeant, to reside therein, for the purpose of guarding and protecting the cemetery and giving information to parties visiting the same. The Secretary of War shall detail some officer of the Army, not under the rank of major, to visit annually all of said cemeteries, and to inspect and report to him the condition of the same, and the amount of money necessary to protect them, to sod the graves, gravel, and grade the walks and avenues, and to keep the grounds in complete order; and the said Secretary shall transmit the said report to Congress at the commencement of each session, together with an estimate of the appropriation necessary for that purpose.*

The amendment was agreed to.

The next amendment was in section [four] three, line three, to strike out the word "tomb," and after the word "structure" to strike out "in any of said national cemeteries;" in line thirteen to strike out the words "sergeant or other officer on guard" and to insert "superintendent;" and in line fifteen to strike out the word "aforesaid;" so that the section will read:

SEC. [4] 3. *And be it further enacted, That any person who shall willfully destroy, mutilate, deface, injure, or remove any monument, gravestone, or other structure, or shall willfully destroy, cut, break, injure, or remove any tree, shrub, or plant within the limits of any of said national cemeteries shall be deemed guilty of a misdemeanor, and upon conviction thereof before any district or circuit court of the United States within any State or district where any of said national cemeteries are situated, shall be liable to a fine of not less than twenty-five nor more than one hundred dollars, or to imprisonment of not less than fifteen nor more than sixty days, according to the nature and aggravation of the offense. And the superintendent in charge of any national cemetery is hereby authorized to arrest forthwith any person engaged in committing any misdemeanor herein prohibited, and to bring such person before any United States commissioner or judge of any district or circuit court of the United States within any State or district where any of said cemeteries are situated, for the purpose of holding said person to answer for said misdemeanor, and then and there shall make complaint in due form.*

The amendment was agreed to.

The next amendment was in section [five] four, line eight, to strike out the word "said" before "Secretary;" in line nine to strike out the word "of" and insert "upon the price to be paid for;" and in line eleven to strike out the words "upon the price to be paid therefor;" so that the section will read:

SEC. [5] 4. *And be it further enacted, That it shall be the duty of the Secretary of War to purchase from*

the owner or owners thereof, at such price as may be mutually agreed upon between the Secretary and such owner or owners, such real estate as in his judgment is suitable and necessary for the purpose of carrying into effect the provisions of this act, and to obtain from said owner or owners title in fee-simple for the same. And in case the Secretary of War shall not be able to agree with said owner or owners upon the price to be paid for any real estate needed for the purpose of this act, or to obtain from said owner or owners title in fee-simple for the same, the Secretary of War is hereby authorized to enter upon and appropriate any real estate which, in his judgment, is suitable and necessary for the purposes of this act.

The amendment was agreed to.

The next amendment was in section [six] five, to strike out the word "said" and insert "the."

The amendment was agreed to.

The next amendment was in section [eight] seven, line two, to insert the words "seven hundred and" before the word "fifty;" so that the section will read:

SEC. [8] 7. *And be it further enacted, That the sum of \$750,000 is hereby appropriated to carry out the purposes of this act out of any moneys in the Treasury not otherwise appropriated.*

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the bill read a third time. The bill was read the third time, and passed.

#### REPORTS OF COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (H. R. No. 900) to fix the compensation of the officers of the revenue-cutter service, and for other purposes, reported it with an amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 275) to extend the time for the use of certain vessels for quarantine purposes at the port of New York, reported it without amendment.

He also, from the same committee, to whom was referred the memorial of W. Marsh, consul of the United States at the Port of Altona, in the Duchy of Holstein, Germany, asked to be discharged from its further consideration; which was agreed to.

Mr. CHANDLER. The same committee, to whom was referred a memorial of vessel-owners upon the lakes, have directed me to report a bill, and as it is not more than four lines in length, and will not occupy a minute, I should like to have it considered now.

Mr. LANE. I cannot consent to the taking up of any bill now but pension bills.

Mr. CHANDLER. Then I will not make the report now, but will do so in the morning. It is important to have action upon it as soon as possible.

#### WIDOWS OF REVOLUTIONARY SOLDIERS.

Mr. LANE. I move that the Senate proceed to the consideration of House joint resolution No. 206.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 206) in relation to the pensions of widows of revolutionary soldiers. It proposes to increase the pensions of widows of revolutionary soldiers whose names are now upon the pension-rolls, and who were married to revolutionary soldiers prior to January 1, 1800, to the same rate as the deceased soldiers would be entitled under existing laws if now living; such increase and payment to be made from the 30th day of September, 1865.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### MARY STANLEY.

On motion of Mr. LANE, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 465) for the relief of Mary Stanley.

Mr. LANE. There is an adverse report in this case, and I move the indefinite postponement of the bill.

The motion was agreed to.

MRS. ADELINE M. GOULD.

On motion of Mr. LANE, the bill (S. No. 497) granting a pension to Mrs. Adeline M. Gould, was read the second time and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Mrs. Adeline M. Gould, mother of Eugene E. Gould, late a private in company F, third regiment Rhode Island cavalry volunteers, on the pension-roll at the rate of eight dollars per month, to commence from the 22d of December, 1864, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. JOSEPHINE SLOCUM.

On motion of Mr. LANE, the bill (S. No. 488) granting a pension to Mrs. Josephine Slocum was read the second time and considered as in Committee of the Whole. The Secretary of the Interior is directed by this bill to place the name of Mrs. Josephine Slocum, widow of Martin N. Slocum, late a second lieutenant in the sixty-fifth regiment United States colored infantry, on the pension-roll, at the rate of fifteen dollars per month, to commence from the 30th of May, 1875, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

KENNEDY O'BRIEN.

On motion of Mr. LANE, the bill (S. No. 512) for the relief of Kennedy O'Brien was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to increase the pension of Kennedy O'Brien, late a private in company K, fifth regiment Indiana volunteers, from eight dollars per month to twenty-five dollars per month.

Mr. FESSENDEN. I should like to know why that increase is proposed to be made. This is getting rather common here to increase pensions from eight to twenty-five dollars a month. It is a large increase.

Mr. LANE. The report accompanying the bill shows the facts in this case. This man was placed on the pension-roll at eight dollars a month. He was totally blind in both eyes. If he had been placed on the pension-roll under the general law he would have been entitled to twenty-five dollars. When he came before the committee we were perfectly satisfied about the case. He was led in by a one-legged soldier, and was totally blind. Having been placed on the pension-list by a special law he cannot obtain this increase except by another special law.

Mr. FESSENDEN. Are all those who are blind entitled to receive twenty-five dollars?

Mr. LANE. Yes, sir; all those who are blind in both eyes.

Mr. FESSENDEN. Very well; I do not object.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PATRICK MEEHAN.

On motion of Mr. LANE, the bill (S. No. 513) granting a pension to Patrick Meehan, was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Patrick Meehan, late a corporal in company I, eighty-ninth regiment Indiana volunteers, on the pension-roll, at the rate of fifteen dollars per month, to commence from the 6th of June, 1866.

Mr. FESSENDEN. I should like to have the honorable Senator explain these various rates. I do not understand why one is placed at twenty-five dollars, another at fifteen dollars, another at eight dollars, &c. We ought to have some rules in reference to all these things, and not leave them as a mere matter of discretion.

Mr. LANE. There is no discretion left to

anybody. There is a general law placing these pensions at different rates. A man who has lost one leg or one arm, or both legs or both arms, or one eye or both eyes, has a different pension and a higher one than a man who is simply disabled and only gets eight dollars a month.

Mr. FESSENDEN. What is the reason, if this man comes under the general law, that he does not get his pension at the pension office?

Mr. LANE. The reason is this: the Commissioner of Pensions has decided that where a man is placed on the pension-roll by a special law, he cannot increase his pension under our general law unless we pass an act of Congress saying that it shall be done. These rates have been provided for by general law. This man would have been placed at this rate by the general law; but this is a special law which is necessary to meet his case under the decision of the Commissioner. The report will show the facts. I ask the Secretary to read the report, which will show just how it stands.

Mr. FESSENDEN. I understand it. I only wished an explanation of the principle.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES APPLETON.

On motion of Mr. LANE, the bill (S. No. 514) for the relief of Charles Appleton was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to increase the pension of Charles Appleton, late a soldier in the United States Army, from eight dollars per month to fifteen dollars per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. ERNESTINE BECKER.

On motion of Mr. LANE, the bill (S. No. 515) granting a pension to Mrs. Ernestine Becker was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Mrs. Ernestine Becker, widow of Leopold Becker, late captain of company D, twenty-fourth regiment Illinois infantry volunteers, on the pension-roll, at the rate of twenty dollars per month, to commence from the 5th of May, 1865, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LEMUEL WORSTER.

On motion of Mr. LANE, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1056) for the relief of Lemuel Worster, which directs the Secretary of the Interior to place the name of Lemuel Worster, of Lebanon, York county, Maine, upon the roll of invalid pensioners, and pay to him the sum of eight dollars per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN MOREAN.

On motion of Mr. LANE, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1055) for the relief of John Morean, of Machias, New York. The bill proposes to direct the Secretary of the Treasury to place the name of John Morean, of Machias, New York, a soldier of the war of 1812, upon the pension-rolls, at the rate of eight dollars per month, and to continue during his natural life.

The Committee on Pensions reported the bill with an amendment, in line three to strike out the word "Treasury" and to insert the word "Interior."

The amendment was agreed to.

Mr. LANE. I move to amend the bill by making the name "Morean" instead of "Moreau," as I understand that is the proper name.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the bill read a third time. The bill was read the third time, and passed; and its title was amended so as to read: "A bill for the relief of John Morean, of Machias, New York."

HIRAM HEDRICK.

On motion of Mr. LANE, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1054) for the relief of Hiram Hedrick. It directs the Secretary of the Interior to place the name of Hiram Hedrick, of Peoria, Illinois, late a private in company D, eleventh regiment Illinois cavalry, on the pension-rolls, at the rate of twenty-five dollars per month, and to pay him at this rate in lieu of the pension he is now receiving.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. JANE CLEMENTS.

On motion of Mr. LANE, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1052) granting a pension to Mrs. Jane Clements. The Secretary of the Interior is directed by the bill to place the name of Mrs. Jane Clements, of the District of Columbia, widow of Ignatius Clements, deceased, on the pension-roll, and pay her a pension at the rate of eight dollars per month, during her widowhood, commencing on the 1st of August, 1864, the date of her husband's death. This bill is to entitle her to the benefit of the second section of the act approved July 25, 1866, in regard to minor children of deceased soldiers, if it shall be established to the satisfaction of the Commissioner of Pensions that she has such minor child or children as would entitle her to the benefit of that section.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHILDREN OF SOLOMON LONG.

On motion of Mr. LANE, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1058) for the relief of the minor children of Solomon Long.

The Committee on Pensions reported the bill with an amendment, to strike out all of the original bill after the enacting clause in the following words:

That the Secretary of the Interior is hereby authorized to place on the pension-rolls the minor children of said Solomon Long, with the same benefits, and subject to the same restrictions, as other minor orphan children of deceased soldiers, to take effect June 16, 1865.

And to insert in lieu thereof:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place upon the pension-roll the names of the minor children of Solomon Long, deceased, who was a private in company E, fifth regiment Kentucky cavalry volunteers, under the provisions of the existing laws in similar cases, to take effect from and after the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. VAN WINKLE. I move to strike out the word "minor" in the fifth line, and insert after "children" the words "under sixteen years of age;" so that it will read: "the names of the children, under sixteen years of age, of Solomon Long."

The PRESIDENT *pro tempore*. That modification of the amendment will be made, if there be no objection.

The amendment was ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

Mr. VAN WINKLE. I move to amend the title of the bill by striking out the word "minor;" so as to read: "A bill for the relief of the children, under sixteen years of age, of Solomon Long."

The motion was agreed to.

JOHN GRAY.

On motion of Mr. LANE, the Senate, as in



Committee of the Whole, proceeded to consider the bill (H. R. No. 1044) for the relief of John Gray, a revolutionary soldier. The bill directs the Commissioner of Pensions to place the name of John Gray, of Noble county, Ohio, upon the pension-roll, and that there be paid to him the sum of \$500 per annum during his natural life, payable semi-annually, commencing on the 1st of July, 1866.

Mr. LANE. That bill as it passed the House was wrongfully drawn. I move to amend it by striking out the words "Commissioner of Pensions," and inserting "Secretary of the Interior," so as to make it conform to our legislation.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

DANIEL FREDERICK BAKEMAN.

On motion of Mr. LANE, the Senate, as in Committee of the Whole, proceeded to consider bill (H. R. No. 1045) for the relief of Daniel Frederick Bakeman, a revolutionary soldier.

The Commissioner of Pensions is directed by the bill to place the name of Daniel Frederick Bakeman, of Sandusky, New York, upon the pension-roll, and there is to be paid to him the sum of \$500 per annum during his natural life, payable semi-annually; commencing on the 1st of July, 1866.

Mr. VAN WINKLE. The same amendment should be in this bill as in the last, by striking out the words "Commissioner of Pensions," and inserting "Secretary of the Interior."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

JOHN CARTER.

On motion of Mr. LANE, the bill (S. No. 554) granting a pension to John Carter was read the second time and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of John Carter, late a private in company H, fifth regiment United States infantry, on the pension-roll, at the rate of fifteen dollars per month, to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES N. WEISS.

On motion of Mr. LANE, the bill (S. No. 580) granting a pension to Charles N. Weiss, was read a second time and considered as in Committee of the Whole. The bill directs the Secretary of the Interior to place the name of Charles N. Weiss, of the District of Columbia, on the pension-roll, at the rate of fifteen dollars per month, to continue during his natural life.

Mr. LANE. That presents rather a peculiar case, highly creditable to this young man; and as the report is very short I will ask that it be read.

The Secretary read the following report, submitted by Mr. LANE, from the Committee on Pensions, on the 9th instant:

The Committee on Pensions, to whom was referred the petition of Charles N. Weiss, having had the same under consideration, submit the following report:

At the commencement of the late rebellion the petitioner, earnestly desiring to aid the Government in preserving its existence and sustaining its authority, was debarred by law from enlisting as a soldier because of his extreme youth, he being then in the fourteenth year of his age. In pursuance of his purpose to identify himself with the cause of the country he attached himself as an acting orderly to Colonel Blair, commanding the twenty-first regiment Pennsylvania volunteers. At the expiration of their term of service he acted in the same capacity for Colonel Miller, of the eighty-first Pennsylvania volunteers, who fell at the battle of First Bull Run. He afterward attached himself to Colonel Sewall, of the staff of Major General O. O. Howard, with whom he remained until June, 1862, when he became the act-

ing orderly of Colonel Balloch, also of General Howard's staff, in which capacity he served at the battle of Gettysburg, where he lost his left arm by a shell from the enemy while nobly doing his duty during that terrible battle; that after the lapse of four months he again entered the field with Colonel Balloch, and was present with him at the battles of Chattanooga and Lookout mountain, and accompanied General Sherman in his "march to the sea."

All of the foregoing facts are fully substantiated by the statements of Major General O. O. Howard, Brevet Brigadier General Balloch, Brigadier General C. H. Howard, Colonel Miles, United States Army, and others.

Your committee are of the opinion that no case more meritorious has ever come before them, and they report the accompanying bill for his relief, and recommend its passage.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

OLIVIA W. CANNON.

On motion of Mr. LANE, the bill (S. No. 581) granting a pension to Olivia W. Cannon, was read a second time and considered as in Committee of the Whole.

The Secretary of the Interior is directed by the bill to place the name of Olivia W. Cannon, widow of Joseph S. Cannon, late a midshipman in the United States Navy, upon the pension-roll, at the rate of ten dollars per month, to commence upon the presentation of satisfactory proof of identity and widowhood, and to continue during her widowhood; and to be paid out of the naval pension fund.

Mr. GRIMES. Let us hear the report read.

The Secretary read the following report, submitted by Mr. LANE, from the Committee on Pensions, on the 9th instant:

The Committee on Pensions, to whom was referred the petition of Olivia W. Cannon, having had the same under consideration, report:

The petitioner claims to be the widow of the late Joseph S. Cannon, of the United States Navy, who was pensioned by a special act of Congress, and upon his death it was continued to her for five years more; but the five years having elapsed she now prays for the special action of Congress in her behalf. The committee have no facts in the case except what are contained in the petition. They therefore report a bill authorizing the Secretary of the Interior to place her name again upon the pension-roll, to continue during her widowhood.

Mr. FESSENDEN. Are you satisfied that the facts contained in the petition are true?

Mr. LANE. In this case the facts are stated in the petition and are verified by an act of Congress passed some forty years ago, granting a pension to this Lieutenant Cannon and voting him a sword and the thanks of Congress and of the nation for his gallant conduct. At his death his pension was given to his widow for five years. The five years had expired, and this bill simply gives it to her during her natural life or widowhood.

Mr. GRIMES. When was the last act on the subject passed?

Mr. LANE. The pension act I think, granting her an extension of five years was in 1857. This is a very meritorious case. We went back and looked into the laws and found an act placing her on the pension-roll, and an act passed giving him a sword and a vote of thanks of Congress for his gallant conduct. There is no doubt of the identity at all. Both the Senators from Delaware pledge themselves from personal knowledge of the identity of this lady. She is very old now, and we think it a proper case to continue the pension. If she had been placed on the pension-roll under the general law it would have been continued to her; but she was placed on the pension-roll under a special law giving her a pension for five years, and of course it expired.

Mr. JOHNSON. In what battle was he engaged?

Mr. LANE. On Lake Champlain.

Mr. GRIMES. I remember this case having been before the Committee on Pensions when I was a member of it, and it was not favorably considered at that time. I do not remember the particulars of the case. I suggest to the Senator to let it pass over.

Mr. LANE. If I thought we could get it up again I should be perfectly willing to pass it over, but I doubt very much whether it can be passed this session if it is not passed to-night.

When I leave here, in a few days more, I doubt whether anybody else will be as liberal to pensioners as I am.

Mr. JOHNSON. She is very old, is she not?

Mr. LANE. She is a very old lady, over seventy years of age. I will state to the Senator from Iowa and the Senate that this pension is to be paid out of the naval pension fund, which is a large fund, some eight or nine millions. When the case was first presented to the committee we did not act upon it until we went back and found a vote of thanks of Congress and a sword given to Mr. Cannon, and a special act placing this lady on the pension-roll, and we had no doubt she ought to have a pension. I hope the Senate will consent to let the bill pass.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CAROLINE M'GEE.

On motion of Mr. LANE, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 556) for the relief of Caroline McGee, of Greene county, Tennessee, widow of Lemuel McGee, deceased. It directs the Secretary of the Interior to place the name of Mrs. Caroline McGee, of the county of Greene, Tennessee, on the pension-roll at the rate of eight dollars per month, to commence on the 27th of November, 1864, and to continue during her widowhood, upon satisfactory proof that she was and is the widow of Lemuel McGee, late of Tennessee, who died while imprisoned at Belle Island or Richmond, Virginia, during the late rebellion.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. JERUSHA PAGE.

On motion of Mr. LANE, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 535) for the benefit of Mrs. Jerusha Page. It proposes to direct the Secretary of the Interior to place the name of Mrs. Jerusha Page, of the State of Missouri, widow of the late Thomas C. Page, deceased, on the pension-roll, at the rate of eight dollars per month, to continue during her widowhood.

Mr. JOHNSON. What is that for?

Mr. LANE. There is a report accompanying the bill, which can be read if anybody has any doubt about it.

Mr. JOHNSON. I will take your statement. What is it?

Mr. LANE. This Mr. Page was called a captain. That was a neighborhood title. He never was a captain; but was a private soldier, and was employed as a spy in Missouri, and was killed, and his widow claims a pension on the ground of the death of her husband. She claimed a pension of twenty dollars a month, the pension of a captain; but we could not find any proof that he had ever been a captain, but plenty of proof that he was a private soldier, and we have reported a bill giving her eight dollars instead of twenty dollars a month. He was employed out there by Colonel Caldwell, of Iowa, who swears to his services.

Mr. JOHNSON. During the late war?

Mr. LANE. Yes; during the rebellion. Colonel Caldwell swears that he employed him, and that he did effective service, and was killed.

Mr. JOHNSON. I am satisfied.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARY A. SMITH.

On motion of Mr. LANE, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 558) for the relief of Mary A. Smith, of Johnson county, Tennessee, widow of Alexander D. Smith, deceased. The bill, as originally introduced by Mr. PATTERSON, proposed to instruct the Secretary of the Interior to place the name of Mary A. Smith, of Johnson county, Tennessee, on the pension-rolls,

to commence on the 5th of November, 1863, at the rate of — dollars per month, and to continue during her widowhood.

The Committee on Pensions reported the bill with an amendment, to strike out all after the word "rolls," in the fifth line, in the following words:

To commence on the 5th day of November, 1863, at the rate of — dollars per month, and to continue during her widowhood.

And to insert in lieu thereof:

At the rate of thirty dollars per month, to commence from the 5th day of November, 1863, and to continue during her widowhood, upon satisfactory proof that she was and is the widow of Alexander D. Smith, late a lieutenant colonel of the thirteenth regiment Tennessee cavalry volunteers.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### MRS. ELIZABETH FLETCHER.

On motion of Mr. LANE, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1146) for the relief of Mrs. Elizabeth Fletcher. The Secretary of the Interior is directed by the bill to place the name of Elizabeth Fletcher, widow of Captain L. W. Fletcher, late of company A, thirteenth regiment Tennessee cavalry, on the list of invalid pensioners, and pay to her during widowhood the sum of twenty dollars per month, from the date of the death of her late husband; and in the event of the death or remarriage of Elizabeth Fletcher the Secretary of the Interior is directed to pay to the legally appointed guardian of the orphan children of Captain L. W. Fletcher the pension awarded to Elizabeth Fletcher, until they shall respectively attain the age of sixteen years.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### SAMUEL DOWNING.

Mr. LANE. I now move that the Senate proceed to the consideration of House bill No. 1125, granting an additional pension to Samuel Downing, one of the three last surviving soldiers of the revolutionary war, who is one hundred and five years old.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1125) granting an additional pension to Samuel Downing, one of the last surviving soldiers of the revolutionary war. It directs the Secretary of the Interior to place upon the pension-roll the name of Samuel Downing, one of the last surviving soldiers of the revolutionary war, for an additional pension, at the rate of \$500 per annum, from the 3d day of September, 1866, and to continue during the remainder of his life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### EZRA B. GORDON.

On motion of Mr. LANE, the bill (S. No. 602) granting a pension to Ezra B. Gordon, was read the second time and considered as in the Committee of the Whole. It is a direction to the Secretary of the Interior to place the name of Ezra B. Gordon, late a private of company F, fourth regiment New Hampshire volunteers, on the pension-roll at the rate of fifteen dollars a month, to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### MARTHA MCCOOK.

On motion of Mr. LANE, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 171) for the relief of Martha McCook. It directs the Secretary of the Interior to pay or cause to be paid to Mrs. Martha McCook, widow of the late Major McCook, of Jefferson, county, Ohio, in consideration of the services of her husband

and eight sons to the country in the late war for the Union, four of whom perished of wounds received in battle when in the line of their duty, an annuity during her natural life of \$250 per annum, to be paid semi-annually.

Mr. FESSENDEN. Did we not have that before us at the last session?

Mr. LANE. A similar bill passed the House at the last session, but failed to pass the Senate. The circumstances are very peculiar. This old lady had eight sons in the service. One of them died in the Navy, and four were killed in the Army. Her husband was, I believe, a paymaster; at all events, he was on the staff, and was not compelled to enter the service; but he went into the service and lost his life. We thought, under the circumstances, this additional compensation would not be too much. Her husband was killed in the Morgan raid. He volunteered to defend his neighbors in Ohio. His family were exceedingly gallant and brave and distinguished. The history of the country for the last five years is a sufficient report upon this case and testifies to the gallantry of the McCook family. It is an exceptional case and establishes no new rule; but I hope whenever such a case shall arise hereafter, characterized by the same features, that the Congress of the United States will grant the additional compensation in all such cases.

Mr. FESSENDEN. Is not the family in good circumstances?

Mr. LANE. The family is poor, and this widowed mother is now supporting the widow and orphan children of one of the sons who was assassinated in Alabama, General A. D. McCook, who was murdered by guerrillas. They are poor and need this compensation. We thought, under the circumstances, that this resolution ought to be passed.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### WEST VIRGINIA VOLUNTEERS.

On motion of Mr. VAN WINKLE, the joint resolution (S. R. No. 167) for the relief of certain enlisted men of the seventh regiment West Virginia volunteers, was read the second time and considered as in Committee of the Whole. It directs the Secretary of War to cause to be paid to William T. Connell, John Keplinger, and Isaac Conrad, full pay and allowances as private soldiers from August 17, 1861, to January 9, 1863, on presentation of satisfactory proof that they were duly enlisted in the seventh regiment West Virginia volunteers as such, and that their muster into service was prevented by their capture and detention as prisoners of war, from September 7, 1861, to the date embraced by this resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### CAPTAIN ELIAS BEALE.

Mr. BROWN. I move that the Senate proceed to the consideration of Senate bill No. 584, reported by the Committee on Military Affairs.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 584) for the relief of Captain Elias Beale, late captain company H, eighth regiment Tennessee volunteer infantry. It directs the Paymaster General of the United States Army to settle and pay the account of Elias Beale, late a captain of company H, eighth regiment Tennessee volunteer infantry, for his services and all allowances as captain in that regiment from the 25th of July, 1863, to the 30th of June, 1865, being to the time he was mustered out of the service, deducting all moneys that have been paid to him as a private in the service during that time.

Mr. BROWN. This is a bill that was reported from the Committee on Military Affairs. They examined the case thoroughly, and they were satisfied that he was entitled to this money. He was a captain, but was taken

prisoner before he was mustered in. It is to give him the additional allowance to which he would be entitled at that rank. He was paid as a private.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### TUBULAR BRIDGE AT ST. LOUIS.

Mr. BROWN. There is one other little bill that I should like to have acted upon this evening. It is a bill reported by the Committee on Post Offices and Post Roads for the construction of a tubular bridge under the Mississippi river. I believe there is no objection to it in any quarter, and it will only take the time required in reading the title. It is Senate bill No. 421.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 421) to authorize the construction of a submerged tubular bridge across the Mississippi river, at the city of St. Louis.

The "Mississippi Submerged Tubular Bridge Company," a corporation organized under the laws of the State of Missouri, will be empowered by the bill to construct, maintain, and operate a submerged iron tubular bridge across the Mississippi river, between the city of St. Louis, in the State of Missouri, and the city of East St. Louis, in the State of Illinois, subject to all the conditions contained in its act of incorporation and not inconsistent with the provisions of the act. In case of any litigation arising from any obstruction, or alleged obstruction, to the free navigation of the waters, the cause may be tried before the district court of the United States of any State in which any portion of the said obstruction or bridge touches.

Any bridge built under the provisions of the act is to be tubular in construction, and sunk below the bed of the river so that the top of the structure shall be below the lowest water line of the Mississippi river, and so that it shall in no wise interfere with or obstruct navigation when completed, or prevent a safe and expeditious transit for all classes of vessels upon the river during construction. Any bridge so erected is to be a lawful structure, and is to be recognized and known as a post route, upon which also no higher charge is to be made for the transmission of the mails, troops, and munitions of war of the United States than the rate per mile which the railroad companies terminating at either end receive for such services. No exclusive right or privilege is ever to be granted to any of the steam railroads now concentrating at St. Louis or East St. Louis by the bridge company to use the bridge, but it is to be equally open to all, under such regulations and at such charges as may be fixed, not to exceed those now charged by the Wiggings Ferry Company.

Mr. HOWARD. I wish to inquire of the committee who reported that bill whether the company authorized to construct the bridge have ever done anything in that direction; whether any money has been invested in the project; whether there has been any earnest, serious attempt made?

Mr. BROWN. All I can say is that the company is organized and is indorsed by some of the first engineers of the country as approving of the plan, and that they are contracting at the present time for one or two of a similar kind. There is nothing, I think, that can be objected to in the bill itself.

Mr. HOWARD. It is a novelty in the history of bridges.

Mr. BROWN. It is a novelty.

Mr. HOWARD. The proposition is to make a bridge under the river, is it not?

Mr. BROWN. Yes, sir.

Mr. HENDERSON. Entirely beneath the water.

Mr. GRIMES. I should like to understand what is meant by the language of the second section:

That any bridge built under the provisions of this act shall be tubular in construction, and sunk

below the bed of said river so that the top of said structure shall be below the lowest water-line of the Mississippi river.

What does the Senator from Missouri understand to be the lowest low water-line of the Mississippi?

Mr. BROWN. Not "lowest low water-line," but "lowest water-line"—the lowest point at which the water channels through the river; the lowest point of the bottom.

Mr. GRIMES. "The lowest water-line."

Mr. BROWN. That is, the lowest point at which the water is in the bottom of the river. That is the lowest water-line."

Mr. GRIMES. I should like you to certify to that.

Mr. JOHNSON. I should like to know from what committee this bill came—the Committee on Commerce?

Mr. BROWN. The Committee on Post Offices and Post Roads. The Senator from Minnesota [Mr. RAMSEY] reported the bill.

Mr. JOHNSON. It may be right, perhaps, in the particular instance, but legislation of this sort has generally come from the Committee on Commerce.

Mr. BROWN. On the contrary, I think all the bridge bills passed here for the last two years have been referred to the Committee on Post Offices and Post Roads.

Mr. JOHNSON. That is not my recollection.

Mr. HENDERSON. Yes, sir; every one of them has come from that committee.

Mr. JOHNSON. I was about further to say that the bill provides that the structure, when completed, shall be a mail route. That legalizes it whether it interferes with the navigation or not. In the case of the Wheeling bridge the Supreme Court decided that the bridge which had been erected was to come down because it interfered with commerce; but afterward when Congress passed an act making the bridge a post route and a legal structure, the court held that it was competent for Congress, if it thought proper, to impede in any way that it thought advisable the navigation of the river; that whether it was or was not an obstruction to the navigation of the river the bridge should stand. I am a little apprehensive that if it turns out that this bridge shall be in fact a very serious obstruction to the free navigation, it would still stand under the provision which says it is to be a mail route. The bridge, as I understand, is not to be under the bed of the river.

Mr. HENDERSON. Yes, entirely under ground.

Mr. BROWN. Altogether.

Mr. JOHNSON. The bill says "the water-line."

Mr. BROWN. Below the water-line, below the bed of the river.

Mr. GRIMES. Why not say that expressly?

Mr. BROWN. If there is any doubt about the meaning of the language as to what "the lowest water-line" is, it is very easy to make the thing definite by saying "the bed of the river."

Mr. JOHNSON. I think that would do better.

Mr. BROWN. I did not draw the bill.

Mr. JOHNSON. If the honorable member will move that amendment, it will free the bill from a difficulty which I think would otherwise exist.

Mr. BROWN. I have no objection to an amendment of that sort.

Mr. HENDERSON. I move to amend the bill by striking out in the fourth line of the second section, the words "lowest water-line" and inserting "bed of the channel."

Mr. TRUMBULL. I should like to inquire, as this is the chartering of another bridge company, whether the bridge that was authorized at the last session of Congress to be built so high that the tops of the chimneys of the largest steamers could not touch it, and with a span of five hundred feet in the clear, has been constructed or is in the process of construction.

Mr. HENDERSON. Four hundred feet span.

Mr. TRUMBULL. I thought five hundred feet was the span of the bridge the Senator's colleague was providing for at the last session. But now there seems to be a proposition for another bridge to go as deep under the earth as the one last year was to go above. If that high bridge is a success, if it has been constructed, there may be, perhaps, no necessity for this.

Mr. BROWN. In reply to the Senator, I can only say that, so far as I am advised, measures have already been taken to organize under the authority that was granted at the last session of Congress. Whether the bridge will be too high for the Senator to cross when it gets done, or not, I cannot say; nor as to the dimensions, whether they will be found unnecessarily large. My own opinion still is that it would have been better if the laws providing for the various bridges across the river had required them to be longer in their spans and higher in their elevation.

Mr. HOWARD. I beg to inquire of the honorable Senator from Missouri whether this experimental bridge has been tried anywhere else; whether we have any structure of this description now in use in the United States? It seems to me this bill contemplates rather a curious operation. The company who have it in charge will be compelled to excavate the earth under the Mississippi river, and of course the excavation will be very long, not less probably than a mile or a mile and a half, and perhaps even two miles.

Mr. BROWN. How long is the tunnel under the lake at Chicago?

Mr. HOWARD. It will, of course, require the expenditure of a vast amount of money. For my part I do not understand what the United States have to do with a question of this kind. If the company can acquire the right of soil or the right to use the soil on each side of the river from private proprietors, as I suppose they may, what is the objection to their digging this tunnel directly under the river without the permission of the United States so long as they do not obstruct the navigation? They are still upon the land of private proprietors when they are under the bottom of the river, because the riparian proprietors own to the center of the stream and own of course all the land under the stream. The United States have only an interest in the water itself for the purposes of navigation as a highway. I do not see the necessity of passing this bill at all. Beside, I am not willing to launch upon this kind of experiment. I should be glad to wait and see whether it is likely to operate favorably elsewhere.

Mr. HENDERSON. At the last session of Congress there were some seven or eight or nine bridges authorized across the Mississippi river, to be built only eight feet above the water. I suggested as an amendment at the time to those bills the present proposition, a proposition that cannot, under any circumstances, if carried out, interfere with the navigation of the stream. This proposition was presented by me and indorsed by six or seven of the most eminent engineers in this country, among them Mr. Latrobe, who said that the scheme was perfectly practicable. At this session of Congress we have succeeded in getting a favorable report from the proper committee. It is perfectly clear that a tubular bridge will not interfere with the navigation of the river nor interfere with anybody's interests. All we desire to do is to give the privilege to a company in the city of St. Louis, if they can do so, to build a bridge of this character. The Senator from Michigan says that this is an untried experiment, and asks my colleague to know whether this thing has ever been tried in any part of the world.

Mr. HOWARD. No; not any part of the world, but in this country.

Mr. HENDERSON. I suppose that rivers are rivers whether they be in the West or in the East. I suppose that the river Thames is very much in some respects like the Mississippi river; that is, at the bottom there is land, and

there is water running upon the land. The Thames, I believe, is a much wider stream at the city of London than the Mississippi is at the city of St. Louis. Instead of being two miles wide, the Mississippi river at St. Louis is scarcely half a mile in width. The Thames, I understand, is from a mile and a half to three miles. The tunnel is of greater length than three miles, as I am informed.

If this structure should prove to be any obstruction to navigation, there is a provision in the bill by which it may be abated as a nuisance; but I do not believe that it will obstruct navigation. I think this privilege ought to be granted, and I am very much astonished that there should be any opposition manifested on the part of any gentleman to a proposition of this sort. If there should be any obstruction, it may be prevented at any time, at the inception of the bridge building or after it has progressed. The proposition is to dig a tunnel and to put a tubular iron frame or boxes and a railroad track in the bottom. The tops of these submerged iron cylinders are to be entirely beneath the water in the river; they are to be below the bed of the channel, adopting the language of the Senator from Iowa. Therefore it cannot interfere with anybody. If we can build such a bridge at St. Louis it will not only be beneficial at that point, but the same kind of bridge may be adopted at every other point on the Mississippi, and it seems to me that that ought to be done. The bill, therefore, can do no harm, and it may do much good.

The Senator from Illinois, who fought his nine bridge bills through at the last session, asks my colleague what has become of the high bridge at St. Louis. Suppose the high bridge has not been commenced, is there any harm in building a low bridge? The Senator was very anxious last year to build a low bridge at Quincy.

Mr. TRUMBULL. They have begun that.

Mr. HENDERSON. You have not got it built.

Mr. TRUMBULL. They are at work on it.

Mr. HENDERSON. Now, let us go to work on this low bridge, entirely beneath the water, in the Mississippi river. Steamers can go up and down the river and not know that a train of cars is passing below. The captain and pilot and engineer will be ignorant of the fact that a locomotive is passing beneath the bed of the river. Why not let us do it?

Mr. President, a Senator suggested to me a while ago, and I think it is true, that however high or however low we build a bridge at St. Louis it will hardly suit the Senator from Illinois. I do not know what exact height my colleague must adopt in order to suit the Senator from Illinois. It would be difficult for me to know and difficult for my colleague. Now, let us have this bridge, if a company organized under the laws of the State of Missouri will go to work and construct it without a dollar of expense to the Government. They do not ask for any money. They are willing to bear the burden. Why not do so, and let it be a post route when they have made it?

Mr. HOWARD. Why can they not build it without a charter?

Mr. HENDERSON. Then all the other companies might have built bridges without charters. Why have a charter for a bridge at Winona? The point is that we desire to have it made a post route, and it ought to be made so just as much as any other construction of the sort.

Mr. HOWE. Let us vote and we will pass your bill.

Mr. HENDERSON. If I were perfectly satisfied the Senate would pass the bill I would cease speaking, but without a promise on the part of Senators that they will pass the bill I am disposed to continue my remarks.

Mr. HOWE and others. Let us try.

Mr. HENDERSON. Very well, I will stop.

Mr. CHANDLER. I was not aware, before I heard the remarks of the Senator from Missouri, that the Thames was so large a stream. I went into the tunnel there some years ago



and I did not suppose it was of any practical use. A man who goes to London goes to the tunnel and pays a British shilling to look at the curiosities there. That is all the use that was made of it when I was there. No passengers or freight go through. You might as well attempt to run a train of cars down a precipice as through a tunnel of that kind. You have to go down, I think, about eight feet before you get to the tunnel. The Thames is a brook as compared with the Mississippi river; a very small brook. I cannot state the exact length of the tunnel; but I passed through it once or twice, and paid a shilling to look at it. It is a total failure for practical use. If the people of St. Louis desire to dig a thing of that kind to exhibit as a great curiosity, let them do it; but the tunnel at London has never been of any practical use to that city, and never will be.

Mr. HENDERSON. With the permission of the Senator I should like to ask him if it is true that the Thames has been tunneled at London?

Mr. CHANDLER. Certainly. I have been in the tunnel; I went there from curiosity.

Mr. HENDERSON. I was never there, and I am not aware that I ever shall be there; but I desire some time or other during my life to be in a tunnel beneath some large stream; and if one is built at the city of St. Louis I shall have the privilege of going in it. [Laughter.] I doubt whether I shall ever be able to see the tunnel at London, for I do not know that I shall ever be able to cross the ocean; but, as the Senator has been there, and can give assurance that the Thames has been tunneled, I have no doubt that the Mississippi can be likewise tunneled. I should like to ask the Senator how long that tunnel is, whether it is a mile, or half a mile, or how long?

Mr. CHANDLER. It is not a mile, and it is not half a mile.

Mr. HENDERSON. Did the Senator pass through it?

Mr. CHANDLER. I passed to the end of it, from one end to the other.

Mr. HENDERSON. I should like to have the Senator's estimate of the distance.

Mr. CHANDLER. I should think about eighty or one hundred rods, but I am not certain.

Mr. HENDERSON. I really thought from what I had read, that the Thames was a very wide stream at London.

Mr. CHANDLER. It is a little brook; it is broader there than at some other places.

Mr. HENDERSON. I thought very heavy shipping passed up to London on the Thames.

Mr. CHANDLER. They do bring large ships up to a certain point.

Mr. HENDERSON. Well, Mr. President, I am satisfied if there is a tunnel there at all. Now I want the Mississippi tunneled.

Mr. CHANDLER. The Thames is a very small brook compared with the Mississippi.

Mr. JOHNSON. The tunnel is about three eighths of a mile, I think, at London. I passed through it from one end to the other without the slightest difficulty.

Mr. HENDERSON. I only wanted to know that there was such a thing as a tunnel there.

Mr. TRUMBULL. I want to tell my good friend from Missouri that I have no sort of objection to his tunnel under the Mississippi river; but I am afraid he never will have a chance to go into a tunnel there; that is all the difficulty about it. It certainly will not interfere with navigation if it is below the bottom of the river, and I do not suppose anybody in the world will object to that. The only fear I have is that he will not get his tunnel constructed so that he or I can go through. I should like to see a law passed providing for a bridge that can be built, that is practicable. That is the kind of bridge I was for last year. I should like to see such a bridge at St. Louis; but so long as we go on to provide for bridges that are to be away up in the heavens or away down at the bottom of the earth, I am afraid we shall get nothing. I have no sort of objection to them, however, if

the Senator's constituents will build them, and it is very little trouble to pass the bill. I shall make no objection to it.

Mr. GRIMES. As the Senator from Missouri is very anxious to see a tunnel and to know all about it, and as the Senator from Illinois is satisfied that there never will be a tunnel built across the Mississippi river, perhaps it would be well for the Senator from Michigan to enter into a more minute description than he has already given us of the tunnel at London. [Laughter.]

Mr. CHANDLER. The Senator from Maryland can enlighten the Senator from Iowa on that subject. He has been there since I was.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The question is on the amendment of the Senator from Missouri.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

FRANK PUGSLEY.

Mr. HOWE. I move that Senate bill No. 499 be taken up for consideration.

The motion was agreed to; and the bill (S. No. 499) for the relief of Frank Pugsley, late a private soldier in company I, of the third regiment of New Hampshire volunteers, was read the second time and considered as in Committee of the Whole. It is a direction to the accounting officers of the Treasury, in the final settlement of the accounts of Frank Pugsley, as a private soldier in company I, of the third regiment of New Hampshire volunteers, to regard the date of his discharge from the service of the United States as of the 24th day of October, 1862, and to compute his pay and allowances as such soldier to that time.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM H. HARMAN.

On motion of Mr. VAN WINKLE, the bill (S. No. 598) for the relief of William H. Harman, was read the second time and considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to remit and release to William H. Harman the internal revenue tax assessed on five hundred and six gallons of whisky of his manufacture, the same having been destroyed by fire before removal from the distillery and before sale.

Mr. JOHNSON. How did the fire originate? Through his own carelessness?

Mr. FESSENDEN. The Committee on Finance were unanimous in reporting the bill.

Mr. JOHNSON. Very well.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

OBER, NANSON AND COMPANY.

Mr. HOWE. I move that the Senate proceed to the consideration of House joint resolution No. 173.

The motion was agreed to; and the joint resolution (H. R. No. 173) for the relief of Ober, Nanson & Co., merchants of New York, was considered as in Committee of the Whole.

The preamble recites that Ober, Nanson & Co., of the city of New York, did, on October 18, 1865, deposit in the post office of the city of New York, a sealed package, containing twelve hundred compound-interest notes of the United States, each of the denomination of fifty dollars, dated September 1, 1865, and falling due September 1, 1868, amounting to \$60,000, which notes are specifically described by their letters and numbers, the package being directed to Ober, Atwater & Co., New Orleans, and registered, and a receipt given by the postmaster at New York, dated October 18, 1865, and was dispatched through the United States mail, on the steamship Republic, to its place of destination, as certified by the postmaster of New York; and that the steam-

ship Republic, with the United States mail thereon, containing the sealed package, was sunk and lost in the sea on the 25th day of October, 1865, at a point about one hundred and forty miles east of Savannah, Georgia, and no part of the mail on board was saved or recovered. It is therefore proposed to direct the Secretary of the Treasury to pay to Ober, Nanson & Co., or their assigns or legal representatives, the amount of the notes supposed to be lost, with the interest thereon to the time of their maturity, at any time within six months after the maturity thereof, if there shall not appear, before such payment, evidence satisfactory to the Secretary of the Treasury that the said notes have not been lost and destroyed; and the Secretary of the Treasury is to require of them, their assigns or legal representatives, to execute and deliver such bond of indemnity, with adequate sureties, as he may deem necessary, before such payment is made.

Mr. GRIMES. I move that the Senate adjourn.

The motion was agreed to; and (at nine o'clock and five minutes p. m.) the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, February 18, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of Saturday last was read and approved.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed the bill (H. R. No. 1143) entitled "An act to provide for the more efficient government of the insurrectionary States" with amendments, in which the concurrence of the House was requested.

### ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order during the morning hour is the call of States and Territories for bills for reference to appropriate committees, not to be brought back by a motion to reconsider.

### TARIFF ON RAILROAD IRON

Mr. MILLER introduced a joint resolution in regard to the tariff on railroad iron; which was read, as follows:

*Resolved by the Senate and House of Representatives, &c., That it is incompatible with the policy of the protective system of the United States and detrimental to the industrial industry of the country to admit, under any pretext whatever, free of duty, foreign iron, whether manufactured for railroad purposes or otherwise.*

The joint resolution was read a first and second time, and referred to the Committee of Ways and Means.

### AMENDMENT OF THE CONSTITUTION.

Mr. WILLIAMS introduced a joint resolution proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

### PAY OF SOLDIERS, ETC.

Mr. DELANO introduced a bill entitled "An act to give construction to the act of June 20, 1864, increasing the pay of soldiers of the Army, and to the act of March 3, 1865, amending the several acts calling out the national forces, and to limit the pay to officers' servants; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

### TAX ON COFFEE, SUGAR, ETC.

Mr. HISE introduced the following concurrent resolutions in favor of the abolition of the tax on coffee, sugar, molasses, raw cotton, &c.:

In order to relieve the people of the United States in part of the burden of taxation now bearing so heavily upon them—

*Resolved by the House of Representatives, (the Senate concurring,) 1. That the tax imposed by existing laws upon coffee, sugar, molasses, salt, and raw cot-*

ton, whether direct or indirect, and whether those commodities be imported from other countries or produced in the United States, should be totally abolished.

*Resolved*, 2. That the diminution that may thus be produced in the revenue receipts of the Government should be made up and supplied, if necessary, by a tax of twenty per cent. per annum upon all incomes over \$10,000, from whatever source derived, and especially including incomes derived from interest payable upon bonds and other Government securities of the United States, and if this should not be sufficient to supply such deficiency, the residue, if required, should be realized by such an increase of duties upon commodities which are not grown, produced, or manufactured in the United States, such as spices, gums, tropical fruits, &c., as may be necessary for that purpose.

*Resolved*, 3. That the Committee of Ways and Means be, and are hereby, instructed to prepare and report a bill so modifying or repealing existing laws and containing such enactments as will effect the objects indicated in the foregoing resolutions.

The resolution was referred to the Committee of Ways and Means.

#### GEORGE W. KEITH.

Mr. MAYNARD introduced a joint resolution for the relief of Lieutenant George W. Keith; which was read a first and second time, and referred to the Committee on Military Affairs.

#### DES MOINES RAPIDS.

Mr. BROMWELL introduced a joint resolution directing the Secretary of War to survey both sides of the Mississippi river at Des Moines Rapids; which was read a first and second time, and referred to the Committee on Commerce.

#### HARBOR AT NEW BUFFALO, MICHIGAN.

Mr. UPSON presented a joint resolution of the Legislature of the State of Michigan, asking Congress for an appropriation of money to aid in the construction of a harbor at New Buffalo, Berrien county, Michigan; which was referred to the Committee on Commerce, and ordered to be printed.

#### PORTAGE LAKE AND RIVER, MICHIGAN.

Mr. FERRY presented a joint resolution of the Legislature of the State of Michigan, asking Congress for an appropriation of money to improve Portage Lake and harbor in Houghton county, Michigan; which was referred to the Committee on Commerce, and ordered to be printed.

#### MINERAL RANGE RAILROAD.

Mr. FERRY also presented a joint resolution of the Legislature of the State of Michigan, asking Congress for a grant of land to aid in the construction of the Mineral Range railroad; which was referred to the Committee on Public Lands, and ordered to be printed.

#### IMPRISONMENT FOR DEBT.

Mr. WILSON, of Iowa, introduced a bill for the relief of persons imprisoned for debt; which was read a first and second time, and referred to the Committee on the Judiciary.

#### NEW MEXICO.

Mr. CHAVES presented a memorial of the Legislature of the Territory of New Mexico, asking an increase of the *per diem* of members of the Legislative Assembly and an increase of pay of the territorial officers; which was referred to the Committee on the Territories, and ordered to be printed.

Mr. CHAVES also presented a memorial of the Legislature of the Territory of New Mexico, asking that an appropriation of money for school purposes be made instead of the grant of the sixteenth and thirty-sixth sections of land; which was referred to the Committee on the Territories, and ordered to be printed.

Mr. CHAVES also presented a memorial of the Legislature of the Territory of New Mexico, asking that the Secretary of the Interior be authorized to appoint a board of three commissioners, whose duty it shall be to investigate the losses sustained by the citizens of the Territory during the revolution of 1847 and by Indian depredations from the arrival and formal taking possession of the Territory by General Stephen W. Kearney, and that the commissioners be authorized to report to the

Secretary of the Interior the losses thus sustained, in order that those justly entitled may receive their dues; which was referred to the Committee on the Territories, and ordered to be printed.

#### POLYGAMY.

Mr. HOOPER, of Utah, presented a memorial of the Utah Legislative Assembly, praying for the repeal of an act to punish and prevent the practice of polygamy in the Territories of the United States; which was referred to the Committee on the Judiciary, and ordered to be printed.

#### IMPROVEMENT OF THE MISSISSIPPI.

Mr. HARDING, of Illinois, introduced a bill providing for the improvement of the Mississippi river; which was read a first and second time, and referred to the Committee on the Judiciary.

#### REPUBLICAN STATE GOVERNMENTS.

Mr. JULIAN introduced a joint resolution on the subject of republican governments for the States in the Union; which was read a first and second time, and referred to the Committee on the Judiciary.

#### RIDGWAY'S BATTERY.

Mr. RICE, of Massachusetts, introduced a joint resolution authorizing the Secretary of the Navy to grant the use of guns for the trial of Ridgway's battery; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### RELIEF OF ARMY OFFICERS.

Mr. PAINE introduced a joint resolution explanatory of a joint resolution for the relief of certain officers of the Army, approved July 26, 1866; which was read a first and second time, and referred to the Committee on Military Affairs.

#### COIN CLAIMED BY VIRGINIA BANKS.

Mr. COOK introduced a joint resolution in relation to coin in the Treasury claimed by certain banks in Virginia; which was read a first and second time, and referred to the Committee on the Judiciary.

#### MOUND CITY NAVY-YARD.

Mr. BAKER presented a joint resolution of the Legislature of the State of Illinois, relating to a navy-yard at Mound City; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. INGERSOLL presented a like resolution; which was similarly referred.

#### UNIVERSAL SUFFRAGE.

The SPEAKER stated the next business in order to be to resume the consideration of the following resolutions, on which the gentleman from Missouri [Mr. NOELL] was entitled to thirty-three minutes:

*Resolved*, That Governments were made for the people, and not the people for the Government; that every adult citizen of sound mind in any State or Territory has the right to a voice in the formation of the constitution of said State, and in the representation and laws of said State, and that any State which disfranchises any class of its citizens on account of sex is not republican in form, and should be overturned by Congress.

*Resolved*, That the Committee for the District of Columbia is hereby instructed to report to this House, without delay, a bill so amending an act entitled "An act to regulate the elective franchise in the District of Columbia," which passed Congress January 3, 1867, as to abolish the disfranchisement of persons from voting on account of sex.

*Resolved*, That the Committee on the Judiciary are instructed to report a bill calling a convention and authorizing every adult citizen of sound mind in the State of Massachusetts to vote for delegates to said convention for the purpose of making a constitution for said State republican in form.

Mr. NOELL resumed, and concluded his argument begun on last Monday. [His speech will be published in the Appendix.]

Mr. BIDWELL. I do not think we ought to waste the few remaining days of the session, and I move that the resolutions be laid on the table.

The motion was agreed to.

Mr. BIDWELL moved to reconsider the vote

just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CALL FOR RESOLUTIONS.

The SPEAKER stated the next business in order to be the call of the States and Territories for resolutions in the inverted order, commencing with Montana.

#### EMPLOYÉS AT GOVERNMENT PRINTING OFFICE.

Mr. WHALEY submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means take into consideration the propriety of including the employés of the Government Printing Office under the joint resolution giving additional compensation to certain employés in the civil Government at Washington.

#### EVENING SESSIONS.

Mr. LATHAM submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That until otherwise ordered this House will take a recess from half past four p. m. to half past seven p. m. daily, except Saturdays.

Mr. LATHAM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PARDONING POWER.

Mr. HENDERSON submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, As the sense of this House, that the Constitution of the United States authorizes the Chief Executive to extend the pardoning power to the case of persons who have been tried by appropriate tribunals and convicted of crime and to none others; consequently all pardons granted to such as have neither been convicted nor tried are without foundation in law, and therefore null and void.

#### CAPTURE OF JEFF. DAVIS.

Mr. PAINE submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the ordinary number of copies of the evidence presented to the Committee of Claims by the claimants for the reward for the capture of Jefferson Davis be printed.

#### NATIONAL BANK CURRENCY.

Mr. ELDRIDGE offered the following resolution, and demanded the previous question thereon:

*Resolved*, That the Committee on Banking and Currency be directed to inquire into the expediency of the withdrawal of the national bank currency as rapidly as it can be done without injustice to the national banks, and supplying the place of such currency with United States Treasury notes, and to report by bill or otherwise.

The previous question was seconded and the main question ordered.

Mr. BROOMALL. I move to lay the resolution on the table.

Mr. ELDRIDGE. On that I demand the yeas and nays.

On ordering the yeas and nays there were—ayes nineteen.

Mr. ANCONA. Tellers on ordering the yeas and nays.

Tellers were ordered; and the Chair appointed Messrs. ELDRIDGE and BROOMALL.

Mr. RANDALL, of Pennsylvania. Would a motion to refer the resolution to the Committee on Banking and Currency be in order?

The SPEAKER. The language of the resolution itself so refers it.

Mr. RANDALL, of Pennsylvania. I would like to make a separate motion to refer it to that committee.

The SPEAKER. It cannot be done unless the previous question is withdrawn.

The House divided; and the tellers reported—ayes thirty-one.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 94, nays 55, not voting 41; as follows:

YEAS—Messrs. Alley, Allison, Ames, Baldwin, Banks, Barker, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Branderage, Broomall, Buckland, Bundy, Reader, W. Clarke, Sidney Clarke, Darling, Davis, Dawes, Defrees, Delano, Deming,

Dodge, Donnelly, Eliot, Goodyear, Grinnell, Hart, Hayes, Hill, Holmes, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Julian, Kasson, Kelley, Kelso, Ketcham, Koonz, Ladin, George V. Lawrence, William Lawrence, Longyear, Marston, Miller, McCullough, McKee, McLeur, Mercour, Morris, Moulton, Myers, Newell, O'Neill, Patterson, Perham, Phelps, Plants, Pomeroy, Price, William H. Randall, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Sitgreaves, Spalding, Stilwell, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Hamilton Ward, Warner, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Woodbridge—94.

**NAYS**—Messrs. Ancona, Anderson, Arnell, Baker, Baxter, Bergen, Bromwell, Campbell, Chanler, Cobb, Cook, Cooper, Dawson, Denison, Eldridge, Farnsworth, Farquhar, Finck, Glossbrenner, Aaron Harding, Abner C. Harding, Hawkins, Henderson, Hiss, Chester D. Hubbard, Humphrey, Ingersoll, Kerr, Kuykendall, Latham, Le Blond, Leftwich, Loan, Marshall, Maynard, McIndoe, Moorhead, Niblack, Nicholson, Noell, Orth, Paine, Samuel J. Randall, Ross, Schenck, Shanklin, Stevens, Stokes, Taber, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, Thornton, Robert T. Van Horn, and Andrew H. Ward—55.

**NOT VOTING**—Messrs. Delos R. Ashley, James M. Ashley, Blow, Boyer, Conkling, Cullom, Culver, Dixon, Driggs, Dumont, Eckley, Eggleston, Ferry, Garfield, Griswold, Hale, Harris, Higby, Hogan, Asahel W. Hubbard, Hunter, Jenckes, Jones, Lynch, McClurg, Morrill, Pike, Radford, Raymond, Alexander H. Rice, Ritter, Rogers, Rousseau, Sloan, Starr, Strouse, Trimble, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Wright—41.

So the resolution was laid on the table.

#### CONGRESSIONAL TEMPERANCE SOCIETY.

Mr. PRICE, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas a society has been formed by the members of the Thirty-Ninth Congress called the Congressional Temperance Society; and whereas it is contemplated by said society to hold a public meeting on Sunday, the 24th instant, at seven and a half o'clock p. m.: Therefore,

*Resolved*, That the Hall of the House of Representatives be granted for that purpose to enable members of the House to take part in the ceremonies of that occasion.

Mr. PRICE moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 899) relative to collection districts in North Carolina; when the Speaker signed the same.

#### INDIAN TERRITORY.

Mr. RICE, of Maine, from the Committee on the Territories, by unanimous consent, reported a bill to establish a territorial government for the Indian Territory; which was read a first and second time, recommitted to the committee, and ordered to be printed.

Mr. KASSON moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORGANIZATION OF THE DEPARTMENTS.

On motion of Mr. KASSON, the substitute which the sub-committee on appropriations were ready to report for the bill referred to them in relation to the organization of the Departments was ordered to be printed.

#### NATIONAL CAPITAL INSURANCE COMPANY.

Mr. INGERSOLL. I desire to ask the consent of the House to have the Committee for the District of Columbia discharged from the further consideration of House bill No. 234, to incorporate the National Capital Insurance Company, which, when taken from the Speaker's table, was referred by mistake to that committee. The Senate added some amendments to the bill, and I desire the non-concurrence of the House in those amendments, and to ask for a committee of conference.

No objection was made; and the Committee for the District of Columbia was accordingly discharged from the further consideration of the bill.

The amendments of the Senate were non-concurred in, and a committee of conference was asked upon the disagreeing votes of the two Houses.

#### COMMERCIAL RELATIONS.

Mr. POMEROY submitted the following resolution; which was referred, under the law, to the Committee on Printing:

*Resolved*, That four thousand additional copies of the report on the commercial relations of the United States with foreign nations for 1866 be printed for the use of the House, and one thousand additional copies for the use of the State Department.

#### LEAVE OF ABSENCE.

Leave of absence was granted by unanimous consent to Mr. PHELPS for one day.

#### SALE OF LIQUORS IN THE DISTRICT.

Mr. ROSS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee for the District of Columbia be, and they are hereby, instructed to report to this House at an early day a bill to prohibit the sale of intoxicating liquors as a beverage in the District.

Mr. ROSS moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### RESUMPTION OF SPECIE PAYMENTS.

Mr. HUBBARD, of West Virginia. I ask consent to offer the following resolution:

*Resolved*, That the Committee on Banking and Currency be directed to inquire into the expediency of requiring the banking associations organized under the national currency act to retain as a part of their redemption reserve a certain per cent. of the gold interest paid them by the Government on the bonds deposited as security for their circulation, the same to be retained as a basis for the resumption of specie payments; and that they have leave to report by bill or otherwise.

Mr. SCOFIELD. I object.

#### GOVERNMENT OF INSURRECTIONARY STATES.

Mr. STEVENS. I move now to proceed to the business on the Speaker's table.

The motion was agreed to.

The SPEAKER stated as the first business in order bill of the House No. 1143, to provide for the more efficient government of the insurrectionary States, returned from the Senate with amendments.

Mr. RANDALL, of Pennsylvania. When we adjourned on Saturday there were some twenty bills on the Speaker's table. I ask by what rule this bill has preference over others?

The SPEAKER. The Chair will state that when the House proceeds to the business on the Speaker's table the order is exhausted with the day. The gentleman is certainly familiar with the rule when the Chair reminds him of it.

Mr. RANDALL, of Pennsylvania. I am familiar with the rule; but I do not exactly see how this bill comes to have preference over others.

The SPEAKER. The Clerk will read the rule on the subject, from page 34 of Barclay's Digest.

The Clerk read as follows:

"The motion to go to business on the Speaker's table being decided in the affirmative, the Speaker shall dispose of it in the following order:

"1. Messages and other executive communications.

"2. Messages from the Senate, and amendments proposed by the Senate to bills of the House.

"3. Bills and resolutions from the Senate on their first and second reading, that they be referred to committees and put under way; but if, on being read a second time, no motion being made to commit, they are to be ordered to their third reading, unless objection be made; in which case, if not otherwise ordered by a majority of the House, they are to be laid on the table in the general file of bills on the Speaker's table to be taken up in their turn.

"4. Engrossed bills and bills from the Senate on their third reading.

"5. Bills of the House and from the Senate on the Speaker's table, on their engrossment, or on being ordered to a third reading, to be taken up and considered in the order of time in which they passed to a second reading."

The SPEAKER. The gentleman will see

that House bills with Senate amendments have priority.

The Clerk read the Senate amendments to the bill, as follows:

Amend the preamble by striking out all after the word "whereas," in the first line thereof, and insert:

No legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore,

Amend the bill by striking out all after the enacting clause, and inserting in lieu thereof the following:

*Be it enacted, &c.* That said rebel States shall be divided into military districts, and made subject to the military authority of the United States, as hereinafter prescribed, and for that purpose Virginia shall constitute the first district, North Carolina and South Carolina the second district, Georgia, Alabama, and Florida the third district, Mississippi and Arkansas the fourth district, and Louisiana and Texas the fifth district.

Sec. 2. *And be it further enacted*, That it shall be the duty of the President to assign to the command of each of said districts an officer of the Army not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

Sec. 3. *And be it further enacted*, That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished all disturbers of the public peace and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose; and all interference under color of State authority with the exercise of military authority under this act shall be null and void.

Sec. 4. *And be it further enacted*, That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted; and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district; and the laws and regulations for the government of the Army shall not be affected by this act, except in so far as they conflict with its provisions: *Provided*, That no sentence of death under the provisions of this act shall be carried into effect without the approval of the President.

Sec. 5. *And be it further enacted*, That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law; and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates; and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same; and when said State, by a vote of its Legislature, elected under said constitution, shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-Ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oaths prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State.

Amend the title of the bill by striking out the word "insurrectionary" and inserting in lieu thereof the word "rebel."

Mr. STEVENS. I move that the amendments of the Senate be non-concurred in; and that the House ask a committee of conference upon the disagreeing votes of the two Houses.

Mr. SPALDING. I move that the amendments of the Senate be concurred in.

Mr. RANDALL, of Pennsylvania. I rise to a privileged motion. I move to lay the bill and amendments upon the table.

The SPEAKER. That motion is not now in order while the gentleman from Pennsylvania [Mr. STEVENS] is upon the floor, to which he is entitled for one hour.

Mr. ROSS. I rise to a question of order. The other side have more than their fair proportion of lobby members and shoddy contractors upon the floor.

The SPEAKER. If the gentleman from Illinois [Mr. ROSS] means by that remark that he desires the Speaker to see that the rules are



enforced, the Chair will direct the Doorkeeper to admit none but persons entitled to come on the floor of the House.

Mr. ROSS. I merely ask for a more fair distribution.

The SPEAKER. The Doorkeeper will enforce the rules.

The pending question was upon concurring in the amendments of the Senate.

Mr. STEVENS. I yield fifteen minutes of my time to the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. BOUTWELL. Mr. Speaker, I hope I shall not find it necessary to occupy so many as fifteen minutes. I am aware that the provisions of this bill have already been discussed very thoroughly by this House, and I have had my full share of the opportunity for discussion. If I did not believe that this bill, in the form in which it now comes to us from the Senate, was fraught with great and permanent danger to the country I would not attempt to resist further its passage.

But I ask the House to consider the position in which we are placed at the present time. I make a remark which seems to be necessary, but not for any party purpose. Yet I cannot reach the object I have in view without stating a fact of a party nature. That fact is that the majority here, representing the majority of the loyal people of this country, has the control of this Government for a period of two years or more. We have every reason to believe that loyal ascendancy in this country will be continued.

In any event, in those two years we ought to be able, and I am sure we shall be able, to reconstruct this Government upon a loyal basis. But in any event, nothing worse can happen to us, and nothing worse can happen to the country, than the reconstruction of the Government on a disloyal basis. If it is to be reconstructed upon a disloyal basis, there are two things which I seek: first, that we who believe ourselves to be loyal to the Government and to the country shall not in any degree be responsible for the reconstruction of this Government in the hands of disloyal men; and secondly, that if it is to be the fortune of this country that it shall be reconstructed upon a disloyal basis and by the agency and under the control of disloyal men, then I desire to postpone that calamity to the latest day possible.

I say, then, that if during this session, or during the existence of the Fortieth Congress, the majority act according to its means and its opportunities, it cannot fail to secure the reconstruction of these ten States and their restoration to the Union through the agency of loyal men and by loyal means.

My objection to the proposed substitute of the Senate is fundamental, it is conclusive. It provides, if not in terms, at least in fact, by the measures which it proposes to reconstruct those State governments at once through the agency of disloyal men. And I say that great fact, which if this substitute shall be concurred in will be near to us, ought to restrain us from any action in favor of this measure, though we be compelled on the 4th of March next to part without having done anything whatever for the restoration of those States.

I do not believe that the people of this country are prepared to accept any measure of restoration which looks to the reintroduction of disloyal men, first, into the governments of the ten States, and then into the Government of this country. If that be their feeling, I say it is our duty, standing here with power in our hands to-day, to resist the reconstruction of these ten States through any such agency or with any such certain result near at hand.

I pass over the provisions in the second section of this substitute, by which all power is put into the hands of the President of the United States, with the remark that the House bill gave authority to the General of the Army, of which by the amendment he is deprived. The civil rights bill, if it be enforced by the President according to its terms and its intention, he being the Commander in-Chief of the Army,

is sufficient for the protection of liberty, of persons, of rights, and of life throughout these ten States. And if that be so, the necessity for the passage of a military bill, with power in the hands of the General of the Army, for the government of the southern States arises from the fact that the President thus far has failed to exercise the power conferred on him by the civil rights bill. By that remark I do not say whether he is guilty or not of any neglect of duty. But he has not used the power which the laws of the country have placed in his hands for the protection of the loyal people of the ten States recently in rebellion. Until you have some assurance that the vast powers which he already possesses are to be exercised in behalf of loyalty and justice and life, will you clothe him anew, will you give him additional power, will you give to him entire and unrestricted control of the Army, when he now has power enough to do that which we desire to have done, if he did not for some purpose, or under some influence, neglect to exercise the authority which he already possesses?

I come now to that provision of the proposed substitute which is even of graver import—I refer to the provision found in the fourth section, wherein we give up to the present leaders of the South the business of reorganizing State governments. Under the substitute no one man, from Jefferson Davis, if he be released from Fortress Monroe, down to the humblest soldier that trained in the armies of the rebellion, or practiced the nefarious business of a guerrilla, is deprived of the right of suffrage.

The fifth section of this bill proposes, in effect, if not in terms, universal amnesty and the restoration to political power, as far as the franchise is concerned, of every man in these ten States. The pending constitutional amendment deprives certain persons of the right to hold office; but the power of this Government and the power of the States is not in the right of individuals to hold office, but it is in the immensely superior power of the people to elect to office, and in the assurance that the men elected to office will represent the men by whom they are elected. By the bill as now amended you transfer the reorganization of these ten States to the rebels; you give to rebels the chief places in the work of reconstruction, possessing, as they do for the time being, the means of influence, of trust; and submitting all authority to them, you expect them to reconstruct loyal State governments.

Now is the time when we ought to cherish and nourish the loyal sentiment of the people. We ought to see to it that the men under whose guidance these States are to be reconstructed shall be loyal men. We ought to exclude from the business of reconstructing South Carolina, for example, the Orrs, the Pickens, the Magraths, and all those who participated in the rebellion, and seek out the loyal men. Let them be the standard-bearers of the Republic; let them rally the loyal people, black and white, to the standard of the Union. But on the other hand, this bill leaves the whole matter of reconstruction open to anybody and everybody in the southern country who may choose to engage in the work. The result will be that in these several States the ancient rebel party will resist reconstruction for a time; but when they see that it is inevitable in a particular State they will take the business into their own hands, and they will reconstruct governments according to their own ideas, with their own men in places of power and trust. They will then come here with every condition precedent fully satisfied. Every black man will be secured in the right to vote. When we have passed this bill the controlling rebel party will organize the States soon or late in their own interest. They will have the control of the militia; they will have the control of the polls; and do you expect that the negroes, unaccustomed to political struggles, timid, careworn, broken down in spirit to some degree by the institution of slavery, can in five or ten years overthrow

these rebels and deprive them of the places of power which they possess, even though the negroes and the loyal whites should be a majority in those States?

Hence, Mr. Speaker, by this bill in its present form we shall exchange power to reconstruct these governments in the interest of loyalty and accept in its place mere paper; we exchange authority for promises; we neglect to do our own duty in the work of reconstruction in the vain hope that men who have been rebels will do in the interest of loyalty and the Government that which we ourselves, intrusted with vast powers for the public good, are either afraid to do or incapable of doing.

These, in brief, are my objections to the passage of this bill. So great, so enormous do the objections appear that by no process of reasoning can I overcome them. I see the three million newly-emancipated slaves of the South surrendered over again to the control of their former masters, when we have the power, by following in some form of language the bill which we passed here with reference to Louisiana the other day, to reconstruct these governments through the agency of loyal men, in the interest of loyalty, and thus to make this Government compact and firm as one great republican State with many members, in which everywhere loyalty shall be triumphant and treason shall be made odious.

Mr. STEVENS. I now yield ten minutes to the gentleman from Tennessee.

Mr. STOKES. Mr. Speaker, I am much obliged to the gentleman from Pennsylvania for yielding the floor to me. I regard this, sir, as one of the most important measures that has ever been submitted to the House of Representatives. I have been looking on here now for nearly two years, watching and listening to the discussions and action upon the various propositions submitted for the reconstruction of the rebel State governments. It has, I thought, been understood all the time that when these States were reconstructed it should be done upon a loyal basis; that the loyal people of these States should rule and control the State governments. I have expected and believed this Congress, this radical Congress as it is called, would never reconstruct these State governments until it was done upon the true loyal basis. But what do I find? I find in this bill which has come from the Senate universal amnesty and universal suffrage.

Sir, is this to be the basis of reconstruction? Some gentlemen say to me this bill does not enfranchise the rebels. I can neither read nor understand the English language if it does not enfranchise every rebel in the southern States, and for one I will never cast my vote to place the government of these States in the hands of rebels so that they may exercise power over true loyal men. Pass this bill and where are your loyal men? White and black, they go under. Yes, sir, I repeat they go under.

Non-concur in the amendment of the Senate! Some gentlemen say it will endanger the bill and we will get nothing. I would rather have nothing if these governments are reconstructed in a way that will place the rebels over Union men. I prefer the defeat of the bill rather than to have it pass in this shape. Pass the military bill as I voted for it the other day, and as it was submitted by my friend from Pennsylvania, [Mr. STEVENS.] That is the first thing to be done in the way of reconstruction. It is to place those States under the iron rule of the military. Send officers and men there who will do justice and protect the loyal men, white and black. When that's done the Louisiana bill or something like that can be brought forward, and then reconstruction will take place upon a solid loyal foundation. Then, I say, place these governments under military rule. Protect the loyal men until they can organize a government of undoubted loyalty.

Where do you find the word "loyal" in this amendment as it comes from the Senate? It admits rebels to the ballot. Do that, and where is the Union element in the South? Where are they in my State? We have disfranchised

the rebels there, and now this enfranchises them. Pass this bill as it came from the Senate and you bring down ruin and destruction upon loyal Tennessee. After we have disfranchised rebels in Tennessee you come in now and enfranchise the rebels in ten unreconstructed States. You inflict a lasting injury upon us. This Congress told us to enfranchise none but loyal men. That was what this Congress told us last summer. They said, "We cannot recognize your State governments without that is done, for otherwise we have no guarantee the governments will be kept in the hands of loyal men." Now, the proposition is brought forward to put these governments in the hands of disloyal men. Let me say rather than pass this bill, recognize, in the name of God, their present State governments, as this would not be more than mere paper, as the gentleman from Massachusetts has said. It is an act of despotism upon the Union men.

Do not, I implore you, legislate in that way. I appeal to gentlemen of this Congress. Are you determined that loyal men shall control these States, or are you in favor of giving the power into the hands of disloyal men? If you are in favor of loyal men, then I ask you to legislate like men, and not to pass a law in ambiguous words and phrases that no one can understand.

Mr. Speaker, I do not wish to deprive my own race of voting, but I do propose to vest the organization of the government in the hands of true loyal men, though, as the late lamented President Lincoln said, there be only five thousand in the State. I propose that they shall control the State governments whether they be white or black. Place the government in the hands of loyal men alone, let them organize it, and when they have done so if they choose to admit the other class to vote it is then their privilege to enfranchise them, and we are not responsible.

Mr. Speaker, pass this bill and it is the final stroke, the death-blow to the Union men and the men of color in the South. They will have no protection, their rights will not be recognized. I hope the Union party of this House will not inflict this punishment upon their friends in the South. Give them a chance to protect themselves, and leave it to them to say when the disloyal people shall be allowed to participate in their State governments.

The amendment of the Senate will read very well if you strike out the word "people" and insert "loyal men," having it read "that all shall be entitled to vote except those who were engaged in the rebellion." I entreat gentlemen to make the language plain; to say what they mean by loyalty, and what constitutes disloyalty. Make it plain and use no ambiguous words.

[Here the hammer fell.]

Mr. STEVENS. Mr. Speaker, I will occupy but a short time. This House a few days ago sent to the Senate a bill to protect loyal men in the southern States. That bill proposed but a single object, the protection of the loyal men of the South from the anarchy and oppression that exist and the murders which are every day perpetrated upon loyal men, without distinction of color. It did not attempt the difficult question of reconstructing these States by establishing civil governments over them. The House thought it wise to leave that question until a Congress which is to come in could have a long time to consider the whole question. The bill which we passed had not in it one single phrase or word which looked to anything but a police regulation for the benefit of these States.

Now, what has the Senate done? It has sent back to us an amendment which contains everything else but protection. It has sent us back a bill which raises the whole question in dispute as to the best mode of reconstructing these States, by distant and future pledges which this Congress has no authority to make and no power to execute. What power has this Congress to say to a future Congress, when

the southern States have done certain things, you shall admit them and receive their members into this House?

Sir, it is idle to suppose that we are not assuming what is impudent in us, and what must be fruitless. What are we attempting to do? The first grand amendment that strikes the eye in this bill is that we take the management of these States from the General of the Army and put it into the hands of the President of the United States. No man doubts the constitutional authority of Congress to detail for particular service, or to authorize others to detail for particular service particular officers of the Army. But our friends who love this bill love it now because the President is to execute it, as he has executed every law for the last two years, by the murder of Union men, and by despising Congress and flinging into our teeth all that we seek to have done. That seems to be the sweetening ingredient in this bill for many of our friends around us. I do not of course believe anything about these nightly meetings. I think the report on that subject is all fabrication. But, sir, if there were such things, this substitute that has come from the Senate would be the natural offspring of such an incubation.

What is the fifth section of this substitute? Why is it incorporated here? It is that we may pledge this Government in future to all the traitors in rebellion, so that hereafter there shall be no escape from it, whatever may happen. While they are not before us, while this Congress has nothing to do with them, we are promising them, we are holding out to them a pledge that if they will do certain things therein mentioned they shall come into this House and act with us as loyal men. I know there is an impatience to bring in these chivalric gentlemen lest they should not be here in time to vote for the next President of the United States, and therefore gentlemen postpone the regular mode of bringing up that question, and put it upon a police bill in order that it may be carried through so as to give them an opportunity to be here at the time they desire. Sir, while I am in favor of allowing them to come in as soon as they are fairly entitled, I do not profess to be very impatient to embrace them. I am not very anxious to see their votes cast along with others to control the next election of President and Vice President; therefore it is that my impatience is not so great as that of others.

Mr. Speaker, there was a time when some people, and among them that good man who is now no more, carried, as I thought, the idea of reconstruction by loyal men rather to the extreme. The doctrine was once held that in these outlawed communities of robbers, traitors, and murderers, so far as the real State was concerned, it consisted of the loyal men of the community and that the others counted for nothing. I do not say that I hold this doctrine, not being myself an extreme man, [laughter:] but it was held by gentlemen all around me, and it was held by the late President of the United States. But now the doctrine seems to be that the State is composed of disloyal men and traitors. We ignore wholly the loyal element in all the States, and we are hurrying to introduce these disloyal men among us.

Mr. Speaker, why is it that we are so anxious to proclaim universal amnesty? Is there danger that somebody will be punished? Is there any fear that this nation will wake from its lethargy and insist upon punishing by fine, by imprisonment, by confiscation, and possibly by personal punishment, some of those who have murdered our brothers, our fathers, and our children? Is there any danger that such a spirit will be raised in this nation, a spirit which sleeps only here, and which no other nation ever before allowed to slumber? If there is such danger, if some punishment is dreaded by these men, does not this proposition protect them? The President has already, as far as he is able, pardoned these rebels, and restored to them their property which we con-

fiscated by the act of 1862, and he has done it in defiance of law.

Last Saturday a gentleman came to me from Alexandria with one of the judges there, and told me that a gentleman had obtained some \$17,000 worth of property under a sale by the United States of rebel property, but the rebel owner had come with the pardon of the President and the order for the restoration of the property in his hand; an ejectment suit had been brought and beyond all question a recovery would be had. Sir, as far as I can ascertain more than \$2,000,000,000 of property belonging to the United States, confiscated not as rebel but as enemy's property, has been given back to enrich traitors. Our friends whose houses have been laid in ashes, whose farms have been robbed, whose cattle have been taken from them, are to suffer poverty and persecution, while Wade Hampton and his black horse cavalry are to revel in their wealth, and traitors along the Mississippi valley are to enjoy their manors. Sir, God helping me and I live, there shall be a question propounded to this House and to this nation whether a portion of the debt shall not be paid by the confiscated property of the rebels. But, sir, this prevents it all. This is helping the President to take from the people that which belongs to them and giving it to confederate traitors.

Now, sir, I have only a word or two more to say. If there is an order of a committee of conference, in two hours a bill can be framed and reported to this House free from all these difficulties, free from all this extraneous matter, which shall protect every loyal man in the southern States and do no injustice to those who are disloyal. But, sir, pass this bill and you open the flood-gates of misery; you disgrace in my judgment the Congress of the United States. I do hope some effort will be made to protect without endangering them.

I will only add that I will not call the previous question now. I think it proper that the subject should be discussed, but at four o'clock I shall call the previous question.

Mr. BLAINE. I desire the Chair to limit me to ten minutes.

The SPEAKER. The gentleman is entitled to an hour.

Mr. BLAINE. I understand that I am entitled to an hour, but I propose to yield the floor to other gentlemen at the end of ten minutes. And in these ten minutes I shall direct myself to calling the attention of the House to the precise purport, object, and scope of the fifth section of the proposed substitute of the Senate, and to ascertain whether it is open to the objection which the gentleman from Pennsylvania [Mr. STEVENS] and the gentleman from Massachusetts [Mr. BOWWELL] have alleged against it.

In the first place it demands of the people of the rebel States that they shall form a constitution of State government conforming in all respects to the Constitution of the United States. Next, that after that constitution is formed it shall be submitted for ratification to all the male citizens of the State, without any regard to race, color, or previous condition of servitude; no one is to be excluded from voting unless the convention which frames the constitution shall do as Tennessee did, disfranchise some of the citizens for treason and rebellion. Just the same authority, and just the same mode of exercising that authority, is conferred upon these ten States that Tennessee possessed and exercised. And I reply to the gentleman from Tennessee [Mr. STOKES] by saying that Congress no more guaranties under this bill the right of any rebel in any State to vote than did Congress guaranty to the rebel in Tennessee the right to vote.

Then after the State constitution shall have been framed by the convention, submitted to the people, and adopted by votes of all the male citizens, except such as may be disfranchised by reason of participation in rebellion, it must be submitted to Congress for examination and approval. And being brought here for examination and approval, I submit

that what the gentleman from Pennsylvania [Mr. STEVENS] and the gentleman from Massachusetts [Mr. BOUTWELL] have said is mere bugaboo and scarecrow, because the inquest is left in our hands, plenary and absolute. And that inquest goes to every fact and every circumstance connected with the formation of the new constitution. If in the judgment of Congress any State constitution presented to it for examination and approval shall enfranchise rebels and endanger the stability of the State government by permitting it to fall in the hands of rebels, Congress I assume with all confidence will not approve it. But that question is one for the Fortieth Congress or some other to determine; and, as a member of the Fortieth Congress, speaking for myself alone, I am not afraid to trust the subject to their decision.

After the constitution shall have been approved by Congress, what then? I wish to call the attention of the House to the fact that the constitutions of these States are to be examined separately, and not altogether. And if the new constitution of the State of Arkansas, for instance, shall be approved by Congress, then her people are to elect a Legislature under that constitution, and then it is required that that Legislature shall adopt the amendment to the Constitution proposed by Congress at its last session and give its assent to it in a valid and legal and binding form.

And what is next to be done? Thereupon Arkansas is to elect Senators and Representatives. And whom may they elect? Can they send rebels here? Not so; they must send those here who can take the oaths prescribed by law; to take "the iron-clad oath," as it is called.

Therefore I submit, in all candor, that by passing this bill Congress will not take one step toward placing the government of these ten States in the hands of the rebels. Congress is still to hold the entire subject in its control for subsequent inquest, examination, and approval. And for Congress to be afraid to do this much is not to distrust the rebels but to distrust itself, and the objection of the gentleman from Pennsylvania and the gentleman from Massachusetts is nothing but a distrust of Congress itself, and when the gentleman from Pennsylvania talks about Congress disgracing itself by passing this bill I would call his attention to the fact that the action of the Senate does not justify his assertion. If it is proper to refer to the action of the Senate upon this subject, I would say that there was not one Senator there in any way connected with the Radical or Republican party who voted against it. It at all events met the approval of every member of our party in that body who voted. If there were any who entertained similar views to those of the gentlemen from Pennsylvania and Massachusetts, they did not stand up and express them, or record their votes against this amendment.

And I say here that the proposition of the gentleman from Pennsylvania, for a conference in which this whole matter may be fixed up in two hours, is a delusion. It is very easy for gentlemen to talk about fixing up in two hours that toward which they have not been able to do anything in two months. A proposition now to send this subject to a conference committee is simply a proposition to do nothing, nothing whatever at this session of Congress. And I beg gentlemen on this side of the House and on all sides, who look to any measure that shall guaranty a republican form of government in the rebel States with universal suffrage for loyal men, to vote for this bill as it came from the Senate.

Mr. Speaker, I now yield ten minutes to the gentleman from Iowa, [Mr. WILSON.]

Mr. WILSON, of Iowa. Mr. Speaker, the bill now before the House does not embrace all upon the subject of reconstruction that I should be glad to have embraced in it. But, sir, it seems to me that this is the last opportunity we shall have during the present session of Congress to enact anything upon this sub-

ject; and I feel the importance of some affirmative action upon the part of Congress with which to antagonize the policy established by the President of the United States. Therefore, notwithstanding this bill falls short of what I desire, I shall vote to concur in the amendment of the Senate; and, sir, before I am called upon to cast my vote, I purpose to state some reasons upon which I will base it.

The Committee on Reconstruction reported to this House a bill, which was passed and sent to the Senate for the purpose, as they told us, of affording protection to the loyal people of the rebel States. We are now told that the bill thus reported by that committee and passed by this House will not afford that protection. Why, then, did that committee report it to this House, why did they ask us to pass it, if it was not sufficient in its provisions to afford the protection the committee told us it would? We took the committee at its word, and passed the bill for the purpose of protecting the loyal people of the southern States, as the committee assured us it would protect them. And now, after that action, after we have followed the lead of the committee, we are told this morning by the chairman of the committee on the part of the House, [Mr. STEVENS,] and another member of the committee, [Mr. BOUTWELL,] that the measure will afford no such protection, and that it is a mere piece of legislative mischief. I cannot understand this singular conduct of the members of the committee. I cannot see how these two positions are to be made to harmonize. I leave that task to those who occupy them. I believe to-day, as I believed when I voted for the bill on its passage, that its provisions will afford the protection designed by those who support it. Therefore I shall vote for it again to-day.

Now, sir, I wish to call the attention of the House, and especially the members of the Committee on Reconstruction who are opposing this bill, to one feature of the case as it is presented to us; and I also call the attention of the eloquent gentleman from Tennessee [Mr. STOKES] to the same point. The third section of the bill as it passed the House, and as it remains in the bill as returned from the Senate, reads as follows:

That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end he may allow civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, anything in the constitution and laws of the so-called States to the contrary notwithstanding; and all legislative or judicial proceedings, or processes to prevent or control the proceedings of said military tribunals, and all interference by said pretended State governments with the exercise of military authority under this act shall be void and of no effect.

Now, sir, one of the rights in the enjoyment of which the people of the southern States are to be protected is the "right of the people peaceably to assemble and to petition the Government for a redress of grievances." This is one of the rights which the military forces of the United States are to protect or enforce in the insurgent districts. Now, sir, let the loyal people of Virginia, white and black, assemble in convention in such manner as they may elect, frame a constitution of government republican in form and fact, disfranchise such portion of the rebel population as they may see proper; secure by their constitution the right of suffrage to white men and black men loyal to the Government of the United States, and present their constitution to the Congress of the United States for acceptance, and they will find friends enough here to receive their petition, consider their constitution, affirm their action, and guaranty to the State of Virginia the republican government thus formed by the true loyalists of the State. This bill presents a liberal plan to the loyal people of that State upon which they may act under the protection of the military arm of this Republic in the formation of a State government of just such character as may to them seem best.

But it may be said, as was remarked by the gentleman from Massachusetts, [Mr. BOUTWELL,] that the loyal people will not be left thus to act of their own will, because the local authority is left in the hands of the rebels, who now possess the local governments organized under the direction of the President of the United States. This is a mistake. One of the leading features of the bill—I refer not merely to the preamble but to the body of the bill—is to declare that in all the rebel States there now exists no legal governments. If no legal government exists there, I want to know by what authority any person administers or can administer the powers of a local civil government there to the oppression of the loyal people? The governments there are declared to be set aside by the very terms of the bill; and, sir, it is the first proposition ever presented to Congress in which this body and the Senate have declared the illegality of governments established by the President of the United States in these States. This alone is sufficient to commend this bill to every one who refuses to acknowledge the usurpations of the President in the establishment of the governments whose existence is destroyed by this bill. It is made the duty of the military force there to protect the people in the enjoyment of their rights. The door is open wide enough to admit the loyalty of the rebel States to complete and permanent control of their several States. The setting aside of the presidential organizations which pretend to govern, while they really oppress, the loyal citizens of those States, is a great point gained. We should not throw this opportunity away because it does not bring to us all that we desire. We may now gain very much, and all in the right direction. We may now relieve the loyal of the oppression of the disloyal, overturn the pretended governments of the rebel States, place the ballot in the hands of all of our friends, and teach those who have been basking in presidential sunshine that Congress is yet a power which can and will control the work of reconstruction.

Mr. Speaker, there is another reason why we should adopt this amendment of the Senate. If gentlemen will carefully read the case of *Luther vs. Borden*, 7 Howard's Reports, page 43, they will find there is to-day lodged in the hands of the persons occupying the position of Governors in the rebel States power to present to the President a case in which the Supreme Court of the United States could declare the recognition by the President of existing governments there binding upon all departments of the General Government.

The SPEAKER. The gentleman's time has expired.

Mr. BINGHAM. I hope the gentleman's time will be extended.

There was no objection.

• Mr. WILSON, of Iowa. Let me read from the decision of the Supreme Court in the case to which I have referred:

"It rested with Congress, too, to determine upon the means proper to be adopted to fulfill this guarantee. They might, if they had deemed it most advisable to do so, have placed it in the power of a court to decide when the contingency had happened which required the Federal Government to interfere. But Congress thought otherwise, and no doubt wisely; and by the act of February 28, 1795, provided, that 'in case of an insurrection in any State against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State or of the Executive, (when the Legislature cannot be convened,) to call forth such number of the militia of any other State or States, as may be applied for, as he may judge sufficient to suppress such insurrection.'

"By this act the power of deciding whether the exigency had arisen upon which the Government of the United States is bound to interfere is given to the President. He is to act upon the application of the Legislature or of the Executive, and consequently he must determine what body of men constitute the Legislature, and who is the Governor, before he can act. The fact that both parties claim the right to the government cannot alter the case, for both cannot be entitled to it. If there is an armed conflict, like the one of which we are speaking, it is a case of domestic violence, and one of the parties must be in insurrection against the lawful government. And the President must, of necessity, decide which is the government, and which party is unlawfully arrayed against it, before he can perform the duty imposed upon him by the act of Congress."



Suppose these governments in the so-called rebel States should so oppress the loyal people as to compel them to resort to arms against the power which oppresses them, and the Legislature of the State, or in its absence the Governor, should call upon the President for assistance, and he, acting under the authority of the act of 1795, should send troops there to aid in suppressing the alleged insurrection and maintain order, I ask you whether in so doing he might shield himself behind the act of 1795, and the interpretation given to it by the Supreme Court, and place it beyond our power to question successfully the regularity of his proceedings. The act of 1795 is the law of the land to-day. Congress has not as yet revoked the power conferred on the President by its terms. A case may at any time arise in one of the rebel States which would afford the President an opportunity to carry the question of his power under the act cited to the Supreme Court, and secure a decision in support of his position. The passage of this bill will close this door against the President, and yet gentlemen hesitate to pass it because it does not contain everything which they may deem desirable. This is not wisdom.

I repeat, in conclusion, that although this bill does not attain all I desire to accomplish, it does embrace much upon which I have insisted, and seems to be all we can get at this session. It reaches far beyond anything which the most sanguine of us hoped for a year ago. It secures equal suffrage to all loyal men; it sets aside the pretended governments which now abuse power in the rebel States; it insists on the ratification of the constitutional amendment, under the operation of which all the rebels who now occupy official position in the States affected by this bill will be rendered ineligible to office, State or national; it presents an affirmative policy on the part of Congress hostile to that of the President; it demonstrates the ability of Congress to agree upon a given line of future action; and finally it reserves to Congress jurisdiction over the whole case when the people of any southern disorganized State may present a constitution and ask for admission to this body as a part of the governing power of the nation. There is too much of good in this to be rejected. I will vote to concur in the amendment of the Senate.

Mr. BINGHAM. Mr. Speaker, I shall vote very cheerfully for the bill as it comes from the Senate; and I shall neither ask pardon of nor offer apology to any man in this House or out of it for the vote that I shall record. My object in rising now is not so much to vindicate the bill as it comes to us from the Senate as it is to expose the *animus* with which gentlemen assail the bill here, coming as they do from the Reconstruction Committee.

There is not one word in this bill that has not at one time or another received the sanction of that committee, save the provision for general and equal suffrage; and yet gentlemen stand here now and undertake to eat up their own words and ask the House to eat up theirs. What is there in the bill except general suffrage that has not received the sanction of that committee? I ask the gentlemen to answer that question to their constituents.

In the first place, all that precedes the fifth section of the bill has been reported by the Reconstruction Committee to the House and voted for by the members of that committee and by an overwhelming majority of this House. As to the fifth section, every word of it, in substance and in fact, except the provision for general and equal suffrage, as I said the other day when I was addressing the House, was voted for in that committee by as unanimous a vote as ever a measure received in it; it was reported, with the exception named, by the committee to this House at its last session; it went to the country, and gentlemen here, many of them, are indebted to it for their seats in this Hall as Representatives-elect to the Fortieth Congress. That bill only differs from this in

this respect, that this prescribes the mode and manner in which persons shall vote, and gives the privilege of the elective franchise to the whole body of the people. In so far, there is not a republican member of that committee who dare say, in view of the record made up in the committee, that the amendment did not meet his approval, not one. What was the bill as it came to the House last session? Why, sir, it was this—and let the press publish it to the people when they undertake to make up this issue between us—that whenever the constitutional amendment, recited in the fifth section of this bill as it comes to us from the Senate, should have become a part of the Constitution of the United States, and any State lately in insurrection should have ratified the same and should have conformed its constitution and laws thereunto, such State should be entitled to Senators and Representatives in Congress when duly elected and qualified upon taking the oaths required by existing law. Those are the very words of the bill which was reported to the House by that committee, and they are incorporated in the bill as it comes to us to-day from the Senate.

In addition thereto the Senate has added another provision, that the people of such rebel States, by their constitutional government, shall secure equal and impartial suffrage, without regard to race or color, among all the male citizens of said States respectively, excepting such as may be disfranchised on account of their participation in the rebellion or on account of felony at common law. Beyond that there is no difference in the fifth section and the bill reported by the Committee on Reconstruction. Are gentlemen to stand here and say that because the Senate has thus far improved, in the direction of exact justice, on the bill of the Reconstruction Committee, the Senate amendment is now to be rejected, and that they must go to the country saying that they cannot trust themselves, crying out in the agony of their souls to the listening heavens the words of St. Augustine, "Save us from ourselves?"

Save us from ourselves! What is incorporated in this bill? That no one of those States shall attain political power save and except upon the solemn approval by the Congress of the United States of what they may do. Cannot gentlemen trust the Congress to decide whether a State has complied with the requirements of the bill in such form as will secure the protection of each by the combined power of all?

One word more. The gentleman from Pennsylvania [Mr. STEVENS] says that this bill proclaims a general amnesty. I mean no disrespect to the venerable gentleman, but I challenge the contradiction of enlightened and impartial men when I say that this bill confers neither general amnesty nor special amnesty on any man whatsoever.

But, say these gentlemen, "We wish to protect the freedmen." I can only say that you have a most extraordinary method of giving them protection. If they are to be protected by the national arms, they can only be protected under the authority of the national law; and here is a bill to secure their protection under the law.

Look at the provisions of the bill as it went to the Senate and as it has returned from the Senate. It provides that until those States shall be reorganized so as to receive the approval of the Congress of the United States the protection of the whole people shall be exclusively under the care of the national Government through the national Army. Gentlemen want to protect the freedmen; and yet they are not willing to intrust the protection of the persons and property of the freedmen to the gallant commanders of our armies who followed our flag through the storms of battle for the four years past.

But, say gentlemen, it confers this power upon the President. That was a singular remark for the gentleman from Massachusetts [Mr. BOUTWELL] to make. Why, sir, it clothes the

President with the same power with which he was invested when the gentleman voted for the first four sections of this bill in substance and in fact as it stands to-day. To be sure, the other bill provided that the General in command of the Army should detail Army officers; but all officers of the Army are under the command of the Commander-in-Chief as constituted, not by an act of Congress, but by the supreme law of the land. You cannot repeal that provision of the Constitution. The President is constitutionally Commander-in-Chief of our armies, and as such under our law he will be the controlling power in directing the execution of this law according to his own good judgment. There is a discretion lodged in the President in that behalf under the Constitution which Congress can no more interfere with than can the Executive interfere with Congress in the exercise of the discretion lodged in it as to what measures it shall pass or what measures it shall not pass.

Now, if these gentlemen propose by any kind of misrepresentation or abuse, and by the aid of a hireling press either at the North or at the South, to drag me into any recognition of their new-fangled notions, that the executive power of this country is lodged or is to be lodged anywhere else than where the Constitution has lodged it, I give them notice now that I am not to be so dragged. The Constitution of the country says, "The executive power shall be vested in the President of the United States of America." Where, then, did you vest the executive power when you passed this bill the other day? You did the very thing that we propose to do by repassing it to-day. The provision is that the President of the United States, as Commander-in-Chief of the Army, shall see to it, in the mode and manner directed by this bill, that all persons in those lately insurgent States shall have the protection of the law.

But what more? We further say by this bill to the people of those States, "If you wish to exercise the right of local self-government, do equal and exact justice, remodel your constitutions, adopt that constitutional amendment which to-day has the sanction of twenty-five million freemen in this land, and you will be restored to your equal place and to all your political powers in the Union as States. Until you do this, you shall be subject to such form of government as will best secure all men, without respect to race, color, or previous condition, in their persons and property."

For myself I had rather that my right hand should forget its cunning and that my tongue should cleave to the roof of my mouth than to find myself here so false to my own convictions, and so false to the high trust committed to me by that people who sent me here; as to vote against this bill. Not that I think this the most perfect form of legislation, but I know that the defeat of this bill to-day is really a refusal to enact any law whatever for the protection of any man in that vast portion of our country which was so recently swept over by our armies from the Potomac to the Rio Grande.

Mr. FARNSWORTH. I shall support the bill as it came from the Senate; and in the five minutes allotted to me I desire to state very briefly my reasons. It is quite evident that we must pass this bill or else pass no bill of this character during the present session of Congress; and, in my opinion, if this Congress fail to pass a bill which shall protect the loyal people of those rebellious States, it will justly be reprobated by the whole country.

I find in the bill as it comes from the Senate substantially the same provisions as were contained in the bill as reported by the Reconstruction Committee. The change from the General of the Army to the President of the United States in the provisions in regard to detailing officers I do not regard as a substantial change; for, as was remarked by the gentleman from Ohio, [Mr. BINGHAM,] we all know that whatever details the General of the Army might make must be made in conformity

and in subordination to the orders of the Commander-in-Chief of the Army. The whole difference in that respect is this: that in the one case it would require the positive order of the President nullifying the order of General Grant making a detail, while in this case it will only require the negative action of the President to array himself against a law of Congress. But in either case he would array himself against the act of Congress and be equally culpable and equally guilty.

Then there is no danger in that respect under the bill as it comes from the Senate and as it passed the House. The loyal people of these southern States, white and black, are appealing to us day by day for protection. The cries of the slaughtered victims of rebel barbarity are resounding in our ears day after day. The military commanders in those States tell us that there is no protection there for life or property except we clothe the military with power to protect. Now, shall we let this Congress pass away without giving our friends and the friends of the Government the protection they need?

Now, in reference to the provisions of the bill as it comes to us from the Senate in regard to the formation of State constitutions, I can find no just fault with it, because it leaves to Congress, whether the Fortieth or the one succeeding, to which the constitutions are presented for approval, the power to review every vote and every act connected with the convention that framed the constitution, the constitution itself, the adoption of it, and the Senators and Representatives elected under it. We cannot bind that Congress by any act of ours; this bill does not seek to bind Congress. It expressly declares that the constitutions of the States shall first be reviewed and indorsed by Congress before they shall go into operation.

This bill provides a platform ten steps in advance of the platform upon which we went to the people last fall. We then only expected the ratification of the amendment to the Constitution proposed by Congress at its last session and the formation of constitutions republican in form, which should give the people there the right to send loyal men here as Senators and Representatives? But by this bill we extend impartial suffrage to the black man, universal suffrage; we provide that the black man shall take part in the formation of the constitution. Now, what more can we require? What difference does it make whether A, B, or C participate in the making of the constitution provided the right kind of constitution is made, one which secures equality and justice to all?

[Here the hammer fell.]

Mr. BLAINE. I now yield ten minutes of my time to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. I shall vote to concur with the Senate in its amendment to the bill of the House. I agree with the gentleman from Iowa [Mr. WILSON] that the bill, as amended by the Senate, does not contain all I would have embraced in such a bill. It is not the bill for reconstruction which I would myself have approved if I could, uncontrolled by other and conflicting opinions, have had the framing of a bill for the purpose. But it is a bill upon which we can agree, if we can agree upon any bill whatever upon this subject during the remainder of the present Congress. It is the only bill which there is the slightest possibility of our passing.

Believing, therefore, that every motion to commit this bill, to amend it, to ask for a committee of conference upon it, together with all other dilatory motions whatever, will have no effect except to defeat this bill, whether so intended or not, I shall oppose every such motion and aid those who would have the House come at once to a direct vote upon the substitute proposed by the Senate.

We are told that in a very short time—I think the venerable gentleman from Pennsylvania [Mr. STEVENS] indicated two hours as the necessary limit of time for the purpose—we could

have a bill framed which would reconcile all conflicting opinions. That is a most extraordinary intimation to come from that quarter. Do gentlemen remember, and does the country recollect, the history of reconstruction in the present session of Congress? On the 4th day of December, the very day on which we reassembled here, the gentleman from Pennsylvania, [Mr. STEVENS,] who during the last session of Congress was the chairman of the Committee on Reconstruction on the part of this House, arose in his place and offered a concurrent resolution continuing that committee with the powers conferred upon it under the resolution of last session. That looked like business. But what was done? That gentleman permitted the committee, as we are well informed, to remain without being called together at all. Instead of calling it together, on the 13th of December the gentleman on his own motion introduced a measure, not from the committee, known as the North Carolina bill, looking to enabling these rebel States to organize governments and come back into the Union.

That bill, however, was not taken up for action until near the middle of January, and then after a debate which, continued at intervals, lasted until the 28th of that month, it was referred to the Committee on Reconstruction, which had never yet had a meeting nor been called together by the gentleman from Pennsylvania. What are we to infer from this? Why, that there were in this House those who were determined that the Reconstruction Committee never should meet, who were determined that whatever might be done should be done under other lead and outside of that committee. But the House took a different view of the subject, and having raised, upon the motion of the gentleman from Pennsylvania himself, a committee, of which he was the honored head, resolved that this question and all other questions of this kind should go to that committee. It was thus committed, not sent back, as the gentleman said the other day, to that committee, for the bill had never been before the committee; it was not the bill of the committee. How soon the committee was called together I am unable to say, but I suppose very shortly afterward; for we find that the committee made a report on the 6th of February, this very month, of what has been called the "military bill," which, with modifications, is the bill now before us.

Thus, then, the Committee on Reconstruction, raised and empowered to act on this subject specifically upon the first day of the session, the 4th day of December, was never found presenting anything to the House for its action until fully two months or more afterward, the 6th of the present month, when there remained only some twenty-one working days of the session for all action upon this subject. And now, having consumed nearly the whole available portion of those twenty-one days, acting as we are under the apprehension of a presidential veto, we are at a stage in the proceeding when whatever we do must, in order to be effective, be done to-day or to-morrow.

Now, sir, I am one of those who believe we ought to do something. I believe we ought to declare to these rebel States, as we do by this bill, that they shall be put under martial law and held by the strong hand to keep the peace until they have complied with whatever conditions are imposed upon them. But while we do this, I think it equally important to announce to them, to announce to the country, to announce to our constituents as the completion of the whole platform upon which we go before the nation, the terms which we require of them. Those terms have been sufficiently explained and are well understood. I should be glad to dwell upon them, but it is unnecessary to do so.

The gentleman from Pennsylvania [Mr. STEVENS] says, however, that after all the imposition of these terms rests only on the authority of an act of Congress, and cannot be binding

upon any future Congress. Does the gentleman remember that at the last session he himself reported from the Reconstruction Committee a bill reciting the terms upon which, on the adoption by these States of the constitutional amendment, they would be permitted to come in? Was that binding on future Congresses? No more than this. Here we go further. We say that we will offer them no such terms now. We have offered them those terms and they have been rejected. Now, we say that they shall adopt the constitutional amendment; it shall become a part of the Constitution; it shall be approved by their people; their constitution shall be submitted to Congress; they shall allow universal suffrage; and after complying with these and all the other conditions imposed by this bill they are not yet to be admitted until Congress, looking over the whole ground, shall be satisfied that, in spirit as well as in letter, they have done everything that properly entitles them to be restored to their representation in Congress.

Yet we are told that this is a plan devised by the Johnson men. This bill as now amended by the Senate has been spoken of as a measure the passage of which would be disgraceful to Congress. According to this view, the Senate, I presume, is already disgraced by having yielded to the President. But, sir, I want gentlemen to understand that those who support this bill as it comes from the Senate are not to be terrified by any such denunciations from acting according to their sense of duty. Such denunciations and flings are unworthy to be thrown out by any man standing on this floor as a Republican against other Republicans.

[Here the hammer fell.]

Mr. GARFIELD: Mr. Speaker, this bill starts out by laying its hands on the rebel governments and taking the very breath of life out of them. In the next place it puts the bayonet at the breast of every rebel in the South. In the next place, it leaves in the hands of Congress, utterly and absolutely, the work of reconstruction. Gentlemen here, when they have the power of a thunderbolt in their hands, are afraid of themselves and propose to stagger like idiots under the weight of a power they know not how to use. If I were afraid of this Congress, afraid of my shadow, afraid of myself, I would declaim against this bill, and I would do it just as distinguished gentlemen around me have done and do declaim against it. They have spoken vehemently, they have spoken sepulchral against it, but they have not done us the favor to quote a line or the proof of a single word from the bill itself that it does any one of the horrible things they tell us of. They tell us it is universal amnesty, and there is not a line in the bill that will maintain the charge. They have told us it puts the government into the hands of rebels. I deny it, unless you are a rebel and I am a rebel. If we are rebels, then it does put it into the hands of rebels, but not otherwise.

Oh! but they tell us it surrenders to the President because it tells him to detail officers and men. Gentlemen, I want this Congress to give its command to the President of the United States, and then perhaps some impeachment hunters will have a chance to impeach him. They will if he does not obey. They may anyhow, but at least they will have a chance then to find new, plain, and definite acts of impeachment, and we can go forward with the work.

Mr. Speaker, there are some men who are too far above me for my poor comprehension. There are some gentlemen who live among the eagles on the high mountain peaks, beyond the limit of perpetual frost, and they see the lineaments in the face of freedom so much clearer than I do whenever any measure comes here that seems almost to grasp our purpose they rise and tell us it is all poor and mean and a surrender of liberty. I remember this was done to us at the last session when everybody knew that if the Republican party lived any longer it must live by the strength of the con-

stitutional amendment, and when we agreed to pass it the previous question was waived to let gentlemen tell us it was too low, too mean, too unworthy, too unstatesmanlike. I will remind the House we did vote for it, and by the help and fatuity of Andrew Johnson and his party we carried the country upon it. And now when we have that and more, gentlemen are here to tell us it is all low and poor and mean.

The distinguished gentleman from Pennsylvania [Mr. STEVENS] said one thing which I wish to call attention to. He complained the Senate have forced upon us a question of reconstruction we did not want to touch. I fear the gentleman does not want to touch the question of reconstruction. I do, and I believe the American people want to touch reconstruction.

[Here the hammer fell.]

Mr. BAKER here addressed the House. [His speech will be published in the Appendix.]

Mr. BLAINE. I now yield to the gentleman from Pennsylvania [Mr. THAYER] four minutes.

Mr. THAYER. Mr. Speaker, I cannot, of course, in four minutes undertake to discuss a question of this magnitude. The time, however, is long enough to enable me to indicate the grounds upon which I shall vote for the Senate amendment.

Sir, I see in this proposition what I believe the deliberate judgment of the American people will regard as ample guarantees for the future loyalty and obedience of the South. The people of the loyal States, in a voice distinct and clear as a clarion, uttered through the ballot-box at the autumnal elections of last year, declared that they were willing that restoration should proceed upon the basis of the adoption of the constitutional amendment. That amendment having been refused by the South, Congress now proposes to enforce that demand of the people and to add to the conditions then proposed fresh terms as additional guarantees for security, justice, and equality.

What are the proposed conditions? They are: first, that the southern States shall adopt a constitution in conformity with the Constitution of the United States; second, that that constitution shall be ratified by a majority of the people of the State, without distinction of race, color, or condition; third, that such constitution shall guaranty universal and impartial suffrage; fourth, that such constitutions shall be approved by Congress; fifth, that the State shall adopt the constitutional amendment; sixth, that the constitutional amendment shall become a part of the Constitution of the United States. All this is required to be done before representation is accorded to the States lately in rebellion, and then no representative presenting himself for admission can be received unless he can take the test oath.

These terms embrace, in my judgment, every guarantee, every safeguard, and every check which it is proper for us to demand or apply. Upon these foundations we can safely build, for by them we retain the final control of the question in our own hands. What more is necessary? I know not unless it be indeed necessary, as seems to be insisted by the gentleman from Massachusetts, [Mr. BOWWELL,] that in order to restore loyalty and obedience in the southern States we must reduce the masses of the white people in those States to a condition of slavery. Sir, I opposed that doctrine by my vote on the bill for the reorganization of the government of Louisiana, and, God helping me, I will continue to oppose it to the end. I fearlessly submit my action upon that point to the review of my constituents and to the calm and just judgment of the people of the United States.

Mr. BLAINE. How much time have I left?

The SPEAKER. One minute.

Mr. BLAINE. I will now call the previous question.

Mr. HOTCHKISS. The gentleman has only one minute; will he give it to me?

Mr. BLAINE. Go on.

Mr. HOTCHKISS. I shall vote against seconding the previous question.

Mr. BLAINE. I do not yield any of my time for that.

Mr. HOTCHKISS. The gentleman has yielded.

Mr. BLAINE. I do not yield.

Mr. HOTCHKISS. I appeal to every member if he did not yield. [Laughter.] Well, I shall vote against him. [Laughter.]

Mr. RANDALL, of Pennsylvania. I move to lay the bill on the table, and on that I demand the yeas and nays.

Mr. ELDRIDGE. I hope the gentleman from Maine [Mr. BLAINE] will not call the previous question until we have a chance to say a word on this side. Every word that has been said so far has been on the other side of the House.

Mr. BLAINE. After seconding the previous question the gentleman can have a chance.

[Cries of "Order."]

The SPEAKER. No debate is in order.

The yeas and nays were ordered.

The question was taken on laying the substitute on the table; and it was decided in the negative—yeas 40, nays 119, not voting 31; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Harris, Hise, Hogan, Edwin N. Hubbell, Humphrey, Latham, Le Blond, Leftwich, Marshall, McCullough, Niblack, Nicholson, Noell, Phelps, Samuel J. Randall, Ritter, Ross, Rousseau, Sitgreaves, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trowbridge, Andrew H. Ward, Winfield, and Wright—40.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnell, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Branderage, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Davis, Dawes, Deftrees, Delano, Deming, Dodge, Donnelly, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hawkins, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Kelso, Ketcham, Kootz, Julian, Kasson, Kelley, Kelso, Ketcham, Kootz, Ladin, George V. Lawrence, William Lawrence, Loan, Longyear, Marston, Marvin, Maynard, McIndoe, McKee, McKee, Mercer, Miller, Moorhead, Morris, Moulton, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, Stokes, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert C. Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—119.

NOT VOTING—Messrs. Delos R. Ashley, Conkling, Culver, Dixon, Driggs, Dumont, Eckley, Hale, Asahel W. Hubbard, Denas Hubbard, Hunter, Jencks, Jones, Kerr, Kuykendall, Lynch, McClurg, Morrill, Myers, Radford, William H. Randall, Raymond, Rogers, Sloan, Starr, Stillwell, Strouse, Trimble, Elihu B. Washburne, Henry D. Washburn, and Wentworth—31.

So the substitute was not laid on the table.

The question recurred on seconding the previous question; and being put, there were—ayes 77, noes 51.

Mr. ELDRIDGE. I demand tellers.

Tellers were ordered; and the Chair appointed Messrs. BLAINE and ELDRIDGE.

The House divided; and the tellers reported—ayes 78, noes 64.

So the previous question was seconded.

Mr. LE BLOND. On ordering the main question I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 103, nays 60, not voting 27; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnell, James M. Ashley, Baker, Baldwin, Beaman, Benjamin, Bingham, Blaine, Broomall, Buckland, Bundy, Reader W. Clarke, Cook, Cullom, Darling, Davis, Dawes, Deftrees, Delano, Deming, Dodge, Dumont, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Griswold, Hart, Hayes, Henderson, Higby, Hill, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Kelso, Ketcham, Kootz, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Loan, Longyear, Marston, Marvin, Maynard, McIndoe, McKee, Mercer, Miller, Moorhead, Morris, Moulton, Ruer, Mercer, Miller, Moorhead, Morris, Moulton, Myers, Newell, O'Neill, Orth, Patterson, Perham, Plants, Pomeroy, Price, Alexander H. Rice, John H. Rice, Rollins, Schenck, Scofield, Shellabarger, Spalding, Stevens, Stillwell, Stokes, Thayer, Francis

Thomas, John L. Thomas, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, Whaley, James F. Wilson, Stephen F. Wilson, and Woodbridge—103.

NAYS—Messrs. Ancona, Banks, Baxter, Bergen, Boutwell, Boyer, Branderage, Bromwell, Campbell, Chanler, Sidney Clarke, Cobb, Cooper, Dawson, Denison, Donnelly, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Harris, Hawkins, Hise, Hogan, Holmes, Hotchkiss, Edwin N. Hubbell, Humphrey, Kerr, Latham, Le Blond, Leftwich, Marshall, McCullough, Niblack, Nicholson, Noell, Paine, Phelps, Pike, Samuel J. Randall, Ritter, Ross, Rousseau, Sawyer, Shanklin, Sitgreaves, Sloan, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trowbridge, Andrew H. Ward, Wentworth, Williams, Windom, Winfield, and Wright—60.

NOT VOTING—Messrs. Delos R. Ashley, Barker, Bidwell, Blow, Conkling, Culver, Dixon, Driggs, Eckley, Hale, Abner C. Harding, Asahel W. Hubbard, Hunter, Jencks, Jones, Lynch, McClurg, Morrill, Radford, William H. Randall, Raymond, Rogers, Starr, Strouse, Trimble, Elihu B. Washburne, and Henry D. Washburn—27.

So the main question was ordered.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (H. R. No. 912) entitled "An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1868," with amendments, in which the concurrence of the House was requested.

The message also announced that the Senate had passed a bill (S. No. 576) entitled "An act relating to appeals and writs of error to the Supreme Court," in which the concurrence of the House was requested.

ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 605) to amend the twenty-first section of an act entitled "An act further to prevent smuggling, and for other purposes," approved July 18, 1866;

An act (S. No. 347) to change certain collection districts in Maryland and Virginia; and Joint resolution (S. R. No. 159) authorizing the Secretary of the Treasury to permit the owner of the yacht Mayflower to change the name of the same to that of Silvie, and to issue an American register to the steam yacht Glance.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had concurred in the amendments of the House to bills and joint resolutions of the following titles:

An act (S. No. 605) to amend the twenty-first section of an act entitled "An act further to prevent smuggling, and for other purposes," approved July 18, 1866;

An act (S. No. 347) to change certain collection districts in Maryland and Virginia; and Joint resolution (S. R. No. 159) authorizing the Secretary of the Treasury to permit the owners of the yacht Mayflower to change the name of the same to that of Silvie.

The message further announced that the Senate had passed a bill (H. R. No. 1099) entitled "An act providing for the election of a Congressional Printer," with amendments, in which the concurrence of the House is requested.

The message also announced that the Senate had passed a joint resolution (S. R. No. 173) to facilitate the settling of accounts of disbursing officers, in which the concurrence of the House was requested.

GOVERNMENT OF INSURRECTIONARY STATES.

The SPEAKER. The main question having been ordered, the gentleman from Pennsylvania, [Mr. STEVENS,] who reported the original bill, is entitled to the floor to close debate.

Mr. LE BLOND. I wish to make a suggestion. It is now ten minutes after four, and in twenty minutes the recess will take place. There are gentlemen on this side of the House who desire to speak, and they would like as a matter of course to have a few moments for the purpose of arranging matters, &c.—

Mr. STEVENS. I will say that I do not



expect we shall take a vote before the recess, and in the mean time the gentlemen on the other side can arrange as they please, as I shall give a portion of the time to that side of the House.

Mr. LE BLOND. I wished to suggest that we take the recess now.

Several MEMBERS. Oh, no; go on now.

Mr. STEVENS. I will yield ten minutes to the gentleman from New York, [Mr. HOTCHKISS.]

Mr. HOTCHKISS. Mr. Speaker, I am unwilling to vote upon this measure without stating my reasons, so that my constituents may understand why I vote against so many true and faithful men in this House. I am the more particular in casting my vote now for the reason that I shall not be in the next Congress to vindicate what I do at this time. This bill, as has been stated, is a very important one, and its importance is made an argument to justify precipitate action upon it without examining its details or determining what the effect of it is going to be upon the communities that are to be affected by it.

This bill, in the first place, repudiates all semblance of civil government in these rebel communities. It substitutes for them military rule. So far it is all right. It then empowers the people in those rebel communities to establish civil governments, but it neglects entirely to provide any machinery by which these governments are to be established. No military law or military rule exists governing elections for delegates to form conventions and frame constitutions; and if any did exist it should be at once abrogated. This country cannot have civil governments established under military rule.

Now, in order to have peaceable elections held in these rebel States you must have some law to govern those elections. If you allow this bill to go into operation as it now stands, without making any amendment of its provisions, and permit these elections to be held, as they must necessarily be held under this bill, under the authority, control, and regulation of the rebel governments in those States, there will be no security whatever; and you will have the elections in New Orleans held under the control of Mayor Monroe and the mob which he used to such fell purpose last summer. That is the entertainment to which this bill invites us.

Now, I admit that in civilized communities it might not be necessary to take so many precautions. Go into the new Territories of the West, where order has been already established by the pioneer settlers; where the school-master, the missionary, and the preacher are to be found; where the habits, manners, and customs of the eastern States have already become established, and the people, without any enabling act, can meet together, hold elections, frame and adopt constitutions, and present them to Congress for approval, and they will be such constitutions as we can agree to approve. But that cannot be done in these rebel communities; and I should think we had had enough of their attempts to do it. We all know there is no order, no justice, no liberty, no security prevailing there now.

And what provision is made for it in this proposed substitute of the Senate? Sir, it is simply an act to legalize the reconstruction policy of President Johnson. And we are told that we must adopt it, for it is the very last opportunity we will have to legalize that policy. Now, what is the use of us going through this farce? Nearly two years ago the President himself went through precisely the same operation. He ordered elections to be held in these rebel States. He did better than it is proposed we shall do, for he prescribed who should open the polls, who should make the returns, what classes of men should vote and what classes should not. What better is this bill, then, than the work of President Johnson? Sir, it is far worse; it substitutes anarchy for the bogus governments which the President has established there.

If any gentleman will point out to me wherein I am in error in this respect I will yield to him for that purpose. What authority is there conferred by this bill to determine who is to preside at the polls or to say to Mayor Monroe when he shall come up to vote, Sir, you are disfranchised for participation in the rebellion, and therefore you cannot vote? Who is to give protection to the black man when he comes up to vote? If in New Orleans, Mayor Monroe and his July mob. It is well understood that although in many of these communities four fifths of the people are peaceable and well disposed, yet the other fifth are outlaws and guerrillas and robbers and cut-throats, and they control affairs in those communities. We say to the black man, Go and vote. But it is a mere mockery to say so to him, for he cannot get within half a mile of the polls.

Mr. LE BLOND. I would suggest to the gentleman that if affairs are so bad in Tennessee, he better take steps to have her again turned out of the Union.

Mr. HOTCHKISS. I will say what my action will be upon the question of reconstruction when it comes up here. Whenever the government of any one of these States is already in loyal hands I will vote for her restoration. What I mean by loyal men is that they shall be our friends. Mark the expression, "our friends;" Republicans, the men who saved this country, the men who voted uniformly and consistently for men and money to put down this rebellion and save our Government. They are the men who must have the power in these States before I will vote power into their hands. It is not enough for me that they shall adopt the constitutional amendment. They have nothing to do with the constitutional amendment, for it never has been submitted to them.

They are not political States. When we shall have adopted this constitutional amendment it will be by the action of the loyal States. The reconstruction of these rebel States is another matter altogether. For myself I say that when we have declared these communities without government, when we have sent the bayonet there to enforce order, we have an efficient system of government so far as the present is concerned, because you have the Federal courts, and you have the bayonet there to enforce obedience to those courts; then if you will propose a measure like the Louisiana bill, under which a peaceable election can be held and a peaceable government inaugurated, I will vote for it.

You will have no governments *de facto* there to regulate and control elections pursuant to the Senate amendment, because this bill very properly repudiates those governments. Hence anarchy, violence, and bloodshed will follow any attempt on the part of Unionists to establish loyal governments.

[Here the hammer fell.]

Mr. STEVENS. I now yield ten minutes to the gentleman from Illinois, [Mr. BROMWELL.]

Mr. BROMWELL. Mr. Speaker, if we concur with the amendments now proposed by the Senate to this bill, what more shall we do than to license those who have the political control and consequently the entire power to use it for evil or for good as long as they please, under the mere penalty that until they form a certain constitution they shall not be represented here?

Mr. BLAINE. Are they not under military government all the while?

Mr. BROMWELL. If we adopt this measure in its present form we shall have the satisfaction of going home and saying to the people that we have invested President Johnson with the task of protecting the Union people there by the military; and we have given him the rebel governments he set up to make up by their civil administration what his military agents may choose to leave undone; but as to the disqualification for office of any man whom the constitutional amendment proposed to disfranchise, as for any law guarding the rights

of loyal men, white or black, as for any registration law, as for any officers to execute such law, as for any machinery of government whatsoever, all these things are just as the rebels choose to make them; they will control these things till they see cause to change their course, or till the constant subjugation of the loyal people shall have crushed all semblance of a loyal element among them.

This is the sum and substance of the amendment which the Senate has had the honor of attaching to this bill. I must be permitted to say, Mr. Speaker, that I expected better things; that the people expected better things. Military government, sir, is a bad enough resort in any country and under any circumstances, and I never would resort to it except from the dire necessity of the case. But to a military bill we add these provisions which only tie up the hands of Congress. The gentleman from Maine [Mr. BLAINE] tells us that the Fortieth Congress is a Congress he can trust. I ask the gentleman where he obtains any information that the Fortieth Congress will ever have anything to do with this question of reconstruction after we have thus consigned the whole work to the rebel authorities to take their own time to consolidate their power? The bill is a *carte blanche* to the rebel organizations to go on.

Mr. BLAINE. Does the gentleman want me to answer him now?

Mr. BROMWELL. Not now; but you can as soon as I am done.

This bill says, go on under the penalty of non-representation; under the penalty of having military officers among you, go on. If you have trodden upon the loyal white men and black men before you mustered and led forth your rebel armies, and have trodden on them since, go on; and the loyal men shall be under your power hereafter to the end.

You have heard what the gentleman from Tennessee (Mr. STOKES) said. The loyal voice of Tennessee on this question is to the loyal North as the voice of a brother's blood crying from the ground. He tells us it will be a death-blow to the loyal people of that State.

They tell us we shall guaranty republican governments in these States. But, sir, I say that we do not do well in guarantying a State government that ties up our own hands against securing the rights of our own loyal citizens. Why talk of guarantying republican governments in States where we cannot guaranty life, limb, or property to the individual citizens?

I regard this as a flank movement by which is to be brought about that darling scheme of certain politicians: universal amnesty and universal suffrage. Whether it end in universal suffrage or not one thing is certain, it is universal amnesty.

This is what we are to say to the people by this bill. My opinion is the Congress of the United States should take measures to put an end to these things in the South. It should provide for organization, as in the Louisiana bill. It should so frame the whole organizations that the loyal men should not only be protected, but should handle and control the machinery in forming these loyal governments. I hold, sir, that as a conqueror this Federal Government has not only the right, but more, it is bound both in law and justice to protect the loyal people there. There is not a man in the House, Democrat or Republican, who will not tell you he supported the war. There is not a man who will say we did not encourage the loyal men of the South to place themselves on the side of the Government. And now, after they have done so, shall we desert them? That is the question. Are they to have no helping hand, no protecting power in the State governments under which they are to live during the pleasure of their rebel masters? What to them is military power if their hands are tied under rebel Legislatures and rebel Governors like General Forrest and General Beauregard, men who have commanded the legion that carried fire and destruction all over the fields of

the South, and particularly to the homes of loyal men?

With these objections to the bill hurriedly stated I will only add I am opposed to concurring in any such amendment.

Mr. STEVENS. I now yield to the gentleman from Minnesota [Mr. DONNELLY] for ten minutes.

Mr. DONNELLY. Mr. Speaker, I should hesitate to trespass on the time of the House if I did not feel the overwhelming importance of the action of this day to the whole country. I shall try to state the objections I have to the pending Senate amendment in as few words as possible.

Upon its face, Mr. Speaker, this amendment concedes everything we could ask. It concedes protection to the loyal people and suffrage to the black men; it is, however, upon its face alone that it makes these concessions. It—

"Keeps the word of promise to our ear,  
And breaks it to our hope."

The protection which it promises is a temporary protection. It is to cease as soon as civil governments are organized under the provisions of this bill.

So soon as such a framework of government is set up, the military protection which this bill provides is to be withdrawn and the loyal people are to be left to the mercy of the civil governments so created. So far, then, as this military protection is concerned, it is therefore in its nature temporary and can be of but little benefit to the loyal people of these States. The bill which passed the House and was sent to the Senate provided for military protection to the loyal people until such time as the Congress might conclude it could with perfect safety be withdrawn. This bill fixes a limit to the presence of our armies.

The hour of half past four o'clock p. m. having arrived, the House took a recess till half past seven o'clock p. m.

#### EVENING SESSION.

The House at half past seven o'clock resumed its session.

#### TARIFF BILL.

Mr. HOOPER, of Massachusetts, by unanimous consent, from the Committee of Ways and Means, reported back the Senate substitute for the House tariff bill with amendments; which were ordered to be printed, referred to the Committee of the Whole on the state of the Union, and made the special order for Thursday next after the morning hour.

#### ERRORS OF BUREAU OF STATISTICS.

Mr. KELLEY. I ask unanimous consent to submit the following resolution:

Whereas the report on the statistics of the United States compiled by Alexander Delmar, director of the Bureau of Statistics of the Treasury Department, compiled under the authority of the Secretary of the Treasury, in compliance with the request of the Secretary of State, for transmission to the United States commissioner general for the Paris Exposition of 1867, abounds in evidences of ignorance, carelessness, and willful misrepresentation: Therefore,

Resolved, That the Secretary of the Treasury and the Secretary of State be requested to withhold from circulation any copies of said report that may be in their possession or within the control of either of them.

Mr. COOPER. I object.

#### LEAVE OF ABSENCE.

Mr. MARSTON asked and obtained leave of absence for one week for himself.

#### GOVERNMENT OF INSURRECTIONARY STATES.

Mr. SPALDING. I demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of the amendments of the Senate to the bill of the House in relation to the government of the insurrectionary States, upon which the gentleman from Pennsylvania [Mr. STEVENS] is entitled to the floor; and he has yielded five minutes to the gentleman from Minnesota, [Mr. DONNELLY.]

Mr. DONNELLY. Mr. Speaker, in my remarks previous to the House going into

recess, I took the ground that the protection afforded by the amendment of the Senate was to be temporary in its character and would cease the moment that civil government was created in those States. We are therefore referred back to that civil government to ascertain what character of protection it will afford to the people of the rebellious States. It would be emphatically, Mr. Speaker, a government of rebels; I say a government of rebels, because although the amendment which has reached us from the Senate contains the words, "Except such as may be disfranchised for participation in the rebellion," that disfranchisement has to come from the rebels themselves, and surely there is no man upon this floor weak enough to suppose that they will so disfranchise themselves. Therefore I say that the civil governments to be created under this bill will be substantially rebel governments. It is true that as a counterpoise to the rebel voters we find a proposition in the bill for universal suffrage, and we are expected to find a remedy for the disloyal vote in the vote of the loyal black population of those States.

Mr. BANKS. It is not universal suffrage.

Mr. DONNELLY. It is at least impartial suffrage without regard to race or color. Now, sir, that black vote might, when properly educated to legislation, form such a counterpoise to the rebel element; but at the present time, untaught, unskilled in legislation, unaccustomed to the exercise of the rights of citizenship, it will find itself placed in competition with the intellect of that class who created this great rebellion, who waged war for four long years with a courage and an endurance equal to our own, and with a statesmanship and a diplomacy perhaps more than equal to our own; and who can doubt the result? A people just snatched from barbarism are to be placed in competition with those able, bad men, and we are expected to find in their vote a sufficient counterpoise to rebel influence to secure the safety of the country.

I have no doubt that sooner or later that rebellious population must take part in the government of those States; but the question that we are to solve is, shall that participation be immediate or shall it be gradual? Shall it be a participation coming in at the end of one, two, three, or five years, and coming in upon a basis of established loyalty, or shall the spirit of rebellion take possession of the State governments from the very first.

In most of those States the loyal element is small; it will need cherishing, it will need nourishing; but if we pass this bill we hand that loyal element, small in numbers, weak in character, into the control of the men who now control those State governments, and the black vote, undeveloped, uneducated, would be, in such a case, a mere appendage to their power.

Turn to Tennessee. If it had been possible that that State should have been organized under such a bill as this, instead of the gallant and loyal gentlemen who now sit upon this floor as Representatives from that State we would have men here devoted to the interests of the rebellion. The vote of the loyal one third of the people of Tennessee would have been overwhelmed by the disloyal vote, and by this time the loyal sentiment of that State, as a State of this Union, would be utterly destroyed.

Take the case of Arkansas. There we have, perhaps, a still smaller loyal element struggling to the surface, an element which, if it is afforded time, so that the black vote can be educated—trained, as it were, to this work of suffrage and legislation—and brought to its support, will eventually be able to counteract and overcome the rebel power; but consign that State by the operation of this bill to the control of the men who made the rebellion, and at once your loyal element disappears and dies. For one, sir, I believe that the passage of this bill will be the death of the loyal element in all those rebel States.

I cannot refrain from quoting in this connection the quaint, grotesque, but most striking illustration made by Mr. Lincoln on this very

question in the last speech he ever made. "If you would have," he said, "a chicken from the egg, you must not commence by smashing the egg—you must hatch it." So of the loyal sentiment of the South. There may be enough there to eventually save those States, but we must cherish, nourish, and develop it; and surely that cannot be done by delivering it into the custody and control of the rebels.

But we are told that this bill provides that the next Congress will have some control over this subject, and that surely we can trust that Congress. Sir, we cannot thus shift the responsibility from ourselves; we must do our whole duty and not take it for granted that a future Congress will make up for our shortcomings.

Pass this bill, and the very men who now use this argument will tell the members of the Fortieth Congress that they are bound in honor to carry out its terms and conditions, and must do so against the force of their own convictions. Have we not had just such arguments made to us during this session of Congress? Have we not been told that because at the last session we passed the constitutional amendment now pending, that we were at this session bound to ask nothing more than what is contained in that amendment? We cannot be too careful in passing laws touching the action of a future Congress. Although the legal obligation may be as nothing, the moral effect is great and may be pernicious.

But we are told that unless we pass this bill now we can get nothing at this session of Congress; we are driven into the last end of a short session of Congress, and under the dread of a Presidential veto we are told that we must take this bill or nothing. Sir, I say to you that if this bill is to prove disastrous to the loyal people of the South we cannot be too slow in passing it; better temporary anarchy than congressional reconstruction built on a basis of enduring evil.

But, sir, this argument of haste amounts to nothing. Practically this Congress continues after the 4th of March so long as it chooses to sit, even until the 4th of March, 1869, for the Fortieth Congress is in its political features and almost in its personnel substantially a continuation of this Congress. We are, then, to sacrifice the loyal people of the South to gain three or four weeks of time; nay, we may by this precipitous legislation sacrifice the great interests of the entire country.

It may be that while we deliberate a few more lives may be sacrificed to the Moloch of the rebellion; but much as we must all regret this, what will be the loss of those lives compared with the destruction of the loyal element in the rebel States and the long list of calamities that may be inflicted upon loyal men and upon the best interests of the nation itself for years to come under the operation of this bill? Sir, although it is not in our power as legislators to prevent crime, we can at least so frame our laws as to place the disloyal and vicious population under the feet of the loyal and faithful. To reverse this is for the lion to play the sculptor, and we can expect no result but the supremacy of rebellion and the destruction of loyalty in all that vast region of country.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] is still entitled to the floor.

Mr. STEVENS. I yield ten minutes to the gentleman from Ohio, [Mr. LE BLOND.]

Mr. LE BLOND. I accept, sir, the crumb that is given to me, not by my master, but by the master, and shall offer a few remarks in reference to the proposition now pending.

I do not propose to harmonize the discordant elements upon that side of the House.

Mr. BUCKLAND. Would you if you could?

Mr. LE BLOND. My friend asks me whether I would if I could. I think I would, sir; and I would harmonize them in such a manner as I am sure would bring back peace and happiness to the country. I would not harmonize them with the views of either of the extremes upon that side of the House; but I would harmonize them in keeping with the Constitution

and the spirit of our Government and not in violation of and in conflict with its spirit.

Now, sir, it is quite impossible in the short period allotted to me to elaborate an argument upon the positions taken by gentlemen upon the opposite side of the House; but, sir, I must be permitted to comment upon the theory of my colleague from the Columbus district, [Mr. SHELLABARGER.] That gentleman undertook the other day to enlighten this House, and he proceeded with his remarks with more gravity, more complacency, more assurance, I venture to say, than did ever Solon or Lycurgus when giving laws to the people. That he thoroughly satisfied himself no one who knows him can doubt for a moment. That he has convinced anybody else is exceedingly questionable.

But let us look at the position which he takes to justify the legislation proposed. He starts off by admitting that unless war exists at this time in the States lately in rebellion this legislation is without justification or constitutional authority. Then he says that war does exist in these States, and in his language it exists in this way: War, says he, is of two kinds, "war *flagrante* and war *cessante*;" and he says that war of the latter description exists in this country, war *cessante*. Now, sir, I undertake to say that such a state of war as he has built up for himself—for himself and for nobody else—does not exist and never did exist in this or any other country, and he cannot find it in any book unless he may have written one for this purpose. In some of the old authors this sentence may be found, "*bellum flagrante non dum cessante*," and it is from this sentence he gets his idea and creates his novel state of war, created for the occasion. Sir, there is no war. And if there is no war, there is certainly no justification for the course that is being taken here. War *cessante* is not war at all. I repeat there is no war in this country. The war ended when the southerners laid down their arms and sued for peace. There has been no war in this country since then, and I trust there never will be again. This is the merest clap-trap, this doctrine which has sprung from the imagination of my friend from Ohio, who seeks to be considered the great constitutional lawyer of this House, yet who presents himself before the American people with this ridiculous proposition to justify his action on this floor.

But, Mr. Speaker, to the bill. Sir, this bill, like all the others upon reconstruction, starts with a preamble asserting the existence of certain facts, which in my judgment and which I know do not exist. The preamble reads thus: "Whereas no legal State governments or adequate protection for life or property now exist in the rebellious States." When gentlemen put forth this preamble what do they admit? They admit that those States are without law and without any form of government, either legal or otherwise, that they have no law and no government to control and direct actions of the people. And here let me say that this bill is quite as infamous, quite as absurd, as the bill that the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] who is chairman of the Committee on Reconstruction, contends for and hangs so tenaciously to. It confers all the powers that that bill gives. It confers all the powers that the most radical could claim consistently. You must bear in mind that you assert in the preamble that these States are without law, without government, without any form of government. You then say in the third section that "it shall be the duty of each military officer assigned as aforesaid to protect all the rights of persons and property." You give to the military, who are to regulate the local affairs in these States, all the powers necessary to control the rights of person and of property, because they are without any law or government, as you declare in your preamble, and you confer upon them the power necessary to govern and control these people. The power is absolute and exclusive.

Now, sir, is that any less than what was

given in the military bill proposed by the chairman of that committee? It embraces it all. You say, in both cases, to the military, "You are to control the people of those States absolutely, not only in their personal rights, but also in the exercise of the elective franchise; for being without law the military is to prescribe the law under which the people are to vote, there being no other power to prescribe rules."

Yes, say gentlemen upon that side of the House, "but the President of the United States has the appointing of the military officers who are to control the people of those States." Sir, that may be a matter of some consequence in the minds of gentlemen upon that side of the House; but to me it is a matter of no consequence who is to be the man that is to establish military despotism in any State within this Union or to establish a power that is to absorb all other powers.

Whoever appoints these officers lays the foundation for a military despotism that must destroy our Government, and I envy not the man who is to exercise the powers attempted to be granted by this bill.

Mr. Speaker, this bill is to pass Congress. All the powers of the Union men of this House cannot obstruct its passage. The die is cast, and the subversion of constitutional liberty willed by the usurpers.

In conclusion, let me warn gentlemen that there is a point beyond which forbearance ceases to be a virtue and where hope no longer restrains the action of men. That point is at hand or near by.

Conclude your works of destruction by impeaching the Executive and you have lopped off one arm of the Government. Circumscribe the judiciary by your net-work of laws and you have paralyzed one of its main branches; but to dismember this Union, either by armed force or usurped legislative power, is the destruction of constitutional liberty, and to establish military governments in ten States is to establish military despotism over all of the States of this Union that will justify the friends of liberty to a resort to arms.

[Here the hammer fell.]

Mr. STEVENS. I now yield ten minutes of my time to the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. ELDRIDGE. I never understood fully the value of a minute until I was taught it by this Congress. The practice seems to have been established here that the most important measures that come before this House are to be discussed in the least time. Some gentleman upon the other side of the House is assigned the floor, and as upon this occasion, partitions out ten minutes to one, eight minutes to another, four minutes to another, and I believe as low as two minutes to another, for the discussion of a measure which is to abrogate the Constitution in ten of the States of this Union. Ten minutes are allotted to me. I shall not stultify myself by pretending to make an argument in these ten minutes.

I shall content myself with denouncing this measure as most wicked and abominable. It contains all that is vicious, all that is mischievous in any and all of the propositions which have come either from the Committee on Reconstruction or from any gentleman upon the other side of the House. I am not quite so certain as my friend from Ohio [Mr. LE BLOND] that when this bill shall have become a law, should it ever become the law, a state of war will not exist. In my judgment, this bill is of itself a declaration of war against the southern people; it is at least a revival and continuation of the war, which we had hoped was forever ended. If it is *bello cessante* now from the time this bill shall pass and become a law, it will be a war actual and flagrant which will I fear involve that whole people, white and black, in one common ruin.

Now, what is this measure? I do not wonder that there is some difference of opinion upon the other side of the House. I should wonder if there was not. For as you approach the

final consummation of the purpose which you have had in view of virtually declaring the Government of our fathers a failure, I wonder not that you differ; that you have some controversy among yourselves, some misgivings. The gentleman from Connecticut [Mr. BRANDEGG] told us the other day that the measure then before the House similar to this was commencing at the right point; that it was to perform exactly the purpose which they desire; that it was commencing at Appomattox Court-House, where General Grant left off. The gentleman would have more truly expressed the fact, in my judgment, if he had declared that it was commencing exactly where Robert E. Lee left off. And the gentleman from Pennsylvania [Mr. STEVENS] is bold enough to declare that it is the purpose to concur in the revolution which was inaugurated by secessionists and carried on by them against the Government of the United States, and which he says he hopes to see perfected in making this a true and perfect Republic.

It was well said by my friend from Ohio [Mr. LE BLOND] that this bill starts out with a falsehood. It does, indeed. It declares that there are no legal governments in these States. It not only starts out with a lie, but every provision of the bill is a lie; it is one consummate, unmitigated lie from beginning to end. It will, if it shall become a law, subject the people of ten States of this Union to the unwritten, undefined, and undefinable will of a brigadier general of the Army. It will substitute for our written Constitution and the laws made in pursuance thereof the arbitrary, uncontrolled, and unlimited will of a military despot. It matters not who he may be; how pure, how upright; I care not if he be the Commander-in-Chief of the Army, he will be, he can be nothing less, than a military despot. Gentlemen may sugar-coat the pill if they can on that side or this side of the House by saying that it is all to be under the control of the President of the United States. Sir, I respect the President of the United States; I honor him in his position and office, and for many things he has done; but, sir, God never made the man or the angel whom I would trust with the liberties of the people unlimited and unrestrained by a written constitution. No man is so pure, so just, so generous, so unambitious that I would trust the lives and liberties of a great people in his hands without having his power controlled or restrained by some written constitution or law.

But the effect of this bill is to abrogate the Constitution of the United States, to overthrow all government and commit all the rights, all the vast interests of the people of those States subject to the supreme will and pleasure of a military despot. I cast no reflection upon any particular man or officer who may be deputed to hold position and exercise power under this bill; I make no charge against any one, for I know not who may be appointed. But I do say that whoever he may be, he will, he must of necessity, be a tyrant. He cannot fill the position and be anything else. The work prescribed, the powers to be exercised can only be performed and exercised by tyrants. And yet gentlemen affect to believe this is a restoration of the Union; this is the preservation of the Republic; this is the constitutional guarantee of republican form of government; this is the consummation of all our hopes, the reward for all our sacrifices in the fearful struggle through which we have passed. What good can gentlemen expect from this measure? what protection of the rights, interests, lives, and liberties of the people not secured by your Constitution? What laws do you expect are to be administered? Has your constitution of government proved itself in years gone by so defective and inefficient that to-night, in the presence of the civilized world, in this American Congress, you are going to declare that it is a sublime and miserable failure? You declare nothing less than this; you declare even more than this, that in the last four years you have become so much in love with military



rule and military authority that you will now substitute for your written Constitution, the best the world has ever seen, exclusive military authority. Is this what gentlemen desire? Can it be that they have come to this? Is it strange that they doubt, that they hesitate, that they cannot come up with entire unanimity to the support of this terrible, this monstrous proposition? It would be strange indeed if they could.

Do gentlemen expect that the people on whom this despotic, this tyrannical measure is to be imposed will submit tamely? That they will bear uncomplainingly this kind of rule for an indefinite period of time? Do you expect that quiet, good order, peace, and amity will come out of such laws and impositions as this? I tell you, gentlemen, that if blood does not flow again, if war does not again rage in this land, it will be no fault of this measure or of those who support it.

[Here the hammer fell.]

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] has fifteen minutes remaining.

Mr. STEVENS. The pressure for speaking is so great that I propose that, by unanimous consent, thirty minutes more be allowed for debate, and that then absolutely the vote shall be taken.

Mr. LE BLOND. I desire to suggest to the gentleman from Pennsylvania that there are gentlemen on this side who desire to speak on this bill. If the gentleman will consent to postpone the vote until after the morning hour to-morrow, allowing this evening to be occupied in debate, giving this side of the House its fair proportion of the time, the vote can be taken to-morrow without the least difficulty from gentlemen on this side. All that we ask is a liberal allowance of time for debate. I hope the gentleman will consent to the arrangement I suggest. As yet, out of two hours debate, but twenty minutes has been allowed to this side of the House.

The SPEAKER. Debate is now exhausted, except the remaining fifteen minutes of the gentleman from Pennsylvania, [Mr. STEVENS,] who, having reported the bill, is entitled to close the debate. It will require unanimous consent to extend the time for thirty minutes or for the evening.

Mr. HISE. Mr. Speaker, I suppose it is almost unnecessary for me to ask the indulgence of the gentleman from Pennsylvania; but I desire an opportunity to occupy some short time—

The SPEAKER. How much time does the gentleman from Kentucky [Mr. HISE] desire?

Mr. HISE. Twenty or twenty-five minutes.

Mr. STEVENS. In order that there may be no trouble, I propose that one hour longer be allowed for discussion, extending the debate till nine o'clock.

Several MEMBERS. That will do.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] proposes that debate be extended until nine o'clock, and that then the vote be taken.

Mr. ANCONA. The question had better go over till to-morrow.

The SPEAKER. The gentleman from Pennsylvania [Mr. ANCONA] objects.

Mr. LE BLOND. By permission of the gentleman from Pennsylvania I will say that in the single hour which he proposes to allow, gentlemen on this side cannot be heard. I am sure that the gentleman will reach a vote much more quickly by permitting reasonable debate upon this bill than by hastening it in this way. I hope the gentleman will, on consideration, allow the question to go over till to-morrow, permitting this evening to be occupied in debate; and thus, when the time comes, the vote can be taken without any obstacle from this side of the House.

Mr. HISE. I ask the indulgence of the House to occupy some twenty or thirty minutes on this question. I have no desire to obtrude myself upon the House; but this question is now presented in a new aspect.

Mr. SLOAN. I will object to any extension of time for debate unless speeches be limited to ten minutes.

Mr. STEVENS. I do not wish to have any contest about this matter; and I will now propose that we meet at eleven o'clock to-morrow morning and take the vote immediately after the reading of the Journal. This arrangement will leave the whole of this evening for debate.

Mr. LE BLOND. I think that will be acceptable to this side of the House.

Mr. SLOAN. Under this arrangement I withdraw my objection.

Mr. STEVENS. I now yield for ten minutes to the gentleman from Ohio, [Mr. DELANO.]

Mr. DELANO. Mr. Speaker, I have not participated, as the House will bear me witness, in any of the discussions upon the subject embraced in this bill during the present session. I do not propose to obtrude my views to-night upon this House with any expectation that what I can say will change the opinions of members, but I desire as well as I may in the time allotted me to say upon what reasons I place my vote in favor of this measure.

I find, sir, on looking over my country ten States without governments that secure life, liberty, and property. I find in those States twelve million people, where law and order have ceased to reign, and have given place to disorder, anarchy, and confusion. I observe in those States a division of the people into two classes of different races, one once a race subjugated to the other, but, thank God, under the dispensations of His providence, made free, and free forever. And, sir, I find existing there an alienation of feeling between these two populations so unhomogeneous that this once subjugated race is not protected in its rights and privileges.

I find, also, the white race divided by the line of loyalty—one part of it, and that the greatest in numbers, hitherto disloyal, and the other loyal. I find the heretofore subjugated race and the loyal white people subject to the arbitrary and uncontrolled will of those who have heretofore been and now are the dominant party. I find, sir, the governments set up in these States for this population incompetent to protect life, liberty, and property, or to give such security for these as freemen ought to have. I ask myself what, under such circumstances, ought to be done? I discuss not to-night the right or the power of the President to establish such governments as are there; whether they be legal or illegal affects not the observations I have to make. For argument's sake I will admit these governments to be legal; but I say if they are legal they do not give such security as the American Government must give in order to have American institutions respected.

What, then, is to be done? The earth drinks daily the blood of murdered citizens, the property of men daily is destroyed by illegal combinations of men, and the wicked, blood-thirsty passions of malignant men break through the feeble barrier of cruel authority and trample down the rights of freemen. What, then, is our duty? The people of the United States have said to these people heretofore, You may return to the Government of the United States and be restored to your former privileges if you adopt an amendment to the Constitution submitted by the American Congress to the States for ratification. Twenty-five million people have approved and ratified this plan, and these insurgent rebel States have spurned this plan and hurled it forth in defiance, and have set up lawlessness and rapine and murder throughout their borders. Thus I find my country.

I find here to-night the American people, by their Representatives, charged with the duty of establishing governments that will secure life, liberty, and property in these disordered and chaotic communities. Are we incompetent to the trust? Must we let this lawlessness and anarchy reign triumphant and forever? If we do, we are disgraced before the American people and before the world.

I say, then, this bill goes to this people and says, "You have hitherto hurled from you the mild and generous propositions we have hitherto submitted; and we say to you once again, take those propositions and adopt them, and give suffrage to all your people, or take the sword." Do you call this tyranny? When terms of unmerited mercy and forbearance are offered to an offending people in order to restore concord, peace, security, and prosperity, do you call that tyranny? I call it duty that the people demand at the hands of this Congress. The people implore us to do something that law, order, and security may take the place of discord and violence, of chaos and murder.

Is there any doubt, sir, as to our duty? And I pray gentlemen, if you take not this bill, although in all its parts it does not suit you, what are you likely to give the American people? Nothing, my colleague says, nothing; and echo answers nothing from all parts of the country. I will not return to my constituents admitting that I have failed to try to do something in this great trial of the nation. It is not for rebels that I legislate; it is not for the right of those who have sought to destroy this Government that I extend mercy; but it is for the liberties, rights, and welfare of my country, for all parts of it. All over the land it is demanded of us that we make law take the place of anarchy. It is the demand of the people, and upon the platform which they have adopted I take my stand, namely, the constitutional amendment with universal suffrage now added. I dare stand there, asking this House and the country if anything better has been offered or can be done? I do not claim that this bill is perfect in all its parts. It is hardly possible in a House of intelligent, free, independent, thinking men, such as are here, that a measure of this kind should meet the approbation of all. But I pray you, gentlemen, ask yourselves this question: is not this the best that we can hope for, expect, or obtain now? And is it not the part of wisdom always in every step in life to do the best we can?

[Here the hammer fell.]

Mr. DELANO. I trust I shall be pardoned for occupying two minutes more.

Mr. STEVENS. I would grant it but I have promised to yield to the gentleman from California [Mr. HISE] all the time I have left. While I am up I will make a motion that speeches be limited to fifteen minutes.

The SPEAKER. Is there objection?

Mr. ELDRIDGE. I think that is hardly fair to this side.

Mr. STEVENS. Then I move to suspend the rules, so as to limit debate to fifteen minutes each.

Mr. ELDRIDGE. I withdraw the objection if the gentleman insists, but there are only three or four who want to speak on our side.

The SPEAKER. There being no objection speeches will be limited to fifteen minutes.

Mr. DELANO. Mr. Speaker, it is not my desire to allude to one topic that has been introduced into this discussion. I think it does not belong to it. I act upon the dictates of duty, without reference to any individual man on this earth, relative to this measure. I desire to say, however, that I regard the will of the people of this country as the supreme power and authority of the land, to which all must bow, and which all must obey. And, sir, I claim for this sovereign will the right, when it is offended and obstructed by the misfeasance or nonfeasance of any officers in any branch of the Government, to call for such punishment as the law and the Constitution authorize and permit. And whoever stands in the way of the sovereign will of the nation, while she is working out through toil, trial, and blood her reorganization, her emancipation, her freedom—whenever, I say, dares to stand boldly and persistently in the way of that will, defying and refusing it obedience, subjects himself to the constitutional, lawful, and righteous punishment which all such offenders

deserve and which they shall receive. So long as the liberties of this country are preserved so long the will of this mighty people will be, under legal and constitutional restraints, the supreme law and the supreme power of the land. And no decisions of courts that violate this well-established will, as thus defined, no action of man or men that defies it, can fail to reap the righteous retribution which may be authorized by the legal and constitutional provisions of the country.

I should not have alluded to this subject had it not been, as I thought, unnecessarily drawn into this discussion. All men must move on in the execution of law under the Constitution in conformity to the sovereign will and power of the nation, yielding obedience under constitutional provisions to that power, and then we shall rebuild a nation's shattered edifice, we shall renew the torn down columns of liberty, and we shall have a government the terror of tyrants and the pride and glory of all its inhabitants. That destiny God has marked out for us as a people, and we shall reach it; it may be through trials and with delays, but it will come and is coming to the relief of those who are now downtrodden and oppressed, without law, without protection; it will come to cast its shield over every person, high or low, rich or poor, learned or ignorant, in this great nation.

Mr. STEVENS. I yield the remainder of my time, which is only five minutes, to the gentleman from California, [Mr. HIGBY.]

Mr. HIGBY. Mr. Speaker I could not let this measure go to a vote without expressing my views in regard to it very briefly. I find that on this side of the House we are very much divided. To the bill as it went from the House the Senate has added an amendment. That amendment is not an original proposition. It is in substance the proposition that was rejected by this House before the bill was sent to the Senate; and we are told by several gentlemen on this side of the House that we must accept this or we will get nothing during this session of Congress. That is literally an attempt on the part of men who make the declaration to support the Senate in forcing down our throats what we rejected when we were acting upon this bill the other day. We are told that in defiance of the course we pursued we must take what we rejected or we can get nothing whatever. Mr. Speaker, if in my conscience I could vote for this bill with the amendment that the Senate has appended to it, I would do it, but so long as my conscience will not approve of it, all the Senates on God's earth will not force it down my throat. [Laughter.]

The SPEAKER. The language of the gentleman is scarcely respectful to a coordinate branch.

Mr. HIGBY. A little out of order. [Laughter.] Well, I will take it back. I only made the remark in answer to the position that has been taken by members on this side of the House. If they had not taken that position I would not have made the remark.

The SPEAKER. No gentleman is expected to say that any number of Senates could not choke down this House. [Laughter.]

Mr. HIGBY. I did not say choke down the House, but it is asking all the members of this House to swallow it. [Laughter.]

The SPEAKER. The gentleman understands that the courtesies of each branch must be observed.

Mr. HIGBY. Mr. Speaker, we have been fighting through the Thirty-Ninth Congress against the proposition that those who were in rebellion against this Government should not aid in organizing it in those States where they had been disorganized. That is the position, that is one great cardinal principle that we have been contending for since the commencement of this Congress. If we might take the declarations of members of this House, we have been uniform in that declaration.

But, sir, what do we see now? A large number ready to retreat from the position they

occupied and accept the proposition contained in this bill as it comes to us from the Senate, allowing all the rebels to vote in the reorganization of the southern States. It is against that proposition that I must give my vote. I never can consent to it, and for the simple reason that I think it would hazard the condition of the loyal men of the State and put them in a position where they never shall be placed with my consent. I will do anything to protect them, but I will do nothing to hazard their condition. I think the effect of this proposition in many of these States will be that the loyal people will be overwhelmed; for I have no doubt there are some of these States where, even if you take all the loyal blacks and loyal whites, the rebel population is sufficiently powerful to overwhelm them.

[Here the hammer fell.]

Mr. WOODBRIDGE addressed the House. [His speech will be published in the Appendix.]

Mr. HISE. Mr. Speaker, I beg the attention of the House, may I entreat the attention of the House to the few remarks I shall have an opportunity of submitting on this occasion. I have hitherto, when I have treated this subject, been cut off in the midst of my speeches in such manner as to have left unsaid some of the most important points. I hope, therefore, the House will keep in order.

Mr. Speaker, this important subject is now presented to the House for its action in a very different attitude than ever before. The House passed a bill the substance of which was simply to overthrow the State governments and the State laws of ten States of this Union, and to impose upon them a government under a single military chief to be clothed with ample military power and authority to govern those ten States, or the people of those ten States, without any restriction or limitation on his power of government as is contained in the constitution and the laws of the States themselves, or without being limited or controlled by the Constitution or the laws of the United States. In other words, the House passed a bill commanding the General of the Army to place at the head of five military districts, embodying in these districts these ten States, a military chief to rule, control, and govern regardless of local laws or constitutions, and regardless of the laws and Constitution of the United States.

The question is now presented in a very different form. The military bill has undergone two very material and radical changes by the action of the Senate. The Senate has struck out the words "General of the Army" and inserted these: "President of the United States." I therefore suppose it was in contemplation and was designed in framing the military bill by the gentleman here to set up these military despotic governments over these five military districts in such manner, and to be wielded through such sources as to make them independent of the executive head of the Government of the United States. There could have been no other motive for giving the appointment of these five despots, these five tyrants in regard to authority, to the General of the Army; whether they may be tyrants in disposition or not would have to be ascertained by the sore experience of this people after they were placed under their dominion; and that they intended and expected to place the despotic governments of these districts under chiefs to be totally independent of the President of the United States, is perfectly manifest.

Some gentlemen in the course of the discussion admitted the President was the constitutional head of the Army; that the President was by the Constitution the supreme commander of the military and naval forces of the United States; but notwithstanding that admission they at the same time declared they dared him to exercise his power in the premises; that he would not dare and would be afraid to assume to contravene or to oppose himself to the will of the sovereign Legislature

of the Union by assuming to control the General of the Army in his discretion in the appointments to be made of these military chiefs. By the action of the Senate the words "General of the Army" were struck out and "the President of the United States" inserted.

We might have some assurance from the known character of the President of the United States, from his temper and disposition, from the evidence furnished by his conduct and life as a public man, that he would not play the tyrant himself; that he would not be willing to see the lives, property, and liberties of the people of these ten States depredated upon and the local laws and governments unlawfully invaded and overthrown; and therefore we could rely upon his supreme authority, although unlimited, to check and control the local chiefs in each of these districts if they attempted to exercise power unlawfully, arbitrarily, and contrary to the guards and restraints of the Constitution of the United States, in order to save the life, liberty, and property of the citizen.

But, sir, although they have substituted the name of the President in place of that of the General of the Army, nevertheless when these men are appointed it is not provided they may be removed or their commissions revoked for the exercise of any power, however unlawful or tyrannical, not even for the commission of the crimes of murder, rapine, and arson, crimes which have ever stained the annals of military dominion over an unarmed people, deprived of the means of resistance or of self-defense.

The bill supposes that until Congress shall declare that those States are in the Union and entitled to representation under the provisions of the last section of this bill these military chiefs, once inaugurated and installed, are to be kept in power *ad libitum*, without any interference on the part of the President of the United States, and without any power existing anywhere to remove them or punish them or hold them responsible in any way for any or all the atrocities they may commit; that they shall continue in the exercise of this irresponsible power until they are superseded by the declaration of Congress that those States are in the Union and entitled to representation; which declaration is contemplated to be made at some indefinite future time. Now, let us consider the character of this measure. The small body of Democrats and States Rights men on my side of the House have been considering, and I myself have been deliberating upon it, what we should do under these circumstances.

In this amended bill they have struck out that portion of one of the sections which, in express terms, suspended this writ of *habeas corpus*, sanctified as it has been by the great men of the past, who, in framing our Constitution, provided that it should never be suspended except in case of invasion or insurrection when required by the public safety. Those are the only cases in which they authorize the suspension of that writ. I have examined this bill very carefully, and I say that it is a delusion to suppose for a moment that the writ of *habeas corpus* can be used under it for the protection of the rights or liberties of the citizen. Why? Because the authority of each military chief put in command there is omnipotent as far as human power can be made omnipotent. It is not circumscribed in any way; there is no responsibility imposed upon him; it is not said that if he is guilty of this, that, or the other abuse of power he shall be liable to be punished by removal or by the judgment of civil or military tribunal; there is no provision whatever of this kind; and consequently he has a right, under this bill, to take all cases from the civil tribunals and send them for trial to the military tribunals if he chooses to do so.

It is plain that under such a system the writ of *habeas corpus* cannot really exist; because even if the civil tribunals are not entirely abolished, they will exist only at the will of the military tyrant in command, and it is but reasonable to presume that they will be controlled or influenced by him in the judgments they pronounce in any cases that may be brought

before them. And is this in accordance with the provisions of the Constitution of the United States? I refer to the Constitution, because it is only under that instrument and by its authority that you have any right to govern at all in those States; and in that Constitution it is expressly said that within the jurisdiction of the United States no man shall be tried and condemned until he shall first have been indicted before a competent jurisdiction in the district where the crime has been committed, and that he has a right to be brought face to face with his accusers and to be tried by a jury of the vicinage.

Now, sir, what becomes of that constitutional provision in reference to eight million people when you place them in the position contemplated by this bill, where they may be tried and condemned and deprived of life, liberty, and property by an irresponsible military tribunal without charge, with no opportunity for defense, and without the intervention of a jury?

[Here the hammer fell.]

Mr. DAVIS obtained the floor.

Mr. HISE. I do hope the House will indulge me and extend my time.

The SPEAKER. How much time does the gentleman desire?

A MEMBER. About two hours. [Laughter.]

Mr. HISE. I have been cut off in every speech I have made. [Laughter.] I ask about twenty or thirty minutes.

The SPEAKER. By the order of the House speeches are limited to fifteen minutes.

Mr. DAVIS. I ask that the gentleman's time be extended fifteen minutes.

Mr. HENDERSON. I object.

Mr. DAVIS. I regard this, Mr. Speaker, as an eventful day in the history of the American people. We are deliberating upon one of the gravest questions that could be brought to our consideration, one that is agitating the country throughout its length and breadth, and every loyal man and every disloyal man is to-day looking to Congress to learn what shall be its action in reference to the restoration of peace and harmony to the Republic. I believe that Congress has now and here a high duty to perform. It has many high duties to perform, and the highest of all now pressing upon it is that which requires it to protect to the fullest extent the loyal men and the slaves who were made free by the action of the Government in putting down the rebellion which sought its overthrow.

Sir, there were in the southern States when the rebellion was going on more than four million slaves. They were the strength and vital power of the southern confederacy, and the Administration of this Government found it necessary to strike down that power in order to strike down the rebellion.

The proclamation of emancipation was issued strictly as a war measure. The slave did not free himself; he did not remove himself from the condition in which it was the duty of his master to protect him; he did not of his own volition throw off his claim upon his master to support him; but the Government interfered; the Government made him free, and in making him free absolved his master from his protection and support. I say, then, that the highest duty of the Government is to see that he enjoys the liberty which their action not only conferred but forced upon him.

There is another class of men in the South to whom this Government is under the highest obligations, and that is to the men who maintained their fealty to the Government, the men who sustained the old flag against the power of the southern confederacy, and resisted the influence of aristocracy, the men who were persecuted and driven from their homes, and whose families, homeless and shelterless at night, often slept beneath the shadows of the forest. The Government owes these men also protection, and I stand here to-day to demand that each of these duties shall be perfectly performed.

In the utterance of these sentiments I must

say that I am actuated by not the slightest feeling of malignity or resentment. I remember that the people of the South were educated in the presence of and surrounded by institutions differing very far from those under which we were educated. I appreciate the influence of education upon opinions and character. I say to gentlemen upon this side of the House, and to Union men on the other side, that if we had exchanged with southern men positions, if we had been educated in the South under the influence of slavery, and brought up in the presence of an aristocracy and surrounded by its seductive influences, we might have been secessionists, and just as honest in those sentiments as we are to-day in our convictions of paramount duty to the Federal Government.

But we are to meet the question now in reference to the duty of the Government to those who owe it allegiance. Who are they? The men who have lost all, the men who have suffered in every regard, the men who have been refugees from their homes and who have come here to seek the protection of the Government. They demand that under that Government to which they have been loyal they shall have a right to return to the property and homes from which they have been ejected, and have a right to control the interests there of which they have been deprived.

Now, sir, when the armies of the confederacy were discomfited and laid down their arms, they acknowledged that the system of slavery and the aristocracy upon which it was based were gone forever, and having done that, they should have submitted calmly and philosophically to the result. Did they do it? We proposed terms more magnanimous than conquerors ever before offered to a subjected foe. No rebel person so far as I know has been brought to punishment for a violation of allegiance to the Federal Government; no one has been tried as a traitor, and God knows if any man ever will be. Unfortunately the very clemency of the Government, its disposition to be magnanimous and generous, has led these people to mistake magnanimity for weakness, and they have become proud and defiant; they have attempted again to enslave those whom the power of this Government has declared free; they have subjected them to indignity and insult throughout the land, and under the sanction of their courts have sold them again into slavery. Under the sanction and with the encouragement of municipal authorities the streets of southern cities have run red with the blood of loyal and true men simply because they were friends of the Union.

Now, sir, we are bound as a Government to protect these true and loyal people, and if the disorganized southern States will not have peace on terms of conciliation, on terms of generosity, on terms which shall assure the protection that we owe them, they must have peace on terms of compulsion.

And therefore, although I believe I have been for years, I may say for my whole life, a conservative; although I never was for a day of my life an abolitionist; although I have never for an hour entertained a malignant or a revengeful feeling against the people of the South, yet I proclaim it to be our duty to enforce upon them such conditions before they shall be restored to their position in the Government from whose protection they went forth without provocation, as will make them peaceful, quiet, and obedient to the laws of the Republic. I do not believe any measure of legislation which we can adopt can make them loyal. Loyalty is not a matter of legislation. Disloyalty is a moral disease, which must be cured by time; and like insanity it must be made subject to restraints. We must so legislate, keeping no unnecessary restraint upon them, as to induce the development of their material resources. Treat them with all the kindness the circumstances will permit, aid them in finding the path to prosperity; and when they see their country, which has been desolated by war, again blossoming as the rose, then I apprehend they will not longer be dis-

posed to quarrel with the Government which is generously inclined to forgive their crimes and which affords them protection.

There are but three courses for us to pursue. One course is to do nothing; that is, leave those people as they are, leave rapine and outrage and violence and murder rampant through the whole South; everything disorganized, everything under rebel control. Or second, we must pass a military bill, such as was introduced into this House, giving unlimited absolute power to military officers to control those people; closing their courts of law, suspending the writ of *habeas corpus*, and holding them for a period of time absolutely and entirely undefined and unlimited in a condition from which they cannot in any way escape by any terms of submission, by any pledge, by any action of their own, or by any penitence or reformation. Or in the third place, we can pass the bill as it comes to us from the Senate. Now, I believe that the passage of this bill is the very best thing which we can do; it is the best measure for us to enact in reference to the interests of the country, or in reference to the interests of the people of the South. This bill does not close the door against mercy; it leaves an opportunity to escape from military control and its inevitable annoyances. When we say to these southern and rebellious States that they may return only upon the condition that they put the ballot into the hands of the men who once were their slaves but who are now made free, we do so alone for the reason that the action of the dominant whites at the South proves that the freedman cannot be made safe except he has possession of the ballot. Now, it is well known that I have never been an advocate for the enforcement of negro suffrage at the South, nor would I to-day feel it my duty to support this bill which indirectly encourages universal suffrage if I believed that loyal men, both white and black, would be safe without its provisions.

I submit that if the people of the southern States had peacefully and calmly accepted the constitutional amendment which we proffered to them, and faithfully submitted to its provisions, this legislation would never have been introduced into this Congress. They might and would have been restored to their representation in these Halls; and I, for one, would have hailed their appearance here under such circumstances with as much gratification as any one could have done. But they refused to accept that amendment; they trampled it under foot with scorn and contumely. They said to the freedmen: You shall still be a slave to us; we will charge you with crimes before our courts; we will so legislate as to make petty larceny, assault and battery, and various other minor offenses of that kind so punishable by imprisonment, and parties convicted of them may be sold for a term of service. And in this way they have already reinaugurated slavery in some of the southern States.

Again, sir, the State of Kentucky, never having seceded from the Union, with a magnanimity unlimited and most unwise by the repeal of her law imposing political disabilities upon disloyal citizens, enfranchised every rebel who had been in the service of the confederate States. What to-day is the condition of affairs in the State of Kentucky? Why, sir, her political power is wielded by rebel hands. Rebel generals, wearing the insignia of the rebel service, walk the streets of her cities admired and courted; while Union officers, with their wounds yet unhealed, are ostracised both in political, commercial, and social life. I shall therefore support this bill, not from choice, but from necessity; not because I desire to extend military sway over any portion of the American people, not because I wish for a law to unnecessarily deny to the southern States their representation in Congress, but because I believe that the exigencies of the Republic and our duty to protect our loyal citizens demand its passage.

[Here the hammer fell.]

Mr. LOAN. Mr. Speaker, no political question which has for a long time come before



this House has occasioned such diversity of opinion as the measure now before us. I therefore avail myself of this occasion to offer briefly a few of the reasons which induce me to oppose concurrence in the Senate amendments.

The friends of the bill in its present form claim that it is a military measure. "We send," say they, "the bayonet to the rebel States for the purpose of protecting our friends and holding the rebel borders in check until civil government can be organized there." But if I understand the bill aright these gentlemen are mistaken. The preamble recites that there are "no legal State governments existing there." If this is true, then there has been no lawful government there since the dispersion of the rebel army, except that derived from military authority. Now, if this be so, I ask the friends of this bill to inform us how much greater power Congress by this bill can confer on the President than he has under the Constitution as Commander-in-Chief of the Army and Navy of the Republic. His power as such commander under the Constitution, as I understand it, is unlimited in territory the possession of which by this Government is acquired by act of war. But in the military provisions of this bill, if their purpose is to accomplish anything, it would seem that the object was rather to restrict than to increase the military authority of the President, by directing him as to the manner in which he shall exercise it in the government of those rebel communities.

Gentlemen seem to suppose that through the exercise of military power proposed to be conferred by this bill protection to the Union men in the South will be secured. The answer to this is that for the last two years the President has had full authority and power as Commander-in-Chief of the Army to protect the Union people there; and what has been the result? For an answer it is sufficient to refer to Memphis, New Orleans, and other cities where the rebels have been permitted to willfully, deliberately, in defiance of the military power, to murder the Union citizens in cold blood. What assurance have we that if this bill be passed any greater protection will be afforded to the Union people under its provisions than they had under the military authority of the Commander-in-Chief? None, so far as I can see.

It is also said that the bill provides for reorganizing civil governments in the rebel States, and that therefore it should be supported by the majority in this House; that it is necessary that something should be done to accomplish that object. But does this bill contain any provisions compelling the establishment of civil governments in those States? I think not. And when my friend from Ohio [Mr. DELANO] said that the people required us to do something for the establishment of civil governments in the rebel States, I was surprised at his subsequent remarks in support of this bill. He is known to be a thorough lawyer and is always accurate in his statements, and it is inconceivable to me how he could have been so mistaken in regard to the provisions of this bill as to suppose that they could in any way meet or satisfy the just expectations of the loyal people, North or South, who require that something should be done for the protection of our friends there.

So far as it relates to the organization of civil governments in the rebel States, the bill is negative in all its propositions. It seems that its supporters are willing to permit the rebel State governments, now in authority in the rebel States, to continue for an indefinite time in the future, and to continue to subject our Union friends there to the murders, outrages, and persecutions they have hitherto endured under rebel rule; that the scenes of the 31st of July last at New Orleans shall be reenacted whenever rebel purposes require them; and in response to the petitions for relief which are sent to us from time to time by our persecuted and suffering loyal friends in the South it is proposed by this bill to permit

the rebels to continue their unlawful State governments and to continue the murder and persecution of our Union friends for an indefinite time in the future, on condition that they, the rebels, in consideration thereof will consent to forego representation in Congress and thereby leave to us the legislation for the nation; that for this we will abandon to the rebels the unlawful government of ten States of this Union and subject the people thereof to rebel civil rule until the rebels are willing to reorganize their States respectively and confer the elective franchise upon the negroes therein, and by a ratification of the proposed constitutional amendment disqualify all of their rebel leaders from holding any office under the Government of the United States. It does seem to me that it must be obvious to every one that the rebels will never voluntarily make such a change in their State governments, and that the logical results of this bill, if it were enacted into a law, would be to perpetuate rebel rule in those States.

The preamble of the amendment now under consideration recites that no legal State governments or adequate protection for life or property exist in the rebel States.

Yet the supporters of this bill are willing to permit these State governments that are not legal to continue in existence, and to permit this Union to remain in its present disturbed and disorganized condition until the rebels by their voluntary act shall consent to restore it.

Such a course will not meet the approval of the loyal people of the country. Our gallant soldiers, regardless of all consequences to themselves, dispersed and destroyed the armed forces of the rebellion, and at the ballot-box the people confided to us ample power and authority to restore this Union upon a basis of loyalty and enduring peace, and required us to extend to the loyal people in the rebel States full protection to person and property. And have we discharged this duty? On the contrary, do we not propose by this bill to indirectly acknowledge the existence of the rebel State governments in the rebel States, to surrender our friends there to the tender mercies of rebel rule, to bow down to the dust the Union soldier and place upon his neck the heel of the rebel he helped to conquer on the field of battle, there to remain as long as the rebel is willing to forego representation here?

Do gentlemen suppose that these things will be tolerated? I tell you, no. The majority in Congress are required to take affirmative action. We have the power full and ample, and it is our duty to exercise it. We should by law confide the political power in the rebel States to loyal hands and to none other, and they should be protected in its exercise by the military power of the nation. The rebels should be disfranchised, and all loyal men in those States should be enfranchised by direct legislative action. Do these things, and you will meet the just expectations, and comply with the demands of the loyal people of the nation.

Gentlemen say this bill is the best that we can get. Then I prefer to take nothing, and will trust to another Congress to do something in the right direction. This is a retrograde movement and is in the interest of treason and rebellion, and I hope and trust it will get its *quietus* here, and let us trust to a Congress that not only knows what is right but has the courage to do it. I yield the remainder of my time to the gentleman from Massachusetts, [Mr. BANKS.]

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, with amendments, in which the concurrence of the House was requested, the bill of the House No. 904, making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1868, and for other purposes.

#### MILITARY ACADEMY APPROPRIATION BILL.

On motion of Mr. STEVENS, by unanimous

consent, the amendments of the Senate to the bill of the House making appropriations for the support of the Military Academy for the year ending June 30, 1868, were referred to the Committee on Appropriations.

#### DIPLOMATIC APPROPRIATION BILL.

On motion of Mr. STEVENS, by unanimous consent, the amendments of the Senate to the bill of the House making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1868, and for other purposes, were referred to the Committee on Appropriations.

#### GOVERNMENT OF INSURRECTIONARY STATES.

Mr. BANKS. Mr. Speaker, I will state in a few words the reasons for my vote in support of the motion of the gentleman from Pennsylvania [Mr. STEVENS] to non-concur in the amendment of the Senate. This bill declares the governments in what are called the rebel States are not legal governments. It is undoubtedly true they are not legal. They have not been recognized by the Government of the United States, but nevertheless they are *de facto* governments. They are governments in fact of great power, controlled by the most astute politicians this continent has known. These governments by this bill are recognized or are to be recognized. The second section declares the military officers shall recognize the legal tribunals. It uses the word may, but it is to be interpreted that they shall recognize, or if they do not they are to establish tribunals of their own.

The fifth section, which comes in the form of the amendment, speaks of a class that are to be disfranchised because they are felons at common law. Who makes felons at common law? The governments in authority in these rebel States.

Mr. BINGHAM. The governments of the rebel States cannot make a man a felon by statute who is not such at common law.

Mr. BANKS. They are to make felons at common law. Let the gentleman from Ohio tell me who are to make felons in these States at common law if not these *de facto* governments? This bill recognizes these as *de facto* governments.

Mr. BINGHAM rose.

Mr. BANKS. I cannot yield, as I have only three minutes.

Mr. BINGHAM. Does the gentleman say he objects to the disfranchisement of any man after conviction of felony at common law?

Mr. BANKS. I do not object; but I do object to the recognition of these *de facto* governments by these express terms.

Mr. BINGHAM rose.

Mr. BANKS. I cannot yield to the gentleman, who has had full time, while I am limited to only three minutes.

These are *de facto* governments. They are recognized in the third section by the military tribunals and in the fifth by express language. Let me ask what are these *de facto* governments, and I ask the attention of gentlemen to what I have to say. What are these *de facto* governments? A provisional governor, appointed by the President—one of them at least, and I think more than one—informed him that they had appointed four thousand officers to administer the government in one of those States. If that be true in one State, it is doubtless true in others; and thus there are forty thousand officers administering these *de facto* governments in these States. And who are they? All rebels, every man of them.

Mr. BLAINE. Did one of them hold office?

The SPEAKER. The gentleman declines to be interrupted.

Mr. BANKS. And now what do we propose to do? We propose by statute to return the initiation of civil government to these *de facto* governments that are in the hands of at least forty thousand rebels. Will any man pretend to say that if the loyal men held these offices they could not organize loyal governments? And who will say that the forty thou-

sand rebels in power will not organize rebel governments? Sir, if this bill be passed, in my belief there will be no loyal party known, and no loyal voice heard in any of these States from Virginia to Texas.

The constitutional amendment has been spoken of. It was indorsed by the people. It declared two things—that the rebels shall not have a voice, and by implication that they shall not vote. We by statute enforce these two things that are prohibited by the constitutional amendment. We give them the right to hold office, we recognize them when in office, and we enfranchise every man of them for the purpose of establishing a government.

I object to the military feature of the bill as well. There is not a man in this country who can claim the right on the part of rebels to initiate measures for the organization of these governments. Everybody will admit that they ought not to initiate them, and yet this measure confers upon them the power and recognizes their right to do so. Every man in favor of civilized institutions will concede that the military tribunals ought not to be established for the purpose of initiating or controlling civil government. If we want martial law we may accord it, but in this bill we propose to recognize the military tribunal as superior to the civil tribunal.

[Here the hammer fell.]

Mr. HILL. If anything were necessary to show gentlemen that it is impossible to obtain by legislation all that we may desire, the history of this bill will certainly demonstrate that fact. Almost on the first day of this Congress a committee was appointed called the Reconstruction Committee, to which, under the resolution of the House, were to be referred all propositions brought before this body relating to the reestablishment of relations between the rebellious States and the General Government. To that committee every proposition of this nature has been sent. After long and laborious investigations they reported a bill at the close of the last session. That bill was on the Calendar during the first part of this session. A substitute was offered by the chairman of the committee, which, after much consideration and numerous modifications by its author, was recommitted to them, and out of that has grown the proposition which we to-day are considering. And now, after the most mature and profound deliberation ever bestowed by any Congress upon any question, almost at the last day of the session we are called upon to decide whether we will accept the proposition that is before us or go home to our constituents, having done nothing.

Now, sir, I prefer the proposition under consideration to none at all. I would rather take this proposition than confess that we are unable to adopt any measure whatever. I do not pretend to say that in all respects it is exactly the thing I would desire. If I could have my own individual notions carried out in this matter I would incorporate, as a condition upon which persons should vote for delegates to the convention that is to frame the constitution and for its ratification, the same qualifications that were prescribed by the third section of the fourteenth article of the constitutional amendment, which is as follows:

"SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability."

But we must yield our individual preferences, we must take what the majority of the House can agree upon, and as this matter has been considered during both sessions of Congress and by members of both Houses, has been before able committees, and as a last resort this measure is now before us as the result of all these deliberations, I regard it as better

to take the proposition we now have than to take the chances of a total failure by insisting upon incorporating a provision which would disfranchise a portion of the rebels, at least the leading portion who have done us the most harm.

But it is contended that under this bill the rebel leaders will have control and authority. It provides as follows:

SEC. 5. And be it further enacted, That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the persons who may vote upon the ratification or rejection thereof as hereinafter provided, and when said constitution so framed shall have been ratified by a majority of the male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition of servitude, who have been resident in said State for one year previous to the day of voting on the question of ratifying such constitution, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated, and shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State, by a vote of its Legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-Ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this bill shall be inoperative in said State.

Sir, can we not trust this Congress? Have we no faith in the Thirty-Ninth Congress, and shall we say to the Fortieth Congress that they are not equally entitled to the confidence of the people? Is there any danger that they will betray their constituency? I am willing to trust them as the people have trusted us.

Now, sir, we incorporate in the organic law of the land a provision that forever prohibits the specified classes from holding office unless two thirds of Congress shall relieve them from that disability. We require them to adopt that constitutional amendment. While it is true we permit them to vote upon these propositions, while we allow them to vote for delegates that are to frame their State constitutions, we require them to frame those constitutions so as to secure certain rights and immunities to their citizens and to perform certain conditions which shall be acceptable to some Congress that shall meet hereafter. Are we not safe in leaving it to a future Congress to determine when these conditions are complied with?

Sir, under the very provisions of the section above quoted the Fortieth Congress may in the first week of its session disfranchise by law, if we have the power to do it now, every rebel in the disloyal States or any portion of them which it may choose, and provide that in carrying out the provisions of this bill only such persons as it shall prescribe shall participate. This power is significantly retained in the following clause of the section above quoted, namely, "Except such as may be disfranchised for participation in the rebellion," &c. Let us not refuse to take this step, because the next one, so immediately within our reach, is not also to be taken now.

More than all this: we lay the strong hand of military power upon these spurious State governments that have usurped powers and established themselves in violation of law. We sweep away by military power the governments that have been created by executive authority without the sanction of law, and which can have no validity unless recognized by the Congress of the United States. The grand question is between permitting the Executive on the one hand to assume this authority, bring these governments into existence and perpetuate them indefinitely; and on the other hand, asserting the right of the legislative department to exercise control and authority and determine when and how these States shall be restored to their constitutional relations.

It is too late now to say that these States are in all respects upon an equality with the loyal

States of this Union. That question certainly has been decided in the negative by every department of the Government. The President of the United States has so decided, the judiciary have substantially so decided, and the majorities in both Houses of Congress have uniformly refused to recognize their claims by refusing admission to their representatives here.

Then if they are not States in the Union now, entitled to all the rights of States, to whom does it belong to say how these rights shall be restored? This bill properly says it belongs to the legislative department of the Government. That is a most important principle asserted, and a most important step gained. Congress fixes the terms and prescribes the conditions, even though those conditions may not in all respects be entirely satisfactory to a single man upon this floor. Shall we for ever disfranchise all the people in these several States? What will then constitute your State if all the people in it are disfranchised? Shall we disfranchise every man who has been in rebellion? Where would be the remaining people by whom to found your State? With every man who has voluntarily participated in the rebellion disfranchised, there would not be a corporal's guard of white men in each State out of which you could frame the machinery for carrying on the government of the State and holding relations to the Government of the United States. While you thus, by such indiscriminate disfranchisement, create an element there, large, powerful, and ready enough at any moment with the weight and pressure of your Government as an excuse to resist all your efforts to crush this rebel power and establish a loyal government. Sir, while I would disfranchise leading men who brought about and maintained the struggle to overthrow this Government, I would say to the masses of the people, "We welcome you back to your allegiance to the Government; only do works meet for repentance and we will extend to you the right hand of fellowship."

Now, Mr. Speaker, these objects are all gained substantially by the provisions of this bill. The military power is placed there in absolute control. It can lay its strong hand upon the pretended State government or on any officers at any moment and set the whole authority of the State aside. But it is said the President holds the power. Sir, I am glad the Senate made that change. I am opposed to doing anything directly or indirectly against his prerogative in this particular. He is Commander-in-Chief of the Army. If he sees fit to order an officer to any particular locality or service, that officer must obey; and I contend that it is utterly useless to vest the power in the General of the Army that was undertaken to be so vested by the bill as it passed the House. That was a feature to which I was opposed. The President, under the Constitution, is superior to the General of your Army, and if an issue is to be had it only necessitates either a collision between the President and the General, or between the General and the Congress of the United States, which is certainly not now to be coveted.

Now, sir, this bill as it comes to us from the Senate obviates that objection. Instead of being purely and simply a military bill, it now carries to the people of the South the terms and conditions upon which their civil rights may be restored to them and they be once again under the protection of the Government of the United States, to assert and exercise all their rights.

As there are many gentlemen who desire to be heard upon this question, I have arranged to yield the remainder of my time to my colleague, [Mr. NIBLACK.]

Mr. NIBLACK. How much time will that be for me, Mr. Speaker?

The SPEAKER. The gentleman [Mr. HILL] has four minutes of his time remaining.

Mr. NIBLACK. I can scarcely say anything in the form of an argument in the short space of four minutes. As I had an opportunity of discussing this bill when it was first introduced it is not necessary for me now to pass

over the argument I then submitted to the House; I stand by all I then said. All I have since seen and heard in relation to the bill has but confirmed me in my opinion of it.

Viewing the bill from my stand-point, I confess that the bill has been much improved by the action of the Senate; but it still retains many of the first features to which I objected when it was before the House for discussion last week; and it is less consistent with any theory of our Government, in my opinion, than it was then. It is not now purely a military bill, nor is it properly a measure of civil administration. It is a most extraordinary attempt to blend the two principles together. It starts out with the assertion that there are no legal governments now existing in the lately rebellious States. But without making any provision by which the pretended governments, as they are claimed to be, which are now there are to be superseded by others, it leaves those States to continue without any legal governments.

Now, as I remarked the other day, when the bill was before the House, I think we ought to do one thing or the other. We ought either to recognize the validity of these State governments or we ought to come squarely up to the mark and take some step to supersede them by others. To leave the southern people in this position of suspense, without recognizing the validity of their governments in any respect, or providing means to secure them governments which we will recognize, is to leave them in a condition where they cannot tell what their rights are as expounded by the Congress of the United States.

This bill provides for a kind of military probation, to last we know not how long; to last until these people shall have reached a condition when they will be willing to accept any terms which the Congress of the United States may see fit to impose upon them; until they shall have become broken in spirit, as they are now broken down in many other respects. This bill ignores utterly that theory of American Government which was once held by all parties, and up to a very recent period; the theory that whenever the people of any State come to act upon their own domestic institutions they are entitled to mold and form them according to their own will and pleasure. This bill ignores that theory of our Government, and, in fact, recognizes the new principle that the Congress of the United States may prescribe to the people of a State, or the people of a Territory about to become State, what constitution they may adopt, and what constitution they may not adopt for their form of State government. In effect a constitution is prescribed to the people of those States by the legislative action of the Congress of the United States. Therefore, viewing the subject from the most conservative stand-point, this is an overturning and destruction of everything which heretofore we have recognized as the rights of a State.

Mr. DAWES. Mr. Speaker, as I find myself differing from two of my colleagues, [Mr. BOUTWELL and Mr. BANKS,] who have addressed the House to-day upon this subject, and being compelled by my convictions of duty to vote to concur rather than to non-concur in the amendment proposed by the Senate to this bill, I ask the attention of the House for a few moments while I state briefly the reasons which have induced me to disagree with my colleagues upon this subject.

It is now nearly four years since a special committee was appointed by this House, charged with the special and sole duty of reconstruction; charged at the beginning of the Thirty-Eighth Congress with the performance of a duty which seemed to them and to our friends upon this side of the House to be so pressing as to require that it should take precedence of all other business before the House.

Sir, the Thirty-Eighth Congress, although a committee of signal ability and patriotism addressed itself to this subject, expired without the accomplishment of the purpose for which that committee was raised. The Thirty-

Ninth Congress signalized its entrance upon the discharge of its duties by adopting upon the first day of its session a resolution providing for the appointment of a joint committee of fifteen charged with a similar duty. And now, sir, though the last sands of that Congress are now running out nothing has yet been accomplished. Four years have thus been spent to no purpose in this work.

Sir, these committees have died of theories, and their works do follow them. I make no imputation upon their patriotism or their ability; but it seems to me that they have looked less at practical issues than at theoretical questions; have sacrificed the substance to shadows.

Mr. ROSS. I rise to a question of order. I desire to know whether the gentleman has the right to abuse the Committee on Reconstruction?

The SPEAKER. The Chair thinks that the gentleman has not transgressed the rules of debate.

Mr. DAWES. Mr. Speaker, I have no intention or disposition to abuse that committee. *De mortuis nil nisi bonum.*

As I was remarking, the last sands of this Congress are rapidly running out, and it admits of no doubt that we must take this bill or none. Members of that committee and others of our friends on this side of the House who are opposed to concurring with the Senate in this amendment do not pretend that there is the slightest probability that we can agree upon any other bill than this. The issue is between this bill and no bill. Hence, those who urge us to reject this amendment of the Senate are inviting us to close our career as a Congress, following the Thirty-Eighth in this regard, and say to the people of the country that we have lacked the capacity or the disposition to do the great work that they imposed upon us. My colleague who addressed us this morning, [Mr. BOUTWELL,] though for four years upon this committee, proposes to postpone action till the Fortieth Congress. My colleague who has just taken his seat [Mr. BANKS] proposes nothing, and votes against both the House and Senate propositions.

Sir, what are the objections to this bill in its present shape? Those objections come chiefly from members of the committee who have had this special work intrusted to them, and who have performed it, I doubt not, to the extent of their ability. Sir, the first objection which was raised by my colleague, [Mr. BOUTWELL,] was founded on the fact that the second section, as amended by the Senate, is different from its original, which I suppose was the work of his own hands; at least of his committee. He has urged us to reject this proposition because the second section has been so amended in the Senate as to repose in the President that power which, by the bill of the House, was reposed in the General of the Army. Yet, sir, when the original bill was under discussion here, it was, in reply to a question of mine, admitted upon this floor, and denied by no one, that the power placed in the hands of the General of the Army by the second section of the bill was virtually and legally, under the Constitution, reposed in the President, and could not be elsewhere. Sir, the second section of this bill, as amended by the Senate, is in its legal effect precisely the second section as it was sent to that body. It was not in our power, under the Constitution of the United States, to make the General of the Army superior to his Commander-in-Chief. No language which we might select could have the legal effect to do that. And, sir, the Senate has very properly put this section in a suitable form, corresponding with its necessary legal effect. This is all.

But my colleague [Mr. BANKS] who has just taken his seat objects that the third section of this bill recognizes the existing local governments. Yet my colleague opposed the whole bill as passed by this House and voted against it. He now presents, as a ground for non-concurring with the Senate, the precise language

which was in the bill originally. A vote to non-concur cannot change that phraseology, for it is in both bills alike. But my colleague, as another ground of objection, says that the bill in its present form proposes to qualify for office all the men whom by the constitutional amendment we propose to disqualify. Now, sir, what is the constitutional amendment in this regard? The third section provides that—

"No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability."

All this body of men, all the State Legislature, all the judiciary, all the executive department of each one of these States this amendment to the Constitution disqualifies forever from holding office until relieved by Congress by a two-thirds vote. Yet my colleague says we remove this disqualification if we pass this bill. This bill says when said article fourteen shall become a part of the Constitution of the United States said State shall become entitled to representation in Congress. It is provided that that shall be a part of the Constitution of the United States, and yet my colleague says by a statute we are going to do away with that which is first to become a part of the Constitution of the United States. It is the first time I ever heard that by a statute we could repeal and annul a part of the Constitution of the United States. This is what will become of the army of four thousand office-holders; every one disqualified by the Constitution, not by statute. It comes to this: whether we shall give protection by the military arm to the people of ten States; whether the horrors of rebellion, so fully and so truthfully depicted to us by my learned friend from Ohio, [Mr. SHELLABARGER,] who now sits before me; whether we shall turn away and revel in misty theories with which we have been afflicted for the past four years, or take this bill which carries the military power of this Government into those States and plants it there for the protection of those who have hitherto been unprotected; also, whether there shall be carried the olive branch with us, whether there shall be opened the way of deliverance from military power, or, sir, whether we shall do nothing at all. It comes to this; there is no other alternative; this or none. An appeal is made to this Congress to let these men go unprotected by the military or any other arm; that we shall turn a deaf ear to their cries, and turn our backs upon them.

For one I have waited long and patiently; I have labored not only to agree with this committee, but with its illustrious predecessor in the Thirty-Eighth Congress. I have waited and this last bill has been brought to me. I am left with the alternative to vote for this bill or to vote for none. For one, as a Representative from Massachusetts, I cannot go home to my constituents and say to them, rather than extend the military arm to this people, and say at the same time they may if they choose relieve themselves from it by giving suffrage to the black and adopting a republican form of government securing this, you shall go unprotected; you all shall be at the mercy of rebels whose red right arm is dripping with blood of the innocent and the loyal; I would rather vote for this with all the criticism we have heard against it. Not everything I want, but all I can get.

Mr. ROSS. I regret, Mr. Speaker, in time so limited we have to discuss a measure of so much importance as the one now pending. Instead of calm and dispassionate consideration we have to compress ourselves within the narrow compass of a few words. It should, sir, command the scrutiny and deliberation of this body for weeks instead of only for a few hours.



The reason assigned for the extraordinary measure now attempted to be passed upon the courts is that persons and property are not secure within the jurisdiction of the United States. This may in some degree be true, but I trust not to the extent stated by gentlemen upon this floor. Civil war will necessarily draw along in its train many evils. Disorganization and confusion and crime will to some extent exist. Nor is this confined to the southern States. Cast your eyes over every State in the Union, you will find our penitentiaries and our jails crowded. It is not an exceptional case with reference to the southern States.

We should approach the question of establishing and inaugurating military governments within one third of the Union, over eight or ten million people, with great caution and circumspection. I warn honorable members that the people of this country are not prepared to adopt and indorse the extraordinary measure now being pressed upon the consideration of Congress. For my part I am willing to go to the utmost verge of the Constitution to protect the rights of person and property, to protect the lives of all our people within our broad national domain; but, sir, I am not willing to violate the Constitution of my country, which I have sworn to support and maintain.

I am not willing, sir, to inaugurate a system repugnant to American institutions and pregnant with danger to the perpetuity of the Government of the United States. What is the relief that is anticipated from this extraordinary measure? We are told that it is essential to the security of person and property in the insurgent States that we should have military law, that the civil tribunals should be subject to the military authorities.

Why, sir, this is the same story which we were told in the Thirty-Eighth Congress. Measures were then inaugurated in the Freedmen's Bureau and civil rights bills by which we were told that these important ends were to be attained. Now we are told that we must have an additional bill for the attainment of the same ends. I ask gentlemen to say if those measures which they have already inaugurated have proved inefficient for the purpose contemplated, what assurance have they that this additional one will prove more efficient?

They tell us that the desired ends can be secured by creating five military districts in the ten lately insurgent States, and by authorizing and requiring the President of the United States to assign five generals to take command in those districts, with as many troops as he may deem necessary; but they tell us also that the President has failed to execute the Freedmen's Bureau bill and the civil rights bill, and yet they now propose to enact an analogous law, the execution of which will be wholly within the control of the Executive. I suppose the reason why gentlemen on that side of the House are willing to intrust this extraordinary power to the hands of the Executive of the nation is because he is their President, and therefore they have unbounded confidence that he will prudently and judiciously exercise the powers they place at his disposal. For myself, I have as much confidence in the present Executive as I ever could have in an Executive belonging to the party to which I do not belong and under their influence; but even if the President were of my own choice I know of no man in whom I could have such unlimited confidence as to make me willing to place the property, liberties, and lives of eight million Americans at the mercy of his *ipse dixit*. I would never do it.

It has been charged by some gentlemen upon the other side of the House that the President has not carried out in good faith the laws of this character already passed by Congress. Now, what remedy do they propose? To diminish his power? No, but to increase it by a solemn act of Congress authorizing him to divide the southern States into five military districts, and giving him power, if he cares to use it, to assign the entire Army of the United States to ser-

vice in those districts. I have confidence that the President is true to our institutions and to the country; but, supposing the theory which prevails on the other side of the House to be true—that he is not faithful to his high trust—I ask these gentlemen are you not endangering the perpetuity of the Government under which we live by placing such extraordinary powers in the hands of this one man, by whom they may be wielded either for the weal or for the woe of our common country?

Judging from the ordinary course of human actions and events, it is to be supposed that Andrew Johnson in assigning military men to take charge of those military districts which you propose to create will choose men who are favorable to him in political sentiment; and then what will be the result? You want to protect the freedmen and the southern loyalists; but suppose the military officer that is assigned to command in any one of these districts should take sides against you. How, then, will you give these classes protection? Suppose that the civil tribunals which these military officers are authorized to permit to exist should take a notion to disqualify every individual who has been in the Union Army, or who has sympathized with the cause of the Union, what can you do? Your hands will be tied by your own bill, and you and those whom you profess to protect will be at the mercy of military commanders, some of whom at least are as likely to be against you as for you.

I tell you that when you inaugurate this system you strike down the great fundamental principle of civil Government. I have hoped that the extraordinary difficulties through which this nation has been for some time passing, might soon come to an end; but such laws as this which you now propose to enact only tend to increase them and to make them perpetual.

I am not one of those who believe that all wisdom will die with the Thirty-Ninth Congress. In a few days a new Congress is to be inaugurated here. This question of reconstruction has been a long time before the country; and if this measure indicates the way in which you are going to settle it, no interest will suffer by the further postponement of that settlement.

I have been pained and mortified to hear the attacks that have been made here upon the Reconstruction Committee, a committee which has stood at the head and front of this House for the last four years, and now none so poor as to do them reverence. [Laughter.] Gentlemen seem to emulate each other in abusing that distinguished committee; and I greatly fear that there is growing up among gentlemen on the opposite side a feeling of jealousy toward this committee and a desire to overthrow it and usurp its powers and authority. [Laughter.]

We are told that the constitutional amendment is here again offered to the southern States. Gentlemen know that they have already rejected that amendment; therefore why repeat the offer? You can gain nothing in that way. But I will point out to you in a sentence the straight road to reunion, harmony, and peace. It is by going back to the Constitution as our fathers made it, and only using the military power when necessary to enforce the civil law. That is the theory and practice, and the only theory and practice, upon which this Government can be administered. That is the straight road; all other ways are by-ways.

I have listened attentively to the arguments that have been adduced by gentlemen on the other side of the House against the adoption of this measure, and candor compels me to say that those arguments have carried conviction to my own mind, and that I am satisfied that the bill is fraught with evil, and evil only, to the best interests of the country. I am therefore happy to be able to join hands with the patriotic and honorable men on the other side in casting aside and trampling under foot this nefarious measure. Every provision of the bill is bad. It gives to the President an amount of power that should never be intrusted

to the hands of any one man. Wherever it goes into operation it entirely abrogates civil government, and places the property, the liberty, and the lives of the community at the disposal of an irresponsible military chieftain. I think that your southern friends, the "southern loyalists," as you term them, will pray God to deliver them from their friends if this is the "relief" that you propose to give them—placing them under military rule, and, if the military chieftain pleases, under hostile civil rule also, because, as I have already said, he may choose to take sides against you, and to say to the existing civil tribunals at the South, "Go on with your government; go on with your administration of law!"

[Here the hammer fell.]

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill to regulate the tenure of certain civil offices.

#### GOVERNMENT OF INSURRECTIONARY STATES.

Mr. McRUER. I do not belong to that party which desires no military government for the rebel States; nor do I belong to that party which apparently desires nothing else than military governments for those States.

Sir, I voted for this military bill when it passed the House; but I did so with many misgivings. I sought to amend it ere it left here by an amendment substantially the same as this which comes from the Senate; and now, sir, I shall support this amendment, not because it is "better than nothing," but because it commends itself to my judgment as a good, sound, and proper measure for the reconstruction of those States. In my humble opinion, this is just such a measure as the Thirty-Ninth Congress should have enacted ere it had been one week in these Halls. I have always asserted that it was the duty of this Congress to place on record its *ultimatum* to those southern States, to say to them, "When you conform to certain conditions," (I care not how stringent or severe,) "when you present yourselves in an attitude of loyalty, when you do that which we require you to do, then, and not till then, shall you be permitted to participate in the political management of this country." But the Reconstruction Committee sat six or seven months, and at the end of that time brought in a measure which I supposed, and which they themselves supposed, was to be the basis of this settlement; and I think it is at least disingenuous for gentlemen to come forward now and say that it never was considered as a basis of settlement. In my opinion, if those States had ratified that amendment and conformed to it in every particular, when this Congress reassembled for this session, their Representatives would have been admitted to this floor by the emphatic command of the nation. But they rejected the amendment and now we are no longer held to those conditions.

Gentlemen here are appealing to party feeling, saying, "We have the power now in this Congress and in the next; let us use it." I beg leave to remind gentlemen that we have been invested with this power by this mighty nation only that we use it wisely and for the best interests of the whole country.

Now, sir, this amendment of the Senate meets with my hearty, with my cordial approbation. I voted for the military bill of the joint Committee on Reconstruction in the hope and trust that it would not be passed by the Senate ere they had attached to it some conditions by conforming to which the southern States could reorganize and reconstruct themselves.

I think that we have made this mistake in regard to this question of reconstruction: that we ourselves could and should reconstruct these southern States. Sir, they must reconstruct themselves; they must work out their own salvation. And what do we propose to do by this

bill as it comes to us from the Senate? To invest rebels with power? Not so; but to dissolve the State governments now in existence there; to resolve society into its first elements. We say to their people, without regard to race, without regard to condition, reorganize yourselves, come to Congress with a constitution which shall provide that the elective franchise shall be exercised by all male citizens within your borders of the age of twenty-one years, and upward, which constitution shall also be acceptable to the Congress of the United States in every other particular, and then, and not before, you may be again admitted into the fellowship of States.

In that respect we reserve to ourselves the exercise of a wide discretion. If they bring us a constitution which is not acceptable in every respect, that is one which we feel we cannot safely accept, having due regard to the interest of the whole country, then we will tell them to return and form a constitution that will be acceptable to us. We propose here that the rebels themselves shall throw the dice which we have loaded. We propose that when they shall come in an attitude which appears to us to evince sincere loyalty we will admit them again to a participation in the government of the country.

Now, I have got to hear any man assert that we expect for an indefinite period of time to deny to these rebels any right to the elective franchise or to a participation in the Government. And when shall they again be admitted to exercise those rights? When they present themselves in a loyal attitude. And should we desire to have that period far removed? For one I prefer that it shall come within three months rather than be postponed for three years longer. And although we cannot forget personal resentments, although we cannot forget the great wrongs which have been committed, we must not take vengeance into our own hands. We must alone regard what the best interests of the whole country require in relation to its trade, its commerce, its every industrial pursuit. We must recollect that time alone can efface the impressions and passions that actuate us as well as them.

I hope this amendment of the Senate will be concurred in by the House; I hope the bill as amended will be signed by the President, and I hope that the people of the southern States will hasten to bring forward constitutions which shall be acceptable to Congress. I trust that ere the last of the columns of this Capitol shall be elevated to their places these States one by one will have their Representatives upon this floor, and that this nation will again resume its rounded and perfect form. And then our flag shall represent on every sea and everywhere a reunited nation, powerful, great, to be feared, and to be respected.

I now yield the remainder of my time to the gentleman from Oregon, [Mr. HENDERSON.]

Mr. HENDERSON. How much time is there left for me?

The SPEAKER. Four minutes.

Mr. HENDERSON. That is about as much as I shall need for what I have to say.

I am very sorry, Mr. Speaker, that the measure now under consideration is one that I cannot consistently vote for and approve. I had intended to vote for the amendment of the Senate, until it was laid upon my desk in a printed form. But upon examination I found that it proposes, not only that the loyal men in these southern States shall take part in the reorganization of those States, but that the disloyal shall enjoy equal privileges with the loyal. It not only proposes that the disloyal shall have the right to vote, but to control the elections; and not only to vote for delegates to conventions to frame new constitutions of State government, but it proposes that disloyal men may themselves be elected delegates to those conventions.

And in my imagination I see such men as Lee and Beauregard and Semmes and Quantrell and all such characters sitting in the conventions which are to form constitutions under

which loyal men are to live. When I look at the subject in this light I recoil from supporting this bill in its present shape. The glorious young State that I have the honor to represent on this floor expects this Congress to place the reconstruction of those governments in the hands of loyal men, not in the hands of those rebel leaders who have brought suffering and ruin and death upon our land. In obedience to what I believe to be the will of the loyal men of the State of Oregon, I feel bound to cast my vote against any bill which authorizes the rebel leaders to form constitutions and governments under which loyal men are to live. Taking this view of the subject, I shall with a hearty good will vote to non-concur in the amendment of the Senate.

Mr. MILLER. Mr. Speaker, I shall detain the House with but a few remarks on this bill. The Thirty-Ninth Congress is now fast drawing to a close. If anything is to be done by this Congress toward providing for the government of the States that have engaged in the rebellion it is time that decisive action should be taken. I do not concur in the opinion expressed by some of the gentlemen who have preceded me, that the Committee on Reconstruction has done nothing practical on this subject. That committee has done good work. It reported at the last session a constitutional amendment, which was adopted by more than two thirds of both Houses of Congress and submitted to the people. The people have declared that that amendment is right and what the country demands. It was on that constitutional amendment the Union party went before the people in the State which I have the honor to represent in part on this floor. The result is that while in this Congress the Representatives from that State stand sixteen Union men to eight Democrats, we shall in the next Congress stand eighteen Union men to six Democrats. Our success at the election was based mainly upon that constitutional amendment.

Now, Mr. Speaker, this House has passed what has been called the "military bill." I will not undertake now to discuss the merits of that bill, because I have given my views upon this subject on a former occasion. The bill which has been returned to us by the Senate, passing that body by a vote of 29 to 10, is a bill somewhat similar to that which was passed by this House, with the exception of the fifth section, which was added in the Senate. But one objection which is strongly urged to this bill as it comes from the Senate is founded upon the fifth section. Now, sir, I do not appreciate the force of the objections which have been urged against that section by some gentlemen on this side of the House. That section is as follows:

That when the people of any one of the said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law; and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates; and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same; and when said State, by a vote of its Legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State.

Now, sir, this section provides that the people shall assemble together and call a convention to frame a constitution. The black man as well as the white man is to have a voice in the formation of that convention; and when a constitution has been formed, black and white

alike have the right to vote upon the question of its adoption. After that, this constitution is to be submitted to Congress. If such a constitution be submitted to the Fortieth Congress have we any right to presume that that Congress will not scan it and give it a thorough examination? If it be shown that the constitution submitted was gotten up fraudulently, that it was concocted by rebels, by such leaders as attended the 14th of August pad-lock convention at Philadelphia, the Fortieth Congress will doubtless reject it. That Congress will be politically as strong as, if not stronger than, that of the Thirty-Ninth; and I trust that the Fortieth Congress will find no weak-kneed men on this side of the House.

When that constitution is presented, if it is in accordance with the Constitution of the United States and if said States ratify the constitutional amendment and send loyal Senators and Representatives who can take the oath prescribed by the law, we should admit them.

This is a question which must be met some time, and why put it off? We are as well prepared to-day to meet it as the next Congress will be, or we will be any time hereafter.

It is evident that the courts in those States do not afford sufficient protection to life and property. They have not returned to full obedience and loyalty to the General Government. They need some higher law, that is the military power, which is necessary for their protection, and that protection this bill affords.

But by this bill we say something more. We give these States another opportunity. We say to them we are going to govern you by martial law; but we will say if you will form a proper constitution, allow colored as well as white people the right to vote on its adoption, and make such laws as will conform therewith, so as to protect all classes and adopt the constitutional amendment known as article fourteen, then you will be again admitted to representation and not before. I may say that constitutional amendment is the only safeguard we have. Gentlemen upon this floor may talk of forming a constitution in the South without the ratification of the constitutional amendment. If we do that, how soon will those States abide with us? Let the constitutional amendment be adopted and ratified and we have a guarantee against rebels holding office except by a two-thirds vote of Congress.

We also have in that amendment a guarantee against the rebel debt amounting to over \$2,500,000,000, of which \$500,000,000 is held in Europe. I tell you if the constitutional amendment is not adopted by which that enormous debt is repudiated, you will soon have application made to Congress for its payment. You will find lobbyists here, agents for these Europeans, who hold \$500,000,000 of the rebel debt, pressing its payment and holding out glittering offers. I do not want that any men here should be compelled to undergo such temptation. I want the constitutional amendment adopted, and then the country is safe.

I am for the passage of the bill sent to us from the Senate. They have in substance adopted the bill of the House with the addition of the fifth section added. That learned body passed that, and it came to us. They passed it by a large majority. The question now is whether we will agree to the Senate amendment or non-concur and send the whole subject to a committee of conference. Send it to such committee and it is dead. To-morrow is the last day we have to pass this measure, so that in case of a veto or the neglect of the President to sign it we can pass it over the veto, or it is allowed to become a law by that neglect of the President. If we do not pass it by to-morrow, then the President can pocket it and prevent its becoming a law.

Mr. WILLIAMS. The gentleman says the President may pocket this bill within ten days of the close of this session. I wish to know if there is anything in the Constitution of the United States to authorize such action. It reads in this wise, that the bill shall become a law if not returned by the President within ten

days (Sundays excepted) after it shall have been presented to him, unless Congress, by its adjournment, prevent its return, in which case it shall not be a law. Here Congress does not adjourn. I say there is an exception in this case. The new Congress assembles the same day this one adjourns, and he may return it to that body.

Mr. BINGHAM. I desire to suggest to the honorable gentleman from Pennsylvania there is another provision in the Constitution which he overlooks: that the President shall return it to the House in which it originated. This bill originated in this House, and this House ceases to exist at noon on the 4th of March next. The gentleman will see the next House, meeting on the 4th of March, may not organize for four weeks.

Mr. WILLIAMS. I should like to be heard a moment in reply. It says it shall be returned to the House, that is, to the branch of Congress in which it originated. Now, there is no *interregnum* in Congress; Congress never dies.

Mr. BINGHAM. As I have already suggested, there was an *interregnum* in the Thirty-Fourth Congress for eight weeks.

Mr. WILLIAMS. It was in *posse*.

Mr. BINGHAM. How could the President send a bill to a House of Representatives in *posse*?

Mr. WILLIAMS. I differ with my learned colleague. If the bill goes over, and the President pockets it, then at the next Congress we must begin *de novo*.

Mr. MILLER resumed: Mr. Speaker, my colleague [Mr. WILLIAMS] is mistaken. It has been the practice and opinion of the ablest statesmen that Congress expires on the 4th of March, at twelve o'clock m., and that the President cannot under the Constitution return bills to the next Congress; thus the importance of immediate action on the bill under consideration to concurring in the Senate amendment. [Here the hammer fell.]

Mr. FINCK. Mr. Speaker, I rise to say in the fifteen minutes allotted to me under the rules of this debate, a few words upon the important question now under consideration. I regret exceedingly that a question of such grave import to the country should be disposed of in two or three hours' discussion. No one is more desirous than myself to see harmony restored to every section of the country and all the States once more reassembled in this Hall in deliberation under the Constitution. I have carefully examined and considered the provisions of this bill, and I cannot bring my mind to consent to its adoption. It is less objectionable, it is true, than the bill which was passed last week by this House, introduced by the chairman of the Committee on Reconstruction; but, like that measure, it is a bill in palpable violation, in my judgment, of the plainest provisions of the Constitution of the United States.

Under what clause in the Constitution is it proposed to be adopted? By what authority do you propose to inaugurate this system of military governments in these ten States? These States are by the bill styled rebel States, and it proposes to parcel them out into military districts. There is nothing, however, in the language of the bill which implies that they are not States within the Union; but it declares in the preamble that no legal State governments or adequate protection for life or property now exist in those States. Well, sir, in my judgment we have no evidence before us to sustain these declarations. I ask gentlemen who are in favor of this bill to show that there does not exist governments republican in form in each of these ten States. There can be no question that each one of them have republican forms of government. Under what clause of the Constitution, then, do you propose to invade these States by military power and subvert their local governments?

Section five provides that when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all

respects, framed by a convention of delegates elected by the persons who may vote upon the ratification or rejection thereof as hereinafter provided, and when said constitution so framed shall have been ratified by a majority of the male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition of servitude, who have been resident in said State for one year previous to the day of voting on the question of ratifying such constitution, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the proper qualifications herein stated, and shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State, by a vote of its Legislature, elected under said constitution, shall have adopted the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this bill shall be inoperative in said State.

This, then, is your proposition. You go to the people of these ten States with the bayonet in one hand and your proposed constitutional amendment in the other, and ask them to make their choice—the amendment with negro suffrage or the bayonet and the sword and military government. That is, you propose to coerce by military power the people of these States into a ratification of your constitutional amendment and negro suffrage. If these are not States in the Union why do you ask them to ratify the constitutional amendment? None but States can ratify amendments to the Constitution. And if they are States in the Union, then, like all the other States, they should be left free to act upon these proposed amendments. If I am not mistaken the State of Massachusetts has not yet ratified the amendment, and you have just as much authority to send the Army into that State and compel the people of Massachusetts to ratify the constitutional amendment as you have to send it into Virginia to compel that State to do so.

My colleague [Mr. DELANO] speaks of the nation's will, and admonishes us that it must be obeyed. Sir, I have the highest regard for the nation's will, and propose to obey it. But let me inquire what is the nation's will? Sir, it speaks by no uncertain voice or vague clamor. It has been expressed in a language which neither my colleague nor myself can safely disregard.

That will, sir, is not found in partisan declamation or political expedients. No, sir; it has been expressed to us in the clear and distinct tones of the Constitution itself. That instrument, sir, embodies the will of this nation, and however eloquently gentlemen may declaim about the nation's will, I repeat it, that will is the Constitution, and until it shall be changed in the manner provided in the fundamental law it must be obeyed without hesitation.

Now, let me inquire, Mr. Speaker, under what clause in the will of the nation, as expressed to us in that Constitution, do you find warrant for legislation like this?

I deny that under this expression of the nation's will in the Constitution, you have any authority or power whatever to establish military governments in any of these States. You propose in this measure to strike down all the safeguards which belong to citizens of the United States. You propose to interfere with the rights of the people of those States to appeal to their local courts unless some military commander shall graciously allow it. You propose to deny to them the right of trial by jury and the privilege of the great writ of

*habeas corpus*. And all this you propose to do in palpable violation of the provisions of your Constitution. That Constitution provides that—

"No person shall be held to answer for a capital or otherwise infamous crime unless on a presentation or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger."

Now, in defiance of this provision, you declare by the third section of this bill:

That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose; and all interference under color of State authority with the exercise of military authority under this act shall be null and void.

I say, sir, that by the provisions of this third section you strike down the State governments in all these ten States, and you subject the people of these States to the arbitrary control of military commanders, who are to be appointed under this bill and to have this despotic jurisdiction.

Sir, is this in accordance with the great principles of our system of government which makes the military subordinate to the civil authority? More than this, the Constitution provides (article six of the Amendments) that—

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State or district wherein the crime shall have been committed."

But this bill provides that when, in the judgment of the military commander, it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and that all interference under color of State authority with the exercise of military authority under this act shall be null and void.

I ask gentlemen who support this bill where do you obtain authority to subject the people of nearly one third of the States of this Union to the control of military commissions or other military tribunals? Are we still in a State of war? Is there in either of these States invasion, rebellion, or insurrection? Not at all; no one pretends that there is. The complaint is, and that is the extent of it, that the tribunals already existing in those States do not administer justice fairly and speedily to some of their people; that certain persons in these States do not receive full and adequate protection in their courts and redress of their grievances. And do gentlemen claim that upon complaints of this nature they have a right to subvert State governments, to strike down all civil authority, and to establish military jurisdiction in its stead? I deny that Congress has any such authority. It is not conferred by the Constitution, and if you assume it and exercise it, you do so outside of that Constitution and in violation of its great principles, and you do it by the mere arbitrary exercise of the power which you find temporarily in your hands.

Mr. Speaker, there is no necessity for this kind of reconstruction. Congressional committees have been in existence for the last two or three years, and have from time to time reported propositions for the reconstruction of the governments of these States, yet they have accomplished nothing but to delay the restoration to these States of their just and constitutional relations with the Union. Gentlemen complain of the President's policy; but up to this time, now in the last days of the Thirty-Ninth Congress, they have utterly failed to present to the country any constitutional or satisfactory plan of reconstruction. Now, you offer this plan; and what is your proposition? It is to subvert civil governments in those States and to substitute in their stead military governments. Sir, this attempt at reconstruction, like all your former plans, will fail to restore harmony among the States.



This measure confesses before the American people and before the world, your failure to adopt any constitutional plan of reconstruction. This one is the most desperate of remedies, and one that is never resorted to by a free people, except in the expiring throes of their government, when the last expedient of subverting the civil by the military power is adopted. Sir, I trust we shall escape this humiliation and that this measure will be defeated.

It seems to me the path of duty is plain. Accord to the people of these States their plain constitutional rights; admit their Senators and Representatives who may be legally and constitutionally qualified; treat these people as American citizens; let the spirit of magnanimity and conciliation take the place of revenge, and true harmony will be restored; the great question of reconstruction solved, the bonds of the Union cemented, and we shall go forward as a great, free, and united people to that noble destiny which most assuredly awaits us if we shall be faithful to our system of Government.

[Here the hammer fell.]

Mr. COOK. Mr. Speaker, in separating as I must from some with whom I have uniformly acted in the House upon political questions, I desire to state in a word the reasons which induce me to vote to concur with the Senate in their amendment to this bill. It is evident to my mind that this is the only measure of reconstruction that can pass at this session, and the only alternatives presented to us are either to pass this bill, or so to be placed before the country, without any distinct policy or measure of reconstruction in opposition to that lately announced by the peculiar friends of the President. If we adopt this amendment, what do we get? First, we settle the question of the right of Congress to reconstruct the State governments which were destroyed by the rebellion, and we repudiate those governments that have been set up by the President, as we believe, by an usurpation of power dangerous to the liberties of the country if it shall be allowed to succeed and to pass into precedent.

The preamble of this bill declares that there are no legal governments in those States, and provides for the protection of the citizens in their persons and property by the military, and it is provided that all interference under color of State authority with the exercise of military authority under this act shall be null and void. It is said, I know, that this will be no protection, but the reasons urged for this opinion have failed to satisfy my judgment. What has been the reason that loyal men have not been protected in the southern States; was it the fault of Sheridan in New Orleans, or of General Sickles, in his department, or of General Thomas in his? Has not the testimony of those officers proved that it was the action of these pretended State governments which this bill sets aside that prevented efficient protection to loyal men by the military, recognized as these governments were by the President? I have not time to quote this testimony, but it is very apparent that if there had been no government in New Orleans but the military rule of General Sheridan there would have been no riot and no slaughter of loyal men. But it is said that the bill leaves the whole matter in the hands of the President. I answer, the Constitution makes the President Commander-in-Chief of the Army and Navy, and that we cannot change if we would. If we detail the officer the President will command him there. The President claims that State governments exist already in those States, and he remits the loyal men of those States to those governments for protection. If we make this bill a law, we take from him this plea. We make it his duty to protect the persons and property of the citizen by military power, and then if he fails to perform this solemn duty, if one loyal man shall fall a victim to rebel hate, and by his failure to act, punishment strict and stern shall not follow, then I for one will vote to impeach him and remove him from the office whose duties he will have failed to discharge. The

remedy is in our hands; we can protect loyal men by this bill.

This bill secures the great principle of universal manhood suffrage, the only foundation upon which republican governments can safely and justly rest. It for the first time makes real and practical the principle we have so long acknowledged in words, that governments derive their just powers from the consent of the governed. It is idle for us to enact in words that all men shall have the right to be heard in the formation of the laws of which they are to be governed, unless we sustain that enactment in those rebel States by military power. This bill does both. With the most solemn law that could be enacted a negro could not vote in the South except he was protected in his right by military power. This bill, if it becomes the basis of reconstruction, secures the adoption of the constitutional amendment, which has been decided to be essential and just by the people with such remarkable unanimity. Every principle embraced in the bill has been approved and indorsed by the people emphatically, except it be the principle of manhood suffrage, which they will indorse when the question is presented to them.

The only reason urged against this bill is that it does not, by congressional action, disfranchise all who have aided the rebellion. If there is in any State a majority of loyal men, white or black, they may limit the suffrage to suit themselves; if there is not, the question arises can we maintain republican governments in States in which a majority of the inhabitants are disfranchised? can we exclude from the ballot-box all the white men in South Carolina and Louisiana except the very few who were loyal, and place the State governments in the hands of the negroes alone? And what good end would be accomplished thereby? In a very few years the governments of those States would be controlled by those who, too young to take active part in the rebellion, could not be excluded from the ballot, but yet who, inheriting the feelings, opinions, and the natures of their parents, would be as disloyal as they. It is impossible permanently by mere legislation to keep the government of those States in the hands of loyal men; but then it is asked, Shall we abandon the loyal men and compel them to accept institutions to be framed for them by rebels which will be oppressive and will crush them out? By no means. We by this bill reserve the right in Congress to inspect the constitution that shall be formed and to see whether it duly secures the rights of loyal men; and we shall have the power to protect them. Can we not trust ourselves?

I am in favor of proposing some distinct plan of reconstruction which shall be just and which shall be an answer to those who have reproached us, that we have presented no plan by which the Union could be restored and the people again enjoy the right of self-government under the Constitution. But it is said by gentlemen upon the other side of the Chamber that this bill overturns State governments and sets up a military despotism. The conclusive answer is this: these governments are not loyal governments. They do not secure protection to loyal men. They are mere instruments in the hands of disloyal men to oppress those who have the strongest claims to protection at our hands. Loyal men are not protected in the rebel States to-day. The fact that a man is a loyal man is a reason why he is not secure in person or property. The duties of allegiance by the citizen and protection by the Government are reciprocal and coextensive. If we cannot protect loyal citizens of the United States in life and property, we have no right to claim their allegiance; if we have no right to protect the rights of loyal men except through State governments, then we have no right to claim their allegiance except through State governments; and the doctrine of State rights is established, which justified every man in becoming a traitor to the Union upon the call of his State. And however consistent gentlemen who denounced the

doctrine of coercing States may be in advocating this doctrine, it is impossible that those who believed in crushing the rebellion by military power can be influenced by such sophistry to such an extent as to fail to extend practical and efficient protection to the men who need that protection, only because they have been faithful to the Constitution and the Union.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I desire to state very briefly my views on reconstruction and the duty of Congress, and to explain some votes which, standing alone, are liable to be misunderstood. On the 13th of February the House had under consideration House bill No. 1143, to provide a more efficient government for the States lately in insurrection, reported by the gentleman from Pennsylvania, [Mr. STEVENS,] from the Reconstruction Committee, and which, as modified by him, was in these words:

That said late so-called confederate States shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

Sec. 2. And be it further enacted, That it shall be the duty of the General of the Army to assign to the command of each of said districts an officer of the regular Army not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

Sec. 3. And be it further enacted, That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose; anything in the constitution and laws of any of the so-called confederate States to the contrary notwithstanding; and all legislative or judicial proceedings or processes to prevent or control the proceedings of said military tribunals, and all interferences by said pretended State governments with the exercise of military authority under this act, shall be void and of no effect.

Sec. 4. And be it further enacted, That courts and judicial officers of the United States shall not issue writs of *habeas corpus* in behalf of persons in military custody, except in cases in which the person is held to answer only for a crime or crimes exclusively within the jurisdiction of the courts of the United States within said military districts and indictable therein, or unless some commissioned officer on duty in the district wherein the person is detained shall indorse upon said petition a statement certifying, upon honor, that he has knowledge or information as to the cause and circumstances of the alleged detention, and that he believes the same to be wrongful; and further, that he believes that the indorsed petition is proffered in good faith, and in furtherance of justice, and not to hinder or delay the punishment of crime. All persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted.

Sec. 5. And be it further enacted, That no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the Army shall not be affected by this act, except in so far as they conflict with its provisions.

The gentleman who reported the bill moved to recommit it to the Reconstruction Committee, not with a view to have the motion prevail, but for the purpose of preventing any amendment from being offered thereto, and then after discussion to have the motion voted down and a direct vote taken on the bill. Under the rules of the House no amendment could be offered, and the only way to secure any addition or modification was to move to recommit the bill to some committee, with instructions to report it back with an amendment. The Globe shows these proceedings:

"Mr. BLAINE. I move, then, that the bill be referred to the Committee on the Judiciary, with instructions to report [it] back immediately [with] the following [addition]:

"Sec. 6. And be it further enacted, That when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the United States; and when any one of the late so-called confederate States shall have given its assent to the same, and conformed its constitution and laws thereto in all respects; and when it shall have provided by its con-

stitution that the elective franchise shall be enjoyed by all male citizens of the United States, twenty-one years old and upward, without regard to race, color, or previous condition of servitude, except such as may be disfranchised for participating in the late rebellion or for felony at common law; and when said constitution shall have been submitted to the voters of said State as thus defined, for ratification or rejection; and when the constitution, if ratified by the vote of the people of said State, shall have been submitted to Congress for examination and approval, said State shall, if its constitution be approved by Congress, be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this bill shall be inoperative in said State."

In the discussion of this motion the Globe shows these remarks:

"Mr. STEVENS. For the last few months Congress has been sitting here, and while the South has been bleeding at every pore, Congress has done nothing to protect the loyal people there, white or black, either in their persons, in their liberty, or in their property." "The South is covered all over with anarchy and murder and rapine."

"The President has sought to establish what he says will effect the union of these States, if yielded to by Congress. The Congress has declared that the President has usurped powers which do not belong to him; that all that he has done is void in the face of the law; and that Congress alone has the power to protect these people and to create governments, and yet we sit by and move no hand, we sit by and raise no voice to effect what we declare to be the duty of Congress."

"We are asked by gentlemen why we who are upon the joint Committee on Reconstruction have not presented some plan [of reconstruction] upon which Congress could act."

"Now, it must be remembered that during this session of Congress we had no opportunity of acting until after the holidays, and since that time we have but little over a month. It must be remembered that when the holidays had passed and Congress had again assembled there was a plan, whether good or bad, presented to this House for consideration, upon which a debate of three weeks took place without any attempt to amend it."

I may here remark that a motion was made to recommit the reconstruction bill, to which reference is here made, to the Reconstruction Committee, which prevailed January 27, and it has not since been reported back.

I now continue to quote again from the Globe report of the remarks of the gentleman from Pennsylvania, [Mr. STEVENS,] not on his reconstruction bill, but a continuation of his remarks from which I have just quoted. He proceeded to say:

"I warned the House that if that bill should go back to the committee it must die. My vigorous friend from Ohio [Mr. BINGHAM] assured me that such would not be the effect, that the bill would come back here fresh and blooming in the course of a couple of days. Where is it now? Why have we not something in lieu of it that suits the gentleman? for I may say that this bill comes from that same committee, after careful examination, with the unanimous consent of every member of the committee belonging to this side of the House except one."

"It was not intended as a reconstruction bill. It was intended simply as a police bill, to protect the loyal men from anarchy and murder until this Congress, taking a little more time, can suit gentlemen in a bill for the admission of all those rebel States upon the basis of civil government."

"Mr. BROOMALL. If this bill is committed to the Committee on the Judiciary, and immediately reported back, as it will be, will it then be in order to move, as a substitute for the entire bill, the substance of the Louisiana bill applied to the rest of the States?"

"The SPEAKER. After it is committed to the Committee on the Judiciary, the chairman of that committee will report it back instantly under the instruction of the House; and then if the House does not close the debate by seconding the previous question that amendment will be in order."

"Mr. BROOMALL. Then I give notice that I will offer that amendment when I have the opportunity, should the motion to commit prevail."

"Mr. JULIAN. If the motion to commit the bill to the Judiciary Committee should be voted down, what would be the effect?"

"The SPEAKER. The previous question having been seconded and the main question ordered, if the motion to commit is voted down, the previous question will not be exhausted until the third reading of the bill."

"The question recurred upon the motion of Mr. BLAINE, to commit the bill to the Committee on the Judiciary, with certain instructions."

"The yeas and nays were ordered."

"The question was then taken on the motion to recommit to the Committee on the Judiciary with instructions, and there were—yeas 69, nays 94, not voting 27; as follows:

"YEAS—Messrs. Allison, Anderson, Delos R. Ashley, Baker, Baldwin, Benjamin, Bingham, Blaine, Blow, Broomall, Buckland, Bundy, Campbell, Cooper, Darling, Davis, Dawes, Deftrees, Delano, Deming, Dodge, Ferry, Garfield, Goodyear, Hawkins, Hill, Hise, Chester D. Hubbard, Edwin N. Hubbell, James R. Hub-

bell, Hulburd, Hunter, Jenckes, Kelso, Ketcham, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Leftwich, Marvin, McKee, McRuer, Morrill, Morris, Nicholson, Noel, Patterson, Phelps, Plants, Price, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Rousseau, Schenck, Sitgreaves, Stilwell, Strouse, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Warner, Whaley, James F. Wilson, and Woodbridge—69.

"NAYS—Messrs. Alley, Ancona, Arnell, James M. Ashley, Barker, Beaman, Bergen, Bidwell, Boutwell, Boyer, Bromwell, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Denison, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Farquhar, Finck, Glossbrenner, Grinnell, Aaron Harding, Abner C. Harding, Harris, Hayes, Henderson, Higby, Holmes, Hooper, John H. Hubbard, Humphrey, Ingersoll, Julian, Kelley, Kerr, Koontz, Le Blond, Loan, Longyear, Lynch, Marshall, Marston, Maynard, McClurg, Mercer, Miller, Moorhead, Moulton, Myers, Newell, Niblack, O'Neill, Orth, Paine, Perham, Pike, Radford, Ritter, Rogers, Rollins, Ross, Sawyer, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stokes, Taber, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, William B. Washburn, Welker, Wentworth, Williams, Stephen F. Wilson, and Windom—94.

"NOT VOTING—Messrs. Ames, Banks, Baxter, Brandegee, Conkling, Culver, Dawson, Griswold, Hale, Hart, Hogan, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Jones, Kasson, Latham, McCullough, McIndoe, Pomeroy, Alexander H. Rice, Shanklin, Trimble, Elihu B. Washburn, Henry D. Washburn, Winfield, and Wright—27.

"So the motion to recommit to the Committee on the Judiciary was disagreed to."

"The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time."

Mr. STEVENS demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

"The yeas and nays were ordered."

"The question was taken on the passage of the bill; and it was decided in the affirmative—yeas 109, nays 55, not voting 26; as follows:

"YEAS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Dawes, Delano, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Kelley, Ketcham, Koontz, Ladin, George V. Lawrence, William Lawrence, Longyear, Lynch, Marston, Marvin, Maynard, McClurg, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stokes, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—109.

"NAYS—Messrs. Ancona, Baker, Banks, Bergen, Boyer, Campbell, Chanler, Cooper, Davis, Dawson, Deftrees, Denison, Dodge, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Harris, Hawkins, Hise, Hogan, Edwin N. Hubbell, Humphrey, Hunter, Kelso, Kerr, Kuykendall, Latham, Le Blond, Leftwich, Loan, Marshall, Niblack, Nicholson, Noel, Radford, Samuel J. Randall, William H. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Stilwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, John L. Thomas, Thornton, and Andrew H. Ward—55.

"NOT VOTING—Messrs. Alley, Ames, Baldwin, Blow, Brandegee, Conkling, Culver, Griswold, Hale, Hart, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Jenckes, Jones, Julian, Kasson, McCullough, McIndoe, Phelps, Pomeroy, Trimble, Elihu B. Washburn, Henry D. Washburn, Winfield, and Wright—26."

Upon these proceedings the Chicago Tribune of February 15 comments thus:

"BLAINE'S AMENDMENT.—One half of the Republicans of the House of Representatives aided by all the Copperheads voted down Mr. BLAINE'S amendment to Mr. STEVENS'S military government bill on Wednesday. In examining the yeas and nays we find the names of some of the most radical members in both lists, and in order to account for the very equal division of the party on the question we are driven to an examination of the bill and amendment themselves. On *prima facie* evidence the minority (those who voted for BLAINE'S amendment) were right. Andrew Johnson being the constitutional head of the land and naval forces of the United States, military government and martial law mean simply Andrew Johnson."

"The two central and son." "The leading ideas of Mr. BLAINE'S amendment were: 1. Impartial Suffrage; 2. Reconstruction when impartial suffrage shall have been obtained. Now it is impossible to believe that Mr. Cook, of Illinois, and Mr. JULIAN, of Indiana, would vote against a proposition in itself and far in advance of anything yet proposed in Congress, unless they had good ground for believing that something still better was in reserve in the arena of the Reconstruction Committee. On the other hand, it is difficult to believe that the Iowa

delegation, which is perhaps as radical and far-seeing as any in the House, or even Mr. BLAINE himself, would vote for a proposition which might perhaps foreclose and conclude the action of Congress on the subject if there were a fair prospect of obtaining something better. Before the vote was taken, Mr. STEVENS announced that the Reconstruction Committee were prepared to propose further action within a reasonable time."

"The public will await with anxiety the unfolding of this plan, and the event will show which half of the Republicans in Congress were right and which wrong in the vote upon Mr. BLAINE'S amendment. A military government for the South, with Andrew Johnson to control and direct that government, and nothing in the future, is the most undesirable state of things that can be conceived."

The author of this article has inadvertently fallen into one or two errors. He is mistaken in saying that—

"Before the vote was taken Mr. STEVENS announced that the Reconstruction Committee were prepared to propose further action within a reasonable time."

No such announcement was made, and the committee I undertake to say were not prepared to propose further action, and have not done so. The only "fair prospect of obtaining something better" than the "Blaine amendment" was to recommit to the Judiciary Committee, and then when the bill with the amendment was reported back it would have been open to amendment by way of addition or otherwise.

This is shown by the answer of the Speaker, which I have already quoted in response to the inquiry of the gentleman from Pennsylvania. [Mr. BROOMALL.] I am authorized to state a fact which I know and which was decisive of my vote in reference to the "Blaine amendment," that the chairman of the Judiciary Committee was ready to make the report and then immediately to yield to an amendment, which would if agreed to have placed the whole subject of reconstruction in the hands of loyal men or in their hands along with those not conspicuous in rebellion. I was prepared to vote for that addition to the Blaine amendment. I voted to recommit the bill to the Judiciary Committee in order that such addition might be secured. The failure to recommit prevented an effort to secure this, and rendered it impossible to obtain at this session of Congress legislation so desirable, for it is impossible now for want of time to mature any bill which may not be defeated by the "ten days pocket veto," to which the President would undoubtedly resort.

I do not wish to detain the House at this late day in the session with any lengthy statement of my views on reconstruction.

I voted for the bill reported February 11th, by the select Committee on the New Orleans Riots "for the reestablishment of civil government in the State of Louisiana," because I regarded it quite as well adapted to accomplish the work of reconstruction in that State as any bill we could probably pass.

That bill contained a section in these words:

SEC. 5. And be it further enacted, That the following persons, and no others, shall be electors and entitled to vote at all elections held under the provisions of this act, namely, every male citizen of the United States, without distinction of race or color, who has attained the age of twenty-one years, and has resided in Louisiana one year, and who has never borne arms against the United States since he was a citizen thereof, and who can truthfully take the oath prescribed by the act aforesaid of July 2, A. D. 1862: *Provided*, That any person otherwise qualified as an elector, as herein provided, and who never voluntarily gave aid, countenance, encouragement, or support to any rebellion against the United States, nor any such aid, countenance, encouragement, or support to any government inimical to the United States in any other manner, capacity, or rank, than as a private soldier in open and civilized warfare, may be admitted to the rights of an elector by an order of any court of record of the United States, upon establishing to the satisfaction of the court, by the testimony of persons who have at all times borne true allegiance to the United States, that he is one coming within the description of persons designated in this proviso, and upon establishing as aforesaid that such person after the 4th day of March, A. D. 1861, never gave any voluntarily aid, countenance, support, or encouragement to such rebellion nor to any government inimical to the United States. Upon such proof being made, and upon taking and that all the upon the records of the court an oath that all the things are true which bring the applicant within the exceptions of this proviso, and also that such person will at all times bear true allegiance to the Government of the United States and to the perpetual Union

of the States thereunder, such person shall receive a certificate which shall entitle him to the rights of an elector.

This bill did not meet my entire approval, and I wish now to put my views on record lest the vote I am about to give may be misunderstood.

I hold that State governments should be reorganized in the ten rebel States by loyal citizens only, excluding all who participated in rebellion. I have high authority for this. Andrew Johnson, in his speech of April 9, 1864, used this language:

"I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men when he renounced his citizenship and sought to destroy our Government. We say to the most honest and industrious foreigner who comes from England and Germany to dwell among us and to add to the wealth of the country, 'Before you can be a citizen you must stay here for five years.' If we are so cautious about foreigners, who voluntarily renounce their homes to live with us, what should we say to the traitor who, although born and reared among us, has raised a parricidal hand against the Government which always protected him?"

"In calling a convention to restore the State, who shall restore and reestablish it? Shall the man who gave his influence and his means to destroy the Government? Is he to participate in the great work of reorganization? Shall he who brought this misery upon the State be permitted to control its destinies? If this be so, then all this precious blood of our brave soldiers and officers so freely poured out will have been wantonly spilled, all the glorious victories won by our noble armies will go for naught, and all the battle-fields which have been sown with dead heroes during the rebellion will have been made memorable in vain. Why all this carnage and devastation? It was that treason might be put down and traitors punished. Therefore, I say that traitors shall take a back seat in the work of restoration."

For one, sir, I am unwilling to abandon the loyal men of the South, who stood firm amid the gloom and darkness and storm of rebellion, and who at the peril of life and under persecution, atrocious in character, steadily clung to the flag of the Union. I hold that the enemies of the Government should have no part in setting up the fabric they destroyed in the States.

The existing State governments in the ten rebel States were set up by military authority under illegal and unauthorized proclamations of the President, and they are utterly invalid. They should be speedily set aside.

If the President could be relied on faithfully to execute the laws in the interest of loyal men, instead of executing them in the interest of rebels as he does, Congress should at once pass an "enabling act" for each rebel State prescribing the mode of reorganizing State governments.

But, sir, we cannot trust the President. I am, therefore, in favor of passing a law which shall simply protect all loyal citizens in all voluntary conventions which they may hold for the purpose of adopting a constitution and frame of government in each rebel State, to be submitted to Congress for approval or rejection, and if approved, then let State governments be set in operation. And the law should provide military protection to the person and property of all the inhabitants in cases where the national civil authorities may be unable to protect them.

I do not suppose it desirable or practicable in all, and perhaps not in any, of these ten States under the new State governments so to be reorganized to disfranchise all rebels, but those high in office during the rebellion; and the most culpable of the rebels should be denied the right of suffrage as well as the right to hold office, at least while as now they continue to manifest a disloyal spirit.

I would intrust the primary decision of that question to the loyal citizens alone, subject to the revision of Congress. Rebellion places all who aid it in a position to retain only such political rights as their loyal conquerors may concede to them; for by the laws of nations and of the civilized world rebels have "no rights which loyal citizens are bound to respect."

On the 8th of February I submitted for consideration an amendment to the bill reported by the gentleman from Pennsylvania, [Mr.

STEVENS,] which was designed to carry into effect these views. It was by no means perfect; but the venerable and distinguished chairman of the Reconstruction Committee, [Mr. STEVENS,] in his speech of February 13, in speaking of this amendment, did me the honor to say:

"Of the amendment of the other gentleman from Ohio [Mr. BINGHAM] I have already spoken. The amendment of his colleague [Mr. LAWRENCE] shows great care and wisdom."

I do not suppose my amendment merited this remark, but the general purpose which it aimed at, I believe, was right in principle; and so believing, I will never surrender that object so long as it is practicable to obtain it.

The bill reported from the Reconstruction Committee (House bill No. 1143) was modified by the Senate, as it passed that body yesterday, and is now before the House in this form:

A bill to provide for the more efficient government of the rebel States.

Whereas no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore,

*Be it enacted, &c.*, That said rebel States shall be divided into military districts, and made subject to the military authority of the United States, as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district; Mississippi and Arkansas the fourth district, and Louisiana and Texas the fifth district.

Sec. 2. That it shall be the duty of the President to assign to the command of each of said districts an officer of the Army not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

Sec. 3. That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished all disturbers of the public peace and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and try offenders, or when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose; and all interference under color of State authority with the exercise of military authority under this act shall be null and void.

Sec. 4. That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted; and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district; and the laws and regulations for the government of the Army shall not be affected by this act, except in so far as they may conflict with its provisions.

Sec. 5. That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law; and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for election of delegates; and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same; and when said State, by a vote of its Legislature elected under said constitution shall have adopted the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State.

Section six consists of an amendment offered by Senator DOOLITTLE, to the effect that the death sentence shall not be executed without the approval of the President of the United States.

At this late day in the session it is evident that we must accept the bill in this form or fail to pass any measure on the subject.

Under the Constitution the President is entitled to ten days, exclusive of Sundays, to consider every bill. After to-morrow he can-

not be required to return any bill, and all such as he disapproves will of course fail.

This bill leaves to the ten rebel States the right, by voluntary conventions, or such as local, but illegal, authorities may prescribe, to reorganize new State governments. If this shall be done it secures the adoption of the constitutional amendments. It provides for military protection, which may or may not be faithfully carried into effect. This was the object of the bill as originally reported. If the military features of this bill will not be faithfully enforced the original bill would secure no greater efficiency—for in this respect both are substantially alike. Something is gained if by law we declare it the duty of the President "to protect all persons in their rights of person and property;" and if he fails to execute that duty the remedy by impeachment exists. This bill practically requires universal suffrage. It leaves all the reconstruction that may be effected under it to the approval or rejection of Congress hereafter. I do not believe it will result in reconstruction. The rebels will not accept it. At the last session of Congress we practically proposed to the rebel States that their illegal State governments should be recognized and ratified if they would adopt the constitutional amendments. By these we said to them: "You may settle the question of suffrage for yourselves." They have all spurned and rejected these moderate, just, and reasonable terms by a refusal to ratify the constitutional amendments.

No alternative is left but for Congress to take the work of reorganization in hand and regulate it by law, and settle for the rebels the questions which they refuse to settle for themselves. They have illustrated the adage that "Whom the gods wish to destroy they first make mad." They will never again get terms so liberal as those offered at the last session of Congress.

"There's a divinity that shapes our ends,  
Rough-hew them how we will."

The rebel States will, in my judgment, reject the terms embraced in this bill. Then, sir, we will, as I predict, provide for reorganization by loyal men alone.

One of the great objections to this bill is that it does not at once set aside the existing State governments in the rebel States, and it leaves reconstruction practically in rebel hands, to be controlled by military power wielded in their interests. But the original bill was open to the same objection, and in submitting the constitutional amendments at the last session of Congress to the States of the South no remedy was proposed for the same evils then existing. They are evils which future legislation can remedy. The next Congress may furnish the remedy, and whatever influences I may be able to exert shall be given to accomplish that object, so as to place the whole power of reconstruction in loyal hands. If the loyal men of the ten rebel States will proceed at once to hold voluntary conventions, make constitutions, and submit them to the next Congress, if they shall be found republican in form and in all respects acceptable I will vote to ratify them on their adoption of the constitutional amendments, and thus set in operation State governments which may be the work of loyal citizens, and I would protect them by all the power of the national Government.

I have given my views briefly on reconstruction and the merits of this bill, and I shall cast my vote with more reluctance than any I ever have given, in the hope that if the bill shall fail a better one may be enacted by the next Congress, or if it passes that its defects may be speedily supplied by legislation in favor of loyal government under the control of loyal citizens.

Mr. Speaker, I will vote for this bill as the only measure of reconstruction now attainable. I am unwilling to go back to the people and say we have provided no definite plan of reconstruction. It affords all the military protection of the original bill, and is in that respect no less liable to be executed in the



interest of rebels. In addition to this it lays down a plan of reconstruction far in advance of all that Congress demanded during its last session and far in advance of any legislation ever enacted on the subject. If it shall result in reconstruction, it cannot fail to secure State governments under which the rights of all men will be respected. It may not give ascendancy to the Union men of the South just now, but we cannot reject legislation in the interest of humanity because it is not in the interest of a party. If reconstruction shall not be fairly conducted, if the loyal people of the South are denied their full share and influence in the great work, if force or fraud is employed, if the result is not all that we can desire, as I fear it will not be, then we have in express terms reserved to Congress the right to reject all that may be done and prescribe new terms of reconstruction which will secure all that may be desirable.

Gentlemen on this floor who do not act with the Republican party object to this bill because, as they allege, it attempts to force governments on the South and to compel them to adopt universal suffrage.

It does not propose any such object. Once more it leaves to the people of the ten rebel States the privilege of voluntarily accepting or rejecting the terms of reconstruction prescribed in this bill.

For two years the people of the North have declared that the existing State governments in these ten States were illegal and must be reconstructed. During all that time the people of these States have stubbornly refused all terms, and they neither tender nor accept any plan of reconstruction. We do not yet compel them to adopt or accept any plan. All is left to their voluntary decision. And if they shall voluntarily accept the terms now proposed and adopt for themselves universal suffrage, it does not become gentlemen here to object.

This bill does not, as did the "Louisiana bill," which passed this House a few days since, prescribe a system of reconstruction which left to the people no discretion to accept or reject it. And yet we were asked by delegates representing the loyal men of every one of the rebel States to pass a similar bill for each of those States. Once more we hold out the olive branch, and if it shall again be rejected the public mind will then be prepared to deal with this great subject in a mode and by the enactment of laws which will accomplish their purpose without the sanction of those who by rebellion have forfeited the right to be consulted.

Mr. DARLING. At this late hour I do not intend to occupy the attention of the House for more than a few moments; but I feel that I ought not to return to my constituents without having expressed upon this floor my conviction that at last we have reached a measure which will enable this country to be restored once more to peace and prosperity. I was induced, though with much reluctance, to vote for this bill when it was before this House originally; and I rejoice that the Senate has so amended it that it will commend itself, I trust, to a majority of the members of this House.

Now, sir, in my judgment we have not lost time, although two years have elapsed since the surrender of the rebel armies. When Grant and Sherman held in their iron grasp the attenuated and vanquished armies of the rebellion, and when the soldiers of the Republic confronted the cohorts of secession, submissive and subdued, when victory perched upon the banners of the Union, then, in my opinion, was the proper time to commence the work of reconstruction. But that time having passed by without advantage having been taken of the placable condition of the people of the South and the prevailing feeling of magnanimity at the North—for anguish was then in every household and the Treasury was bleeding at every pore—we are called upon now to take up and do the work so long delayed. That, Mr. Speaker, was the time when the President of the United States should have convened the

Congress of the United States and should have submitted to them this question of reconstruction; and if that had been done then, I believe that to-day we would be a happy and reunited people.

But, sir, the experience of the past two years has taught us a sad but perhaps a necessary lesson, and we must now profit by that experience. Practically we might as well left the State governments of the rebel States in the same condition as found by Grant and Sherman at the surrender of Lee and Johnston, as nothing appears to have been gained under the organization of provisional governments by direction of the President. We have seen four million people set free by one stroke of the pen, restored to their liberty by a bloody and exhausting war of four years; people who had heretofore been deprived of all the rights due to manhood and kept in a state of the most abject oppression and degradation. By this measure we propose to extend, not only to them, but to all of the loyal men of the South, that protection which under the Constitution they have a right to demand at our hands. We intend that while the military arm of the Government is extended to protect them, the people who have been inflicting these hardships and cruelties upon them, and who have sought to destroy the best Government that the sun of heaven ever shone upon, shall be subjected to the supervising power of the Government, with prompt and swift punishment, unless the opportunity is improved to abandon the error of their ways, to come back into a restored Union, and be once more represented in the Halls of Congress.

I regard this measure as liberal, as magnanimous, as charitable, while in all respects it is just to all. The constitutional amendment proposed by Congress at its last session was accepted by the people of the North in a great degree as the basis of a final settlement of this question. We then declared in the great State of New York that upon its ratification and acceptance by the southern States, and the election of loyal men to represent them, they would be entitled to representation in Congress. We have held out for six or eight long months in hopes that they would accept the conditions which we extended to them. But they have refused totally and wholly to do so; and it now becomes our duty, although we are in the last hours of the Thirty-Ninth Congress, to do that which the people of this country expected us to do when they elected us to this House, and that which they have looked to us to do from the time we first assembled here down to the present hour; that is, to submit to the people of this country a plan of reconstruction which would restore this nation to its former condition of peace and prosperity. I believe this measure will accomplish that result. I have no misgivings; I have no fears such as have been expressed by other gentlemen upon this floor. I trust that the Representatives upon this floor of the great party to which I belong and to whose expressions of regard I owe my seat in this body, will be true to themselves and to the great principles which they represent by concurring with the Senate in its amendment to this bill.

[Here the hammer fell.]

Mr. TAYLOR, of Tennessee. Mr. Speaker, I deem it proper upon this important question to offer some remarks by way of explanation of the vote which I expect to give, or which I may fail to give.

It seems to me that there are three alternatives presented. We have been offered the original bill from the joint Committee on Reconstruction; we have now offered to us the substitute proposed therefor by the Senate, and if that substitute fails to receive the concurrence of this House then the result will be a committee of conference on the disagreeing votes of the two Houses. That committee of conference, it is presumable, will agree upon some compromise between the original bill and the substitute now before us; and it is also presumable that their report will be a

compromise between the original bill and the substitute now before us.

I am conscientiously opposed to both the bill and the substitute as original propositions. I am opposed to the original bill, because I regard it as one which tramples the Constitution of the United States in the dust. I am opposed to it because it substitutes for civil government the most despotic form of military rule. Human ingenuity in my opinion could not desire a measure more despotic, more unconstitutional, more perfectly opposed to the spirit and genius of our republican institutions than the original bill known as Stevens's military bill.

I am also opposed to the substitute passed by the Senate, as an original or abstract proposition, upon constitutional grounds. I believe that the Congress of the United States has no constitutional authority to establish the sort of government which is proposed by that substitute on any State government. I believe that Congress has no constitutional authority to dictate to any State of this Union the kind of constitution to be adopted by that State, or to dictate to the acceptance by any State of any amendment to the Constitution of the United States; it has no authority to do this either by direction or by indirection. I believe that Congress has no constitutional authority to dictate to any State in this Union what qualifications it shall prescribe for its voters. I am therefore upon constitutional principles opposed to the original bill as well as to the substitute proposed by the Senate.

But the measure presented to me now comes not as an original proposition, to be determined upon its own merits, but as an amendment to the original bill, and is therefore in the nature of an alternative proposition; and while I shrink from it with instinctive horror as an original abstract proposition, I am now called upon to consider and act upon it as better or worse than the measure for which it is a substitute. We must either take the original bill, the substitute proposed by the Senate, or the measure which the committee of conference will present.

Now, in this state of the case it becomes us to ascertain the comparative merits and demerits of the original bill, the Senate substitute, and the measure which will be presented by the committee of conference, should this subject be finally referred to them. I regard the form of despotism embodied in the original proposition from the Committee on Reconstruction as the very worst that has ever been imposed on any people in war or peace. I regard the substitute of the Senate as a favorable modification, in some of its provisions, of that original proposition, and I believe the work of a committee of conference will partake of the character of each of the others, and perhaps may be worse than either of them, certainly not less objectionable than the substitute.

Then as a practical statesman, looking to the best interests of the whole country, and particularly of the communities most narrowly affected, what do prudence and wisdom and patriotism demand of me in reference to these several measures? As I said before, I repudiate each of them as an original measure. I believe this Congress has no constitutional right to pass either of them. Yet it is certain that this Congress will pass one or the other, or perhaps substitute for them both something that will be worse than either. Therefore it seems to me I am compelled to make a choice, and by my vote, or by my failure to vote, give my influence or support in favor of the one or the other. It is a choice between evils, and when the vote comes to be taken I shall endeavor to do my duty. I shall either not vote at all or I shall vote for the substitute of the Senate as the least of the two evils.

I believe that there is a wiser, a better, and an infinitely easier solution of these reconstruction difficulties, one perfectly consistent with the Constitution of the United States, better than either the one which emanated from the

other side of the Chamber, or from the Senate of the United States. That solution is embodied in what has been popularly denominated "my policy," the policy of the President of the United States. If I had my choice, if I could exercise a controlling influence in the settlement of this vexed question, I would select the wise, the constitutional, and practical method of settling it by adopting the wise and lucid policy of the President. But that has been rendered, for the time at least, utterly hopeless by the overwhelming majority on the other side of the Chamber who are opposed to that policy.

What, then, are we to do? The majority will force the adoption of one or the other of their propositions upon this subject, and I shall take the position which I think is defensible before the country and before my constituents which I have indicated here to-night. I regret the spirit of malignity and of vindictiveness which has been manifested in various questions, as well outside of this Hall as in it, toward the President of the United States. I have the honor to represent the district which he so long represented in the Congress of the United States; and when I see him unjustly assailed as he has been assailed, when I hear him traduced and maligned as he has been traduced and maligned, I deem it my duty to lift my voice, feeble though it be and uninfluential, in his defense. When I say I am in favor of the policy enunciated by him in reference to the questions of reconstruction, I think I am but saying that I am for the policy initiated and inaugurated by Abraham Lincoln, his illustrious predecessor, and indorsed, in my opinion, by every department of the Government down to the present Congress.

Sir, there is a remarkable parallel furnished in the Declaration of Independence which prefaces the Constitution of the United States to the condition of things recently presented by parties in this country. How much time have I left?

The SPEAKER. Half a minute.

Mr. TAYLOR, of Tennessee. Then, sir, I will spend that half minute in referring briefly to the singular coincidence between some of the changes in the Declaration of Independence and the condition of things we see to-day. If you will read that document you will find that it says:

"The history of the present King of Great Britain is the history of repeated injuries and usurpations, all having, in direct object, the establishment of an absolute tyranny over these States. To prove this let facts be submitted to a candid world. He (the King) has refused to pass laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the Legislature; a right estimable to them and formidable to tyrants only. He has kept among us in time of peace standing armies without the consent of the Legislature. He has affected to render the military independent of and superior to the civil power. He has imposed taxes on us without our consent. He has taken away our charters, abolished our most valuable laws, and altered fundamentally the powers of our Government. He has suspended our own Legislatures, and declared himself invested with power to legislate for us in all cases whatsoever."

The SPEAKER. The gentleman's time has expired.

Mr. TAYLOR, of Tennessee. I ask for two minutes more.

There was no objection.

Mr. TAYLOR, of Tennessee. Now, sir, substitute Congress for king in that document and you will have a history of the transactions of the great majority of this body in reference to the existing state of the country.

Mr. GRINNELL. Allow me to ask the gentleman a question.

Mr. TAYLOR, of Tennessee. I will conclude, and then you can answer. All I have to say in conclusion is, I believe the distinguished patriot, now President, who has been maligned and traduced perhaps more falsely and fiercely than any man who ever lived in the United States, will shine brightly and tower conspicuously in history as a great and good man, as "the noblest work of God—an honest man," when the names of his traducers with their

bodies shall have perished in the earth and been forgotten.

Mr. GRINNELL. Does the gentleman refer, when he charges us with abolishing their most valuable laws, to those whereby three million men were treated as chattels and were bought and sold?

Mr. TAYLOR, of Tennessee. I have nothing to reply to the gentleman's remark, as I did not hear it distinctly, further than to say, so far as the acts of the enemies of this country, if his question relates to them, are concerned, and so far as the motives which led to those acts are concerned, so far as the individuals who perpetrated these acts against the Government are concerned, I have as little sympathy with them or their acts as the gentleman from Iowa, and I have as much condemnation for their acts and the motives which prompted them.

Mr. ARNELL. Mr. Speaker, at this late hour, midnight, the remarks I make shall have the merit of brevity. For speech-making generally I have but poor respect. I belong to that class of men who believe what a man does is infinitely more valuable than what he says. Yet I cannot sit by quietly without expressing my protest, ay, my horror of the principle incorporated in the fifth section of the bill before the House, that makes rebel electors the basis of reconstruction. I do not believe that the country is ready to abandon the doctrine that loyal men must control. That such a proposition should be made even in the American Congress strikes me with apprehension. Is this the fruit of our long struggle? Can the heart and the brain and the patriotism of the Thirty-Ninth Congress frame nothing better than this? Why, pass this bill as it comes from the Senate, and you hand over the South to hopeless and irretrievable rebel rule and ruin. It is the "iron chamber" in the Inquisition, and seemingly fair and beautiful and inviting; yet in the end, with closing and narrowing walls, will crush its poor victims to remorseless and unavailing death. Say the best of it, it is a delusion and a cruel snare. What does this section propose to do? To set aside the rebel governments of Andrew Johnson and to build up other rebel governments in their stead that will overshadow the first as the mountain overshadows the dark rock at its base.

I think we have had enough of rebel rule acted in terrible tragedy. But the answer to all this is, Congress will have control of them. Do you distrust the Fortieth Congress? What ought to be distrusted and indignantly rejected is rebel rule. If the Thirty-Ninth Congress, with the cries of murder and suffering borne to it upon every breeze from the South, is disposed to shuffle off its duty, what right have we to expect aid from any future Congress? What is really the object of reconstruction? To establish loyal governments at the South. How? This Senate bill proposes to do it by giving the matter entirely into the hands of the rebels. Some one says, "Except such as may be disfranchised by rebellion." Ah! Who is to disfranchise them? Themselves. Now, considering their native modesty and backwardness in such matters, when is this likely to occur? In Tennessee it required Union men. The fifth section to this bill gives the entire power and the leadership to the rebels. And who ever gets the leadership at the South will prevail. The colored man is the last reinforcement of the Republic; yet this bill proposes to give his aid to whom? To the national cause, to progress, to civilization, to liberty, to human rights? Oh, no! but to the enemy, to treason! Are we encompassed with some hideous nightmare that men talk so wildly?

"Gentlemen tell us that we must not disfranchise the masses of the South, or the 'intelligence and honor' of the South. Was it not this 'intelligence and honor' that opened your three hundred thousand Union graves, whose occupants to-day are not safe from sneers in their very coffins. And have these martyrs not died in vain if our reconstruction is rebel reconstruction? Under the mask and claim

of fairness I see stalk to the front the armed traitor. And, Mr. Speaker, when the "respectability of numbers" outweighs the demands of world-wide justice, I tremble for the safety of my country. Will this nation, even by indirection, set the precedent that "first-class" criminals cannot be punished? False, hollow paganism pointed its votaries to a higher idea of justice than this. Apollo was banished from the court of heaven for crime, and made to keep the flocks of Admetus.

Mr. Speaker, what I rose to say particularly was that in my opinion there is no cure for the evils that afflict the country; but to render hopelessly powerless the rebel element at the South. Congress exhibits an unaccountable indecision in this matter. Let it no longer hesitate, but do its duty.

One other thing I wanted to say. In every one of the non-reconstructed States there is a Union sentiment that only needs your support to assert itself; a poor, downtrodden, ostracized, maligned, and persecuted class; yet men who hoped on and prayed on, and to-day hope on and pray on, when seemingly every friend but God has left them. I appeal to you on their behalf. A word more and I close.

I pray this House not to strike down at one fell blow the organizations of Tennessee, Missouri, and West Virginia. The North pledges itself to stand by the Unionists of these States. We ask their representatives to fulfill this pledge. Time has shown the wisdom of the action of the loyalty of these States. In Tennessee we have planted ourselves upon the broad platform of the "rights of man." All this has been effected by loyal suffrage. A new civilization is beginning at the South. Do not turn it backward. We are getting further and further away from old beliefs and prejudices, and are approaching nearer to new and better ones. In Tennessee we are skirmishing, bringing on the battle, and remember it is the nation's battle, and the victory, when won, will be the nation's victory. Dally, truckle, falter in the great work, and we are gone. We must fight at close quarters. I hope that the Senate bill in its present form will not be agreed to.

Mr. WILLIAMS. Mr. Speaker, I shall vote against this amendment: first, because it involves an entire departure from the object of the bill passed by this House, which it destroys while it professes only to amend it; second, because it reverses the action of the House in the Louisiana case, wherein we have just declared that the work of reconstruction shall belong only to loyal men; and thirdly, because it mocks the agonizing prayers of suffering loyalty by giving back the sword to the merciless hands from which that loyalty has just now appealed.

The bill of the House was but a response to the cry of an oppressed and bleeding people. It unsheathed the sword of the Republic, and placed it in the hands of the first of its Generals. It intended to charge him with the task that a faithless Executive had declined. It implied a resumption of our authority over the rebels we had conquered, and the provinces we had won. It looked only to the re seizure of what had been perfidiously surrendered. Its object was to extinguish the embers of an expiring rebellion, that had been fanned into new life, by the breath of the ruler who had been commissioned to destroy it. It involved no plan of reconstruction; it proposed only to save our suffering allies from the persecution of their enemies.

It went out from this House, the Hall of the people, reflecting, as it must always do, their opinions and their will, wielding the avenging sword of justice in its hands; and it comes back from a branch of the Legislature which is not intended in theory, or expected in fact, to answer to the popular breeze, until it has blown with more than the steadiness of the trade-winds for a period of six years—shorn of its menacing features, with the sword sheathed, and an olive branch in its hands, withdrawing the protection we had offered to loyalty, and tendering in its stead a propitia-

tory offering to treason. We sent to the Senate a proposition to meet the necessities of the hour, which was protection without reconstruction, and it sends back another which is reconstruction without protection, and we are expected to defer to its will by giving the possible and probable control to rebels, while it holds unacted upon, another proposition of our own, looking to reconstruction through the agency of only loyal men.

And what is the argument upon which we are expected to go back at the bidding of another body, which is so far removed from the people, to abandon their defenses and our own, and allow them to crumble about our heads, like the walls of Jericho, at the first blast of the horns that have been sounded at the other end of the Capitol? Why, just this: that if we do not take their bill, we shall get nothing. Well, I prefer nothing, unless it be protection, which is all that is now wanted, and just what this bill refuses. This point is an urgent one. For the other we can afford to wait, as we have waited, until this Congress shall have expired. It is about to die. Does the legislative power of the nation die with it? Is it to have no successors? Are we to make a last will and testament *in extremis*, only because another Congress, which is to assemble in two weeks, and will come here bearing the latest expression of the will of the people, cannot be trusted to do the thing which we have so long neglected? It is not a question, as gentlemen suggest, whether we can trust ourselves—which they very confidently think they can always safely do—but whether we can trust our successors. There are men in both Houses, I doubt not, who think we cannot. They know of course that the next Congress will be essentially different in its texture in both branches, and particularly in the other, from the present one. I humbly think it will be an improvement. I shall hail the infusion of new blood, as no disadvantage at all events. The people have commissioned that Congress to declare their will upon all the great issues of the times, and I for one am prepared to adjourn this question, as the greatest of all of them, for their decision. Nay, further, I humbly think that it is our duty to do so.

The argument in favor of action now, is that there is no time left for consideration. Upon the same argument precisely, I am of the opinion that it is our duty to leave this question to our successors. If the work is to be done, and well done, it must be done slowly. I for one am in no hurry about it. I would offer no terms of compromise to the conquered States. I prefer to wait until they are in a condition to come back. I want evidence that the hearts of their people are changed. I am not credulous enough to believe that after such a war, there is any mollifier but time, and would not give them my faith, even though they professed to have changed, and were willing to attest it by all the oaths which you can impose. They will consent to anything, of course, that we may demand, because there is no help for it. But why should we desire their precipitate return? Is it because the country would be satisfied with the mere hollow semblance of a Union, and that all we want is to see these people back in our Halls, to embarrass our legislation, and defy our power, as they did before? I desire no such Union. It would only reconvert these Halls into a Pandemonium—a hell of discord, instead of such a Union as the people long for. Better they should remain outside for a generation. True statesmanship would so decide, at all events. That anybody should think of bringing them back just now, upon any terms whatever, is and always has been a marvel to me. I undertake to say that it cannot be done with safety to our institutions. We can govern them outside of the Union; we cannot govern them inside of it, with the alliances they will form here. I propose to hold them where they are, until they have come to love the Government which they now avowedly hate; until, in a word, they have come to show it, by honoring loyalty in-

stead of dealing with treason against this Government, as the highest of virtues, instead of the most enormous and irremissible of crimes.

Mr. HILL obtained the floor, but yielded to Mr. GRINNELL, who said: Mr. Speaker, I simply desire to express my dissent to what has been said by gentlemen that the constitutional amendment was the issue in the last Congress. And I wish further to express the fear, if there is a concurrence with the Senate, we shall find ourselves by the veto of the President and the filibustering anticipated when it comes back from the President, we shall be like the man who went to hear the celebrated George Whitfield. Overjoyed to hear the great orator, and having rolled himself upon the ground and dirtied his coat, he found it was not Whitfield, and then said, "I have dirtied my coat for nothing." If we are to vote for that which is unsatisfactory, there ought to be some greater assurance that we are to gain something for the humility of the position into which this concurrence places us.

I greatly fear if I overcome my prejudices, and yield my judgment to the Senate and vote for this concurrence, I shall find myself exactly in that position of the admirer of Whitfield. I hope to sleep over this matter, and come here in the morning to vote upon the proposition understandingly, so as to please one person at least, who cannot transfer his individual responsibility; that person is myself. I therefore move that the House adjourn.

The SPEAKER. The gentleman from Indiana [Mr. HILL] had the floor to make that motion and yielded to the gentleman from Iowa, [Mr. GRINNELL.]

Mr. HILL. I am glad to have given the gentleman an opportunity to clean his coat, and I now move that the House adjourn.

The motion was agreed to; and thereupon (at eleven o'clock and forty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. BRADFORD: The petition of citizens of Denver, Colorado, in relation to the national currency.

By Mr. COBBE: The petition of citizens of Reedsburg, Sauk county, Wisconsin, for improvement of water communications between the Mississippi valley and the Atlantic sea-board.

By Mr. CONKLING: The petition of 1,500 citizens of the State of New York, praying that incomes to the amount of \$1,500 may be exempted from taxation.

Also, eight petitions, severally of citizens of Akron, Pittsford, Churchville, Frankfort, Corfu, Middleport, Oriskany, and of Orleans county, all of New York, praying that incomes to the amount of \$1,500 may be exempt from taxation.

By Mr. CULLOM: Four several petitions signed by numerous citizens of McLean county, Illinois, asking Congress to repeal the law authorizing the Secretary of the Treasury to withdraw from circulation the national legal tenders.

By Mr. ELIOT: The petition of William S. Eddy, of Middleboro, Massachusetts, praying for issue of a United States note for one accidentally destroyed.

By Mr. FERRY: The petition of C. B. Albee, Charles T. Pagelson, B. F. Curtis, James A. Rice, N. H. White, Henry Brouwer, David E. Rose, S. Gale, and 80 others, citizens of Grand Haven, Michigan, praying that the five per cent. tax upon manufactures be removed.

By Mr. HART: The petition of Ailing Brothers, of Rochester, New York, and 20 others, manufacturers of and dealers in leather, praying for a reduction of the internal tax on leather.

By Mr. HOLMES: The petition of Thomas Kehoe and Matthew Kerwin for American register for Canadian-built schooner Annexation.

Also, the petition of J. D. Briggs & Co., and Strong & Hubbell, of Oswego, New York, for removal of internal revenue tax on manufactures.

By Mr. LOAN: The petition of citizens of Ironton and vicinity, Missouri, for the impeachment of Andrew Johnson, acting President of the United States.

By Mr. LONGYEAR: The petitions of J. N. Howland, and 107 others, and of J. Weil, and 84 others, citizens of Washtenaw county, Michigan, asking that the tax on manufactures may be removed.

By Mr. McCULLOUGH: The petition of Josiah Kerr, Thomas H. Webb, George D. Smith, A. S. Evans, Henry Straughn, and others, citizens of Dorchester county, Maryland, protesting against the removal of the collection district at Vienna to Crisfield.

By Mr. MILLER: The petition of citizens of Sunbury, Northumberland county, Pennsylvania, asking that the five per cent tax imposed on manufactures be removed.

By Mr. PAINE: The remonstrance of William Blair, and others, citizens of Waukesha, Wisconsin, against legislation depreciating or unsettling the national currency.

By Mr. ROSS: The remonstrance of 97 citizens of Canton, Illinois, against legislation disturbing the national currency.

By Mr. SAWYER: Sundry claims of soldiers for money deposited with the Merchants' National Bank.

Also, reports of the Secretary of War and Paymaster General.

Also, the petition of A. Grant, for relief in the matter of the contract for the rebuilding of certain buildings at the Norfolk navy-yard.

By Mr. SCHENCK: The memorial of Lorenzo Thomas, Adjutant General, United States Army, on the subject of the pay of the Army.

Also, the petition of Mrs. Elizabeth Davis, praying for legislation to facilitate the payment of bounties and pay due the widows and orphans of deceased soldiers.

By Mr. UPSON: The petition of J. V. Phillips, Dwight Plimpton, and 31 others, citizens of Berrien county, Michigan, praying Congress for an appropriation for the construction of a harbor at New Buffalo, Michigan.

Also, the remonstrance of N. M. Thomas, B. S. Brown, F. W. Hatch, and J. W. Briggs, of Schoolcraft, Michigan, against legislation depreciating or unsettling the established national currency.

By Mr. WINDOM: A concurrent resolution of the Senate and House of Representatives of the State of Minnesota, on the financial condition of the country.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, February 19, 1867.

The House met at eleven o'clock a. m., pursuant to the order of yesterday. Prayer by the Chaplain, Rev. C. B. BONTON.

The Journal of yesterday was read and approved.

#### SOUTHERN RELIEF.

Mr. BANKS. I ask unanimous consent to submit the following joint resolution:

*Resolved by the Senate and House of Representatives, &c., That the Secretary of the Navy be, and he is hereby, authorized and directed, upon the application of the contributors, to assign one of the vessels of the United States for the transportation of supplies of food and clothing to Charleston, Savannah, and Mobile, for the use of that portion of the people of the southern States that may be suffering from the failure of crops or other causes, under such regulations as may by the Secretary of the Navy be prescribed.*

Mr. SPALDING. I am afraid that will give rise to debate. I object.

#### SERVICE ON A COMMITTEE.

Mr. WARD, of New York. I ask to be excused from service on the special committee of which the gentleman from Illinois, Mr. WENTWORTH, is chairman.

No objection being made, the gentleman was excused.

Mr. WARD, of New York. I ask leave to print some remarks on the pending bill.

Mr. WRIGHT. I ask leave also to print some remarks.

Leave was granted.

#### LEAVE OF ABSENCE.

The SPEAKER asked and obtained leave of absence for three days for Mr. GARFIELD.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed House bill No. 674, to establish additional offices for the assay of gold and silver, and for other purposes, with amendments, in which he was directed to ask the concurrence of the House.

#### PACIFIC RAILROAD.

The SPEAKER laid before the House a communication from the Secretary of War, in answer to the resolution of the House of the 15th instant, relative to the rules by which the beginning points of the claim of the Union Pacific and Central Pacific railroad were ascertained; which was printed, and referred to the Committee on the Pacific Railroad.

#### GOVERNMENT OF INSURRECTIONARY STATES.

Mr. SPALDING. I call for the regular order.

The SPEAKER. By the unanimous order of the House it now proceeds to vote upon the pending question pertaining to the bill now on the Clerk's table, providing for the government of the late insurrectionary States. The gentle-



man from Pennsylvania [Mr. STEVENS] moves that the House non-concur, and the gentleman from Ohio [Mr. SPALDING] moves that the House concur in the Senate amendment. The motion to concur takes priority.

Mr. STEVENS. I wish to inquire if the vote is against concurrence whether that does away with the second motion to non-concur?

The SPEAKER. It does not; if the House refuses to concur and no conference is asked, the bill will be sent back to the Senate for their action, and that body may recede, which will of course pass the bill.

Mr. THAYER. I call for the reading of the Senate amendment.

The amendment was read.

Mr. THAYER and Mr. SPALDING demanded the yeas and nays.

Mr. ROSS. I inquire if it is in order to lay the preamble on the table?

The SPEAKER. It would be to lay the whole subject on the table.

Mr. ELDRIDGE. I move to lay the whole subject on the table.

Several MEMBERS. Oh, no.

Mr. FARNSWORTH. The House has already voted on that.

The SPEAKER. This is at a different stage.

Mr. STOKES. I ask unanimous consent of the House to have a telegram which arrived yesterday, read at the Clerk's desk.

Mr. ELDRIDGE. I withdraw the motion to lay on the table.

Several MEMBERS objected.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 73, nays 98, not voting 19; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, Baker, Baldwin, Barker, Benjamin, Bidwell, Bingham, Blaine, Blow, Buckland, Bundy, Reader W. Clarke, Cook, Cullom, Darling, Davis, Dawes, Deftrees, Delano, Doming, Dodge, Eggleston, Farnsworth, Ferry, Griswold, Hart, Hill, Hooper, Chester D. Hubbard, James R. Hubbard, Hulburt, Kasson, Ketcham, Ladin, George V. Lawrence, William Lawrence, Longyear, Marvin, Maynard, McIndoe, McKee, McRuer, Miller, Moorhead, Morris, Orth, Patterson, Plants, Pomeroy, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Rousseau, Schenck, Spalding, Stillwell, Nathaniel G. Taylor, Thayer, Francis Thomas, John L. Thomas, Upson, Burt Van Horn, William B. Washburn, Welker, Whaley, James F. Wilson, and Woodbridge—73.

NAYS—Messrs. Ancona, Arnell, James M. Ashley, Banks, Baxter, Beaman, Bergen, Boutwell, Boyer, Brandegee, Bromwell, Broomall, Campbell, Chanler, Sidney Clarke, Cobb, Cooper, Dawson, Denison, Donnelly, Driggs, Dumont, Eldridge, Eliot, Farguhar, Finck, Goodyear, Grinnell, Aaron Harding, Abner C. Harding, Harris, Hawkins, Hayes, Henderson, Higby, Hise, Hogan, Holmes, Hotchkiss, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, Humphrey, Hunter, Ingersoll, Julian, Kelley, Kelso, Kerr, Koontz, Kuykendall, Latham, Le Blond, Leftwich, Loan, Lynch, Marshall, McCullough, Mercur, Moulton, Myers, Nowell, Niblack, Nicholson, O'Neill, Paine, Perham, Phelps, Pike, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Sawyer, Scofield, Shanklin, Shellabarger, Sitgreaves, Sloan, Starr, Stevens, Stokes, Taber, Nelson Taylor, Thornton, Trimble, Trowbridge, Van Aernam, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Warner, Wentworth, Williams, Stephen F. Wilson, Windom, and Wright—48.

NOT VOTING—Messrs. Conkling, Culver, Dixon, Eckley, Garfield, Glossbrenner, Hale, Asahel W. Hubbard, Jenckes, Jones, Marston, McClurg, Morrill, Noell, William H. Randall, Strouse, Elihu B. Washburne, Henry D. Washburn, and Winfield—19.

So the House refused to concur in the amendments of the Senate.

During the roll-call,

Mr. ROLLINS stated that his colleague, Mr. MARSTON, had been called home by the serious illness of his father. If present, he would have voted in the affirmative.

Mr. BAXTER said: My colleague, Mr. MORRILL is absent on account of the serious illness of his mother. From what I know of his good sense I believe that if present he would have voted to non-concur.

Mr. WOODBRIDGE said: I desire to say that my colleague Mr. BAXTER is not present. If he were here I have no doubt that in the exercise of his good sense he would have voted in favor of concurring. [Laughter.]

Mr. EGGLESTON stated that Mr. McCLURG was necessarily absent and had requested him to state that if present he would have voted "no" upon this motion.

Mr. ANCONA stated that Mr. STROUSE had been called home by sickness in his family, and he understood that he had paired off with Mr. ECKLEY, of Ohio.

Mr. SPALDING stated that if Mr. ECKLEY were present he would vote "ay."

Mr. RADFORD stated that Mr. WINFIELD was confined to his home by sickness and was unable to attend the sessions of the House.

The result of the vote was announced as above recorded.

Mr. STEVENS moved to reconsider the vote by which the amendments of the Senate were non-concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The question recurred upon the motion of Mr. STEVENS, that a committee of conference be asked upon the disagreeing votes of the two Houses upon the amendments to the bill.

The motion was agreed to.

Mr. STEVENS. I would ask whether the committee of conference have a right to sit during the sessions of the House?

The SPEAKER. They have.

#### ORDER OF BUSINESS.

The SPEAKER. The morning hour now commences, and the House will resume the consideration of the bill reported on Thursday last from the Committee on the Militia, upon which the gentleman from Illinois [Mr. HARDING] is entitled to the floor.

Mr. STEVENS. I would like to take up an appropriation bill, that will not occupy more than fifteen minutes. The Senate have sent us word that they have no appropriation bill to act upon.

Mr. HARDING, of Illinois. I will yield for that purpose.

#### TENURE OF OFFICE.

Mr. SCHENCK. Before the gentleman from Pennsylvania [Mr. STEVENS] moves to go into Committee of the Whole on the state of the Union, I ask him to allow me to make a report from the committee of conference upon the disagreeing votes of the two Houses on Senate bill No. 453, the bill commonly called the tenure of office bill.

The SPEAKER. The report of a committee of conference is a privileged subject.

Mr. SCHENCK. I submit a report from a committee of conference.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (S. No. 453) regulating the tenure of certain civil offices, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate agree to the first amendment of the House with an amendment as follows: at the end of section one of said bill, insert the following words: "Provided, that the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

And the Senate agree to the same.

That the Senate recede from their disagreement to the second amendment of the House, and agree to the same.

ROBERT C. SCHENCK,

THOMAS WILLIAMS,

JAMES F. WILSON.

Managers on the part of the House.

GEORGE H. WILLIAMS,

JOHN SHERMAN.

Managers on the part of the Senate.

Mr. SCHENCK. I propose to demand the previous question upon the question of agreeing to the report of the committee of conference. But before doing so I will explain to the House the condition of the bill and the decision of the conference committee upon it. It will be remembered that by the bill as it passed the Senate it was provided that the concurrence of the Senate should be required in all removals from office, except in the case of the heads of Departments. The House amended the bill of the Senate so as to extend this requirement to the heads of Departments as well as to other officers.

The committee of conference have agreed

that the Senate shall accept the amendment of the House. But inasmuch as this would compel the President to keep around him heads of Departments until the end of his term, who would hold over to another term, a compromise was made by which a further amendment is added to this portion of the bill, so that the term of office of the heads of the Departments shall expire with the term of the President who appointed them, allowing those heads of Departments one month longer, in which in case of death or otherwise other heads of Departments can be named. This is the whole effect of the proposition reported by the committee of conference; it is in fact an acceptance by the Senate of the position taken by the House.

Mr. LE BLOND. I would like to inquire of the gentleman who has charge of this report whether it becomes necessary that the Senate shall concur in all appointments of executive officers, and that none of them can be removed after appointment without the concurrence of the Senate?

Mr. SCHENCK. That is the case. But their terms of office are limited, as they are not now limited by law, so that they expire with the term of service of the President who appoints them, and one month after, in case of death or other accident, until others can be substituted for them by the incoming President.

Mr. LE BLOND. I understand, then, this to be the effect of the report of the committee of conference in the event of the President finding himself with a Cabinet officer who does not agree with him, and whom he desires to remove, he cannot do so and have a Cabinet in keeping with his own views unless the Senate shall concur.

Mr. SCHENCK. The gentleman certainly does not need that information from me, for this subject has been fully debated in this House.

Mr. LE BLOND. Then I hope the House will not agree to the report of the committee of conference.

Mr. SCHENCK. I call the previous question, upon agreeing to the report of the committee of conference.

The previous question was seconded and the main question ordered.

Mr. FINCK. I call for the yeas and nays upon this question.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 41, not voting 38; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Blaine, Blow, Boutwell, Brandegee, Brownell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Doming, Dodge, Donnelly, Driggs, Dumont, Eggleston, Eliot, Farnsworth, Farguhar, Ferry, Grinnell, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Hulburt, Ingersoll, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, Maynard, McIndoe, McKee, McKuer, Mercur, Miller, Myers, Nowell, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stokes, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—111.

NAYS—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Aaron Harding, Harris, Hawkins, Hise, Humphrey, Hunter, Kerr, Latham, Le Blond, Leftwich, McCullough, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Stillwell, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Andrew H. Ward, Whaley, and Wright—41.

NOT VOTING—Messrs. Baker, Barker, Bingham, Bundy, Conkling, Culver, Davis, Dawes, Deftrees, Delano, Dixon, Eckley, Garfield, Goodyear, Griswold, Hale, Hogan, Asahel W. Hubbard, Chester D. Hubbard, Edwin N. Hubbard, James R. Hubbard, Jenckes, Jones, Marshall, Marston, McClurg, Moorhead, Morrill, Morris, Moulton, Noell, O'Neill, Phelps, Strouse, Francis Thomas, Elihu B. Washburne, Henry D. Washburn, and Winfield—38.

So the report was agreed to.

Mr. SCHENCK moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INDIAN APPROPRIATION BILL.

Mr. KASSON. I ask the gentleman from Pennsylvania [Mr. STEVENS] to defer for a short time his motion to go into the Committee of the Whole on the state of the Union, and allow me to report back the Indian appropriation bill as amended in accordance with the instructions of the House.

Mr. STEVENS. I yield for that purpose.

Mr. KASSON. I report back from the Committee on Appropriations the bill (H. R. No. 1039) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1868, with the amendments indicated by the order of the House when the bill was last under consideration. The instructions of the House under which this bill was recommitted to the committee were a little broader in their terms than I think was intended by the mover of those instructions or by the House. The first item which under those instructions the committee was obliged to strike out is embraced in lines eight to twenty-eight, inclusive, of the printed bill, embracing some items necessary for the maintenance of the department here at Washington, with some few other items. I am instructed by the committee to move to amend by reinserting that item, which is as follows:

For the current and contingent expenses of the Indian department, namely:

For the pay of superintendents of Indian affairs and of Indian agents, \$110,550.

For pay of sub-agents, \$6,000.

For pay of clerk to superintendent at St. Louis, Missouri, \$1,200.

For pay of temporary clerks by superintendents of Indian affairs, \$5,000.

For pay of clerk to superintendent of Indian affairs in California, \$1,800.

For pay of interpreters, \$28,400.

For presents to Indians, \$5,000.

For provisions for Indians, \$11,800.

For buildings at agencies and repairs thereof, \$10,000.

For contingencies of the Indian department, \$36,500.

The amendment was agreed to.

Mr. KASSON. The next item struck out under the instructions of the House is found on page 44 of the printed bill, being the appropriations for the Senecas of New York. These appropriations not being called for by any treaty stipulations, the committee, acting in obedience to their instructions, were compelled to strike out. But I desire to state that these appropriations were included in the bill to carry out obligations on the part of the United States, resulting from the fact that the United States took into its Treasury a certain trust fund, in consideration of which, by a law which has been in force for a great many years, we agreed to pay annually the interest on that fund for the benefit of the Indians. The obligation is as distinct and imperative as if it were imposed by treaty. The committee, therefore, have instructed me to move to amend by reinserting in the bill on page 44, after line ten hundred and forty-nine, the following:

Senecas of New York:

For permanent annuity, in lieu of interest on stock, per act of 19th February, 1831, \$6,000.

For interest, in lieu of investment, on \$75,000, at five per cent., per act of 27th June, 1846, \$3,750.

For interest at five per cent., on \$43,050, transferred from Ontario Bank to the United States Treasury, per act of 27th June, 1846, \$2,152 50.

The amendment was agreed to.

Mr. KASSON. The next item struck out by the committee, in obedience to the instructions of the House, is found on page 48 of the printed bill, under the head of "Sioux of Dakota." The committee have directed me to move the reinsertion of this paragraph with a modification of the language, so as to show that the appropriation is in accordance with treaty stipulations, which does not appear by the language of the paragraph as originally reported. I therefore move to amend by in-

serting on page 48, after line eleven hundred and fifty-seven, the following:

Sioux of Dakota:

For expense of transporting and delivering articles furnished for the nine bands of Sioux aforesaid, as required by treaties made at Fort Sully in October, 1865, \$20,000.

The amendment was agreed to.

Mr. KASSON. The principle items that were intended to be struck out in pursuance of the instructions of the House commence on page 55, under the head of "general incidental expenses of the Indian service." I do not propose to enter into any debate on this subject. I have only to say that the Committee on Appropriations, upon a careful reexamination of all those items, have felt it absolutely necessary for the continuance of peaceful relations in the sections of country inhabited by the Indians that these appropriations should be made. The Representatives from the States and Delegates from the Territories named in these clauses are very urgent in insisting on the necessity of the several appropriations, fearing wars as the immediate result of a failure on the part of Congress to provide these necessary current appropriations to preserve the peace. I shall therefore ask that the several clauses be read in their order, and that the Representatives and Delegates interested may state the facts bearing upon the question.

The SPEAKER. The provisions can only be inserted as amendments.

Mr. KASSON. I move as the first amendment to insert the following:

General incidental expenses of the Indian service: For the general incidental expenses of the Indian service in the Territory of Arizona, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, \$35,000.

The estimate is for thirty-five thousand Indians. The amount asked for originally in the estimate submitted to the committee was \$70,000. We have reduced it to \$35,000—a dollar for each Indian.

These Indians are now upon a reservation; and in consequence of not having received this money they, believing they had been defrauded by the agent, actually murdered him, saying their Great Father must have sent the money, and that the agent was responsible for their failure to receive it. We are informed this appropriation is indispensable.

Mr. SCOTFIELD. This is an appropriation of \$35,000 to assist these Indians to locate in permanent abodes, and to sustain them in the pursuits of civilized life. We have never been able to accomplish the civilization of any body of Indians, although to that end we have expended a large amount of money. It seems the more money we expend on them the worse we make them.

Now, sir, I do believe the Indians had good reason to suspect the Indian agents had kept the money, because they knew the character of these Indian agents and what they had done in other instances. They have come to know, little as they know about civilized life, all the money the Great Father sends to them never comes to them. If we appropriate this \$35,000 I do not believe ten per cent. of the amount will ever reach the hands of the Indians, and what little does will be filched from them in some wrongful trade.

Mr. KASSON. I have but a word to say in reply. I regret my friend from Pennsylvania is not willing to trust, to some extent at least, to the gentleman who represents that region of country. There are few persons who have not been there who must not trust to these representations. In reference to all matters touching oil or any other interest of his district we consult the gentleman, and in like manner we are bound to consult and take the recommendations of the Representatives here from these remote Territories. These Indian relations have suffered interruption, and it is necessary they should be restored. We have reduced the appropriation one half. These

Indians are already upon this reservation. This amounts to only one dollar an Indian.

The House divided; and there were—ayes 27, noes 13; no quorum voting.

Mr. SCOTFIELD. In a full House we decided against this appropriation, and I do not feel disposed to let it pass without question.

The SPEAKER ordered tellers; and appointed Mr. WINDOM and Mr. BRANDEGEE.

The House again divided; and the tellers reported—ayes 60, noes 39.

So the amendment was agreed to.

Mr. KASSON. I move the following as the next amendment:

For the general incidental expenses of the Indian service in California, including traveling expenses of the superintending agents, \$7,500.

The House divided; and there were—ayes 34, noes 11; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. HIGBY and Mr. ANCONA.

The House again divided; and there were—ayes 65, noes 31.

The SPEAKER voted in the affirmative.

So the amendment was agreed to.

The next amendment of the committee was to insert the following:

For the general incidental expenses of the Indian service in Colorado Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, \$20,000.

Mr. MAYNARD. I would inquire of the gentlemen from Iowa whether this is not a reintroduction into this bill of the items that the House upon careful consideration ordered to be stricken out, and the bill to be reported without them. It will be remembered that this question of Indian appropriation was very much debated a short time since, and after full discussion the Committee on Appropriations were instructed to reconsider the bill and strike out all these items. I would like to know how many of them have been reintroduced in the form of amendments to the bill.

Mr. KASSON. The committee have reexamined these items, and as I stated at the opening, but I presume the gentleman did not hear me, have sought to relieve the bill entirely of the appropriations that were objected to unless the necessities of the case required them to be retained or reinserted. The question was whether the amounts appropriated could be reduced. In accordance with the order of the House we have reported the bill back with certain necessary items reinserted. I am obliged to differ with the gentleman in his statement that all these items were stricken out on careful consideration. They were stricken out without special consideration upon the general theory that what were called incidental expenses ought to be disavowed entirely from the bill in all cases. The committee in executing the order of the House have reinscribed certain appropriations that were in accordance with existing obligations, money obligations of the United States, resulting from the taking of trust funds and agreeing by law with the tribes whose funds were taken by the United States to pay them annuities or money in the shape of interest. In several instances of this kind to strike out the appropriations would be a repudiation of the obligations of the Government, and these items are therefore reinserted.

Then, in regard to these expenditures, the committee made a thorough examination, and upon consultation with the Delegates from the Territories, as well as with the Indian Bureau, we found that to break off suddenly and interrupt completely the habits to which the Indians have become accustomed, as if by the force of law, of receiving annually certain aid and assistance from the United States, would inevitably, in many instances, tend to promote war, robbery, and murder of the whites. We were so entirely convinced of that fact that there was no dissenting voice in the committee when they instructed me to move to rein-

sert these items with, in some cases, additional provisions.

I will say in order to cover all these cases, that a new section has been proposed by the committee which we have not yet reached, to come in at the end, imposing new duties upon the Indian Bureau to report the items in particular of these expenditures in future as they shall be made annually; so that we may know exactly the articles for which the money is paid, thus putting a new check upon the entire disposition of this fund. I would be glad, of course, if I could conscientiously, as the gentleman desires, ask the House to strike out these items, but we cannot do it without exposing the country, and especially the peaceful whites in those regions to outrage and murder.

Mr. MAYNARD. I desire simply to say that I understood the debate the other day quite differently from what seems to be the impression of the gentleman from Iowa. If I understood it, the action the other day went over the ground that this House had recently passed a very important bill looking to a change of the administration of Indian affairs, transferring it from the Department of the Interior to the Department of War. Should that bill become a law the War Department would desire to have appropriations made under its own estimates. It was stated that the current or existing appropriations were sufficient to carry on the Indian Bureau till the end of the present fiscal year, and as the Fortieth Congress would assemble on the 4th of March there would be ample time for it to mature an Indian appropriation bill for the next fiscal year. Therefore the House determined that all the appropriations not necessary to carry out the stipulations of existing treaties should be stricken out, and that it would postpone action during the present Congress upon that portion of the bill, and leave it to our successors in the next Congress to act upon estimates from the War Department, should the change anticipated by the action of the House be made.

I will not go over the ground. I refer to the recollection of gentlemen that the complaints of the management of the Indian Bureau under the Department of the Interior have been long and grievous. The House may determine to remedy them if a remedy is possible in the nature of things.

It does seem to me, with all deference to the Committee on Appropriations, that the House did decide this matter, and decided it upon full consideration and discussion—decided it, knowing what they were about, and decided that these items now sought to be reintroduced into the bill, were not necessary to be passed by us at the present session, but could be provided for by our successors in the next Congress, and that we might safely leave the work to be done by them, in the light of such legislation in regard to the Indian Bureau as this Congress may enact.

Mr. THAYER. I hope the House will understand the process to which they are now being subjected. The other day the House voted by a very considerable majority, instructions to this committee to strike out of this bill the very provisions which now, upon the motion of the gentleman from Iowa, [Mr. KASSON,] are sought to be reinserted. The House in coming to that conclusion had made up its mind to abandon the mistaken policy which had hitherto been pursued, in voting large sums of money with the ostensible purpose of preserving peace in the Indian country, but with the real effect of supplying sums of money to be plundered by Indian agents.

Now, let the House consider this matter. The gentleman from Iowa, in regard to one of the amendments already acted upon by the House, has told us that the sum appropriated would, in that particular instance, amount to about one dollar for every Indian. I ask the common sense of this House how far one dollar a head to an Indian tribe will go to enable them to build houses and enter into agricultural pursuits. Sir, if the Indians ever

get that dollar a head which you have just voted, it will not be spent on houses or agriculture, but in the purchase of whisky.

But in point of fact I believe that a very small portion of that dollar will ever reach the Indian for whom it is supposed to be intended. Sir, we have proceeded upon this mistaken policy long enough. It has failed to accomplish the purposes for which its advocates claim that it was intended. It has not prevented Indian wars. We have pursued this system steadfastly for years, and yet Indian wars still continue to desolate the whole western country, and the passage through that country is now, as we all know, impracticable unless by armed men. It is in vain that you continue this useless policy of expenditure. It does not accomplish the purpose, it does not prevent Indian wars; and those wars and atrocities will rage as they have always raged heretofore, notwithstanding all the money you may appropriate to appease the Indian tribes.

Sir, I do not know from what cause, but either because this money is improperly applied or because it is squandered by the agents to whose hands it is intrusted, or owing to the fact that the receipt of the money has no effect upon the savages who receive it, the fact stands out incapable of denial that, while you pour out your money like water for this purpose, Indian warfare is prosecuted with unabated vigor, and to the unceasing destruction of our emigrants and pioneers.

Sir, I hope the House will adhere to the action which they took the other day, and that they will keep out of this bill all sums which are not necessary for actual expenditure in the Indian department, and for carrying out in good faith the treaties which we have made with the Indian tribes.

Mr. HENDERSON. Mr. Speaker, I am very sorry to hear gentlemen who live so far from the scene of these difficulties as the gentleman from Tennessee [Mr. MAYNARD] and the gentleman from Pennsylvania [Mr. SCOFIELD] get up and tell us about useless expenditures upon the Indians. It strikes me as exceedingly strange that men who have hardly ever seen the track of an Indian should rise in this House and state that money which has been expended thousands of miles from them has been uselessly expended.

The gentleman from Tennessee [Mr. MAYNARD] anticipates, however, the transfer of the Indian Bureau from the Interior Department to the War Department, and therefore he thinks there ought to be no appropriations of this kind made at this time. I understand, sir, that the Senate has not passed the bill which received the approval of this House, and there is very little probability that it will be passed in that body. It will not do for us to wait to see whether the Senate will pass that bill, meanwhile making no provision for the Indian difficulties which may occur during the ensuing year.

Mr. Speaker, the gentleman from Pennsylvania [Mr. THAYER] talks about the continued expenditures for Indians. He seems to think that this matter ought to have been all closed up many years ago. Now, gentlemen when they entertain such an idea forget the principle which governs them on other questions. Gentlemen come here and ask for appropriations for improving their rivers and harbors, which have been in use for three hundred years. I might inquire, will they never get done asking for such appropriations?

Mr. THAYER. If the gentleman refers to me, he will allow me to say that I voted against the river and harbor bill.

Mr. HENDERSON. I want to say, Mr. Speaker, that just so long as the United States Government is taking new lands from the Indians, so long will there be new expenses. Just so long as the settlements of the whites are pushed forward to the hunting grounds of the wild Indians we may expect new difficulties, and we shall be required to make new appropriations. I am perfectly astonished that a

statesman should rise here and manifest so little knowledge of the principles of our Government as to imagine that appropriations made to feed and clothe the Indians a hundred years ago ought to answer for the present day, when thousands and tens of thousands of wild Indians are being brought within the circle of civilization every year.

Mr. Speaker, there must be appropriations probably for the next hundred years unless the Government kills all the Indians or civilizes them, or builds an impassable wall between the whites and the Indians. Just so long as white emigrants continue to push forward into the wilderness, the native home of the Indians, you may expect renewed applications for appropriations either to kill or to feed and clothe those Indians.

The people I have the honor to represent have within the last two years lost \$250,000 by depredations of Indians who were not under treaty with the Government. These Indians are in wandering tribes. They acknowledge no authority. They rob and steal when and where they please, and they will continue to do so until they are collected, put upon reservations, and taught the arts of civilization. The people in eastern Oregon and in Idaho Territory have suffered to such an extent from these wandering Indians that they have banded themselves together and offered a reward for the scalps of Indians, men, women, and children. I do not say that the government of that State or Territory has done this; but individuals, feeling the necessity of having the Indians either civilized or killed, have formed associations and offered rewards of \$100 for the scalp of a full-grown male Indian, fifty dollars for the scalp of an Indian woman, and twenty dollars for the scalp of an Indian child. This is the horrid system into which the whites may everywhere be driven unless this Government will take proper care of the Indians.

I received yesterday a letter from the Governor of Idaho Territory, an intelligent, honest, loyal man as any in the nation, and he urges that these Indians, these fragments of bands, must be collected, placed upon reservations, and cared for by the Government, or their depredations will cost ten times as much as the appropriations necessary to provide for them properly. In the State of Oregon and the Territory of Idaho alone at least one hundred thousand dollars ought to be appropriated this year for collecting and placing Indians upon reservations. If this were done it would be a vast saving, not only of money, but of lives. I said that the people of my own State have lost perhaps two hundred and fifty thousand dollars by Indian depredations. I will now say that nearly that many valuable lives have been lost in the same way.

Now, I ask members of the House what is to be done? Shall this stealing and murdering continue, or shall we make the necessary appropriations for collecting the Indians upon reservations and teaching them the arts of civilization? I do hope that the Government will not be "penny wise and pound foolish," but will act with a prudent generosity upon this subject.

Mr. SCOFIELD obtained the floor.

Mr. MAYNARD. With the consent of the gentleman from Pennsylvania, [Mr. SCOFIELD,] I wish to put to the gentleman from Oregon [Mr. HENDERSON] a question which I would have been glad to put to him before he took his seat.

I desire greatly any information on this subject which the gentleman from Oregon may be able to give us. He may have information which we have not. In the remarks which I submitted to the House I did not pretend to speak from any special knowledge that I had upon the subject, nor did I advance any opinions of my own. I spoke of the opinions largely prevailing in this country and on which the action of this House has been taken. One of those opinions is—and on this point I would like to hear from the gentleman from Oregon—that the men who have been selected as Indian



agents have been in general, or certainly to a very large extent, very unsuitable persons to be intrusted with the care of the Indians, much less with the expenditure of the public money. I would like to hear from the gentleman whether that opinion is well or ill founded, so far as he knows.

Mr. HENDERSON. I will answer the question with a great deal of pleasure. Some of the Indian agents and superintendents are good men, honest and true; while others of them are very dishonest, bad men. That is about the state of the case.

I will say that the warmth with which I have spoken on this question of Indian affairs has arisen from a deep conviction of the necessity for proper care of the Indians on the part of the Government. I did not intend any personal reflections upon any gentleman.

Mr. MAYNARD. I desire to know further, whether, in point of fact, the large expenditures which have been made for the removal of the Indians to reservations and the care of them there have been attended with any practical benefit, either to the Indians or to the white settlers.

Mr. HENDERSON. There have been hundreds and thousands of them on our reservations. They are, to a great extent, supporting themselves, and are not disturbing the whites in any manner. They show great docility, and are being taught to take care of themselves. This is the fact.

Mr. MAYNARD. I desire to ask in relation to one further point.

Mr. SCOFIELD. I cannot yield further to the gentleman. I yield now to the gentleman from California, [Mr. HIGBY.]

Mr. HIGBY. Mr. Speaker, it appears to me to be the duty of those members who represent States where there are a great many Indians, and who are familiar with their condition; to give any pertinent information on this subject. There are in some localities Indians residing on reservations and under the care of the Government, but who are not under treaty. This is the condition of the Indian system in the State of California; and the case is the same in the State of Nevada; and I presume a similar state of affairs is found in the other States and in the Territories.

There is a vast distinction between the Indians on reservations under the care of the Government and those in roving tribes living in a wild manner. As far as regards the State of California the whole expenditure is for Indians upon reservations, with the exception that the superintendent may have asked for some small appropriation to provide seeds, agricultural implements, &c., for the Indians called Mission Indians in the southern part of the State, who are living by agriculture. They are peaceable Indians, and must be entirely cared for by the Government or the people, unless they are aided and encouraged in cultivating the soil and providing the means of their own sustenance. They have been educated and civilized by the Roman Catholic mission, established in that country many years ago when it belonged to the Mexican Government. With this exception all the expenditures in our State are for Indians on reservations. Many thousands of them have gone on those reservations with the understanding that if they remain peaceable they shall be provided for by the Government, and these annual expenditures are made for that purpose.

I will state further, sir, in 1865 when, as a member of the committee investigating the condition of Indian Affairs I made the investigation in that State, the War Department had several hundred Indians upon the Sand Spit at Humboldt bay, as prisoners of war, and from there they were taken and settled upon the Round Valley reservation, with the understanding, at least on part of the War Department, they should be kept there by this Government so long as they remained at peace. We have now there some fifteen hundred Indians altogether. These Indians had been at war with the Government, but they are now

living there at peace. This is not according to treaty stipulations, but, as I have already stated, there is an understanding to keep them there.

Whatever may be the case in reference to other superintendents, I know Mr. Maltby, our superintendent, and by whom these appropriations are recommended, is an honorable and high-minded gentleman. I can speak of his fidelity and usefulness.

There is another point to be considered. California will not be represented here after the 4th of March next, because our election does not take place until the first Tuesday of September, and I therefore ask this appropriation shall be made now.

Mr. SCOFIELD. Mr. Speaker, it is very hard to kill a worthless appropriation. It is very easy to destroy an honest one. A real meritorious claim can almost always be defeated, but a bad one never can it seems. It comes back here every year and always has its advocates.

Mr. LYNCH. Let me ask the gentleman a question.

Mr. SCOFIELD. Not now. It is not so, Mr. Speaker, because members of Congress prefer a bad cause to a good one, but because the persons interested in a bad appropriation are everywhere around to press their claim, to misrepresent and to deceive with wrong information.

The gentleman from Oregon [Mr. HENDERSON] tells us the people who live upon the borders know more about Indians than we do. I have no objection to acknowledge that. They know more about the Indian character than we do. I am opposing the amendment of the gentleman from Iowa because it is not for the benefit of the Indians. It does not even profess to be for the benefit of the Indians. It is as follows:

For the general incidental expenses of the Indian service in Colorado Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, &c.

Who are *them*? I ask the gentleman from Iowa. There is nothing said about the Indians.

It provides for general incidental expenses, &c., to assist *them*. *Them* means the Indian service, and the Indian service means the men who get the money. That is all.

The gentleman from California says they are keeping in subjugation some Indians, something that is not in the amendment. The paragraph is as follows:

For the general incidental expenses of the Indian service in California, including traveling expenses of the superintending agents, \$7,500.

It is all for the service, and the service is all stealing off the Government. Now and then, perhaps, you get an honest agent.

A MEMBER. And they kill him.

Mr. SCOFIELD. Then they kill him as the gentleman suggests. I do not mean to charge all the men in the Indian service are bad men, but they get into bad habits in the service.

The gentleman from Iowa does not pretend this amendment is for the Indians. The very language employed says it is for the Indian service for *them*, without saying whom *them* means. They are very bad in grammar in that committee; or *them* means this appropriation shall go to the Indian agents.

This has been stricken out once on full consideration, and here we have it attempted to be put back again.

The committee have done just as they did before. After having come here with their appropriation bill and the House having sent it back with instructions to strike out all these items, they now come back with it to the House with all the items in. I think they ought to be satisfied with the instructions. But as I said before a bad cause never dies.

Mr. LYNCH. The gentleman from Pennsylvania has remarked how easy it is to kill a good measure. I presume he remembers a striking illustration of that fact in the fortification appropriation bill, that was killed the other day on his motion.

Mr. SCOFIELD. I have no doubt but what these mischievous appropriations will come back here in some way. If we do not originate them here they will do so in the Senate. They are of the class of mischievous appropriations that never get their death-blow anywhere, and they will come back in some shape or another until the firmness of one member after another yields and they get through at last. You cannot kill them.

Mr. KASSON. I had hoped that after the very full discussion the other day on the general question the discussion to-day might be confined to the specific facts that should enlighten the House. There are two or three gentlemen from the Territories who desire to be heard on this question, and the chairman of the Committee on Indian Affairs desires also to be heard. I propose therefore to retain the floor, but to yield it first to the chairman of the Committee on Indian Affairs.

Mr. WINDOM. Mr. Speaker, I did not desire to make any remarks on this subject when, a few days ago, the House at one fell swoop struck out the whole of these appropriations. I chose to content myself simply with voting against it. I was so astonished at the action of this body that I felt as though a little reflection on the part of members who thus voted would be all that was necessary. I suppose it is a little spasm of economy that has seized a few gentlemen here, who expect to save a few dollars to the Treasury by this operation. Now, let me say that in the eight years' experience that I have had here I have seen on almost every question these spasms seize the House. A few years ago they seized it with reference to Indian affairs. To-day the gentleman from Pennsylvania [Mr. SCOFIELD] seems to have been seized with a more severe attack than any of the rest.

Now, all I desire to say upon this point is simply this, that these Indians in the Territories and new States have been collected in large numbers on reservations. They have been fed and they have had certain appropriations made for their benefit. They need at certain seasons of the year, and expect to receive, these gifts which they understand the Government intends to distribute to them. What, then, is the result of striking out these appropriations? Not being possessed of the wisdom and economy of the gentleman from Pennsylvania, they will come in at the next season as they have done hitherto, expecting to receive these presents which they understood the Government is bound to give them, but which, in a fit of economy, it has determined to withhold. They will come there destitute and they will go away dissatisfied, believing that the Government has violated its obligation. The only remedy the Indian knows under such circumstances is war, and war it will be in every Territory of this Union if this monstrous and reckless proposition of the gentleman from Pennsylvania prevails. I call it monstrous, because it will expose the lives of our frontier settlers and of every man whose business it is to cross the plains. I pronounce it reckless also for the same reason. If the House shall follow the lead of the gentleman from Pennsylvania and strikes out indiscriminately all these provisions, you will in less than two years from to-day appropriate \$100 for every dollar you save to-day by this sort of economy, for there will be war all over the Indian country.

Mr. SCOFIELD. The gentleman ought to add cruelty to agents.

Mr. WINDOM. I do not know what the gentleman means by cruelty to agents. I am glad he mentions it, however, for I want to say here so far as agents are concerned I have not the slightest interest in one of them. I have had the honor of serving as chairman of the Committee on Indian Affairs four years, and I have never had but one friend appointed to the Indian Bureau, and the moment the last Secretary of the Interior, Mr. Harlan, came in he was removed. I have not now a single friend anywhere in the Indian service, and I never have asked an appointment, simply

for the reason that I always wanted to be entirely independent.

I do not desire to say anything further. I simply wanted to put in my warning voice, for I have studied this subject, and I wanted to notify gentlemen that this proposed action will involve a much larger expenditure hereafter, to say nothing of the loss of human life.

Mr. KASSON. I desire to answer two or three of the objections which have been raised, and then to get a vote upon this clause and upon the other clauses, for the principle which guided the committee on this clause guided them on all. I repeat that the committee have examined these various clauses and have reduced to the last dollar every appropriation proposed here, several of them being decidedly under the estimates.

Mr. SCOFIELD. I would ask if any of them have been reduced since they were last reported.

Mr. KASSON. We reduced them from the estimates before we reported them, and we have modified them in one or two clauses since the bill was sent back to us.

Mr. SCOFIELD. By enlarging them?

Mr. KASSON. No, sir; there is no enlargement at all; on the contrary, there is a restriction.

I must again call the attention of the House to the fact that the gentleman who makes this attack upon these appropriations has failed to show in one single particular that we can get along without them. I call the attention of the House to the fact that not one member upon the floor who has ever been among the Indians and knows anything about the treaties we have made with the Indians or of our usages in dealing with the Indians has risen upon this floor to say that these appropriations should now be suddenly cut off. There is, I venture to say, not one gentleman here from States where Indians have recently been or are now who will declare that these appropriations are not necessary. No member on the floor of the House has been more earnest in the direction of economy than myself, and I have been convinced against my will that whether the Indians be under military or civil management we have got to have these appropriations for the necessary incidental expenses of the Indian service.

I pass over the questions of grammar, leaving the gentleman from Pennsylvania [Mr. SCOFIELD] to settle them as he may best be able to do. All I have to say is that he is entirely mistaken when he says that the gentleman from Iowa does not pretend that this Colorado appropriation is for the Indians. It is directly appropriated for the Indians, and for nobody else.

Mr. SCOFIELD. Not in the text of the bill.

Mr. KASSON. The text of the bill provides that it shall be for the Indian service, which we all know is for the service of the Indians; and it provides what articles shall be supplied to the Indians. The point in which the appropriations have been defective heretofore has been in the administration of them; and in order to check that vicious administration a new section has been proposed by the committee, requiring a specific report in the case of each Territory of the manner in which the money has been expended, the men to whom it has been paid, and the articles purchased under the appropriation, thus imparting to Congress a knowledge it has never had heretofore as to whether these appropriations are disbursed honestly and for honest purposes. This, I believe, is all I have to say; and I ask the previous question on the amendment.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The next amendment of the Committee on Appropriations was to insert the following:

For the general incidental expenses of the Indian service in Dakota Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life,

to be expended under the direction of the Secretary of the Interior, \$20,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was to insert the following:

For the general incidental expenses of the Indian service in Idaho Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, \$20,000.

The amendment was agreed to.

The next amendment of the committee was to insert the following:

For the general incidental expenses of the Indian service in Montana Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, \$20,000.

The amendment was agreed to.

The next amendment of the committee was to insert the following:

For the general incidental expenses of the Indian service in Nevada, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, \$25,000.

Mr. SCOFIELD. I move to make the appropriation \$20,000, and put Nevada upon the same footing with the rest.

Mr. KASSON. I have no objection to that amendment.

The amendment to the amendment was agreed to; and the amendment, as amended, was then agreed to.

The next amendment of the committee was to insert the following:

For general incidental expenses of the Indian service in New Mexico, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, \$50,000.

Mr. SCOFIELD. The amount here named is more than double the amount given to any other Territory.

Mr. CHAVES. There are double the number of Indians there.

Mr. SCOFIELD. The Delegate from New Mexico [Mr. CHAVES] says there are double the number of Indians there. I would like to know why this appropriation is made? I know it is said that we economists, of which there are but few, make the most monstrous propositions, because we are unaccustomed to these Indian affairs, and therefore we do not know how to economize properly in reference to this general "Indian steal." Now, I would like to know from the gentleman from Iowa, who makes this motion on the part of the Committee on Appropriations, why it is proposed to give \$50,000 for the Indians in New Mexico and give only \$20,000 to each of the other Territories?

Mr. KASSON. I shall be glad to yield the floor to the Delegate from New Mexico, [Mr. CHAVES,] who has already answered the gentleman from Pennsylvania [Mr. SCOFIELD] in part, by the statement that there are twice as many Indians in New Mexico as there are in either of the other Territories. And I will say in addition to that, that they are the worst Indians we have anything to do with. We are most anxious to get influence over the leading chiefs of the tribes there. We must first get these Indians upon reservations; and after they are once located there so much money will not be needed. I now yield to the Delegate from New Mexico.

Mr. CHAVES. I hope that the amendment recommended by the Committee on Appropriations will be adopted by the House. In New Mexico we are entirely surrounded by Indians; there are many tribes of Indians there, among them the Navajoes and Camanches. It is nearly impossible to move about or get out of the Territory without coming across some hostile band of Indians.

In 1848 the United States voluntarily ratified

a treaty with the republic of Mexico, by which this Government agreed that if Mexico would cede to the United States the territory comprised within the boundaries of California and New Mexico this Government would see to it that Indian depredations should cease, not only in reference to the people living within the territory ceded to the United States, but also depredations from those Territories into and within the Mexican republic; and by this same treaty, commonly known as the Gadsden treaty, this Government agreed to pay any damages resulting from such depredations into the territory of the republic of Mexico.

We have now in New Mexico Indians who have been accustomed to commit depredations upon the people of Mexico for the last one hundred and fifty years. Within the last two years some of these Indians have been collected and colonized upon the Bosque Redondo reservation. They have been entirely under military rule within the last few years, and a very small appropriation of \$100,000 has been made to sustain them. The War Department has entire charge of their subsistence.

As regards the other Indians, they are spread over a very large extent of territory. They reside in the northwestern, the northern, and the northeastern portions, and in fact over almost the whole Territory of New Mexico. The \$50,000 proposed to be appropriated here for general incidental expenses of the Indian service in New Mexico, to be expended for agricultural implements and other useful articles, is really a very small appropriation considering the necessities of the case. I think that the House, in deciding upon this matter, ought to take into consideration the fact that, although New Mexico has so long remained a Territory, yet at no distant time we shall, from the now meagerly developed but inexhaustible wealth of our country, be able to repay the appropriations which the Government may expend for our benefit.

Mr. MAYNARD. Will the gentleman from New Mexico [Mr. CHAVES] be kind enough to inform us what agricultural implements are usually distributed among the Indian tribes in his Territory?

Mr. CHAVES. Plows, spades, axes, hatchets, and things of that sort. The Indians are also furnished with horses, oxen, and mules; and men are hired to assist and instruct them in cultivating the soil.

A MEMBER. Are they furnished with whisky?

Mr. CHAVES. No, sir; no whisky is furnished to them.

Mr. MAYNARD. Are we to understand from the gentleman that these are roving bands of Indians, or Indians located upon reservations?

Mr. CHAVES. Those of whom I speak are actually upon the reservations; but some of the things I have mentioned are sometimes furnished to those whom the gentleman from Tennessee would perhaps call roving Indians, from the fact that those not located upon reservations are not necessarily at war; many of them are peaceably disposed.

Now, Mr. Speaker, it is well that the House should understand that an Indian resembles in some respects a child. For years the Congress of the United States has been appropriating to certain Indians money for presents. The Indians consider that this is in accordance with a contract between them and the Congress of the United States. The moment that Congress fails to make the customary appropriations that very moment the Indians will say that the Congress of the United States is talking with two tongues. That is the way they will regard it.

In order to show the gentleman from Tennessee and the House the purposes for which these appropriations are expended, I will read a brief paragraph from the report of the Commissioner of Indian Affairs for 1866:

"For the Pueblos, as will be noticed, I have recommended an appropriation for the purchase of school-books and the employment of competent teachers to conduct and carry on a system of education among these people, who would be largely ben-

edited thereby. And I have also recommended an appropriation for the purchase of agricultural implements, household utensils, grist-mills, and fruit trees, which would be of incalculable service and comfort, and tend to facilitate the advancement of this interesting race. Government, while spending millions of money in fighting hostile Indians, should remember the peaceable disposition of the Pueblos of New Mexico, and generously assist their well-directed efforts. As a race they are the most interesting of all the Indian tribes of the United States, and the fact of their being self-supporting and peaceable rather than warlike should be sufficient argument in favor of their immediate assistance by an assortment of implements and utensils, as briefly enumerated."

Mr. MAYNARD. Are these the Indians who are so perilous to those who come from and go to New Mexico?

Mr. CHAVES. Not these particular ones. It is necessary the Government of the United States should do something.

Mr. Speaker, since I have been a Delegate in this House I have noticed as a general thing members eulogize the enterprise, skill, and success of the Anglo-Saxon race. Although I am not of that race, still I can feel as proud as any of the glory of this great country. But I must be permitted also to say that great as we are, yet the United States has failed entirely and utterly in the attempt to solve the problem as to the best manner in which these Indians are to be treated so as to result in their civilization. Look at the policy of the Spanish government, under which twenty pueblos of civilized Indians have been established in New Mexico. They raise nearly all the productions they need, and all we want is that the Government of the United States shall furnish schools and teachers, so that they shall be not only good citizens but educated and useful. This is all I have to say.

Mr. KASSON demanded the previous question.

The previous question was seconded and the main question ordered: and under the operation thereof the amendment was adopted.

The next amendment was read, as follows:

Oregon and Washington Territory:

For the general incidental expenses of the Indian service in Oregon and Washington Territory, including insurance and transportation of annuity goods and presents, (where no special provision therefor is made by treaties,) and office and traveling expenses of the superintendent, agents, and sub-agents, \$35,500.

The amendment was agreed to.

The next amendment was read, as follows:

Utah Territory:

For the general incidental expenses of the Indian service in Utah Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, \$25,000.

The amendment was agreed to.

The next amendment was read, as follows:

For the transportation and necessary expenses of delivery of provisions to the Indians within the Utah superintendency, \$22,500.

Mr. MAYNARD moved to reduce the appropriation to \$20,000.

The amendment to the amendment was agreed to; and the amendment as amended was adopted.

The next amendment was read, as follows:

Miscellaneous:

For the expenses of colonizing, supporting, and furnishing agricultural implements and stock, pay of necessary employes, purchasing clothing, medicine, iron and steel, maintenance of schools for Indians lately residing in Texas, but now residing on the Choctaw lands, to be expended under the direction of the Secretary of the Interior, \$22,825.

Mr. MAYNARD. This seems to be a new appropriation, and I should like to know what transmigration of Indians there has been from Texas to the Choctaw country. If we once commence this, as has been well said, it will continue to be a leak in the Treasury for years to come. We are told it may go on indefinitely for one hundred years. We had better, therefore, understand what we are doing.

Mr. KASSON. The gentleman asks a very proper question. I find that several tribes located in Texas, the Tankoways, Cadoes, and Lipans, were driven off, and with the consent of the Choctaws were allowed to come up

among them. This appropriation is for the purpose of settling and establishing them where they are now. It is not a new appropriation.

Mr. MAYNARD. I have had no opportunity to examine whether the treaty appropriations for the Choctaws have been paid since the war. They were suspended during the war.

Mr. KASSON. The preceding clauses of the bill make appropriations for the Choctaws.

Mr. MAYNARD. We suspended appropriations for them during the war, but have we ever renewed these appropriations? I intended to follow this up by another question: whether these other tribes in the Choctaw country were not liable to the same treatment that the Choctaws received from us for their participation in the rebellion?

Mr. KASSON. These are entirely separate tribes, coming under no provisions relative to the Choctaws, except that they have been sent to live there now. We do make some appropriations for the Choctaws under certain treaties requiring specific appropriations.

Mr. MAYNARD. I would inquire whether these tribes took part in the rebellion?

Mr. KASSON. We have no information in regard to any of them as to that.

The amendment was agreed to.

The Clerk read the next amendment, to insert the following:

For the Wichitas and other affiliated bands:

For the expenses of colonizing, supporting, and furnishing said bands with agricultural implements and stock, pay of necessary employes, purchase of clothing, medicines, iron and steel, and maintenance of schools, to be expended under the direction of the Secretary of the Interior, \$37,800.

The amendment was agreed to.

The next amendment was as follows:

California:

For pay of one physician, one blacksmith, one assistant blacksmith, one farmer, one carpenter, upon each of the four reservations of California, at the rate of fifty dollars per month, \$12,000.

For the purchase of cattle for beef and milk, together with clothing and food, teams, and farming tools for Indians in California, \$55,000.

For defraying the expenses of the removal and subsistence of Indians in Oregon and Washington Territory, (not parties to any treaty,) and for pay of necessary employes, \$50,000.

Mr. BIDWELL. I suggest that the appropriation is very inadequate for the physician. It would be better not to have any physician on the reservation. The pay does not amount to anything. I move to amend by doubling the appropriation for the physician, blacksmith, assistant blacksmith, and farmer, making it \$25,000.

Mr. KASSON. I am not authorized to consent to any increase in the appropriation.

Mr. BIDWELL. I ask the House to consent to the amendment.

Mr. KASSON. Better let it go.

Mr. BIDWELL. I am willing to let almost anything go, but really the sum appropriated is not at all adequate to the wants of the reservations.

Mr. KASSON. I am not authorized to make any change.

Mr. BIDWELL withdrew his amendment.

Mr. MAYNARD. I move to strike out the following item:

For defraying the expenses of the removal and subsistence of Indians in Oregon and Washington Territory, (not parties to any treaty,) and for pay of necessary employes, \$50,000.

On a preceding page of the bill we made this appropriation for Oregon and Washington Territory—

For the general incidental expenses of the Indian service in Oregon and Washington Territory, including insurance and transportation of annuity goods and presents, (where no special provision therefor is made by treaties,) and office and traveling expenses of the superintendent, agents, and sub-agents, \$35,500.

It seems to me we had better let that stand.

Mr. HENDERSON. This item that the gentleman from Tennessee proposes to strike out is a very necessary one. These Indians to whom it relates are not under any specific treaty, and they ought to be cared for until they can be permanently provided for. This can be done under the direction of the superintendent

of Indian affairs, and I hope the appropriation will not be stricken out.

Mr. MAYNARD. We have already passed an appropriation for the general expenses of the Indian service in Washington and Oregon.

Mr. KASSON. That related to treaty stipulations.

Mr. MAYNARD. Unfortunately it does not say so.

Mr. HENDERSON. This is for the specific purpose of collecting these Indians and locating them on reservations.

Mr. SCOTFIELD. The gentleman from Iowa says the appropriation we have just made is for treaties. Now, we are running this whole thing by guess, and I guess the gentleman from Iowa does not know much more about it than the rest of us. About the middle of the appropriation which we made for general incidental expenses you will find in parenthesis the words "Where no special provision therefor is made by treaties." Now, the gentleman says that is made by treaties in spite of that language.

Mr. HENDERSON. I will answer that.

Mr. SCOTFIELD. I would like the gentleman who has charge of the bill to explain it.

Mr. HENDERSON. Suffer me to make my explanation. In the first place the appropriations that have been passed are for incidental expenses under the stipulations already in existence not provided for under treaties. This is a new item for collecting the Indians on reservations, locating and feeding them until permanent provisions can be made.

The amendment of Mr. MAYNARD was disagreed to.

The question recurring on the amendment of the committee, it was adopted.

Mr. MAYNARD. I move to strike out the next paragraph in the bill, as follows:

Navajo Indians in New Mexico:

For subsistence for the Navajo Indians, and for the purchase of sheep, seeds, agricultural implements, and other articles necessary for breaking the ground on the reservation upon the Pecos river, \$100,000.

Mr. KASSON. I rise to a question of order. The propositions now before the House are only the amendments proposed by the committee. The bill as reported back in accordance with the order of the House has been acted upon.

The SPEAKER. If the gentleman desires the whole bill should pass it is open to amendment.

Mr. KASSON. The resolution of the House was that the bill should be reported back embracing all the treaty stipulations and provisions for Indians in the custody of the United States. These Navajos are in the custody of the United States, consequently the appropriation is not stricken out.

The SPEAKER. The Chair understands the whole bill is open to amendment.

Mr. SCOTFIELD. The appropriation for these Navajos is \$100,000. The appropriations commenced with \$5,000 and \$10,000, soon went up to \$50,000, and now it is up to \$100,000. Most of these appropriations are divided; that is to say, first, there is a clause for Oregon, appropriating some \$30,000; and after two or three pages, where the House has forgotten that appropriation, there comes in a clause containing \$50,000; and so it goes on repeating and accumulating. Now, the gentleman from Minnesota [Mr. WINDOM,] says that I am presenting a monstrous proposition in asking the House to stop these small leaks in the Treasury. I move to strike these items out, and seek to get a vote of the House upon them. If everything is to be voted down and we are to take this as it is all through, why, then, I will sit down and trouble nobody any more. But it does not occur to me that it is such a monstrous thing to save a little to the Treasury, although it is somewhat unusual.

Mr. KASSON. As to this item I wish to say what I apprehend the House understood in the debate the other day. This is a tribe of Indians numbering from six thousand to nine thousand, caught by the United States



troops after wars running through two or three generations, caught with great difficulty and securely placed upon a reservation and in the custody to-day of the United States. This is an appropriation which was retained in the bill in the action of the House the other day, and without which you cannot feed these Indians, in order to prepare them for the pursuits of civilized life. I greatly regret that my intelligent friend from Pennsylvania gets up here and denounces these things without knowing one solitary fact connected with the subject of which he speaks. I do not deny that he knows a great deal; I only say he does not state any facts to the House. I think when he denounces these appropriations he should show the facts upon which his denunciation is based. There are from six to nine thousand of these Navajo Indians to-day in the custody of the United States under trial. We have got to take care of them, and this appropriation of \$100,000 is, in my judgment—which is about as narrow in regard to economy as that of the gentleman from Pennsylvania—the least that can be tolerated.

Mr. WINDOM. Mr. Speaker, is the amendment subject to amendment?

The SPEAKER. It would be if the previous question was not seconded.

The previous question was seconded and the main question ordered.

The question was then taken upon the motion to strike out the paragraph relating to the Navajo Indians; and upon a division, there were—ayes 24, noes 22; no quorum voting.

Tellers were ordered; and Mr. LAWRENCE, of Ohio, and Mr. HUMPHREY were appointed. The House again divided; and the tellers reported that there were—ayes 34, noes 64.

So the motion to strike out was not agreed to.

Mr. WINDOM. I desire to move to amend this paragraph by making the appropriation \$150,000 instead of \$100,000.

The amendment was agreed to.

Mr. WINDOM. I desire to say a single word upon this subject.

No objection was made.

Mr. WINDOM. I moved the amendment which has just been adopted for the purpose of making an explanation in reference to these Indians in New Mexico, not that I have any expectation that this House will do them justice, but for the purpose of answering the gentleman from Pennsylvania, [Mr. SCOFIELD.] I desire to show that his proposition now is not a monstrous one; it is simply an absurd proposition; he has descended from a monstrosity to an absurdity.

For the last two years, according to estimates I laid before the House some days since, these Indians have received \$1,500,000 from the War Department. I know the gentleman from Iowa [Mr. KASSON] differs from me in this respect: he thinks the expenditure has been but \$700,000. Now, for the sake of argument, I will admit his estimate. At the same time the Indians have been receiving this \$100,000 from the Department of the Interior. Within the last six months arrangements have been made, as I understand, to turn these Indians over to the Interior Department. Consequently they cannot longer receive the amount they have hitherto received from the War Department, and the gentleman from Pennsylvania [Mr. SCOFIELD] proposed to strike out the \$100,000 which they have received from the general fund appropriated by Congress, making a difference of \$800,000, according even to the admission of the gentleman from Iowa, [Mr. KASSON;] and that, too, without any earthly reason being assigned why it should be done. I pronounce that proposition as absurd as it is monstrous.

Mr. SCOFIELD. Do I understand that the amendment of the gentleman from Minnesota [Mr. WINDOM] has been adopted?

The SPEAKER. It has been adopted.

Mr. WINDOM. It should have been made \$600,000.

Mr. SCOFIELD. Then I move to reconsider the vote by which the amendment was agreed to.

Mr. LAWRENCE, of Ohio. There is evidently some mistake in regard to this matter. The gentleman from Minnesota [Mr. WINDOM] when he moved the amendment stated that he did so simply for the purpose of making some remarks. The House did not evidently understand the amendment.

The SPEAKER. The Chair cannot tell whether the House understood the amendment or not; it was distinctly stated to the House by the Chair. The gentleman from Pennsylvania [Mr. SCOFIELD] has moved to reconsider the vote by which the amendment was agreed to, perhaps for the reason that it was not understood by the House.

Mr. SCOFIELD. The gentleman from Minnesota [Mr. WINDOM] says that these Navajo Indians have already received about a million dollars. Now I ask if the appropriations heretofore made were not for the purpose of changing the locality of these Indians?

Mr. WINDOM. It was not for any such purpose; they have been upon this reservation more than two years.

Mr. SCOFIELD. I have not examined the records to see whether or not we have paid these Indians \$1,000,000. But if the gentleman has heretofore succeeded in getting Congress to appropriate \$1,000,000 a year for this purpose then it only shows that he was worse heretofore than he is now. He is reforming by degrees, having now come down to \$100,000; next year I hope he will come down to \$50,000, and the next year to nothing.

Mr. WINDOM. That proves the gentleman has not investigated this subject at all, as he says. I stated that this expenditure of \$1,500,000 was not made by Congress, but it was expended by the War Department. The controversy between the gentleman from Iowa [Mr. KASSON] and myself has been whether the expenditure by the War Department was \$1,500,000 or \$700,000.

This appropriation of \$100,000 has been heretofore appropriated. It is now proposed to turn these Indians over to the Interior Department, where they cannot receive these bounties from the War Department. And the gentleman proposes to cut off even the \$100,000 heretofore received from the Department of the Interior.

Mr. SCOFIELD. I would cut off the whole of it. These Indians never got the \$100,000 I am sure; and we may be certain that any other appropriation of a like sum will be entirely lost to them.

I thank the gentleman from Minnesota [Mr. WINDOM] for coming down from his monstrosity to an absurdity. A little while ago he thought it was monstrous to propose a little economy here in the appropriations for Indian service; and now he says that it is only absurd. I have no doubt but what it seemed monstrous at first; but to any gentlemen who have had anything to do with these Indian appropriation bills it must, after reflection, appear absurd.

Mr. WINDOM. Cannot the gentleman understand that this appropriation of \$1,000,000 was never made at all; and this is not coming down at all?

Mr. SCOFIELD. There is no such thing as these Indians getting \$1,000,000 from the United States Treasury without an appropriation.

Mr. WINDOM. But the War Department, to which the gentleman voted to transfer the Indian Bureau, appropriates millions without rendering any account. It is taken out of the rations of the War Department, and we cannot know anything about it.

Mr. SCOFIELD. That bill turning the Indians over to the care of the War Department is what is the matter with the gentleman. [Laughter.]

Mr. KASSON. The appropriation for the support of these Indians while under military control covered simply the cost of their subsistence. We held them as prisoners of war and maintained them. Inquiries were made as to how much that cost, and it was upon

those estimates that the discussion arose. This is what is complained of as the large amount expended heretofore. This appropriation, however, has a different object. It is to assist the Indians in maintaining themselves and to educate them so far as they may be educated.

I hope now that the motion to reconsider will be agreed to, as the amendment of the gentleman from Minnesota [Mr. WINDOM] was not offered with the view of being adopted, but simply to enable him to make his remarks.

The SPEAKER. If there be no objection, the motion to reconsider will be regarded as adopted, and the amendment of the gentleman from Minnesota as negatived.

There was no objection.

The next amendment of the committee was to insert the following:

To enable the Secretary of the Interior to take charge of certain stray bands of Potawatomi and Winnebago Indians, in the State of Wisconsin, \$5,000.

Mr. MAYNARD. Will the gentleman from Iowa be good enough to explain the necessity of this item? In looking at the appropriation bill of last session I do not find any such appropriation. There was an appropriation of \$1,500 to pay a special agent for these Indians—a similar item to that which in this bill follows the one just read.

Mr. KASSON. We have been asked for an appropriation of \$10,000. I think that is the amount which was asked for last year; and my impression is that we appropriated at that time either \$5,000 or \$10,000.

Mr. MAYNARD. I do not find any such item in the act of last year.

Mr. KASSON. My impression is that \$5,000 was appropriated. If any further explanation is required the gentleman from Wisconsin [Mr. McINDOE] will give it. He has already advised with the committee on this question.

Mr. McINDOE. I hope that this clause of the bill will be retained. The Indians for whose benefit it is designed are stray bands of Potawatomis and Winnebagoes, who probably belonged originally in Kansas and Dakota. They were removed some years ago to the reservations in the State of Wisconsin; a special agent was appointed by the Government to take care of them; and although previously they caused a great deal of trouble to us, yet since this small appropriation has been made we have had no difficulty with them.

Mr. MAYNARD. I cannot find in the act of last year any such appropriation as this, though as the act is very long I may have overlooked it. I propose that the two clauses be consolidated, and that the appropriation of \$5,000 be the only one made. Then let the Secretary of the Interior, if he needs a special agent, pay him out of this appropriation.

I think that this appropriation is an entirely new one. If it once gets into our appropriation bills it will stick there as long as grass grows or water runs. Five thousand dollars is not a large sum, but in a hundred years it becomes \$500,000. And we have the pleasing assurance given us to-day that the appropriations made a hundred years ago are of no avail at present. They must be renewed from year to year like the leaves on the trees.

I think the State of my friend from Wisconsin will be able to take care of its Indians, as New York and other States have done.

Mr. ROSS. Mr. Speaker, I have been in the habit of voting in this House when I did not understand the question perfectly myself on the advice of the committee which had the subject-matter specially in charge. As far as I can learn the action of the committee reporting this ordinary appropriation bill, I think it is entitled to some weight and influence with the House in coming to a conclusion. But I understand in addition to the Committee on Appropriations, the Committee on Indian Affairs, whose business it is to look into these matters, concurs in this appropriation; and, in addition even to this, the Delegates of the Territories, who understand this subject, surrounded as they are by Indians, give this measure their approval.

The House and country must feel indebted to the distinguished and able gentleman from Pennsylvania [Mr. SCOFIELD] and the gentleman from Tennessee [Mr. MAYNARD] for the exhaustive investigation they have given to this subject. They ask us from their investigations to set aside the action of our Committees on Appropriations and Indian Affairs and the recommendations of the Delegates representing this section of the country. The country and their constituents must be fully advised of the anxious desire of these able gentlemen to protect the Government, and to that end we have spent all this day. The obligations of the people are great to these able gentlemen for retarding the public business and throwing obstacles in the way of the passage of this bill. If they have satisfied their constituents they are watching every loop and have got themselves upon the record to the satisfaction of themselves, I hope they will let the House go on with its legitimate business and act upon the report and suggestions of the committees, who are responsible to the country for action on these subjects.

Mr. MAYNARD. I accept the rebuke of the gentleman from Illinois, and concede there is no gentleman in the House so well qualified or so much entitled to lecture the House, the individual members of the House, as the distinguished gentleman from Illinois.

Mr. ROSS. The gentleman will pardon me. I did not mean to cast any reflection upon him.

Mr. MAYNARD. I hope the distinguished gentleman will continue to act as *censor morum*, and see to it none of us depart from the strictest rules of legislative propriety. I am aware, sir, of the short-comings on my own part as a legislator; I am conscious of it.

Mr. ROSS. I did not mean to reflect on the gentleman.

Mr. MAYNARD. I did not understand the gentleman to reflect on me, but in the exercise of a patronizing, paternal oversight over the country and over the less distinguished and less able, the more ignorant or rather the less-informed gentlemen than he, to indicate what ought to be their course on the floor in legislating on these matters. I will say, however, by way of apologizing to the gentlemen—perhaps no other gentleman would require an apology but himself—but by way of apology for the course I have thought proper to pursue on this and some other bills to explain that having in a former Congress been a member of the Committee of Ways and Means, from which appropriation bills then came, I am somewhat conversant with the manner in which these bills are originated. I will inform the gentleman how I have known appropriations to find their way into bills. We receive estimates from the Departments. When a subject is up and no member of the committee knows anything about it we follow the estimates.

The SPEAKER. The Chair considers this debate to be wandering from the bill although no gentleman seems disposed to take exception to it.

Mr. KASSON. I regret when these side issues are made, but when they are made I do not care to stop them.

Mr. MAYNARD. When the estimates are sent from the Department to the committee you inquire who they came from, and you are told from the head of the bureau. You inquire there where they got the estimates, and you are told from the desk of some clerk who is unknown and utterly unheard of outside of his own room. And hence it was appropriately said years ago in this House by gentlemen of whom, probably, I ought not to speak except in the same terms of respect that are due to the gentleman from Illinois, [Mr. ROSS.] It was well said that to a very large degree this Government is a Government of clerks. The clerks in the Departments make estimates at their desks; these estimates are adopted by the heads of the bureaus, who send them to the heads of the Departments, who send them to the Committee on Appropriations, where they are accepted and adopted; and when any member

like me and others, if there be any others as ignorant as I am, get up to inquire wherefore these expenditures are made, and call for information, we are always met, as we are met to-day, by the statement that the subject has been examined by the committee, and that it is presumption, assurance, impudence, absurdity to call it in question or to seek to get that sort of information that will enable us to act from our own judgment upon the facts, instead of standing here and recording decisions that have been already made elsewhere—not even in the committee-rooms of the House, but at the desk of some irresponsible clerk in one of the Departments.

Sir, legislating here for the country, and with that responsibility upon me, I am not willing to legislate in that way; and if other gentlemen are disposed not to call in question any of these appropriations or to examine the facts, but to legislate upon faith, taking everything that comes from any committee of the House to be necessarily right without investigation, I certainly am not willing to do it.

I think we are entitled to have, that we should have, that we may justly demand, and that we should demand, a statement of the facts upon which these millions are legislated out of the Treasury.

Mr. ROSS. Mr. Speaker—

The SPEAKER. The gentleman from Iowa [Mr. KASSON] is entitled to the floor.

Mr. ROSS. If the gentleman will yield to me a moment, I only want to say that I suppose the gentleman from Tennessee [Mr. MAYNARD] has now said enough to satisfy the Speaker and the House that he is the proper man to be put at the head of that committee in the Fortieth Congress. [Laughter.]

Mr. MAYNARD. I do not happen to hold a seat in the Fortieth Congress; and therefore I will turn over the compliment to my friend from Illinois, [Mr. ROSS,] who is eminently fit for the position.

Mr. McINDOE. Mr. Speaker—

The SPEAKER. The gentleman from Iowa [Mr. KASSON] is entitled to the floor.

Mr. KASSON. I understand that the gentleman desires to make an explanation, and I yield to him for that purpose.

Mr. McINDOE. This is no new appropriation. It was commenced at the beginning of the Thirty-Eighth Congress. The sum then appropriated was \$10,000 annually, but last year it was reduced to \$5,000; and that is all we now ask.

Mr. KASSON. As I presume the gentleman from Tennessee [Mr. MAYNARD] did not intend to imply that I had failed to give any desired information about this appropriation, I have nothing to say touching his seeming implication that information was not given when it was asked for.

This appropriation now is for stray bands of the Potawatonic and Winnebago Indians, in the State of Wisconsin—

Mr. SCOFIELD. I said to the gentleman from Iowa a few moments ago when I left this Hall, that I surrendered upon this bill and left it to him. So I do; but I understand that while I was out the gentleman from Illinois [Mr. ROSS] spent some time in attempting to satisfy the House that he knew more about these Indian swindles than I did. All I wish to say in reply is, that I "acknowledge the corn." I have no doubt that he does. [Laughter.]

Mr. KASSON. These stray bands were ordered some time since to be removed from that State, and some of them were actually taken away; but with true Indian attachment to their old hunting-grounds they came back in small numbers from time to time, and were liable to commit, or did commit, murders, larcenies, and other outrages, so that they were a cause of constant danger and alarm to the whites.

The committee were satisfied that it was necessary to have some one specifically designated to take charge of them, and, by small gratuities, to keep them quiet and in places

where their presence would not interfere with the whites. We reduced the former appropriation of \$10,000 one half, hoping that sum would be sufficient for this object; and I hope that the amendment will be agreed to.

The amendment of the committee was then agreed to.

The next amendment of the Committee on Appropriations was to insert the following:

For salary of a special agent to take charge of Winnebago and Potawatonic Indians now in the State of Wisconsin, \$1,500.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was to insert the following:

For subsistence, clothing, and general incidental expenses of the Sisseton, Wahpaton, Medawakanton, and Wahpakoota bands of Sioux or Dakota Indians, at their new homes, \$100,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was to insert the following:

For payment of interest on \$1,690,300 non-paying stock, held by the Secretary of the Interior in trust for various Indian tribes, up to and including the interest payable July 1, 1867, \$100,153.

For payment of interest on \$15,000 abstracted bonds, for the fiscal year ending June 30, 1867, for the Cherokee school fund, \$900.

For payment of interest on \$63,000 abstracted bonds, for the fiscal year ending June 30, 1867, of the Cherokee national fund, \$4,080.

The amendment was agreed to.

Mr. KASSON. These items of appropriation are called for by existing law.

Mr. MAYNARD. I would ask the gentleman if this embraces all the bonds which were stolen during a former Administration?

Mr. KASSON. My recollection is that it does not include all.

Mr. MAYNARD. These are the bonds which were stolen at that time?

Mr. KASSON. I cannot remember the date of their abstraction. It is a liability of the United States, existing by law, and which the Government accordingly is compelled to meet and satisfy.

The amendment was agreed to.

The next amendment of the committee was to insert the following:

For expenses attending the vaccination of Indians, \$2,500.

For expense of collecting and locating the Colorado river Indians in Arizona on a reservation set apart for them by section first, act of March 3, 1865, including the expense of constructing a canal for irrigating said reservation, \$50,000.

For actual necessary expenses incurred, and that may hereafter be incurred, by officers of the Indian department in the rescue of prisoners from Indian tribes and returning them to their homes, and for expenses incident to the arrest and confinement within the Territory of the United States, by order of such officers, of persons charged with crimes against the Indians, \$5,000.

The amendment was agreed to.

Mr. THAYER. I now move to reconsider the vote by which the House agreed to the amendment providing an appropriation to pay interest upon certain bonds.

I can hardly suppose this House understood what it was doing when it voted for this provision, or it would not have agreed to it. Why should we vote an appropriation to pay the interest on these stolen bonds? It will surely be time enough to make an appropriation to pay these bonds which have been stolen from your Treasury when you find out where they are. If these bonds should turn up in the hands of men who have received them in good faith and who honestly hold them, we may perhaps properly be called upon to pay the interest upon them. But, for one, I will not sit silent while I see such an appropriation as this passed to pay interest on bonds which are acknowledged to be in the hands of thieves.

Mr. KASSON. I hardly understand the ground upon which the gentleman from Pennsylvania [Mr. THAYER] opposes this item of appropriation, which year after year has been a recognized liability of the United States as the trustee, who by its own power controlled the deposit and custody of these bonds, which it held in trust for the Indians. I do not comprehend the principle, either of law or of equity upon which the gentleman opposes this

appropriation. Shall the United States take the money of the Indians, put it in bonds, and appoint its own officers to take care of the bonds, and then coolly say, when its own custody has been insufficient to protect them, that it will not respond to its liability to the Indians? If there be any principle upon which the gentleman maintains his opposition, I wish he would state it. I think the mere stating of the proposition is its own best refutation.

In the first place, the larger part of the sum he has alluded to is not embraced within the objection he urges. It refers to the non-paying stock, which the United States held for the Indians, and which has never been abstracted. The United States by the misconduct of its own officers invested the funds of the Indians in certain State bonds, which proved worthless. And now the gentleman asks the United States to avail itself of its own wrongs, and to refuse to account to these Indians for these funds. If my friend can tell me the principle upon which he rests his claim I should be glad to hear it.

Mr. THAYER. What I object to is the express recognition by Congress of the validity of these bonds in the hands of the persons who stole them. If these debts are due to the Indians let the gentleman put in the bill a specific appropriation for that purpose. But I will not vote for anything which acknowledges the validity of these bonds in the hands of their present holders when everybody knows they are stolen.

Mr. KASSON. The gentleman is sadly mistaken in regard to the provisions of this bill; I will not say he is ignorant of their meaning. The first clause of the amendment, which contains the largest appropriation, has nothing to do with the stolen bonds.

Mr. THAYER. I am not speaking of the first clause.

Mr. KASSON. Then that clause should not be reconsidered.

The SPEAKER. The amendment reported by the Committee on Appropriations, and agreed to by the House, contains three clauses, and the motion to reconsider any one of them must be a motion to reconsider all, as they are all embraced in one amendment.

Mr. KASSON. As to these bonds, I repeat for the information of the gentleman and of the House, that these bonds were in the custody of the United States; the moneys were invested by direction of the United States; the officer in charge of them was appointed by the United States; and they were stolen from the United States. In the whole matter, from the beginning to the end, the Indians had nothing to do with it, except to submit passively to the orders of the United States Government.

Now, these bonds were not negotiable; they can never turn up against the United States in any other hands. They were a separate fund in the custody of the United States, their numbers, character, and description all kept; and the question now simply is whether the United States shall acknowledge its legal liability to pay the interest annually on the bonds which they themselves have allowed to be abstracted through their negligence or misconduct. I do not think there is another side to the question, and I move to lay the motion to reconsider on the table.

The motion was agreed to.

The next and last amendment reported by the committee was to insert the following as an additional section:

SEC. 3. And be it further enacted, That it shall hereafter be the duty of the officer in charge of the Indian Bureau to report separately to Congress at the commencement of each December session a tabular statement showing distinctly the separate objects of expenditure under his supervision, and how much disbursed for each object, describing the articles and the quantity of each, and giving the names of each person to whom any part is paid, and how much paid to him and for what objects, so far as they relate to the disbursement of the funds heretofore or which shall be hereafter appropriated for incidental, contingent, or miscellaneous expenses of the Indian service during the fiscal year next preceeding each report.

The amendment was agreed to.

Mr. KASSON. I move the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. KASSON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STEVENS. I rise to ask if we have yet had a morning hour?

The SPEAKER. Not yet.

Mr. STEVENS. Then I will not call up the appropriation bill now, but will take my chance after the morning hour.

The SPEAKER. There must be a morning hour to transact business.

Mr. STEVENS. I call for the morning hour.

#### NOTARIES PUBLIC IN THE DISTRICT.

Mr. MAYNARD submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 336) fixing the compensation for bailiffs and clerks of the courts of the District of Columbia, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses that the House of Representatives recede from its action in disagreeing to the amendments made by the Senate and concur in said amendments.

HORACE MAYNARD,  
JOHN F. FARNSWORTH,  
F. C. LE BLOND,  
*Managers on the part of the House.*  
LOT M. MORRILL,  
JOHN CONNESS,  
DAVID T. PATTERSON,  
*Managers on the part of the Senate.*

Mr. MAYNARD. It may be proper for me to say a few words in explanation of this report. The last Congress passed an act, approved April 8, 1864, concerning notaries public in the District of Columbia. That was an act of eleven sections, the first of which is as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notaries public for the District of Columbia may be appointed by the supreme court of said District, whose term of office shall be five years, and who may be removed by said court for cause. There shall be no new appointment of a notary public until the number in this District is reduced to twenty-five; and when the number is so reduced, as vacancies thereafter occur, they may be filled by said court."

It will be recollected that when the House was considering the propriety of concurring in the amendment of the Senate to this bill, it was urged that the adoption of that amendment would leave the appointment of notaries public for this District in the hands of the President. It will be seen by the section which I have just quoted that such is not the fact, as these notaries are now appointed by the supreme court of the District.

One word as to another point of difference. The bill, as passed by the House, provided for the repeal of the provision limiting the number of notaries to twenty-five, and allowed the number to be unlimited. The Senate thought it better that the law in this respect should stand as it is. The conference committee, on consideration of the question, were satisfied that the present number of notaries public will be fully adequate for all the business which they will be required to perform. Hence the recommendation of the report.

The report was agreed to.

Mr. MAYNARD moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, a bill and joint resolution of the following titles:

An act (H. R. No. 140) to restore Lieutenant Joseph P. Fyffe to his grade in active service of the Navy; and

Joint resolution (H. R. No. 216) for the restoration of Lieutenant Commander S. L.

Breese, United States Navy, to the active list from the retired list.

The message also announced that the Senate had passed an act (H. R. No. 878) to quiet title to land in the town of Santa Clara, in the State of California, with an amendment, in which the concurrence of the House was requested.

#### ENROLLED BILL AND JOINT RESOLUTION.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 140) to restore Lieutenant Joseph P. Fyffe to his grade in active service of the Navy; and

Joint resolution (H. R. No. 216) for the restoration of Lieutenant Commander S. L. Breese, United States Navy, to the active list from the retired list.

#### APPROPRIATIONS FOR NEW MEXICO.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit a letter of the 26th ultimo, addressed to me by W. T. M. Army, secretary and acting Governor of the Territory of New Mexico, with memorials to Congress by which it was accompanied, requesting certain appropriations for that Territory. The attention of the House of Representatives is invited to the subject.

ANDREW JOHNSON.

WASHINGTON, February 18, 1867.

The message with the accompanying documents, was referred to the Committee on Appropriations, and ordered to be printed.

#### CONSTITUTIONAL AMENDMENT.

The SPEAKER also, by unanimous consent, laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit a report from the Secretary of State, in answer to a resolution of the House of Representatives of yesterday, making further inquiry as to the States which have ratified the amendment to the Constitution proposed by the Thirty-Ninth Congress.

ANDREW JOHNSON.

WASHINGTON, February 18, 1867.

The message, with the accompanying report, was laid on the table, and ordered to be printed.

#### ENROLLED BILL SIGNED.

Mr. GLOSSBRENNER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (S. No. 453) regulating the tenure of certain civil offices; when the Speaker signed the same.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed a bill (S. No. 467) to amend an act further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, and to regulate the salaries of steamboat inspectors, and for other purposes, approved July 23, 1866; in which he was directed to ask the concurrence of the House.

#### DEATH OF A REVOLUTIONARY SOLDIER.

The SPEAKER, by unanimous consent, also laid before the House the following telegram:

AMSTERDAM, NEW YORK, February 19, 1867.

*To the Speaker of the House of Representatives:*

Samuel Downing, the last of the soldiers of the Revolution, died yesterday at his home in Edinburg, Saratoga county, New York.

R. H. ROSA.

The SPEAKER. If there be no objection the telegram will be spread upon the Journal. There was no objection; and it was ordered accordingly.

#### MILITIA BILL.

The SPEAKER stated the morning hour had now commenced, and the House resumed the



consideration of House bill No. 1145, to provide for organizing, arming, and disciplining the militia, and for other purposes.

Mr. HARDING, of Illinois. Mr. Speaker, I simply intend to present a few observations on the pending subject. The bill has been carefully and laboriously prepared and considered by the Committee on the Militia, and by a body of distinguished gentlemen who might almost be said to have been volunteers in their service on that committee.

Now, sir, if we look over this country it is at once evident we have no well-regulated and disciplined militia, which our forefathers believed to be so essential to the security of our liberties. The people of the free States are without arms. They have recently returned to their homes from a gigantic struggle. They have surrendered their arms up to the Government, and those arms are now deposited in large quantities in the various United States arsenals. This proposition is to return them to a small portion of the people selected by enlistment from the militia body, to the number of about two hundred thousand stand of arms. It is contemplated the regiments of infantry being fully armed and equipped, and as I have said enlisted from the militia, shall be constituted and called the "National Guard." In addition to small arms they are to have a battery of artillery. The effect will be to place a force in the country constituted of patriotic people holding arms in their hands, thus providing that element of safety so essential in the estimation of our forefathers to our security.

I have already said more than I intended, but let me now answer some of the objections. It may be objected that the bill infringes on the constitutional powers of the States, and exercises more power by the General Government than is authorized by the Constitution. To that I will only reply that the committee have carefully considered the relative powers of these two authorities, and have come to the conclusion it infringes neither. They have respected the constitutional right of the States to train the militia, and they have obeyed the injunction that Congress should provide for the organizing and arming of this militia.

They do not propose by this bill to appropriate a very large amount of money from the public Treasury. The cost of the bill will not be as much as one day's war during the late rebellion. The aggregate amount that may be called into employment under the provisions of this bill in an extreme emergency will be about four million dollars. It can be fairly estimated in the present condition of the country that the ranks will be filled at an expense which will not exceed one million and a half or two million dollars, a sum scarcely in excess of the extra compensation paid to the civil employes of the Government in this city. The cost to the Government is real economy in the end.

We have in our magazines and store-houses nearly four million small-arms. After we have taken out two or three hundred thousand, more than three million will still remain. But I will send some papers up to the Clerk's desk to be read which will fully explain this whole matter.

The Clerk read as follows:

Table showing the amount of camp and garrison equipage and clothing held by the United States Government on the 30th day of June, 1865, and the amount required for the National Guard when filled to the maximum.

	On hand June 30, 1865.	Required for National Guard.
Knapsacks.....	1,027,618	286,752
Canteens.....	992,356	286,752
Haversacks.....	611,176	286,752
Tents.....	29,064	30,914
Camp-kettles.....	156,539	76,464
Mess-pans.....	489,878	95,584
Fifes.....	13,955	4,120
Drums.....	5,991	4,120
National colors.....	750	412
Regimental colors.....	1,000	412
Camp colors.....	7,834	1,648
Coats.....	452,969	286,752
Caps.....	1,020,511	286,752
Pairs pants.....	1,022,333	286,752

Table showing the amount of ordnance and ordnance stores required for the National Guard if filled to the maximum, and also the amount purchased and manufactured by the United States between January 1, 1861, and June 30, 1866, not including those on hand January 1, 1861, nor those captured during the war, and not showing the number lost or destroyed:

	Purchased and manufactured.	Required for National Guard.
Cannon.....	7,892	412
Small-arms.....	3,477,655	286,752
Swords, &c.....	544,475	75,852
Infantry accoutrements.....	2,146,175	286,752
Horse equipments.....	559,544	3,340

Table showing the annual cost of the National Guard, when filled to the maximum, in case every officer, non-commissioned officer, and private does full duty.

Per diem.....	302,452 rank and file, five days, at \$2.....	\$3,024,520
Clothing.....	15,700 officers, at \$20.....	314,000
Care of property, 4,660 officers responsible, at \$100.....		466,000
Total.....		\$3,804,520

But the actual expense will be less than half of this amount, because—

1. It cannot be expected that organizations will be maintained in every district;
2. The organizations actually maintained will not all be filled to the maximum; and
3. Not more than one half of the National Guard will be able to perform duty at the same time.

The annual cost of the entire system will not, therefore, exceed the extra compensation of twenty per cent. granted by a bill which lately passed the House to the clerks of the city of Washington. This seems to be a small price to pay for the national security provided by the bill now before the House.

Letter from the Governor of Michigan relative to the bill for the better organization of the militia.

STATE OF MICHIGAN, EXECUTIVE OFFICE,  
LANSING, January 23, 1867.

DEAR SIR: I am in receipt of your favor of the 7th instant inclosing your proposed militia bill, and requesting that I would examine the same and make such suggestions as might occur to me for its improvement, &c. In accordance with your further request I have brought the bill to the notice of our adjutant general, and after consultation with him on this subject I have directed that officer to embody our views in a statement of proposed amendments, accompanied by his report to myself.

Inclosed I have the honor to transmit to you this report with said proposed amendments, in all of which I concur. I also inclose herein a special report of our adjutant general to myself, recently made, in relation to the reorganization of the military forces of this State, but previously to the receipt of your bill.

The Legislature of this State is now in session, and I most earnestly hope that Congress may be able to take some decisive action upon this important subject at an early day, in order that we may adopt such State legislation as will harmonize with the action of Congress.

I have the honor to be, very truly, yours, &c.,  
HENRY H. CRAPO,  
Governor of Michigan.

Hon. H. E. PAINE, Military Committee, House of Representatives, Washington, D. C.

MILITARY DEPARTMENT, MICHIGAN,  
ADJUTANT GENERAL'S OFFICE,  
DETROIT, January 22, 1867.

SIR: Having been directed by your Excellency to examine the bill introduced by Hon. Mr. PAINE in the House of Representatives, January 3, 1867, "to provide for organizing, arming, and disciplining the militia, and for other purposes," and to make such suggestions in relation thereto as I might deem proper, I have, therefore, the honor most respectfully to submit the inclosed schedule of proposed amendments, with some notes in relation thereto, and in regard to supposed omissions in the bill referred to. They are not made nor intended as objecting to or opposing the portions of the bill which they profess to amend, but are submitted more for the purpose of calling attention to them, as being, in my judgment, susceptible of alteration and improvement in the direction indicated, and of respectfully expressing an opinion that the bill might be improved by the adoption of amendments and additions of a similar import.

The general plan set forth in the bill referred to is feasible, well conceived, and exhaustive in its character, and I am satisfied that in the main it cannot be improved upon, being, in my humble opinion, the only one practicable for a popular, permanent, and efficient organization of an active uniform militia for the various States, universally acknowledged to be so necessary.

Its success, so far as the numerical strength of the organization proposed and the result desired are concerned, is properly and mainly based and depending on patriotism, which should always be recognized by our citizen soldiery as a greater inducement to serve their country than pecuniary reward. Its requirements as to qualifications for membership are, in part, most wisely made dependent upon loyalty, which should now be one of the tests as to fitness in any one to serve the country. It is extremely liberal toward the States in its provisions, and also toward those who are intended to constitute the proposed force, and is as economical as a due regard for encouragement will admit of. It is well guarded in every

respect. It provides for as much encouragement, and will be as conducive as to the result desired as any militia law possibly can without incurring an expense which would be objectionable, and will be as forcible and binding as is possible without resorting to a draft. While the force which it proposes to organize would be ample as a protection to the States, it would at the same time be available and reliable, possessing strength sufficient to prevent any possibility of inaugurating rebellion, and would also be ready upon requisition to take the defensive in repelling foreign aggression or to assume the offensive in redressing an insult offered the nation.

The proposed national guard schools, if adopted, would add much to the military education of the country, and would establish a just and liberal policy with regard to admission into the Military Academy, and also as to appointments in the regular Army.

I strongly recommend to your excellency that the plan may receive your most favorable consideration and indorsement.

Very respectfully, your obedient servant,

JOHN ROBERTSON,

Adjutant General.

His Excellency HENRY H. CRAPO, Governor of Michigan, Lansing, Michigan.

Letter from Hon. W. J. Smith, chairman of the Military Committee of the House of Representatives, Tennessee.

HOUSE OF REPRESENTATIVES,  
NASHVILLE, TENNESSEE, January 16, 1867.

MY DEAR GENERAL: As chairman of the Military Committee in the House, I thank you for the copy of your bill disciplining the militia, and for other purposes. The committee of the House has instructed me to report or rather to frame a bill, and report on that subject. I am delighted with yours, and am anxious to learn whether you think it will pass and become a law; if so it will answer every purpose, and we can afford to wait. If you do not think it is sure to pass we shall have to get up a bill to protect ourselves, as I fear we can never canvass West or Middle Tennessee till we have protection, particularly when we enfranchise the colored man, as we certainly shall. There appears to be a thorough understanding among the rebels that prominent Union men shall not live among them. Only the other day Corcoran Brickson was murdered in the town of Somerville, Fayette county. This morning we have the sad news of the murder of Dr. Almon, State Senator from Obion county. A few days before his son was murdered. I have been repeatedly warned not to trust myself on my farm.

The fact is, general, we want some protection, and must have it. Andy has betrayed us, and left us to the mercy of Congress and Brownlow. We are safe. Please keep me posted about your bill, and accept the thanks of your obedient servant.

W. J. SMITH.

Hon. H. E. PAINE, Washington, D. C.

Mr. HARDING, of Illinois. I yield the residue of my time to the gentleman from Wisconsin.

Mr. PAINE. Mr. Speaker, I take the floor and ask the previous question on the bill and amendments which I have just submitted to the House. I wish to give notice to the other side, as I did the other day when it was first before the House, of the arrangement entered into between members of the committee opposed to and in favor of the bill, that half of the time would be given to the opponents of the bill and half of it to its friends. That half would have been forty minutes had the opponents of the bill not seen fit to consume twenty minutes in calling the yeas and nays. That twenty minutes I will give them now after the previous question has been seconded, and I will add ten minutes to it, making thirty. I now send to the Clerk's desk the amendment which I desire to offer.

Mr. ELDRIDGE. I would inquire of the gentleman if he intends to pass under the operation of the previous question a bill which in the opinion of gentlemen around me is designed to establish a standing army in this country, and then allow only thirty minutes to those gentlemen to express their views upon the subject. If so, I give him notice that it will not be satisfactory. Gentlemen here upon the committee desire to explain the provisions of the bill. We regard it as a most extraordinary measure, looking to the establishment in all the loyal States, as you call them, of the same despotic rule that you have endeavored to fasten upon the southern States.

Mr. PAINE. I will say in reply to my colleague that nothing would afford me greater pleasure, if the state of business before the House would admit it, than to have a full discussion of this bill in all its aspects. But it must be apparent to all that an extended dis-

cussion at this stage of the session is out of the question. And I am obliged to remind him and the House again of the arrangement made between my colleague on the committee to whom he refers, and to say that while I would be glad enough to allow the fullest discussion, I am compelled to carry out that arrangement.

Mr. ROSS. I suggest to the gentleman that after the 4th of March there will be two years in which to discuss this question, and there certainly does not appear to be any pressing necessity for reorganizing the militia within the next few days. I think the state of the country is such that we can safely defer this question of organizing the militia at least until we get through the tax bill and the tariff bill, those two great measures to which the country is so anxiously looking. For one, I am not willing to give my assent to have this pass without going through the bill and examining it in all its features. I want free debate and investigation. If this country is to be turned into a military despotism it is time the people of the United States were made aware of the iniquity that is attempted to be fastened upon them. I demand that it shall not be pressed through this Congress without giving to the Representatives of the people an opportunity to show the nature of this scheme.

I therefore appeal to the gentleman to allow an opportunity to examine this measure in all its bearings, and for that purpose let it be postponed until the next Congress. There have been received no petitions from any portion of the country for such a measure; and it is, in my judgment, a violation of the great principles upon which our fathers established this Government to create a great standing army to eat out the substance of the people and overturn their liberties.

Mr. PAINE. Mr. Speaker, I do not yield for—

Mr. ROSS. I ask the gentleman to allow an opportunity for debate.

Mr. PAINE. I have said three or four times I would be extremely glad to do so, but it is out of my power. I am obliged therefore to call the previous question.

Mr. LE BLOND. Mr. Speaker, have I not a right to demand the reading of the whole bill as amended? The other day it was amended after being read.

The SPEAKER. The Chair understands that the bill was amended after it was read; if so, any gentleman can have it read again.

Mr. PAINE. Then I withdraw the amendment.

Mr. ELDRIDGE. I object.

The SPEAKER. The gentleman has a right to withdraw it.

Mr. LE BLOND. I demand the reading of the bill as amended; it was amended after the call for the reading the other day.

Mr. PAINE. There has been no amendment since the bill was read.

The SPEAKER. The Chair is informed that the yeas and nays were called on agreeing to the amendments which was after the bill was read; therefore the gentleman can demand the reading of the bill as amended.

Mr. LE BLOND. I would like to make one suggestion. This bill proposes very radical changes in the laws of the States in regard to the militia. I do not know how it is with other gentlemen, but for myself, under the press of business upon me as a member of Congress, I have been unable to give this bill any consideration whatever, and I apprehend that is the case with many others.

Mr. PAINE. How much time does the gentleman desire for discussion? I am disposed to give all the House can allow.

Mr. LE BLOND. I was going to say that business which it is absolutely necessary to carry through is pressing upon us, and that under the circumstances the gentlemen ought to permit this to be deferred until the Fortieth Congress. It must be apparent that it is quite impossible that this bill should pass the House

and Senate within the eleven remaining days of this Congress, and it is therefore only consuming the time of the House to attempt to pass it through this branch. I hope the gentleman will see the necessity of putting it over, if he has not already seen it.

Mr. PAINE. If the gentleman can name any time which the other side will require, I should be glad to have them do so.

Mr. ELDRIDGE. I move to lay the bill on the table.

Mr. LE BLOND. On that I demand the yeas and nays.

Mr. PAINE. I cannot consent to lay it over till next session.

The SPEAKER. Does the gentleman from Ohio [Mr. LE BLOND] insist upon the reading of the bill?

Mr. LE BLOND. Not if the yeas and nays are taken on laying the bill on the table.

The yeas and nays were ordered.

The question was taken on laying the bill on the table; and it was decided in the negative—yeas 50, nays 82, not voting 58; as follows:

YEAS—Messrs. Ancona, Anderson, Bergen, Boyer, Brandegee, Campbell, Chanler, Reader W. Clarke, Cooper, Davis, Dawson, Defrees, Delano, Denison, Eldridge, Finck, Griswold, Aaron Harding, Harris, Hayes, Hogan, Edwin N. Hubbard, Hulburd, Humphrey, Hunter, Kelso, Kerr, Le Blond, Leftwich, Marshall, McKee, Niblack, Nicholson, Noell, Phelps, Plants, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Taber, Nathaniel G. Taylor, Thornton, Trimble, Andrew H. Ward, Whaley, and Wright—50.

NAYS—Messrs. Allison, Ames, Arnell, James M. Ashley, Baker, Baldwin, Banks, Barker, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Bromwell, Bundy, Sidney Clarke, Cobb, Cullom, Darling, Dawes, Donnelly, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Abner C. Harding, Hawkins, Henderson, Higby, Hill, Hooper, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Julian, Kelley, Ketchum, Koontz, Ladin, Latham, William Lawrence, Longyear, Lynch, Maynard, McIndoe, McRuer, Mercier, Miller, Moorhead, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shollabarger, Spalding, Starr, Stevens, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, William B. Washburn, Wentworth, Williams, James F. Wilson, and Woodbridge—82.

NOT VOTING—Messrs. Alley, Delos R. Ashley, Barker, Blow, Broomall, Buckland, Conkling, Cook, Culver, Doring, Dixon, Dodge, Driggs, Dumont, Eckley, Eggleston, Garfield, Glossbrenner, Goodyear, Hale, Hart, Hise, Holmes, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Ingersoll, Jenckes, Jones, Kasson, Kuykendall, George V. Lawrence, Loan, Marston, Marvin, McClurg, McCullough, Morrill, Patterson, Perham, Pike, Raymond, Rousseau, Sloan, Stilwell, Stokes, Strouse, Nelson Taylor, Thayer, Robert T. Van Horn, Hamilton Ward, Warner, Elihu B. Washburne, Henry D. Washburn, Welker, Stephen F. Wilson, Windom, and Winfield—58.

So the bill was not laid on the table.

During the roll-call,

Mr. ARNELL said: My colleague, Mr. STOKES, has been obliged to leave the House on account of indisposition.

The question recurred upon seconding the call for the previous question.

Mr. ROSS. I would ask the gentleman from Wisconsin [Mr. PAINE] if it would not suit him just as well to let the bill be postponed as to have the remainder of the morning hour taken up by the reading of the bill as the gentleman from Ohio [Mr. LE BLOND] proposes?

Mr. PAINE. I prefer to have the previous question first seconded.

Mr. LE BLOND. I move that the House now adjourn.

The SPEAKER. The Chair will state that the effect of that motion if seconded will be to take the House over to to-morrow morning.

Mr. LE BLOND. I call the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 33, nays 101, not voting 56; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Cooper, Dawson, Eldridge, Fink, Glossbrenner, Aaron Harding, Harris, Edwin N. Hubbard, Humphrey, Hunter, Le Blond, Leftwich, Marshall, Niblack, Nicholson, Noell, Radford, Ritter, Rogers, Ross, Rousseau, Shanklin, Taber, Nathaniel G. Taylor, Thornton, Trimble, Andrew H. Ward, and Wright—33.

NAYS—Messrs. Alley, Allison, Ames, Arnell, De-

los R. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Blaine, Boutwell, Brandegee, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Davis, Dawes, Defrees, Delano, Deming, Dodge, Donnelly, Eliot, Farquhar, Grinnell, Abner C. Harding, Hawkins, Hayes, Henderson, Hill, Hogan, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Kelley, Kelso, Koontz, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Lynch, Marvin, Maynard, McKee, McRuer, Mercier, Miller, Moorhead, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Perham, Pike, Plants, Pomeroy, Price, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Sawyer, Scofield, Shollabarger, Spalding, Starr, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—101.

NOT VOTING—Messrs. Anderson, James M. Ashley, Bingham, Blow, Bromwell, Bundy, Conkling, Culver, Denison, Dixon, Driggs, Dumont, Eckley, Eggleston, Farnsworth, Ferry, Garfield, Goodyear, Griswold, Hale, Hart, Higby, Hise, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Jenckes, Jones, Julian, Kasson, Kerr, Ketchum, Longyear, Marston, McClurg, McCullough, McIndoe, Morrill, Patterson, Phelps, Raymond, Rollins, Schenck, Sitgreaves, Sloan, Stevens, Stilwell, Stokes, Strouse, Nelson Taylor, Hamilton Ward, Elihu B. Washburne, Henry D. Washburn, and Winfield—58.

So the motion to adjourn was not agreed to.

The SPEAKER. The morning hour has expired, and the bill accordingly goes over until to-morrow.

#### COMMERCIAL RELATIONS.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That five hundred and fifty extra copies of the report on the commercial relations of the United States with foreign nations, for the year 1866, be printed for the use of the State Department.

Mr. LAFLIN moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### UNITED STATES MERCHANT MARINE.

Mr. LAFLIN, from the same committee, also reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That fifty copies of House bill No. 1163, entitled "A bill in relation to the merchant marine of the United States," be printed for the use of the Treasury Department.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### USURY LAWS.

Mr. LAFLIN, from the same committee, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That two thousand copies of the memorial of the Philadelphia Board of Trade, praying for the abolition of legal restrictions upon commerce in money, be printed for the use of the House.

Mr. LAFLIN moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CONGRESSIONAL GLOBE.

Mr. LAFLIN. On Saturday last, as directed by the Committee on Printing, I offered the following resolution:

*Resolved*, That the Clerk of the House be directed to furnish to the publishers of the Globe at each session of Congress a list of the members of the House of Representatives, with their post office address, and the number of the seats occupied by the same.

In connection with that report I desire to state that under an arrangement made with the proprietors of the Globe there will be printed in one volume of the Globe for each session a list of the names of the members, with their post office addresses, as well as a plan of the House showing the seat of each member, upon the terms named in the following letters from the publishers of the Globe:

GLOBE OFFICE,  
WASHINGTON, D. C., February 11, 1867.

Sir: We have received your letter of the 8th in-

stant in which you make inquiry as to whether, under the existing contract, we can comply with the provisions contained in the resolution offered by Mr. LAWRENCE, of Ohio, in reference to adding to the Congressional Globe and Appendix plans of the Halls of Congress, showing the seats occupied by members, with the profession or occupation of each, and his post office address. In reply thereto, we will say that we are perfectly willing to make any addition to our work (the Congressional Globe) which Congress may see fit to authorize us to do.

In reply to that portion of the resolution which refers to the more copious indexing of the Congressional Globe, namely: to insert the "number and title of every bill and resolution introduced into Congress with a reference to the pages thereon," we would say that those features were at the time the resolution was offered already embodied in the index for the present session, which has been in course of preparation since the middle of December last.

We are, very respectfully,

F. & J. RIVES,

Reporters and Printers of the Debates of Congress.

Hon. A. H. LAFLIN, Chairman Committee on Printing,  
House of Representatives.

#### CONGRESSIONAL GLOBE OFFICE.

WASHINGTON, D. C., February 13, 1867.

SIR: In answer to your inquiry of yesterday's date, we would say that we consent to print "the list of the members of the Senate and House of Representatives with their post office addresses," and insert the same in one volume of each set of the Congressional Globe for each session, at the same rate that is paid per page for the body of the work, namely: *two mills per page*. Provided, the copy shall be furnished us, in due time, from the offices of the Senate and House, respectively. We will provide, at our own expense, the plans of the Halls with references showing the seat occupied by each member, and print and insert these at the same rate per page, namely: *two mills*.

Trusting that this statement is clear, and will prove satisfactory, we remain, very respectfully,

F. & J. RIVES,

Reporters and Publishers of the Debates of Congress.

Hon. A. H. LAFLIN, Chairman Committee on Printing,  
House of Representatives United States.

#### CONGRESSIONAL PRINTER.

M. LAFLIN. I move that the House now proceed to the consideration of business upon the Speaker's table.

The motion was agreed to.

The first business upon the Speaker's table was the consideration of amendments of the Senate to the bill of the House No. 1099, to provide for the election of a Congressional Printer.

The question was upon concurring in the amendments of the Senate.

Mr. LAFLIN. When this bill passed the House it provided that the House of Representatives should elect the Congressional Printer. The Senate has amended the bill so as to give to that body the power of electing the Congressional Printer, instead of leaving it entirely to the House. The question will naturally present itself, Why is it necessary that this power should be intrusted to the Senate alone, rather than to the Senate and House of Representatives together?

Sir, every one who has looked at this bill at all knows its purpose, which is that the Government Printing Office may be placed under the control of Congress. On examination it has been found that if we should provide for the selection of this Printer in the terms proposed by the original bill, he would under the Constitution be an officer to be named by the President of the United States. To avoid this confusion it is necessary that either one or the other branch of Congress should elect the Printer. It has been thought that the Senate is a more suitable body to exercise this power. I move, therefore, that the House concur in the amendments of the Senate; and on that motion I call the previous question.

Mr. NIBLACK. Will the gentleman yield to me a moment for an inquiry?

Mr. LAFLIN. Certainly.

Mr. NIBLACK. I wish to inquire of the gentleman whether one of the amendments of the Senate does not propose to increase the salary of the Public Printer? As I am advised the salary of this officer is at present \$3,000 a year, while the amendment of the Senate proposes to increase it to \$4,000. If this be the fact, I would like to know the reason for the proposed increase.

Mr. LAFLIN. I thank the gentleman for calling my attention to that point. I think, however, that all the answer required will be

furnished by the reading of the Senate amendments. I call for the reading of those amendments.

The Clerk read as follows:

In the first section strike out the words "House of Representatives," and insert in lieu thereof the word "Senate;" strike out the words "viva voce;" so that the section will read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Senate shall elect some competent person, who shall be a practical printer, to take charge of and manage the Government Printing Office.*

In the second section strike out the word "selected," and insert in lieu thereof the word "elected;" strike out the words "House of Representatives," and insert in lieu thereof the word "Senate;" strike out the words "and shall hold his office for two years and until his successor shall be elected;" strike out the words "print and bind," and insert in lieu thereof the words "superintend the printing and binding of;" strike out the word "execute," and insert in lieu thereof the words "superintend the execution of;" so that the section will read as follows:

SEC. 2. *And be it further enacted, That the person so elected shall be deemed an officer of the Senate, and shall be designated "Congressional Printer." He shall superintend the printing and binding of the Journals and such other documents as shall be ordered by each House of Congress, and shall superintend the execution of all the printing and binding for the respective Departments of the Government now required by law to be executed at the Government Printing Office, and shall, in all respects, be governed by the laws in force in relation to the Superintendent of Public Printing and the execution of the printing and binding.*

Add at the end of the third section the words "and the salary of the said officer shall be at the rate of \$4,000 a year;" so that the section will read as follows:

SEC. 3. *And be it further enacted, That, from and after the passage of this act and the election of a Congressional Printer in pursuance thereof, the office of Superintendent of Public Printing shall be abolished; and the salary of the said officer shall be at the rate of \$4,000 a year.*

The question being, "Will the House concur in the amendments of the Senate?"

Mr. FINCK called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 99, nays 88, not voting 58; as follows:

YEAS—Messrs. ALLEY, Allison, Ames, Anderson, Arnell, James M. Ashley, Baker, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Broome, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Davis, Dawes, Defrees, Deming, Donnelly, Eggleston, Eliot, Farquhar, Ferry, Grinnell, Griswold, Abner C. Harding, Hayes, Henderson, Higby, Hill, Hooper, Chester D. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laflin, George V. Lawrence, William Lawrence, Loan, Longyear, Marvin, Maynard, McKee, McKuer, Mercer, Miller, Moorhead, Morris, Myers, Newell, O'Neill, Orth, Paine, Perham, Plants, Pomeroy, Price, William H. Randall, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Starr, Stevens, Thayer, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, William B. Washburn, Welker, Wentworth, Whaley, James F. Wilson, and Woodbridge—99.

NAYS—Messrs. Ancona, Baldwin, Bergen, Boyer, Campbell, Cooper, Eldridge, Finck, Glossbrenner, Aaron Harding, Harris, Hogan, Humphrey, Hunter, Kerr, Le Blond, Leftwich, Marshall, Niblack, Nicholson, Noell, Phelps, Radford, Samuel J. Randall, Ritter, Ross, Rousseau, Shanklin, Sitgreaves, Taber, Nathaniel G. Taylor, Francis Thomas, Thornton, Trimble, Andrew H. Ward, Williams, Windom, and Wright—38.

NOT VOTING—Messrs. Delos R. Ashley, Blaine, Blow, Bromwell, Chanler, Conkling, Culver, Dawson, Delano, Denison, Dixon, Dodge, Driggs, Dumont, Eckley, Farnsworth, Garfield, Goodyear, Hale, Hart, Hawkins, Hise, Holmes, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Jenckes, Jones, Latham, Lynch, Marston, McClurg, McCullough, McIndoe, Morrill, Moulton, Patterson, Pike, Raymond, Alexander H. Rice, Rogers, Sloan, Stilwell, Stokes, Strouse, Nelson Taylor, Hamilton Ward, Elihu B. Washburne, Henry D. Washburn, Stephen F. Wilson, and Winfield—53.

So the amendments of the Senate were concurred in.

Mr. LAFLIN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### VACANCY ON COMMITTEE FILLED.

The SPEAKER appointed Mr. VAN AERNAM to fill the vacancy on the WESTWORTH special committee.

#### COMPOUND-INTEREST NOTES.

Mr. HOOPER, of Massachusetts. I ask unanimous consent to take from the Speaker's

table Senate bill No. 594, to provide for the payment of compound-interest notes.

Mr. LYNCH. I object.

#### POST ROUTE BILL.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, reported the annual bill to establish certain post roads; which was read a first and second time.

Mr. ALLEY. There is no general legislation in the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

#### ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 1099) entitled an act providing for the election of a Congressional Printer; when the Speaker signed the same.

#### ASSAY OFFICES.

The SPEAKER laid before the House the amendments of the Senate to House bill No. 674, to establish additional offices for the assay of gold and silver, and for other purposes.

Mr. ALLISON moved that they be referred to the Committee of Ways and Means.

The motion was agreed to.

#### TO QUIET TITLE.

The SPEAKER also laid before the House the amendments of the Senate to House bill No. 878, to quiet title to land in the town of Santa Clara, in the State of California.

The amendments of the Senate in line three, page 1, after "Santa Clara," insert "Petaluma and Placerville," and make verbal changes to correspond in other parts of the bill.

Mr. McRUER moved to non-concur, and to ask for a conference on the disagreeing votes between the two Houses.

The motion was agreed to.

#### ARMY APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union on the Army appropriation bill.

The SPEAKER. The pending bill in committee is the tax bill.

Mr. STEVENS. I move that be postponed to take up the Army appropriation bill.

Mr. MOORHEAD. I hope that will not be done.

Mr. STEVENS. It will not take long to consider the Army appropriation bill.

Mr. MOORHEAD. If we are going to have a tax bill we should pass it here at once.

The House divided; and there were—yeas 69, noes 30.

Mr. MOORHEAD. I demand the yeas and nays.

The yeas and nays were not ordered.

So the motion was agreed to; and the tax bill was postponed in committee to take up the Army appropriation bill.

Mr. STEVENS. I ask the vote now on the motion to go into committee.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RAYMOND in the chair,) and proceeded to the consideration of House bill No. 1126, making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes.

The first reading of the bill for information was dispensed with.

The Clerk then proceeded to read the bill by sections for amendments.

Mr. LE BLOND. I raise the point of order that the following section is not germane to the pending bill:

SEC. 2. *And be it further enacted, That the headquarters of the General of the Army of the United States shall be at the city of Washington, and all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and in case of his inability by the next in rank.* The General



of the Army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at said headquarters without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void; and any officer who shall issue orders or instructions contrary to the provisions of this section shall be deemed guilty of a misdemeanor in office; and any officer of the Army who shall transmit, convey, or obey any orders or instructions so issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon conviction thereof in any court of competent jurisdiction.

This is a general law circumscribing the powers of the President. It has no connection with an appropriation bill, and I move it be excluded.

Mr. STEVENS. I suppose that it is hardly a point of order, the bill having been referred to the committee by the House for their action.

The CHAIRMAN. The Chair does not understand the gentleman from Ohio to raise a point of order, but to move to strike out an appropriation.

Mr. LE BLOND. If the Chair overrules the point of order, of course I shall make that motion; but certainly the gentleman from Pennsylvania [Mr. STEVENS] cannot claim that we cannot raise the point of order now, from the fact that the House had not the means of knowing what was in the bill when it was originally reported, for it went to the committee at once, under the rules of the House; and I raise the point now, that this is not germane to the subject-matter.

Mr. STEVENS. Does not the gentleman know that there was no reservation when this bill was referred?

Mr. LE BLOND. I move now to strike out the section.

Mr. SCOTFIELD. That will strike out the only good thing in the bill.

The question was taken upon Mr. LE BLOND's motion; and there were—ayes 26, noes 49; no quorum voting.

Mr. ROSS. I move that the committee do now rise.

Mr. THAYER. I move to amend by adding "and report the bill to the House."

The CHAIRMAN. A motion to amend the motion for the committee to rise is not now in order.

Mr. THAYER. Why not?

The CHAIRMAN. The bill cannot be reported while there is an amendment to it pending.

The question was taken upon Mr. ROSS's motion; and there were—ayes 31, noes 40; no quorum voting.

Mr. LE BLOND demanded tellers; and Mr. THAYER and Mr. LE BLOND were appointed tellers.

The hour of half past four o'clock having arrived, the Speaker resumed the chair, and the House, pursuant to order, took a recess until half past seven p. m.

#### EVENING SESSION.

The House resumed its session at half past seven o'clock p. m.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate insisted upon its amendments, disagreed to by the House of Representatives, to bill of the House No. 1143, to provide for the more efficient government of the insurrectionary States.

#### HEIRS OF JOHN E. BOULIGNY.

On motion of Mr. THAYER, by unanimous consent, the Committee on Private Land Claims was discharged from the further consideration of bill of Senate No. 428, for the relief of the heirs of John E. Bouligny, and the bill resumed its place on the Speaker's table.

#### COMPENSATION FOR MAIL SERVICES.

Mr. O'NEILL, by unanimous consent, offered

the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Postmaster General be requested to report to this House, or as early as possible after the organization of the Fortieth Congress, what, if any, readjustment of compensation for mail service by railways is necessary so as to more justly equalize the amounts paid the respective companies, in accordance with the services rendered by them.

Mr. O'NEILL moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### BRIDGE ACROSS THE MISSOURI.

Mr. DEMING. I ask unanimous consent to report back a bill from the Committee on Military Affairs for the purpose of building a bridge over the Missouri river, within the limits of the military reservation.

There can be no possible objection to the bill, and it is a matter of great public importance that it should be passed before the session closes. It is House bill No. 1118, to authorize the construction of a bridge across the Missouri river at Fort Leavenworth, Kansas.

Mr. VAN HORN, of Missouri. I object.

#### VACANCY ON A COMMITTEE.

The SPEAKER stated that he had appointed to fill the vacancy on the committee of conference on the part of the House on Senate joint resolution No. 90, to suspend the temporary collection of direct taxes in the State of West Virginia, Mr. SCHENCK in the place of Mr. GARFIELD.

#### UNION PACIFIC RAILROAD.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, in answer to the resolution of the House of the 12th instant, relative to the ultimate cost of the Union Pacific railroad and its branches.

On motion of Mr. WENTWORTH, the communication was referred to the Committee of Ways and Means, and ordered to be printed.

#### POSTAL LAWS.

On motion of Mr. ALLEY, by unanimous consent, bill of the Senate No. 527, to amend the postal laws, and for other purposes, was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### SOUTHERN HOMESTEAD LAW.

Mr. JULIAN, by unanimous consent, from the Committee on Public Lands, reported back an act amendatory of an act for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida; which was recommended to the Committee on Public Lands, and ordered to be printed.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, announced that the Senate insisted upon their amendments disagreed to by the House to the bill (H. R. No. 234) to incorporate the National Capital Insurance Company, had agreed to a conference asked for by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. MORRILL, Mr. HENDERSON, and Mr. PATTERSON, managers of the said conference on their part.

#### RESOLUTIONS OF TENNESSEE LEGISLATURE.

Mr. COOPER presented the resolutions of the Legislature of Tennessee in regard to the Pacific railroad; which were referred to the Committee on the Pacific Railroad, and ordered to be printed.

#### COMPOUND-INTEREST NOTES.

On motion of Mr. HOOPER, of Massachusetts, by unanimous consent, bill of the Senate No. 594, to provide for the payment of compound-interest notes, was taken from the Speaker's table, and read a first and second time.

Mr. HOOPER, of Massachusetts. I ask that the bill be referred to the Committee of Ways and Means.

Mr. LYNCH. I move that the bill be referred to the Committee on Banking and Currency.

Mr. WILSON, of Iowa. I desire, in connection with this subject, to ask the gentleman who is acting as chairman of the Committee of Ways and Means during the absence of the regular chairman, at what time the House may expect the Committee of Ways and Means to obey the instruction of the House which was sent to that committee on last Monday week, embodied in the resolution introduced by my colleague from the fourth district, [Mr. GRINNELL.] It seems to me that we should have some report from that committee in obedience to that resolution. The committee was instructed to report a bill to carry out the object embraced in that resolution; and as that committee has leave to report at any time, I do not see why we have not a report, and I desire to know when we will have it.

Mr. DAVIS. I rise to a question of order. There is a bill now pending before the House, which is not at all connected with the inquiry made by the gentleman from Iowa, [Mr. WILSON.]

Mr. WILSON, of Iowa. I suppose inasmuch as the bill is connected with the subject about which I am inquiring, the acting chairman of the Committee of Ways and Means can be allowed to answer my inquiry.

The SPEAKER. If the point of order is insisted upon, the Chair must rule that debate must be confined to the bill before the House.

Mr. HOOPER, of Massachusetts. In answer to the inquiry of the gentleman from Iowa, [Mr. WILSON,] I would state that the Committee of Ways and Means have been engaged upon the tariff bill, as it was thought very important that that bill should be reported to the House at the earliest moment. We propose to-morrow—

Mr. DAVIS. I rise to a question of order; the reply of the gentleman from Massachusetts [Mr. HOOPER] to the inquiry of the gentleman from Iowa [Mr. WILSON] is not addressed to the bill now before the House, and therefore it is not in order.

The SPEAKER. The Chair must sustain the point of order.

Mr. WILSON, of Iowa. As my inquiry has been made, and the gentleman from Massachusetts [Mr. HOOPER] has begun to answer it, I hope he will be allowed to go on and give the information I desire.

Mr. DAVIS. I insist upon my point of order.

The SPEAKER. All debate must be confined to the bill before the House.

The question was upon the motion of Mr. LYNCH to so amend the motion of Mr. HOOPER, of Massachusetts, as to refer the bill to the Committee on Banking and Currency.

The question was taken; and there were—ayes 35, noes 27; no quorum voting.

Mr. HOOPER, of Massachusetts. I will not object to the reference of the bill to the Committee on Banking and Currency.

The bill was accordingly referred.

The SPEAKER. The Chair will state for the information of the House that it is not likely that the Committee on Banking and Currency will again be called in its regular order this session.

Mr. LYNCH. I move to reconsider the vote by which the bill was referred to the Committee on Banking and Currency; and I also move to lay the motion to reconsider on the table.

Mr. WENTWORTH. I hope the reference will be reconsidered. If the House wants to cast a fling at the Committee of Ways and Means, let them do so when its regular chairman is present.

Mr. SPALDING. I call for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The question was taken; and it was decided

in the affirmative—yeas 79, nays 42, not voting 69; as follows:

**YEAS**—Messrs. Ancona, Arnell, James M. Ashley, Baker, Baman, Bergen, Bingham, Bromwell, Broomall, Buckland, Campbell, Reader W. Clarke, Sidney Clarke, Cooper, Cullom, Dawson, Defrees, Delano, Denison, Donnelly, Eggleston, Eldridge, Ferry, Finck, Glossbrenner, Grinnell, Abner C. Harding, Hawkins, Hayes, Higby, Demas Hubbard, Hulburd, Julian, Kelley, William Lawrence, Le Blond, Leftwich, Lynch, Marshall, McCullough, McIndoe, McKee, McKuer, Morris, Moulton, Niblack, O'Neill, Paine, Patterson, Perham, Phelps, Pike, Plants, Price, Samuel J. Randall, John H. Rice, Ritter, Ross, Sawyer, Shellabarger, Sloan, Starr, Stokes, Taber, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, John L. Thomas, Trimble, Trowbridge, Van Aeram, Burt Van Horn, Robert T. Van Horn, Andrew H. Ward, Welker, Williams, James F. Wilson, and Wright—79.

**NAYS**—Messrs. Ames, Anderson, Delos R. Ashley, Banks, Baxter, Bidwell, Boutwell, Brandegee, Cook, Darling, Davis, Dawes, Dodge, Eliot, Hise, Hooper, John H. Hubbard, Ladin, Loan, Longyear, Marvin, McClurg, Miller, Moorhead, Myers, Newell, Orth, Pomeroy, Raymond, Alexander H. Rice, Rollins, Scofield, Sitgreaves, Spalding, Stevens, Upson, Warner, William B. Washburn, Wentworth, Whaley, Stephen F. Wilson, and Woodbridge—42.

**NOT VOTING**—Messrs. Alley, Allison, Baldwin, Barker, Benjamin, Blaine, Blow, Boyer, Bundy, Chanler, Cobb, Conkling, Culver, Deming, Dixon, Driggs, Dumont, Eiskyle, Farnsworth, Farquhar, Garfield, Goodyear, Griswold, Hale, Aaron Harding, Harris, Hart, Henderson, Hill, Hogan, Holmes, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Ingersoll, Jencks, Jones, Kasson, Kelso, Kerr, Ketcham, Koontz, Kuykendall, Latham, George V. Lawrence, Marston, Maynard, Mercer, Morrill, Nicholson, Neell, Radford, William H. Randall, Rogers, Rousseau, Schenck, Shanklin, Stillwell, Strouse, Thornton, Hamilton Ward, Elihu B. Washburne, Henry D. Washburn, Windom, and Winfield—69.

So the motion to reconsider was laid on the table.

Mr. FARQUHAR said: If I had been present in time, I should have voted against laying the motion to reconsider on the table.

#### SUFFERING PEOPLE OF THE SOUTH.

Mr. BANKS. I ask unanimous consent to introduce for action at this time a joint resolution, which I send to the Clerk's desk to be read.

The joint resolution was read. It directs the Secretary of the Navy, upon the application of the contributors, to assign a public vessel for the transportation to Charleston, Savannah, and Mobile of any supplies of food or clothing which may be contributed by the people of the United States for the use of any portion of the people of the southern States who may be suffering from the failure of crops or from other causes, under such regulations as the Secretary of the Navy may prescribe.

No objection was made.

The joint resolution was received, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BANKS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. BLAINE. I call for the regular order of business.

The SPEAKER. When the House went into Committee of the Whole this afternoon, it was engaged in executing the order of the House to proceed to business upon the Speaker's table. The regular order of business is the completion of the execution of that order of the House.

Mr. STEVENS. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

The motion was agreed to.

#### ARMY APPROPRIATION BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Raymond in the chair,) and resumed the consideration of the special order, being the bill of the House No. 1126, making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes.

The pending question was upon the motion of Mr. LE BLOND to strike out the following:

**SEC. 2.** And be it further enacted, That the headquarters of the General of the Army of the United States shall be at the city of Washington, and all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and in case of his inability, by the next in rank. The General of the Army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at said headquarters, without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void; and any officer who shall issue orders or instructions contrary to the provisions of this section shall be deemed guilty of a misdemeanor in office; and any officer of the Army who shall transmit, convey, or obey any orders or instructions so issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon conviction thereof in any court of competent jurisdiction.

The CHAIRMAN. When the committee was in session this afternoon, just before the recess, the question was taken upon the motion of the gentleman from Ohio, [Mr. LE BLOND,] and no quorum voted.

Mr. LE BLOND. I now withdraw my motion to strike out the second section of this bill, and I wish to state to the gentleman from Pennsylvania, [Mr. STEVENS,] who has charge of this bill, that I desire to have a separate vote taken in the House upon this section and also upon the following portion of the first section:

Bureau of Refugees, Freedmen, and Abandoned Lands:

For salaries of assistant commissioners, sub-assistant commissioners and agents, \$147,500.

For salaries of clerks, \$32,800.

For stationery and printing, \$63,000.

For quarters and fuel, \$200,000.

For commissary stores, \$1,500,000.

For medical department, \$500,000.

For transportation, \$800,000.

For school superintendents, \$25,000.

For buildings for schools and asylums, including construction, rental, and repairs, \$500,000.

For telegraphing and postage, \$18,000.

Provided, The Commissioner be hereby authorized to apply any balance on hand at this date of the refugees and freedmen's fund, accounted for in his last annual report, to aid educational institutions actually incorporated for loyal refugees and freedmen: And provided further, That no agent or clerk not heretofore authorized by law shall receive a monthly allowance exceeding the sum of \$200.

Mr. STEVENS. If the gentleman does not wish to occupy time now, I will consent that a separate vote be taken upon this second section.

Mr. LE BLOND. And upon the other part also?

Mr. STEVENS. Upon the second section.

Mr. LE BLOND. I believe I am entitled to an hour upon this subject, and as there are other gentlemen who desire to debate this proposition as well as myself, I propose, therefore, to retain the floor and to farm out my hour to members on this side of the House, in pursuance of a custom established by gentlemen on that side. Inasmuch as this is the first time we have had any sunshine of this kind, it is best perhaps for us to improve it. [Laughter.]

Mr. Speaker, the second section of the bill ought never to have been incorporated into an appropriation bill. I regret exceedingly that the bill was not read at the Clerk's desk when it was first reported. If it had been, then I should have been enabled under the rules of the House to have required that this section be stricken out as not appropriate to this bill. However, it has taught me this lesson: that in future, so long as I am a member of this House, no appropriation bill shall ever go to the Committee of the Whole until after it has first been read in detail at the Clerk's desk.

I do not expect to remain in this Hall very long. The place that knows me now will soon know me no more.

Mr. ELDRIDGE. Forever. [Laughter.]

Mr. LE BLOND. It is suggested that I add the word "forever;" and I willingly accept the suggestion. And when I have escaped from these Halls I shall feel that I am once more a free man, in a country that once was free, but, alas! is free no more. I shall be where the

previous question cannot be ordered and compel me to hold my peace.

Sir, this section of the bill embraces more than one would suppose from a first reading of it. It is provided that no order shall be executed by any military commander unless it passes through the General of the Army, who is required by this section to reside in the city of Washington. Now, if the section stopped here it would not be so objectionable; but it provides further:

The General of the Army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at said headquarters, without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void; and any officer who shall issue orders or instructions contrary to the provisions of this section shall be deemed guilty of a misdemeanor in office; and any officer of the Army who shall transmit, convey, or obey any orders or instructions so issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon conviction thereof in any court of competent jurisdiction.

Now, let us look at this for a moment. Suppose an outbreak should take place in some part of the country; or that some foreign Power should seek to invade our soil, say from the Mexican borders. The General of the Army located here may possibly be averse to any action being taken. The President, who is made Commander-in-Chief of the Army and the Navy by the Constitution of the United States, is by this provision estopped from sending any other general there to repel the forces which may be attempting to come upon our soil, or to put down any insurrection that might take place within any of the States.

Now, sir, what particular object the gentleman who is chairman of this committee had in view when he reported this section I know not. I can scarcely conceive what can induce any man to throw such an obstacle in our way in case of invasion if any such should take place. But, mysterious as it may be, it has found its way into this bill without any objection whatever from that quarter.

What else does it provide? It provides if an order issues—of course meaning from the President of the United States, the Commander-in-Chief of the Army and Navy—to any officer, and that officer should undertake to carry out the order given to him by his superior officer, he is to be fined and to be imprisoned not less than two nor more than twenty years; imprisoned, sir, for executing an order made incumbent upon him by the laws and by the Constitution of the United States. If the bill does not show the cloven foot, yet when the author of the bill is remembered and the feelings he entertains toward other parties are called to mind, we must come to the conclusion there is a good deal of the cloven foot in it.

The Constitution, as I have already said, gives the command of the Army and Navy to the President. If he finds he must take immediate action, and issues orders to an officer to go into a particular locality to suppress insurrection, and that officer undertakes to execute the order, he is to be fined and imprisoned. If, however, he does not obey the order of his superior then he may be cashiered and dealt with as military courts generally deal with such cases. He is bound to execute the order of his superior by law.

But if the President shall issue such an order then he is to be guilty of a misdemeanor. If guilty of misdemeanor in carrying out the plain provisions of the Constitution he then becomes liable to impeachment, the very thing that gentleman wishes to bring about. He seeks to put the Executive in a position where, by the laws and Constitution, he is forced to issue orders to the military; and when these orders are issued it subjects him to the penalty of impeachment for misdemeanor. I am opposed to this system of legislation. I am opposed to laying a network to catch any officer of the Government who is carrying out what he believes to be his duty under the law. I believe in fair dealing and plain sailing; and if the

Executive is guilty of any act whereby he subjects himself to impeachment, in God's name let him be impeached. Do not lay this network to force him into a position to manufacture ground for his impeachment.

I hear, sir, little about impeachment now. I suppose gentlemen have found on examination nothing upon which to found it. The press has been speaking, and those who have been foremost in the matter feel as did Belshazzar when he saw the writing on the wall. This section ought not to be left in this bill, and I hope this House will strike it out.

The other subject on which I shall ask a vote is the appropriation of over three million dollars for the Freedmen's Bureau. When that comes into the House I shall, with its permission, call for the yeas and nays to see whether the people of this country are willing to contribute from the Treasury such a sum as this for the purpose of keeping up one class at the expense of another. We have objects of charity all over the country if we have money to bestow in this way more worthy than this.

Mr. NIBLACK. I am a member of the Committee on Appropriations that reported this bill, and although I claim to be pretty punctual in my attendance upon that committee, I happened, I believe, not to be present when this bill was considered and ordered to be reported. At all events, from some cause or other which I do not profess to understand fully, the second section of this bill is entirely new to me. I never heard of it until it was read at the Clerk's desk this afternoon when we went into committee for the consideration of this bill. I must say that it struck me when I heard it read as a most extraordinary kind of legislation.

Under the Constitution, as we all, of course, have been advised very frequently in debate, here and elsewhere, the President is Commander-in-Chief of the Army and Navy of the United States. He nominates all the officers that are required above a certain grade, all commissioned officers, I believe, in the Army and Navy. He appoints them, in other words, subject to the consent of the Senate. It has always, so far as my reading has taught me on the subject, been conceded to him that he was entitled, as Commander-in-Chief, to assign to officers whatever duty in his judgment he thought they ought to be called upon and were best qualified to perform.

It is not a practicable thing for the Congress of the United States to regulate matters of detail connected with the military service at all events. Whatever law we pass on the subject has to remain in force until repealed by Congress, and if the particular section to which I am alluding shall become a law, it will remain the law of the land, of course, until repealed by Congress. It will tie up, if it be a valid law, the President and the General of the Army for all time to come until modified or repealed by the Congress of the United States. As has been well said by the gentleman from Ohio [Mr. LE BLOND] we cannot foresee what contingency may happen in regard to the future of this country. We may have an invasion, we may have an insurrection, we may have some trouble upon the northern border with Canada, or upon the southern border with Mexico, and it may be a matter of the first importance that the General of the Army should be assigned to duty in some one of those localities. But if you pass this bill, and it becomes a law, and is sustained by the courts of this country, or by acquiescence in it on the part of the President and others in authority under him, then the General will not be permitted to go outside the limits of the city of Washington, nor can he be assigned to duty anywhere except at headquarters in this city. I take it there must be more urgent reason for this sort of legislation, some reason which the public does not fully understand, some reason which certainly we on this side of the House are unable to appreciate.

In the first place, it implies a want of confidence in the President of the United States.

Well, sir, I very much regret this apparent want of confidence in him on the part of the majority here. But we have seen some few faint indications of it upon some previous occasions, and I am not so much surprised, therefore, at the manifestation of that want of confidence as shown in this particular bill. But I go further, and insist that it implies a want of confidence on the part of the majority in the General of the Army himself. Why do you seek to coop him up in this way, and threaten him with punishment if he should obey the orders of the President, if there is not a sort of lingering suspicion somewhere that he will be derelict in his duty in this respect? It is only the other day that the majority on the other side were proposing to place the whole military power of this country, especially in the lately insurrectionary States, in the General of the Army, to charge him with the entire military operations within those States, and give him supreme control. Well, I concede that if Congress has the power to do this it is a very extraordinary attempt at legislation.

That provision of the bill, however, which passed this body last week for the government of the late insurrectionary States has been so amended by the Senate that I presume whatever may happen, that feature is not likely to be reinstated. I am not in the secret, however, in these matters, and about that I may be mistaken.

But what I was drawing the attention of the House to is that now the whole thing seems to be changed, and there is an apprehension that the General of the Army intends to do something that is inconsistent with the safety of the people of this country, that some kind of *coup d'état*, as the French call it, is anticipated; that the President is going to do something terrible and the General of the Army is likely to be used in this effort at rebellion or resistance or whatever else gentlemen may imagine is likely to occur; for I take it for granted that they would never agree to a proposition of this sort if there was no such apprehension.

By this provision the General of the Army is only to be assigned to duty in the city of Washington, and any effort on the part of the President to assign him to duty elsewhere is to be null and void. And not only is the order to be void, but the President is to be punished for issuing such an order, and the General of the Army is also liable to punishment for obeying such an order.

Now, Mr. Speaker, the present General of the Army has by his own superior skill as a military man, by a succession of excellent good fortune, become a very important personage in this country. He is a man, I believe, that all parties are trying to get possession of. These victorious generals are particularly serviceable sometimes in elections, and I confess that one great dread we have had to encounter on this side of the House for some time past has been that the majority were likely to capture him and make him their candidate for President in 1868. But seeing this suspicion which seems to linger in the minds of the majority in regard to the fidelity, loyalty, good faith, and honor of this officer as manifested in the second section of the bill, I am inclined to think that our apprehensions have not been well founded. I am inclined to think, instead of confiding in him and desiring to make him their leader in a future contest, they desire to tie up his hands, embarrass him, and advertise him by the legislation of the country as an officer in whom the Congress of the United States have no confidence.

I may be mistaken in all this, but I confess this second section looks to me a little as if I am about right. Whatever gentlemen of the majority may feel in relation to the President of the United States, I insist that it is unfair to attempt to involve officers of the Army in these troubles who have never been politicians, who have simply, so far as their acts are concerned, indicated their desire to perform their whole duty to the country in their military capacity, and thus complicate them in the present un-

fortunate and unsettled political condition of the country.

It is competent for the Congress of the United States to withhold appropriations for the Army altogether if it chooses. It is competent when we make appropriations, for us to prescribe the manner in which the money thus appropriated shall be disbursed. We may, I suppose, annex provisions to such appropriations limiting and prescribing the terms upon which the disbursements shall be made and the contingencies upon which the appropriations shall be withheld. But, sir, I never heard it urged seriously anywhere, even at the hustings, where debate runs wild and gentlemen are not reported in what they are saying, where whatever may be said in the excitement of the moment passes away from the memory; that the Congress of the United States shall prescribe to what particular duty an officer shall be assigned, and may by legislation tie up the hands of the President in such a way that he cannot assign an officer to the particular kind of duty to which, in his judgment, that officer is adapted.

In all seriousness, Mr. Chairman, I do regard this as a most extraordinary section. The more I think about it the more am I surprised. I am aware that these are times of revolution to some extent. I am aware that many very extraordinary things have been said, done, written, and published in the last five or six years, and I am aware that the limitations of the Constitution have not borne very heavily upon those who are in the majority here; and in view of that I confess I ought not to be surprised at scarcely anything, especially after having witnessed what I have here in the last two years.

But, sir, this is so far in advance of anything that has yet been attempted; so entirely novel in its character; so revolutionary, if I may be allowed to use that expression; so unprecedented in all ordinary matters of legislation, that I should be recreant to my duty, recreant to every dictate of justice, if I should permit a provision of this sort to be passed by this House without entering my earnest protest against it.

I am inclined to think, sir, that such a provision as this would be wholly nugatory, so far as it attempts to restrain the action of the President or the action of the General of the Army. Certainly, sir, this would be so if the Constitution were applied in its strict construction to the question. But, sir, this is a stronger argument why we should not attempt to enact such a provision into a law. It is not always safe for an executive officer, for an officer in any branch of the public service, to refuse to obey a law because in his judgment it may be unconstitutional. The decision of such a question imposes upon him a responsibility which it is not right to throw upon his shoulders. He should not be called upon to take the risk of determining what the judicial tribunal of last resort may decide upon one of the most important and at the same time one of the most intricate and delicate questions.

If this provision were clearly unconstitutional, then, sir, there would only remain the question as to its expediency. But, sir, in the aspect in which it is presented here it is, in my judgment, not only unconstitutional but inexpedient. I do hope that before we take the vote on this question we shall at least hear from the other side—from the distinguished chairman of the committee who reported this bill—why we are asked to enact such a section as this, especially in connection with the ordinary appropriations for the support of the Army. There must be some reason for it which the public does not understand; there must be some reason which even this House does not understand.

If such a measure as this ought to come before the House, if Congress ought to enact such a law, then I submit that it should properly have been reported from the Committee on Military Affairs, who are specially charged with the consideration of all questions pertaining to military operations. Although the Com-



mittee on Appropriations embraces gentlemen of talent, of distinction, of ability, and of experience, some of whom perhaps have done some service in the field, yet that committee is not specially charged with the consideration of the military condition of the country. I am quite sure, sir, that the distinguished Presiding Officer of this House would never have appointed me a member of that committee if he had anticipated that it would be a part of the duty of the committee to take into consideration the military situation of the country.

The duties of that committee are of a financial character; they relate to the computation of dollars and cents, the consideration of the exigencies of the country in regard to appropriations. But it is certainly no part of our duty to inquire what military operations are contemplated, or the relative merits of the different officers of the Army, commencing with the President and extending down through his subordinates.

Mr. ELDRIDGE. I rise to a question of order. I insist that it is not in order for gentlemen to hold a caucus on the floor of the House of Representatives. It must be evident to the Chairman that that is going on. Besides that, there is a great deal of talking, evidently to disturb the gentleman from Indiana [Mr. NIBLACK] in his argument.

The CHAIRMAN. The point of order is well taken. Gentlemen on the left of the Chair will please be seated and preserve order in the House.

Mr. RANDALL, of Pennsylvania. Does the Chair decide that there is a caucus? [Laughter.]

The CHAIRMAN. The gentleman from Indiana will proceed.

Mr. NIBLACK. Mr. Chairman, I would have much preferred that some gentleman on this side of the House who understands the military situation better than I do should have assumed the duty of discussing this question; but being a member of the Committee on Appropriations, which is responsible to the House and to the country for this bill, I have felt it my duty to say at least a few words before the vote was taken upon it. Other gentlemen, however, desire to speak upon it, and I will not attempt to hold the floor any longer. I thank the gentleman from Ohio [Mr. LE BOND] for his courtesy in yielding to me.

Mr. LE BLOND. Mr. Chairman, there are several Republican members who have expressed to me a desire to speak on this question. I will yield now to one of them. The usual courtesy extended from that side of the House to this is two minutes; but I will be more generous and extend three minutes to my friend from New York, [Mr. DAVIS.]

Mr. DAVIS. I decline to accept so short a time.

Mr. LE BLOND. My time is very precious, and I have promised portions of it to several of my friends. I now yield ten minutes to my friend from Wisconsin, [Mr. ELDRIDGE.]

Mr. ELDRIDGE. I have consented that my friend from Illinois [Mr. ROSS] shall occupy five minutes of my time.

Mr. ROSS. Mr. Chairman, I have been for some time apprehensive that there is an intention on the part of the Republican party of this country to abandon that time-honored principle termed the "Monroe Doctrine." I think it must be apparent, sir, to you and to the country that the design of the dominant political party at the present time is to ignore that great doctrine by which our fathers stood from the foundation of the Government.

With reference, sir, to the questions more immediately involved in this bill I may be allowed to say that during the last session I called the attention of the House to the danger of creating a large military establishment in this country. But, sir, my feeble voice was not heard or was unheeded. It was determined that we must have in the field in time of peace an Army of at least eighty thousand men. We are now beginning to realize the fruits of our legislation during the last session. One of the first

fruits is the bill now reported by the Committee on Appropriations, proposing the extraordinary expenditure of nearly twenty-eight million dollars for the support of the military establishment during one year. Sir, it is a startling fact for the country to consider that now, in a time of profound peace, the military establishment of this country costs us more than the total expense of administering the Government in the earlier and better days of the country, when the Democratic party was in power.

These, Mr. Chairman, are serious considerations for the American people. Perhaps they will submit to this system of legislation. Perhaps the sunburnt sons of toil will uncomplainingly bow their necks to the burdens imposed upon them and will be content to deprive themselves, not only of the comforts, but the absolute necessities of life—for what? For the luxury of having a Republican Congress to rule over them. Go on, hardy sons of toil; labor from early morn till the stars shine at night; bow your necks to the burden imposed upon you as the price of enjoying the rule of a Republican Congress!

Mr. Chairman, the time has come when every patriotic citizen of this country should be aroused to the danger which hangs like a thick pall over our institutions. The time has come when the question must be decided whether the people of this country have any longer any rights that deserve to be respected. The glory of the fathers was that we had a Government resting so lightly on the shoulders of the people that they hardly knew they were taxed. The idea on which our Government was founded was that we were to dispense with all the traditionary notions of monarchy and aristocracy; that among the other abuses of monarchical government from which we were to be exempt were standing armies and navies, needlessly eating out the substance of the people. But, sir, this old doctrine is being entirely reversed; we have been placed under military despotism; a permanent military establishment has been created; provision is made for putting one third of the people of this Union under military law; and we are having pressed upon us in this House a militia bill providing for the military enrollment of the entire community.

Mr. Chairman, these are important moments in the history of our country, and I call upon patriotic Union-loving men who revere and venerate the institutions under which we live to come to the rescue. There is no time to be lost; ere long the chains will be around our necks; there is great danger in permitting this thing to go on. I call upon the honorable and distinguished gentlemen on the other side to come to the help of our imperiled free Government. I only intended when I rose to call the attention of the House and country to the great danger which gathers and thickens over our political horizon; and I thank the gentleman from Wisconsin for yielding to me.

Mr. ELDRIDGE. I now yield five minutes to the gentleman from New Jersey, [Mr. WRIGHT.]

Mr. WRIGHT. Mr. Chairman, although I am upon the Committee on Appropriations I was not present when this proposition was submitted to that committee. Assuredly if offered in my presence I would, as I do now, object to it. I do not think, as was well said by the gentleman from Indiana, [Mr. NIBLACK,] it is germane to the body of an appropriation bill.

This is a proposition to restrict the office and control the power of the President of the United States; to tear away from him by a single act of this Congress his powers under the Constitution of the United States, which makes him Commander-in-Chief of the Army and Navy of the United States. Now, what a farce it would be to allow him to be the Commander of this force, and yet to say his chief officer, the General of the Army, can be so strongly fixed in his headquarters in Washington that no power on earth, except a power unknown to the Constitution of the United States, the

Senate of the United States may interfere, and give him a leave of absence for a few days.

Mr. Chairman, I see not only in this, but in other bills, an attempt, a deliberate attempt, to limit and circumscribe the power of the President of the United States. And why? I well remember when he made an address in Nashville, Tennessee, and told the negroes there he would be their Moses to lead them to the promised land, [laughter,] the whole country appeared to be on his side; he was the consummation so devoutly wished for. Since then times have changed. *Tempora mutantur et nos mutamur cum illis.* He entertains now in his own mind a different system of political economy, keeping pace with the progress of the age, and forsooth, his old friends withdraw from him and refuse to give him that sustentation and support which he enjoyed before and to which he is entitled. We do not claim him. We who profess to be Democrats acknowledge only one rule of conduct, and that is the Constitution of the United States; loving the flag and respecting the laws made under the Constitution. We have no other faith; we have no other hope, and under the blessing of God we desire no other destiny.

The proposition here in this second section is outside of any appropriation, except it may be appropriation of the powers of the President. It is that he shall be shorn of his authority. He cannot, dare not, order one of his subalterns, no matter how great the danger may be, to go to any portion of this Republic for the purpose of putting down a rebellion. If a subaltern undertakes to execute the order of the President he becomes liable to be considered guilty of what we call in New Jersey a high misdemeanor, and to be imprisoned for from two to twenty years, at the discretion of the court.

I tell you you dare not override the Constitution of the United States. This is not a question to be put to gentlemen as a matter of mere volition. There is a day of reckoning at hand; it will come to you as well as to us. We may be mistaken; but I say to you again, you dare not override the Constitution of the United States in this way to-day and then rely upon it to-morrow. That Constitution gives the President of the United States entire command of the Army and Navy of the United States; and that being so, why do you propose, in this outside and incidental way, to restrict him and to take away from him those ordinary powers which, by virtue of his office, he has a right to exercise?

I really do not know why this thing is suggested; but I repudiate the insinuation that has been made by one of my own party, that it is intended as a trap to catch the President in order to impeach him. I do not believe it. I do not believe that the Republican party, seated there upon the other side of the House, would do such a mean act as to set a trap to catch the President of the United States. I think that the President has manliness enough to declare his sentiments, to act upon his principles, and to discharge the duties of his office in accordance with them; and if, in doing so, he shall subject himself to the criticism of the Congress of the United States, that may give rise to questions to be decided by the action of this House and of the Senate.

But I repeat, I do not believe that this bill is designed as a trap. I think rather that it is an ill-advised scheme, put into a bill which originally did not contemplate anything of the kind, and brought in here just at the close of the session, intended to confine the General of the Army in his quarters here, and at the same time to hold out by way of penalty the threat that punishment would follow disobedience of orders. I have examined that section, and desiring to discuss this matter fairly, I say it does not appear to me that the President of the United States may not give an order to General Grant that he may execute; but I think that if General Grant were to issue an order to any of his subordinates, and they should undertake to execute it in contravention of

the provisions of that section, then they would be liable.

However that may be, is it appropriate that now at the close of the session a proposition of this kind should be suddenly sprung upon this House, when, if the Constitution is left to stand where it is and if the laws of the land are left in full force, there is no reason why the matter may not very well be allowed to rest until the Fortieth Congress comes in?

The Latins tell us, *experientia docet*. Let us wait and see; let us postpone action in this matter until after the next Congress shall have assembled, and let us endeavor to consider calmly in the mean time whether any action of the President of the United States calls for such an extraordinary measure as this, which seeks to restrict his powers by act of Congress, although they cannot properly be restricted except by the Constitution of the United States.

Mr. ELDRIDGE. I will now yield the balance of my time to the gentleman from Kentucky, [Mr. Hise.]

Mr. HISE. If there are only three minutes of time remaining, which I understand is the fact, I must decline to occupy them. [Laughter.]

Mr. BLAINE. I move that the committee rise, and I do it with a view of going to business upon the Speaker's table.

Mr. FINCK. I rise to a question of order. The gentleman from Kentucky [Mr. Hise] has the floor and the gentleman from Maine has no right to make that motion.

The CHAIRMAN. The gentleman from Kentucky resigned the floor.

Mr. LE BLOND. Will the gentleman allow us to take separate votes in the House upon the propositions which I have indicated.

Mr. BLAINE. I will say to the gentleman that I do not propose to go on with this bill at all. I have made the motion to rise for another purpose, in order that we may proceed to business on the Speaker's table.

Mr. LE BLOND. What particular business?

Mr. BLAINE. The gentleman will find that out when the committee rises.

The question was taken on Mr. BLAINE's motion; and it was agreed to.

So the committee rose; and the Speaker having resumed the Chair, Mr. RAYMOND reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly bill of the House No. 1126, making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes, and had come to no conclusion thereon.

#### ORDER OF BUSINESS.

Mr. BLAINE. I move that the House proceed to the business on the Speaker's table.

Mr. MOORHEAD. I move that the House resolve itself into the Committee of the Whole on the state of the Union on the tax bill.

The SPEAKER. That will not be in order unless the Army bill shall be postponed by a vote of the House. The tax bill was postponed this afternoon by a vote of the House.

Mr. STEVENS. I move that the House resolve itself into the Committee of the Whole on the state of the Union on the special order, the Army appropriation bill, and pending that motion, I move that all debate in committee be confined to five minutes.

Mr. FARNSWORTH. What is the regular order of business?

The SPEAKER. The regular order is the consideration of business on the Speaker's table.

Mr. FARNSWORTH. I insist on the regular order.

Mr. STEVENS. I move to postpone the regular order of business for the purpose of finishing the Army appropriation bill.

Mr. FINCK. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided

in the negative—yeas 30, nays 97, not voting 62; as follows:

YEAS—Messrs. Ancona, Baxter, Bergen, Boyer, Campbell, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Hawkins, Hise, Le Blond, Leftwich, Loan, Marshall, McCullough, Niblack, Nicholson, Samuel J. Randall, Ritter, Ross, Sitgreaves, Stevens, Taber, Nathaniel G. Taylor, Nelson Taylor, Trimble, and Andrew H. Ward—30.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Barker, Beaman, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cobb, Cook, Cullom, Darling, Davis, Dawes, Defrees, Delano, Deming, Dodge, Donnelly, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Grinnell, Griswold, Hayes, Higby, Demas Hubbard, John H. Hubbard, Hubbard, Julian, Kelley, Laffin, William Lawrence, Longyear, Lynch, Marvin, Maynard, McClurg, McIndoe, McKee, McRuer, Mercer, Miller, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Scofield, Shellabarger, Sloan, Spalding, Starr, Stokes, Thayer, Francis Thomas, John L. Thomas, Upson, Burt Van Horn, Robert T. Van Horn, Warner, William B. Washburn, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, and Windom—97.

NOT VOTING—Messrs. Banks, Benjamin, Chandler, Sidney Clarke, Conkling, Culver, Dixon, Driggs, Dumont, Eckley, Garfield, Goodyear, Hale, Aaron Harding, Abner C. Harding, Harris, Hart, Henderson, Hill, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Edwin N. Hubbard, James R. Hubbard, Humphrey, Hunter, Ingersoll, Jenckes, Jones, Kasson, Kelso, Kerr, Ketcham, Koontz, Kuykendall, Latham, George V. Lawrence, Marston, Moorhead, Morrill, Noell, Phelps, Radford, Rogers, Rousseau, Schenck, Shanklin, Stilwell, Strouse, Thornton, Trowbridge, Van Aernam, Hamilton Ward, Elihu B. Washburne, Henry D. Washburn, Welker, Williams, Winfield, Woodbridge, and Wright—63.

So the House refused to postpone the regular order of business.

#### GOVERNMENT OF INSURRECTIONARY STATES.

The SPEAKER. The first business upon the Speaker's table is the following message from the Senate:

IN SENATE OF THE UNITED STATES,  
February 19, 1867.

Resolved, That the Senate insist upon its amendments to the bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States, disagreed to by the House of Representatives.

Attest: J. W. FORNEY,  
Secretary.

By J. W. McDONALD, Chief Clerk.

The SPEAKER. The gentleman from Maine, [Mr. BLAINE,] having called for the regular order of business, is entitled to the floor.

Mr. BLAINE. I yield to the gentleman from Iowa, [Mr. WILSON.]

Mr. WILSON, of Iowa. I move that the House concur in the substitute proposed by the Senate, with an amendment to come in at the end of the fifth section, which I send to the Clerk's desk to be read.

Mr. WRIGHT. Are we to be sold out? [Laughter.]

The Clerk read as follows:

Provided, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible as a member of a convention to frame a constitution for any of said rebel States nor shall any such person vote for members of such convention.

Mr. BLAINE. I now demand the previous question.

Mr. STEVENS. I rise to a question of order. We have already voted to non-concur in the amendment of the Senate; the motion to reconsider that vote was made, and laid upon the table. I now ask whether we can be again called upon to vote upon the proposition to concur?

The SPEAKER. The House is now acting upon a message from the Senate, and the Clerk will read the rule in relation to the progress of business.

The Clerk read as follows:

"When either House, e.g., the House of Representatives, send a bill to the other, the other may pass it with amendments. The regulation progression in this case is: that the House disagree to the amendment, the Senate insist on it; the House insist on their disagreement; the Senate adhere to their amendment; the House adhere to their disagreement."

The SPEAKER. The House this afternoon disagreed to the amendment of the Senate, and the motion to reconsider the vote was laid upon the table. The Senate have sent to this House

a message, stating that they insist upon their amendment. The question now is upon receding from the disagreement of the House, which is an entirely different proposition from the one upon which the House acted this afternoon. The gentleman from Iowa [Mr. WILSON] now moves to recede from the disagreement of the House and to agree to the amendment of the Senate with an amendment. The Clerk will read the rule under which that motion is made.

The Clerk read as follows:

"Either House may recede from its amendment and agree to the bill, or recede from their disagreement to the amendment and agree to the same absolutely, or with an amendment. And the motion to recede takes precedence of the motion to insist."

Mr. ELDRIDGE. Is it now in order to move to lay the amendment of the Senate upon the table?

The SPEAKER. That motion would be in order; but if it is agreed to it will take the bill to the table also.

Mr. BLAINE. I called the previous question.

The SPEAKER. The call for the previous question will be pending, and will be the first question in order should the motion to lay on the table not be agreed to.

Mr. FINCK. I call the yeas and nays on the motion to lay on the table.

The question was taken upon ordering the yeas and nays; and upon a division, there were—yeas 27, noes 78.

So (one fifth voting in the affirmative) the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 27, nays 108, not voting 55; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Campbell, Cooper, Dawson, Denison, Finck, Glossbrenner, Hise, Hunter, Le Blond, Leftwich, Marshall, McCullough, Niblack, Nicholson, Phelps, Samuel J. Randall, Ritter, Ross, Taber, Nathaniel G. Taylor, Nelson Taylor, Trimble, Andrew H. Ward, and Wright—27.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Bidwell, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Davis, Dawes, Delano, Deming, Dodge, Donnelly, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Grinnell, Griswold, Abner C. Harding, Hawkins, Hayes, Higby, Hotchkiss, Demas Hubbard, John H. Hubbard, Hubbard, Julian, Kelley, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, Maynard, McClurg, McIndoe, McKee, McRuer, Mercer, Miller, Moorhead, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stokes, Thayer, Francis Thomas, John L. Thomas, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, William B. Washburn, Welker, Wentworth, Whaley, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—108.

NOT VOTING—Messrs. Benjamin, Blow, Chanler, Conkling, Culver, Defrees, Dixon, Driggs, Dumont, Eckley, Eldridge, Garfield, Goodyear, Hale, Aaron Harding, Harris, Hart, Henderson, Hill, Hogan, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Edwin N. Hubbard, James R. Hubbard, Humphrey, Ingersoll, Jenckes, Jones, Kasson, Kelso, Kerr, Ketcham, Koontz, Kuykendall, Marston, Morrill, Noell, Radford, William H. Randall, Rogers, Rousseau, Shanklin, Sitgreaves, Stevens, Stilwell, Strouse, Thornton, Trowbridge, Hamilton Ward, Elihu B. Washburne, Henry D. Washburn, Williams, and Winfield—55.

So the motion to lay on the table was not agreed to.

The question recurred upon seconding the call for the previous question.

Mr. FINCK. I move that the House take a recess until one o'clock to-morrow morning.

Mr. ELDRIDGE. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. RANDALL, of Pennsylvania. I move that the House now adjourn, and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. ELDRIDGE. I move that when the House adjourn it adjourn to meet on Thursday next at twelve o'clock, and on that motion I demand the yeas and nays.

Mr. THAYER. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. THAYER and NICHOLSON were appointed.

The House divided; and the tellers reported—ayes twenty-nine; noes not counted.

So the yeas and nays were ordered.

The question was taken on the motion of Mr. ELDRIDGE, that when the House adjourn it adjourn to meet on Thursday next; and it was decided in the negative—yeas 27, nays 110, not voting 53; as follows:

**YEAS**—Messrs. Ancona, Bergen, Boyer, Campbell, Cooper, Denison, Eldridge, Finck, Glossbrenner, Aaron Harding, Hise, Kerr, Le Blond, Leitwich, Marshall, McCullough, Niblack, Nicholson, Samuel J. Randall, Ritter, Ross, Taber, Nathaniel G. Taylor, Nelson Taylor, Trimble, Andrew H. Ward, and Wright—27.

**NAYS**—Messrs. Alley, Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Bingham, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Davis, Dawes, Dawson, Delano, Deming, Donnelly, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Grinnell, Griswold, Abner C. Harding, Hart, Hawkins, Hayes, Higby, Hill, Hogan, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Humphrey, Hunter, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, Maynard, McClurg, McIndoe, McKee, McRuer, Mercer, Miller, Moorhead, Morris, Moulton, Newell, O'Neill, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, William H. Randall, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Sloan, Starr, Stokes, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Windom, and Woodbridge—110.

**NOT VOTING**—Messrs. Banks, Benjamin, Bidwell, Blow, Buckland, Chanler, Conkling, Culver, Deftrees, Dixon, Dodge, Driggs, Dumont, Eckley, Garfield, Goodyear, Hale, Harris, Henderson, Holmes, Hotchkiss, Asahel W. Hubbard, Edwin N. Hubbell, Ingersoll, Jenckes, Jones, Marston, Morrill, Myers, Neill, Orth, Phelps, Radford, Raymond, Alexander H. Rice, Rogers, Rousseau, Shanklin, Shellabarger, Sitgreaves, Spalding, Stevens, Stilwell, Strouse, Thayer, Thornton, Hamilton Ward, Elihu B. Washburne, Henry D. Washburn, Stephen F. Wilson, and Winfield—53.

So the motion of Mr. ELDRIDGE was not agreed to.

During the roll-call,

Mr. ELDRIDGE said: The gentleman from Ohio, [Mr. SPALDING,] who is absent on this vote, informed me a short time since that he was unwell and must go home.

The result of the vote was announced as above stated.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, an act (H. R. No. 478) for the relief of John C. McFerron of the United States Navy.

The message also announced that the Senate had passed bills of the following titles, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 1134) declaring and fixing the rights of volunteers as part of the Army; and

An act (H. R. No. 811) for the relief of certain drafted men.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 595) to regulate the disposition of an irregular fund in the custody of the Freedmen's Bureau; and

An act (S. No. 543) to abolish and forever prohibit the system of peonage in the Territory of New Mexico and other parts of the United States.

#### GOVERNMENT OF INSURRECTIONARY STATES.

Mr. FINCK. I move that when the House adjourns it adjourn to meet on Friday next; and on that motion I call the yeas and nays.

The yeas and nays were ordered.

Mr. RANDALL, of Pennsylvania. I move that when we adjourn we adjourn to meet to-morrow morning at half-past eleven o'clock.

The SPEAKER. That motion is not in order. The rule which fixes the meeting of the House at twelve o'clock cannot be suspended except by unanimous consent, or by the adoption of a motion to suspend the rules, when that motion is in order.

Mr. RANDALL, of Pennsylvania. I think the House will grant unanimous consent. [Laughter.]

The SPEAKER. Is there any objection to the proposition of the gentleman from Pennsylvania?

Mr. WILSON, of Iowa. I object.

Mr. ELDRIDGE. Mr. Speaker, I will say there is no desire to prevent certain action on any bill except the one which came recently from the Senate. We do desire that bill shall not pass before twelve o'clock midnight. We do not expect to make any successful opposition to its passage to-morrow; and when we come here to-morrow we will not object to the vote being taken. We shall not then indulge in any dilatory motions.

Mr. ROSS. I rise to a question of order. It appears in the papers that the President will sign this. [Laughter.]

The SPEAKER. That is no question of order.

Mr. DAWES. Let us take a recess until twelve o'clock to-morrow, and then proceed to vote on this bill after the reading of the Journal.

Mr. MOORHEAD. I object. Let us finish this business to-night and get it out of the way.

Mr. DAWES. Then say to-morrow at twelve o'clock m., and after the reading of the Journal this question shall be disposed of without dilatory motions.

Mr. MOORHEAD. I object.

Mr. BLAINE. Last night, at the request of gentlemen on the other side, was allowed for discussion, with the fair understanding—

Mr. RANDALL, of Pennsylvania. I object to debate.

The question then recurred on the motion that when the House adjourns to-night it adjourn to meet on Friday next; and being taken, it was decided in the negative—yeas 24, nays 111, not voting, 55; as follows:

**YEAS**—Messrs. Ancona, Bergen, Campbell, Chanler, Cooper, Denison, Eldridge, Finck, Glossbrenner, Aaron Harding, Hise, Humphrey, Kerr, Le Blond, Leitwich, Marshall, Niblack, Samuel J. Randall, Ritter, Ross, Taber, Trimble, Andrew H. Ward, and Wright—24.

**NAYS**—Messrs. Alley, Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Blaine, Blow, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cobb, Cook, Cullom, Darling, Davis, Dawes, Dawson, Deftrees, Delano, Deming, Dodge, Donnelly, Eggleston, Farnsworth, Farquhar, Ferry, Grinnell, Griswold, Hart, Higby, Hill, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Hunter, Kasson, Kelley, Kelso, Ketcham, Koontz, Kuykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Lynch, Marvin, Maynard, McClurg, McCullough, McIndoe, McKee, McRuer, Mercer, Miller, Moorhead, Morris, Moulton, Myers, Newell, Nicholson, O'Neill, Paine, Perham, Phelps, Plants, Pomeroy, Price, William H. Randall, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Sloan, Stokes, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Windom, and Woodbridge—111.

**NOT VOTING**—Messrs. Baker, Benjamin, Bidwell, Bingham, Boutwell, Boyer, Sidney Clarke, Conkling, Culver, Dixon, Driggs, Dumont, Eckley, Eliot, Garfield, Goodyear, Hale, Abner C. Harding, Harris, Hawkins, Hayes, Henderson, Asahel W. Hubbard, Edwin N. Hubbell, Ingersoll, Jenckes, Jones, Julian, Longyear, Marston, Morrill, Neill, Orth, Patterson, Pike, Radford, Raymond, John H. Rice, Rogers, Rousseau, Shanklin, Shellabarger, Sitgreaves, Spalding, Starr, Stevens, Stilwell, Strouse, John L. Thomas, Thornton, Hamilton Ward, Elihu B. Washburne, Henry D. Washburn, Stephen F. Wilson, and Winfield—55.

So the motion was disagreed to.

The question then recurred on the motion to adjourn.

Mr. ELDRIDGE. I withdraw the demand for the yeas and nays. If we are now allowed to adjourn there will be no dilatory motion to-morrow to prevent the taking of the vote on this subject.

Mr. MOORHEAD. I hope we will not adjourn. Let us get rid of this question to-night so that we can get to something else to-morrow.

Mr. BLAINE. I feel it to be incumbent upon me to object to adjournment until this bill is passed. I may be overruled by the

House, but I hope those who support the pending proposition will stand by it and see it through.

Mr. MOORHEAD. I am glad to hear it.

The SPEAKER. If objection be made the question then recurs on the motion to adjourn on which the yeas and nays have been ordered.

Mr. KELLEY. I ask the gentleman from Maine to listen to a suggestion, that the House adjourn to meet to-morrow morning at eleven o'clock.

The SPEAKER. That will require unanimous consent. A majority can adjourn till twelve o'clock to-morrow.

Mr. BLAINE. I will say in reply to the gentleman from Pennsylvania that I understand perfectly well that the gentlemen on the other side desire this bill shall not by any possibility go to the President till morning; but they must see very plainly that it is now impossible it should get to him before to-morrow. I appreciate their motives; they have the power and I am willing they should exercise it. But I do say it is a mere capricious demand on their part that this bill shall again be postponed a whole day.

Mr. FINCK. I object to further debate.

Mr. ELDRIDGE. I withdraw the demand for the yeas and nays on the motion to adjourn. We did not make the demand; we have only acceded to a request made to us by the other side.

The question being put on the motion to adjourn, there were—ayes 64, noes 62.

Mr. BLAINE. I desire to make a statement.

Several MEMBERS objected.

Mr. BLAINE. Well, I now renew the demand for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 63, nays 79, not voting 48; as follows:

**YEAS**—Messrs. Alley, Ancona, Anderson, James M. Ashley, Baxter, Beaman, Bergen, Boutwell, Boyer, Brandegee, Campbell, Reader W. Clarke, Cooper, Davis, Dawes, Dawson, Donnelly, Eldridge, Finck, Glossbrenner, Aaron Harding, Hawkins, Higby, Hise, Holmes, Hotchkiss, Demas Hubbard, Hulburd, Humphrey, Hunter, Kelso, Kerr, Kuykendall, Latham, Le Blond, Leitwich, Loan, Marshall, McClurg, McCullough, McKee, Niblack, Nicholson, Phelps, Samuel J. Randall, William H. Randall, Ritter, Ross, Scofield, Shanklin, Stevens, Taber, Nathaniel G. Taylor, Nelson Taylor, Trimble, Trowbridge, Robert T. Van Horn, Andrew H. Ward, Whaley, Williams, Stephen F. Wilson, Windom, and Wright—63.

**NAYS**—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Baker, Baldwin, Banks, Barker, Bingham, Blaine, Blow, Bromwell, Broomall, Buckland, Cobb, Cook, Darling, Deftrees, Delano, Deming, Dodge, Eggleston, Farquhar, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Henderson, Hill, Hogan, Chester D. Hubbard, James R. Hubbard, Julian, Kasson, Kelley, Ketcham, Laffin, George V. Lawrence, William Lawrence, Longyear, Lynch, Marvin, Maynard, McIndoe, McRuer, Mercer, Miller, Moorhead, Morris, Moulton, Myers, Newell, O'Neill, Paine, Patterson, Perham, Pomeroy, Price, Raymond, Alexander H. Rice, Rollins, Sawyer, Schenck, Shellabarger, Sloan, Starr, Stokes, Thayer, Francis Thomas, John L. Thomas, Upson, Van Aernam, Burt Van Horn, Warner, William B. Washburn, Welker, James F. Wilson, and Woodbridge—79.

**NOT VOTING**—Messrs. Benjamin, Bidwell, Bundy, Chanler, Sidney Clarke, Conkling, Cullom, Culver, Denison, Dixon, Driggs, Dumont, Eckley, Eliot, Farnsworth, Ferry, Garfield, Goodyear, Hale, Harris, Hooper, Asahel W. Hubbard, John H. Hubbard, Edwin N. Hubbell, Ingersoll, Jenckes, Jones, Koontz, Marston, Morrill, Neill, Orth, Pike, Plants, Radford, John H. Rice, Rogers, Rousseau, Sitgreaves, Spalding, Stilwell, Strouse, Thornton, Hamilton Ward, Elihu B. Washburne, Henry D. Washburn, Wentworth, and Winfield—48.

So the House refused to adjourn.

The question recurred on the motion to take a recess till one o'clock.

Mr. FINCK. I rise to a privileged motion; that when the House adjourns it adjourn to meet on Thursday next.

The SPEAKER. That is not in order pending the present motion to adjourn till one o'clock, on which the yeas and nays have been ordered.

Mr. ROSS. I rise to a privileged question. We directed the Committee for the District of Columbia to report a bill to prevent the sale of ardent spirits. I desire the Sergeant-at-Arms to bring the members of that committee



to the bar to show an excuse for not having executed the order of the House.

The question was taken on the motion to take a recess till one o'clock; and it was decided in the negative—yeas 27, nays 98, not voting 65; as follows:

**YEAS**—Messrs. Ancona, Bergen, Boyer, Brandegee, Campbell, Cooper, Pinck, Glosbrenner, Aaron Harding, Hise, Hogan, Humphrey, Hunter, Kerr, Le Blond, Leftwich, Marshall, Niblack, Nicholson, Samuel J. Randall, Ritter, Ross, Taber, Trimble, Andrew H. Ward, Whaley, and Wright—27.

**NAYS**—Messrs. Alley, Allison, Ames, Anderson, Arnell, Delos R. Ashley, Baker, Banks, Barker, Baxter, Beaman, Bingham, Blaine, Boutwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Cook, Darling, Davis, Daves, Dawson, Defrees, Delano, Deming, Dodge, Donnelly, Eggleston, Grinnell, Hart, Hawkins, Henderson, Higby, Hill, Holmes, Hotchkiss, Chester D. Hubbard, Thomas Hubbard, James R. Hubbell, Hulburd, Julian, Kasson, Kelley, Kelso, Ketcham, Knykendall, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, Maynard, McClurg, McCullough, McRuer, Mercer, Miller, Moorhead, Morris, Moulton, Myers, O'Neill, Paine, Perham, Phelps, Pomeroy, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Seefeld, Shellabarger, Sloan, Starr, Stokes, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Warner, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Windom, and Woodbridge—98.

**NOT VOTING**—Messrs. James M. Ashley, Baldwin, Benjamin, Bidwell, Blow, Bundy, Chanler, Sidney Clarke, Conkling, Cullom, Culver, Denison, Dixon, Driggs, Dumont, Eckley, Eldridge, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Goodyear, Griswold, Hale, Abner C. Harding, Harris, Hayes, Hooper, Asahel W. Hubbard, John H. Hubbard, Edwin N. Hubbell, Ingersoll, Jenckes, Jones, Koontz, Marston, McIndoe, McKee, Morrill, Newell, Neill, Orth, Patterson, Pike, Plants, Radford, Raymond, Rogers, Rousseau, Shanklin, Sitgreaves, Spalding, Stevens, Stilwell, Strong, Nathaniel G. Taylor, Nelson Taylor, Thornton, Van Aernam, Hamilton Ward, Elihu B. Washburne, Henry D. Washburn, Stephen F. Wilson, and Winfield—65.

So the motion was disagreed to.

Mr. RANDALL, of Pennsylvania. I move that the House take a recess for one hour.

Mr. ELDRIDGE. I demand the yeas and nays on that motion.

Mr. WILSON, of Iowa. I desire to submit a proposition to the House. I suggest that the House adjourn now until the usual hour to-morrow, and that the vote be taken upon the pending proposition immediately after the reading of the Journal.

Mr. ELDRIDGE. We have no objection to that.

Mr. RANDALL, of Pennsylvania. We agreed to that long ago.

Mr. MOORHEAD. I object to it very decidedly.

Mr. WILSON, of Iowa. I would move to adjourn if we could have that understanding.

Mr. ELDRIDGE. We are willing to stand to that agreement.

Mr. WILSON, of Iowa. Is there objection to the proposition I have submitted?

The SPEAKER. The gentleman from Pennsylvania [Mr. MOORHEAD] objects.

Mr. MOORHEAD. I object to any proposition to adjourn to-night until we pass this bill.

Mr. SCOFIELD. I move that the House do now adjourn.

Mr. MOORHEAD. On that motion I demand the yeas and nays, and I call for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. WILSON, of Iowa. Allow me to submit a proposition to the other side of the House. I propose that we adjourn now and take the vote to-morrow immediately after the reading of the Journal. [Cries from the Democratic side of the House of "Agreed;" and "Take it when you please."]

Mr. SCOFIELD. I now insist on the motion to adjourn.

The motion was agreed to; and thereupon (at eleven o'clock and ten minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. ALLISON: The petition of John Reams and 107 others, citizens of Sioux City, Iowa, praying for the early completion of the Sioux City Pacific railroad as now located.

Also, petition of H. B. Williams and 67 others, citizens of Hesper, Winneshiek county, Iowa, against the contraction of the currency.

By Mr. BROMWELL: The petition of citizens of Carroll, Vermilion county, Illinois, praying Congress to pass no law for the curtailment of the currency, &c.

By Mr. CULLOM: Two petitions, signed by citizens of McLean county, Illinois, asking Congress to prevent the further contraction of the legal-tender currency.

By Mr. DODGE: The concurrent resolutions of the Legislature of New York, asking the continuance of the Government ships now in use at quarantine for use as hospitals.

By Mr. DONNELLY: A memorial of the Legislature of the State of Minnesota, for a grant of land to aid in the construction of the Green Bay and Lake Pepin railroad, in the State of Wisconsin.

Also, the memorial of the same, for a mail route from Richmond, in Stearns county, to Chippewa, in Douglas county, in said State of Minnesota.

By Mr. EGGLESTON: The petition of John S. McAndrew and 10 others, of New York city, praying for reduction of duty on licorice.

By Mr. INGERSOLL: The petition of James McCull and 100 others, citizens of Winona, Illinois, asking for the repeal of the law imposing a tax of five per cent. on manufactures.

By Mr. KOONTZ: A petition of five soldiers of the war of 1812, asking that they be allowed pensions from the date of their discharge or muster out of service.

By Mr. LAFLIN: The petition of L. Paddock, and 37 others, citizens of Jefferson county, New York, adverse to the withdrawal of national bank currency from circulation.

By Mr. LONGYEAR: The petition of J. M. Parsons and 145 others, citizens of Calhoun county, Michigan, asking that the tax on manufactures may be removed.

By Mr. PLANTS: The petition of Christopher C. Callan, Julius S. McAllister, Robert E. Talbot, John S. E. Thorn, John M. Palmer, T. J. Bickler, and others, for an act to incorporate the Temperance Hall Association of Georgetown, District of Columbia.

By Mr. RICE, of Massachusetts: The memorial of the citizens of Newport, Rhode Island, for location of the United States Naval Academy near that city.

By Mr. UPSON: The petition of Alexander Cameron and 144 others, citizens of Kalamazoo county, Michigan; also of Murray & Finley and 52 others, citizens of Berrien county, Michigan, praying that the five per cent. tax on manufactures be removed.

By Mr. WINDOM: A memorial of the Legislature of the State of Minnesota, for an appropriation to improve the navigation of the Minnesota river.

Also, a memorial for the establishment of a mail route from Geneva, in the county of Freeborn, to the village of Freeborn, in said county.

#### IN SENATE.

FRIDAY, February 15, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### THE CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore* presented resolutions of the Legislature of New York, ratifying the amendment to the Constitution of the United States proposed to the several States by a joint resolution of Congress, passed on the 13th of June, 1866, to be designated as Article XIV of amendment to the Constitution of the United States; which were ordered to lie on the table.

#### PETITIONS AND MEMORIALS.

Mr. RAMSEY presented a petition of citizens of Minnesota, praying the passage of the bill (H. R. No. 718) to provide increased revenue from imports, and for other purposes; which was ordered to lie on the table.

He also presented a memorial of citizens of Minnesota, remonstrating against any legislation calculated to depreciate the national currency; which was referred to the Committee on Finance.

Mr. BUCKALEW presented a memorial of the officers of the Polytechnic College of the State of Pennsylvania, remonstrating against the repeal of the law which allows the importation of books and maps intended for colleges, and other literary institutions, free of duty; which was referred to the Committee on Finance.

Mr. YATES presented a memorial of members of the Legislative Assembly of Washington Territory, remonstrating against the removal of Governor Pickering from the office of Governor of that Territory; which was referred to the Committee on Territories.

Mr. SUMNER presented a memorial of the French Canadians of the United States, remonstrating against the proposed confederation of the British Provinces of North America; which was referred to the Committee on Foreign Relations.

He also presented a petition of citizens of the United States residing in Illinois, praying for such an amendment of the Constitution as will more fully recognize the obligations of the Christian religion; which was referred to the Committee on the Judiciary.

Mr. HENDERSON. I present a petition of certain citizens of Missouri, praying that the negroes of the United States may be colonized in Africa. I do not indorse the petition, but I present it because I think these citizens have a right to petition. I move that it lie on the table.

The motion was agreed to.

Mr. ROSS presented resolutions of the Legislature of Kansas, in favor of the adoption of measures to secure the protection of the frontier of that State by the establishment of permanent military posts at some eligible points between Fort Kearney and Fort Harker; which were ordered to lie on the table, and be printed.

He also presented resolutions of the Legislature of Kansas, in favor of the extinguishment of the Indian title to lands in that State; which were ordered to lie on the table, and be printed.

Mr. SUMNER presented a petition of citizens of Virginia, praying that a territorial government may be established in that State in place of the present State organization, and that Hon. J. C. Underwood may be appointed provisional governor; which was referred to the joint Committee on Reconstruction.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, in favor of an appropriation to aid in defraying the expenses of forwarding articles to the Paris Exposition; which was referred to the Committee on Foreign Relations.

Mr. SPRAGUE. I present resolutions of the Rhode Island Institute of Instruction, in favor of the organization of a National Bureau of Education. As the Committee on the Judiciary have reported a bill to effect this object, I ask that the resolutions lie on the table; but in order that they may go on the record of our proceedings I desire to have them read.

The Secretary read as follows:

RHODE ISLAND INSTITUTE OF INSTRUCTION,  
January 28, 1867.

Whereas it is the earnest belief of this association that universal education is a matter of vital national concern, and that in a republican form of government the whole power of education is required for its prosperity and progress; and whereas it is our unanimous opinion that the interests of education would be greatly promoted by the organization of a National Bureau of Education which could render needed assistance in the establishment of school systems where they do not now exist, and which would also prove a potent means for improving and vitalizing existing systems: Therefore,

Resolved, That the Senators from this State in the national Congress be earnestly and respectfully requested to endeavor to secure the passage of a bill by the United States Senate which shall provide for the establishment of such a national educational department as shall accomplish the purposes proposed.

Resolved, That a copy of these preambles and resolutions be signed by the president and secretary of this association, and be transmitted to each of our Senators at Washington.

THOMAS W. BICKNELL,  
President.

THOMAS B. STOCKWELL, Secretary.

The resolutions were ordered to lie on the table.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 9th instant, a copy of the report of the commission relative to improvements at Rock Island, Illinois; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

#### SURVEY OF UPPER MISSISSIPPI.

Mr. ANTHONY, from the Committee on

Printing, to whom was referred a resolution for the printing of extra copies of General Warren's report of the survey of the Upper Mississippi river, reported in favor of the resolution; and it was agreed to, as follows:

*Resolved*, That five thousand copies of the report of Major General G. K. Warren of the survey of the Upper Mississippi be printed for the use of the Senate.

#### ARKANSAS LOYAL TROOPS.

Mr. ANTHONY. The same committee, to whom was referred a memorial of Albert W. Bishop, Adjutant General of Arkansas, praying that an appropriation be made for the publication of his report presented to the Legislature of that State, have instructed me to report a resolution in conformity with the prayer of the memorialist; and if the Senate will now indulge me I will state the object of the resolution, and ask for its present consideration if no one objects, because as the Senate nearly always indulges the Committee on Printing with the present consideration of their resolutions, I do not wish to ask for it unless it is necessary for the public service. All the loyal States have prepared rosters of the men who served in the loyal Army, and they have been published with the reports of the adjutant general of the various States. The State of Arkansas furnished over ten thousand men to the loyal Army. The adjutant general presented his report with a roster of those names to the Legislature of that State, which is now under disloyal control, and they have refused to publish it, so that there is no record whatever of the services of these gallant men. It seemed to the committee that it was due to them that this dereliction on the part of their own State should be made up by Congress. They have also received a letter from General Grant strongly urging the publication of the report. It will cost about five hundred dollars. Now, if no Senator objects, I ask for the present consideration of the resolution.

By unanimous consent the Senate proceeded to consider the following resolution:

*Resolved*, That the report of Albert W. Bishop, adjutant general of Arkansas, be printed for the use of the Senate, and that one thousand extra copies be printed for the use of the adjutant general of Arkansas, to be distributed among the loyal officers of that State mentioned therein.

The resolution was agreed to.

#### CONGRESSIONAL PRINTER.

Mr. ANTHONY. I reported yesterday a bill to provide for the election of a Congressional Printer. I should be much obliged to the Senate if they would take up that bill. I move that the Senate proceed to its consideration.

Mr. HENDRICKS. I object.

The PRESIDENT *pro tempore*. Does the Senator from Rhode Island refer to a bill reported to-day?

Mr. ANTHONY. No, sir. My motion is to take up the bill (H. R. No. 1099) providing for the election of a Congressional Printer.

The PRESIDENT *pro tempore*. The question is on that motion.

Mr. WILLIAMS. I hope that bill which the Senator from Rhode Island has charge of will not be taken up this morning. It will, no doubt, elicit considerable debate. It seems to be a vexed question in the Senate as to what we shall do with the public printing. There are other measures that are much more important. I desire to call up the bill which has been reported from the Reconstruction Committee.

Mr. CRESWELL. I object to the consideration of bills that have been lying on the table for some time past until we get in our reports.

Mr. ANTHONY. I have no objection to the morning business going on. I merely wanted to get my motion in ahead of any other motion to take up a bill.

The PRESIDENT *pro tempore*. Does the Senator from Rhode Island withdraw his motion?

Mr. ANTHONY. I will waive it for the morning business.

#### TOWING ON THE LAKES.

Mr. CHANDLER. The Committee on Commerce, to whom was referred a petition of owners of tags and vessels on the lakes and rivers on our northern frontier, praying an amendment to the twenty-first section of the act of July 18, 1866, by adding thereto this proviso:

*Provided*, That this section shall not apply, or be held to apply, to any case where the said towing in whole or in part is within or upon foreign waters—

Have directed me to report a bill in conformity with the prayer of the petitioners. The bill simply enacts the provision I have stated in two or three lines, and I ask for its present consideration.

By unanimous consent the bill (S. No. 605) to amend the twenty-first section of an act entitled "An act further to prevent smuggling, and for other purposes," approved July 18, 1866, was read three times, and passed.

#### CUSTOMS, FORFEITURES, FINES, ETC.

Mr. CRESWELL. The Committee on Commerce, to whom was referred the bill (S. No. 577) to regulate the disposition of the proceeds of fines, penalties, and forfeitures incurred under the laws relating to the customs, have instructed me to report it with amendments. I ask for its present consideration.

The bill was read.

Mr. CONNESS. I hope this bill will be allowed to lie over to-day. It is a very important one, and this is the first time my attention has been called to it. I should like to have time to look at it before it is acted upon. I do not desire to interpose delay, as it is a bill reported from a standing committee of the Senate; but I confess that it is of sufficient consequence to the people I represent here for me to wish an opportunity to examine it before it shall be passed. I find that at the last session of Congress a very important bill passed here, into which I will not say were smuggled, but into which provisions of a very important character were placed without any knowledge on the part of several of the Senators. That was a bill affecting commerce materially; one provision, for instance, repealing and setting aside all the pilot laws of the States of the Union. I hope this bill will lie over before we act upon it.

#### ORDER OF BUSINESS.

Mr. WILLIAMS. I move that the present and all prior orders be postponed, and that the Senate proceed to the consideration of House bill No. 1143, to provide for the more efficient government of the insurrectionary States.

Mr. TRUMBULL. I am in favor of bringing up that bill, but I want to make some reports.

Mr. SUMNER. I am in favor of bringing up this bill and the Louisiana bill, but I wish that there should be some understanding in the Senate as to the order in which they are to be brought up.

The PRESIDENT *pro tempore*. The question is upon proceeding to the consideration of the bill named by the Senator from Oregon.

Mr. SUMNER. That is the question before Senate; but the point is, whether we had better begin with that bill or with the bill which stands first on our Calendar. The bill first on our Calendar certainly has the advantage in point of time. I do not wish to go into any question now between the comparative merits of the two bills I am so cordially in favor of each; but I must say that I should prefer to see the Senate approach what I would call the main question by considering first the Louisiana bill. It came to us first, and I think we ought to decide it first; indeed, I see no reason why the other bill should be put in before it. If there is any good reason for it, I certainly shall withdraw all objection.

Mr. WADE. The other bill did get the start of that, but I confess that if I were to take my choice between the two bills I should prefer the Louisiana bill with an amendment making it applicable to all the insurrectionary States.

But, nevertheless, these bills have different objects entirely as I read them. The bill of the Senator from Oregon is a military bill, which gives immediate protection to the Union men in the southern States where murder and vice of every kind are predominating. A remedy should be applied as soon as it possibly can be. The Louisiana bill contemplates reconstruction and will go slower, and will not, in my judgment, be as efficient to defend the Union people of the South as the other bill. The one is local and the other general, applying to all these States. For this reason, although I seem to have charge of the local bill as you may say, I have thought that perhaps it was as well to take up the other; and as I am for both of these bills, and believe they both ought to pass, I do not want to take up any time in antagonizing one against the other. I am indifferent which is considered first, but I moved yesterday to postpone the Louisiana bill until to-day so that the other bill might have one reading at all events. I suppose it will now come in ahead, and for my part I am willing that it should.

Mr. ANTHONY. I certainly do not wish to antagonize anything against this bill, but I thought I had put in a caveat that I might take up the bill which was reported from the Committee on Printing yesterday. I ask the Senator from Oregon if he will not give me ten minutes, if his bill is taken up, for the consideration of that measure?

Mr. WILLIAMS. I cannot accede to the request of the Senator, because evidently that bill will lead to protracted debate, and then Senators ought to remember that there are certain bills which must be passed within a given time if they are to become laws, because they are expected to encounter a veto.

Mr. ANTHONY. This is one of them.

Mr. WILLIAMS. It is of less consequence than these other bills.

The motion of Mr. WILLIAMS was agreed to.

Mr. WILLIAMS. Now, I am willing to yield a few minutes to let the morning business be disposed of.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 170) to facilitate the settlement of claims for quartermasters' stores and subsistence supplies, furnished by loyal persons to the Army of the United States in the late rebellion, reported it with amendments.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 266) granting certain public property to the State of Ohio, reported adversely thereon.

He also, from the same committee, asked to be discharged from the further consideration of the petition of Michael Mangan; which was agreed to.

Mr. HARRIS, from the Committee on the Judiciary, to whom was referred the bill (S. No. 576) relating to appeals and writs of error to the Supreme Court, reported it with an amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom were referred a memorial of the National Association of State and City School Superintendents, praying the establishment of a National Bureau of Education; a petition of members of the bar of the city and county of Philadelphia, praying an increase of the salary of the judge of the United States district court for the eastern district of Pennsylvania; and a petition of members of the New York bar, praying an increase of the salary of the United States judge for the southern district of New York, asked to be discharged from their further consideration, the subjects having been reported on; which was agreed to.

Mr. LANE, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 226) extending the provision of section two of an act entitled "An act to extend the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to

the Army of the United States," approved July 4, 1864, reported it without amendment.

#### COAST SURVEY REPORT.

Mr. SUMNER submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That there be printed of the report of the Superintendent of the Coast Survey for the year 1866 twelve hundred extra copies, for the use of the Senate, and one thousand for distribution from the office of the Coast Survey.

#### MONUMENTS TO DECEASED SENATORS.

Mr. POLAND submitted the following resolution:

*Resolved*, That the Sergeant-at-Arms of the Senate be instructed to have the ordinary monuments erected in the Congressional Cemetery in memory of Senators who have died since July 4, 1861.

Mr. GRIMES objected to the present consideration of the resolution, and it was laid over under the rules.

#### BILLS INTRODUCED.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 606) to amend an act entitled "An act for the removal of causes in certain cases from State courts," approved July 27, 1866; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

#### PRESIDENTIAL TERM.

Mr. DAVIS. I desire to submit now some amendments, which I propose at the proper time to offer to the joint resolution of the Senator from Ohio, [Mr. WADE,] relative to the amendment of the Constitution in regard to the presidential office. I propose to strike out the proposed article of amendment submitted by that resolution, and in lieu of it to insert:

#### ARTICLE—.

SEC. 1. Each State may, in the month of January next, before the expiration of any presidential term, nominate to the two Houses of Congress one of its citizens having the constitutional qualifications for the office of President; and on the ensuing second Wednesday of February the two Houses shall meet in joint convention, and from the persons so nominated shall proceed *viva voce* to vote for President until one of them shall have received a majority of the votes of the whole number of members of both Houses of Congress, dropping, when necessary, those having the smallest number of votes on each succeeding ballot, until some one shall have received such majority, who shall be President of the United States for the ensuing term.

SEC. 2. After the President shall have been chosen, the two Houses shall proceed in joint convention in the same manner to elect a Vice President from the remaining persons that may have been nominated for the presidency.

SEC. 3. All persons hereafter elected to the presidency or to the vice presidency, and succeeding to the presidency, shall be thereupon forever ineligible to the presidency.

I move that an order be entered for the printing of this amendment.

The motion was agreed to.

#### LARCENY OF GOVERNMENT PROPERTY.

Mr. HENDRICKS. The House of Representatives has disagreed to our amendment to the bill (H. R. No. 604) to define and punish certain crimes therein named and asked for a conference. I move that the Senate insist on its amendment and agree to the conference.

The motion was agreed to; and the President *pro tempore* being authorized to appoint the committee, Messrs. HENDRICKS, HARRIS, and CRESWELL were appointed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed without amendment the joint resolution of the Senate (S. R. No. 146) for the relief of Charles Clark, marshal of the United States for the district of Maine; and with an amendment the bill of the Senate (S. No. 435) for the relief of Alexander F. Pratt.

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1168) for the relief of Mrs. Elizabeth F. Chipman, widow of Major Charles Chipman, deceased;

A joint resolution (H. R. No. 254) for the relief of Almonson Eaton, receiver of public money for the land office at Stevens's Point, Wisconsin;

A bill (H. R. No. 1078) to amend section two, chapter one hundred and twenty-nine, of public acts of 1849.

A bill (H. R. No. 1170) for the relief of Colonel L. C. Houck, of Tennessee;

A joint resolution (H. R. No. 281) for the relief of Thomas W. Fry, jr., late captain and acting quartermaster, Alton, Illinois; and

A joint resolution (H. R. No. 282) for the relief of James J. Hudnall.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 452) to authorize the Secretary of the Navy to accept League Island, in the Delaware river, for naval purposes, and to dispense with and dispose of the site of the existing yard at Philadelphia;

A bill (H. R. No. 1054) for the relief of Hiram Hedrick;

A bill (H. R. No. 1055) for the relief of John Morean, of Machias, New York;

A bill (H. R. No. 1056) for the relief of Lemuel Worster;

A bill (H. R. No. 1125) granting an additional pension to Samuel Downing, one of the last surviving soldiers of the revolutionary war;

A bill (H. R. No. 1146) for the relief of Mrs. Elizabeth Fletcher;

A joint resolution (H. R. No. 206) in relation to the pensions of widows of revolutionary soldiers;

A bill (H. R. No. 1052) granting a pension to Mrs. Jane Clements.

#### GOVERNMENT OF SOUTHERN STATES.

Mr. WILLIAMS. I hope we shall go on with House bill No. 1143.

Mr. ANTHONY. There are but fifteen minutes of the morning hour left, and I hope the Senator from Oregon will allow me that time for the consideration of the bill providing for the election of a Congressional Printer. I think we can pass it in that time.

Mr. WILLIAMS. I should have no objection if the bill would elicit no debate; but if there is to be debate upon it I shall insist on proceeding with the bill regularly before the Senate.

Mr. ANTHONY. I do not desire to speak more than five minutes on the bill to which I have called attention, and I do not suppose the friends of the bill desire to discuss it.

Mr. WILLIAMS. I insist on going on with the bill before the Senate.

The PRESIDENT *pro tempore*. The bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States is before the Senate as in Committee of the Whole. It will be read.

The Secretary read the bill.

The preamble recites that the pretended State governments of the late so-called confederate States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas, were set up without the authority of Congress and without the sanction of the people; and that those pretended governments afford no adequate protection for life or property, but countenance and encourage lawlessness and crime; and that it is necessary that peace and good order should be enforced in these so-called States, until loyal and republican State governments can be legally established.

The bill then proceeds to declare that these late so-called confederate States shall be divided into military districts and made subject to the military authority of the United States, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

The second section makes it the duty of the General of the Army to assign to the command of each of these districts an officer of the Army, not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

Section three makes it the duty of each officer so assigned to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, anything in the constitution and laws of any of the so-called confederate States to the contrary notwithstanding; and all legislative or judicial proceedings or processes to prevent or control the proceedings of these military tribunals, and all interference by the pretended State governments with the exercise of military authority under the act, shall be void and of no effect.

It is provided by section four that courts and judicial officers of the United States shall not issue writs of *habeas corpus* in behalf of persons in military custody, except in cases in which the person is held to answer only for a crime or crimes exclusively within the jurisdiction of the courts of the United States within these military districts, and indictable therein, or unless some commissioned officer on duty in the district wherein the person is detained shall indorse upon the petition a statement certifying, upon honor, that he has knowledge or information as to the cause and circumstances of the alleged detention, and that he believes the same to be wrongful, and further, that he believes that the indorsed petition is preferred in good faith and in furtherance of justice, and not to hinder or delay the punishment of crime. All persons put under military arrest by virtue of the act are to be tried without unnecessary delay, and no cruel or unusual punishment is to be inflicted.

The fifth section declares that no sentence of any military commission or tribunal authorized by the act affecting the life or liberty of any person shall be executed until it is approved by the officer in command of the district; and that the laws and regulations for the government of the Army shall not be affected by the act, except in so far as they conflict with its provisions.

Mr. WILLIAMS. I gave notice last night, at the suggestion of some members of the Senate, that I should propose an amendment to this bill; but as I am impressed with the necessity of its passage at this session, and have consulted with persons who know and advise me that any amendment to the bill will endanger if not absolutely defeat its passage, I have concluded not to present the amendment which I intended to propose, and I deem it my duty under the circumstances to oppose all amendments to this bill, because I think it is necessary that this bill should pass. Although it will not suit, I presume, the wishes or views of individuals, yet under the circumstances it is probably as near meeting the views of a majority as any bill that can be prepared.

If Senators who favor the passage of this bill will pardon the suggestion, I hope that it may be put forward with as little discussion as Senators may think advisable on the part of those who support the bill, and I shall press it to a vote as soon as practicable, and shall endeavor to secure its passage through the Senate before to-morrow night, or by to-morrow night at any rate.

Mr. JOHNSON. If the amendment proposed by the honorable member yesterday had been adopted by the Senate, or was now to be adopted by the Senate, it would make the bill very much less objectionable than it is to me. I should not have voted for it, even if that



amendment had been adopted; but I am very desirous to do what I suppose would be done by the adoption of that amendment, to improve the bill. I therefore, if I am at liberty, offer that amendment myself, and on it call for a division.

The *PRESIDENT pro tempore*. The amendment proposed by the Senator from Maryland will be read.

The Secretary read the proposed amendment, which was to insert as an additional section the following:

*And be it further enacted*, That when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the United States, and when any one of the late so-called confederate States shall have given its assent to the same, and conformed its constitution and laws thereto in all respects, and when it shall have provided by its constitution that the elective franchise shall be enjoyed by all male citizens of the United States, twenty-one years old and upward, without regard to race, color, or previous condition of servitude, except such as may be disfranchised for participating in the late rebellion, or for felony at common law, and when said constitution shall have been submitted to the voters of said State, as thus defined, for ratification or rejection, and when the constitution, if ratified by the vote of the people of said State, shall have been submitted to Congress for examination and approval, said State shall, if its constitution be approved by Congress, be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this bill shall be inoperative in said State.

Mr. STEWART. I regret exceedingly that the Senator from Oregon has changed his mind with regard to this amendment, and has not offered it as he proposed to do yesterday. The military bill without that, it seems to me, is an acknowledgment that after two years of discussion and earnest thought we are unable to reconstruct and are compelled to turn the matter over to the military. It seems to me that the people of the United States want and demand something more than a military government for the South. It seems to me that the emphatic vote that they gave last fall indicates that they desire that the programme which Congress agreed upon should be carried out. It seems to me that they desire and demand that there shall be some voting; that somebody in the South shall have the right to vote. I am still in favor of universal suffrage as soon as it can be obtained, and universal amnesty whenever it is practicable and advantageous. I am aware that the southern States do not stand in the same position that they did twelve months ago. I regret that we cannot do for them what we would have done for them then. But Congress did pass a certain constitutional amendment, and several Senators have stated upon this floor during this session that if that amendment had been adopted they would have regarded it as a finality. I myself wanted something more; I wanted impartial suffrage in the South. I do not believe that we can reconstruct in the South until the people of the South are invested with power there. The amendment to this bill which was proposed by the Senator from Oregon last night has been drawn with remarkable care. It embodies all that any one has heretofore demanded, and in order that it may be better understood I propose for one moment to call the attention of the Senate to this very concise and well drawn and comprehensive amendment. The first clause provides for the adoption of—

The constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress of the United States.

That constitutional amendment provides for all the guarantees we asked for last year. It did not and does not satisfy me on the question of suffrage; but it excluded from office a large class of rebels and provided for the security of the national debt; it provided for equal rights; it went a great way to accomplish the demands of the country, and has been emphatically indorsed. This amendment proposes that when that article shall have become a part of the Constitution—

And when any one of the late so-called confederate States shall have given its assent to the same, and

conformed its constitution and laws thereto in all respects—

This, without the further conditions, is a compliance with all the conditions that were demanded last year literally.

The amendment proceeds as follows:

And when it shall have provided by its constitution that the elective franchise shall be enjoyed by all male citizens of the United States, twenty-one years old and upward, without regard to race, color, or previous condition of servitude, except such as may be disfranchised for participating in rebellion, or for felony at common law.

This is an additional requirement which is fundamental, and which is more valuable than the entire constitutional amendment; for it places the power in the hands of the people. This is something that was not demanded last year. This amendment says to the people of the South, "You must go further; you must not only adopt the constitutional amendment, but in regard to suffrage you must make all men equal"—a great step; and it is one of the great guarantees. I have said before, and it is manifest to everybody, that we must either give to all men in the South the ballot or we must resort to the military. I have seen that for the last two years; and because we did not give the ballot, because we did not meet the issue last year squarely, we are now called upon to give them military protection. I know that one or the other is inevitable. I am willing to give them military rule until they will take the ballot.

I see no other course. The amendment further provides:

And when said Constitution shall have been submitted to the voters of said State as thus defined for ratification or rejection, and when the Constitution, if ratified by the vote of the people of said State, shall have been submitted to Congress for examination and approval, said State shall, if its constitution shall be approved by Congress, be declared entitled to representation, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this bill shall be inoperative in said State.

Now, I submit to Senators, are you anxious to continue military law in any southern State after that State shall have complied with the conditions that you yourselves laid down last year, and shall have complied with the conditions that humanity makes now and ever has made, that all men shall be enfranchised? Do you want any more of the military? You say this military bill is only an experiment, it is only provisional, it is only to last for a short time. That has always been the history of military bills; they were always temporary in the beginning; but suppose the President of the United States hereafter, or the next President, if you please, should like the bill, and should veto your measure repealing it; or suppose a bare majority in one House of Congress should like it, then you could not repeal it. It may be years after you desire to get rid of it before you can do so. Now, I say while you use the military for temporary purposes, give the people of the South a chance to comply with all the requirements which you propose to make. If in the Blaine amendment (as it is called) there are not sufficient guarantees, not enough conditions, put in more, and make it sufficient. When you use the military, use it for the purpose of securing civil government, and say that it is your object to attain the civil government, and avow your purpose in using military force. Do not acknowledge that you are unequal to the task, and that after two years of consideration here you can do nothing but turn it over to the military because the question is too difficult for you. I say I am willing to meet this question; I am in favor of the constitutional amendment which Congress settled upon last year, although it did not then suit me in all respects. I am in favor of that now, and I am in favor of more. Since the South have refused to accept that I think we have a right to require more, and I now insist upon the additional guarantee of universal manhood suffrage.

Mr. HOWE. I rise to ask if the unfinished business of yesterday is not in order at this hour?

The *PRESIDENT pro tempore*. Under the rule the Chair thinks it is.

Mr. SPRAGUE. I move that the Senator from Nevada be allowed to proceed and finish his remarks.

The *PRESIDENT pro tempore*. The unfinished business of yesterday is the joint resolution (H. R. No. 173) for the relief of Ober, Nanson & Co., merchants of New York.

Mr. HOWE. I did not understand the proposition of the Senator from Rhode Island.

Mr. SPRAGUE. I wish to move that the Senator from Nevada be permitted to proceed until he finishes his remarks.

Mr. HOWE. And that the special order be laid aside?

Mr. SPRAGUE. For that purpose.

Mr. WILLIAMS. I understood that the pending and all prior orders were postponed to take up House bill No. 1148.

The *PRESIDENT pro tempore*. That was the vote of the Senate during the morning hour; but this joint resolution, being the unfinished business of yesterday, was not then in order; and it was not postponed at that time by the vote of the Senate postponing all prior orders, for it was not then in order. According to the practice of the Senate, at the expiration of the morning hour the unfinished business of yesterday is regularly in order.

Mr. WILLIAMS. I dislike very much to interpose, as I know the business which the Senator from Wisconsin has in charge, but I must insist that we continue the bill which is under discussion; and I make a motion now that the present order—

The *PRESIDENT pro tempore*. Does the Senator from Wisconsin give way to the Senator from Oregon?

Mr. HOWE. I do not understand for what purpose I am asked to give way.

Mr. WILLIAMS. That I may make a motion that the present order be postponed, and that we continue the consideration of House bill No. 1148.

OBER, NANSON AND COMPANY.

Mr. HOWE. No; I cannot give way for that motion. This joint resolution was in order last night. The Senate proceeded at nine o'clock in the evening to take it under consideration. It is a joint resolution which has received the assent of the House of Representatives. It is a joint resolution which the Committee on Claims of the Senate have recommended to the consideration of the Senate. Upon a vote of the Senate it was taken up last night at about nine o'clock. There were no great public measures then pressing.

Mr. FESSENDEN. Allow me to suggest that I think the Senator is mistaken. The bill was moved by the Senator himself, and during its reading the Senator from Iowa moved to adjourn, and the motion was carried.

Mr. HOWE. And that is the joint resolution which is now before the Senate.

Mr. FESSENDEN. A private claim?

Mr. HOWE. Yes, sir.

Mr. FESSENDEN. I thought the Senator was speaking about the ship-canal bill.

Mr. HOWE. Not at all. There were no great public measures then pressing upon the attention of the Senate. We had abundant time to consider this measure. The joint resolution, however, was no sooner read than the Senator from Iowa [Mr. GRIMES] interposed a motion that the Senate adjourn, declaring that he did not intend to have the Senate spend its time hearing such cases as this. There was no opportunity of course to explain the resolution. There was no possibility of resisting the motion. The Chair, then occupied by a gentleman not now occupying it, declared that motion carried, and the Senate left in very much of a hurry.

Now, Mr. President, I do not like to rest contentedly under the imputation of urging the Senate to consider measures that are not fit to be heard, that are not proper even to be explained. It is a gross imputation upon me; it is a gross imputation upon the Committee

on Claims which reported this resolution; it is a gross imputation upon the House of Representatives which has already agreed to this resolution.

Ober, Nanson & Co. are merchants doing business in the city of New York. So far as I know they are fair and respectable men. If they have ever committed any penitentiary offense they have either paid the penalty or they have been pardoned, for they are now doing business. They have petitioned, as under the Constitution of the United States they have a right to petition the Congress of the United States, to provide for paying them the amount of certain compound-interest notes issued by the Government, and which they undertook to transmit to New Orleans through the mails, and which were lost by the sinking of the vessel on which the mails were sent.

The Senator from Iowa remarked aside last night, as a justification for his motion, that they ought to have got their property insured. If the Senate would have waited a moment, would have listened to a word of explanation, they would have ascertained that Ober, Nanson & Co. did get their property insured. They would have ascertained by a very slight inspection of the papers that they were informed at the post office in New York that the New Orleans mail for that day was to be sent on the steamer United States; and they would have ascertained that a shipping gazette published in that city also informed the public of the same fact; and believing that the mails were to be forwarded on that steamer they procured a policy of insurance for those notes upon that boat; but on the same day, and after the insurance was obtained, and without notice to these shippers, the postmaster at New York, as he had an undoubted right to do so, altered his mind, and concluded to send the mails by the steamer Republic. The steamer Republic was lost; the mails were lost; all sunk at the bottom of the ocean. Neither the boat nor the mails nor an individual upon the boat has ever been recovered.

The testimony upon all these points seemed to the committee clear and conclusive, and the question submitted to the committee was whether the Government ought to make \$60,000 out of that calamity or not. The numbers, letters, and dates of the notes are all given, identified by the sworn testimony of a notary public who made a minute transcript of the whole with a view to obtain this very policy of insurance which was obtained.

The resolution provides that the Government may take security against all loss. There is no possibility, therefore, of the Government losing anything, unless it be reckoned a loss for it to pay its debts. If these notes had been issued by the Senator from Iowa or any other Senator on this floor and had been lost in the same way, or if they had been issued by any banking company in the United States, they would have been paid, either voluntarily by the individual or the company, or they would have been paid upon compulsory process issued by a court of law; and they would have been paid because the law of the land enforces upon all companies and individuals just such conduct in just such contingencies. And I do not understand why the law of the United States should say that the individual must pay his notes, even though they are lost, and yet say the Government itself shall be exempt from such payment, notwithstanding the notes are lost in its own mails, forwarded by its own means of transportation, selected to suit its own pleasure.

So the committee did not think they were very dishonest in recommending this resolution to the consideration of the Senate. I have had the honor of a seat here for nearly six years; I am not aware that I have ever developed any strong or irresistible tendency for plundering the Treasury of the United States, and I supposed I could move the Senate to the consideration of a bill without engendering any alarming suspicions that the Treasury was about to be plundered. I did not suppose a motion of the kind submitted by me at the dictation of the

Committee on Claims was to be a signal for scattering the Senate; and I have been obliged to take this opportunity, the first that was offered me by the rules of the Senate, to make this explanation and to clear my character from this imputation. Whether this explanation will induce the Senate to further consider the resolution this afternoon or not I cannot say. Whether it will induce them to assent to the passage of the resolution is not for me to know. The Senate is under no constitutional obligation to assent to a bill because it is recommended by the Committee on Claims; but I think there is a legal obligation resting on the Senate to hear a bill which comes from that committee or from any other committee when they have nothing else to do, which was the case last night. If the Committee on Claims has established such a character for recommending groundless claims upon the consideration of the Senate as has led to this apprehension, then it is the duty of the Senate to change the committee, and that work ought to be done at once. The Senate has no right to impose this labor, which is not a pleasant one, upon any of its members without paying to them the respect, when they have made a recommendation, of hearing the grounds upon which the recommendation has been made.

During this session I believe that committee has not called upon the Senate to assent to more than half a dozen claims out of over one hundred and forty on our Calendar. We have been obliged to turn away a great many suffering citizens of the United States whose claims we would have been glad to recommend if we felt we could do so in justice to the Treasury, not feeling that we were obliged to report against them; and I do not like to stand first between the Treasury and those petitioners before the committee, who ask us to indorse their claims, and when we do conclude to indorse one have an individual Senator by a motion to adjourn thrust himself between the committee and the Treasury. While we occupy this position I think we have a right to ask at the hands of the Senate the same consideration that other committees do.

I said I did not think I had developed any very strong tendency for plundering the Treasury. I do not know when I have been convicted of any such attempt. I have voted against a great many measures that I thought very unjust to the Treasury. I voted, without saying a word, against the proposition to take League Island under the fostering care of the Government of the United States, and to embark the national Treasury upon the somewhat formidable enterprise, as it seemed to me, of building it up above the river into which it is sunk and establishing a navy-yard there. I voted against it. I did not say a word against it. The debate I thought was ably conducted by others; but I thought that a very dangerous demand to make upon the nation. I think so mainly in view of two facts: first, that a board, constituted of some of the most distinguished naval officers we have in the service, protested against it; and I thought that was one reason why Congress should hesitate to take it. Another reason why I thought we ought to hesitate was because it was proposed to submit the propriety of taking this place to the vice-admiral of the Navy, to a lieutenant-general of the Army, and to another citizen of the United States, and that proposition was rejected, rejected under the lead of the Senator from Iowa. The Senate followed his lead, listened to his advocacy, and against all this testimony concluded to embark in that enterprise. I have not the information which enables me to say that it was not wise after all. But when a Senator, against such testimony as this, embarked the country upon such an enterprise as that, I think he can afford to sit in his seat a few minutes to hear what can be said in favor of paying those who claim to be public creditors, and who, if I know anything about the facts in this case or anything about the law of the land, are the creditors of the Government of the United States as much as the Senator

from Iowa is the creditor of any man whose note he ever held in his life or holds now.

Mr. President, I have said what I have to clear myself of the imputation thrown out last night. I was obliged to take this opportunity to say it. The Senate would accord me no other opportunity to say it. I should be glad to have the Senate consider and pass this joint resolution now. I know that when I relinquish the floor it will be at the option of any Senator to move to postpone it and proceed with the consideration of the measure which was taken up in the morning hour. Perhaps the Senate will feel bound to do so; but when they thrust such measures as this aside at a time when they have nothing to do, I think they are bound to give very conclusive reasons for proceeding to the consideration of any other measure at the expense of this.

Mr. HENDRICKS. I wish to ask the Senator a question before he takes his seat, whether the Government securities for which this claim is made were destroyed?

Mr. HOWE. They were sunk in the bottom of the ocean, in the United States mail locked up in the steward's room of the steamer Republic. Everything on the boat went down and has been there ever since.

Mr. HENDRICKS. Then there is no probability that they are in existence at all?

Mr. HOWE. No human possibility of their being in existence. The postmaster swears that nothing of the mails has been recovered.

Mr. GRIMES. So far as the lecture of the Senator from Wisconsin is designed for me, I have simply to say this: upon the motion of the Senator from Indiana, [Mr. LANE], last evening was assigned for the consideration of pension bills; I came here with about a dozen or at any rate not exceeding fifteen other Senators, and sat until nine o'clock transacting that kind of business. The Senator from Wisconsin got one or two bills passed of minor importance, and then came this bill, which I was satisfied would be a contested one. I have given not so much attention to the subject as the Senator from Wisconsin, but I have always voted against paying claims of this sort; and as I was going to call for the yeas and nays I knew the bill must go over as a matter of course. I thought that the best way was to adjourn so that the whole question could come up before the Senate when there should be a quorum present, when we might have the benefit of the report and the whole argument of the Senator, together with the bill at the same time. I therefore made the motion to adjourn.

As to the imputation that was thrown out, I do not know where it was. I did not say anything that I know of except simply to move an adjournment, and I was surprised that a majority of those present, according to the decision of the Chair, voted in favor of it. I intended no reflection upon the Senator from Wisconsin and I regret exceedingly that he imagines that I did. I threw out no imputation on him. On the case as I understood it, and as I have understood all these cases before, I should have voted against him and should have felt it my duty to call for the yeas and nays, and that would have been the end of the case for last night, and then we should have the debate split up into two different sessions in place of having it all in one.

Mr. HOWE. The Senator is correct in saying that we had sat here listening to bills presented by the Committee on Pensions, with the Senate constituted just as it was when the Senate agreed to proceed to the consideration of this joint resolution. It is true the Senate had also considered and passed one bill reported by the Committee on Claims, which was to accord a year's pay to a private soldier from New Hampshire retained in the military service for a year after he had been in fact mustered out. Then the Senate agreed to take this joint resolution under consideration. The joint resolution was read. The Senator from Iowa had an undoubted right to move an adjournment. If he had stated any such reasons for moving the adjournment as he has now stated, I should

not have felt that I was reflected upon or that the committee was reflected upon; but he offered no reason whatever to the Senate for moving an adjournment. He said by a side remark that he did not intend the Senate to sit here and hear such cases. I thought I knew as much what the case was as he could know, and I thought he had no right to impute to me a purpose of calling the attention of the Senate to cases that were not fit to be heard.

Mr. GRIMES. If the Senator chooses to drag in before the face of the Senate and the country any side remarks he may have accidentally heard me make to another Senator, it is a matter of taste. He has a right to indulge in that if he chooses. He has a right furthermore to indulge in criticisms as to my vote and my course on the League Island question if he chooses. He has a right to take offense at my exercise of my constitutional privilege to move an adjournment when I do not think the Senate as constituted at the moment is prepared for the consideration of a question involving such issues as I thought were involved in this case, as to whether we shall pay a large sum of money for Treasury notes lost, a question that involves a great many issues, I think, and a large amount of money. Certainly, as I said before, I had no reason to apprehend that the Senator was influenced by any improper considerations, or that his committee had made a report which they believed to be wrong. I differed with them as to the principle upon which the resolution was predicated, and I did not think the Senate was prepared to consider it; and for that reason simply I made a motion to adjourn. I have nothing further to say, except that under similar circumstances I should do the same thing again.

Mr. HOWE. One further word. The Senator complains of my taking notice of a side remark. When a gentleman makes a remark which is a reflection upon my public or private course I do not feel under any constitutional obligation to wait for him to repeat it on the floor of the Senate. If he makes it in my hearing I do not think I am called upon to stop up my ears so as not to hear it. All I know about it is the remark was made, made as an interpretation of his motion and as a statement of the reasons upon which he based his motion. I could not help hearing it; I could not help feeling it; I am very sorry—no, I am glad to say, I could not help resenting it.

Mr. WILLIAMS. I find that this matter is to lead to discussion. I move, therefore, to postpone this joint resolution and all prior orders, and proceed to the consideration of House bill No. 1143.

Mr. HOWE. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. Is the question on the motion of the Senator from Wisconsin to take up his joint resolution?

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Oregon to postpone the present and all prior orders, the present order being joint resolution No. 173, for the relief of Ober, Nanson & Co., merchants of New York, and proceed to the consideration of the bill on which the Senator from Nevada [Mr. STEWART] was upon the floor at the expiration of the morning hour.

Mr. HENDRICKS. I would very reluctantly interrupt the Senator from Nevada in his argument, because it is disagreeable thus to be interrupted of course; but as this joint resolution was the order of business at one o'clock, and as I suppose the discussion of it is substantially through, it seems to me we might as well dispose of it. If I understand the resolution I shall give it my support, and do that upon a principle that I think was established by the Committee on Claims when I had the honor of being a member of that committee. It is this: that when Government securities are destroyed by any accident, and they cannot come up in any form against the Government, it is right for the Government

to issue new securities to the party who shall prove that he was the owner of the lost or destroyed instruments. I supported that then, and will support this measure now, on the well-known principle that a man is not discharged from his obligation simply because it is lost or destroyed, and I think the same principle applies well to a Government. If an individual be sued upon his promissory note or bill of exchange, or an insurance company upon its policy, and the averment in the declaration be that the instrument sued upon is lost, and that be proved, of course there is a recovery. The loss of the instrument does not destroy it, at any rate in the absence of any connivance on the part of the owner in its loss or destruction. I think we might as well dispose of the joint resolution as it will take but very little time.

Mr. CONNESS. I ask the Senator from Oregon to withdraw the motion to postpone, and let us take a vote on the measure now before us.

Mr. FESSENDEN. That will be debated necessarily.

Mr. CONNESS. I apprehend it will not be debated. It is a measure that comes from a committee after having been thoroughly examined, in regard to which there cannot be much doubt; and since it has been made a question of here, I hope we shall vote upon it.

Mr. FESSENDEN. It is nothing but a private claim.

Mr. CONNESS. If it is nothing but a private claim, there is now involved in it the consideration of whether the chairman of one of the standing committees of the Senate, after his committee has fully investigated a question, shall have the ear and attention of the Senate for a few minutes or not; and I hope, in that view of the case, we shall come to a vote on it. I hope the Senator from Oregon will withdraw his motion for that purpose.

Mr. WILLIAMS. I am satisfied that this bill cannot pass the Senate without discussion. If it could, if the Senate would at once proceed to take a vote upon it, I perhaps should be willing to give way.

Mr. CONNESS. Withdraw your motion and let us see.

Mr. WILLIAMS. I cannot consent to withdraw the motion I have made. I am on the Committee on Claims, and should be glad to see the joint resolution passed; but under the circumstances I must insist upon my motion. The Senate can vote it down if they see proper.

Mr. ANTHONY. Owing to this misunderstanding, I think we ought to give the Senator from Wisconsin an opportunity to have a vote on his resolution. If, in the course of half an hour the discussion goes on, I will then vote with the Senator from Oregon.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Oregon.

The question being taken by yeas and nays, there were—yeas 19, nays 24; as follows:

YEAS—Messrs. Brown, Chandler, Creswell, Fessenden, Foster, Grimes, Henderson, Howard, Kirkwood, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Wade, Williams, Wilson, and Yates—19.

NAYS—Messrs. Anthony, Buckalew, Cattell, Conness, Cowan, Cragin, Davis, Dixon, Doolittle, Fogg, Fowler, Frelinghuysen, Harris, Hendricks, Howe, Johnson, McDougall, Morgan, Morrill, Nesmith, Patterson, Ross, Saulsbury, and Van Winkle—24.

ABSENT—Messrs. Edmunds, Guthrie, Lane, Norton, Nye, Poland, Riddle, Stewart, and Willey—9.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The joint resolution (H. R. No. 173) for the relief of Ober, Nanson & Co., merchants of New York, is before the Senate as in Committee of the Whole.

Mr. SHERMAN. I should like to have the report in this case read.

The Secretary read the following report, submitted to the House of Representatives from the Committee of Claims of that body by Mr. W. B. WASHBURN.

The Committee of Claims, to whom were referred the petition and papers of Robert H. Ober, of New York city, submit the following report:

The petitioner claims to be a citizen of the United

States, a resident of the city of New York, and a member of the commercial firm doing business in said city under the firm name of Ober, Nanson & Co., and in the city of New Orleans under the firm name of Ober, Atwater & Co.; that on the 18th of October, 1865, Ober, Nanson & Co. had occasion to remit \$60,000 to their house in New Orleans to make payment for cotton purchased there. In order to make said remittance, the petitioner drew from the National Bank of the Republic in the city of New York \$60,000 in compound-interest notes of the United States of the denomination of fifty dollars each, as follows: \$5,000 letter D, Nos. 272801 to 272900 inclusive; \$5,000 letter A, Nos. 272901 to 273000 inclusive; \$5,000 letter C, Nos. 270801 to 270900 inclusive; \$5,000 letter A, Nos. 268601 to 268700 inclusive; \$5,000 letter C, Nos. 268801 to 268900 inclusive; \$5,000 letter C, Nos. 275501 to 275600 inclusive; \$5,000 letter D, Nos. 275001 to 275100 inclusive; \$5,000 letter C, Nos. 275301 to 275400 inclusive; \$5,000 letter D, Nos. 276201 to 276300 inclusive; \$5,000 letter A, Nos. 275601 to 275700 inclusive; \$5,000 letter A, Nos. 275901 to 276000 inclusive; and placed the said notes in the hands of James W. Hale, notary public of the city of New York, who sealed up the same in a package with his official seal, which package was addressed to "Ober, Atwater & Co., New Orleans, Louisiana," and was delivered to the postmaster of New York, and duly registered and receipted for by that officer, to be dispatched in the United States mail to its destination; that the mails containing said package were dispatched by the steamer Republic, which was lost at sea at a point 140 miles east of Savannah, Georgia, on the 25th of October following, as appears by the affidavits of Edward Young, Sarsfield E. Young, and William H. O. Moorhouse, captain, mate, and purser of the said steamship, respectively. No part of the mails were saved, nor have any part thereof been since recovered, so far as is known to the postmaster of New York, as appears by his certificate in writing, dated the 11th of January last.

The following is an analysis of the evidence: James W. Hale, notary public, 54 Wall street, New York, certifies, under his official seal, that on the 13th of October, 1865, he placed in a parcel, sealed with his official seal, \$60,000 in fifty-dollar United States compound-interest notes, all dated September 1, 1865, which was directed to "Ober, Atwater & Co., New Orleans, Louisiana." This certificate describes the notes by letters and numbers corresponding with the description in the petition. The petitioner's affidavit, sworn to before T. E. Stillman, notary public, New York city, asserts that he is a member of the commercial firm of Ober, Nanson & Co., of New York, and of Ober, Atwater & Co., New Orleans; that on the 18th day of October, 1865, the New York desired to remit to the New Orleans house \$60,000, to pay for cotton purchased there; that he drew from the "National Bank of the Republic" in New York city \$60,000 in compound-interest notes of the United States, each dated September 1, 1865, and each note of the denomination of fifty dollars and of the numbers designated in the certificate of James W. Hale, notary public; that he caused said notes to be placed in a parcel by said notary public, sealed with his official seal, which was then directed to Ober, Atwater & Co., New Orleans, and was by him delivered at and deposited in the New York post office, to be carried in the United States mails to New Orleans; that the said parcel was duly registered at the post office; that the said mail containing said letter was dispatched by the steamer Republic, which was lost at sea October 25, 1865. The receipt attached to his affidavit is the original receipt of the New York postmaster for said letter, and that the certificate thereto attached is the certificate of said postmaster as to the registry of said letter, the dispatch of the mail containing said letter, and the loss and non-delivery thereof.

The receipt referred to in the foregoing affidavit is as follows:

No. 1839—Registered letter.

POST OFFICE, NEW YORK, October 18, 1865.

Received of Ober, Nanson & Co., a letter addressed to Ober, Atwater & Co., New Orleans, Louisiana. (To which is printed the name of)

JAMES KELLEY, Postmaster.

The certificate referred to in Mr. Ober's affidavit is dated at the post office, New York, January 11, 1866, signed by James Kelley, postmaster, and certifies that a letter directed to Ober, Atwater & Co., New Orleans, Louisiana, was received in this office October 18, 1865, from Messrs. Ober, Nanson & Co., was registered and dispatched in the mail forwarded the same day per steamer Republic, which was lost at sea, no part of the mail, so far as he knew, ever having been recovered.

Affidavits of E. Young, master and commander of the steamship Republic; of Sarsfield E. Young, chief officer or mate, and of William H. O. Moorhouse, purser of the same, taken before notaries public, establish the following facts: that said vessel "sailed from New York for New Orleans on the 19th of October, 1865, having on board the United States mails; that on the 24th of October, 1865, during a severe gale of wind, the vessel sprung a leak, which continued to gain upon her until about four o'clock p.m. of the day following, when she went down at a point about one hundred and forty miles east of Savannah, Georgia, and nothing was saved on board the ship except the lives of the passengers, who were taken off in the vessel's boats and upon a raft made for that purpose; that the mails remained on board the vessel locked up between decks against the bulkhead of the ladies' cabin, and at the time the vessel went down were lost with their contents in the sea.

The affidavits of Walter Kelley and James Young, of the city of New York, and of J. B. Kelly in the post office having charge of registered letters, establish clearly that said package directed to Ober, Nanson & Co.



was placed in the mail-bag for New Orleans, which was delivered on board the steamer Republic.

The committee are of opinion that the evidence leaves no reasonable doubt in regard to the destruction of the notes described in the petition. As the securities supposed to be destroyed are in the nature of bank notes, having been issued for circulation, the committee unanimously agree that it would be unwise and unsafe to order duplicates to be issued, no matter how clear and conclusive the evidence of destruction may be.

This, it is hoped, will be a satisfactory conclusion, when it is remembered that all compound-interest notes have but three years to run from the date thereof.

As a reason why extreme caution should be exercised in issuing duplicates for any security alleged to have been destroyed, the committee deem it best to inform the House that there have been frequent efforts made to defraud the Government of large sums under the false pretense of the destruction of bonds, Treasury notes, and other certificates of indebtedness.

It is, therefore, considered expedient, in regard to compound-interest notes alleged to have been destroyed, to postpone the actual payment to parties until after their maturity, which, at furthest, must be less than three years. After the maturity of such notes, if time confirms the evidence of destruction by failing to produce the notes, the Secretary of the Treasury, it is believed, will have ample authority to pay the same to the proper parties upon the production of satisfactory evidence of destruction, and requiring a sufficient bond of indemnity against their future presentation.

In view of the large amount involved in the present application, and of the exceedingly clear and irrefragable proof of destruction, the committee report a joint resolution expressly authorizing the Secretary of the Treasury to pay the notes within six months after their maturity, provided that no proof of their existence shall hereafter be presented, and provided also that a sufficient bond of indemnity shall be given by the parties before payment is made.

This resolution is reported not because it is deemed absolutely necessary to enable the Secretary to do what it authorizes, but because it may enable the claimants to obtain credit in carrying on their business while the notes are maturing, without which credit it is believed they will be seriously embarrassed by reason of their loss aforesaid; and the committee do not regard this as a precedent for recommending relief in cases of like character.

Mr. GRIMES. If I may be permitted to make an inquiry or two in regard to a matter of this kind, I should like to know, in the first place, whether or not this bill is predicated upon the idea that the United States are underwriters and responsible for all property that is sent through the mails in a registered letter. I suppose there cannot be any doubt as to the loss of this property. Then I should like to know whether this, being lawful money of the United States, made so by an act of Congress, taking the place of gold, if it had been actual gold bearing the effigy and superscription of our nation, and sunk in the steamship Republic, as these notes were sunk, should we be responsible to the owners of that gold, and would there not be precisely the same reason for holding the Government responsible in that case that there is in this? As to the conclusion of the report, that this is not to be regarded as a precedent for future cases, I have only to say that I presume everybody knows it will be regarded as a precedent; and if we make an allowance to this rich firm for their \$60,000, we must expect hereafter to have claims for the \$5,000 and the \$10,000 and the \$20,000 of notes lost and destroyed.

Mr. COWAN. I wish to ask the honorable Senator whether these very notes that were lost were not payable in actual money by the Government. The case differs entirely from the loss of gold in that respect. Gold carries with it its intrinsic value, but United States notes are a promise on the part of the Government to pay in that other and actual money of the Government. There is a distinction to be taken as well as to be noted in this case.

Mr. HOWE. In reply to the Senator from Iowa, that so far as my own individual opinions are concerned I had no idea that the Government stood in the attitude of an insurer. The Government simply stands in the character of a promisor. The Government has promised to pay the holders of these notes so much money. It has agreed, to be sure, that in the mean time, for domestic purposes, they shall answer the character of money, but when the time comes around the Government has promised to pay the amount of these notes in money, that which the world recognizes to be money. The written evidences of that prom-

ise are lost now beneath the ocean, and we simply propose to put the Government in the condition in which every banker and every individual would be whose notes were in the same position.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### NIAGARA SHIP-CANAL.

Mr. CHANDLER. I move that an order be entered for the printing of House bill No. 344, as amended, the Niagara ship-canal bill. The motion was not agreed to.

#### GOVERNMENT OF SOUTHERN STATES.

Mr. WILLIAMS. I move that the Senate now take up again House bill No. 1143.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States, the pending question being on the amendment proposed by Mr. JOHNSON.

Mr. STEWART. When I was cut off by the termination of the morning hour I was making some remarks with regard to the amendment offered by the Senator from Maryland, known as the Blaine amendment. I was saying that this amendment is in perfect harmony with the action of this Congress at its last session. It is to be regretted that the South did not accept the terms proposed in the constitutional amendment then submitted by Congress. It is to be regretted that they did not only not accede to that, but that they did not go forward and proceed to do that which it was manifestly their duty in the name of humanity—extend the right of suffrage to all men. It is to be regretted that they have not done that. It is to be regretted that in the South there is so little loyalty. It is to be regretted that Union men are not safe there. It is to be regretted that the southern people will not come in and support the cause of the Union and the cause of liberty and submit in good faith to the verdict of the war. But because they have not done that, and it has become necessary for us to apply a remedy, shall we therefore forget all the teachings of the past and pass a bill to create a permanent military government? You say it is but temporary; I wish, I hope that it may be temporary; but while I am willing to pass this bill, and while I am willing to subject these people to this fearful ordeal that they have brought upon themselves, I am anxious at the same time to point to them a road of escaping it. I ask Senators to look at the terms of this bill and see what an ordeal the people in the South must pass through under its provisions.

I have become convinced that something of the kind is necessary preliminary to any reconstruction, but I am not convinced that it is necessary to pass such a bill now and trust to future legislation to open a road for escape. The refusal of a bare majority in one House of Congress, or the refusal to assent on the part of the President, or any accident or casualty whatever, may result in a failure to get proper legislation to relieve them, and leave upon your statute book this as a permanent, lasting law. The terms of this bill are fearful to contemplate as a permanent system. If the South must be permanently governed by this bill there is an end of republican government, for there is no republican government in this bill. The only justification for such a measure is immediate and pressing necessity. The only excuse is that we hold out to them at the same time a means of escape, and say to them, "Whenever you will adopt republican principles, whenever you will do justice to all men, we will relieve you from the pains and penalties inflicted by this military bill."

I wish now to call the attention of Senators to the provisions of the bill. The first section divides the insurrectionary States into military districts; the second provides for assigning to these districts by the General commanding the

Army of appropriate military officers. The third section makes it the duty of each officer thus assigned—

To protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished all disturbers of the public peace, and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or when, in his judgment, it may be necessary for the trial of an offender, he shall have power to organize military commissions or tribunals for that purpose, anything in the constitution and laws of the so-called confederate States to the contrary notwithstanding; and all legislative or judicial proceedings or processes to prevent or control the proceedings of said military tribunals, and all interference by said pretended State governments with the exercise of military authority under this act shall be void and of no effect.

The military commander can organize at his discretion military commissions. Suppose that the military commander is not a great and good man, suppose he has prejudices and passions like other men; suppose he allows those prejudices and passions to control his action, and suppose the innocent are punished. There are no constraints of law upon him; his will is the law. Suppose that he, being a mortal and liable to err, punishes the innocent with the guilty; suppose the tyrant who is thus enthroned is not perfectly just, and the innocent suffer with the guilty, how will Senators under such circumstances excuse themselves before their God and their country? Can they do so by saying that a future Congress may remedy it; that some other legislation may be had? No, that will not do. If you vote for this bill you must put in it your excuse. Without a reason appearing in the bill, and without a road open to these people to escape, I never will vote for the bill, though I stand alone, though all the world beside vote for it. I never will vote to place any people permanently under military rule. I never will vote for any one man to have absolute control of life and liberty and property in any of these States. I would not trust it to myself. I dare not trust myself with such power. I would only trust it to any man in great emergencies. I believe such an emergency does now exist in the South. I believe that temporarily we must have the strong arm of the military for protection; but while I believe that, I believe that these people should have a road open to escape. I believe it is my duty to say to them, "Whenever you will do right, whenever you will do justice, you shall receive mercy."

What more do Senators want, what more can they ask than that the South shall adopt the constitutional amendment, which contains many excellent provisions, which provides for the rights of man, which provides for the repudiation of the rebel debt, which provides for the payment of the Federal debt, which excludes from office all those who have taken an oath to support the Constitution and have subsequently gone into rebellion. What more do you want in addition to that? I want but one more thing, I want suffrage extended to all men, so that each man, high and low, shall have the ballot in his hand for his own protection. The negro needs it more than the white man. The original theory of extending the franchise was that by that means the poor man could protect himself against the powerful; and the poorer a man is, the weaker he is, the more he needs protection. The theory that only the wise and the great and the powerful shall vote is the theory of despotism. The theory of our Government is that all men have an equal right to life, liberty, and the pursuit of happiness. When you take that from them, you take from them their rights under our Government. I say that I do want something more than the constitutional amendment. Indeed, it contains some things that I do not care much about. I do not care much about the exclusion from office for which it provides, and I think we shall take that back after awhile; but I demand security for the future, and I demand the ballot for all, so that the black man may protect himself. This amendment provides for that. It provides for those who want the constitutional amendment

only, and it provides also for those who want humanity protected by the ballot. When the South have done that I ask Senators what more do you want? I ask Senators, when the South have done this, will you continue military rule over them, and subject them to the caprice of some little officer who may not be perfect in wisdom and judgment? I would not trust a modification of this law to any future Congress, and therefore I want the two things to go together. There must be a road of escape or I cannot vote for this military bill.

Mr. WILSON. I move to amend the amendment by inserting after the words "common law," in the twelfth line, these words:

And have provided by constitution and laws that all citizens of the United States shall equally possess the right to pursue all lawful avocations and business, to receive the equal benefits of the public schools, and to have the equal protection of all the rights of citizens of the United States in said States.

I am disposed, sir, to vote for this bill as it came from the House of Representatives without amendment; but if it is to be amended at all I desire that the amendment I have offered shall be adopted. The original amendment offered by the Senator from Maryland provides that on the adoption by any of the southern States of the constitutional amendment and the extension of suffrage by the adoption of the principle of manhood suffrage, such as we have established in this District, without qualification, and when it shall have amended its constitution to conform to the Constitution and laws of the United States, its representatives who can take the prescribed oath shall be admitted to their seats in Congress, and that then this bill shall cease to be effective in such State. I simply propose to add this provision that the State shall also provide that all citizens of the United States within its limits shall have the right to pursue all the avocations and business of life; that they shall have the equal benefits of the public schools, and that they shall have the equal protection of the laws. I believe this provision ought to be adopted. We have as much right to ask this as we have to ask the other conditions contained in the amendment of the Senator from Maryland. We have a right to ask for everything that is requisite to put every human being in those States upon a footing of equality under the protection of equal laws.

I believe, Mr. President, that the wisest thing would be to pass this bill just as it came from the House, and then to pass the Louisiana bill, and then to pass a resolution reciting the fact that the constitutional amendment has been adopted by a sufficient number of States, and providing that those States in rebellion which will assent to the constitutional amendment, change their constitutions and laws in conformity with its requirements, give manhood suffrage, and put all its citizens, without distinction of color or race, under the equal protection of the laws so that they may engage in all the avocations of life, have the benefits of the public schools, and stand on the same ground with all others, protected by just, humane, and equal laws, shall be thereupon entitled to representation in Congress by those who can take the prescribed oath. In such a resolution as that following this legislation we can declare, if we wish to do so, that this act shall cease to operate in any State which adopts that course. Besides, if we pass this act now we can amend it at any time hereafter, but it seems to me dangerous to send it back to the House of Representatives at this stage of the session, and dangerous to send the Louisiana bill back. I think we ought to pass those bills and pass them immediately. They will be, like the constitutional amendment, great steps, great means to the final adjustment and settlement of this whole question.

Sir, universal manhood suffrage has ceased to be a contested issue in America. Although it is not yet incorporated into constitutions and laws, it is just as much an achieved fact in the ten rebel States as it is in the District of Columbia, the State of Tennessee, or the Territories. The battle of manhood suffrage is fought

and won; all we have to do now is to provide for the formal incorporation of that principle into constitutions and laws.

Mr. STEWART. I am afraid to pass this bill without having something of that kind in it.

Mr. WILSON. I do not believe there will be much further opposition from any quarter to universal manhood suffrage. That great battle is fought and won, and the only remaining question is as to the mode of doing it.

Mr. HOWARD. Mr. President, I do not rise to discuss the merits of the bill, particularly at this time; I do not know that I shall feel it my duty to do so during the debate in this body; but I wish to say a few words on the subject of this amendment, and what I shall say will have as much application to the amendment offered by the Senator from Massachusetts as to that offered by the Senator from Maryland.

I think the amendment entirely incompatible with the scheme and provisions of the bill itself, and that gentlemen will discover that incompatibility on looking into it. The principle upon which the bill proceeds is the principle for which I have all along contended, that the rebel States, as communities, have been conquered by the arms of the United States in the prosecution of the war which resulted in the suppression of the rebellion waged by those States. I hold that, subject to the Constitution of the United States and to the duty of ultimately restoring the rebel States to their former standing under the Constitution, the Government of the United States has the same power in reference to those conquered communities as it would have had they been foreign territory.

Let me not be misunderstood, sir. I do not say that the Government of the United States has precisely the same authority over the rebel States which it would have in reference to conquered foreign territory; but we hold them by the sword and by the right of conquest; yet we hold them in a fiduciary capacity, and the trust imposed upon the Government is ultimately and in our own good time, as Congress shall judge most fit and expedient in reference to the public interest, to restore them to the enjoyment of all their former rights as members of the Union. But at present we hold them as conquered country. The governments which have been established there under the imperial edicts of the Executive have all depended for their vitality and force upon the military power of the United States; and it cannot be denied to-day that all these bogus governments in the rebel States—I call them bogus only in the sense of their being unconstitutional—rest upon the military edicts of the President of the United States, so far as they have any foundation and operation. I hold further, that in assuming to establish governments, in assuming to appoint provisional governors, and to set in motion the machinery of these State governments, a most unparalleled usurpation has been committed upon the authority of Congress, delegated plainly by the Constitution to Congress, to whom and to whom only belongs the right and the power of reconstructing, so to speak, and readmitting these States to the enjoyment of their rights as such. We hold these countries as military conquests. We have won them by our arms. We subdued the rebel military forces, have disarmed them, and at least half a million men now residing in these rebel States are our prisoners of war to-day, having been captured and paroled, sent home upon their *parole d'honneur*. The bill before us proposes to regulate this military occupation by the appointment of several major generals, each one to his proper department, who is authorized and required to protect all persons in their rights of person and of property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished all disturbers of the public peace and other criminals. It will be seen that the bill itself recognizes the military authority of the United States over these countries. It recognizes the right and the duty of Congress to

provide for their military government, for the protection of persons and property, and the preservation of any vestige of liberty that may remain among them. If we have the power thus to act in the rebel States, then these so-called States themselves are not now invested with State rights and the power of State legislation. The amendment of the honorable member from Maryland clearly recognizes the present existence of this power of State legislation in them.

It declares that "when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the United States," &c. That may be done, it is very true, without consulting the rebel States; it is possible that it may become a part of the Constitution without the votes of the rebel States; and here suffer me to remark that I do believe most sincerely that it is the right of three fourths of the loyal States remaining in the Union at any time to amend the Constitution, and that such amendment would be valid as an amendment, and that it is not necessary in amending the Constitution that we should take into the account the votes of the rebel States.

The amendment goes on: "and when any one of the late so-called confederate States shall have given its consent to the same and conformed its constitution and laws thereto," clearly recognizing these confederate States as being invested with full authority to act as States in the most solemn proceeding in which a State can act, the ratification or rejection of the amendment of the Constitution, and recognizing those States as competent to amend their own constitutions without any reference to us, indeed recognizing them as at present vested with all the State rights pertaining to loyal States under the Constitution. Now, sir, if these States are thus invested with State authority, if they can legislate as States, if they can amend their constitutions as States, if they can change their legislation so as to conform, in the language of this amendment, to the amendment of the Constitution suggested at the last session, then they can adopt any other kind of State legislation which they may see fit; then they are indeed sovereign States, and in the language of Mr. Seward, in his Cooper Institute speech of the 22d of February, 1866, they are as fully and completely invested with State authority as the Legislature of the State of New York then in session. Suppose the Legislatures of these States during the reign of this military power which we propose to send among them should see fit to enact laws utterly inconsistent with its continuance among them, is it not perfectly plain that such State legislation would produce an immediate and bloody conflict with the military authorities we send there? We say in our act that the military commanders shall govern these States so and so. The Legislature of one of these States says the contrary: "The people of this State shall not be governed so and so;" and they claim to act in virtue of their "State sovereignty." This must inevitably produce a collision between the Federal military authorities and the State authorities which we thus recognize by this amendment. Sir, the two things do not consist; they are incompatible with one another; and if we assume to permit the exercise of the two powers, the military and the civil, the Federal military and the State civil power, we shall produce, and within a very short time in my opinion, a bloody conflict, which it will demand the employment of the superior forces of the Government to bring to a close. If, therefore, we are to govern these States by military power, let us say so plainly, and not in the same bill insidiously and deceitfully grant civil powers to the States themselves which we propose to rule by the sword.

Mr. WILLIAMS. I do not propose to take any time in discussing this amendment or the bill itself. I stated the reasons why I thought it not advisable at this time to amend this bill, and I think the Senate is entirely familiar with

such reasons, considering the time and the circumstances in which we are placed. This bill contemplates future action by Congress, and proceeds upon the assumption that the measure is altogether a temporary measure; and therefore there is no occasion for the Senator from Nevada to be so much troubled about the permanency of military governments in the South. Why, sir, the very preamble of this bill declares that "it is necessary that peace and good order should be enforced in said so-called States until loyal and republican State governments can be legally established." This bill is proposed simply to enforce good order in these so-called States until loyal and republican State governments can be legally established; but the argument proceeds upon the assumption that this is the end of all legislation, that if this bill be passed Congress has no power to make any subsequent laws in reference to these southern States. Now, sir, instead of loading down this bill with the various amendments proposed, it seems to me true policy on the part of the friends of the measure would indicate that this bill should be passed, and then subsequent bills or resolutions may be passed by Congress indicating, if desirable, that this is altogether a temporary measure. This amendment could be put in the shape of a joint resolution and passed separately after this bill shall have been disposed of. That could be done, and that course would not endanger the bill; but I am assured and feel confident that to amend the bill at this time and send it back to the House of Representatives would eventuate in its defeat. It is simply upon that ground that I oppose those amendments without undertaking to discuss them at this time.

Mr. KIRKWOOD. I wish to ask the Senator from Oregon a question. I understood him yesterday evening to admit that the bill as it came from the House should be amended. This morning he thinks it should not be amended for the single reason that, if it is amended, it may not pass the House of Representatives again. I understand him now to say that the defect in the bill, supposing there to be any defect, can be cured by the passage of a new bill or a joint resolution after this shall have been passed. Is there any reason to suppose that we can pass a new bill or joint resolution through this body and send it to the other House and have it passed there more easily than we can now amend this bill? Is it any more easy to pass a new bill entirely through both Houses than it is to amend this bill and send it back to the other House for concurrence?

Mr. WILLIAMS. I can answer the Senator's question in this way: when this bill is passed by Congress, the President has ten days time in which to determine whether he will veto the bill or not; and if vetoed it will have to be repassed by a two-thirds vote of both Houses in order to become a law. This proposed amendment, as I understand, is only valuable to indicate on the part of Congress that this measure is altogether a temporary measure, and that it only contemplates the existence of this military authority until loyal and republican State governments can be established.

If this bill becomes a law, if it shall be passed at this time without amendment and sent to the President, a joint resolution can then be passed by both bodies of Congress embodying substantially what this amendment contains, and there is no reason to suppose that the President of the United States would veto that joint resolution simply declaring that this military authority in the South is altogether temporary, and is only intended to operate until certain events transpire; but if he should veto it it would make very little difference, because it is not particularly operative at this time; it is simply a declaration on the part of Congress that at some future time, if those States will accede to certain conditions, this military authority shall cease. If the President should take the responsibility of vetoing a measure of that kind, Con-

gress would be placed in a wretched condition before the country, and nobody could object to this policy on the ground that Congress intended that it should be a permanent policy for the southern States.

This amendment, I say, will have no immediate operation if put into this bill. It is simply intended as a declaration on the part of Congress that at some future time, if these States will accede to the conditions embraced in the amendment, this military authority shall cease. It is necessary, in my judgment, that some bill should be passed for the protection of the loyal people of the southern States. That is a subject which I think has been too long overlooked. The measure ought to be an efficient measure, one that will produce some effect. You may theorize as much as you please; but until you create a power that can act; and place it where it will be efficient, just so long these people will be without the necessary protection.

Mr. STEWART. This amendment does do something more than indicate; it declares that when these people have complied with all we require of them they may be represented. That is an important declaration, and it requires no further legislation. I cannot understand why the Senator from Oregon has changed his mind since he proposed to offer this very good amendment last night. I understand it is because he has been advised by members of the other House that if we put this very proper amendment on the bill it cannot be passed in that House. If the bill cannot be passed by the House in a proper shape, I ask what hope is there to get through any provision hereafter that will relieve these people from military law, save this nation from military despotism, if you will not indicate it in this bill? It is not true that our friends in the House are opposed to this amendment. On a vote upon this very proposition sixty-nine members of the House voted for this amendment, and it was only defeated by a coalition between the friends of extreme measures and the Democrats. The great body of the Union members of the House voted for this same amendment; and when the Senate shall sanction it, tell me not that the House will refuse to adopt it. It was voted for in the House by the great body of Union members. It is true that some did not vote at all, because the whip and lash were a little too severe; but sixty-nine Union men did vote for it. The Democrats, on the contrary, voted against the amendment, and then against the bill, showing that their effort was to make it a bad bill.

Now, the Senator from Michigan says we have the constitutional power to pass this bill. I am not discussing the constitutional question involved in the measure. I suppose we have the constitutional right and constitutional power to treat these States as conquered provinces. I do not doubt that, because I believe we have the power to do about as we please with them. I believe when they fell into our hands we were controlled by no law except the general laws of humanity and the laws of war and of nations with regard to them. It was in our power to do with them pretty much as we pleased. We might have treated them as subjugated provinces if we felt so disposed. But after this length of time is it policy, is it humanity, to place over eight million people six or eight or ten military commanders with absolute power of life and death?

When we are passing the bill it is said we cannot put a limit to it. Sir, if we cannot put a limit to it now, when can we? I ask if a free Government was ever usurped except under the plea of necessity for temporary purposes? I ask if the freedom of any people was ever lost except upon this plea? I ask if any tyrant ever set up his throne except in the name of justice and necessity? Did any one when he assumed tyrannical authority declare that it should be permanent? No, he said it should be only temporary. Now, while I am willing to assert this authority, while I am willing to hold these southern States in iron

hands till they shall do right, I want to place a limit upon my own power. I would not trust myself with absolute power; I will not trust another; and I want to say in this very bill "thus far will I go and no farther." When the bill is passed I may love this power too well to surrender it.

I say, then, place the limit in this bill; say to these people, "Whenever you comply with the demands of the loyal masses of the North, whenever you comply with the dictates of humanity, whenever you make your institutions correspond with the principles of the Declaration of Independence, we will then recognize you as free communities, and remove from you the iron hand which the necessity of the case has made us place upon you, unfortunate rebels. We will hold that hand upon you until you learn to do good and cease to do evil, till you stop your New Orleans riots, till you cease to persecute Union men, till you acknowledge the rights of all men; and when that is done we will release it at once, and we will not hold it there an hour afterward." I do not want any man to have the power by a veto to prevent our repealing this bill, or to have a capricious majority in either House enabled to hold this power on these people one moment longer than is necessary. It is easier to exercise power than to relinquish it. Let us place the bound about it ourselves; let us make a limit for ourselves. If they continue rebellious we can remove that limit if necessary, because it will be only a congressional act, subject to our power. I am only willing now to go to this extent. I will bound my power in this way. It is always easier to get men to extend their power than to release it.

I say, then, leave it within the function of the rebel States to do justice and receive mercy, and then I will vote for this bill with all its rigor, with all its exercise of extraordinary power, which I believe may be justified by the circumstances. So believing, I will vote for the bill if there is a limit that I can see; otherwise not.

Mr. MORRILL. It seems to me that my honorable friend from Nevada is a little premature in the haste he makes to declare an unqualified opposition to this measure; and I can hardly think that he has very well considered the grounds upon which he declares his opposition to the measure unless it is amended. I have thought it very likely that I should be obliged to persuade myself that it was best to vote for this bill as it came from the House of Representatives if we could do no better, and it had not occurred to me that there was anything so frightful in the powers conferred by it upon the military authorities as seems to have supposed the honorable Senator from Nevada. He says that the Congress of the United States now propose to institute military rule over eight million people and over ten States. Well, what of it? Are we, who have stood here for five long bloody years and witnessed the exercise of absolute military power over those rebel States, to be frightened now by a declaration of that sort? That is not the temper in which I find myself to-day. I have got so accustomed, if you please, to the exercise of this authority—

Mr. STEWART. That is the trouble.

Mr. MORRILL. "That is the trouble," says the honorable Senator. That has not been our trouble.

Mr. STEWART. Allow me to say a word.

Mr. MORRILL. Certainly.

Mr. STEWART. That is what alarms me, because the Senator says he is accustomed to it.

Mr. MORRILL. That has not been our trouble, that we have exercised power; that has been the salvation of the nation. The trouble has been from the hesitation to exercise authority when authority was required. That has been the trouble; that has been the infirmity of the nation, and that is our weakness to-day.

Now, Mr. President, this is the "mildest mannered" bill in the world. Nobody ever pro-



posed to do a thing so fearful in some respects as we do now who was so mild in the manner of it. No man ever "cut a throat" with half the mildness we propose to do this. Sir, this bill is a modification of the action of this Government in these States for the last six years, and I thank Heaven that we have come to the time at last when we can modify our action. What have we been doing? We have held these twelve million people at the absolute control of the military, have we not—life, property, estate, reputation, everything in our grasp? By the exercise of this power we have subdued them and conquered them, reduced them as "insurrectionary States," put down civil war and rebellion. We no longer levy armies; we no longer plan campaigns into that country; we now propose to interpose the military rule in a subdued form to preserve order throughout a country where there is no civil authority. That is all. Does that honorable Senator need be told that there is no civil authority in all that country? Does not the world know that there is no such thing as civil rule, no courts of justice, no administration of law there, and has not been of late? Well, sir, how then do you propose to restore order, to preserve order, to maintain the public peace, to protect individual rights, except by the interposition of the military authority?

Mr. COWAN. I should like to call the honorable Senator's attention to that part of the bill which declares that—

It shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property.

How are they to do it? Are they to try an indictment for an assault and battery, or an ejectment for the title to a tract of land, or an action of trover for personal property?

Mr. MORRILL. I was addressing myself particularly to my friend from Nevada; if I have occasion to speak upon the details of this bill, I will by-and-by answer my honorable friend from Pennsylvania. But it is the apprehension of the exercise of military power of which I was speaking; and I undertake to state as a proposition that this bill modifies the action of the military authority which has been exercised since the war began; and it proposes to furnish a rule, a military rule, as an article of war, if you please, to the commander in that region of country where now they are without any except such as arise from the general Articles of War. Now, let me say to the honorable Senator that when he talks about the apprehension of being accustomed to military authority, and that here is an imposition of military governments, he is mistaken. It is no such thing. It is simply in the nature of an article of war or a rule for the government of the Army in a conquered country, and that is all it is. Sir, by the triumph of our arms we have overthrown rebellion and civil war. These civil and political communities, recently in insurrection and war are subdued and at our feet. I assume that there are no civil tribunals there, no State governments which we are bound to respect, or which it is safe for us to respect and trust. What, then, is to be done? We are to restore those communities, of course; when? As soon as it is practicable to do it. In the meantime it is the duty of Congress to define by law what the military authorities in that region of country shall be bound to do, and that is, by this proposition, to keep order, preserve order in these insurrectionary States, protect the persons and the property of the people, and that is all.

Now, allow me to remind my honorable friend from Nevada that since these insurrectionary States were subdued and overthrown the military power in that region of the country has been absolute, and we have sat here since 1865 and witnessed the military acts of the President of the United States unlimited and absolute over the whole country. We have seen him set aside States and State constitutions and State laws and State institutions and govern that entire country by his absolute military authority. Nobody denies that. I do not stand here to

complain of it. I think when the war was ended, the insurrection was overthrown, and these States were subdued; it was the duty of the President of the United States without attempting to organize State governments to preserve order, and it becomes necessary now to interpose the legislative authority in that direction because he does not preserve order. Does not the honorable Senator from Nevada understand that? Does he not understand that it is because the President of the United States, when by the power of our arms this rebellion was overthrown, neglected to preserve order by military authority, and give protection to persons and property, and because he neglected to do that, and turned his attention to the reconstruction of States without authority, that the Congress of the United States to-day is called upon to direct the Army of the United States in all those military districts in the way of a military rule, what shall be done for the protection of person and for the protection of property.

So much, then, for the question of military rule. Instead of its being military rule in the sense of Government, as the honorable Senator seems to apprehend, permanent, unlimited, unqualified, and despotic, it is military rule in a limited, mitigated form, applicable only to the extraordinary state of affairs in that region of country, and in the very nature of things temporary.

But the honorable Senator says he wants this amendment as an apology for what we are doing. Well, sir, I may persuade myself to vote for the amendment. If it will help the honorable Senator to vote for the bill, very well; so much the better; but that the amendment in any form modifies the question of military power nobody will contend. No lawyer on this floor, and no Senator who has examined the measure, will pretend that the amendment modifies the severity of the power of which the Senator complains; it only discloses the fact that the Congress of the United States, while it extends this military rule over these States, accompanies it with a statement of the conditions on which the rule may be abated; that is all; and to that extent I welcome it, and may not be unwilling to vote for it, but it has no reference whatever to the extent or limitation of military power provided for in the bill.

But, sir, if the honorable Senator had been desirous of ascertaining reasons or of finding an apology for the exercise of this military authority which we undertake to assert, he would have found them in the preamble to the bill itself. What is the reason assigned for the assertion at the present time of this military power? It is set forth in the preamble in concise terms:

Whereas—  
the governments of certain States which are named—

were set up without the authority of Congress and without the sanction of the people; and whereas said pretended governments afforded no adequate protection for life or property, but countenance and encourage lawlessness and crime.

Here you have the reason why the Congress of the United States proposes to authorize the interference of military power in these States.

Sir, need any one stand here to-day to remind the Senate of the United States that since the surrender of the confederate armies there has been no civil authority in that country? Have we not over and over again declared that all that has been done there in the reconstruction of States has been a usurpation? Does not the honorable Senator from Nevada know that there is no protection of person or property in all that region of country? Has he not been advertised of the innumerable murders, cruelties, and oppressions of all sorts to the loyal people of that country? Are not we, all of us, persuaded of that? Have we not been told by constituted committees of this body and of the other branch of the national Congress that there is no such thing as order or peace in all that region of country, no such thing as personal security, no such thing as

security to property? Do we not know that to-day, under these sham governments, the state of things is that of misrule in all that region of country? Do we not know to-day that the President of the United States, having set up these sham governments and feeling bound by them, does not propose to execute the laws which the Congress of the United States has passed? Does not the honorable Senator from Nevada know that the civil rights bill enacted here to open the courts of justice to the oppressed people is a dead letter throughout the South? And yet the honorable Senator rises here and undertakes to alarm this body upon the idea that we are about to assume the exercise of military power. Sir, we are about to assume an authority under the Constitution to preserve order in that region of country which we have declared insurrectionary, in that region of country which we know to be in a state of disorder, in which we know that the loyal men have no security either of person or property.

I say to the honorable Senator from Nevada that he should be—I fear he will have occasion to be—vastly more solicitous for an apology for not passing this bill than for reasons to justify himself in doing so. Sir, if there ever was a measure demanded of a legislative tribunal, this is the one. It is the first measure on the part of the American Congress since the rebellion closed by which it has said to the loyal people in that region of the country, "We come to you now with protection; we have overthrown the rebellion; we know the *animus* of those who were in arms against the Government of the United States toward the loyal population of this region of the country, and we come to stand by you for your protection and security." This, I think, it is our bounden duty to do; and then, as to the rest, protection and reconstruction are intimately connected. I agree that you cannot do them both at one and the same time. That is impracticable. We can give protection, and we ought to give protection; and if we delay protection when we can give it we are culpable, and the American people I believe will hold us so.

Therefore, Mr. President, I am for this measure either with or without amendment. I am for it as a great measure of protection to a people downtrodden and oppressed as few people in any age or country ever have been, and I am for it at the earliest practicable moment. The amendment very properly shadows forth the terms and conditions upon which these people may reorganize State governments. It is perfectly easy for me to accept it if it is any relief to any gentleman. If anybody desires that I should express as much as that, I am perfectly willing, and to express it in this bill. If we should pass this bill without the amendment, I do not suppose it will be likely to be misapprehended by the American people. I do not suppose, as the honorable Senator seems to apprehend, that if we pass this bill as a measure of protection to-day the people would fear that we intended to make this military rule permanent. I am sure nothing has gone from the American Congress which authorizes any such inference or justifies any such presumption. No one can fail to see the difficulty of instant protection and reconstruction; that this is an advance measure; a measure demanded by the times; a measure quite too long postponed, in my judgment.

Mr. STEWART. The Senator from Maine, [Mr. MORRILL,] although he approves of this amendment, has seen fit to read me a severe lecture because I do not desire military rule as an end, but as a means, because I have no particular love for military despotism, because, while I acknowledge the necessity of it, I do not love it. Now I do recognize the fact that the civil rights bill has been trampled upon, that human rights are trampled upon in the South, that loyal men are not protected, and but for those facts I could not vote for this bill at all. It is the existence of these facts that makes me vote for a bill of this extraordinary character, a bill that places the life of a citizen in the

hands of a military man. If he is a good man, that life may be safe. If he is a drunken man, if he is a passionate man, if he is a wicked man, that life is in danger. But, sir, this measure grows out of the necessity of the case, and I resort to it because I cannot do anything else. The reason why I am willing to use it temporarily is because we cannot enforce the civil rights bill, and because we cannot protect our citizens there. I justify it on that ground.

The Senator says I want an apology to vote for placing the life and liberty of citizens in the hands of military men, I want an apology for voting for military commissions, I want an apology for violating the republican principle and giving all power to one man. Yes, sir, I do want an apology for it. I want a reason for it. I want a reason of necessity which no man can gainsay before I vote to place any man at the mercy of another. If I did not want an apology and a reason for such action I should be false to truth, false to honesty, false to justice, false to republican institutions. I must have a reason, and a cogent reason. I believe that reason exists. I must vote for the bill, provided in doing so I am not to destroy republican institutions altogether; but when you pass this bill, I care not what there is in the preamble, although you may desire to modify it, it is by no means sure that you will have the power to do so. Although you may think it will be temporary, you have no declaration that it shall be temporary. We are already told that the other House will not pass it if we put a limitation on this military rule.

The Senator from Maine says he is accustomed to military rule and does not fear it. I hope that he nor his posterity may never feel it. I hope it may never fall upon his gallant State. I hope it may never fall upon any State in this Union now here represented. I hope the cup may soon be taken away from the people of the rebellious States. I regret as much as any man that I must place this cup to their mouths; and while I do it, I will not trust myself lest I should not relinquish the power when they have complied with all that is written in the bond. If to-day the House of Representatives of the Congress of the United States, while exercising this high and important prerogative of placing the life and liberty of all the citizens in a given State under one man, are unwilling to place a limit on that power, if the leaders of that House have been driven to unite with Democrats to force this bill through in its present form, if they will take nothing but this and this unlimited, if they will make the military an end and not a means of securing liberty, if such be the temper of the House it is time that an appeal is sounded for liberty. If they are so greedy of power that they are not willing to say "Thus far will we go and no farther," it is time that somebody should come forward and demand an apology for all this.

I should blush to vote for this bill if the reason of my act was not recorded with the act. I am glad, and I congratulate the Senator from Maine that he is willing to vote for this amendment. I believe the Senate will adopt it. I believe the Senate is not disposed to use unnecessarily arbitrary power. I believe the Senate is desirous of placing limitations upon any necessary exercise of power in the southern States. If when you pass this bill with this limitation it shall be found that the limitation is wrong, you can repeal the limitation; but pass the bill without limitation, placing all these people under the control of military power, and do you not believe you can get a report from every military man in the South who is sent there to control the people that it is necessary to continue that state of things? When they get power do you not believe they will report in favor of continuing that power? Do you think it absolutely certain that you can pass a law repealing it? I fear it. I am not attempting to alarm the Senate; but let me say this is no ordinary bill. It is erecting tribunals unknown to the

Constitution, and which can only be justified by war. It erects tribunals by which men are subjected to the loss of life at the will of a single man. It can only be justified by a law higher than the Constitution, the law of necessity, by which nations maintain their existence.

It is not in pursuance of the Constitution; it is above the Constitution. It results from that higher law to which we all bow, the law under which we acted in suppressing the rebellion. I am for invoking that law no longer than it is necessary, for exercising it only within the limits of the necessity. Enacted into a system of permanent laws, with no limit to the duration of such a system, and it does look, and the world will believe, that this struggle is for military despotism as an end, and not for military rule as a means for the preservation of free institutions.

I wish the Senator from Oregon had stood by the proposition he offered last night. I am sorry that he has listened to the minority of Union men in the House, who by a coalition with the Democrats rejected this amendment there. I am sorry that they have so much influence in this body. I wish we could have on this question the cool, deliberate judgment of grave Senators. I believe the majority of Union men who voted for this amendment in the House will carry it through instantly if we send it back with this amendment, and those who seek for military rule as an end will be bound to come to that majority. I am opposed to the minority of the House, first coalescing with the Democrats and forcing a measure of this kind through, and then telling us and telling the world that if we put a limitation upon our own power, if we put limitation in this bill, they will not pass the bill; that they will have absolute power; that they will place that power in the hands of military men; that they will have men in the South who shall have in their hands arbitrary disposal of life and death, or the Union people shall have no protection. The bill with this amendment gives the same protection and in the same way that it does without. The amendment simply says to the South, "If you will repent and comply with our terms you may have civil liberty." That is all. It does not change the form of the bill.

The Senator from Maine calls me to an account because I say that this is an extraordinary bill, an extraordinary remedy, and can only be sanctioned by extraordinary reasons. I think that if any lawyer will read the bill he will say so. In times gone by the power to put a State under the control of a single man, to make him a dictator and more than dictator, to give him the power to execute his own will without appeal to any higher tribunal, to give him absolute power of life and death, seemed to the fathers of the Republic to be an extraordinary power that could only be justified in perilous times. I have, from the reports before me, come to the conclusion that those times do exist temporarily now; but I believe that the people of the South, when the necessary consequence of their conduct is brought home to them by this bill, will reconsider their contumacious conduct and learn to do right. I am not here to justify the setting up of governments over them by the President. I admit that all that was irregular, and that is one reason why it is necessary for us to legislate; but it is no reason why we should make this institution, which we think is justified by present necessity, a permanent one, to be exercised as a military despotism in the South. I know that the President has exercised somewhat similar power. If an officer did not suit him he removed the officer and placed another in his stead. I do not object to the President's exercising power where it was necessary; I do not object to continuing its exercise in a regular manner so long as it may be necessary, but we might well have complained if the President had proclaimed that he intended to exercise it through all time.

You say that in the nature of things this is to be temporary. Plead not the nature of

things, plead not the nature of man. Show me an instance where any one who had such power ever relinquished it. It is according to all history and the nature of man that those who have power hold on to it as long as they can. Let no man say, then, give power without a limit which must necessarily lead to the destruction of free institutions. The Senator from Maine says to me in a very self-confident manner that there is no such thing as civil government in the South. I admit that civil government in the South is a miserable apology; but the bill itself provides for this civil authority acting in subordination to the military. It recognizes its existence. I do not object to that. There is some civil authority there which the gentleman proposes to use in the exercise of this military power. It is a civil authority that we have allowed to grow up, but it was not sanctioned by any law. It was a usurpation when it was started. I do not approve of that. It should have been submitted to Congress; but it is then actually in existence, and it is recognized by this bill.

All I have to say, then, is, the emergency has arisen when extraordinary means must be provided, but there will be a time when we shall want civil government. When all our conditions have been complied with—and this amendment states what the conditions are—do we not want to have civil government restored? The arrival of that time depends on the good or bad conduct of the southern people themselves. They are left free agents; they are the arbiters of their own fortune. If they act right they shall have civil government. If they continue to oppress they shall not have it. Let them have the power to choose between right and wrong; but put your military power there and hold out an inducement to the people to have it removed. Otherwise what inducement is held out to the southern man to do right, when if he does right you continue your military rule; and if he does wrong you continue it, and he must be under a military government anyhow.

The loyal as well as the disloyal are placed in that position, and then they are without hope. Let me suggest one consideration on this point. What kind of men will these military rulers be? They will be stationed among these people. Now, the disloyal have just as fine houses, just as fine wines, just as fine places of entertainment, just as many fascinations in society as the loyalists; in fact I think it will be admitted that they stand a little higher in society there. If you pass this bill in this shape, you may have military men there who will not be above the arts and the inducements and the allurements that may be thrown around young men. The loyal may suffer while the disloyal will be rioting. Establish this bill without any such amendment, and all the military men you send there will send you reports that the continuance of their power is necessary. No man will be exerting himself to throw off the yoke because no hope is held out, no promise, no salvation, no matter what they do. The loyal and the disloyal alike will sink down into hopelessness and despair. But suppose you hold out to them a prospect that when they do right they shall have mercy, then you put an argument into the mouths of the loyal and they can say to the disloyal, "You have brought this misery upon us; if you behave yourselves we shall be free; you are our enemies; it is your rebellion first and your tyranny now, it is your denial of human rights that has caused us to be deprived of the rights of States and placed under military power; come go with us and do right; accept these generous propositions of Congress and be free." Would not that be an argument in the mouths of the loyal? But if there is no hope held out what will be the consequence? I believe every Senator now thinks and believes that if they would comply with these conditions he would relieve these people. Then why not say so now? Is it not quite as important to say it now as at any other time? You admit it to be just. The only argument against this amendment that I have heard is that if adopted the other House

will not sanction it and pass the bill. Why not? A majority of the Union members of the House have already voted for it. It was defeated by a minority of the Union members coalescing with the Democrats.

But, Mr. President, I need not say more. I hope honorable Senators will not place me in a false position again by pretending that I am unwilling to give adequate protection to the Union men in the South, by pretending that I am any more in favor of rebels than any other man is. I recognize the necessity for this bill; but I want the Union men in the South to have an argument to show that there is redemption for the South if they do right. Southern men tell me, "We are overpowered by the disloyal; they say to us, you are treated as we are treated; Congress does nothing for you; what is the use of your making efforts; nothing will be done to admit even the loyal." The southern people who are Unionists are not in the front rank of intelligence; many of them are poor, low, and oppressed. The argument that Congress does not care any more for them than for the rebels, and that there is nothing they can do which will enable them to get into the Union, overpowers the Union men. The disloyal are teaching the Union men of the rebel States to-day that we in Congress seek military despotism as an end and not as a means, that we seek disunion as a perpetual end of this controversy; that we desire to hold the South as conquered provinces; that we will not say on what terms we shall let them in. They say we have now assumed the same language which they started out with when they declared that if you gave them a blank sheet of paper they would not write the terms upon which the Union could be saved. They turn around to loyal men in the South and say the North are victorious and they will not accept a blank sheet of paper and write the terms upon which we shall have free government, and thus they silence the clamor of those who have stood firm and fast to the Union. It is a powerful argument. If you want men to rally around you in the South you must state the terms of restoration. The terms proposed in this amendment are all that humanity demands. Make that statement and my word for it you will have a party in the South eager to avoid this military rule and accept the terms of restoration which you propose.

Mr. WILLIAMS. Mr. President, I should be glad if it would please the Senate to have a vote at this time indicating its sense upon this amendment, because the discussion proceeds upon the general merits of the bill; and for some reasons—I need not state them—I should be glad to know whether the Senate intends or does not intend to attach this amendment to the bill; and as the discussions that occur do not relate particularly to the amendment, but to the general merits of the bill, it seems to me they might go on as well after the Senate has determined whether to amend the bill or not, and if agreeable to Senators I should like to have a vote at this time upon the amendment.

I find that I failed to make myself understood here. I gave notice last night that I should propose this amendment to the bill. I do not indicate any hostility to the amendment now; but I say that upon consulting persons who know the state of things in the other House, it was represented to me that the condition of business there is such that to attach an amendment to this bill and send it back would probably, if not certainly, accomplish its defeat. I took those representations from persons of the highest authority in the House. Of course I do not propose to mention names.

Mr. SHERMAN. Allow me a word on that point, for I am pretty well acquainted with the rules of the House, having been a member of that body for several years. There is no trouble in a majority of the House at any time reaching a bill on the Speaker's table if it does not contain an appropriation of money. A majority of that House in favor of it can reach this bill within ten minutes after it goes back

to the House, beyond a doubt. A motion to go to the Speaker's table is in order, and then the House can lay aside one bill after another until they reach this.

Mr. WILLIAMS. Then the honorable Senator differs from the Speaker of the House on that question, and I do not propose to decide between them. The honorable Speaker indicated to me a manner in which the enemies of this bill might prevent any final vote upon it until after Tuesday night.

Mr. SHERMAN. They might perhaps by filibustering.

Mr. WILLIAMS. That is a possible thing, as we all know. It is necessary that this bill should go to the President on Tuesday night in order to have his decision as to whether he will or will not approve it before Congress adjourns; and it is to be remembered that if the President should veto this bill his objections to it are to be sent to the House of Representatives, and then of course there will be more or less opportunity both in the House and in the Senate to discuss the question upon the objections of the President, and then both Houses must by a two-thirds vote sustain the measure in order to secure its passage. I do not wish to go into that matter more particularly; but I simply state these things to indicate the reason why I should prefer to have this bill pass in its present shape and to have this amendment, or the substance of it, embodied in some bill or resolution to be passed by Congress before its adjournment; and my object in rising now was simply to ask the Senate, if agreeable to them, to vote on the amendment at this time, and then proceed with the general discussion of the merits of the bill.

Mr. SHERMAN. It strikes me as rather harsh to hear the action of the House quoted to influence the action of the Senate, or observations or threats made by persons in the House that if we choose to amend one of their bills it cannot pass at this session. Such a thing is in violation of the rules, to commence with, because the rules expressly declare that no such observation shall be made. A member of the House has no right to influence or to attempt to influence our action by what he may say, and it is out of order in the House to make any allusion to what a Senator desires on the passage of a bill. That is the established rule of Parliament.

Now, Mr. President, this is the gravest question, in my judgment, that has come before this Congress at any period of its deliberations. I am not disposed to consider any amendment to this bill or the bill itself under any suggestions such as have been made here. I want to give this subject the most serious consideration possible, and I want to vote on these propositions after I have heard Senators on both sides, and I do not think we ought to be influenced in the slightest degree by the rules of the House or by what may be done by the House. I have no doubt the House of Representatives are as patriotic as we are, and that after our action has been had they will deliberate upon it in good faith. The long delay in bringing this bill before Congress is not, perhaps, the fault of either House. At any rate, it is here at this late period of the session, and I wish to give it a fair and full consideration. Nor am I to be influenced in the slightest degree by any observations that may be made by a member of the House as to the effect of our amendments. If they can pass a bill and send it to us, and we are not at liberty for any cause to amend it, as a matter of course there is the end of the joint action of the two Houses. I am not disposed to legislate in that way.

Mr. CONNESS. The suggestion made by the honorable Senator from Oregon who has charge of this measure as to the order of our proceeding I think has a good deal in it, and I rise to express the wish that the Senate will pay attention to his suggestion, which is that we discuss the amendments proposed and act upon them, leaving the discussion upon the main proposition until the amendments shall have been disposed of. If the discussions here

generally should take that regular order we should get along with business much more rapidly than we do. I hope the Senator's suggestion on this point will receive the attention of the Senate.

I desire to add a word to what the honorable Senator from Ohio has said in regard to governing our legislation by what members of the other House may say, and the remark I would make is with respect to the frequent allusions that have been made here to what the President may do. I think allusions of the one kind are about as much out of place as those of the other. I have no fears that the President will, to use the technical language, pocket important bills upon this subject. I believe that if bills upon this great subject reach him giving him time enough to consider them, he will either sign them or return them to this body within the proper time or before its adjournment with his objections. I have little doubt upon that point. What would be the consequence if he did not, and if by such a course as the pocketing of bills, as it is termed, he should challenge the opposition of both Houses of Congress? Already the law provides that the new Congress shall meet on the 4th day of March. The inevitable result would be that Congress would go on and reconsider and act upon the measures which the President had refused to return. Now, I apprehend there is scarcely a Senator who is ready to believe that the President desires to compel us to remain in lengthened session after the 4th of March. I have yet to meet the first Senator or member of the House of Representatives desirous to continue that session beyond its organization. But the refusal by the President to consider a bill of this character and to return it to the House in which it originated, before the adjournment would be a challenge to Congress and compel Congress to go on after the 4th of March with renewed legislation upon these subjects. Sir, I have no fears upon that point. I hope we shall go on with deliberation upon the legislation now before us. When other Senators shall have discussed the subject further, and before a vote is taken, I may claim the attention of the Senate for a very short time. At present I have nothing further to say.

Mr. HENDERSON. The Senator from Oregon insists that a vote be had on the pending amendment immediately, and that all discussion which may be necessary be had on the general provisions of the bill as it came from the House of Representatives. I desire not to enter into the discussion of the amendment or the bill, but simply at this stage of the proceedings to get some information if I can from the Senator from Oregon, who seems to have charge of the bill. I discover that the second section of the pending measure provides—

That it shall be the duty of the General of the Army to assign to the command of each of said districts an officer of the Army not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

At the present time, as I understand, officers have been assigned to those different States and are now there in command; for instance, General Schofield is in command at Richmond, assigned there by the President; General Sickles is in command at Charleston, and General Sheridan at New Orleans. Is it the understanding of the Senator from Oregon that the President, under this measure, will have any command of the officers after they have been assigned by the General of the Army? Will the President be still Commander-in-Chief of the Army and Navy of the United States? After they have been assigned to these respective States, what position will they have assumed different from the position now occupied by them in these States? That is the point to which I wish to direct the Senator's attention, and his answer to it will control materially my vote upon the proposition he now insists shall be voted upon at once.

Mr. WILLIAMS. I understand that the Constitution of the United States makes the



President Commander-in-Chief of the Army and Navy, and of course Congress has no power to deprive him of that office; and this bill will not and cannot in the nature of things have that effect. But as I understand, it is usual for the General of the Army, without consulting the President, to detail officers and men for certain purposes, and this bill recognizes that practice. I have no doubt, in my own mind, that the President of the United States by virtue of the authority vested in him by the Constitution, may overrule any order that may be made by the General of the Army that does not controvert this law. So far as the disposition of the forces is concerned, and as to what particular generals shall be assigned to a particular district, the bill requires the General of the Army to designate; but I do not suppose that the bill can overrule the Constitution and deprive the President of his functions as Commander-in-Chief of the Army.

Mr. HENDERSON. I desire to ask the Senator if in his judgment General Grant is now subject, so far as the government of the Army is concerned, to the orders of the President, and whether General Grant, in making these assignments, would not be compelled to obey the orders of the President of the United States. I believe, as the Senator from Ohio [Mr. SHERMAN] suggests to me, that, in issuing his general orders, General Grant signs them "by order of the President of the United States," those that affect the management and control of the Army; for instance, assigning a military commander to one of the districts, or a general order to operate in the government of the military forces of United States.

The Senator from Oregon says it is immensely important that this bill shall be passed, and that it shall be passed in such time that the President shall not be able to pocket it and prevent its passage till after the 4th of March. I have no idea that the President of the United States will desire exceedingly to pocket a measure of this sort. I cannot see that he would desire to do so. If I have any complaint to make, it is that things have been done in the southern States by order of the military that I have not been able to give the consent of my judgment to. I have thought that the President heretofore exercised a military authority in the southern States perhaps not in accordance with the wishes of the people of the United States. I have not been pleased with the military administration of affairs there, and I took occasion to make some complaint a year ago of orders that were being enforced in the southern States.

Now, if I understand the extent and scope of this measure, it will simply be to give the sanction of Congress to military administration in the southern States by the President. If there is anything else in it I desire to have it understood now before we proceed any further. If the Senator desires to have speedy action on this measure, let us understand what it is; let us know who is to control the armies and who is to be the real party issuing the orders. I am not exceedingly favorable to military government anywhere, and if I can get along without it in the southern States I am very anxious to do so. I am not pleased with it anywhere. I believe that despots and tyrants have generally resorted to it to accomplish their ends and purposes. Cromwell, I believe, partitioned out England and appointed major generals, who ruled the country with a rod of iron, and finally the entire civil administration of the affairs of the kingdom fell into the hands of these major generals. The history of that time is well known to us all. Even Cromwell himself, after having used them for years in carrying out the wrongs that he desired to perpetrate and to accomplish his own schemes of ambition, had to abandon them and leave them to work out their own salvation.

I do not desire to have the history of that time repeated in this country. I do not intend, if I can avoid it, to have the history of similar periods in other nations repeated here. If Congress is to control the Army, to give

the orders, and to determine what the administration of civil affairs shall be in the southern States, it is a different matter; but if this is to be left entirely to the President, and he is to give such orders through General Grant or compel General Grant to issue such orders for the government of the southern States as he chooses, then I suppose it is proper for us to discuss the measure anyhow, not to have it hurried through without discussion, and every man condemned who may for a moment hesitate or doubt as to the propriety of its passage.

Mr. President, I have my views as to the settlement of the difficulties in the southern States. I presented them to the Senate a year ago. There is but one solution, and there will never be but one solution, and that is to ascertain what the disease originally was, and then apply the remedy. The disease was aristocracy. The disease was that there were persons in the southern States not entitled to civil or political rights. I mean the negroes. It is a clear proposition that we have got to do one of three things: we must, first, either kill the negroes; or second, we must send them out of the country; or third, if we intend to retain them, we must give them civil and political rights. What is the use of hesitating about arriving at that result? If we have made up our minds to reconstruct in the South there is no other way of reconstruction; and we need not send the military there. I do not know that the military in times of peace have ever been exceedingly favorable to civil rights. It is not my impression that they have been.

Mr. DOOLITTLE. Nor in time of war.

Mr. HENDERSON. In war it is known they are not. The object, as I understand, is to take away the freedom of the individual.

Mr. WILSON. What protection have loyal men there now but the military?

Mr. HENDERSON. I do not remember whether the Senator from Massachusetts voted for the proposition which I offered twelve months ago as a constitutional amendment, and that was to give political rights to the negroes. Some Senators said it was a humbug, that it was Jacob Townsend's Sarsaparilla, or something to that effect, that it would amount to nothing. Now, I will ask what other protection can you give to a Union man in the southern States than the ballot? If something like the bill that has already passed the House of Representatives, and is now lying upon your desk, providing for civil government in the southern States can be passed, I am perfectly willing to have a Governor and provisional council appointed in each State to initiate the forming of civil government. Civil government will protect the rights of individuals; the Army is not very likely to do it. We all know what the tendency of a government by military power is. We are not injuring the southern people half so much as we injure ourselves by a military government. I think we shall regret it if we enter into it; I think we shall have cause to regret it; and I doubt exceedingly whether it will be any protection to loyal men. We often commit blunders, we often commit errors. It is not the first time gentlemen have gone off in a rage to accomplish something, and found twelve months afterward that they have not accomplished it.

Mr. WILSON. When have we done that?

Mr. HENDERSON. We frequently do it. I know I do it.

Mr. WILSON. I thought you spoke of something that the Senate had done.

Mr. HENDERSON. I say we as individuals commit blunders. I commit blunders, and the Senator from Massachusetts I apprehend is not free from them.

Mr. DIXON. Allow me to ask a question of the Senator from Missouri. He speaks of giving the ballot to the colored people of the South. Let me ask him whether it would not be better that that privilege or right should be given them by the free action of the southern States themselves, by amendments of their own State constitutions?

Mr. HENDERSON. Will they do it?

Mr. DIXON. I think they will; but I put the hypothetical case, suppose they would do it, would not that be better?

Mr. HENDERSON. Certainly, if they will do it.

Mr. DIXON. That proposition has been made.

Mr. HENDERSON. My impression is that we committed a blunder when we voted down, twelve months ago, the constitutional amendment to which I have alluded. Now, let me say that the northern people should determine to do justice, and if the Senator from Connecticut himself will give us a pledge that his own State will vote negro suffrage—

Mr. DIXON. I can give you a pledge that I will vote for it, and I have always afforded what feeble aid I could to the attainment of that result in my state. I have voted for it myself twice at the polls.

Mr. HENDERSON. The southern people do not believe we are in earnest about this thing. Why, sir, Connecticut eighteen months ago, I believe, voted down negro suffrage by a majority in every county in the State but one.

Mr. DIXON. But the State of Tennessee has granted suffrage to the negroes by her own action. Now, would it not be better for the other States to do it in that way than for us to force it on them?

Mr. HENDERSON. I did not intend to occupy any of the time of the Senate nor to interfere with the progress of the measure according to the course desired by the Senator who has it in charge. All that I rose for was to insist that we must not be hurried on to the adoption of the measure without consideration, merely to gratify the House, or to gratify individual members of the House. If the President wishes to veto the measures we pass, let him do so. We meet again on the 4th of March.

We have been ever since 1865 considering questions of reconstruction, and I do not know that we have lost anything by failing to reconstruct heretofore. I do not know that we are not better able now to reconstruct fairly and with proper judgment than we have ever been; and perhaps we shall be more capable of reconstructing permanently, and to the satisfaction of the American people six months hence than we are to-day. I am in no hurry about it. Who is suffering? The Senator from Massachusetts says our Union friends are suffering down there. I ask him is there to be any change in the policy under this bill? Is this bill to change the policy? That is the reason why I asked the Senator from Oregon whether the President would control the military under this bill. If so, what is gained? The President is controlling the military now. He puts officers there and he can change them. If this bill passes, will he not have the same power? If there is to be no change, what is the use of inducing the country to believe that we are passing a great measure of reconstruction?

The Senator from Nevada a little while ago said, in discussing this question, that we passed the civil rights bill twelve months ago, and that fails to protect anybody. Is that so? I thought last year that that would be the result; and I said to the Senator from Illinois when he was pressing it and urging it that it would amount to nothing. We say civil rights shall be given to individuals; and we say if the State courts do not administer justice to the negroes and the Union men they shall have the right to appeal to the Federal courts. They have appealed to the Federal courts; but we cannot do away with the right of trial by jury under the Constitution of the United States. We insist that the negro shall be a witness in court under the civil rights bill. That is right; that right ought to be guaranteed; but how can it be accomplished? A case is tried in a southern court—a State court; a negro is brought forward to testify for one of the parties; his testimony is refused; the case then goes to the United States court, and the negro testifies there under the civil rights bill; but how much

good does it do the man for whom he testifies, provided the jurors turn their backs upon the negro's testimony? That is the truth of the matter; they do not believe a word he says; and they discard his testimony in finding a verdict. Then have you remedied the evil; have you done any good; have you accomplished anything? Nothing upon earth; the negro's testimony is just as valueless as if he had been incompetent to testify. He is not a credible witness in the view of those who hear him, and therefore nothing is accomplished. We have accomplished very little by the administration of the civil rights bill; and let me tell you I know the fact, living in what was once a slave-holding community, that the parties who thus believed, believe so still. They have not changed their minds. Until you reorganize in such a way as to give each and every individual the power to protect his own rights, I say reconstruction will be a humbug and a failure. It is useless to tell me that this military power left in the hands of the President, just where it is now, is going to accomplish a great deal. I cannot see it so.

Mr. HOWARD. Will the honorable Senator from Missouri allow me to call his attention to the language of the second section of the bill?

Mr. HENDERSON. Certainly.

Mr. HOWARD. The second section provides:

That it shall be the duty of the General of the Army to assign to the command of each said districts an officer of the Army, &c.

I regard that as an authority given to the General of the Army, irrespective of the President.

Mr. HENDERSON. Do I understand the Senator from Michigan to say that General Grant is superior in his orders to the President of the United States?

Mr. HOWARD. No, sir; I have not said so.

Mr. HENDERSON. Can he be so made by law?

Mr. HOWARD. Does the Senator wish me to answer that question?

Mr. HENDERSON. I do, because I am seeking light.

Mr. HOWARD. I have no doubt that it is within the competency of Congress, under the Constitution, in the form of a law, to impose any duty it may see fit upon any military officer by name or by rank, and that it is not in the competency of the President, after the passage of such a law, to thwart its execution or interfere with its execution in any way.

Mr. HENDERSON. What becomes of the constitutional provision which declares that the President of the United States shall be the Commander-in-Chief of the Army and Navy?

Mr. HOWARD. That is a mere rank conferred upon the President.

Mr. HENDERSON. But after the officers have been assigned by the General of the Army, has the President power to issue orders to those subordinate officers in the districts? I should like to have an answer to that question.

Mr. HOWARD. Not in a way to thwart the execution of the orders of the General, upon whom the whole duty is imposed.

Mr. HENDERSON. Well, Mr. President, all I can say is, that the Senator from Michigan and the Senator from Oregon, who has the control of this bill, differ about the construction of it. If the friends of the measure differ about it, how are we to ascertain what will be the construction of it. I am no enemy to the measure. I have not announced any enmity to it, nor do I say now that I shall not vote for it. I am seeking light. I want to know the operation of the measure. I want to know what it is going to do before I record my vote in favor of it. I want to know whether the President will have any authority there after the passage of this bill; whether General Grant will issue all orders to the other officers, or whether the President will issue the orders.

I can state to the Senator from Michigan what I know to be a fact: that this is not a palatable measure to the Union men of the

southern States. I understand that some of the most radical Union men in the southern States do not desire that it shall be passed. I understand that Governor Hamilton, of Texas, a very radical man, is opposed to it. I understand that various others regard it as a very dangerous measure for the government of the southern States. I have not conversed with them; but such I understand to be the fact. All that I rose for was to ascertain what would be the construction of it.

Now, if I understand it properly, there is but one question about it, and that is, the amendment which the Senator from Oregon proposed to offer yesterday evening, and which has been renewed by the Senator from Maryland; and permit me, sir, to congratulate the Senator from Maryland. Last year, I believe, he voted against the constitutional amendment; he voted against negro suffrage. Now he offers an amendment to the pending bill in favor of negro suffrage and in favor of the constitutional amendment. That is progress. If the Senator from Maryland can make such an advance in twelve months, if we would just hold on, and not be hurried about reconstructing, in six months from to-day everybody will be in favor of negro suffrage, pure and unadulterated. I know how slow the Senator from Maryland is in making advances of this character; and, by the common rule of three, if the Senator from Maryland in twelve months can advance from opposition to the constitutional amendment, and bitter, unrelenting opposition to negro suffrage in every shape and form, deeming it to be the overthrow of the institutions of the Republic, I simply ask how long will it take other Democratic gentlemen to march up to that point?

Now, Mr. President, what is the use of hastening about this matter? Everything is doing well. I know there are wrongs committed in the southern States, but this measure does not help the matter at all, as I think I have demonstrated. The Senator from Oregon says it will not, because the President will have command of the Army there yet and can issue his own orders. Then had we not better stop and undertake to reorganize?

Is this proposition to be eternal? If it is to govern the southern States by military power from this day on, then I demur. There is no proposition to limit it in time except the amendment. Hence the amendment is the bill. The Senator from Oregon says, do not discuss the amendment; let us vote on the amendment and then discuss the bill. I cannot see that there is anything in the bill except the amendment. That is all there is in it. That looks to forcing the southern States if they do not like this measure; but I do not know but they will like it. What Senator has the assurance that the southern States will not take this measure and be very fond of it; take that as a government for all time? If it be true that these Army officers are favorable to the southern people, and if they want to control matters there in the interest of the rebels and rebel sympathizers of the southern States, I do not know that they will demur to it. In all probability those blandishments and allurements that were spoken of a little while ago will win over the Army, and the first thing we know we shall be as Cromwell was, trying to get rid of our eleven major generals. Cromwell had a great deal of difficulty in getting rid of them. They wanted to set up for themselves. It was one of the most difficult things Cromwell had to do, and when he undertook to make himself king, his eleven major generals said, You shall not be king. They did all the acts necessary to make him king; they did mean things enough to have made either him or anybody else king; but they were looking out for themselves. Perhaps our major generals may be seduced into that position themselves. I cannot tell. We had better anyhow not be in any great hurry about this matter. We meet again on the 4th of March. If the President is not satisfied with our legislation we can go on. The weather is not very warm on the 4th of

March. We can remain here until the 1st of June, if necessary.

Let us reconstruct properly. When we build our house the next time let us not build upon the sands, so that when the winds come and the rains fall it shall tumble down; let us build upon the rock. What is that? Mr. President, as I said the evil has been that the ballot has been partial in the southern States; it has been in the hands of a few, and they have controlled it in their own interest. That was the disease there was in the body-politic. It brought on the war; the war is over; and now instead of going back and remedying the difficulty, we stop short and send military men down there to govern, not according to the views of Congress, but in all probability according to the views of the President or somebody else. General Grant, I am told by the Senator from Michigan, is to have the authority conferred by this bill. I do not know exactly how General Grant feels. I should like the Senator from Michigan to inform me on that subject. Is General Grant desirous of carrying out the views of Congress, or will he carry out the views of the President? I should like to have some information on that subject.

Mr. HOWARD. I have no authority to speak for General Grant except that which arises from his previous history and his honest and heroic services to the country. From this source of information I feel perfectly authorized in assuring the Senator from Missouri that U. S. Grant will do his duty, as he understands it, faithfully, promptly, and well. Of that neither he nor any other gentleman need entertain a doubt.

Mr. HENDERSON. The Senator from Michigan tells me that General Grant will do his duty as he understands it; but does he understand it as I understand it? [Laughter.] That is the practical question.

Mr. BROWN. As Congress understand it.

Mr. HENDERSON. Well, I understand it as the majority of Congress do.

Mr. HOWARD. I do not know how General Grant may understand his duty; but he is a man of considerable intelligence and perspicacity of intellect, and I shall be entirely content if General Grant does his duty as he understands it, for I think he will understand it right. As to whether he will act in accordance with what the Senator denominates the President's policy, or in accordance with the policy of Congress, I have nothing to say.

Mr. HENDERSON. The Senator from Michigan is very much mistaken if he supposes I have not as much confidence in the integrity, the patriotism, and the good judgment of General Grant as he has. No man has a higher regard for General Grant than myself. I do not permit anybody to go further in his estimate of the character and of the services of General Grant than myself. But that is not the question. This is a proposition to take away the constitutional power of the President, as I understand it, to control the Army and to put it into the hands of General Grant; and without knowing exactly how General Grant is going to govern, I am called upon to vote immediately, not to discuss the measure at all, but to haste on and vote at once. I see no necessity for that thing, and I am not going to be hurried on into it. I may vote for the bill, but if I do I must know all the facts and circumstances surrounding it, and I must know what sort of control I am going to have afterward.

If there is one thing that I desire to see secured it is that we build aright, and that we get a loyal representation from the southern States here immediately. That is what I want. I want the Union restored. I do not desire that this state of affairs shall continue any longer. It is possible to get loyal men from the southern States. It is an easy matter. It can only be done, however, by rooting out the disease that has existed. What is that disease? It is that the ballot-box has been in the hands, as I said before, of but a part of the people. Now, take it and give it to all, and then reserve

the power to Congress to determine whether the members shall be admitted when they come here or not. Let us try that rather than try a doubtful expedient. When we try that and it fails, then I shall not say a word about reconstruction again, but will let other gentlemen control it; I will sit perfectly still and never undertake to control the question of reconstruction again.

I insist, however—I did insist twelve months ago—upon the adoption of an amendment which would have made suffrage equal to everybody. If that had been adopted, my friend from Connecticut [Mr. Dixon] would have been compelled to go for negro suffrage in Connecticut, and the southern people would have taken it, and they would take it to-day peaceably and willingly, provided they thought that our northern friends were in earnest in insisting upon their taking it; but they do not believe it. Connecticut votes it down by every county except one in the State; various other States in the North vote it down; and the southern people say, "Why do you insist that we shall adopt negro suffrage when you yourselves refuse it and reject it." It has been said, and said very properly, that to raise a child in the way it should go it is necessary to travel the way a little yourself; and in order to induce the southern people to adopt negro suffrage, to which they have just as little objection, in my opinion, as a great many of the northern people, it will be well for the northern people to adopt it for themselves. Hence I want to make it as broad as the Union; adopt it by constitutional amendment; make it applicable to South Carolina and Connecticut; make it applicable to my own State. We shall adopt it this winter anyhow in the State of Missouri; there is no doubt about that; but let us show our faith by our works and make it broad and universal, make it apply to every State in the Union. Then the South cannot regard it as a reflection upon their loyalty to the Union; they cannot regard it as an insult to them because it is taken by ourselves; it is received by us all.

But, Mr. President, even though we do not accept it for ourselves, I yet believe it is the true plan of reconstruction, and that we should proceed to the establishment of civil governments of some sort in the southern States; and if it becomes necessary to use the Army in order to prevent outbreaks against the authority of that civil government which we establish, I am willing to go to that extent. What else do you want? Is there anything else needed? Let us first establish civil government, and then let us declare that any opposition to that civil government that we establish there shall be suppressed by the military, and I will go to any extent necessary in the use of military power to put down opposition to the governments which we establish. That, in my judgment, is the proper way of reaching this thing, and I rose merely for the purpose of ascertaining how we stood.

Now, sir, the pending amendment proposes that this military government, when established, shall cease to exist whenever the southern people adopt the constitutional amendment and adopt negro suffrage. As I said, that is all there is in it, and I shall vote for the amendment, not that it accomplishes what I want to accomplish; but I shall vote for the amendment, and when the amendment is put on, that is all the bill. There is not a thing in it except that. That ceases to be effective that will not effectuate my desires on the subject, because if the southern people say, "Rather than adopt negro suffrage we will take military government," we have accomplished nothing; we have not reorganized, and still we go on, one half the Union governing themselves and the other half.

Mr. President, I desire soon to see reconstruction. I desire to see it upon a proper basis. I am willing to use civil power, and I want to use that first, because I have my fears of military power. It ought to be resorted to in times of peace as little as possible. Let us resort to the machinery of courts of justice

where the laws of the land are administered rather than to the mere dictates of a military commander, and then if the civil power ceases to be effectual in the protection of civil rights let us resort to the military. That is a last resort, the *dernier* resort. It is a resort never to be used until all other means of effecting justice among men shall have proved unavailing. I have said all I desire to say.

Mr. YATES. I do not understand the force of the argument of the Senator from Missouri, nor do I see the pertinency of his question. If we suppose that the power is in the hands of the President, that he being Commander-in-Chief of the Army can control all generals under his authority, does it follow that we may not impose upon him, as Commander-in-Chief of the Army and Navy, the obligation by law to do his duty? Suppose he shall appoint some generals who are disloyal; suppose he shall appoint all generals who are disloyal; suppose he shall not assist Congress at all in the execution of this law, in the protection of the loyal citizens of the South, does it follow that we shall not impose upon him the duty to give that protection?

Sir, I conceive it to be the duty of the Senator when, for the reason he has stated, he opposes this plan, the only plan that the committee has been able after long discussion and thorough investigation to decide upon, to give to the Senate a better plan. If you take the ground that the President of the United States is to exercise this authority, and that he is the only person to exercise it, how else are we to have protection in the South or anywhere unless we impose upon the Commander-in-Chief the duty of giving that protection? Is it a fact—the Senator will not deny it—that all over the South now the civil tribunals refuse and fail to give protection to the loyal citizens? And, sir, will you hesitate to say that the President of the United States, by virtue of the authority conferred upon him by the Constitution of the United States, shall give that protection under the law? If he fails to do it, then there is another question. He is not so supreme, his power is not so unrestricted and unlimited that he is not answerable for an abuse of the power or the privileges that have been conferred upon him. Is it a fact that murders and persecutions of loyal men prevail all over the South? Is it a fact that your civil courts fail and refuse to give protection, and that no convictions are found upon indictments when they are presented?

Mr. HENDERSON. I desire to ask the Senator, with his permission, if it is not the duty of the President now, through the Army of the United States, to give protection to the people of the South?

Mr. YATES. It is immaterial as to that question. If it is his duty he should do it. If he has not power under the law of Congress or under the laws of the United States to do it we should confer upon him that power.

Mr. HENDERSON. With the permission of the Senator, I should like to have him point me to the clause of this bill which requires the President to change his course of conduct in the southern States in any particular.

Mr. YATES. This bill requires the President to appoint these officers. It is entirely immaterial to the point which I am making whether the President has the power to say to the subordinate officer of General Grant that he shall not do what General Grant has commanded him to do. The Congress of the United States says that the President shall do his duty; he shall give this protection as Commander-in-Chief of the Army and Navy. If he fails to give it, then there is another question; then Congress still has the power in its own hands.

Mr. HENDERSON. With the permission of the Senator, because I am seeking light, I desire to ask him another question. I suppose the third section of the bill is the one to which he alludes:

That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of

person and property, to suppress insurrection, disorder, and violence, &c.

I desire to ask him this question: if he were a party in one of the courts in the State of Virginia, and he offered a negro as a witness in the case, and the court would not receive the testimony, would it be the duty of the officer in command to force the court to receive the testimony of the negro, and if the jury would not believe the testimony of the negro after it was given in, would it be the duty of the officer to compel the jury to believe it and return a verdict in accordance therewith?

Mr. YATES. I understand that this is an extraordinary proceeding; I understand that it is a summary proceeding which arises from the exigencies of the hour and of the day. I understand that protection is refused the loyal people of the South; and now I understand this bill to confer upon the President, or upon the officer who is appointed by the President, the extraordinary power, if in his judgment he shall deem it right and best and necessary to the protection of the citizen, to organize a military commission. The civil court refuses to perform its duty. Congress says if the civil court refuses to perform its duty then the officer in command shall organize a military commission, and that that commission shall give a fair trial and protection to the loyal citizens.

But, Mr. President, this is the military part of our plan of reconstruction. We must take it in connection with the other bill which is pending. We cannot control the President as Commander-in-Chief of the Army and Navy; but there is one thing we can do and do in the other bill; that is, we say that the President shall appoint no Governor, he shall appoint no officer who is not loyal to the Union, who has been engaged in the war against the Union, who will not take the test oath. Now, sir, take that bill in connection with this and the plan of the Committee on Reconstruction and we have the two bills giving the protection which is necessary.

I will say one word as to the amendment before I close my remarks. I hope that we shall be unanimous in favor of this amendment. It is not proper to refer to the other House, as has been stated, but I have no doubt that this amendment will give strength to this bill in the other House and everywhere. Why, sir, this amendment only says that when the South has done all that we require, when these rebel States have done all that we require of them, when they have adopted the constitutional amendment, when they have declared in favor of universal suffrage, when they have called constitutional conventions, and in their constitutions have declared in favor of universal suffrage, when Congress has ratified the proceedings of those constitutional conventions, when they have acceded to all the terms that we require, when they have done everything which we think is necessary, then this military rule shall cease. That is right, sir. When they are admitted as States into this Union, when they have State sovereignty, when they have all their courts in operation, when they are independent States, as independent as the State of New York or Illinois, then there should be no military protection and no military authorities in those States which we would not have in the free States.

Mr. WILLIAMS. I wish to say one word. I have been reproved, as it seems, by nearly every Senator who has spoken on the subject for an allusion to the other House. If I have violated any rule of the Senate, I hope I shall be excused on account of my inexperience; but it so happens that I have heard, I presume, more than twenty times during this session the same argument. No longer ago than yesterday the Senator from Iowa [Mr. GRIMES] argued against an amendment to a proposed bill which he had in charge, because to adopt the amendment would compel the bill to go back to the House, and the situation of affairs was such in the House that the bill would not be adopted. Nobody complained of that; but



simply because I have undertaken to say here that the business was so jammed together in the House that it would be difficult to pass this bill with amendments, honorable Senators are exceedingly excited, and think that I have violated the rules of the Senate. If I have, I hope to be excused.

Mr. President, I move that the Senate take a recess until seven o'clock, and I wish to say that I expect to proceed with this bill to-night until there is a final vote upon it.

Mr. GRIMES. It will be remembered that a few days ago the Senate ordered that this evening should be set aside for the prosecution of business relating to patents. The Senator from West Virginia, [Mr. WILLEY,] who is the chairman of that committee, is now absent, and I believe that the Senator from Indiana and myself are the only remnants of the committee on the floor. I do not want to interfere with this bill; and with the permission of the Senate, therefore, I will move that next Wednesday evening—

Mr. CONNESS. Oh, no; there will be time enough to fix an evening.

Mr. GRIMES. As the Senator from West Virginia is absent, I think it is due to him that he should have some day fixed, so that he shall stand exactly in the same position as he does now. If the Senator from Oregon will withdraw his motion I will say Wednesday or Thursday evening.

Mr. WILLIAMS. I withdraw it for that purpose.

Mr. GRIMES. Senators suggest Wednesday evening, and I will name that time.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) It is moved that Wednesday evening next at seven o'clock be assigned for the consideration of business from the Committee on Patents and the Patent Office.

Mr. VAN WINKLE. I expected that my colleague would have been here before the session of the Senate this morning, and it is entirely probable that he will be here before seven o'clock. He has gone out a distance on the railroad, and probably missed the morning train, and will take the afternoon train, which will bring him to the depot about six o'clock. It was not his intention when he left to be absent to-day.

Mr. DOOLITTLE. I am a little surprised at the announcement of the Senator from Oregon, that he expects to press this bill to a vote to-night. It is extraordinary that a bill of this kind, that proposes to establish a military despotism over eight million people and a country larger than England, France, and Spain combined, is to be pressed to a vote in this Senate the first day it is taken up for consideration. I say I am surprised that the Senator from Oregon should make an announcement like that. I for one have no purpose to delay a vote on this bill; but, sir, this bill must receive a fair and reasonable discussion, and gentlemen must have a fair and a reasonable time for that purpose.

Mr. SHERMAN. They shall have it.

Mr. DOOLITTLE. The Senator on my left says they shall have it. How can they have it if the Senator who has the bill in charge, on the very first day it is introduced here, undertakes to announce to the Senate, as by authority, and as having charge of the bill, that it will be pressed to a vote to-night?

Mr. SHERMAN. I have often heard that notice given.

Mr. DOOLITTLE. I know the Senator has heard the notice given often enough. I do not object, when a day or two or three days have been spent in the discussion of an important measure, if the Senator having charge of the bill announces that he intends to bring it to a vote. It is proper to bring a bill to a vote when it has had a reasonable discussion. But, sir, on this subject there are a good many gentlemen who desire to be heard, and they do not propose either to be compelled to be driven into this night, and the late hours of the night, in the discussion of such a measure. Sir, no such proposition has ever been made

before in a civilized nation for six hundred years; and gentlemen must understand that it is a measure upon which we cannot speak in a single moment and give utterance to all that we desire to say. We expect a full, free, open discussion of this great question before it comes to a vote in this body; for, though military despotism may be established from the other side of the Potomac to the Rio Grande it has not yet come this side of that river. We are not compelled for our freedom here, nor is the citizen compelled, if he applies for a *habeas corpus*, even to the Chief Justice of the United States to ask the permission of some little lieutenant, dressed in a uniform with a strap on his shoulder.

Mr. President, so far as this measure is concerned, I, for one, shall speak with that freedom and earnestness with which I always speak upon great measures. While I question not the sincerity of other men I shall give utterance to what I feel, to what I think, and, if I have the power, to all that abhorrence which I feel for this proposition, which, of itself, if it be carried out, is the death-knell of the Republic.

Mr. GRIMES. I believe the question now before the Senate is on setting aside Wednesday evening next for the Committee on Patents.

The PRESIDING OFFICER. The question is on assigning Wednesday evening next for the consideration of business from the Committee on Patents and the Patent Office.

The motion was agreed to.

Mr. WILLIAMS. I now move that the Senate take a recess till seven o'clock, for the purpose of finishing this bill.

Mr. HENDRICKS. I suppose that no unfairness is desired; I cannot presume that any Senator would wish to do a thing that is not fair and right. I wish to say something to the Senate on this bill. I would have been perfectly willing to do so this afternoon had I been well enough to do it and had I been prepared. But this bill has been printed only a day, and it was not very long before the House, so as to enable us to become very fully informed about it. Mr. President, if there was but one in this body opposed to it, it would be manly to give that one man an opportunity to express his views. If the measure will not bear argument, then let it be passed in the dark hours of the night. I think it is becoming, when despotism is established in this free land, that the best blood that ever ran in mortal veins was shed to make free, that that despotism shall be established when the sun does not shed its bright light upon the earth. It is a work for darkness and not for light.

I ask, simply as a member of this Senate, that I shall be allowed to address it upon this great question when the opportunity is fair and equal and right. If Senators say we shall come here and speak when Senators have refused to come at night-time because their health is endangered by it, I shall submit and will say what I can. I am not prepared to speak now upon it. I ask another day for the minority. However small that minority may be they ought to be heard. This question thus far has been discussed by the friends of the measure. The Senator from Nevada has occupied much of the time to-day; the Senator from Oregon has been heard; the Senator from Michigan has been heard; the Senator from Missouri has been heard. Not one man belonging to what is known as the minority here has been heard upon the bill at all. Are we, then, to come in the night-time to discuss this measure? I say it is not just; it is not right. I move that the Senate adjourn.

Mr. McDougall. Mr. President—

The PRESIDING OFFICER. The motion to adjourn is not debatable.

Mr. McDougall. I am aware of that. I only wish to correct a remark I think made inadvertently by the Senator from Indiana, and I ask him to withdraw his motion for a moment to enable me to do so.

Mr. HENDRICKS. Certainly; if the Senator wishes to make a remark I withdraw the motion.

Mr. McDougall. It is the right of every Senator to be heard upon every question that comes in this Hall. There is no previous question here; and it is against all past practice of the Senate to make compacts as to when a bill shall be disposed of, or even an affirmation as to when a debate shall be closed. Every Senator has a right to a proper hearing on this floor, and to a full hearing. So it has always been adjudged; and whatever may be announced by the Senator from Oregon, who is in charge of this bill, whatever may be suggested from other quarters, I think it my duty to discuss this important question. I shall demand it as a right that I shall be heard in the Senate. I came here as a Senator authorized to be heard upon all great pending questions, and that is the case with all other Senators here. I expect that this question will be discussed fully.

Now, as to the meeting to-night, I do not like to come to a night session, but still if it is desirable to urge on the argument to an early conclusion, I do not object to that; but I insist still that the discussion shall be perfectly unembarrassed by any understanding with regard to when the debate shall close.

Mr. HENDERSON. I do not see any necessity for all this excitement on the part of the Senator from Indiana. He says he is not well enough to speak to-night. If he expects to speak with more energy to-morrow, he certainly will be in better health than I ever knew him to be. He speaks earnestly and well this afternoon, and no doubt might proceed most elegantly now.

But he talks about establishing a despotism, and gets into a perfect fret about it. Why, sir, the southern States have presented nothing but a despotism for the last six years. During the rebel rule it was a despotism; the veriest despotism ever established upon earth; and since the rebel rule ceased the President of the United States certainly has governed the southern States without ever consulting Congress on the subject. If Congress has ever been consulted I am not aware of it. They have been governed. General Sickles set aside all the legislation of South Carolina; General Terry set aside a large portion of the legislation of Virginia; General Grant, if I am not very much mistaken, issued orders here to control the civil rights of citizens in the several States, and I heard no complaint about it. I believe I made some complaint here about twelve months ago; but I think, so far as the gentlemen of the Democratic party are concerned, they never raised a voice against this despotism. I have heard nothing about it.

Now, so far as this measure is concerned, I for one desire that these Senators should be heard; and inasmuch as we have no previous question, inasmuch as we cannot cut off debate, I can assure the Senator from Indiana that he shall be heard; and if he shall be too sick to-morrow, I for one shall give him an opportunity on Monday, if I can.

Mr. WILLIAMS. I move that the Senate take a recess until seven o'clock.

Mr. HENDRICKS. I move that the Senate do now adjourn.

The motion to adjourn was not agreed to.

The PRESIDING OFFICER. The question now is on the motion that the Senate take a recess until seven o'clock.

The motion was agreed to; and the Senate accordingly, at sixteen minutes to five o'clock, took a recess until seven o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented a memorial of employers and operatives engaged in the manufacture of hardware, praying the removal of the five per cent. internal revenue tax on manufactures; which was referred to the Committee on Finance.

He also presented a petition of Louis F.

Whitney, late captain independent company United States volunteers, and W. H. Ortora, first lieutenant and late captain independent company United States volunteers, praying compensation for their services from the date of their commissions to the date of their discharge; which was referred to the Committee on Claims.

Mr. LANE presented the memorial of David D. Porter, rear admiral United States Navy, praying that relief may be granted to the widow and children of the late D. P. Heap, paymaster United States Army, who died from disease contracted in the service; which was referred to the Committee on Pensions.

#### HOUSE BILLS REFERRED.

The joint resolution (H. R. No. 281) for the relief of Thomas W. Fry, jr., late captain and acting quartermaster, Alton, Illinois; the bill (H. R. No. 1168) for the relief of Mrs. Elizabeth F. Chipman, widow of Major Charles Chipman, deceased; the joint resolution (H. R. No. 254) for the relief of Almonson Eaton, receiver of public money at the land office at Stevens's Point, Wisconsin; and the joint resolution (H. R. No. 282) for the relief of James J. Hudnall, were read twice by their titles, and referred to the Committee on Claims.

The bill (H. R. No. 1078) to amend section two, chapter one hundred and twenty-nine of public acts of 1849; and the bill (H. R. No. 1170) for the relief of Colonel L. C. Houck, of Tennessee, were read twice by their titles, and referred to the Committee on Military Affairs and the Militia.

#### BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 607) to arch Tiber creek north of Pennsylvania avenue; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 178) to facilitate the settlement of accounts of disbursing officers; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILSON also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 608) proposing conditions upon which the States lately in rebellion may resume their practical relations to the Government of the United States; which was read twice by its title, ordered to lie on the table, and be printed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the following bill and joint resolution of the Senate:

A bill (S. No. 506) to authorize the trustees of the Foundry Methodist Episcopal Church to sell square No. 235 in the city of Washington; and

A joint resolution (S. R. No. 163) to provide in certain cases for the removal of alcohol from bonded warehouse free from internal tax.

The message also announced that the House had agreed to the amendments of the Senate to the following bills of the House:

A bill (H. R. No. 251) to extend the time for codifying the laws relating to customs, authorized by the joint resolution approved July 26, 1866;

A bill (H. R. No. 431) providing for the punishment of certain crimes therein named in the District of Columbia, and for other purposes;

A bill (H. R. No. 571) to regulate proceedings before justices of the peace in the District of Columbia, and for other purposes;

A bill (H. R. No. 643) to alter the places for holding the circuit courts of the United States for the Rhode Island district;

A bill (H. R. No. 788) to establish and to protect national cemeteries.

A bill (H. R. No. 848) to amend an act entitled "An act to incorporate the National Soldiers' and Sailors' Orphan Home," approved July 25, 1866;

A bill (H. R. No. 907) to amend the law of the District of Columbia in relation to judicial proceedings therein;

A bill (H. R. No. 1144) for the relief of John Gray, a revolutionary soldier;

A bill (H. R. No. 1053) granting an increased pension to John J. Sohan; and

A bill (H. R. No. 1058) for the relief of the minor children of Solomon Long.

The message further announced that the House had passed a bill (H. R. No. 836) to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendments of the Senate to the amendments of the House to the joint resolution of the Senate (S. R. No. 99) for the relief of Paul A. Forbes, under his contract with the Navy Department for building and furnishing the steam-screw sloop-of-war Idaho.

The message also announced that the House had disagreed to the amendments of the Senate to the bill of the House (H. R. No. 598) to establish a uniform system of bankruptcy throughout the United States.

The message further announced that the House had disagreed to the amendments of the Senate to the bill of the House (H. R. No. 356) fixing the compensation for the bailiffs and criers of the District of Columbia, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. MAYNARD, of Tennessee, Mr. J. F. FARNSWORTH, of Illinois, and Mr. F. C. LE BLOND, of Ohio, managers at the same on its part.

The message further announced that the House had agreed to the amendments of the Senate to the amendment of the House to the joint resolution of the Senate No. 90, to suspend temporarily the collection of the direct tax within the State of West Virginia, except the amendment of the Senate which strikes out the sixth section of the amendment of the House, asked a conference on the disagreeing vote of the two Houses thereon, and had appointed Mr. W. B. ALLISON, of Iowa, Mr. J. A. GARNFIELD, of Ohio, and Mr. JOHN HOGAN, of Missouri, managers at the same on its part.

#### ENROLLED JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. R. No. 146) for the relief of Charles Clark, marshal of the United States for the district of Maine; and it was signed by the President *pro tempore*.

#### GOVERNMENT OF SOUTHERN STATES.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of House bill No. 1143.

Mr. HENDRICKS. I do not believe there is a quorum present.

The question being taken, there were, on a division—ayes 9, noes 5; no quorum voting.

Mr. GRIMES. Is it in order to move a call of the Senate?

The PRESIDENT *pro tempore*. It is in order to move that the Sergeant-at-Arms be directed to request the attendance of Senators.

Mr. GRIMES. I make that motion.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa, that the Sergeant-at-Arms be directed to request the attendance of absent Senators.

The motion was agreed to; there being, on a division—ayes 14, noes 2.

The Sergeant-at-Arms (at twelve minutes past seven o'clock) was furnished with a list of absentees, and directed by the President *pro tempore* to wait upon the absent Senators and request their attendance.

Mr. WILLIAMS, (at twenty minutes past seven.) I now renew my motion to proceed to the consideration of House bill No. 1143.

The PRESIDENT *pro tempore*. Until it is ascertained that a quorum is present the Chair cannot entertain any motion except to adjourn or to direct the Sergeant-at-Arms to request the attendance of absent Senators.

Mr. NESMITH. I move that the Senate adjourn.

Mr. CONNESS. On that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 3, nays 28; as follows:

YEAS—Messrs. Davis, McDougall, and Nesmith—3.

NAYS—Messrs. Anthony, Brown, Chandler, Conness, Cragin, Dixon, Fessenden, Foster, Fowler, Frelinghuysen, Grimes, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Poland, Ramsey, Sprague, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, and Wilson—28.

ABSENT—Messrs. Buckalew, Cattell, Cowan, Creswell, Doolittle, Edmunds, Fogg, Guthrie, Harris, Hendricks, Johnson, Norton, Nye, Patterson, Pomeroy, Riddle, Ross, Saulsbury, Sherman, Sumner, and Yates—21.

So the Senate refused to adjourn.

The PRESIDENT *pro tempore*. This vote discloses the presence of a quorum, and the Chair will put the question on the motion of the Senator from Oregon.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States.

The PRESIDENT *pro tempore*. The question is on the amendment moved by the Senator from Massachusetts [Mr. WILSON] to the amendment of the Senator from Maryland, [Mr. JOHNSON.]

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Maryland.

Mr. HENDRICKS. I desire to offer an amendment to the amendment. After the word "be," in line eight, I move to insert the word "impartially," and in the same line to strike out the word "all." The effect of this amendment will be to provide for impartial, instead of universal suffrage. As the original amendment now reads, I suppose it would not allow the States to limit suffrage, and I think that would hardly be the purpose of the mover of the amendment. It requires that by their constitutions the elective franchise shall be enjoyed by all male citizens. Hardly anybody, I think, is desirous of voting for that. The amendment which I propose will provide for impartial suffrage to male citizens.

Mr. SAULSBURY. Mr. President, I find myself in a somewhat awkward position in reference to this amendment. So utterly am I opposed to this bill, and so confident am I that if it be placed in any shape or form it cannot command my vote or the vote of any person in this country entertaining similar views to myself, that I cannot allow myself to vote for any of the proposed amendments to it. It matters but little to me, and it will matter but little to the people of the South and to the people of this country, if State governments are subverted there, if constitutional liberty is struck down, whether there be impartial suffrage or manhood suffrage. The passage of this bill, if it shall become an act either by the signature of the President or by the vote of Congress over a veto, is in my judgment, as we heard this afternoon, the death-knell, not only of the Republic, but of civil and constitutional liberty in this country. I cannot touch it in any shape, form, or fashion, or have anything to do with trying to amend it; but if it be the determination of those who exercise political power in this country to put a final end forever to constitutional liberty, and all hope of constitutional liberty in this land, let the dose be as poisonous as possible. I would not have the pill coated.

Mr. DAVIS. I am certainly as much opposed to this bill as the honorable Senator from Delaware, but I shall not hesitate one instant in voting for this amendment; and I must admit that it is a matter of surprise to me that my able and true friend cannot get his own consent to vote for such an amendment as this. Certainly if there is a choice between evils at all, that between impartial and univer-

sal suffrage, in favor of the former, is to my mind so palpable that I cannot understand upon what principle or reason my honorable friend refuses to vote for it.

Mr. SAULSBURY. The honorable Senator from Kentucky will excuse me; but he does not look at this in the same light that I do. I cannot touch, taste, or handle the unclean thing.

Mr. DAVIS. I should greatly prefer to touch, taste, or handle a little unclean thing than a great big one. [Laughter.]

Mr. SAULSBURY. Well, Mr. President, I have a hope, perhaps, which the honorable Senator has not. In my judgment there is not a single provision in this bill that is constitutional and will stand the test in any court of justice, unless you may call that a court of justice which is determined to violate the Constitution and to outrage the civil rights of the people; and if the question must come before the courts, let it be presented in as odious a form as possible.

What, sir, are we doing? I shall not now enter into a discussion of this question, though I intend to do so before the bill is finally passed; but what do we hear here? The agent reconstructing the principal! What is the Federal Government? A mere agent created by the States of this Union with no particle of original inherent sovereignty about it. And that Federal Government, established by a written Constitution defining its powers, a Government simply of delegated powers, now assumes in the face of the people of this country, and in the eyes of the world, to undertake to reconstruct its creator! How did the Federal Government have an existence? It was because the people of the thirteen original States, acting separately for themselves, chose to establish this Federal Government with certain specified and limited powers. And I cannot bring myself to the conclusion that, in the lines of the history of the formation of the Constitution, in defiance of all the teachings of the fathers, and in contravention of every principle of adjudicated constitutional law, any court will ever hold this bill to be constitutional or worth the paper that it is written on; and let it not be supposed that outraged rights will not seek the peaceable redress of the courts of law to test the constitutionality of this measure. In my judgment—I know able men for whose judgment I have respect differ from me—this bill is wholly unwarranted by the Constitution of the country, and for that reason I do not feel that awful dread of its passage which under other circumstances I should. But, sir, I do not wish to touch it as I said before; I will have nothing to do with it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana to the amendment of the Senator from Maryland.

Mr. DOOLITTLE. I should like to know of the Senator from Indiana what the effect of the amendment will be.

Mr. HENDRICKS. The effect of my amendment will be to provide for impartial suffrage instead of the present provision in the original amendment, which is that all male citizens shall be allowed to exercise the elective franchise, taking away from the State the power to disfranchise anybody except for rebellion or felony.

Mr. DOOLITTLE. I sincerely hope that amendment will be adopted, and if the bill is to pass I attach very great importance to it, so far as the effect which it is likely to produce in the States of the South is concerned. My opinion is, from all the information which I have been able to obtain, that if the reconstruction of the States of the South could take place upon the basis of what is called impartial suffrage, that is to say, upon such qualifications as should apply alike to all classes and colors, the people of the South would in good faith undertake the work with a view to change their constitutions and laws in such a way as to produce that result. But if it be insisted as a condition precedent that they shall adopt universal

suffrage, I believe the people of the South will refuse to do anything under the provision, and would prefer to live under a military government.

Mr. President, it is hardly possible for gentlemen who reside in the free States of the North to conceive the great difference which exists between the mass of the colored people of the South and the colored people of the northern States. We all know it is the more enterprising of the colored men who have gone from the South to the North, generally those who have been educated in hotels, in steamboats, and in families, who have mingled with freemen and have been freemen themselves for a long time, have families, support themselves, provide for themselves, and are educated in the habits and thoughts and feelings and responsibilities of freemen. The colored men of Massachusetts, New York, and Wisconsin are of a class as compared with the mass of the colored men of the South very greatly their superiors. The proposition from any statesman that the mass of the colored people of the South who have just been released from bondage on the plantations should hold the elective franchise and determine the interests of the States and the nation, is to me unaccountable.

I believe that if an amendment is put upon the bill which requires as a condition precedent to getting rid of military governments, that the people of the South shall accept universal suffrage, in the lower States where the majority of the population are negroes, as is the case in some of them, they will refuse it altogether and prefer living under the government of those who carry the sword. Sir, it is a dangerous experiment to undertake to govern any people for any length of time by the sword. You accustom them, in all their habits, to look not to civil law for their rights, but to look to the word of a man who is an absolute despot, who hears and decides without trial, upon impulse, from caprice, from whose decision there is no appeal. To educate a people for years under such a system is absolutely to destroy republican government, and the very foundations of republican government, for they cannot exist where a people is educated to despotism.

Now, Mr. President, I hope the gentlemen who are in the majority in this Senate, who of course control this matter as they please, will seriously weigh this question, because upon it may depend whether the people of the South will accept your constitutional amendment and accept the proposition which is necessary to get rid of military domination.

Mr. WILSON. Make them.

Mr. DOOLITTLE. My friend says make them accept it. Mr. President, I ask the Senator from Massachusetts if that is the true language of a statesman, to say to a people who, like ourselves, have been educated in the largest liberty, a people in whose veins the Anglo-Saxon blood is flowing, which for a thousand years has been fighting against despotism in every form, "You must accept this position at the point of the bayonet or forever live with the bayonet at your throats?" Is that the way to make peace? Disfranchise the whites and put the rule in these States into the hands of the blacks and hold the whites in subjection at the point of the bayonet, is that what you call making peace? Is that organizing a civil government which is to educate the people up to a republican form of government?

But, Mr. President, the suggestion made by the honorable Senator has drawn me aside from the argument which I was pursuing, and I was presenting it rather in the nature of an appeal to the gentlemen who control this majority, and who as it would seem are determined to pass this bill in some shape. If it is to be passed, let it come in such a shape that the people of the South will accept it. Why make it impracticable? Why put it in such a position that they cannot and will not accept it, and then make their non-acceptance of it an excuse for holding them under military domination?

But, sir, I do not care to go into the discussion of this bill at the present time. Before it is disposed of, with the leave of the Senate, I will express my views upon the general subject; and in connection with that, in order that I may not trespass more upon the time of the Senate than I ought, it is my purpose also to speak on a matter which concerns myself personally with reference to the resolutions which have been laid on your table from the Legislature of the State of Wisconsin.

Mr. WILSON. That is not in order.

Mr. DOOLITTLE. On this bill the Senator from Massachusetts remarks that such an address on my part would not be in order. Mr. President, it is precisely in order, as I shall show to the honorable Senator, for it is on the very questions now pending that the war on me began, and therefore these very questions which are culminating in the bills now before the Senate are the questions upon which I have been instructed to resign. They are the same questions, and as I said, for the purpose of not trespassing upon the Senate on more than one occasion in the discussion of the same subject-matter, I will, before the bill passes, take an opportunity to speak upon that matter to-morrow.

Mr. WILSON. I made a side remark which the Senator from Wisconsin has chosen to comment upon before the Senate. He asked if the remark made be statesmanship. I wish to say to the Senator that I think it is statesmanship to settle this question of reconstruction upon the solid basis of the perfect equality of rights and privileges among citizens of the United States. Colored men are citizens, and they have just as much right as this race whose blood has been fighting against oppression for a thousand years, as he says, and any settlement of this civil war upon any other basis than perfect equality of rights and privileges among citizens of the United States is not statesmanship; it is mere trifling; only keeping open questions for future controversy. Nothing is settled unless it is settled upon the basis of justice.

Mr. DOOLITTLE. I ask the honorable Senator if this amendment does not put whites and blacks upon the same ground precisely, so that whatever qualification is required of one shall be required of the other. Is there any inequality in that?

Mr. WILSON. We prepared a constitutional amendment, and we have submitted it to the country. I think that amendment is often unvalued. I believe its adoption as a part of the Constitution of the United States would settle all these questions in ninety days. They have refused it. Now, sir, I would require them to adopt it, to adopt manhood suffrage, and to give equality of rights and privileges to all citizens, without distinction of color. We have the power to do it; we have the right to do it on account of their rebellion; and I would exercise the power and the right, and I believe that to be for their interest and for the interest of the whole country. Impartial suffrage means nothing more nor less than the exclusion of nearly all the colored persons from the polls. That is plain and palpable. The only opportunity of these men is to establish universal suffrage on the basis of manhood.

The civil rights bill passed in the spring of 1866. I have a partial list of outrages and murders perpetrated in the rebel States since the passage of that act, officially reported. All admit that the cases officially reported make but a small portion of the outrages or murders committed. From April to December, in Virginia, 18 murders and 105 burglaries in one county alone; in North Carolina, 15 murders of freedmen were committed and 86 outrages; some of the number were assaults with intent to kill; in South Carolina, 29 murders and 64 outrages; in Georgia, 79 murders; in Mississippi, 84 murders; in Kentucky, 19 murders; in Texas, 74 murders, and 10 mortally wounded. Since the passage of the civil rights law 375 murders of freedmen have been committed in the rebel States, and 536 outrages;



these outrages and murders were officially reported, and the victims of the Memphis riot and the New Orleans massacre are not included.

This official list of murders and outrages in Texas since the passage of the civil rights act is an illustration of the murders and outrages

in the rebel States. Let it be remembered that these are but a small part of the crimes perpetrated:

## STATE OF TEXAS.

Date.	Name and Description of Victim.	Locality.	Nature of Outrage.	Remarks.
1866. April.	One freedman, Green Taylor.	Washington county.	Murdered.	By James Hall, who was tried by military commission and acquitted.
	One freedman, Joe Mayfield.	Washington county.	Murdered.	By William Benton, who was tried by military commission and acquitted.
	One freedwoman, Maria Mayfield.	Washington county.	Murdered.	By William Benton, who was tried by military commission and acquitted.
	One freedman, Milton.	De Witt county.	Murdered.	By parties unknown. No action by the civil authorities reported.
	One freedman, name unknown.	Liberty county.	Murdered.	By parties unknown. No action by the civil authorities reported.
May.	One freedman, Harry Jones.	Fayette county.	Murdered.	By R. A. Jones, for interfering while Jones was whipping the freedman's wife. No action.
	One freedman, Godfrey Robinson.	Fayette county.	Murdered.	By parties unknown, while out herding sheep. Shot through body, and head cut off.
	One freedman, Harvey Milligan.	Austin county.	Murdered.	By A. M. Clay. Murderer tried and convicted by military commission.
	One freedman, name unknown.	Austin county.	Murdered.	By B. B. Lee. Murderer tried and convicted by military commission.
	One freedman, Luke Woodward.	Austin county.	Murdered.	By parties unknown. No action reported as having been taken by civil authorities.
	One freedman, Jerry Roberts.	Harris county.	Murdered.	By Buck Chandler and L. Bates. No action reported as having been taken by the civil authorities.
	One freedman, William Wright.	Victoria county.	Murdered.	By unknown white man. No action reported as having been taken by the civil authorities.
	One freedman, John.	Refugio county.	Murdered.	By Daniel Dougherty. No action reported as having been taken by the civil authorities.
	One freedman, James Jordan.	Refugio county.	Murdered.	By parties unknown. Shot while carrying a letter to the bureau agent at Victoria.
	One freedman, name unknown.	Fort Bend county.	Murdered.	By William S. Collins. Particulars unknown. No action by the civil authorities reported.
June.	One freedman, Leonard Gee.	Washington county.	Murdered.	Found tied and murdered. No action by the civil authorities reported.
	One freedman, Peter Higgins.	Harris county.	Murdered.	Called out of his house at night and shot. No action by the civil authorities reported.
	One freedman, Butler.	Calhoun county.	Murdered.	Wanton and unprovoked murder. No action by the civil authorities reported.
	One freedman, Martin Cromwell.	Victoria county.	Murdered.	By Alexander Cromwell. No action by the civil authorities reported.
	One freedman, C. W. Brown.	Liberty county.	Shot through the body.	Reported by Captain Frank Holsinger. No action by the civil authorities reported.
	Two freedmen, names not stated.	Liberty.	Murdered.	By a white man. No action by the civil authorities reported.
	Three freedmen, names not stated.	Bastrop county.	Murdered.	Called to his door at night and shot by parties unknown. No action reported.
	One freedman, Jacob Stone.	Grayson county.	Murdered.	By C. J. Bennett, who escaped. No action by the civil authorities reported.
July.	One freedman, name unknown.	Robertson county.	Murdered.	Shot for not "raising his hat." No action by the civil authorities reported.
	Two freedmen, father and son.	Robertson county.	Murdered.	By William Tate, who escaped. No action by the civil authorities reported.
	One freedman, Isaac Hedrick.	Washington county.	Murdered.	By William Fields, who escaped. No action by the civil authorities reported.
	One freedman, McCovers.	Lamar county.	Murdered.	By Cook Jones, who escaped. No action by the civil authorities reported.
	One freedman, Gabo.	Titus county.	Murdered.	Unknown organized party. No action by the civil authorities reported.
	One freedman, Ben.	Washington county.	Murdered.	By W. James. No cause. No action by the civil authorities reported.
August.	One freedman, L. Holmes.	Brazoria county.	Murdered.	By William Plaugh. No cause. No action by the civil authorities reported.
	One freedwoman, name unknown.	Tarrant county.	Murdered.	Taken from her house with another freedwoman: both raped—this one murdered.
	One freedman, J. Webb.	Grayson county.	Murdered.	By J. B. Hills and others, for "horse-stealing." No action by the civil authorities reported.
September.	One freedman, T. Hargus.	Calhoun county.	Murdered.	By H. Taylor and J. Clark. No action by the civil authorities reported.
	One freedman, Seaton.	Barleson county.	Murdered.	Found murdered, by parties unknown. No action by civil authorities.
	One freedman, William.	Fort Bend county.	Murdered.	By an armed party at night, who took him from the custody of the civil authorities.
	One freedman, Jack Sheppard.	Fort Bend county.	Murdered.	By G. C. Harrison, who was arrested and put under \$5,000 bonds by J. C. De Gress, provost marshal.
	One freedman, Washington.	Washington county.	Murdered.	By one Murray, in cold blood. No action by civil authorities reported.
	One freedman, M. White.	Grayson county.	Murdered.	Shot while running away from a white man, who wanted to rob him.
	One freedman, Jack Thomas.	Grayson county.	Murdered.	Called up at a late hour and shot by parties unknown. No action reported as having been taken by the State civil authorities for the arrest of the guilty.
	One freedman, J. Douglas.	Grayson county.	Murdered.	By two desperadoes, who said they wanted to thin out the niggers a little.
	Three freedmen, names unknown.	Fannin county.	Murdered.	By two white men, who wanted his horse. No action by civil authorities.
	One freedman, name unknown.	Grayson county.	Murdered.	By a party, who then robbed and burned his house. No action by civil authorities.
	One freedman, Bill.	Fannin county.	Murdered.	Found dead. Had been before threatened for making complaint to the bureau agent.
October.	Two freedmen, names unknown.	Gaudalupe county.	Murdered.	By a gang of armed white men. The grand jury dare not indict the criminals.
November.	One freedman, S. Alexander.	Near Marshall county.	Highway robbery.	For calling a young man "Thomas," instead of "Master Thomas."
December.	One freedman, name unknown.	Prairie Lea.	Publicly whipped.	No action reported as having been taken by the civil authorities.
	One freedman, name unknown.	Prairie Lea.	Shot and severely wounded.	By a white man named Aaron Boyce. No action taken by civil authorities.
	One freedman, E. Parson.	Austin.	Shot and severely wounded.	By a white man, who was held for trial by a justice of the peace at the instance of the bureau.
	One freedman, colored preacher.	Near Houston.	Shot and dangerously wounded.	And robbed by a party of white men. No action by civil authorities reported.
	One freedman, Nat. Henlin.	Near Austin.	Shot and severely wounded.	Found dead, backed, gagged and shot. Employer of freedmen suspected. General Gregory, assistant commissioner, in his report of June 18, 1866, says: "Before the civil authorities of Texas, where a negro is the victim, acquittal follows murder as a matter of course."
	One freedman, name not stated.	Near Houston.	Murdered.	

## ARKANSAS.

General J. W. Sprague, assistant commissioner, in forwarding this report, says:

"In some parts of the State, (Arkansas,) particularly in the southeast and southwest, freedmen's lives are threatened if they report their wrongs to the agent of the bureau, and in many instances the persons making reports are missed and never heard of after. I believe the murders herein reported do not embrace one half the number that have been committed during the time mentioned. These murders as reported to me, would, in any but a southern State, be regarded and punished as 'murder in the first degree.' I do not know of a single instance where the guilty parties are in prison or have been punished."

General Ord has recently stated that the freedmen and Union men were outraged and murdered, and that the civil authorities yield no protection.

General Sheridan, commanding the department of the Gulf, reports that—

"Homicides are frequent in some localities. The trial of a white man for the killing of a freedman can, in the existing condition of society in this State, be considered nothing more nor less than a mere farce."

I hope Senators will not forget this declaration of this brilliant soldier, whose name is dear to the country.

Mr. BUCKALEW. The Senator from Maryland, who offered this amendment, is not present, or I suppose he would modify it. As it is drawn it has a much more expansive operation, I dare say, than was intended by him. The language appears to me, inadvertently no doubt, drawn so as to comprise every male person above the age of twenty-one years, with the exceptions specifically mentioned in the latter part of the section. There was, doubtless, no intention to exclude qualifications relating to taxability, such as we have in the Commonwealth of Pennsylvania, and more particularly provisions relating to residence, requiring persons to reside within the State and within the election district a certain length of time, as a guarantee against the enormous frauds with which our elections would be deluged without some such provision. I presume it was not intended to exclude provisions of that character, which would undoubtedly, if adopted by any State, exclude large numbers of persons directly and clearly included within the language of this amendment: "The elective franchise shall be enjoyed"—the expression is absolute—"by all male citizens of the United States." And afterward it mentions the discrimination of race or color, and mentions the exceptions from its operation, to wit: rebels who have been engaged in the war against us, or persons who have committed felony at the common law. There are good many electoral provisions which exclude other persons, and very properly. I have mentioned the most striking one—the qualification of residence, which is everywhere indispensable to protect elections against fraud. Sir, before this amendment is voted upon its language ought to undergo some revision. Surely these results were never intended, and I presume if the Senator from Maryland were present, on his attention being called to these points, he would at once modify his proposition.

Mr. McDUGALL. Mr. President, I agree with the propriety of the amendment of the Senator from Indiana, without, however, agreeing to the original amendment, which, as it stands, includes all citizens of the United States twenty-one years of age and over, with the exceptions named. I would ask the Senator from Massachusetts if he thinks it wise or prudent that we should have sixty thousand Chinese voters in the State of California? Such a provision, in the shape which is now offered, would force upon us sixty thousand Chinese votes, who come here to California, hired by companies, to make no real home here in point of fact, and whose bones are carried home to China, they not being willing to be buried in our land.

Mr. SHERMAN. They are not citizens.

Mr. McDUGALL. They are within the rule of the law. If the railroad is completed across this continent, and ready and rapid

communication had with China, we may have as many Chinamen and Malays and East Indians in California as we have of our own race. Now the Chinese race are far less homogeneous with us than the African race. They have not a bit of sentiment, of feeling, in common with us. They come here simply to make what they can, and return to their own homes, and if they die here their bones are carried home.

Carrying out the principle advanced by the Senator from Massachusetts, the law would make them electors, would give them the privilege of the elective franchise throughout this country. A more demoralized people, a people of less moral principle is not known on the face of the globe. Their oath cannot be taken in court without many ceremonies. Falsehood they hold to be their right; and it is their common practice in their own courts, unless held by some strict and very stringent law. What is true of the Chinaman, the Malayan, the East Indian, is true of the field-hands of Mississippi and South Carolina and Alabama, who are as ignorant, as low as when they were taken slaves by the King of Dahomey and sold upon the Guinea coast. And this is to make them a part and parcel of this Government, to take part in the reestablishment of our institutions. Out of the four million negroes I suppose you might possibly get five hundred thousand voters, three or four hundred of whom, in the cotton and sugar-planting States, might have intelligence enough to exercise the elective franchise. The rest of them are but savages; docile savages, because they are held in subjection by the exercise of superior forces.

It is for these reasons that I cannot support this amendment. It seems to me that gentlemen urging this policy must be ignorant of the character of the population in the planting States. I do not speak of the border States, nor of the colored population in the northern States, but I speak of the great body of this population in the planting States, the field-hands. They have no families, they have no education, they have no information. They have not the first idea of liberty except escape from labor, not knowing that labor is one of the first laws. In forcing such a policy on the South we are forcing them again into a local rebellion, for can you suppose that the intelligent population of the South can submit to be ruled and governed by that class of men? It is impossible; it is not in the nature of things.

But, says the Senator from Massachusetts, we will impose these measures upon them and force them to accept them. Sir, there is no such thing as force in the moral law except the force that comes from moral conviction, and that conviction does not exist among the intelligent classes at the South on this point. You may use the force of the bayonet, but I think that has been employed about sufficiently for the next decade. This application of force, as suggested by the Senator, the force of legislation, will be very much like the law whereby we undertook to extinguish the crime of polygamy in Utah Territory several years ago. It passed the Senate with only two dissenting voices, my then colleague's and my own, because we said it was all nonsense; the law had no power and could have no influence. The truth is that if the colored population of the South do not yield a willing subservience, as I think they will, to those who have employed them and who have previously owned them, they will come in direct hostile conflict, and they will go out as have the red men from the forest and the mountain.

Eighteen years ago in a beautiful valley of my own State inhabited three or four tribes of Indians, half Christianized, quiet, and they cultivated the land; not at war with us, not in collision with us; but still, as we advanced upon them, and they came in contact with us, they wasted away like the snow before the sun, and in ten years of all those twenty-five thousand there were not twenty-five left. If the races in the South be antagonized in this manner, by placing them on this level of equality, so that they shall take part in the Government,

the inferior as against the white race, will waste away in the same manner.

I have been always in favor of the freedom of the negro; I am in favor of it now; I am in favor of his enjoying all civil rights; but we have already sufficiently demoralized the elective franchise in this country. It would be probably safer and better for us and our institutions would be better founded if there had been a little more care about the distribution of the elective franchise. To extend it now to large masses of those known to be altogether ignorant, altogether unfit for participation in government, seems to me to be an outrage upon our civilization and an outrage upon the very idea of our institutions.

I have not been able to conceive of any reason why such a policy should be advocated, except it be that those who are advocating their right to the elective franchise do not know the people of whom they speak. I know the Senator from Massachusetts may find intelligent colored men in Boston and throughout Massachusetts, who can probably as well exercise the elective franchise as many of the white population, and that may be said truly of many in the States of the North and in some of the border States. I do not question that; but that is not the proposition now pending. It is to introduce the whole of the late slave population of the South, uneducated, uninformed, to force them into the rights of citizenship and the right to exercise the elective franchise. The result will be this: they will be taken by the persons who employ them and on whom they are dependant and carried by the hundred and voted at the will of their employers; or if they fail to do so they will come to grief. That will be the result of the present condition of things; a result that should be avoided. Now, suppose you carry out the same principle in California: you introduce the Chinamen, a population that may accumulate with great rapidity. The people of the Pacific coast will not consent to it, will not submit to it, and it will lead to violence and perhaps what may be called local revolution. The principle of this amendment invites all these things, and it is a dangerous system at the present time. Such a thing may be introduced in the course of years, but at the present time it is not only mischievous but dangerous. Therefore, while I would support the amendment of the Senator from Indiana, I altogether oppose the amendment of the Senator from Maryland.

Mr. LANE. I shall vote for this amendment, believing that it is necessary to make a perfect system for the restoration of the lately rebellious States.

Mr. CONNESS. Let me ask the Senator what amendment he means—the amendment to the amendment now pending?

Mr. LANE. The amendment proposed by the honorable Senator from Oregon, from the Pacific slope. I shall vote for that amendment with great pleasure.

Mr. SUMNER. Do I understand that that is proposed by the Senator from Oregon? I thought it came from the Senator from Maryland on the Democratic side of the House.

Mr. LANE. I see Mr. WILLIAMS's name to it as it is printed on my table.

Mr. SUMNER. He has not moved it, as I understand.

Mr. JOHNSON. He did move it yesterday.

Mr. SUMNER. It is moved by the Senator from Maryland, I understand.

Mr. LANE. Well, Mr. WILLIAMS's name is on the printed amendment in my hand, anyhow.

Mr. SUMNER. I rather think he has thought better of it since.

Mr. LANE. Either indorsement is quite sufficient for my purpose. I shall vote for it no matter who introduced it. The bill which has been passed by the House of Representatives contemplates one object, a very urgent, and a very important object; the amendment contemplates another; both are necessary, in my opinion, to make any perfect system of restoration in the rebel States.

The bill as it passed the House of Representatives contemplates the establishment of five military districts in the insurrectionary States, over each of which an officer not below the rank of a brigadier general shall be appointed to command for the purpose of securing the rights of persons and property to the citizens of those States. So far, I think, it is perfectly right and proper. I believe that the Congress of the United States alone has a right to deal with this question of reconstruction, to fix the condition of the States and the terms upon which they shall be admitted to representation, and I think the provisions of this bill are admirably calculated to secure this purpose. The great object is to secure the loyal people in their rights; but it is essentially and to all intents and purposes a military government, a police regulation, now necessary in order to protect loyal people, black and white. Hence I shall vote for the bill. But the amendment proposes another and entirely different thing, and that is that at some time military government shall cease and civil government shall be established upon terms, as I conceive, perfectly safe and secure to the loyal people there and everywhere, and guaranteeing the universal rights of all men under the amendment.

I shall oppose the amendment of my distinguished colleague from Indiana to substitute impartial suffrage for universal suffrage and for this reason: the term "impartial suffrage" is calculated to mislead and to deceive. Real impartial suffrage would be that no test or no condition should be applied to the exercise of suffrage by the colored man that was not applied to its exercise by the white man. Although the word "impartial" is used, it will be exceedingly oppressive and unjust in its operation practically. Take the test of education; the negro has not been permitted to be educated; you will not permit him to vote, because he cannot read, and you have made it a felony to teach him to read; therefore impartial suffrage would operate in favor of the rebel citizen and against the negro. Take a property qualification and the result would be the same.

Mr. BROWN. I would suggest to the Senator as another illustration of what may be done under impartial suffrage: they might declare that nobody except those who had served in the rebel army should vote, and that would be impartial suffrage.

Mr. LANE. I am opposed to that. I look upon this term "impartial suffrage" as producing nothing but evil and that continually. I stand now for the reconstruction of the southern States upon universal manhood suffrage, the fatherhood of God over us all, and the brotherhood of universal humanity; and no other principle will ever restore the southern States with safety and security to the people of the United States. I am against all such tests as property or education or any aristocratic exclusion of the colored man. We stand now upon the broad platform of universal rights. At the last session of Congress we passed a constitutional amendment. We submitted it to the southern States. It was liberal—liberal beyond all precedent. They have rejected it. There is no hope of their affirmation of that constitutional amendment at present. But if this amendment shall be adopted we are perfectly secure upon any system of reconstruction growing out of this bill.

What then is this amendment, and what does it contemplate? It provides—

That when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the United States, and when any one of the late so-called Confederate States shall have given its assent to the same, and conformed its constitution and laws thereto in all respects, and when it shall have provided by its constitution that the elective franchise shall be enjoyed by all male citizens of the United States, twenty-one years old and upward, without regard to race, color, or previous condition of servitude, except such as may be disfranchised for participating in the late rebellion, or for felony at common law, and when said constitution shall have been submitted to the voters of said State, as thus defined, for ratification or rejection, and when the Constitu-

tion, if ratified by the vote of the people of said State, shall have been submitted to Congress for examination and approval, said State shall, if its constitution be approved by Congress, be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this bill shall be inoperative in said State.

When the provisions of this amendment are carried out; when the constitutional amendment of the last session is adopted; when the people of these States shall by their own constitutions give universal manhood suffrage; when those constitutions shall be submitted to the people of those States and ratified; when they shall be republican in their character and receive the sanction of Congress, then these States are to be entitled to representation; and in the name of God should they not be entitled to representation when they shall have performed all these things? When are they to be entitled to representation? Are we to have consuls and pro-consuls and standing armies and a military despotism over the rebel States, or are we at some time to look to the restoration of civil authority and a republican form of government under the Constitution? I apprehend great danger from the rebel rule in the southern States, but if I read aright the history of the world, I apprehend great danger from military rule under the forms of republican government. Every republic that has existed heretofore has felt and appreciated the same danger from military rule. I honestly look to the restoration of the southern States. I look to it under a civil form of government, guarded and protected so that the rights of every loyal man, black and white, shall be secured; and the moment that happens I do not want any military government to exist one single moment longer, not for one single moment longer than we can safely organize civil governments in the rebellious States.

Now, Mr. President, there are two theories of restoration: one is that you shall place these rebel States under military rule. For all purposes of police and the protection of the rights of individual citizens I say give military rule and protection; but not as a permanent system. I presume no member of the Senate will say that a military government is the proper government for the States lately in rebellion one moment longer than civil governments can be restored with perfect safety to the loyal people there and the loyal people in the loyal States. I have endeavored to show you that if this amendment should be adopted the rights of the people are perfectly secure, and a civil government is inaugurated in all the rebel States; they adopt the constitutional amendment; they adopt the civil rights bill, and that provision in it that guarantees perfect equality before the law to all citizens, black and white; they form a constitution republican in form; submit it to their people, then submit it to Congress; then ask the admission of their members. What other conditions are necessary for our security? What other conditions can be necessary for our security? The truth is that this amendment, in my opinion, strikes the key-note of restoration, coupled with the bill presented by the Senator from Oregon. Give a greater police force to enforce laws and protect rights, and then let these people know upon what terms they can reorganize their government, and let the government become as soon as possible a government of civil laws rather than military rule.

Mr. WILLEY. It is with some reluctance that I shall feel constrained to vote for the amendment of the Senator from Indiana [Mr. HENDRICKS] to the amendment. I do not think that it perfectly accomplishes in the direction in which it proposes to operate the objects which I suppose he contemplates in the amendment, and which I should like to see incorporated in some other form in the amendment, but perhaps it does so substantially.

I have, I must confess, Mr. President, some reluctance to voting for the amendment at all, but the reasons suggested by the Senator from Indiana [Mr. LANE] preponderate against the

doubts I have in voting for it. I do not think the amendment of the Senator from Indiana [Mr. HENDRICKS] to the amendment is properly subject to the criticism which has been made against it, and especially the criticism suggested by the honorable Senator from Missouri, [Mr. BROWN.] It is very true that taking an extreme case, which indeed it seems to me is hardly a supposable one, it may illustrate the idea of the Senator from Missouri; but while it is hardly probable that any of these States would adopt a provision in the constitution of a character so extreme and so extraordinary as that mentioned by the Senator from Missouri, yet any provision of that character or akin to that character, is subject at last to revision by Congress under another provision in this bill, because the constitution, whatever it may be, must be submitted to the approval of Congress, and Congress must judge and be satisfied before it gives its approval that it is republican in form. In short, Congress, as I understand it, must be satisfied, under the provisions of this bill, before it accepts the constitution that any State shall see proper to make under the operation of this amendment, if it should become a law, and therefore there can be no danger in point of fact in the direction indicated by the Senator from Missouri.

Mr. BROWN. I certainly did not anticipate any danger in that direction, but I simply gave it as an illustration of how the word "impartial" might be perverted. It was simply by way of illustration, and not from any apprehension in that quarter.

Mr. WILLEY. Very well; there being no apprehension in that quarter, I think the point of the Senator's objection is answered by his remarks just now. But then, Mr. President, it seems to me there ought to be some restriction of the character indicated by the amendment of the Senator from Indiana in this provision. There is great force in the suggestions of the Senator from California. Classes of population from abroad, the Chinese and other classes of people, may be introduced into these States, and it may be necessary for the public welfare and for the public peace for the States themselves to have some authority by which they shall so regulate the exercise of the elective franchise as to prevent detriment to the public welfare and peace.

Mr. CONNESS. The Senator is aware that the Chinese are foreigners and are not citizens, nor are they admitted to citizenship in California, and consequently they would not be voters under this bill.

Mr. WILLEY. Very well. The children of foreigners, partaking of all their nature, their education, &c., must be incorporated into the body-politic under the operation of such a constitutional amendment as is contemplated by this provision and the civil rights bill. What I mean to say is this: that there may, in the history of a State, be introduced into the population of the State an element of population or a people whom it would be dangerous to be allowed to be introduced into the body-politic, or to have the exercise of the political power in that State. On the other hand, any danger from the introduction of the word "impartial," or some equivalent word, would be obviated by the fact that whatsoever constitution any State may ordain under the provisions of this amendment shall be subject to the approval of Congress, and cannot have any legal validity under this provision until it has the sanction of Congress, who is to judge whether it is republican in form or not. Therefore it seems to me it would be wiser and better to allow some restrictive term to be introduced into this provision so as to allow those States in the future, when a real necessity shall arise for it, to limit the exercise of the right of suffrage.

Mr. McDOUGALL. What constitutes a citizen is defined in the civil rights bill, and now every citizen of twenty-one years and every other person who was here at the time the civil rights bill was passed is a citizen.

Mr. WILLEY. I do not propose to go into the construction of the civil rights bill; but the



idea which I intend to convey is that it may well be supposed that in the future of our country, or even at the present time, there may be a class of population now existing in some of the States, or to be hereafter introduced into those States, whom it would be wise and proper for the peace and welfare of the State to exclude from the exercise of the right of suffrage; while any danger growing out of an injudicious or arbitrary exercise of the authority that will be provided by the introduction of this amendment into the provision can be obviated by the fact that whatsoever it shall be is subject to the approval of Congress. Congress, at least, is to be the ultimate judge, and no constitution can have any validity until it receives the sanction of Congress under the provisions of this act.

For these reasons, Mr. President, I shall be constrained to vote for the amendment of the Senator from Indiana to the amendment; and I desire here to make my confession that I shall vote for the main amendment with extreme reluctance, and one of the principal reasons why I shall do so is, that it does place these States upon a condition of inequality under the Government. By this provision we are imposing arbitrarily upon these States conditions which we are not willing to assume for ourselves; but, sir, I am so exceedingly desirous to see connected with this military bill some provision looking to the civil reorganization of those States that I shall be constrained to vote for it whether the amendment of the Senator from Indiana prevails or not.

The PRESIDENT *pro tempore*. The question is on the proposed amendment to the amendment.

Mr. HENDRICKS. I will withdraw the amendment which I proposed and submit it to the Senate when the bill comes into the Senate. I do this at the suggestion of some of the friends of the amendment.

The PRESIDENT *pro tempore*. The proposed amendment to the amendment is withdrawn; and the question is on the amendment of the Senator from Maryland.

Mr. JOHNSON. Mr. President, the amendment, as the Senate are aware, was not proposed by me in the first instance. It came from the Senator from Oregon, and I supposed had received the assent of the gentlemen of the Senate with whom he is politically associated. I was very much surprised, therefore, this morning when he rose and informed us that it was his purpose to withdraw it, because he believed that it might either in the House cause a defeat of the bill, or that its defeat might be effected by a presidential veto. I was amazed for two reasons: first, because I supposed the honorable member had maturely considered the amendment and had come to the conclusion that without it the bill was objectionable. I was amazed because to me it seems very singular that the Senate of the United States should be controlled in the exercise of its own judgment by the apprehended conduct of the other branch, and, if possible, yet more amazed that it was to be controlled by the possible action of the Executive. Mr. President, in the beginning of the Government either of these references would have been considered out of order. The Senate of the United States is an independent body, and authorized and bound, in my judgment, to exercise its own discretion upon all matters submitted to it, without the slightest regard to what they may suppose to be the opinions of any other department of the Government. I therefore at once, and without consulting the political friends with whom it is my pleasure generally to act, renewed the amendment, and I now rise to assign very briefly the reasons which have induced me to offer it.

The Senate are not to be informed, nor are my own constituents, who have taken any interest in my public course in this body during the rebellion or since its termination, that I differ from the majority of the Senate entirely as to the condition in which the States are placed in consequence of the rebellion. I have

held from the first to the last, and maintain the opinion still, that the States are now States of the Union, entitled to all the rights and bound by all the obligations which the Constitution confers and imposes upon States and citizens. I have believed from the first, and still believe, consequently, that the citizens of these States are entitled to all the guarantees of personal liberty which the Constitution secures; that they are entitled to the trial by jury; that they are not under any circumstances to be subjected to any authority which Congress may exercise in the exertion of its war power, except—if that exception exists—during the existence of a war. In my judgment, the whole authority of the United States in carrying on the late civil war was because of its obligation to suppress insurrections, and consequently that the moment the insurrections were suppressed the power terminated, and the States where it prevailed were restored to the condition in which they stood antecedent to such insurrection. I have seen no reason to change that opinion, and I think the opinion stands confirmed by everything which fell from our fathers during the deliberations of the Convention which framed and submitted the Constitution of the United States to the ratification of the people.

But, Mr. President, I have seen with surprise that while the executive department of the Government recognizes the people and the States where the insurrection once existed as the people of States and as States, and while the judicial department give to them the same recognition, this, the legislative department of the Government is the only one which denies to them such rights. We have lately, as well as during the last session, appointed judges, appointed marshals, appointed district attorneys, appointed tax-gatherers, appointed postmasters, for these States, in like manner and in the exercise of the same power, in and under which we have appointed them for the other States, without the slightest distinction. The Supreme Court of the United States now at this moment, as well as at the last session, are entertaining appeals and writs of error taken or prosecuted from the decisions of the superior courts of the States, as I think they are, of the South. Bills are now depending before it, and without the objection from any quarter of the authority of the States to present them, filed by States which were in insurrection against other States that were not in insurrection, although it was perfectly open, on objection by demurrer or by plea, that the State suing was not a State of the United States, and consequently not entitled to sue, not entitled to invoke the original jurisdiction of the Supreme Court of the United States.

There is now pending, instituted by one of the States you propose to place under military rule, a bill by the State of Virginia against West Virginia to settle a disputed question of boundary, and that disputed question of boundary must be decided as against West Virginia, even if the court should not entertain jurisdiction at the instance of the State of Virginia, if it be true that the State of Virginia is not now a State in the Union, if she was not when she agreed to divide herself and to have created within her original limits the State of West Virginia. And yet no lawyer in that forum, no statesman, if there be any such, and I suppose there are as many there as there are in any of the States of the Union, has ventured to deny the right of the State of Virginia to file that bill upon the ground that she was no State within the meaning of the clause which gives original jurisdiction to the Supreme Court of the United States in cases between State and State. No member of this body now, however it may have been some time ago, denies that West Virginia is a State of the United States; but if the consequence of the insurrection of Virginia was while West Virginia was within her limits that she ceased to be a State of the Union, she had no authority to assent to a division of her own territory; and if the proposition necessarily involved in this

bill be true, my friends who so ably represent West Virginia have no place in this Chamber. And yet no member of the body suggests that they shall be removed upon the ground that they were improperly admitted.

Entertaining the view I have held from the first, and having an instinctive repugnance, made the stronger by historical reading, and still stronger, if possible, by what I have seen since this war commenced, to military rule, there is no condition of things which could induce me to vote for a bill which is to place under such military rule any portion of the United States. There have been occasions during the late war when I believed that the safety of the country demanded the exercise of powers more or less doubtful, and when I was willing to see them exercised, being determined to have the country saved from the peril to its existence in which it was then placed; but that peril was from insurrection, culminated into a civil war, which aimed to dismember and destroy our Government. That insurrection is at an end. I am not required to place the truth of that fact upon any assertion of my own; the very amendments before us in relation to the restoration of these States admit that the insurrection is at an end. The Reconstruction Committee, to whom this subject was referred at the last session, and in whose hands it has been since, when they reported an article for an amendment to the Constitution reported a bill to accompany it; first, as conclusive evidence to show that in the opinion of a majority of that body those States were then States, the constitutional amendment was submitted to the States; secondly, because the bill itself in its preamble stated that "it is expedient that the States lately in insurrection" should be restored to their relations to the United States, and the very title of the bill was, "A bill to provide for restoring the States lately in insurrection to their full political rights."

That being the position in which, as I suppose, the States stand, the Senate will not be surprised when I state, or repeat what I stated this morning, that under no circumstances can I vote for the bill as it is, unless it be so amended so as entirely to alter its nature. What is its nature? What is its preamble? The honorable Senators who suppose that the preamble is true—and it is not for me to say that they are not sincere in that opinion—place the right to pass this bill upon the ground that the States are now in a condition of war, in insurrection, in rebellion. What is war as against the Government of the United States? What is insurrection? Must there not be some effort upon the part of those alleged to be at war with the United States, or in insurrection against its authority, to make good by force of arms, or in some other way, their position? Can there be an insurrection where the authority of the Government is submitted to? Whatever may be the occasional acts of violence that are committed from time to time in these southern States they constitute no insurrection. The authority of the Government is just as complete, permit me to say, Mr. President, in these States as it is now in the State which you represent, or in Massachusetts or in New York or any other State; and I believe for myself that I am justified in asserting that there is less crime now in the States of the South than there is either in the State of Massachusetts or in the State of New York. It is not, therefore, the criminal acts which from time to time dishonor the land where they are perpetrated that constitutes an insurrection. It is the resistance by force of arms of the authority of the Government.

Why was the clause inserted in the Constitution to which resort was had in carrying on the late war. Our Government was intended to consist, and does consist, of a Government for the whole and governments for the parts of which the whole consists. The large mass of powers necessary to the existence of any Government was not only conferred upon the Government of the United States, but was expressly reserved to the governments of the

States or the people of the States respectively. From the beginning of the Government to the commencement of the late rebellion it was a doctrine which nobody disputed in all the political contests through which the country has passed from the beginning of its existence down to the commencement of that rebellion, but on the contrary, was held to be true beyond all doubt, that upon theory, as well as upon express provision in the Constitution, all the powers not conferred upon the Government of the United States were in the States respectively or in the people of the States; and that whenever the question arose as to what power the United States had in relation to any particular subject it was incumbent upon him who asserted the existence of the power to point it out. Failing in that, he ceased to establish the existence of the power.

Now, what is the power conferred upon Congress? To raise and support armies. What for? To meet a foreign foe. To raise and support a navy, for the same object. But our fathers saw that there were other dangers incident to the existence of a Government, and they provided for that exigency by anticipation; and what was that provision? A sudden invasion of the State, not amounting to war in the ordinary sense; a sudden outbreak upon the territorial limits of some one State of the Union by a foreign Power; and the other was, insubordination in some State which the powers of that State might be unable to quell; and in order to enable the Government to come to the protection of the State invaded, or to the protection of the State against the insurrection within its own limits, the Constitution conferred upon Congress the power to call upon the militia or to use the armies of the United States to repel invasion or suppress insurrection. In this instance there is no invasion. Nobody pretends that there is. Is there any insurrection? We are told a black man is shot down and the murderer cannot be convicted through the civil courts. I do not believe it; but suppose the fact to be so; does that constitute an insurrection? How often has it happened that what in contemplation of law is a clear offense, and a clear offense of murder goes unwhipped of justice? Has nobody been acquitted of that crime whom the honorable member from Oregon would say was innocent?

Mr. WILLIAMS. If the honorable Senator appeals to me, I will ask him a question. Suppose it to be a fact that the men who were rebels in the South are murdering and killing the loyal men of that section of the country, I will ask the honorable Senator if the Government has not a right to interpose the necessary power for their protection?

Mr. JOHNSON. There is under the Constitution the necessary power. The men who framed the Constitution were as wise and as far seeing as my honorable friend from Oregon or either of us. They provided for all cases in which the constitutional rights of the citizens of the United States should be violated, and the provision that they made they intended to be the only one which should be given. Suppose that in the State of Oregon some of the constituents of the honorable member were killing the Chinese; suppose they denied their rights, trampled upon them, denied the negro the right to come within the limits of the State.

Mr. FESSENDEN, (to Mr. WILLIAMS.) Ask him what provision he refers to.

Mr. JOHNSON. It is in the constitution adopted by a convention of which, if I am not mistaken, the honorable member from Oregon was a leading member, and I suppose, as no dissent was expressed by him, that he approved of it. No negro, by that constitution, is permitted to come into the State of Oregon, is permitted to vote, or to contract or to sue. What a horrible outrage upon the notions of the day! Is the honorable member prepared now to say that we should establish a military government for the State of Oregon? Why not? Have you not done what you ought not to have done? Are you not sinning against the light of the times? Are you not trampling upon

the inalienable rights of man—denying manhood suffrage? And yet you do not propose to extend this military rule to Oregon; and so in relation to several other States where manhood suffrage is not allowed. I have the constitution of Oregon by me, adopted in September, 1857, only nine or ten years ago; and, as I said, I believe my friend from Oregon was a member of the body, and I suppose, from the weight to which he is entitled in all bodies of which he is a member, that he supported all the clauses to be found in that constitution, particularly such as I have referred to, or they could not have been adopted.

Maryland has been threatened. It is said that our government is not republican in point of form, and that under the clause which provides that Congress shall guaranty to every State that form of government, Congress may interfere with Maryland and force her to adopt a government which they may think is republican. What have some of our judges done? They have conscientiously, I am satisfied, executed a law of the State which in certain cases authorizes, upon conviction, the sale of black people into a limited slavery, and we are to have a military government thrown over us. I hope that time may not come, Mr. President. Devoted as I am, heart and soul, to the institutions of the land, willing to sustain the Union with the last drop of the blood that is left me, the effort under that clause to interfere with any of the loyal States will, if nothing else will, be the death-knell of the Union.

Now, let me say to my friend from Oregon, and to those who think with him, and I believe a great many are of that opinion—and I certainly do not contravert the sincerity with which they hold it—that I do not believe one word in the truth of the assertion that no man is safe within the southern States. I believe, as firmly as I believe anything, that the honorable member from Oregon, and every other member of the Senate who agrees with him in his opinions, may go from one corner of the southern States to the other corner with perfect impunity, and not only that, but would be received as a brother. There were prejudices before. Thank God they are gone! The war, if nothing else, has convinced them that their own peculiar notions of State sovereignty cannot be maintained. They have abandoned them and now stand, in my judgment, as loyal to the Union as the honorable member from Oregon, or anybody else. I speak of them in the mass. I speak of the educated portion of the southern States. Here and there there may be people of a different description, as here and there in Oregon or anywhere else, who defy law and delight in crime.

I have said thus much merely as preliminary to what I am about to say in relation to this amendment. I want, what the committee who reported the original constitutional amendment and the bill which accompanied it declared that they wanted, and what the honorable chairman of that committee on the part of the Senate has more than once said in debate on this floor, with a sincerity that nobody could doubt, if they could doubt his sincerity at all on any subject, that they and he look to an early restoration of the Union with an anxious solicitude. Now, what do you propose by the bill as it stands without the amendment? To place the whole South under what is neither more nor less than a military despotism. To terminate when? Not when in the judgment of the members of the present Congress, who think that under the particular circumstances of this case such a despotism is necessary to secure the rights of the people, that that necessity shall cease to exist, but to continue until some other Congress may be of opinion that it has ceased. Mr. President, is that our duty? I speak it with perfect respect. If it be in our judgment right to institute the despotism, is it not our duty to say when it shall cease, if we do not intend that it shall cease at all?

Now, what says the amendment? When the constitutional amendment submitted to the

people at the last session shall have been adopted as a part of the Constitution is the first provision; when any State lately in insurrection shall itself adopt that amendment is the second provision; when they shall give the right of franchise to all who are over twenty-one years of age, irrespective of color or race, is the third provision; when these things shall be accomplished by a constitution submitted to the people of the particular State, and ratified by that people, is the fourth provision; and when the result of their labors shall be submitted to and approved by Congress is the fifth provision. Then the State is to be represented, and not before. What possible objection can there be to either of these provisions in themselves? My friend from Oregon can make no objection. He virtually told us last night, in offering the amendment, that the bill ought not to pass without them. He withdraws them now. Why? Not because they are not right; he has not ventured to say that; not that there is a single provision of the amendment which should not receive the assent of Congress; but because some new light has broken upon him which was not obvious to him last night. What is that new light? Why, he is afraid the bill may be defeated. A military despotism last night was intolerable which did not in the very act providing for it provide also for its termination. A military despotism to-day is to be established without any provision looking to its termination. He now proposes to leave its termination to some future Congress. How does he know that any future Congress will adopt in any form the provisions of his amendment or any like them?

Mr. President, I can very readily imagine that our hopes, if we have any hopes in that quarter, may be disappointed. The presidential election is near at hand. Two years will soon elapse. Keep the States under military rule, and however true it may be that they would be entitled to representation in the electoral college, they will not be permitted to hold such an election until the next presidential contest is at end. Some military satrap will tell them, "It is my pleasure that you shall remain as you are until that contest is determined." And such things may possibly operate upon politicians. But in the mean time what is the condition of the southern States, and by retroaction the condition of the loyal States? The South, humbled in one sense, subdued and tyrannized over, have no motive for exertion; the North, not knowing certainly what the future may bring forth, is unwilling to step forward to the aid of the South; and everything stands as it now is, in a condition almost as sad and as forlorn as it was at the moment the rebellion ended. What effect is that to have upon us all? What effect upon the public credit? What effect upon our good name abroad? Ten million Americans, whose fathers fought for constitutional liberty and adopted a form of Constitution which they believed would forever secure it, are placed by a portion of their descendants under the exclusive control of the military. It is a confession to the world that our institutions are a failure. I will say with the honorable member from Wisconsin [Mr. DOOLITTLE] that such a proposition as this made anywhere, more particularly in a land where freedom was supposed to be permanently fixed, seems to shock the moral sense of every American or student of history.

The Supreme Court of the United States are now to be told by us, the descendants of the men who declared that the writ of *habeas corpus* should not be denied except in cases of invasion or rebellion, and even then only when the public safety demanded it, that when there is no invasion, no insurrection, no public safety demanding it, even that they, the judges of the highest court in the land, shall not issue a writ of *habeas corpus* unless the propriety of so doing is vouched by some military subordinate. If the court know, as I am sure they do, what is due to their dignity, they will refuse to hold their courts at all where such doctrines are

enforced. The present Chief Justice of the United States declared it to be his determination, and I applauded him for it, that he would hold no court in a State in which martial law prevailed and the writ of *habeas corpus* was denied. You are about to declare that in Virginia martial law is to prevail and the writ of *habeas corpus* is not to exist in Virginia. If he is consistent with himself, as I am sure he will be, he will hold no court there. What then? Nobody is to be tried. One man is indicted in that State for treason. The Chief Justice has declined to go there for the purpose of trying him on that ground heretofore, and he will do so again.

Mr. President, the amendment is objectionable to me only upon the ground that it denies to those States the right of coming into the Union, entitled to representation, until they extend the suffrage, because I believe the right of suffrage is a matter with which the Congress of the United States has no concern. I cannot, therefore, vote for the bill when it shall be amended as I propose to amend it, and I so stated when I offered the amendment; but the bill, in my judgment, will be much less objectionable with the amendment than without it. The South can bear up under it better with the amendment than it can without it; and it will be less obnoxious, though still very obnoxious to censure with than without it. It was for that reason I offered the amendment, and shall give it the support of my vote when the question shall be taken, and then vote against the bill whether it succeeds or fails.

It is for the States to decide for themselves whether they will extend the suffrage as the amendment provides. If they shall, no one will have a right to complain; and if they refuse it, I shall certainly not complain.

Mr. HOWARD. Mr. President, I wish to state in as few words as is practicable my reasons for voting against this amendment. I do not intend to occupy unnecessarily the time of the Senate, but there are certain considerations addressing themselves to my mind to which I invite the attention of the friends of this measure and of the Republican members of the Senate.

In the first place, this amendment is a complete departure from the action of the Committee on Reconstruction, so far as the right of suffrage is concerned. That committee, after having considered the subject referred to them for some eight months, made their report to the Senate; indeed, they made several reports, but in not one of their reports did they propose to interfere by the legislation of Congress, or in the form of an amendment of the Constitution, with the right of suffrage within the States. They have carefully abstained from all attempt to interfere with that very sacred right. They thought it not worth while to intermeddle, and I think they acted wisely. The Senate itself, by repeated votes, has sanctioned that course. The whole subject has been discussed with great fullness and clearness before the people during the last congressional elections, and the people have very generally understood that it is not the purpose of Congress to intermeddle with the right of the State to regulate the suffrage of its citizens. The amendment now before us proposes a different policy. It proposes in direct terms that we shall interfere in regulating the suffrage of citizens in the rebel States, a thing from which the committee industriously and cautiously abstained. The amendment proposes as follows:

That when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the United States, and when any one of the late so-called Confederate States shall have given its assent to the same, and conformed its constitution and laws thereto in all respects, and when it shall have provided by its constitution that the elective franchise shall be enjoyed by all male citizens of the United States, twenty-one years old and upward, without regard to race, color, or previous condition of servitude, except such as may be disfranchised for participating in the late rebellion, or for felony at common law, and when said constitution shall have been submitted to the

voters of said State, as thus defined, for ratification or rejection, and when the constitution, if ratified by the vote of the people of said State, shall have been submitted to Congress for examination and approval, said State shall, if its constitution be approved by Congress, be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this bill shall be inoperative in said State.

Now, sir, that provision contemplates a sort of coercion to be exercised through an act of Congress upon the State to constrain it, in order to get into Congress, to admit the black population to vote. I dislike to attempt such an interference, although I admit that in laying down the preliminary rules with a view to the readmission of those States, Congress has plenary power to prescribe those or any other conditions demanded by the public welfare.

Secondly, Mr. President, I object to this amendment because if it shall become a law, and if the rebel States shall proceed under it to amend their constitutions and to extend the elective franchise, it is practicable for each one of them, should this or the next Congress change the present apportionment, to send to the Fortieth Congress a full quota of Representatives according to the numbers of the population of the State, including blacks as well as whites; and this we all know will augment the number of Representatives from the rebel States by at least twenty.

It will go further; it will enable these same rebel States, within the next two years, to appoint an additional number of presidential electors to which they will not otherwise be entitled under the amendment of the Constitution. It will increase their number in the Electoral Colleges in proportion to the number of their Representatives. Is it desirable at this moment, at this critical stage of our affairs, to throw into the hands of a rebellious community this additional political power? For my part I am unwilling to agree to any such thing.

And after they have done this, after they shall have temporarily amended their constitutions and altered the elective franchise in conformity with this plan, thus enjoying an additional power in Congress and in the Electoral Colleges, they have but to turn around the next day, repeal their constitutional provisions admitting negro suffrage, disfranchise all the blacks within their limits, and still be in the Union enjoying all the rights and privileges of the Union, and the subject of suffrage is forever beyond our reach. This may be done, although this provision in the amendment should be fully complied with, although the amendment of the Constitution proposed at the last session should be adopted and become itself a part of the Constitution.

Are gentlemen willing to run this risk for the sake, as they say, of holding out a scheme of conciliation to the rebel States? Sir, I am averse to proposing terms to rebels. I make no proffer. They know their duty well. They knew it five years ago. They are as sensible of their obligations under the Constitution of my country as I am. They have waged a bloody and wasteful war upon my friends, my neighbors, my countrymen, and my Government, and persevered in it until the whole land was covered with mourning and tears and blood. I would be the last man, after having crushed them and trampled them under my feet, to make gratuitous propositions of reconciliation to them. Let them come up and do their duty like men and citizens of the United States. Let them bring forth fruits meet for repentance before they grumble that we do not propose terms to them.

Mr. STEWART. Will the Senator from Michigan state what he believes to be their duty?

The PRESIDENT *pro tempore*. Does the Senator from Michigan give way to the Senator from Nevada?

Mr. STEWART. I ask the question for information.

Mr. HOWARD. I was about to close my

remarks; but I will endeavor to answer my friend from Nevada. I take it, however, he does not need the information. He probably puts the question to me more with a view to ascertain my ideas than to enlighten his own understanding. But I think I understand what is the duty of the rebel States. The first duty of every community that has a government is to punish crime and to protect its friends. Is that done in the rebel States? No, sir. A government that is unwilling to protect its people or incapable of doing so is not worthy the name of a government. I do not care whether the government be the Federal Government or the government of a State; it is a mere mockery, against which humanity cries out. The great and paramount duty of the rebel State governments, their first and leading duty, is to punish crime and thereby to protect the peaceful and the innocent. This is not done, and we all know it.

As I said before, I do not wish to spend the time of the Senate in discussing this subject; but I see in this amendment a fatal snare by which we shall be deceived in the end, by which we are to be deluded into a premature readmission of the rebel States in such a manner as to make us ultimately repent of our folly and rashness. I hope, sir, the amendment will be rejected.

I have no fear from the establishment of military governments in the rebel States. It is not in the nature of the American people to tolerate a military government anywhere longer than the actual necessity exists which calls for it; and I think the rebel communities can trust with perfect security, confidence in the honor and the sense of justice of the Congress of the United States in solving the question when it may become expedient and proper to repeal our military enactments. All these phantoms of military tyranny are the merest imaginations of the heat-oppressed brain of anxious partisanship.

We are told that we are imitating the government of Cromwell, when he appointed twelve major generals in England for the purpose of assisting him to carry on his government; and that the conduct of those twelve major generals was very oppressive and very tyrannical. Sir, the historical student will not forget the actual condition of things at the time Cromwell appointed his twelve major generals. The accounts we get of the administration of Cromwell come to us through tainted channels. I undertake to say here that we have not a single impartial history of the administration of that great man in those difficult times. They all come to us tinged and colored with royalist sentiments and royalist prejudices. But what is the fact? Why, sir, England, at that time in a state of boiling, bubbling revolution, was infested from one end to the other with hordes of royalist conspirators, acting in the interests and under the orders of the Pretender, afterwards Charles II. The Pretender, comfortably located at Cologne, on the Continent, and enjoying the alms sent over to him from England to support him and his retinue, was himself at the head of this vast conspiracy, extending in fact all over the Continent, as well as England and Scotland, the object of which was the overthrow of the republican Government of England and the reestablishment of the house of Stuart. It became necessary for Cromwell to be extremely vigilant and to take measures for counteracting this dangerous and mischievous combination; and with that view he appointed his twelve major generals to keep guard over as many districts or departments, into which the realm was divided. The instructions which he gave to them are all reported in the documents of the day; and I aver that there is no part of those instructions which looked at all to the oppression of the people, but only to the preservation of liberty, of order, the due administration of law, and the protection of the rights of the people and the Government. Of course it was the duty of the Government to look after the conspirators; and



the thwarting of that conspiracy was the great and almost the sole object of the creation of this board of military generals.

It was a time of war, of civil war, of conspiracy, of public danger, and every consideration of the public interest impelled the chief of state to guard his own authority and to protect his people. Now, sir, we are not living under a monarchy; we are not tied to a particular dynasty or family. The Government of this country rests upon the will of the American people, whose judgment, though it may sometimes temporarily err, is in the end always infallible and righteous. Depend upon it, sir, whenever the loyal people shall be satisfied that the time has come when self-government can be safely remitted to the ex-rebels the thing will be done; but I trust in God it will not be done, or attempted, before that time has fully arrived.

But my great objection to this amendment is that it is a snare by which increased representation from the rebel States may come into Congress and an increased number of presidential electors be chosen, while we have no security at all that the extended elective franchise will be continued in the rebel States to the black population. They can disfranchise them whenever they see fit after having secured increased representation.

Mr. BUCKALEW. Mr. President, my vote has been solicited for the present amendment by gentlemen in whose judgments I have very much confidence; and in one respect the adoption of the amendment would be quite proper, perhaps beneficial. In so far as it places a limit upon this enormous, novel, and portentous military power the bill intends to establish, it may be vindicated by sound reasoning and considerations of public policy. Any limitation whatever will be better than the absence of all limitations in the proposition as introduced before us.

But, sir, there are two reasons which will induce me to vote against this amendment. In the first place, I am opposed to the proposition which it contains upon a consideration of the merits of the proposition itself. I am averse, from thorough conviction, to the introduction of any State into this Union, or to her rehabilitation with all her former political powers, upon the condition that she shall make suffrage within her limits universal and unlimited among the male inhabitants over twenty-one years of age. I need not go over the argument upon that point. I have stated it upon a former occasion.

In the next place, I know perfectly well that a vote for this amendment, although given under circumstances which do not commit me to the proposition as a final one, will be misunderstood and perverted. It will be said throughout the country of each of those who stand in the position in which I stand, that we have departed to some extent at least from that position which we have hitherto maintained, and maintained against all the influences of the time, against the pressure of circumstances which have swept many from our sides and carried them into the large and swollen camp of the majority. Sir, I for one am ambitious of being known as one among that number of men who have kept their faith; who have followed their convictions; who have obeyed the dictation of duty in the worst of times; who did not bend when the storm beat hardest and strongest against them, but kept their honor unsullied, their faith intact, their self respect unbroken and entire.

I shall not vote to degrade suffrage. I shall not vote to pollute and corrupt the foundations of political power in this country, either in my own State or in any other. I shall resist it everywhere and at all times. If overborne, if contrary and opposing opinions prevail, I shall simply submit to the necessity which I cannot resist, leaving to just men and to future times the vindication of my conduct.

The consideration of this amendment does not involve debate upon the bill itself; it is

quite distinct from it, or at least it may be considered distinctly. I am of opinion that the debates of the Senate would be greatly improved if that course were taken ordinarily or uniformly which has been suggested in the discussion of this bill, to wit, that when an amendment is pending debate shall be confined to it according to the strict rules of order, and that debate upon the principal proposition upon the original bill itself shall stand over and be deferred until the amendments are disposed of. But, sir, my experience in the Senate has instructed me. I have upon several occasions delayed speaking upon a measure until amendments offered to it should be disposed of, and found myself at the end of a debate attempting to speak to an exhausted and impatient Senate and when my own freshness of feeling and physical energy had departed.

During this week those of us who are not endowed by nature with vigorous physical constitutions have been subjected to a severe strain by constant sessions day and night, besides other duties very numerous, harassing, and exhaustive outside of the Chamber. And now, sir, nearly at the end of the week, at an additional night session ordered with special reference to this measure, we are called upon to consider it and to consider it finally. We are told that if it be within the power of those who give direction to the action of the Senate to force a final vote upon the bill to-night, that vote shall be obtained, the giving of it shall be coerced.

And when did this bill come to us? Within about twenty-four hours, I believe. I found myself able to give it only a hurried reading before it was called up for debate. Is it not a little remarkable that a bill in which the social and political condition of eight or ten million American people is involved should be driven through one branch of Congress under the previous question without opportunity for any extended debate, and should then be driven through the Senate under the discipline of an organization confined to a portion only of the members of our body, with some twenty-four or forty-eight hours only of consideration, amid the pressure of other duties that crowd upon us, and when our own overtaken physical powers scarcely enable us to give the subject even that attention which is necessary to vote upon it intelligently, much less to examine and discuss it properly? What judgment will be formed of us, who are charged with the legislative powers of this Government, by our countrymen and by the men of other nations, who observe our proceedings, when measures of this gravity, magnitude, importance to millions of people, interesting to our whole population, are to be acted upon in this manner, to be determined under these circumstances, adverse to correct and proper reflection, which I have described?

Now, sir, what is this measure? I shall be anxious in all that I say to be brief and to speak only on points which are material. Sir, this bill is prepared and introduced to confer upon five military officers of the United States the power to fine, to imprison, and to kill American citizens in one third of the territory of the United States without any restraints or limitations such as are written in the most solemn manner in every fundamental law in the United States, both that of the Federal Government and those of all the States; ay, and of every Territory, too, whither our hardy pioneers have gone and established republican governments, fashioned and modeled after the examples of the States from which they went. With no right of trial by jury, no challenge to the tribunal which tries the accused, no compulsory process for witnesses, no right of appeal, the victim stands defenseless before arbitrary power; he must bow to its mandate and submit to its decree. Not a constitutional principle, hitherto regarded sacred in this country, is written down in this bill or covered by its vague and general phraseology,

more indefinite, vague, and indeterminate than that of any statute now upon the records of this Government; ay, or of England, abused and traduced England, of whom we complained because her Government was arbitrary, and therefore took up arms to throw off its jurisdiction and vindicate American freedom.

The General of the Army is to assign to the command of each of the military districts created by this bill "an officer of the Army not below the rank of brigadier general," and to detail a sufficient force to give dignity and effect to the jurisdiction conferred upon him; and there is conferred upon each district commander, in the third section, power "to punish or cause to be punished all disturbers of the public peace and criminals" of every description and grade. He may in his pleasure, by no rule of law, by no regulation of statute, by no principle known to the Constitution or created by Government, but according to his own unregulated pleasure and will, condescend to turn cases over to the courts—

Or when in his judgment—

his supreme and unchallenged judgment—

it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, anything in the constitution and laws of any of the so-called confederate States to the contrary notwithstanding.

And then the Supreme Court of the United States, which your fathers established as the supreme tribunal of justice in this country, with appellate powers from inferior tribunals, with the great power of the writ of *habeas corpus* in its hands to correct injustice upon the citizen, is to be restrained from meddling in any way whatever with this new, unexampled, and abominable jurisdiction which the bill establishes. I am mistaken, sir; there is an exception. The judges of your Supreme Court may have jurisdiction in particular cases by a clause which I propose to read. Neither the Supreme Court nor any judge of that court or of the district courts can issue a writ of *habeas corpus* or look into the legality of any proceedings in which this military jurisdiction is concerned—

Unless some commissioned officer—

Some dignified lieutenant of the second degree possibly—

Unless some commissioned officer on duty in the district wherein the person is detained shall indorse upon said petition a statement certifying, upon honor, that he has knowledge or information as to the cause and circumstances of the alleged detention, and that he believes the same to be wrongful; and further, that he believes that the indorsed petition is preferred in good faith and in furtherance of justice, and not to hinder or delay the punishment of crime.

The wealthy criminal, for his fee of \$50 or \$100 or \$500, can get a lieutenant's certificate to his petition, and go to the courts of the United States and be heard under the laws of the United States, and have some little protection from the Constitution of your fathers, from that instrument under which you are assembled here, and which you are sworn to support. This is the manner in which judicial power may take hold of any case, no matter how enormous, of outrage or of iniquity, in one third of the United States, under this bill.

The fifth section provides—

That no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district.

There, sir, shameful as the fact appears, the power over the life of an American citizen is confided to either one of five military commanders, who are to be selected, not by the Commander-in-Chief of the armies of the United States, as the Constitution requires, but by a General selected by your bill; and you might just as well, instead of having selected the General of the Army for this purpose, have selected the hero of Big Bethel or any other general, or even a civilian, if indeed this fearful and unexampled power of creating military rule resides in Congress at all. The commanders of these departments have the power of life and of death, the power to im-

prison at their pleasure, the power to fine, to confiscate property, and to plunder or kill the citizens, and that without any redress. Why, sir, what are the military commissions that are authorized here? Are not the members selected by this officer in command selected to do his bidding—organized to convict, if he desires conviction, and their proceedings subject to his approval? Nay, sir, even sentence of death by them is to be carried into execution according to his will, because this bill contemplates the capital execution of a citizen tried before these tribunals simply upon the approval of the officer commanding the district.

Such, sir, is the bill introduced here, for the passage of which our votes are solicited, and to pass which we are driven into the hours of the night, hurriedly and unprepared, while some expectant persons outside, perhaps, look with impatience upon the delay which is taking place, this unnecessary delay, this protraction of our proceedings, this waste of time, this foolish appealing to old records and to principles which we have advanced far beyond in our revolutionary career. Yes, sir, a spirit of impatience and intolerance surrounds us and finds voice even upon this floor.

I will state objections to the bill in general terms and conclude. I am not inclined to speak at length, but I should take shame to myself if such a bill as this could be passed or be under consideration here without uttering some few sincere words in opposition to its enactment.

Sir, this bill, in the first place, is an open confession in the face of the world that republican government is a failure. It is an open and shameless confession, made by us in the presence of our own countrymen and in the presence of the world, that our republican institutions are not as they were supposed to be, destined to immortality or to future renown; that their period of life has about closed, that we are to be added to the list of republics of former times and of other countries who ran hurried, but some of them not inglorious careers, to end in what this bill suggests, in the rule of a master, in the establishment of military power, in the chastisement of crime, of violence, and of private wrong, not by civil law, but by military force. You propose to put in command of one third of the United States generals of your armies. You propose to confer on them dictatorial powers. That is the word. This bill establishes a military dictatorship by congressional enactment for one third of the United States, and its grants are in the largest and vaguest terms. Under them any act pertaining to civil government, any act pertaining to the punishment of criminal offenders, may be authorized and may be performed by the military power which you set up. That is a dictatorship. No matter by what name it be designated that is its nature. That you establish by this bill. Whatever you propose, that will be the authority created; it will be known as a dictatorship in all future time.

Mr. President, at what time is it proposed to set up this military dictatorship in the United States? Is it not nearly two years after the conclusion of the late war? Is it not at a time when complete peace reigns throughout the United States, when there is no resistance to the authority of the Government, and when we apprehend no such resistance in future unless that resistance be provoked, possibly, by our conduct and policy? There can be no vindication of this measure upon the ground of its connection with the war. There can be no vindication of it upon the ground that it is necessary in the conduct or management of military operations, in the subduing of a force arrayed against our authority in any portion of the country; nor that it is necessary to guard against renewed revolt and renewed resistance in any place or section subject to our jurisdiction.

The Long Parliament, to which reference has been made, established a military force of its own, independent of the Crown, and it

placed over that force military commanders. It armed them and sent them forth upon a mission of resistance to kingly power. That was during a time of civil convulsion, when parties were to be arrayed against each other in deadly conflict, when the great battle between executive, prerogative, and popular freedom was to be fought out upon British soil. There was some reason, some excuse then for a Parliament which claimed omnipotence to confer enormous powers upon military commanders selected by itself. There is no reason now why an American Congress which is not omnipotent, an American Congress whose powers are carefully and grudgingly parceled out to it in the Constitution of the country, a Congress whose powers are subjected to necessary and extensive limitations; it is not now a time for an American Congress to assume to itself those omnipotent powers which will be implied by the passage of this bill. It is not now a time for the American Congress to set up military power and a military dictatorship in any portion of the country.

The duties of the hour of which we hear so much are to heal the wounds of conflict, to restore real peace and genuine concord throughout our country, to return to the pacific debates which in former times characterized the proceedings of the legislative department of the Government, to restore by sound measures that prosperity which was interrupted by the war, and by a careful and provident statesmanship to make provision against those dangers to which the pecuniary interests and the liberties of our country are liable in the future. If I read aright the duties of the hour they may be thus described: they do not consist in prosecuting in a time of peace the projects, enterprises, and measures of a time of war. They do not include the injecting into our councils elements of commotion, of hatred, of antagonism. What is now required, and particularly what is required in the consultations of the legislative department, which is the great branch of Government, is a spirit of Christianity and of justice, which shall put behind us the works of war and the passions of war and incite us to works of restoration and peace. Possessing this spirit, we shall perform our mission nobly and grandly; without it, our labor will be vain and our future inglorious.

Because this bill asserts a congressional omnipotence which we do not possess, and which, if we did possess it, we ought not to exercise; because it announces before the world the failure of republican institutions among us; because it disregards all the constitutional protections of the citizen, and, without necessity or reason, subjects him in his rights of property, liberty, and even life itself to the pleasure of military power, I shall vote against it, as I shall vote against all similar measures which may be introduced hereafter.

Mr. CRAGIN. Mr. President, I do not propose to offer any suggestions in relation to this general measure, but I desire to say a few words why I think this amendment should be adopted. In the first place, we all recollect that at the last session of Congress we passed through both Houses a constitutional amendment. I suppose that by that we meant something. The amendment now under consideration is practically that constitutional amendment with certain additions, and additions which commend it more particularly to our favor. I cannot see how any man who voted for that amendment can now vote against this amendment, especially as it includes the right or the principle that was then contended for by some, that we should guaranty suffrage to all at the South.

But, sir, I rose more particularly to address myself to an argument which was made by my excellent and learned friend, the Senator from Michigan, [Mr. HOWARD.] He tells us that if this bill becomes a law, if this amendment is adopted, and the southern States go to work under it and adopt its provisions, they may send into the Fortieth Congress some twenty

or more additional Representatives, and also an equal number of electors—

Mr. HOWARD. If the Senator will allow me, that was a slight oversight on my part. I mean unless this Congress should see fit to legislate on the subject so as to adapt representation to the state of things contemplated by this amendment, providing that the States should be represented according to their numbers, &c. My remark, however, will apply to any future Congress after the Fortieth.

Mr. CRAGIN. Mr. President, there is an existing law apportioning the number of Representatives to each State. That law cannot be changed without the action of Congress, and in the ordinary course of things it would not be changed until after the next census, 1870, in 1871. Hence there is no danger upon that point, if there were no objection arising from such a consideration. But, sir, whether this amendment be adopted or not, the Constitution now gives to those States, whenever they are represented, whenever there is a new census and a new apportionment, a right to be represented here on the basis of their entire population. It does not in any way change that question whatever. Therefore—

Mr. HOWARD. If the gentleman will allow me to interrupt him once more, I will say that this amendment contemplates the adoption of the amendment to the Constitution submitted at the last session of Congress. It is not to go into operation at all until that amendment has become a part of the Constitution. When that shall take place, I submit to the honorable Senator from New Hampshire there would be a legal right growing out of the amendment itself to increase the number of their representatives.

Mr. CRAGIN. My point is that if they do not adopt the constitutional amendment at all and come back here they are entitled to that increase of representation, by counting the two fifths who were formerly excluded, who, now that all are free, are to be included in the basis of representation, so that it makes no difference upon that point whatever. For one, sir, I have to say, that whenever the southern people adopt the constitutional amendment and provide for universal suffrage, and are to be received back here, I am willing that they should be represented for their entire people, black and white. But, sir, I say again, that those of us who voted for the constitutional amendment at the last session cannot consistently vote against this amendment unless there be some provisions in that to which we now object; and for one, unless this amendment shall be adopted, I say here, that if called upon to vote for the bill as it comes from the House, I shall do it, if at all, most reluctantly.

Mr. FRELINGHUYSEN. I do not propose, sir, to make any remarks on the bill. I rise to suggest an amendment to the amendment. It is in the ninth line, after the word "upward," to insert "who have resided one year in said State;" so that if amended that portion of the amendment will read:

And when it shall have provided by its constitution that the elective franchise shall be enjoyed by all male citizens of the United States twenty-one years old and upward, who have resided one year in said State, without regard to race, color, &c.

Mr. JOHNSON. I believe it is not in my power to accept the amendment to the amendment; but, upon looking at the amendment which I offered, which was originally drawn by the honorable member from Oregon, I see that the provision is very uncertain. It proposes to secure the right of suffrage to every man over twenty-one years of age who happened to be in the State an actual resident at the time of the election, without any reference to the period of time that he may have been a resident of the State. I should, therefore, be in favor of the amendment suggested by the member from New Jersey.

The PRESIDENT *pro tempore*. It is in the power of the Senator from Maryland to accept the amendment as a modification of his own amendment, if he pleases.

Mr. JOHNSON. Then I accept it.  
The PRESIDENT *pro tempore*. That mod-

ification will be made agreeably to the suggestion of the mover.

Mr. CONNESS. If it is in the power of the honorable Senator to accept amendments that may be offered to the amendment, I do not see how the Senate may have any voice in the matter at all.

The PRESIDENT *pro tempore*. They can vote down the amendment.

Mr. CONNESS. They can vote down the whole amendment; but suppose we are in favor of the amendment without the amendment to it.

The PRESIDENT *pro tempore*. The Senate can strike out any part of it afterward.

Mr. CONNESS. After it is adopted?

Mr. WILLIAMS. I am very desirous to economize time, and therefore I refrain from saying anything; but I would respectfully suggest to the Senate that the vote be taken upon this amendment, and let it be ascertained whether or not the bill is to be amended. If it is to be amended, if the Senate signifies a determination to add this amendment to the bill, then I suppose it can be perfected and completed, and it can be amended in the Senate after the bill shall be reported from committee to the Senate. I simply make this suggestion, if agreeable to Senators, so as to save time.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole, and the question is on the amendment moved to the bill by the Senator from Maryland.

Mr. HENDERSON. I desire to offer an amendment to the amendment before it is acted upon.

Mr. GRIMES. Why not adopt the suggestion of the Senator from Oregon? The Senator from Oregon has proposed that we take a vote on the amendment as it now stands in committee, and then if it is the conviction of the Senate that the general proposition offered by the Senator from Maryland should be adopted, we can modify, change, or amend it as we choose in the Senate.

Mr. JOHNSON. I have no objection to that.

The PRESIDENT *pro tempore*. Amendments to the amendment are in order.

Mr. GRIMES. I know they are in order, but it is useless to spend an hour or two at this hour of the night in amending an amendment, that we may afterward discover there is not a majority of the Senate in favor of.

Mr. WILLEY. I desire to say to the honorable Senator from Iowa that perhaps the votes of some of us for the amendment itself may depend upon certain amendments to be made to it. We may vote against it in its present form, and yet if amended in certain particulars we may vote for it.

The PRESIDENT *pro tempore*. The Senator from Missouri is entitled to the floor.

Mr. HENDERSON. I desire to offer an amendment, and it will control my vote for or against this proposition. If the amendment to the amendment is adopted, I shall vote for the amendment if it is not, I feel very little interest in it. I should like very much to accept the suggestion of the Senator from Oregon who has charge of the bill, but I cannot. I will send to the desk the amendment which I propose, and ask that it be read.

The SECRETARY. It is proposed to amend the amendment in line nine by inserting after the words "United States" the words "of whatever color, race, or condition," and after the word "upward" in the same line by striking out the words "who have resided one year in said State, without regard to race, color, or previous condition of servitude, except such as may be disfranchised for participating in the late rebellion, or for felony at common law," and in lieu of these words inserting:

Who may have been residents of the State for twelve months previous to the election, except such as may be disqualified on account of rebellion, felony at the common law, idiocy, or insanity.

Mr. JOHNSON. Will the honorable mem-

ber do me the favor to read the amendment as it will stand if amended?

Mr. HENDERSON. Certainly. It will read thus:

That when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the United States, and when any of the late so-called confederate States shall have given its assent to the same, and conformed its constitution and laws thereto in all respects, and when it shall have provided by its constitution that the elective franchise shall be enjoyed by all male citizens of the United States, of whatever color, race, or condition, twenty-one years old and upward, who may have been residents of the State for twelve months previous to the election, except such as may be disqualified on account of rebellion, felony at the common law, idiocy, or insanity, and when said constitution shall have been submitted to the voters of said State, as thus defined, for ratification or rejection, &c.

Mr. FESSENDEN. Why not keep the words "without regard to race, color, or previous condition of servitude" where they are?

Mr. HENDERSON. Because in making the change it is better as it is. I will state to the Senate that, according to my construction of the amendment, the States may exclude the colored population upon any other test than that of race or color. They may declare under this amendment, after it is adopted, that no person shall vote in the seceded States unless he has a collegiate education, if you please. I understand that any exclusion may be made under it except an exclusion on account of race, color, or previous condition of servitude. They may declare that no person shall vote unless he is educated to a certain extent or degree.

Mr. FESSENDEN. I will inquire of the Senator, is not that the effect of the constitutional amendment which we require them to adopt? Do we not leave it in their power expressly by the constitutional amendment?

Mr. HENDERSON. But I understand that this is something additional to the constitutional amendment. I understand that this goes on to declare something beyond what the constitutional amendment declared. The constitutional amendment allowed the southern States to exclude the colored population, if they saw fit, altogether, even on account of color or race. They only lost representation by so doing.

Mr. FESSENDEN. It was argued on that ground expressly, and adopted on that ground.

Mr. HENDERSON. Certainly; but I understand this proposition now of the Senator from Maryland goes beyond the constitutional amendment, and requires as a condition precedent of admission that they shall not only adopt the constitutional amendment, but shall admit to the franchise all persons, regardless of color or race.

Mr. FESSENDEN. Then on that construction we require of them to adopt two things utterly inconsistent with each other; make one law repeal the other.

Mr. HENDERSON. I understand that to be the case.

Mr. JOHNSON. The law cannot repeal the constitutional amendment.

Mr. HENDERSON. I suppose we are not bound to admit the States even after they adopt this amendment. I do not hold that that amendment is obligatory upon Congress to admit representatives from the southern States.

Mr. FESSENDEN. There is an express condition after this.

Mr. HENDERSON. There is an express condition. If we are satisfied, however, that the provisions in their respective State constitutions will protect the negro in the franchise, I apprehend Congress will admit them. If not, and Congress shall have by that time changed their opinions on the subject, they may admit them whether the provision will secure negro suffrage or not. I do not know what the tone or temper of Congress may be at that time. So far as I am concerned, I desire that this amendment shall unmistakably secure to all persons in the southern States the elective franchise; in other words, that whatever excludes the white man from the polls

shall exclude the negro; and that no exclusion shall be based upon anything else except participation in the rebellion, felony at the common law, idiocy, or insanity. Then we shall understand each other.

Mr. FESSENDEN. How is it with pauperism?

Mr. HENDERSON. I do not choose to exclude on account of pauperism at all.

Mr. JOHNSON. Many of the States make that a ground of exclusion.

Mr. HENDERSON. It is not in my State. I am perfectly willing if Senators desire to amend on that subject to amend it; but my object is to secure the franchise, and after that is secured go forward and establish civil governments in the southern States. That is what I want. I do not fear a representation from the southern States based upon an idea of this sort. I believe that they will be true and proper representatives, devoted to the Union of the States, as patriotic as ourselves. I have no doubt about it, and I would not fear such a representation to-day. I do not desire to put on any other conditions. If it is a loyal representation, there is no danger of repudiation of the public debt, no danger of payment for slaves, no danger of the payment of the confederate debt or of the State debts of the South. I have no idea that it is at all necessary to go on and demand any other pledges than a loyal delegation from the seceded States, and my opinion is that this will give us a loyal delegation.

Now, Mr. President, once for all, I do not say that I shall vote for this bill, even if it is amended in this shape. I prefer the other bill that came from the House. There is a provision in that bill, the ninth section I believe, which provides that military power may be established to a sufficient extent to carry out all the intentions of Congress in regard to the establishment of civil governments. Why not proceed to establish civil governments in the southern States by appointing a Governor, by appointing a council, by appointing some person to go there and take a registry of voters, prescribe the qualifications, if you say so, and let us go to work to reorganize the southern States. We have got to do it at some time. We are unwilling to trust to the President's State governments. I am unwilling to admit representatives upon them. I believe that the majority of this Senate are opposed to the admission of those representatives; and Congress, no matter how long we stay here, will never admit them. Are we determined to keep them out for all time to come, or will we proceed to organize such governments and organize them upon such principles as that we can secure a representation from those States?

Mr. President, it has been truly said that there are ten million people that ought to be represented in Congress. We are afraid to admit the present representatives because we know it would be dangerous to do so. We feel confident that we have not those securities that the Government ought to demand under the circumstances. We have conquered the rebels, and we desire that we shall have a representation in accord with the general feelings of the loyal people of the country. That is all that we require and all that we should require.

To deal in military governments, in my judgment, will do the people of the North no good, and will be a decided injury to the people of the South. They will not prove a protection to the people there, but they will prove an injury to ourselves as sure as we establish them. Unless there be in this bill some declaration of the time when this thing shall cease, or some declaration that when the people do certain things—and I am unwilling to do anything less than the amendment I propose—the military establishments shall cease, I cannot vote for the bill. It is an easy matter for us to proceed and establish civil governments there, and when we have done that to provide that all the orders and decrees of the council in the shape of legislation, approved by the



Governor, shall be backed up by the military power of the nation, just as would be the power of the President of the United States to carry out the legislation of the respective States when rebellion raised its head against that legislation. I hope that the amendment will be adopted.

Mr. SAULSBURY. The amendment proposed by the honorable Senator from Missouri would in its operation prove a very efficient mode of excluding from the government of nine or ten States of this Union the white portion of the population and placing it exclusively in the hands of the negro population. It proposes to exclude from the right of voting every person who has been engaged in the rebellion.

Mr. HENDERSON. The Senator from Delaware is mistaken. He has not read the amendment I am satisfied. He need not base any remarks on that idea, because it is not correct.

Mr. SAULSBURY. I understood from the reading of the amendment of the honorable Senator that every person who was engaged in what is called the rebellion was to be excluded.

Mr. HENDERSON. I do not exclude anybody.

Mr. SAULSBURY. I have not seen the amendment. If I am mistaken in its purport I have nothing to say.

Mr. BROWN. I desire to say one word and give notice of an amendment. It seems to me that there is a conflict evidently in the amendment which is proposed between the condition which is contained in the amendment and the constitutional amendment that is now pending before the States. There is another conflict also upon the question as to whether these States shall be admitted simply upon granting suffrage to colored persons, or whether there shall go along with it an exclusion of all who have participated in the rebellion. I think that perhaps at this time it is not necessary for us to settle both of those questions or either of them. I think if we desire to establish, in the first place, a military protectorate there which shall enforce our policies, it may be done under this bill as it stands; but if we desire to initiate their civil governments on the principle of universal suffrage, or on the principle of admitting to the suffrage the colored population, it may perhaps be better done by an amendment in a different place. I have drawn one with that view, and I simply desire to give notice that I shall offer it when the time comes. It is to insert in section three, line six, after the words "and to this end," these words:

He shall require, under proper regulations, to be provided by the Secretary of War, that in all elections hereafter held in any of the military districts aforesaid for municipal or other purposes, there shall be no exclusion of any person from the suffrage on the ground of race, color, or previous condition of servitude.

I think that will achieve the end at which we seem to be driving without encountering the embarrassments that seem to hang around the present amendment. It will bring down the working of those institutions there to the practical question of negro suffrage, leaving us with military control and the power to impose such conditions in the future as to the admission of those States as we may find essential. If it be found essential, in order to bring them into conformity with our institutions, with our Government, and with our present policies, to make exclusions of the rebel element, we can do so; but that is an open matter that we can adjust in the future. That, I think, would be, as far as I can judge, the best amendment that we could put upon this bill. There would be no danger of advantage being taken of its language, because its administration would be in the hands of those who were in sympathy with its purpose. I simply desire to say that if the pending amendment shall be voted down, I shall then offer that as an amendment to the bill.

Mr. HENDRICKS. I am very reluctant,

Mr. President, to address the Senate this evening, because of the condition of my health; but understanding it to be the purpose of the friends of this bill to sit it out, I feel it to be my duty to submit some suggestions before the vote shall be had.

I am not going to discuss the amendment proposed by the Senator from Maryland, or the modifications of that amendment that have been suggested. Any amendment of this nature is substantially a proposition to the people of the South that if they will agree to the constitutional amendment proposed at the last session of Congress and to other propositions, it is very well; but this is submitted to them with the bayonet presented at the same time, and an amendment of the Constitution of the United States, which the fathers intended should be entirely at the will and pleasure of the States, is to be secured by the military power of the country. I cannot contemplate such a proposition with any degree of pleasure.

Two bills came from the House almost at the same time. The Senator from Massachusetts [Mr. SUMNER] was scarcely able to command language in which he could with sufficient earnestness express his admiration of both bills, and he was so much in love with both that he was unable to decide which was dearest to him. I am exactly in the condition of the Senator from Massachusetts, with this difference: I know of no language which I can command that will describe my hostility to both bills. The only difference that I can see in the two measures is, that the one proposing a provisional government for Louisiana is more insidious, and, if it were parliamentary to say so, I would add more cowardly in its attack upon liberty. The bill which is now before us proposes in a bold way, outright and straightforward, by physical power to govern the people of the South: the other bill, by a political machinery, proposes to strip them of free government, and, under the pretence of guarantying a republican form of government, to take away from the people the power to decide upon their own institutions. I intend to speak of the bill that is now before us as briefly as possible.

This bill is prefaced by a preamble reciting the facts which its friends claim justify its enactment. What are they? In the first place, it is stated that the governments which exist in Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas are not real State governments, but are "pretended State governments." That is the first proposition in the preamble, that in some way or other these States, some of which helped to form the Federal Union, have ceased to exist, and in their stead there have sprung up "pretended State governments." Now, sir, when did that take place?

There are some things that, in my judgment, are binding on the majority of this body, some propositions of fact to which gentlemen belonging to the majority are committed, and which they cannot turn their backs upon; and one proposition, as a matter of fact, is that these States did not cease to exist because of their ordinances of secession. Congress has too often since those ordinances were adopted recognized them as States to allow the majority now to deny their existence as States. When did they cease to be States and come to be pretended governments? I should like to hear some gentleman of this majority state exactly at what time that took place, when it was, and how it was. State governments were in existence when the rebellion took place. Did the rebellion disrobe them as States? Too often we said that was not the case to allow the contrary to be said now. Did they cease to be States by the act of secession, by the act of rebellion, by the act of war, or was it because the rebellion itself was defeated?

Next it is averred that in these States which I have named there is "no adequate protection for life or property," and that these States "countenance and encourage lawlessness and

crime." That is a proposition of fact upon which the majority now claim the right to establish such a government as this bill proposes. Suppose it true that in the States of the Union property and person are not well protected, that lawlessness prevails, does that enlarge the powers of the Government of the United States? Does that confer upon Congress the power to strip the States of their reserved rights and establish a form of government unknown to the Constitution? If I admit this allegation of fact as strongly as it is stated in the preamble, I ask Senators will it clothe Congress with a power which, independent of that fact, Congress does not possess?

But, Mr. President, the fact itself I deny. There is no such state of society in the southern States as is described in this preamble. There is no such condition as that the State governments at the South do not afford adequate protection for life or property. There is no truth in the averment that these States now countenance and encourage lawlessness and crime. I say it is not true, because the information I have upon that subject satisfies me that in fact it is not true. I know we have many reports on the subject; I know there are letters read to the Senate from time to time to that effect; but I have information from friends who went from my own State, neighbors, many of whom were Republicans before they went to the South, opposed to me politically, who tell me that it is not true. Within a week I have been in conversation with a captain who served in an Indiana regiment, served well, and was discharged from the service with honor, and after the war was over took up his residence in one of the southern States. He tells me that there is a state of quiet, of order, and obedience to right and law, equal to that in the State of Indiana. To-day I have read a portion of a letter from New Orleans, written by a person who has recently resided some distance out in the State of Mississippi, in which this language is used:

"The country is quiet and settled, even more than Maryland. You hear no politics talked. It is quite amusing to pick up a northern paper and read the most utter false statements from correspondents, even of this city, when it is now and has been all winter more quiet than I ever knew Baltimore."

I suppose the writer refers to Maryland and to the city of Baltimore, because they are familiar to him.

Here is evidence which I do not question. I do not upon the other hand question that there are cases of murder, cases of larceny, cases coming within almost all the definitions of crime, occurring in the several southern States. Can any Senator say that the same is not true in his own State and in his own neighborhood? Can any Senator say that in the courts in his own State justice is always done and wrong never?

Why, Mr. President, it is not long since I read an account in a newspaper of a little girl being beaten by her father and her step-mother until she died; and what punishment was inflicted upon them? My blood chilled in my veins as I read the account of that horrible torture by a parent upon his own child, and that child a delicate girl, and that in a northern State. Oh! if that had but occurred in Texas, if it had only happened in Louisiana, what a choice thing it would have been in the way of a sensation in the northern papers! A punishment as for manslaughter was the judgment against those culprits, cruel monsters, in a northern court. And what do you think of that other case recently occurring in one of the northern States, where a girl was almost starved that she might be brought to acquiesce in the free-love sentiments of the step-father and mother—not step-father and step-mother according to law by any legal marriage, but according to the sentiments of the free-lovers—and that in a northern State?

Did Senators not read of that horrible massacre at New Ulm, in Minnesota, but recently, when two soldiers arriving from Mankota in that State, at that little town of New Ulm, got into a controversy with some of the people,

and in that controversy stabbed a man, inflicting a severe wound? For that the town as a mass took these two persons, strangers in their midst, and not only murdered them, but mutilated their bodies, and after all put them under the ice in the Minnesota river. Their bodies were afterward recovered from beneath the ice by the people of Mankota, who went up for that purpose, and upon the body of one of those men were found fifteen ghastly wounds, and their persons were mutilated to such an extent that it was shocking to their friends to see them. Oh, if that had but occurred in Texas or in Georgia it would have been worth a whole issue of the sensational journals that corrupt the public mind in the North every day.

When the honorable Senator from Wisconsin the other day read a letter addressed to him from Texas to meet the charge so freely made, so badly supported by evidence, that men are not tried and convicted in the southern States for crime—a letter from the center of Texas giving an account of a trial of a white man of influence in that society who had murdered a negro, and who was tried and convicted and sent to the penitentiary for five years; some Senator spoke up and said, "Ah! only five years for a murder, a white man who murders a negro is sent to the penitentiary for only five years." Even that case was attempted to be treated as a fact in condemnation of the justice of the southern courts. While the Senator was reading the letter I thought of a case that recently took place in Chicago. A courtesan of that city had her fury excited against her paramour who had transferred his illicit love to another; she pursued and stabbed him to death. She was put in jail, not with the common convicts, but she had her apartment fitted as for a princess, and so she was kept until the trial, and a Chicago jury, in view of her position in society, convicted her of manslaughter and she was sent to the penitentiary for one year, and when she was taken to the penitentiary no rough clothes were put upon her, no striped garments to mark her disgrace because of the shedding of human blood, but it was as if she were in her own boudoir at home, where she had enjoyed the profits of her profession. And the case did not stop there, but when she had been in the penitentiary one month the Governor of the State pardoned her. Oh! if that had been in Georgia, if that had occurred in Mississippi, how this northern mind would have been lashed to fury against the people of the South! Sir, let him who is without crime throw the first stone. These are cases known to us all, and yet they produce no excitement because they occur in our own section.

Mr. DOOLITTLE. Will the honorable Senator allow me a word in reference to the case of which I read from Texas?

Mr. HENDRICKS. Certainly.

Mr. DOOLITTLE. It did not appear that in that case the person was charged with murder, but with manslaughter. I would also call the Senator's attention to another fact that occurred recently in the State of New York, not many days ago, where a clergyman was indicted for manslaughter, and was sentenced to only three years, for whipping a child to death because the latter could not say its prayers.

Mr. HENDRICKS. Certainly.

Mr. WILSON. Will the Senator allow me a moment?

Mr. HENDRICKS. Yes, sir.

Mr. WILSON. I am informed by General Kiddo this morning that in the case referred to by the Senator from Wisconsin the person convicted was immediately pardoned. I hold in my hand three or four columns of instances of murders in Texas, with a statement of the names of the persons murdered, and in the whole number there is not a single instance of punishment. This is an official record for seven months only.

Mr. TRUMBULL. Has anybody been indicted for murdering any of those persons?

Mr. WILSON. Whether that be so or not, there has not been any punishment inflicted. General Kiddo has been at the head of the Freedmen's Bureau in Texas. He arrived here day before yesterday, and I had a long conversation with him this morning, when he called to see me about affairs there. I have in my hand a list of three hundred and seventy-five murders and five hundred and fifty-six outrages against the civil rights bill in Texas. Then there are about one hundred and fifty-one cases of murders reported in about fifty counties in Georgia, at a colored convention recently held there, where a statement was given of the names in these various cases, these counties being about half the State, and there were only three cases of trial and punishment. Even here in Maryland, close by us, have been eighteen cases of murders of freedmen; and who has been punished?

Mr. JOHNSON. And no trials in Maryland? Where does the honorable Senator get that information from?

Mr. WILSON. From the official record.

Mr. JOHNSON. Then the official record is not true.

Mr. WILSON. I do not say there has been no punishments there.

Mr. JOHNSON. Ah, sir! There has never been a moment since the beginning of the rebellion till the present time when any man was not tried in Maryland and punished for an offense against a negro, if it was known to the authorities.

Mr. WILSON. Does the Senator mean to say that there have been no murders of freedmen in Maryland?

Mr. JOHNSON. What I mean to say is this—

Mr. WILSON. I find I was mistaken. The cases were in Virginia, and not in Maryland.

Mr. HENDRICKS. Who certifies to those facts?

Mr. WILSON. They are certified to by a public officer.

Mr. JOHNSON. I understand the honorable Senator from Massachusetts to say now that he was mistaken in referring to Maryland, and meant his reference to be to Virginia.

Mr. WILSON. Yes. In the State of Virginia there had been eighteen cases of murders of freedmen and one hundred and five instances of outrages against the civil rights bill.

Mr. DOOLITTLE. Will the honorable Senator allow me to look at the list?

Mr. WILSON. I have no objection.

Mr. HENDRICKS. If the Senators are through I will go on with the remarks I was submitting to the Senate. When interrupted I was speaking of some cases that had occurred in the North. A year and a half ago I was called to one of the counties adjoining my own residence on professional business, and while there I listened to the trial of a murder case. There had been a political meeting during the latter part of the war, I think in the year 1864, in that county. There was a drunken person at that meeting who shouted for Jeff. Davis, as it was claimed upon the trial, and the accused took a pistol out of his pocket and shot him dead for nothing in the world but the speaking of the words. It was not claimed by the attorneys for the defense that there was any excuse even, except the speaking of those words by the murdered man when he was drunk. The jury were out about fifteen minutes, and they brought in a verdict of not guilty, and the courthouse rang with the huzzas of the partisans at that result.

I refer to these cases to show that occasionally, even in the pure atmosphere of the North, the law is not executed; that the fascinations of a beautiful woman in one case, and political influence in another will screen from the punishment for crimes.

So much, Mr. President, for this preamble—a preamble upon neither proposition true in matter of fact. Now, what is the bill which is based upon this preamble? The first section proposes to divide the southern country up into military districts. That is already done

for some purposes by the Commander-in-Chief of the Army. So that is not very important, except that Congress undertakes thereby to do that which properly belongs to the military department of the Government, if I may so express it.

The second section provides for one of two things: either to take from the President his control of the assignments of the officers of the Army to duty, or it does not do that; whether the one or the other I cannot say. The Senator who is the champion of the bill before us says that its effect is to leave the President clothed with all his powers as Commander-in-Chief. The Senator from Michigan claims that the language disrobes the President of the United States as Commander-in-Chief of the Army so far as the assignment of officers to duty is concerned, and so far as the discharge of duty under this act is concerned. Which is it? If the effect of this section is to take from the President his power which is conferred upon him as the Commander-in-Chief of the Army, then it is in plain and palpable violation of the Constitution. If it does not have that effect it ought not to be here. In either event it ought not to be here. If we cannot confer upon an inferior officer in the Army a power that is vested in the President of the United States, then this section ought to be stricken out. I shall not discuss that section further.

The third section, I suppose, is original with the draftsman, for I think a precedent for it can scarcely be found. I know it cannot be found in any free Government that has ever existed, and I doubt if it can be found in the history of any despotism that has crushed men to the earth in times that are past.

It shall be the duty of each officer, assigned as aforesaid, to protect all persons in their rights of person and property.

How? By what means and through what instrumentalities? We shall come to that perhaps directly; but here is an assignment to the Army of the duty of protecting the citizen in his rights of person and property. Is that under our form of government the province and the business of our Army? What does the Constitution say in regard to our military power, because the military power of this Government, I presume, is to be found in the Constitution as well as the power of any department of the Government? Congress, among other powers, shall have the power "to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years," and "to make rules for the government and regulation of the land and naval forces."

"To raise and support armies" is the general power that is conferred upon Congress. What is the business of an army in a free Government? Is it to ascertain, adjust, and control the rights of citizens? The language of the bill is "to protect all persons in their rights of person and property." What are the rights of person and property? The rights of persons and property are to be ascertained by the law. The law defines these rights, not military law, but civil law.

Mr. President, it is the business of the Army of the United States to defend the nation. It is the right arm of the nation for its own defense and protection against a foreign foe and against insurrection and rebellion within. For these purposes I concede that under our form of government the Army may be properly and rightfully used; but when you go beyond that, and in the time of peace assign the Army to the protection of the rights of person and property, you have carried the Army into the courts; you have driven the judge from his seat and the jury from the box; and allowed martial law to take the place of civil law.

This section does not stop here, but it goes further and makes it the duty of the military "to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the peace, and criminals." How is this to be done? By what law? And

who are to be regarded as criminals? These are questions that the friends of this bill ought to answer.

And to this end he may allow local civil tribunals to take jurisdiction of and to try offenders.

First, the Army is to be used to protect individuals in their rights of person and property, and secondly, to punish criminals. And these commanders may allow the local civil tribunal to take jurisdiction and to try offenders; that will be a matter of permission; courts will no longer be held in these ten States as of right, but whether there be courts or no courts will depend altogether upon the pleasure of the commander of the district. If he does not choose to allow the civil tribunals to act "he shall have power to organize military commissions or tribunals for that purpose, anything in the constitution and laws of any of the so-called confederate States to the contrary notwithstanding." I wish to suggest to the friends of this measure one amendment which will be proper here. It is that when they provide for the trial of questions as to the rights of person and property and the trial of persons charged with crime before the military courts, "anything in the constitution and laws of any of the so-called confederate States to the contrary notwithstanding," they should add, "anything in the Constitution of the United States to the contrary notwithstanding," and then it will be an honest bill, then the truth will be told, because I undertake to say that no man can vindicate this bill upon the basis of the Constitution, being the supreme law of this land.

How are the rights of person and property ascertained? It is not for a military commander, I presume, to go into a neighborhood and hear a complaint, and to say that the right in this controversy is with A or with B. He must hear it, and for that purpose he must organize a court, or he may allow some civil court, some ordinary tribunal of the State, organized under the laws of the State, to try the case. If he chooses to do so he may appoint a court of private soldiers or of non-commissioned officers, or if the cause is of sufficient importance I presume he may organize a court of commissioned officers.

Does any man say that this is right because there is war in the southern States? No Senator will say that, because in point of fact it is not true; and any man that now casts his vote for a measure upon the ground that war exists, and therefore there is occasion for the use of the Army, legislates upon a proposition in fact not true. We know there is no war there; we know that peace has returned to all the States, that there is not an armed soldier hostile to the Union in the southern States, that the armies have disbanded and the men gone home. As a fact, we know there is no war, there is no condition of war; as a fact, we know that the civil society has returned to its ordinary condition, and that the State and the Federal courts are in the exercise of their ordinary jurisdiction. In other words, Mr. President, we know that this war has accomplished all that was to be accomplished when it commenced, that the rebellion has been suppressed, that the Union has been maintained so far as the supremacy of the laws of the United States and of the Constitution is concerned; I regret to say no further. So far as the Army could restore this Union it has done its work. So far as a political organization could stand in the way of the restoration of the Union, it is today not restored. What more is there for the Army to do? In each locality of the South what more is there for the Army to do? It is the pride of the American soldier to meet the armed foe in the field, and arm to arm and breast to breast to fight it out; but it is not the work of the soldier to prey upon unarmed and defenseless citizens anywhere. The people are at peace. It is the peace of a subjugated people, to use the language of some Senator the other day, a people that have ceased to resist, a people that have been more completely beaten in war than perhaps any people before, because they fought

it out to the last extremity; a people overcome with poverty almost perishing for the necessities of life; a people offering no opposition to the execution of the laws of the United States; and upon such a people the Army of the United States is to be used!

Mr. President, this bill in its third section proposes to confer upon the military commander the power to settle disputes between individuals. How can the distinguished Senator from Maine [Mr. FESSENDEN]—I know he is observing my remarks, and therefore I refer to him—how can that gentleman, who is so eminent in the profession of the law, say that under the Constitution of the United States a military court can be organized in a peaceable society to try controverted rights between man and man touching person or property? In his professional life, when his client came to recover a piece of land, he brought his action of ejectment; when he claimed his personal property, he brought his replevin or trover; when he claimed for an assault and battery upon the person, he brought his action of trespass; and it was heard before a judge and jury, and as the questions of law and fact were ascertained by those two departments of the court the judgment went. But in the State of Maine what would he have thought when his client came to him and stated his case well, and he should be satisfied that the right was with him, if he had to cross the street to find some lieutenant or sergeant and state to him the case for him to hear and arbitrarily decide, not only decide where the right was but the extent of the right, and how it should be vindicated, and from that decision no appeal? As well to-day may it be done in the State of Maine as in the State of Georgia. The existence of rebellion does not swell the powers of the Federal Government under the Constitution, and the pretext ceases with the suppression of the rebellion.

But, Mr. President, there are a few provisions in the Constitution of the United States that used to be read with some interest by the people and commanded some degree of respect, to which I will refer, and I think we might now respect these provisions because of the high character of the men who thought it was well that they should be in the supreme law of the land, so high that no Congress could disturb them. One of these provisions is that—

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall he be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law."

Where is the grand jury that is spoken of in the Constitution? Your military commander hears of a murder, one of these murders that the Senators from Massachusetts have seen until their eyes have become red. A shocking thing it is to commit murder! To stain one's hands with human gore is the chiefest of crimes. But who is to try that man? We admit the extent of the criminality; but who is to try him? Under this bill it would be a little difficult to say.

It may be one kind of a court or it may be another; it may be a military commission or tribunal. How many shall compose the court? We know who is to organize this court: it is the military commander. He will designate A, B, C, and D; and who is to challenge that jury? It may be a question between one of the officers of the court or one of the soldiers that are brought to try the man and the man himself, as to which is guilty. No challenge is allowed, but a court is organized arbitrarily without a word from the defendant. He is put upon his trial, for what crime? how described and how defined? I want to know of Senators who support this bill what is a crime under this bill? Is that to be decided by the common law, by the laws of the United States, or by the law of the State, or is it to be decided on the definition made by the commander? Is a man

to be tried by the civil law before a military court or by martial law? If he is tried by martial law then I believe that martial law is defined to be the will of the commander. What shall be the crime that may be punished under this third section I cannot see. What system of laws, if any, shall define it I cannot anticipate. By what rules of evidence is a man to be tried? We know what rules prevail in the courts. When a man is being tried for his life we know what are the tests of credibility, how testimony shall be commanded, and how it shall be met; but in this military court all this is dependent upon the pleasure of the court itself.

By what law and rule is the judgment of that court to be determined? Is it to be the pleasure of the court? It seems to be so. The fifth section declares—

That no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the Army shall not be affected by this act except in so far as they conflict with its provisions.

Then a man is not to be taken by an inferior officer and tried by his court and put to death until the opinion of the commander of the district is had upon the subject. That is a little like an appeal. If a man is condemned before a military court and tried, he has one chance yet for his life; the papers shall be sent to the military commander of the district; he shall look over them, or one of his aids shall, and he shall decide whether the man shall be put to death. That is comfortable! What are the guarantees of the Constitution of the United States? A man shall first be deemed probably guilty by at least twelve men on a grand jury before he shall be put upon his trial, says the Constitution; and when thus put upon his trial on the finding of a grand jury he comes into a court that is to decide whether the charge is one that comes within the definitions known to the law. He is tried upon that before a jury, he has the benefit of seeing the witnesses face to face, he has the benefit of counsel to appear for him, and when the verdict is rendered, there is a court that has heard the evidence, and if the verdict is not right, he has the benefit of the interposition of the court. And after all that, in all of our courts, except the district court of the United States, an appeal lies to some higher court; and in all important cases in the circuit court of the United States, if there is any question of doubt, the judges express that doubt upon the record, that it may come to the Supreme Court of the United States. See the care with which the civil law and the Constitution of the United States have provided for the trial of men accused of crime. But this bill establishes over these southern States a new system of government, such as Russia extends over Poland and Austria over Hungary.

Mr. DOOLITTLE. Before the honorable Senator leaves the point he is discussing with regard to the last section of the bill, I wish to call his attention to another consequence to flow from that provision as it stands. There can be no appeal, even in the case of a sentence of death, to the General of the Army or to the President of the United States. The regulations of the Army, as they now stand, being in conflict with that last section so far as giving an appeal to the General of the Army or to the President as Commander-in-Chief is concerned, the effect of that section is to make the decision of the brigadier general in the district supreme, with no appeal whatever beyond him.

Mr. HENDRICKS. In the absence of this statute I believe the case would have to go to the President. In fact the death penalty cannot be executed on the sentence of a military tribunal except with the approval of the President.

Mr. HENDERSON. The case of some few offenses in the field is excepted by the present law.



Mr. HENDRICKS. But that is during war. But, sir, what has become of this language which I find in the seventh article of the amendments to the Constitution:

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

He shall enjoy the right to a speedy and public trial, with the witnesses brought before him, and all before a jury. What state and condition of our society does this apply to? It does not extend to persons in the Army and Navy. They may be tried by military authority, for the Constitution so allows; but with that exception, and not within the lines of the Army during war, what becomes of this provision?

Across the river within sight of this Capitol we know there is no war, and the civil courts have full jurisdiction; and yet across the river in sight of this Capitol, if this bill becomes a law, a man may be charged with a crime by some malicious person who has a grudge to gratify, may be brought up for trial without that preparation which every Senator knows is necessary for a safe trial, may be brought before a military court or even before a military commander himself, without a court, may be tried and shot within sight of the Capitol of the United States. And yet this Constitution, sworn to by all of us, contains the provision which I have read, and I have taken an oath here that by no act of mine shall a citizen in a criminal case be denied the right of a jury. Am I to vote for a bill which says he may be denied the jury, tried, and shot? Sir, I cannot understand this thing. There is peace in the South, almost the peace of death, a devastated country that we see, a people with scarcely enough to support themselves, the courts holding their regular terms, grand juries meeting; and yet you propose to say that within the sight of the Capitol this military execution may take place.

Mr. President, need I refer to the recent decision of the Supreme Court of the United States in the Milligan case. That was a very signal case in all its history. I had occasion to observe it in some of its progress, and I never wish to see any friend of mine tried by any such military court. It was a mockery, a shocking mockery of human rights. In the city of Indianapolis, in the center of a State at peace, where there was no pretense that there was war, no pretense that there was an occasion for the exercise of the military power of the Government, this man was brought to trial before a military commission, convicted, and sentenced to death, and the question finally came to the Supreme Court of the United States. The decision of that Court is a plain one, that this Constitution of ours means something, and the learned Justice speaks of the plain English words in which it is written. The Supreme Court have vindicated the right of trial by jury, an important right, as our ancestors thought, a right for which they were ready to fight and to die.

I know, Mr. President, that the Supreme Court has been the object of attack because of that decision. I am very proud that that decision was made by a western man. Has any lawyer of this body stopped to reflect that there is no judge of the English race whose name has come down with honor to us that did not vindicate human rights? Have the lawyers of this body stopped to reflect that every English judge who catered to power and trampled upon the rights of the humblest individual has come down clothed with infamy? Hale represents the one class and Jeffreys the other. The contest of the noble barons for the great charter has to be fought over again it seems. Every judge who has held up that charter, and the rights of Englishmen under it, has come

down in history with honor, and every judge who has trampled upon those rights has come down in history with dishonor; and so may it be, Mr. President, and so will it be forever.

I know the appeal that is being made in these times to a great party to break down a judge because he has repeated the lofty sentiments that have been the honor and the pride of the English and American courts for so many centuries; but I fear not these attacks. When dissenting opinions shall be forgotten, this great opinion will stand among the landmarks of human liberty. The name of the judge that stood up and said that a man was not to be killed unless he was tried according to the Constitution and the laws is immortal. Think you that the name of the judge who says that a man can be killed without trial according to the Constitution and the law is to stand above the name of the man who is for the Constitution and the law? Sir, the name of Mr. Justice Davis, now among the learned of the profession, among the men who love liberty, has its place as fixed as the name of Sir Matthew Hale. I have no criticisms to make upon any other judge's opinions. Upon the leading point in the case the court was unanimous. The court said that the trial in the State of Indiana, where there was no war, where there was no right to use the military power, was illegal, and the execution of the man would be murder. Upon the possible power of Congress even in a time of war to confer this power, this jurisdiction, to a military court the court was divided.

Mr. LANE. Will my colleague permit me to interrupt him for one moment?

Mr. HENDRICKS. Certainly.

Mr. LANE. Will my colleague say that there never was any war in the State of Indiana? Will he say that the march of Morgan through that State with ten thousand followers was not war? Will he say that this conspiracy was not a part of the Morgan raid? A war existed there worse than in South Carolina or Georgia.

Mr. HENDRICKS. John Morgan with his command crossed the Ohio river, made a rapid march through the State of Indiana, stole some horses, which have not been paid for, was pursued rapidly, and finally overtaken, I think in the State of Ohio. It was a rapid piece of war through the State of Indiana, and there was not much conspiracy about that. John Morgan took us all by surprise. He took the military authorities in Indiana quite by surprise, for they were not able to catch him. They made the best speed possible, and some of them tried to head him off, but he got clear up in the State of Ohio before he was captured. The principal evidence of his war in the State of Indiana was the larceny of some of our horses.

Mr. JOHNSON. And never returned.

Mr. HENDRICKS. Some of the horses we got back. Morgan never returned into the State of Indiana. So far as the Milligan case is concerned, it had not anything to do with John Morgan's raid. Milligan was in no way connected with John Morgan's raid that I ever heard of. He was charged with conspiring in the North through the Sons of Liberty or Knights of the Golden Circle to overturn the Government, a crime defined, I think, in the act of 1861 or 1862, and the punishment prescribed and the jurisdiction of the court defined. The military court undertook to try a case that Congress had said should be tried in the district or circuit court, and because the military court undertook to do that the Supreme Court say it was an act of usurpation and the whole proceedings were irregular and void.

Mr. LANE. Will my colleague permit me to ask him another question?

Mr. HENDRICKS. Certainly.

Mr. LANE. I am not talking about the Bowles and Milligan trial. I understood my colleague to say there was no war in the State of Indiana, but a state of peace. Now he says the Morgan raid resulted in stealing some horses. My colleague knows that there was a fight at Corinth and at Salem in our State; and we

have already passed pension bills to pension men killed in the Morgan raid, an actual war in our State. I am not speaking of the trial of Bowles and Milligan; but I say there was a war there which justified military trials, in my opinion.

Mr. HENDRICKS. I was speaking about the Milligan case. I am not to be called off to a discussion of the question whether Morgan came through the State, or exactly where the fight was. I did not know that that was much of a fight. I knew some persons were shot, but really I did not think it amounted to a battle, as far as I heard. I was not in the pursuing party myself. I happened at that time to be up the river attending the courts, and I was cut off from getting home for a few days by the raid coming unexpectedly into the State. What I say is, that the military force that pursued him in our State did not overtake him in our State.

Mr. LANE. That is very true. I was of that military force, and in less than three days twenty-five thousand volunteers were in that force, and we thought it was a war to protect the people of Indiana.

Mr. HENDRICKS. All right. My opinion is that Morgan was making the best speed he could. That is what our folks thought, and they especially thought it because he changed his horses so often at their expense; and I think my colleague would do well, from the Military Committee, to provide for payment for those horses, if he could. I will go with him most cordially in that endeavor.

Mr. LANE. That is already done.

Mr. HENDRICKS. To pay for those horses?

Mr. LANE. Yes, sir; I reported a bill this morning to accomplish that very purpose.

Mr. HENDRICKS. I am delighted to hear it. I am much better pleased than I was with the trial of Milligan and the effort to kill him contrary to law. At the time Milligan was tried, John Morgan was not in the State of Indiana at all. None of his forces were in the State of Indiana, and never were there again in the world. There was not a confederate troop in the State of Indiana at the time Milligan was arrested and tried. It was entirely disconnected from that. He was not with the advancing or pursuing party. His case had nothing to do with the Morgan raid; so that, I say, so far as the Milligan trial was concerned, there was a state of peace. He was tried when the State of Indiana was in a state of peace; when the courts were in the exercise of all their jurisdiction conferred by law; when there was no difficulty in securing a full and fair trial before the courts. Mr. President, in my judgment, it is a grand record of the Supreme Court that sets that proceeding aside, and says that when the citizen shall be tried again he must be tried according to the Constitution and the laws. There are no raids down South now; there is no war there. Then why does not the decision of the Supreme Court apply? If a man is entitled to a trial, by jury in this country, and the Supreme Court say that that applies to all citizens not in the land or naval service, how is it that we can pass a bill that men shall be tried and killed without a trial according to law?

But let us look at the other sections of the bill. For hundreds of years, Mr. President, our race has boasted of the writ of *habeas corpus*, the great writ of liberty, a writ well known to our people. That writ, if this bill becomes a law, can only be issued in one possible case in ten of the States of the Union. It can only be issued by the permission of a military officer. I will read the provision of the bill:

That courts and judicial officers of the United States shall not issue writs of *habeas corpus* in behalf of persons in military custody, unless some commissioned officer on duty in the district wherein the person is detained shall indorse upon said petition a statement certifying, upon honor, that he has knowledge, or information, as to the cause and circumstances of the alleged detention, and that he believes the same to be wrongful.

In ten of the States of the Union there is to be no issue of the writ of *habeas corpus*, unless

some military officer shall certify upon his honor that he knows the circumstances of the case, and that the detention is wrongful. A court is not to be allowed to hear that question until a military officer shall first decide that the detention is wrongful, and then he may permit the court to issue the writ. But he must certify further—

That he believes that the indorsed petition is preferred in good faith, and in furtherance of justice, and not to hinder or delay the punishment of crime.

The military officer, by giving that certificate, may permit the court to hear the case. If the Chief Justice, when his circuit comes to be assigned, should be called by the duties of his office to Richmond, and there should arise a case in which it would be proper for him to issue the writ of *habeas corpus*, and a citizen addresses him in a proper petition for the writ, what a spectacle would it be for the Chief Justice of the United States to say to that petitioner in his court, "Go to the lieutenant that holds his office across the street and get his permission, and I will issue the writ; I cannot without the permission." This lieutenant may have never read a law book in his life; he may know nothing about the rights of parties; he may know nothing about the case; and yet the Chief Justice of the United States is not allowed to hear that case. So in all the courts, the judges of the United States courts are subordinated in the jurisdiction conferred upon them by the Constitution and the laws to the opinion of a commissioned military officer; and all that, sir, in the name of liberty! Mr. President, I never knew so many principles of the Constitution, of liberty, of right, and of propriety violated in any one bill in my life. It would seem to me that if a man had been drawing a bill with a view to strike the Constitution at every point possible, he could not have succeeded more entirely than in the draft of this bill.

Perhaps I did not do the bill justice in one respect. There is one limitation upon the powers of these military courts or of military officers:

All persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted.

We know pretty well what that is, when it is addressed in the Constitution to our own consciences; but what will a military officer think is "cruel or unusual punishment?" There was a man in military command at Paducah for nearly a year, and he would have a man arrested in the night time and shot at sunrise. He considered that right. They say that when he left that place it took all the military wagons in Kentucky to carry away the booty.

Mr. GRIMES. Who was it?

Mr. HENDRICKS. I think his name was General Paine. That is a specimen. There was no war at Paducah at the time. The confederate forces were not perhaps within one hundred miles of Paducah. He was governing a part of the country that had been brought under military rule. He was succeeded by an Indian who reflected credit upon the service in the discharge of the duties at that place. If we could have as just men, as honest men, as intelligent men as the general who succeeded General Paine, I should not have so much fear of this bill.

Mr. TRUMBULL. If the Senator will allow me, I should like to have his authority for the statement he has made in regard to General Paine. I know something in regard to that case, and I think there is no sort of truth in the allegation that the Senator makes against General Paine, neither as a cruel nor as a dishonest man. I should like to know the authority for the statement that he had men arrested in the night and shot at sunrise, and that he took away wagon loads of booty when he left Kentucky.

Mr. HENDRICKS. Mr. President, there was a very earnest effort made, two or three years ago, by the then Senator from Kentucky, [Mr. Powell,] to get a copy of the record in

the War Department, and the Senator from Illinois opposed it.

Mr. TRUMBULL. No, sir.

Mr. HENDRICKS. The record of the court of inquiry.

Mr. TRUMBULL. No, sir.

Mr. HENDRICKS. Then if the Senator did not oppose it I will withdraw that part of my statement. Governor Powell, as a Senator, introduced a resolution calling for the record in the War Department; and I understand the record there shows what I have stated. My recollection was that the Senator from Illinois opposed the passage of that resolution.

Mr. TRUMBULL. I opposed the passage of a partial resolution, not for the whole record, and if the Senator from Indiana does not know, perhaps he had better make inquiry and ascertain that General Paine had a trial and was acquitted of all the accusations, and the only thing upon which he was found guilty was not in reference to any one of these matters.

Mr. HENDRICKS. He passed from Kentucky up into Illinois, and this was an inquiry made pursuant to an order from the War Department, as I understand, and the officers appointed to make that inquiry made their report to the War Department. That report was asked for by the resolution to which I refer. Now does the Senator from Illinois say that he opposed or did not oppose that resolution?

Mr. TRUMBULL. I say I did not oppose the whole renquiry, and that General Paine demanded a court-martial, and had it in reference to these charges, and was triumphantly acquitted of all such accusations as the Senator from Indiana makes here to-night.

Mr. HENDRICKS. Has the Senator examined that record himself?

Mr. TRUMBULL. No, sir; but I have this upon information which I think is correct. I have it from persons who knew all about it.

Mr. HENDRICKS. I was very anxious that the resolution offered at that time by Senator Powell should be adopted, and that we should be able to see exactly what was the fact; but it never was passed, and we did not get that record as I recollect.

Mr. TRUMBULL. General Paine had a trial.

Mr. HENDRICKS. It is to that record in the War Department that I refer.

When interrupted by the Senator I had commenced to say that I did not know that it was worth while now to say a word in behalf of the people of the South. I am not going to apologize for their conduct. But, sir, they have submitted to the military authority of the Government most reluctantly upon their part. Their arms have been laid down or taken from them; they have in every way in which they could do so addressed themselves to this Government for pardon and for restoration in all their relations to the Government, and for nearly two years they have been refused; they have agreed to the constitutional amendment abolishing slavery; they have modified their own constitution so as to abolish slavery; they have repudiated the southern debt contracted during the war; they have done all that they understood was required of them, except to adopt the last constitutional amendment; they have not adopted that, and I do not know that they ever will. Upon that subject I have no opinion to give. Some Senators on the other side know very well that there was a provision introduced into that constitutional amendment that made it almost impossible for the people of the South to adopt it. I speak of that provision which especially degraded the military officers of the South and cut them off from all positions in the Federal and State governments. Whether they ought or ought not to have adopted that constitutional amendment—whether it was a matter of expediency or of right, I do not choose now to discuss; but they have so far declined to adopt it; and what is to be their condition? The war is over. What

are their relations to this Government? They are required to obey the law; they are required to pay their taxes. These they do as cheerfully as possible as far as their means go. They are now making no great demands for representation in Congress. They know that for the present that is hopeless. I have heard no certificates of election read at the Secretary's desk at this session from the southern States. I suppose for the present they have ceased to ask for representation.

But, Mr. President, the condition of those States demands some action upon the part of Congress—not, in my judgment, to subject them to a form of government unknown to our Constitution and institutions, but some policy that will bring them back again in all their proper relations to the Federal Government. Sir, there is no office so high that it would be a compensation to me for an effort on my part to inflame the passions of the people of one section now against the people of another section. I could not be induced to do it. I believe that this Government must eventually rest, if it is to be permanent, upon the love of the people. It is the highest duty of the citizen and of the statesman now, by every effort possible, to restore harmony and peaceful relations. I believe that this Government would be completely restored in every respect to-day if the proper course had been pursued a year or a year and a half ago. I had no anxiety for the abrogation or repeal of the test oath. That required the southern States to be represented by loyal men, as they are called. Let that be if Senators desire it; but let them be represented. Let the wheels of this Government move on according to the Constitution. If Senators expect to restore this Government by establishing over nearly one third of the States a form of government unknown to our people, they are mistaken, in my judgment.

Why, Mr. President, as I read this bill and contemplate its wonderful provisions, it is almost impossible for me to believe that Senators by this policy desire restoration; it is almost impossible for me to believe that they desire harmony. Such a system of government as this finds its parallel perhaps in Poland; to some extent it may find a parallel in Hungary; but, sir, it never found its parallel in the history of Rome. When Rome extended her conquests she extended Roman laws. The proudest day of the life of Cicero was when he attacked the governor of a Roman province for the cruelties that he perpetrated upon the people.

In my judgment no statesman of this day and of our country can win undying laurels by exciting this strife and keeping it up and keeping our country apart; but, sir, that statesman will become immortal in the history of this country who can restore these people to their former relations. Every inducement is in favor of it. Our trade, our commerce, our prosperity invite us to such a policy. There is no reason against it. We have no conflicting interests in this country; at least we should have none. New England has her peculiar interests; but they do not conflict with the interests of the West if we have wise legislation. The West has her grain-growing interest. The South has her producing interest. The prosperity of each is the prosperity of all. I want this Union fully restored, that trade may return to our people and prosperity to every section.

Mr. President, I may be wrong about this. It may be that the safest way to establish liberty is first to establish despotism. They have an easy way in Poland. When any person conducts himself so as not to satisfy the military commander, that night he is on the road with his family to Siberia. That is short work. It is a very efficient government. It settles questions without any trouble and quickly, without unnecessary delay, to use the language of this bill. So in Turkey, when they want a man out of the way they throw him into the sea. So in China, when a man is supposed to be dangerous they flay him. These are examples that we can follow. But, I say

that in no republic that has existed on earth, and in no circumstances connected with the history of the United States, do we find a parallel for this proposition. It has no virtue; it has every vice that so short a bill can possess.

Mr. WILSON. It is now midnight, and we have got a great deal of work to do during the next few days. I therefore suggest that we make some arrangement at this time by which we may take a vote at seven or eight o'clock to-morrow evening, so as to give abundant time for the discussion of this question.

Mr. JOHNSON. Say eleven or twelve o'clock to-morrow night.

Mr. WILLIAMS. I will not agree to that. The PRESIDENT *pro tempore*. The Senator from Massachusetts is entitled to the floor.

Mr. WILSON. I merely wish to suggest to the gentlemen on the other side that we name some time to take the vote; say ten o'clock to-morrow night. If we can make such an arrangement, I think we had better do so.

Mr. McDUGALL. I desire to say to the Senator from Massachusetts that I think the measure can be concluded then; but I do not believe in these pre-contracts. They are irregular. If I choose to discuss this question all day to-morrow, it is my privilege, or the privilege of any other Senator to do so.

Mr. POMEROY. Let us go on to-night.

Mr. McDUGALL. Very well. I have not asked for any adjournment or postponement; I am willing to stay with those who stay longest, and stand with those who stand longest. I think, myself, that the bill can be concluded at the time suggested; but at the same time I object to this system of contracting for conclusions of debates where gentlemen may be desirous of debating a question. If I should embark in this debate myself, and I shall undertake to engage in the full debate, I do not know how long I might employ myself in producing my full opinions; and so of others. It is not according to the proper rule of the Senate to make such an arrangement. We have no previous question here. This system of contracting to close debate upon great measures like this is not exactly right. I believe we can get the question to-morrow night. I am willing to sit up this night, all day to-morrow, and to-morrow night for that purpose. I am neither hungry, nor sleepy, nor tired; I am willing to stay with you all the time; but I object to this thing of limiting debate.

Mr. WILSON. I will simply say that we must all feel that we ought to preserve all the strength we have and all the good temper we have in discussing and dealing with these matters. The Senator from California talks a great deal and very often, but he is always brief, and I have no idea that he will take all day to-morrow. It seems to me that now at midnight we might go home in first rate condition, and come here to-morrow, and to-morrow evening at ten o'clock take a vote on this bill. We shall have several amendments upon it. For myself I will simply say that I hope the bill in regard to Louisiana will be modified so as to apply to all these States, and suffrage be given to everybody, with the exception of those excluded from holding office by the constitutional amendment, and that we shall pass that. I am willing to tack on this bill to it. I think that is of more vital importance, and I should like to see the two measures combined. What I desire now is, that the Senator from California will let us make this arrangement, to take the vote at ten o'clock to-morrow evening, which will give full time for debate. We shall then be able to go home instead of exhausting ourselves to-night. I can say to the Senator from California that I have no doubt that I can keep awake quite as long as he can, and remain in quite as good condition for legislation.

Mr. McDUGALL. We have never tried our mutual endurance. [Laughter.] I will say in reply to the Senator that I have now an amendment here to be offered as an amendment to the amendment when that comes in

order and I have the opportunity, and that will take at least an hour or two before I have anything to say on the main question. Nevertheless, I think that we shall be able to have a vote to-morrow night; but I do not make any pre-contract, for myself I claim the right of debating any question here.

Mr. BUCKALEW. From the conversation I have had with gentlemen about me, I have not any doubt that we shall be able to get through with the bill to-morrow night. I have no doubt that we shall be able to conclude it to-morrow without any difficulty as to the question of time. There are very few gentlemen, so far as I understand, that intend to speak. I know that the Senator from California is not very lengthy generally.

Mr. TRUMBULL. Before the matter passes from the recollection of the Senate, as the Senator from Indiana has renewed an assault upon a gentleman of my State who served in the Union Army and did his duty, and an unjust assault, as I think, I desire to refer to the record as it occurred two years ago. The Senator from Indiana charged that I opposed a resolution to obtain information from the War Department. I find that the Senator from Kentucky at that time, Mr. Powell, offered a resolution calling for the report of some—

Mr. HENDRICKS. Court of inquiry.

Mr. TRUMBULL. No, not a court of inquiry; of some commission that had made a report in reference to General Paine. When the resolution was offered, I inquired if that commission was *ex parte* and in secret, without General Paine's knowledge, and opposed the resolution at the time, and moved its reference to the Committee on Military Affairs, having understood that it was a secret transaction that he knew nothing about, that misrepresented him. The resolution was referred. At a subsequent period of the session, on the 18th of January, the matter was called up again, on the motion of the Senator from Kentucky, and I then said:

"At the time the resolution was under consideration, I had not seen General Paine, and had no information from him in regard to the report; but my reason for making the motion was that I thought it unjust to an officer to publish a report affecting his character, which I understood was *ex parte* and made by a commission before whom he did not appear. Since then I have seen General Paine, and had a conversation with him, and I learn from him that the report is of the character I had supposed. I learned from him further, that he, after hearing that a commission was proceeding to inquire into his conduct, before which he did not appear at all, filed a reply or answer to their report, and also that the report made by this commission was reviewed by the Judge Advocate General, and he informed me that he had no sort of objection to having the report of the commission published, provided his answer to it and the review of the report by the Judge Advocate General should be published also. I, for one, am willing, therefore, that the Senator's resolution should be passed if it should be amended so as to call for all the papers. It will then appear, as I am informed, that so far from General Paine being the bloodthirsty and guilty man that the Senator from Kentucky has pronounced him without a trial, he has but done his duty."

I will state that the Globe does not show that the Senator from Kentucky ever pressed his resolution any further.

Mr. HENDRICKS. I had never heard, until it was suggested by the Senator from Illinois, that there had been any trial on a court-martial of these charges that were so well understood over the country against General Paine. Now, as the Senator from Illinois says that there was a trial, and that that trial had relation to these charges, and that upon a full trial General Paine was acquitted, of course I do not wish to be understood as repeating a charge that a man was tried upon and acquitted, and do not. I had not heard that he had been tried. That is news to me.

Mr. TRUMBULL. He subsequently had a trial.

Mr. HENDRICKS. I acquiesce in the decision, of course.

Mr. TRUMBULL. My understanding is—I have never seen the proceedings—that of all the charges of the character of which the Senator speaks General Paine was acquitted; but he was convicted of some charge—I do not

remember what it was now—but it was nothing affecting his integrity as a man. I do not remember the charge of which he was convicted.

Mr. JOHNSON. What was the sentence?

Mr. TRUMBULL. I cannot now state what it was.

Mr. HENDRICKS. Any charges that he has been tried upon of course I do not wish to renew, and would not have it so understood.

Mr. DAVIS. I ask the honorable Senator from Illinois the name of the second commissioner that examined the case of General Paine. The first was John Mason Brown. Will the honorable Senator give me the name of the other colonel?

Mr. TRUMBULL. I do not know.

Mr. DAVIS. I supposed that the resolution of Governor Powell would show.

Mr. TRUMBULL. I have the resolution here as it is reported in the Globe.

Mr. DAVIS. I will make one remark while the honorable Senator is looking for the resolution. The two officers who made this inquiry into the conduct of General Paine were then colonels in the service, and both of them extreme Union men. Colonel John Mason Brown is still an extreme Union man and a man of very fine intellect, of superior intelligence and education, and one of the first men of his age in the State of Kentucky. His complaint and the complaint of the other colonel was, that this court of inquiry that was afterward organized and passed upon the case of General Paine sat without their being informed of its sessions or being allowed an opportunity to make good the charges which they preferred against him in their report.

Mr. TRUMBULL. I can give the resolution now if the Senator wishes to hear it.

Mr. DAVIS. Yes, sir.

Mr. TRUMBULL. Here it is:

"Resolved, That the Secretary of War be directed, if not incompatible with the public interest, to transmit to the Senate the report and evidence taken by a military commission, of which Brigadier General Speed S. Fry was president, appointed to investigate the conduct of Brigadier General Paine, United States Army, in and about Paducah, Kentucky."

Mr. DAVIS. Colonel Brown, since the court of inquiry upon the case of General Paine has delivered its sentence, publicly and openly avers that the charges made in the report against General Paine by himself and the colonel that was associated with him in the commission were true, and that if allowed the opportunity, they could have proved them to be true before any court of inquiry.

Mr. SAULSBURY. I wish to remark, in response to the suggestion made by the Senator from California, that I have no doubt myself that a final vote can be taken on this bill to-morrow at some time or other. We have now been in session for more than twelve hours, and this is certainly no time for proceeding with the discussion. I wish to speak briefly on the subject, and I am satisfied that I shall not speak at as great length to-morrow as I should to-night if compelled to go on.

Mr. JOHNSON. I was about to say that I have no doubt the vote can be taken to-morrow, and under that belief, and under the impression that that will be satisfactory to the majority of the Senate, I move that the Senate do now adjourn.

Mr. WILLIAMS. I hope not.

The PRESIDENT *pro tempore* put the question, and declared that the yeas appeared to have it.

Mr. DOOLITTLE called for the yeas and nays; and they were ordered.

Mr. JOHNSON. I think it probable, from what I have been told by one or two Senators, that I was not heard on the other side of the Chamber. What I said, and what I repeat is, that the vote can certainly be taken to-morrow, at least as soon as ten o'clock to-morrow evening; and I do not think it is possible to take the vote to-night. If we take the vote to-night we shall be unable to do any business to-morrow of any kind.

Mr. CONNESS. Mr. President—

The PRESIDENT *pro tempore*. The mo-



tion to adjourn is not debatable. The Chair should have interrupted—

Mr. CONNESS. It is as debatable to me as it is to the Senator from Maryland.

The PRESIDENT *pro tempore*. It is so.

Mr. CONNESS. Very well, sir.

The PRESIDENT *pro tempore*. The Chair again repeats that the motion to adjourn is not debatable.

Mr. CONNESS. I am quite aware of that, sir.

Mr. DOOLITTLE. If the Senator will reverse the motion, I will withdraw it for the purpose of allowing him to speak.

Mr. CONNESS. I thank the Senator.

The PRESIDENT *pro tempore*. The Senator from Maryland made the motion to adjourn.

Mr. CONNESS. I only claim equal rights here, which are not always accorded by the Chair.

The PRESIDENT *pro tempore*. The motion to adjourn was made by the Senator from Maryland, as the Chair understood. Is the motion to adjourn withdrawn by him?

Mr. JOHNSON. I withdraw it if the gentleman wishes to speak.

The PRESIDENT *pro tempore*. The motion to adjourn is withdrawn. The Senator from California.

Mr. CONNESS. I desire simply to say to the Senator from Maryland that his opinion that a vote can be had to-morrow evening at ten o'clock is not an agreement that the vote shall be taken at that time. If the Senate will enter into such an understanding, then for my part I shall vote to adjourn at this time; but if we cannot come to such an understanding I think we had better go on considering the bill. That is all I have to say.

Mr. McDOUGALL. I wish to suggest to the Senator from Maryland, also, that I do not think any agreement can be made that could bind the Senators present. It would be a convenience to them to conform to the agreement possibly, possibly not. There are several Senators who desire still to discuss this measure. The extent to which they desire to discuss it I am not well informed of; but I am aware that other Senators beyond myself will occupy some seven or eight hours, as near as I am informed.

Mr. GRIMES. How many do you intend to occupy?

Mr. McDOUGALL. Of myself I will say nothing. I shall only speak as long as I think I can say things of some advice or good sense; but I will not limit my discourse, for it is a great question, and if I am possessed of all that should be said of and about this question it might take me—indeed it might deserve taking the discourse of a whole week. [Laughter.] I do not claim to be equal to that effort, because I have not had the opportunity within twenty-four hours to bring together the material necessary to exhibit my views carefully upon this subject. I do not, therefore, expect myself to speak at any very great length; but yet if upon careful consideration I should choose to do so, or if possessing the recollections of past times and memories and reasons and considerations that yet lay in my hidden memories I shall choose to talk for a longer period, I shall claim the right to do so. I do not choose to be chained down to a particular period when I rise in the Senate of the United States to discuss any question. I think myself that we can close the argument to-morrow evening. That is my opinion. I have expressed it before. At the same time I do not believe in these contracts about the limitations of debate. There is no previous question in the Senate, and this thing of introducing one by contract between Senators is a thing to which I am utterly hostile.

Mr. DOOLITTLE. I move that the Senate do now adjourn.

Mr. WILLIAMS. I hope not.

The motion was not agreed to; there being on a division—ayes 11, noes 21.

Mr. DAVIS. It is my purpose to make a speech upon this important bill, and I desire

to make as short a one as I possibly can. I have no disposition to consume unnecessarily any time in the discussion of this measure, or to postpone the action of the Senate upon it. I think myself we might as well adjourn now. I do not believe that there will be any difficulty in reaching the vote some time to-morrow night, at least I shall not speak with a view to produce any such delay. I am anxious to give my views on this subject. I do not feel able to give them at this late hour of the night. Still, I believe I could hang on for three or four hours if I was disposed to do so, [laughter;] but I believe that to-morrow I should not occupy more than at the farthest two hours of the time of the Senate. Without making any contract with anybody but myself, I would be willing to restrict myself to that time.

Mr. HENDRICKS. I think there has been an impression on the part of the majority side of the Chamber, that there was a purpose to delay the passage of this bill by something beyond such debate as we thought was right and proper. I can assure Senators there is no purpose of the kind. It has not been mentioned to me by any Senator on this side; and so far as I am concerned, I have no such purpose. I never dreamed of such a thing.

Mr. CONNESS. I was under the impression that the Senator tried to adjourn us when we met to-night, and even on his own motion refused to vote.

Mr. HENDRICKS. Certainly I did.

Mr. CONNESS. So that we should have less than a quorum.

Mr. HENDRICKS. Certainly, I should have been glad to adjourn to-night. I stated to the Senate before we met this evening that I did not want to speak to-night, that I was not well. That is the whole of that. There is no purpose, as far as I am concerned, to delay the vote on this bill beyond the consideration that the bill ought to receive.

Mr. WILLIAMS. I think it is now so near morning that it is hardly worth while to adjourn. We might as well proceed with this bill at this time as any other. The mere expression of an opinion that this debate may close some time to-morrow night amounts to very little. It is the expression of the individual who makes it and goes no further and binds nobody. I think we might as well proceed with the bill to-night as at any other time.

Mr. WADE. Mr. President, what is the question before the Senate?

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri [Mr. HENDERSON] to the amendment of the Senator from Maryland, [Mr. JOHNSON.]

Mr. WADE. Well, let us have the question.

Mr. DAVIS, (at half past twelve o'clock.) I move that the Senate do now adjourn, and on that motion, I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 26; as follows:

YEAS—Messrs. Buckalew, Davis, Doolittle, Hendricks, Johnson, Saulsbury, Sprague, and Trumbull—8.

NAYS—Messrs. Anthony, Cattell, Chandler, Conness, Cragin, Creswell, Foster, Frelinghuysen, Henderson, Howard, Kirkwood, Lane, McDougall, Morgan, Morrill, Poland, Pomeroy, Ramsey, Ross, Stewart, Sumner, Wade, Willey, Williams, Wilson, and Yates—26.

ABSENT—Messrs. Brown, Cowan, Dixon, Edmunds, Fessenden, Fogg, Fowler, Grimes, Guthrie, Harris, Howe, Nesmith, Norton, Nye, Patterson, Riddle, Sherman, and Van Winkle—18.

So the Senate refused to adjourn.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. DAVIS. I am against both the amendment and the amendment to the amendment. I am against both, separately and collectively, and I could not be induced to give a vote that would amount or would seem to amount to a concession of either of them. I object to the amendment to the amendment, especially upon this ground: it concedes contingently for an indefinite time all the principles of the amendment. The Senator from Pennsylvania ex-

pressed so well and so forcibly the reasons why he could not give sanction to the principles involved in the amendment, and they accord so well with my own ground of opposition to the amendment, that I do not deem it necessary to repeat them. I merely rose to state the point upon which I should vote against the amendment to the amendment, without attempting to make any argument upon it.

Mr. HENDRICKS. I guess we had better adjourn, and I move that the Senate do now adjourn.

The motion was not agreed to.

Mr. HENDRICKS. I ask for the reading of the amendment to the amendment.

The PRESIDENT *pro tempore*. It will be read.

The Secretary read the amendment to the amendment, which was in line nine, after the words "United States" to insert "of whatever color, race or condition," and in the same line, after the word "upward" to strike out the words "who have resided one year in said State, with regard to race, color, or previous condition of servitude, except such as may be disfranchised for participating in the late rebellion, or for felony at common law," and to insert, "who may have been residents of the State for twelve months previous to the election, except such as may be disqualified on account of rebellion, felony at the common law, idiocy, or insanity;" so that the amendment would read:

That when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress, shall have become a part of the Constitution of the United States, and when any one of the late so-called confederate States shall have given its assent to the same, and conformed its constitution and laws thereto in all respects, and when it shall have provided by its constitution that the elective franchise shall be enjoyed by all male citizens of the United States, of whatever color, race, or condition, twenty-one years old and upward, who may have been residents of the State for twelve months previous to the election, except such as may be disqualified on account of rebellion, felony at the common law, idiocy, or insanity; and when said constitution shall have been submitted to the voters of said State, as thus defined for ratification or rejection, and when the constitution, if ratified by the vote of the people of said State, shall have been submitted to Congress for examination and approval, said State shall, if its constitution be approved by Congress, be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this bill shall be inoperative in said State.

The question being put on the amendment to the amendment, there were, on a division—ayes, seven.

Mr. CHANDLER. Give it up.

Mr. HENDERSON. I will not give it up. I desire to state now, before this vote is taken, to Senators that if the amendment is adopted as it now stands, if there is any intention of adopting it—I do not know what the feeling of the Senate may be on that subject—it will not secure the suffrage to the negroes in the South, and the amendment to it that I propose will secure the suffrage unless they be idiots, insane, or shall have been convicted of crime, treason, or rebellion. The proposition as offered by the Senator from Maryland, in my judgment, leaves it in the discretion of a State Legislature in the South to exclude the negroes for any other cause than race or color. For instance, if it be adopted, the State Legislatures may declare that no person unless he can read or write, or unless he has a higher degree of education than that, shall be entitled to vote. If Senators desire that done, I have nothing to say.

Mr. POMEROY. I think the amendment of the Senator from Missouri to the amendment is a decided improvement, and whether the amendment, as amended, shall be adopted or not, it cannot hurt it to adopt the amendment of the Senator from Missouri.

Mr. WILLIAMS. So far as I am concerned, I expect to vote against this amendment in any form. I am quite indifferent as to whether the amendment proposed by the Senator from Missouri is adopted or not; but my opinion

would be that it makes the amendment more explicit, and it is more easily understood with his amendment than in its present shape.

Mr. POMEROY. I hope the vote may be again taken on the amendment of the Senator from Missouri.

The PRESIDENT *pro tempore*. The vote has not yet been declared. Only one side has been counted. The Chair will put the question again.

The amendment to the amendment was agreed to.

Mr. FRELINGHUYSEN. I propose to amend the amendment by inserting after the word "constitution," in the seventh line, the words, "to be framed by a convention of delegates elected by the persons who may vote upon the ratification or rejection of the constitution as herein provided;" so that the clause will read:

And when it shall have provided by its constitution, to be framed by a convention of delegates elected by the persons who may vote upon the ratification or rejection of the constitution as hereinafter provided, that the elective franchise shall be enjoyed by all male citizens of the United States, &c.

The effect of the amendment as it now stands is, that the people only have the privilege of accepting or negating what is submitted to them. This amendment requires that electors, having the same qualifications as provided in the act, shall elect delegates to a convention to frame the constitution.

The amendment to the amendment was agreed to.

Mr. MORRILL. I move to amend the amendment in the fourth line by inserting after the word "when" the words "the people of;" so that it will read:

That when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the United States, and when the people of any one of the late so-called confederate States shall have given its assent to the same, &c.

As the amendment now stands it reads, when any of the late confederate States shall do so-and-so. If amended as I propose it will read, when the people of any one of those States do so-and-so.

Mr. JOHNSON. How are they to do it?

Mr. MORRILL. By a convention, and that is provided for in the amendment of the Senator from New Jersey. That relieves it from the implication that we authorize these States to do this. I propose to have it done by the people, and not by the States.

Mr. JOHNSON. I rather think the honorable member is mistaken. The provision to which he refers relates to the adoption of the constitutional amendment as it is now pending before the States, that is submitted to the Legislatures of the States. How are the people of the States to act on that subject? There is no provision for calling a convention for that purpose; that relates to the constitution which they are to form for the State itself afterward.

Mr. MORRILL. The Senator from New Jersey has just provided for it in the amendment he has made.

Mr. JOHNSON. No; he has not.

Mr. WILLIAMS. I think that this is right.

Mr. JOHNSON. It cannot be done. It must be submitted to the Legislatures of the several States.

Mr. FRELINGHUYSEN. The amendment suggested by the Senator from Maine contemplates further to strike out the words "shall have given its assent to the same," and the insertion of the words "when the people shall have formed a constitution and laws."

Mr. POMEROY. I think there is an amendment needed there by inserting after the word "States" the words "when the people of any one of the so-called confederate States in accordance with an act of Congress," or "in accordance with law," shall have given its assent to the same. There is no way in which the people can give their assent unless in harmony with some law. This bill does not provide for it, nor the amendment.

Mr. JOHNSON. I do not know that I have made myself understood. The Constitution can be amended only in one of two ways. The proposition may come either from Congress itself or from the States. When it comes from Congress, as in this case, the amendment is to be submitted to and to be passed upon by the Legislatures of the States. You cannot send it to the people except so far as they are represented by the Legislature. If I understand the amendment proposed by the Senator from Maine, it is that when the constitutional amendment which Congress has submitted, shall have been adopted by the people of the States certain results shall follow. We have no right to submit it to the people of the States.

Mr. MORRILL. Allow me to state my own proposition. It is this: to insert after the word "when," in line four, the words "the people of;" then to strike out after the word "shall," in the fifth line, the words "have given its consent to the same and," so as to read, "and when the people of any one of the late so-called confederate States shall form a constitution," &c.

Mr. POMEROY. Why not insert "in accordance with the provisions of an act of Congress," or "in accordance with law?"

Mr. VAN WINKLE. I wish to call the attention of the Senator from Maine to the fact that by words in the thirteenth line, the Constitution is to be submitted to the voters of the State. However it is made, that will make it the act of the people of the State.

Mr. MORRILL. That is not inconsistent with my proposition.

Mr. VAN WINKLE. It renders it unnecessary.

Mr. MORRILL. The people are to form a constitution by the election of delegates, as is provided for by the amendment of the honorable Senator from New Jersey; and my point is to allow the people to form such a constitution by delegates, making the people the agents, instead of employing, the confederate States for agents, thereby recognizing them. That is my objection. I do not think we ought to recognize the confederate States as valid agents. We cannot do it from our ground, and beside I do not think we ought to use them as agents for that purpose, but should address ourselves directly to the people.

Mr. SUMNER. There is another amendment that ought to come in in that same connection, though I feel that this whole proposition is so thoroughly vicious in every line and in every word from the first to the last that in order to make it at all so as to receive, it seems to me, a single vote, it ought to be amended from the first word to the last. But the proposition of the Senator from Maine is obviously correct. No person can hesitate, of course, to carry out the idea of the Senator from Maine. I do not think even the Senator from Nevada, as earnest and eloquent as he was for this very curious proposition, is disposed to recognize the legitimacy and the validity of these governments in these States at this moment; and yet this proposition pivots on that idea. Without that recognition this proposition is nothing. The Senator from Maine, therefore, is perfectly right when he proposes to introduce the words "the people of;" so that it will read:

When the people of any of the late so-called confederate States shall have given its assent to the same.

No one certainly, not even the Senator from Nevada, ardent as he is for this anomaly, this absolutely anomalous proposition, will admit the validity of these sham governments.

Therefore, I say the Senator from Maine is right; but the Senator does not go far enough. You have got to introduce still other words, which I propose at the proper time to move, declaring that they shall give their consent by a valid Legislature. Suppose the present Legislature, so called, of South Carolina gives its consent to the constitutional amendment, will the Senator from Nevada attribute to that the least value? Would it be worth the paper on which it might be written? Suppose the so-

called Legislature in Louisiana at this moment—it has been called bogus to-day; I hardly like to use the term, and yet perhaps it expresses the idea as well as anything else—gives its consent to the constitutional amendment, of what value is it? Suppose the assembly called a Legislature in Georgia chooses to give its assent, of what value is it? Does the Senator recognize those bodies as invested with legislative authority capable of representing those States in the adoption of a constitutional amendment and entering in that way into this great copartnership? Certainly he cannot. He must require that any adoption of the constitutional amendment shall be by a valid Legislature, not by a humbug.

This whole proposition from beginning to the end, from the first line to the last, is obnoxious just to that criticism. I propose if it is pressed to go through with it and take it up line by line and move the proper amendments to it.

Mr. STEWART. As I am referred to in such explicit terms and as this proposition is swept away as so ridiculous—

Mr. SUMNER. I did not say it was ridiculous; I said it was anomalous.

Mr. STEWART. So anomalous, so vicious, and bogus—

Mr. SUMNER. No, I did not say this was "bogus;" I said the Legislatures down there were bogus.

Mr. STEWART. Since all these remarks have been made, I wish to call the attention of the Senate to the fact that the main bill which the Senator from Massachusetts was so eager to eulogize, upon which he could not pass a sufficient eulogy, which he could not wait to have called up in its regular order before he eulogized, recognizes these same local governments in so many words, and recognizes them for a higher purpose than the purpose of sanctioning the constitutional amendment, because we all hold that that may be ratified by the loyally represented States without them, and the only object of having them recognize it is to show their loyalty to this Government. I hold that the States here represented in the Government have the power to adopt constitutional amendments; and calling upon the other States to sanction them is only formal as a mark of loyalty; but in this bill you say your military chieftain that you send there shall allow the local governments to execute the local laws.

Mr. SUMNER. Be good enough to read the preamble to the bill, please.

Mr. STEWART. I propose to read some portion of the bill. It does, I say, for a higher purpose than the sanctioning of the constitutional amendment, for the purpose of life and death, recognize the laws of these very "bogus" States. In this amendment, which I regard as essential, proper, and just, they are called upon to do an incidental thing; and for that reason it is suggested that the Senator from Nevada might recognize them for that purpose, while the Senator from Massachusetts recognizes them for the purpose of executing all the local laws and carrying on the machinery of government by this bill, by the aid of the military. It is said that I would not recognize them for this purpose. I say simply that when they have complied with all the conditions we prescribe—and this is one which we ask of them as a manifestation of loyalty—after they shall have ratified the constitutional amendment, after they shall have framed a loyal constitution, and the proposition as now amended requires it to be framed by delegates elected on the principle of manhood suffrage—after they shall have done all this, after they shall have established manhood suffrage by means of a constitution, and after that constitution shall have been submitted to the people on the principle of manhood suffrage and ratified by them, after their action shall have been submitted to Congress and approved by Congress, we propose to recognize them as valid States. Then, I say, they will be no longer "bogus" governments. The

people will have complied with all that any man dare get up and demand. When I propose to recognize them after they have done all that any man on this floor dare demand, I hope I shall not be accused of being desirous of recognizing bogus State governments. I do not propose to recognize them as State governments till they have shown their complete loyalty by complying with all the conditions and giving all the guarantees which can be required; and if there are not enough in this proposition I propose that it shall be amended until it shall satisfy the most fastidious. My objection is to inaugurating military government as an end; I want it as a means.

Mr. SUMNER. You are right on that point; I agree with you.

Mr. FRELINGHUYSEN. I will call the attention of the Senate to the alterations which should be made in consequence of the amendment suggested by the Senator from Maine, and I do this in answer to an objection made, that the proposition is not in accordance with the provision of the Constitution as to the mode in which a constitutional amendment must be adopted. The first provision of this amendment now is: "That when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the United States;" and the next is: "And when the people of any one of the late so-called confederate States shall have," not assented to the constitutional amendment, but shall have "formed a constitution and laws in conformity therewith in all respects," then, making provision for the suffrage, and introducing another clause in the eighteenth line, when the State comes to be admitted and is no longer bogus, and presents its constitution to be approved by Congress, then, on such State assenting to the constitutional amendment it shall be entitled to representation.

Mr. MORRILL. That is the proposition.

Mr. STEWART. There is no objection to that.

The PRESIDENT *pro tempore*. "The question is on the proposed amendment to the amendment."

Mr. KIRKWOOD. Before that vote is taken I should be glad to hear the proposed amendment read again.

The SECRETARY. It is proposed in line four of the amendment of the Senator from Maryland, after the word "when," to insert "the people of;" in lines five and six, to strike out "give its assent to the same and conform its" and to insert "formed a;" and after "laws," in the sixth line, to strike out "there-to," and to insert "in conformity therewith;" so as to make the amendment read:

That whenever the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the United States, and when the people of any one of the late so-called confederate States shall have formed a constitution and laws in conformity therewith in all respects, and when it shall have provided, &c.

Mr. JOHNSON. The provision that refers to the framing of the constitution by the people is all right. That I suppose would have been the effect before. A State cannot form a constitution except through its people. But the amendment goes further and says, "When the people shall form the laws." You do not propose to constitute the people a legislature to legislate on the subject. That certainly is not the purpose.

Mr. FRELINGHUYSEN. Very well; strike out the words "and laws;" I do not think them important; and then in the seventh line, instead of the words "by its," insert "in such constitution."

Mr. KIRKWOOD. The belief is entertained, I think, by a majority of this Chamber, certainly by myself, that the ratification of the constitutional amendment by the due proportion, three fourths of the States represented here, will make it a part of the Constitution. If our declaration was conclusive, there would be an end of that matter; but our declaration

perhaps is not conclusive on that subject. There is another body holding its sessions in this Capitol that may, by possibility, express an opinion on that subject that would be more authoritative than ours, and that body may say that the ratification of the constitutional amendment by three fourths of the States represented here now does not make it a part of the Constitution of the United States. Now, if we strike out this clause of the amendment, what will be the result?

Mr. STEWART. The Senator from New Jersey is going to provide for that, if Senators will only let him get through.

Mr. FRELINGHUYSEN. I propose after the word "Congress," in the eighteenth line, to insert "on such State assenting to the said constitutional amendment."

Mr. KIRKWOOD. That will obviate the difficulty I was about to suggest. I was about to say that by striking out these words in the first part of the proposition, without providing for the same thing somewhere else, we might get ourselves into the position of not having the constitutional amendment finally ratified.

The PRESIDING OFFICER, (Mr. POMEROY in the chair). The question is on the amendment of the Senator from New Jersey to the amendment of the Senator from Maryland.

Mr. HOWARD. Let the amendment be read as it will stand if thus amended.

The Secretary read the amendment of Mr. JOHNSON as it would stand if amended as proposed by Mr. FRELINGHUYSEN, as follows: Insert as an additional section:

*And be it further enacted, That when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the United States, and when the people of any one of the late so-called confederate States shall have formed a constitution in conformity therewith in all respects, and when it shall have provided in such constitution, to be framed by a convention of delegates chosen by the persons who may vote upon the ratification or rejection of the constitution as hereinafter provided, that the elective franchise shall be enjoyed by all male citizens of the United States, of whatever color, race, or condition, twenty-one years old and upward, who may have been residents of the State for twelve months previous to the election, except such as may be disqualified on account of rebellion, felony at the common law, idiosyncrasy, or insanity, and when said constitution shall have been submitted to the voters of said State, as thus defined, for ratification or rejection, and when the constitution, if ratified by the vote of the people of said State, shall have been submitted to Congress for examination and approval, said State shall, if its constitution be approved by Congress, on such State assenting to the said constitutional amendment, be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oaths prescribed by law, and then and thereafter the preceding sections of this bill shall be inoperative in said State.*

Mr. HOWARD. The amendment of the Senator from New Jersey relieves the original amendment very much in my mind. Indeed, it removes one of the objections which I stated to that amendment at the opening of the discussion, which was that the amendment as it was first submitted to us contained within itself a clear recognition of the legitimacy and validity of the present so-called sham governments of the rebel States. This amendment removes that objection, because it does not purport to recognize any authority whatever on the part of those governments.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Maryland as amended.

Mr. SUMNER. The proposition is still very incomplete. I said you ought to begin at the beginning and work through it. Therefore I will go back before the part as to which I made some observations a moment ago, and where the objection which I presented has been removed by the amendment of the Senator from New Jersey. There is an uncertainty which is left in an earlier line, and which I think ought to be removed. It says "that when the constitutional amendment proposed as article fourteen by the Thirty-Ninth Congress shall have become a part of the Constitution of the

United States;" but it leaves open the question what number of States can make it now a part of the Constitution of the United States. In short, it leaves open the question whether these sham governments may not, by some hocus-pocus or other, be enlisted in the number of States to constitute the three fourths required. Now, I think on this occasion it is important to remove all ambiguity. I propose, therefore, to introduce after the word "United States," in line four, the words "by the ratification of three fourths of the Legislatures of the States now participating in the Government."

Mr. JOHNSON. That does not change it at all, the question will still be open.

Mr. SUMNER. Very well, then, I will adopt another form of expression and say "by the ratification of three fourths of the Legislatures of the States now represented in Congress."

Mr. JOHNSON. That leaves it just as it was before.

Mr. SUMNER. I beg the Senator's pardon.

Mr. JOHNSON. What I was about to say, when I rose with the permission of the Senator from Massachusetts, is equally applicable to the amendment as he has now framed it. When will the Constitution be amended by the ratification of three fourths of those States that are represented? Who is to decide that? That is an open question, and must be an open question just as much after you have declared that it is to be a part of the Constitution when ratified by three fourths as if you leave it blank. If in point of law the States that are now represented are the States to whom is to be referred and by whom is to be ratified the constitutional amendment proposed by Congress, then the Constitution of the United States will be altered in that respect; but if it is to be submitted to more than the States that are represented in Congress, that is to say, to all the States, the question will be open whether Congress declares it or not, and that is a question of constitutional law which Congress cannot decide by any declaration. It may go for what it is worth, that in the opinion of Congress (if that should be the action of Congress) the Constitution may be amended by the ratification of three fourths of the represented States; but whenever the question arises before the judiciary it will be governed by other considerations. It must be governed by what is the meaning of the Constitution in that particular, and be governed by what the courts shall decide is the condition of the States that are not represented. If the courts shall be of opinion that the States which are not represented in Congress are still States, then they will certainly decide that a ratification by three fourths only of the States that are represented will not make a change in the Constitution. The Senator's amendment leaves the question just where it was before.

Mr. CONNESS. And in the case of such a decision by the Supreme Court these southern States or so-called confederate States will have been accepted and in operation, while this amendment which you now have adopted will be a sham—nothing.

Mr. JOHNSON. Certainly.

Mr. CONNESS. Then you have gained nothing, and they are in.

Mr. DOOLITTLE. Mr. President—

Several SENATORS. Let us vote.

Mr. DOOLITTLE. If the understanding is that when the vote is taken on this amendment the Senate will adjourn I shall not occupy time now, but I am disposed to speak on this amendment unless the Senate is inclined to adjourn.

Mr. SUMNER. I have several other amendments to propose.

Mr. DOOLITTLE. I understand that the amendment proposed by the Senator from Massachusetts is substantially to declare that only the vote of three fourths of the States now represented in Congress is necessary to the ratification of a constitutional amendment. As that recital, in my opinion, is wrong, radically wrong, I cannot give my assent to the



main amendment itself if such a recital should be contained in it.

Mr. CONNESS, and others. Vote it down.

Mr. DOOLITTLE. I have no objection if the Senate will vote it down, and as that seems to be the disposition I shall not consume the time in debating it.

Mr. SAULSBURY. The object of the proposed amendment is obvious to every one. It is to declare the sense of the Senate that it is not necessary for this constitutional amendment to receive the assent of more than three fourths of the Legislatures of the States represented in Congress. The consequence of it is simply that a majority of the Representatives of the States in this body may get together and close the door against the representatives of the other States in the Union, and the assent of three fourths of the States so represented, although they may not be a majority of the States in the Union, is all that is necessary to the valid ratification of a proposed amendment to the Constitution.

If, Mr. President, this is the doctrine of the Senate of the United States, in what attitude does the Senate appear before the people of this country and the civilized world? In the commencement of the late civil war Congress by resolutions recognized every southern State as a State of this Union, although those States were not represented in Congress. You have passed more than a hundred bills through this body during the continuance of the civil war, in which and by which you recognized those States as States in the Union; you levied taxes upon them as States; you apportioned their share of the public burdens upon them as States; you appointed officers for the collection of your revenue in those States as States, naming them as States. Even Mr. Lincoln, who was immaculate in your eyes and the eyes of your party, by his proclamations, and by almost every official act having reference to those States, recognized them as States. You have appointed district judges of the courts of the United States in those States as district judges for those States. And when the Senator from Massachusetts, himself of this body since the commencement of the civil war, offered a resolution declaring in substance that the States might commit political suicide and be no longer States in the Union, it received, according to my recollection, no support from your party except the individual vote of that Senator.

Throughout this whole struggle when you marshaled the Union hosts of the entire country to wage a war which experience has proved to be not a war for the preservation of the Union, but a war to result in the destruction of the Federal Union, you spoke of "the loyal men of the southern States," and you invited them to flock to your standard and to join your banners in that conflict. Now, when the people of those States have laid down their arms and submitted to the arbitrament of the sword, you turn around, and, not in solemn, but in ludicrous mockery, undertake to proclaim that all the assertions which you made, all the public acts which you passed through this body, are not true, and that they are no longer States of the Union, and have not been States of the Union since the commencement of the civil war.

Where is the consistency of your action? Had you proclaimed this doctrine in the inception of the war, or at any time during its continuance, the war would not be over now, because you would not have found flocking to your standard the hundreds of thousands and the millions of men that did flock to it. It was only when you became successful in the conflict that you proclaimed this doctrine which the southern States first proclaimed, that they had a right to withdraw from the Union. You now practically admit the very doctrine for which they contended, that they had the right, if they could only vindicate that right by the power of the sword, to withdraw from the Union. You said that they had no power to withdraw from the Union, that no State had the right to take itself out of the Union; and

yet after the result of the conflict of arms has been in your favor you turn round and proclaim, not only to them, but to the whole world, that the very doctrine you preached was not true, and that they might take themselves out of the Union, and that you might hold them as subject provinces, and that you might parcel out their domain to military satraps, and subject the people of those States to the mere arbitrary will of a majority of the Federal Congress. Verily, sir, we may say consistency is a jewel.

Mr. JOHNSON (at one o'clock and twenty-five minutes a. m.) If the honorable Senator from Delaware will give way, I will move an adjournment.

Mr. SAULSBURY. I yield.

Mr. JOHNSON. I move that the Senate do now adjourn.

Mr. WILLIAMS. I hope not.

Mr. JOHNSON. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. I wish to suggest before the vote is taken on the adjournment that I have no doubt we can come to a vote at a reasonable hour to-morrow evening. I am not authorized by all to say so, but I have no doubt of it. There is certainly no use of staying here all night. We are merely wearing ourselves out.

Mr. SUMNER. I think if Senators on the other side would agree on an hour there would be no difficulty.

Mr. HENDRICKS. I have no doubt that at ten o'clock to-morrow evening we could come to a vote, and I should think long before.

The PRESIDING OFFICER. The Chair must remind Senators that the question of adjournment is not to be discussed.

Mr. HENDRICKS. We do not propose to discuss it.

Mr. WILLIAMS. In answer to the gentleman's suggestion I will say this: I have become persuaded in my own mind that if the vote on this bill is not taken before ten o'clock to-morrow night the bill will be defeated; and I will not agree therefore to an arrangement that the vote shall not be taken till ten o'clock to-morrow night.

Mr. HENDRICKS. At what time do you want to take it?

Mr. WILLIAMS. I am willing to agree that the vote be taken at seven o'clock to-morrow evening, so that the bill can go to the House and be considered by the House to-morrow night.

Mr. SUMNER. Say eight o'clock.

Mr. JOHNSON. Nine o'clock.

Mr. HENDRICKS. I think we could probably vote by four or five o'clock to-morrow afternoon if we adjourn now.

Mr. McDUGALL. Suppose you say no o'clock, because for one I will make no agreement.

Mr. JOHNSON. We cannot make one for the Senator from California, but we can so far as regards the other members on this side, and I do not think the Senator from California will be able to talk more than four hours.

The PRESIDING OFFICER. The Secretary will proceed with the call of the yeas and nays on the motion to adjourn.

Mr. JOHNSON. I think we can certainly take the vote by eight or nine o'clock to-morrow.

Mr. McDUGALL. I protest against this thing of conventions about closing debate.

Mr. WILLIAMS. I will consent so far as I am concerned, and I hope the friends of the measure will refrain from discussing the bill and allow the gentlemen who oppose it to occupy all the time.

Mr. CONNESS. That is too much.

Mr. WILLIAMS. With that understanding I would name seven o'clock to-morrow evening.

Mr. JOHNSON. Say eight o'clock.

Mr. CHANDLER. Say four.

Mr. LANE. The House will hardly be in session to-morrow night, being Saturday night.

Mr. McDUGALL. I say now the debate

cannot close before eight or nine o'clock to-morrow evening, probably not before ten.

The PRESIDING OFFICER. The call will proceed on the motion to adjourn.

The question being taken by yeas and nays, resulted—yeas 9, nays 25; as follows:

YEAS—Messrs. Buckalew, Doolittle, Foster, Hendricks, Johnson, Patterson, Saulsbury, Sprague, and Van Winkle—9.

NAYS—Messrs. Cattell, Chandler, Conness, Cragin, Creswell, Fogg, Frelinghuysen, Henderson, Howard, Kirkwood, Lane, McDougall, Morgan, Morrill, Poland, Pomerooy, Ramsey, Ross, Stewart, Sumner, Wade, Willey, Williams, Wilson, and Yates—25.

ABSENT—Messrs. Anthony, Brown, Cowan, Davis, Dixon, Edmunds, Fessenden, Fowler, Grimes, Guthrie, Harris, Howe, Nesmith, Norton, Nye, Riddle, Sherman, and Trumbull—18.

So the Senate refused to adjourn.

Mr. SAULSBURY. For the reasons already briefly stated, of course I shall vote against this proposed amendment; and I will take this occasion to say, that, in my judgment, there has been no amendment to the Constitution that has ever been legally proposed to three fourths of the States. Certainly the amendment abolishing slavery in the United States was not legally submitted to the States of the Union. It was never submitted to three fourths of the States, which is absolutely necessary to the validity and constitutionality of an amendment; and, in my judgment, no amendment which was not so submitted has any binding authority in this country to-day and I hold that any amendment submitted to the Legislature of any State and not ratified by the Legislature of that State, and which amendment was not proposed to all the States of the Union, has no binding force upon that State, and there is no power in this country that can constitutionally and legally enforce such an amendment.

Now, the purpose of this amendment is to get an expression of the Senate that it is only necessary that a constitutional amendment should be proposed to a part of the States, and not to all the States. It is out of place; it has nothing to do with the proposition before the Senate, its only purpose and object being, in this improper mode, to obtain senatorial opinion in reference to the question what number of States a constitutional amendment shall be proposed to.

Mr. HENDRICKS. If the Senator will give way I will make a motion that the Senate adjourn; but before I make the motion I wish to suggest that this is no ordinary legislation in which we are concerned. It is, in my judgment, the gravest legislation that has ever occupied Congress. It is claimed by its friends to be the work of reconstruction of our Government; it is believed by its enemies to be the work of destruction. Now, whether the friends of the measure be right in this opinion, or the enemies be right in their very opposite opinion, this is true, that the subject is worthy of consideration. It is now nearly two o'clock at night. The majority have occupied almost as much time as they say they desire, with the exception of the distinguished Senator from Massachusetts, as he intends to tear this amendment shred from shred and make it a logical absurdity.

Mr. SUMNER. That it is, right on its face.

Mr. HENDRICKS. He intends to go through that work, and that may require some time.

Mr. STEWART. And probably will.

Mr. HENDRICKS. And probably will, as is suggested by the distinguished Senator from Nevada, who fights for this measure some and fights against it some; and how he is I doubt whether he can say himself. [Laughter.] But, Mr. President, on our side, this good-natured minority that have merely asked the poor privilege of saying a word or two for the Constitution that the fathers made, we have been driven here into midnight for this work. I make no complaint on my own part, although I should have liked to present my argument much more satisfactory to myself and under circumstances more favorable than a late session at night can possibly allow.

Now, we ask daylight for the further discussion of this bill. I do not know how it is, but

I am not of opinion that the Senator from Oregon, fresh as he is, coming from the invigorating breezes of the Pacific and the mountains, is able to pass this bill before ten o'clock to-morrow evening. I am not of that opinion, but I may be mistaken. The Senator from California, who has enjoyed the same advantages of the mountains and the ocean with the Senator from Oregon says he cannot. It seems to me fair that the residue of the discussion of the question shall be in daytime. With these views I move that the Senate adjourn.

Mr. WILLIAMS. I beg permission to make a single suggestion, as the gentleman has made a very long one; and that is simply this: everybody in the Senate has determined how he will vote upon this bill, and there is no necessity for long speeches to convince anybody here.

Mr. HENDRICKS. I withdraw the motion that the Senator may speak in order. [Laughter.]

The PRESIDING OFFICER. The motion to adjourn is withdrawn.

Mr. WILLIAMS. I am much obliged to the Senator from Indiana; he is always in order, and I suppose it is necessary that I should be. I simply desire to suggest the speeches that are to be submitted on this question can be made on some other occasion, and in daylight if the gentlemen prefer it; but they are not necessary for that elucidation of the question before the Senate, and there is no man here, I presume, who will be influenced by any of the speeches that are to be made, and for that reason I do not see the necessity for postponing this vote, as suggested by the Senator from Indiana. As to my ability to pass this bill, I do not claim or expect that my ability will secure its passage, but I have lived long enough to learn one thing, and that is that the only way to accomplish anything is to try. If you do not at first succeed, try again.

Mr. McDOUGALL. I have not seen this bill yet elucidated, even by the Senator from Oregon, and I should like very much to hear it elucidated. The time has not come when any person has yet undertaken to elucidate it except in the negative.

Mr. SAULSBURY. I should like to make one remark in response to the Senator from Oregon. Although I do not suppose any one of us who propose to discuss this measure to-morrow are presumptuous enough to think that we can change any vote on the other side of the Chamber, yet gentlemen on that side have had full opportunity to express their views upon all the matters pertaining to this bill, and few Senators have occupied the attention of the Senate more often in regard to it than the Senator from Oregon. Now, at this late hour of the night, nearly two o'clock, when it is apparent to everybody that the discussion will close some time to-morrow evening, it is suggested that because we cannot enlighten the Senate or change a vote here, therefore we shall not have the opportunity of letting our views be made known to our people at home or to the country at large. Sir, a graver question was never presented to the consideration of a deliberative body. Certainly, no graver question was ever presented to the American Senate. It is a question whether this Federal Union shall be forever dissolved, whether nine or ten States shall cease to be States of the Union; and certainly upon a question of this importance, in which our people are as much interested as yours, their representatives on this floor should be allowed to be heard.

Mr. WILLEY. Of course I do not rise, sir, to discuss this question; I should like to do so if there were not circumstances suggesting the impropriety of that course; but I rise to make an appeal to the Senator from Massachusetts, and it is respectfully to solicit him to withdraw this amendment. The original proposition itself is a very grave one. The Senator now proposes an amendment which of itself involves a grave constitutional question, and which of

itself must necessarily produce as protracted a discussion as the original proposition. If that Senator is as desirous as I suppose he is, and as we all are, that we should come to a speedy decision upon this measure, in view of the contingencies operating on our minds, making it necessary in our opinion to have a speedy decision, it will be necessary for him, I think, to consider whether it is proper to urge this amendment, because it is very likely that the question involved in it will necessarily occupy two or three days' discussion. It is a very grave question, a fundamental question, and must lead, perhaps, to protracted discussion on one side of the House, if not on all sides. Sir, if there be a serious effort to attach it to this bill, humble as I am myself, I should feel it my duty to discuss it at whatever length I may deem necessary and with whatever ability I may possess.

Mr. CONNESS. It is better to vote it down at once.

Mr. WILLEY. That may be all very well if our friends on the other side see proper not to discuss it two or three days; but if we are constantly affording them themes for discussion, and presenting questions which we all acknowledge to be important, I for one shall not object to their discussing them.

Mr. HENDRICKS. I do not think that the minority have availed themselves of accidental questions for the purpose of protracting this debate, and I do not think the Senator from West Virginia should make that criticism upon us. Indeed, we have had but very little of the advantages of this debate. I do not feel that we have had hardly a chance. I have made a few remarks, it is true; but our side has said but very little. But, sir, I made a motion that the Senate adjourn, and I now renew that motion.

Mr. SUMNER. With the understanding that a vote shall be had to-morrow night by ten o'clock.

Mr. WILLIAMS. There is no understanding about it.

The PRESIDING OFFICER. The question is on the motion to adjourn.

Mr. HENDRICKS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 10, nays 24; as follows:

YEAS—Messrs. Buckalew, Davis, Doolittle, Fogg, Foster, Hendricks, Patterson, Saulsbury, Sprague, and Van Winkle—10.

NAYS—Messrs. Cattell, Chandler, Conness, Cragin, Creswell, Frelinghuysen, Henderson, Howard, Kirkwood, Lane, McDougall, Morgan, Morrill, Poland, Pomeroy, Ramsey, Ross, Stewart, Sumner, Wade, Willey, Williams, Wilson, and Yates—24.

ABSENT—Messrs. Anthony, Brown, Cowan, Dixon, Edmunds, Fessenden, Fowler, Grimes, Guthrie, Harris, Howe, Johnson, Nesmith, Norton, Nye, Riddle, Sherman, and Trumbull—18.

So (at five minutes before two o'clock a. m.) the Senate refused to adjourn.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts to the amendment of the Senator from Maryland.

Mr. DOOLITTLE. We have on several occasions, in conversation on this subject of adjournment, said as much as ever can be very well said in the Senate, that we expected that if an adjournment takes place we shall come to a vote to-morrow evening by nine or ten o'clock. There are some Senators, however, upon the floor—one or two—who feel a conscientious scruple against making what they call a positive agreement on that point, and they say they never do it; but about all is expressed that ever has been expressed in the Senate when an occasion of this kind has arisen. We cannot make any agreement that is binding upon any Senator; he must act on his own responsibility; but we have said very frankly to those in favor of this bill that our expectation is that we shall come to a vote by nine or ten o'clock to-morrow evening, and even those Senators who have said that they cannot come to such an agreement have given their opinion that we can close the debate by that time.

That occurred two or three hours since, and

yet there has been all the while a disposition to press this bill, as if gentlemen supposed it could come to a vote to-night. Now, I give it as my opinion to gentlemen—I do not say any more—that every hour we are delayed here to-night will be at least an hour delay beyond ten o'clock to-morrow evening. There is no use of attempting to force us to a vote when we have not yet had an opportunity to discuss this question. There has been no disposition manifested to protract the debate, except so far as is necessary to have a reasonable opportunity to discuss the question.

But this proposition introduced by the Senator from Massachusetts is one of the most important propositions ever presented to the Senate of the United States. Whether the votes of the Legislatures of one half or two thirds of the States, without any reference whatever to the other States, can change the fundamental law of the land, not only for the States that are represented, but for the States which are not represented in Congress, is the greatest question ever presented. The very fundamental idea of our institutions rests upon self-government, the idea that the people have a voice in their governments, a voice in making their fundamental laws. The idea of the Senator from Massachusetts strikes at the very foundation of everything like republican government. To say that ten million people, because to-day they happen not to have representatives admitted into Congress—not because they have not sent them here, but because Congress refuses to let them in—are to be bound by a fundamental constitutional law binding upon them, which has been imposed upon them by two thirds or three fourths of the Legislatures of other States who happened to be represented, is a proposition in my judgment which cannot bear discussion. Sir, it is fundamental, vital; it goes to the question of the existence of the union of the States; it assumes that these are not States of the Union, having any right to a voice in the fundamental law of the land.

Sir, I am astonished sometimes to see to what extent the Senator from Massachusetts can go. No longer ago than the 10th day of May last he voted to pass a law transferring from Virginia a portion of its territory to West Virginia. Upon what authority did he do that? Upon the authority of the Constitution of the United States, which says that when the Legislature of a State chooses to part with a portion of its territory and annex it to another State Congress may consent to the transfer. By that act Congress recognized the State of Virginia, and recognized not only the State of Virginia, but the Legislature of Virginia, and the validity of the act of the Legislature of Virginia consenting to this transfer of territory. I have before me the act of Congress for which the Senator voted; it is in a very few words:

"Congress hereby recognizes the transfer of the counties of Berkeley and Jefferson from the State of Virginia to West Virginia, and consents thereto."

This act recognizes Virginia as a State, with a Legislature having power to consent to the transfer. By every act of legislation during this whole war Congress has always recognized these States as States in this Union. There is no act upon the statute-books which declares anything else but that they are States in this Union.

Mr. President, I have no desire to take up the time of the Senate. I wish to discuss the bill which is pending before the Senate, but I do not expect to discuss it to-night, nor in these hours of the night. It is oppressive; it is unheard of; it is what has never occurred in this body before since I have been a member of the Senate. Wherever there is an effort shown by a factious disposition to delay the action of the body it is justifiable and tolerable for the majority to undertake to press the minority to a vote and to prevent even discussion. But, sir, we have borne this; we have manifested no feeling under this systematic determination to force on this vote; but I do not believe that

any time will be gained by it. My opinion is that by the wasting of this night to this hour gentlemen will not feel disposed to accommodate others and condense their speeches during the day to-morrow for the purpose of bringing the debate to a close, and it may result in extending the debate longer than gentlemen now anticipate. I ask for the yeas and nays on the amendment of the Senator from Massachusetts.

The yeas and nays were ordered.

Mr. SUMNER. I have modified my amendment by using these words: "by the ratification of the Legislatures of three fourths of the several States having valid Legislatures."

Mr. WILSON. It appears to me that modification makes it very indefinite. What is a valid Legislature? There may be some question about it.

Mr. SUMNER. Mr. President—

Mr. HENDRICKS. I suppose the Senator would wish to discuss his proposition, as it is a very important one, somewhat elaborately; and I suggest, therefore, whether we had not better adjourn.

Mr. SUMNER. The language of the Constitution is as follows:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as one or the other mode of ratification may be proposed by the Congress."

It will be observed that by the language of the Constitution the ratification is to be not by three fourths of the several States; that is not the text of the Constitution; it is "by the Legislatures of three fourths of the several States." Of course where States have no valid Legislatures, as with the rebel States throughout the rebellion and down to this moment, there are no Legislatures that can be counted. The requirement is that the ratification shall be "by the Legislatures of three fourths of the several States." Now, in point of fact only the States actually represented in Congress have valid Legislatures; therefore only those States can be competent to act on this constitutional amendment.

Now, sir, why should this be introduced on this occasion? You are laying down provisions for the future, and declaring on what terms and in what way a constitutional amendment may prevail, and what shall ensue on the prevalence of that constitutional amendment. It seems to me that you ought to go forward, and by a legislative interpretation declare what States should be held to ratify the constitutional amendment. The question has been raised in this Chamber and in the other Chamber, and it occupies much of the attention of the public mind.

Mr. HENDRICKS. As the Senator is discussing a very important question, and as he has investigated it with great care, I should like to ask him, as a matter of information, at what time one of the southern States ceased to be a valid State, or the Legislature thereof ceased to be a valid Legislature, and by what act?

Mr. SUMNER. The act of secession, followed by war.

Mr. HENDRICKS. Then I wish to ask the Senator another question. That being the case, and the State of Tennessee having by the most solemn act that she could adopt agreed to secession, and having followed that by acts of war in her own territory, if the doctrine of the Senator in reply to my inquiry be correct, how is it that the Congress of the United States could recognize the act of her Legislature in ratifying the constitutional amendment abolishing slavery as valid, and having the force of the ratification by a State, as is recited in the preamble to the resolution admitting the State of Tennessee to representation in Congress.

Mr. SUMNER. I never voted for that.

Mr. HENDRICKS. The Senator speaks for the majority.

Mr. SUMNER. I do not speak for the majority in that matter.

Mr. HENDRICKS. The majority of Congress said upon that subject, as one of the reasons why Tennessee was entitled to representation, that she had ratified constitutional amendments before her right of representation was recognized by Congress.

Mr. SUMNER. I am no party to that act; I voted against it. I do not think the ratification of a constitutional amendment by one of these sham Legislatures amounts to anything, except so far as it may be adopted subsequently by Congress. Senators about me remind me that that was the case of Tennessee. I do not speak of the validity of that act of Tennessee now, because it has passed under the revision of Congress, and Tennessee has been received back into the Union.

Mr. HENDRICKS. But the point is this: in the joint resolution passed at the last session admitting the State of Tennessee to representation, it is recited as one of the reasons why that resolution should pass that she had more than a year before that ratified a constitutional amendment. That was a ratification by a Legislature that had not been recognized by any act of Congress, a Legislature that was in existence after the act of secession, a Legislature that was in existence after the act of war; and the majority in Congress said that was a ratification by the State of Tennessee of the constitutional amendment.

Mr. WADE. I move to strike out all after the enacting clause of the bill, if it is in order to do so now, and I believe it is—

The PRESIDING OFFICER. There is an amendment to an amendment pending.

Mr. WADE. Does that prevent me from offering an amendment which strikes out the whole bill and substitutes another? I wish to offer as a substitute what is known as the Louisiana bill. It is not a new proposition of mine, but a measure that is familiar to most of the members.

Mr. SUMNER. I am very willing that my amendment should be passed over informally to give the Senator an opportunity to offer his proposition.

Mr. CONNESS. I object to passing it over.

The PRESIDING OFFICER. The yeas and nays having been ordered on the proposition of the Senator from Massachusetts, it cannot be withdrawn unless by unanimous consent.

Mr. WADE. Very well, then; I am not in order.

Mr. BUCKALEW. I suppose the greatest hardship of this session is upon the reporters, who are obliged to sit up all night and will have to occupy Sunday in writing out our proceedings. If we are going to multiply the volume of our debates this evening, I think it is a mere act of justice as well as charity to pass a resolution that they can suspend reporting the remainder of the night. I believe there is a concurrence of every member opposed to this bill that the vote can be taken at the time suggested to-morrow evening, with the single exception of the Senator from California, [Mr. McDougall.] If the majority choose to conform themselves to his views and to keep us in session all night, we cannot help it. We are agreed to take the vote at the time indicated by the Senator from Massachusetts, ten o'clock to-morrow night; and by adjourning now we may continue the debate to-morrow, take a recess of two hours for dinner, and be fresh at the end of the debate to-morrow night. It is certainly a great grievance and oppression to the printer as well as our reporters to have a vast mass of matter piled up here in the night that nobody will attach any value to, that will be of no consequence to the public, and which very likely will not facilitate our proceedings when we assemble in the session of to-morrow, or I suppose I may call it to-day. However, sir, I shall make no motion to adjourn. I consider that the control of the business of the Senate is with the majority.

Mr. WILSON. From the expressions made

by the gentlemen on the other side of the Chamber, with the exception of the Senator from California, it is very apparent that we can get a vote to-morrow evening at seven or eight o'clock.

Mr. DOOLITTLE. We proposed ten o'clock three hours ago. I do not think you can get the vote by seven or eight o'clock to-morrow evening. If you say ten o'clock, so far as I am concerned I shall be willing to agree to it.

Mr. CONNESS. How long does the honorable Senator desire to speak?

Mr. DOOLITTLE. When I say this I am not considering myself. I do not expect to speak more than an hour and a half or two hours.

Mr. McDougall. Does the Senator from Massachusetts refer to this Senator from California?

Mr. WILSON. I simply referred to the fact that from what I have heard from gentlemen on the other side of the Chamber I suppose we can get through at a reasonable hour to-morrow night; and I must say here that, so far as any manifestations have come from the gentlemen on the other side of the Chamber, they have been such as we have certainly no right to complain of. In the twelve years I have been here I have never known anything gained by the policy that is now being pursued. I have sat here many a night, and been forced to sit here till sunrise; but I do not believe in it.

Mr. McDougall. I said that I thought the debate could be closed to-morrow some time, but that I would not be a party to any contract that it should be closed at a particular hour. I do not think such a contract legitimate; I do not think it according to the proper rule and order of the Senate, wherein all grave questions should be carefully and well considered. As grave a subject as this might command the attention of not one day but many days. I have not said that I desired to occupy attention by producing my knowledge of history, by exhibiting what I knew about the history of States, and how they could be maintained or how they might be subverted; but I say this, and I will adhere to it as long as I have the honor to be a member of this body, that every Senator on this floor has the right to give a full disclosure of his views, and it is his duty to do so upon all public questions involving the public interests and connected with his public office.

I have said to the Senator from Massachusetts that I had very little doubt the debate could be closed on to-morrow evening; and while I have said that the subject was one which might embrace the discourse of a week if a person could present all its vast considerations, I only spoke of what I believed to be the simple truth, and then I said that I was not so well instructed as to exhibit those considerations for the benefit of the Senate. What I may be able to produce will be only fragments of memory, being deprived of the opportunity of consulting authorities and the lessons of history by the force thrust upon myself, if you please, as one of the minority, so that I have not had the opportunity to look at a single lesson and have to fall back on my school-boy days and the memories of my early teaching. I have had no opportunity to refer to the library to refresh my recollection upon those early lessons and to produce them as lessons for us. Now there may be men who are so wise in their own conceit that they cannot or think they cannot take lessons from any one, men who have forgotten the inscription made on an ancient temple, "Know thyself."

Mr. SAULSBURY. *Ἐνδοξον, (gnothhi seauton.)*

Mr. McDougall. The Greek of that is outside of my present recollection, but it seems to be in the memory of my friend from Delaware. It has been a practice here, and has been proposed often, to deny to the minority the opportunity for a full discussion of great pending questions, and this is the greatest of all the questions that have been pend-



ing in this Republic since I have had the honor to occupy a place in this Senate Chamber.

History furnishes no illustration of so important an occasion as this is in determining to undertake to solve a great and solemn proposition; and why, if we be Senators, consultors, having charged upon us the duty of wisely considering and wisely consulting as to the best interests of the Republic, may we not consult about these great interests? That was the idea of our Republic and the idea of the old republics, and when it is abandoned there will be no republics. When there is no conservative body in a republican Government that can consider carefully and well great questions of State, then it belongs either to the mob or the usurper.

These are simple truths, written down by the pen of history, and known to all men who have read and studied carefully the lessons furnished to us by the past ages. There seems to me something like what may be termed impertinence—not impudence, but impertinence—in this, that we here, Senators, claiming not to be fully informed upon the present condition of things, should on a single day have thrust upon us the gravest considerations that govern States and involve the condition of a great nation, and be denied the opportunity of careful, exact, and full consideration. Under such circumstances this is not a Senate where men meet together to consult for the welfare of the nation, but simply a place where men meet to carry out particular plans and accomplish personal and particular motives regardless of the great interests of Government, which always lie in full consultation with all the elements that belong to Government and that have a right to go into consultation. This precipitate urging of questions of great import has struck me as very strange. It has struck me as more than that, as one of the elements of the decay of true republican institutions in our Republic; for when the conservative body of the Government, which is the Senate, refuses carefully to consult upon great and grave public questions, but refers them to committees and to caucuses, the time is approaching when another Cicero may denounce another Cataline in the Capitol. I have hoped, and I have hoped with sincere earnestness, that all these grave questions would be gravely and carefully considered upon full consultation with contact of mind, for “as iron sharpeneth iron, so doth the countenance of a man his friend.” The contact of opinion brings forth new opinions and develops the truth, and by just and fair antagonisms, if you please, we might develop what was the right. We are none of us right. No man dare say that he is right. That belongs to the Supreme alone. The best man is he who most seeks to understand and comprehend the right, and he does it best who confers with his fellow-men and with the best instruction, and best consultation and best consideration, not relying upon himself alone, comes to a conclusion, after considering all the elements that exist among men, independent of superior force, and is able to comprehend the truth of any given proposition involved in government. Of all the propositions of philosophy and science those involved in government are the most intricate, the most difficult; and when persons undertake absolutely to affirm that this shall be the law and this the rule, and this shall be established, who have never themselves learned the first lesson of philosophy, who have never learned the first lesson of history, who have not understood the first lesson of science, I, at least, would endeavor to inform them upon some few simple things. There is a disposition to assume conclusions about governments without consideration; to understand local governments without any particular knowledge; to understand the conditions of things abroad from themselves without any knowledge of them; to assert policies and to execute policies. And this will be found to be infinitely mischievous.

I know well that what I say now is the full conviction of many gentlemen of the majority; but why hasten grave conclusions till you have somewhat investigated? Look before you leap.

There is a disposition here to take the chance of jumping into the abyss, thinking they may jump over it. It would be well to consider whether your limbs are strong enough, and whether your muscles are well enough to clear the distance.

That is as much as I care to remark on this particular question, but I maintain my reserve.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts to the amendment of the Senator from Maryland.

The question being taken by yeas and nays, resulted—yeas 7, nays 25; as follows:

YEAS—Messrs. Howard, Lane, Pomeroy, Sprague, Sumner, Wade, and Yates—7.

NAYS—Messrs. Buckalew, Cattell, Chandler, Conness, Cragin, Creswell, Doolittle, Fogg, Frelinghuysen, Henderson, Hendricks, Kirkwood, McDougall, Morgan, Morrill, Patterson, Poland, Ramsey, Ross, Saulsbury, Stewart, Van Winkle, Wiley, Williams, and Wilson—25.

ABSENT—Messrs. Anthony, Brown, Cowan, Davis, Dixon, Edmunds, Fessenden, Foster, Fowler, Grimes, Guthrie, Harris, Howe, Johnson, Nesmith, Norton, Nye, Riddle, Sherman, and Trumbull—20.

So the amendment to the amendment was rejected.

Mr. HENDERSON. Is an amendment now in order as a substitute for the entire bill?

The PRESIDING OFFICER. Amendments are in order.

Mr. HENDERSON. I wish to offer a substitute for the entire bill.

The PRESIDING OFFICER. The substitute can be received, but the first question will be on the amendment now pending, the amendment submitted by the Senator from Maryland as amended.

Mr. HENDRICKS. I make the point of order that the Senator cannot offer a substitute for the entire bill when the Senate has already stricken out certain clauses and words and inserted others. It is in effect to strike out what has already been put in.

Mr. HENDERSON. That can be done. I understand that anything which has been already adopted can be stricken out in connection with other words.

Mr. HENDRICKS. Not until we come into the Senate; we are now in Committee of the Whole.

Mr. WILSON. I think we had better have the amendment of the Senator from Missouri read; I should like to hear it.

Mr. SUMNER. Let us understand precisely how the order of business is. I take it the question is on the amendment moved by the Senator from Maryland.

The PRESIDING OFFICER. The first question is on the amendment of the Senator from Maryland as amended. The Senator from Missouri moves a substitute for the whole bill by way of amendment.

Mr. McDUGALL. That is not in order.

Mr. HENDERSON. It is an amendment in the second degree only; a substitute is an amendment. I move to strike out the whole bill, including all amendments adopted, and insert a substitute. It is clearly in order.

The PRESIDING OFFICER. It will be in order when the pending amendments shall have been acted on.

Mr. HENDRICKS. But the point I make is this: after the Senate has deliberately inserted words into the bill in different parts of the bill, is it in order then by one sweeping proposition to strike all that out?

The PRESIDING OFFICER. It is in order to strike it all out.

Mr. SUMNER. Before we proceed to the reading of the substitute, I wish to remark on the pending amendment, which, of course, is still open to further amendment.

The PRESIDING OFFICER. The pending amendment is open to amendment.

Mr. SUMNER. I mean the amendment introduced by the Senator from Maryland, who is not in his seat. I have already made one or two motions with regard to it. I have several other motions to make with regard to it, but I shall not make them to-night. I shall make them to-morrow, perhaps, if the amend-

ment shall be adopted by the Senate. I shall move them in that event at the next stage of the bill.

Mr. WILSON. I suppose we all understand that it is in our power to amend the amendment proposed by the Senator from Maryland as well as to amend the original bill. The Senator from Missouri [Mr. Brown] has an amendment to move to that amendment, and I have no doubt he will have an opportunity to offer it. I want now, however, to hear the amendment proposed as a substitute for the entire bill read.

Mr. HENDERSON. I should like to have it read.

Mr. WILSON. The Senator has made several changes in the text of the bill which is the basis of his substitute, as I have seen him go through every page of it, and no doubt he has improved it. I want to hear it.

Mr. HENDERSON. Let it be read.

Mr. BUCKALEW. I should like to inquire how many pages it covers.

The PRESIDING OFFICER. The substitute proposed by the Senator from Missouri [Mr. HENDERSON] will be read.

The Secretary commenced the reading.

Mr. McDUGALL. I rise to a question of order. This is a measure altogether foreign to the bill pending, not germane to the subject-matter, but a different measure entirely, and not a proper amendment.

The PRESIDING OFFICER. The Chair stated that the amendment would be read for the information of the Senate. Does the Senator object to its being read?

Mr. WILSON. Let it be read.

Mr. CONNESS. Before the reading is further proceeded with, I desire to ask the Senator who offered the proposition whether it is what is known as the Louisiana bill with some modification.

Mr. HENDERSON. Yes, with various modifications.

Mr. STEWART. Applied to all the States?

Mr. HENDERSON. Applied to all the States.

Mr. CONNESS. Then I object to its being read, if an objection will prevent it.

The PRESIDING OFFICER. When objection is made to the reading of a paper, the rules provide that the question shall be submitted to the Senate and decided without debate. Is it the pleasure of the Senate to continue the reading of this amendment?

The question being put, it was decided in the affirmative.

The Secretary continued, and concluded the reading of the words proposed to be inserted by Mr. HENDERSON, as follows:

That the President of the United States shall nominate, and by and with the advice and consent of the Senate appoint, a provisional governor for the State of Louisiana, who shall hold his office for one year, unless sooner removed by the President, by and with the advice and consent of the Senate, or unless sooner superseded by a successor elected under the provisions of this act. Such Governor, so appointed, shall have attained the age of thirty years, shall be a citizen of the United States and of the State of Louisiana. He shall not have held any office whatever under the government of the so-called confederate States, nor of any State which recognized the authority of such pretended government. He shall not have signed, voted for, or by speech or otherwise favored the act of secession of any State, nor shall he be any person who has ever held any office in the Army or Navy of the United States, and who afterward took an oath to support the said pretended government; nor shall he be a person who was a member of either House of the Congress of the United States after the first Monday in December, A. D. 1860, and who afterward took an oath to support the said pretended government; nor shall he be one who has borne arms against the Government of the United States, or who has in any way given aid, counsel, countenance, or encouragement to the late rebellion; but shall be one who has at all times borne true faith and allegiance to the Government of the United States. And before such nomination shall be acted upon by the Senate, such nominee shall make the same oath (which shall be signed and filed with the Secretary of the Senate) prescribed by the act of July 2, 1862, and which oath shall also contain a declaration that the nominee has done no act which would work a disqualification for holding such office under the provisions of this act.

Sec. 2. And be it further enacted, That the President shall forthwith nominate, and by and with the advice and consent of the Senate appoint, a provisional council, consisting of nine persons, who shall have the same qualifications as are herein prescribed for

the office of Governor, and who, before being confirmed by the Senate, shall on oath make, sign, and file with said secretary, the same oath that is prescribed for the Governor. Such councillors shall continue to hold their office, unless sooner removed by the President, by and with the advice and consent of the Senate, until a Legislature shall be duly elected and qualified under the provisions of this act. Such provisional council shall, with the Governor, have all legislative power in such State. But in no event shall the Governor or any councillor enter upon the duties of their respective offices until after confirmation by the Senate. A majority of such council shall be a quorum, and the same shall continue in permanent session, with power, however, to order such adjournments as may be deemed proper, but no adjournment for more than thirty days at one time. All bills, resolutions or orders adopted by the council shall be submitted to the Governor for his approval. If he approve the same, he shall sign them; if he disapprove any such bill or resolution, he shall return it with his objections to the council, and the proceedings thereon shall be the same as provided by the Constitution of the United States in case of the return of a bill by the President to Congress.

SEC. 3. *And be it further enacted*, That the Governor shall forthwith take possession and charge of all archives and other property belonging to the State, and it shall be his duty to see that all laws of the State and of the United States shall be duly executed within such State. Until all officers shall become elective by the people, as herein provided, the Governor shall nominate, and by and with the advice and consent of the provisional council, shall appoint and commission all the officers now provided for by the existing government of said State, or which may hereafter be created by law. Such officers shall hold their offices, unless sooner removed by the Governor, with the advice and consent of the provisional council, until successors shall be elected and qualified as herein provided. And all councillors, legislators, and other members and officers of the provisional government hereby established, and also all the members of the constitutional convention hereinafter provided for, shall be selected from such as can truthfully take the oath aforesaid, prescribed by the act of July 2, A. D. 1862, and, before entering upon the duties of such office, shall take and subscribe such oath, which oath shall be filed with, and preserved by, the chief justice of the State.

SEC. 4. *And be it further enacted*, That, unless otherwise hereafter provided by Congress, the persons duly qualified as electors according to the provisions of this act in the State of Louisiana shall, upon the first Tuesday of June, A. D. 1867, proceed to elect a Governor, Lieutenant Governor, Senate and House of Representatives, and all the other officers herein provided to be appointed; which Senate and House of Representatives shall be composed of the same number of members and be elected from the same districts as is provided under the present government of such State; and the Governor, Lieutenant Governor, Senators, and Representatives, and all the other officers of such provisional government, shall, respectively, hold their offices for one year, and until their successors are duly qualified, unless such officers are sooner removed or superseded, in pursuance of the other provisions of this act. All such officers so elected shall have the same qualifications, and shall take, subscribe, and file the same oath as is herein required in the case of the appointment of such officers. And the powers, duties, fees, and compensation of all such officers shall be the same as now by law appertain to such offices, respectively, in so far as such laws are not inconsistent with the provisions of this act.

SEC. 5. *And be it further enacted*, That the following persons, and no others, shall be electors and entitled to vote at all elections held under the provisions of this act, namely: every male citizen of the United States, without distinction of race or color, who has attained the age of twenty-one years, and has resided in Louisiana one year, and who has never borne arms against the United States since he was a citizen thereof, and who can truthfully take the oath prescribed by the act aforesaid of July 2, A. D. 1862: *Provided*, That any person otherwise qualified as an elector, as herein provided, and who never voluntarily gave aid, countenance, encouragement, or support to any rebellion against the United States, nor any such aid, countenance, encouragement, or support to any government inimical to the United States in any other manner, capacity, or rank than as a private soldier in open and civilized warfare, may be admitted to the rights of an elector by an order of the officer or person making the registration of voters, upon establishing, to the satisfaction of such person, by the testimony of persons who have at all times borne true allegiance to the United States, that he is one coming within the description of persons designated in this proviso. Upon such proof being made, and upon taking and subscribing upon the records of the registering officer an oath that all the things are true which bring the applicant within the exceptions of this proviso, and also that such person will at all times bear true allegiance to the United States, and to the perpetual Union of the States thereunder, such person shall receive a certificate which shall entitle him to the rights of an elector.

SEC. 6. *And be it further enacted*, That the Governor and council are hereby required to make and publish rules providing for—

1. A just and true registration, prior to each general election, of the names of all persons who, under the provisions of this act, are entitled to vote at any election named in this act; and he shall designate persons, having the qualifications of electors, by whom such registration shall be made, which registration shall be completed and made accessible to all the electors of the State at least one week before each general election.

2. For the time of holding all elections, the time for holding which is not fixed by this act; and also for the places and manner of holding and conducting all the elections contemplated by this act, including rules for receiving, counting, certifying, and returning the votes cast; the granting certificates of election; the appointment and compensation of all judges and other officers of elections; and for every other thing which shall be necessary to the holding of a free election by the people. But all officers and agents appointed to make such registrations, and to conduct, make returns of, certify to, or do any act touching any election, shall be persons entitled to the rights of an elector under the provisions of this act; and all such persons shall, before entering upon such duties, take and subscribe the oath aforesaid, prescribed by the act of July 2, A. D. 1862, and also faithfully and impartially discharge the duties of their office.

SEC. 7. *And be it further enacted*, That upon the first Monday in August, A. D. 1867, unless the Congress of the United States should by law otherwise provide, an election shall be held by all the persons qualified to vote under the provisions of this act for the choice of members to a convention to adopt a permanent constitution and frame of government for the State of Louisiana. No person shall be eligible to a seat in such convention who has not attained the age of twenty-five years, and who has not all the other qualifications prescribed by this act for the Governor; and such convention shall be composed of the same number of members and shall be elected from the same districts as is now provided by law for the House of Representatives. And no person shall take a seat in such convention who has not first taken, and upon the journals of the convention subscribed, the oath prescribed by the act of July 2, A. D. 1862. The constitution framed by such convention shall not permit any distinction in the rights of men on account of race or color, and shall recognize the power and duty of the Government of the United States to protect and enforce the perpetual Union of the States under such Government. Said constitution shall provide that no debt, demand, or liability contracted or incurred in the name of the State or otherwise, in support of the recent rebellion, shall be assumed or paid; and that no pension, compensation, gift, or gratuity, shall be bestowed upon or paid by the State to any person for the loss of the service or labor of any person, or by reason of anything done or suffered in support of the rebellion. And such constitution shall provide that the aforesaid provisions shall be irreversible and incapable of abrogation by amendment thereof. Such constitution shall be submitted for approval by the convention, at such time as it may fix, not less than sixty days after the adjournment of the convention to the electors of the State qualified to vote under the provisions of this act; the election to be held under rules prescribed, as aforesaid, by the Governor and council, and if approved by a majority of such electors, it may be presented to Congress for the admission of the State to representation in Congress thereunder, upon such terms as may be by them prescribed.

SEC. 8. *And be it further enacted*, That it shall be the duty of the President of the United States to designate forthwith an officer of the Army of the United States, who is of rank not below a brigadier general, and who shall be stationed in the State of Louisiana, and shall be the military commander within the State; it shall, moreover, be the duty of the President to place in such State, under the command of such officer, such military force as shall be requisite to execute the duties herein assigned to such commander. It shall be the duty of such commander to aid the civil authorities in the State whenever they shall be unable to enforce the laws enacted by the Governor and council; and such commander, on the application of the council, or of the Governor when the council is not in session, shall protect the people against domestic violence. And it shall, moreover, be the duty of such commander to render such support to the civil authorities in the preservation of order and in the enforcement of the laws and rules regulating elections, and also all other laws, both of the United States and of the State, as shall insure the full, speedy, and impartial enforcement of all such laws and of equal justice, and this without regard to race or color.

SEC. 9. *And be it further enacted*, That the militia of the State shall consist of all the citizens of the State qualified as electors under this act, who shall be as soon as practicable, duly organized and equipped, under laws adopted by the Governor and council; and during the existence of the provisional government hereby created such militia shall act under the direction of the aforesaid military commander within the State.

SEC. 10. *And be it further enacted*, That all laws now in force in Louisiana, consistent with the Constitution and laws of the United States and with the provisions of this act, shall remain in force until repealed or modified: *Provided*, That no person shall be competent to act as a juror who is not an elector under the provisions of this act: *And provided also*, That all the expenses of and incident to the administration of the provisional government herein provided for shall be collected and paid in such manner as may be prescribed by the Governor and council.

SEC. 11. *And be it further enacted*, That the President shall appoint a Governor and council, as herein provided, for each of the States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Florida, Texas, and Arkansas, whose qualifications and duties shall be the same as prescribed for those in the State of Louisiana; and all proceedings herein provided for the organization of a republican government in Louisiana, and the restoration of said State to representation in Congress, shall be had in each of the States named in this section.

The PRESIDING OFFICER. The Chair

will state the question as it now stands before the Senate. The Senator from Missouri proposes to strike out all of the original bill after the enacting clause, and to insert the substitute which has just been read. The Senator from Maryland had previously moved an amendment to the original bill, which had been considered and amended by the Senate. It is the rule and practice of the Senate first to perfect that which is proposed to be stricken out before taking the question on the substitute. The amendment of the Senator from Maryland is therefore first in order; and after action has been had upon it, if no other amendment be moved, the question will come upon the proposition of the Senator from Missouri.

Mr. HENDERSON. I desire to state that I have examined the rules on this subject since I submitted the amendment, and the Senator from West Virginia has pointed out to me this rule, on page 10 of Barclay's Digest:

"An amendment may be moved to an amendment, but it is not admitted in another degree. (Manual, page 100.) [But it is the well-settled practice of the House that there may be pending at the same time with such amendment to the amendment an amendment in the nature of a substitute for part or the whole of the original text, and an amendment to that amendment. (See Journal 1, 31, pages 1074, 1075.) It was decided many years ago that if the motion to amend the original matter was first submitted it was not then in order to submit an amendment in the nature of a substitute. (Journal 1, 19, page 794.) but it was subsequently decided otherwise. (Journal 1, 28, page 807.) and the practice ever since has been in accordance with the latter decision. So now, notwithstanding the pendency of a motion to amend an amendment to the original matter, a motion to amend, in the nature of a substitute, and a motion to amend that amendment may be received, but cannot be voted upon until the original matter is perfected."]

What I ask is that my proposition shall stand as an amendment. If any gentleman wishes to amend the amendment of the Senator from Maryland before it is voted upon, of course that will be in order. I do not object to perfecting the original bill and the amendment before my amendment is voted upon. I only ask that my proposition shall stand before the Senate as an amendment in the nature of the substitute. I am satisfied that it is in order.

Mr. WILLIAMS. I must confess that I am very much surprised at this proposition. After the bill has been under discussion during the entire day and all night, there is at this hour an amendment proposed as a substitute for the entire bill. Of course the effect of that will be to open up another discussion, and before any definite action can be taken it will be necessary to discuss this new bill and all its features. It is altogether more complicated than the bill that has been before the Senate and under discussion, and the necessary effect of this movement, as it appears to me, is to defeat both bills. I presume that is not the intention of the Senator who moves this amendment; but under the circumstances, as it is utterly impossible now by the action of those whom I have supposed to be friends of this measure to proceed and arrive at any definite result to-night, I move that the Senate do now adjourn.

Mr. WILSON. Let the amendment be printed first.

The PRESIDING OFFICER. Does the Senator from Oregon withdraw his motion, to allow an order to be made to have the amendment printed?

Mr. WILLIAMS. Yes, for that purpose.

Mr. HENDERSON. I desire that my proposition shall be printed, as I have made many changes in the Louisiana bill as it came from the House.

The motion to print was agreed to.

Mr. McDOUGALL. I desire to submit an amendment, which I shall move at the proper time, to the amendment of the Senator from Maryland, and I wish to have it printed.

The PRESIDING OFFICER. The proposed amendment will be received informally and ordered to be printed.

Mr. WILLIAMS. I renew my motion.

The motion was agreed to; and at three o'clock a. m. (Saturday, February 16) the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 20, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON. The Journal of yesterday was read.

## CORRECTION OF THE JOURNAL.

Mr. BINGHAM. I rise to a privileged motion. I desire to correct the Journal in regard to the telegram received by the House yesterday from New York announcing the death of a revolutionary soldier. It is stated in the Journal that he was the last surviving soldier of the Revolution. It ought to be so corrected as to read that he was the last surviving soldier of the Revolution on the pension-roll until this Congress placed upon the pension-roll the name of John Gray, of Ohio.

The SPEAKER. The Journal Clerk made up the Journal correctly from the dispatch read at the Clerk's desk. The gentleman moves, however, that the Journal be so amended as to add, after the words "last surviving soldier of the Revolution," the words "on the pension-roll."

The amendment was agreed to.

The Journal, as amended, was then approved.

## TARIFF BILL.

Mr. MYERS asked unanimous consent to offer the following resolution:

*Resolved*, That after the tax bill is acted on, all regular orders, except the morning hour, and all other special orders shall be set aside, and the tariff bill shall be the special order until disposed of.

Mr. BENJAMIN and many other members objected.

## SOUTHERN HOMESTEAD LAW.

Mr. JULIAN. I desire to enter a motion to reconsider the vote by which the bill amendatory of the homestead law was recommitted to the Committee on Public Lands.

The motion was entered.

## RESOLUTIONS OF TENNESSEE LEGISLATURE.

Mr. CAMPBELL, by unanimous consent, presented joint resolutions of the Legislature of Tennessee in regard to the Pacific railroad; which were referred to the select Committee on the Pacific Railroad, and ordered to be printed.

## ARSENAL AT AUGUSTA, GEORGIA.

Mr. SCHENCK submitted the following resolution; which, being a call for executive information, was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to communicate to this House correspondence in his possession between the commandant of the United States arsenal at Augusta, Georgia, and the president of the Augusta and Somerville Railroad Company, in relation to the extension of said railroad to said arsenal, and any documents relating to the same.

## G. E. WINTERS.

On motion of Mr. SCHENCK, the Committee on Military Affairs were discharged from the further consideration of the claim of G. E. Winters for compensation; and the petitioner was granted leave to withdraw his papers for use before the Court of Claims.

## CALIFORNIA IRRIGATION COMPANY.

Mr. McRUER, from the Committee on Public Lands, by unanimous consent, reported back a bill (H. R. No. 577) granting the right of way and making a grant of land to the Sierra Nevada and Contra Costa Irrigation and Canal Company, with an amendment in the nature of a substitute; which was ordered to be printed, and recommitted.

Mr. SCOFIELD moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## JOHN PERRY.

Mr. BAKER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Pensions be instructed to inquire into the propriety of granting an additional pension to John Perry, and to report by bill or otherwise.

## VALENTINE WEHRHEIM.

Mr. BAKER, by unanimous consent, also submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Pensions be instructed to inquire into the propriety of granting an additional pension to Valentine Wehrheim; and to report by bill or otherwise.

## ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 474) for the relief of John C. McFerran, of the United States Army.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, a joint resolution of the House of the following title:

A joint resolution (H. R. No. 261) for the relief of Stephen E. Jones.

The message further announced that the Senate had passed bills and a joint resolution, in which the concurrence of the House was requested, of the following titles:

An act (S. No. 592) to provide for a temporary increase of the pay of officers in the Army of the United States, and for other purposes;

An act (S. No. 563) supplementary to the several acts of Congress abolishing imprisonment for debt; and

A joint resolution (S. R. No. 175) for the relief of Dyer B. Pettijohn.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 856) fixing the compensation for the bailiffs and criers of the courts of the District of Columbia.

## GOVERNMENT OF INSURRECTIONARY STATES.

Mr. BLAINE. I demand the regular order of business.

The SPEAKER. The regular order of business is the consideration of the amendments of the Senate to the bill of the House in relation to the government of the insurrectionary States.

The pending question was upon seconding the call for the previous question, upon the motion of Mr. WILSON, of Iowa, to agree to the amendments of the Senate, with the following amendment added thereto:

*Provided*, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of a convention to frame a constitution for any of said rebel States; nor shall any such person vote for members of such convention.

Mr. BLAINE. I now ask that the vote be taken upon seconding the previous question.

Mr. SHELLABARGER. I desire to make an inquiry of the Chair. I wish to inquire what will be the effect of sustaining the call for the previous question in reference to an opportunity to offer any amendment to the substitute of the Senate?

Mr. BLAINE. I object to debate.

The SPEAKER. The Chair will answer the question of the gentleman from Ohio, [Mr. SHELLABARGER], as he always answers inquiries in relation to business before the House. The pending question is upon the motion of the gentleman from Iowa [Mr. WILSON] to agree to the amendments of the Senate with an amendment, upon which the gentleman from Maine [Mr. BLAINE] has called the previous question. Should the previous question be seconded, the main question ordered, and the motion of the gentleman from Iowa agreed to, that would close the whole controversy so far as this House is concerned; at least for the present.

Mr. SHELLABARGER. Will the gentleman from Maine [Mr. BLAINE] withdraw his call for the previous question until I can offer an amendment?

Mr. BLAINE. I cannot yield for that purpose, for it would peril the entire bill.

Mr. SHELLABARGER. Then I hope the previous question will not be seconded.

Mr. BANKS. I have a suggestion to make to the gentleman from Iowa [Mr. WILSON] whose amendment is now pending. I ask him to so far modify his proposition as to extend the disqualification of voters who are not allowed to vote for members of the convention to any election held by order of the convention upon the adoption or rejection of any constitution submitted to the people in pursuance of the provisions of this act.

Mr. BLAINE. I object to any debate.

The SPEAKER. No debate is in order pending the call for the previous question.

The question was taken on seconding the call for the previous question; and on a division there were—ayes 69, noes 60.

Before the result of the vote was announced, Mr. LYNCH called for tellers.

Tellers were ordered; and Mr. LYNCH and Mr. WILSON, of Iowa, were appointed.

The House again divided; and the tellers reported that there were—ayes 72, noes 76.

So the previous question was not seconded.

Mr. SHELLABARGER. I now move to amend the amendment of the gentleman from Iowa [Mr. WILSON] by adding to it that which I send to the Clerk's desk to be read.

The Clerk read as follows:

Sec. — And be it further enacted, That until the people of said rebel States shall be admitted to representation in the Congress of the United States any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States, at any time to abolish, modify, control, or supersede the same. And in all elections to any office under such provisional governments, all persons shall be entitled to vote, and none others, who are entitled to vote under the provisions of the fifth section of this act; and no person shall be eligible to any office under any such provisional government who shall be disqualified from holding office under the provisions of the third article of said constitutional amendment.

Mr. SHELLABARGER. I now call the previous question.

On seconding the call for the previous question; there were—ayes 80, noes 41.

So the previous question was seconded.

Mr. ROSS. Mr. Speaker, would it be in order now to move to refer this amendment to a committee to have it condensed and simplified?

The SPEAKER. It would not be. The previous question has been seconded.

The question being, "Shall the main question be now ordered?" it was decided in the affirmative.

Mr. BOYER. Would it be in order to move to lay this amendment on the table?

The SPEAKER. It would be; but the adoption of that motion would carry the whole bill with it.

Mr. BOYER. I make that motion.

The motion was not agreed to.

Mr. ANCONA. I call for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

Mr. ANCONA. I rise to make an inquiry. Is not this an amendment in the third degree, and therefore out of order?

The SPEAKER. It is not; because, as stated in the Digest, "An amendment of the House to a Senate amendment is only in the first degree; for as to the Senate the first amendment with which they passed the bill is a part of its text; it is the only text they have agreed to."

The question was taken on the motion of Mr. SHELLABARGER to amend the amendment of Mr. WILSON, of Iowa; and it was decided in the affirmative—yeas 99, nays 70, not voting 21; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Bidwell, Boutwell, Brandegee, Bromwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Culford, Deere, Deming, Donnelly, Dumont, Eggleson, Eliot, Farnsworth, Farquhar, Ferry, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Julian, Kelley, Kelso, Ketcham, Koontz, William Lawrence, Leach, Longyear, Lynch, Maynard, McClurg, McFadyen, McCur, Morris, Moulton, Myers, Newell, O'Neil, Orth,



Paine, Patterson, Perham, Pike, Plants, Price, Alexander H. Rice, Rollins, Sawyer, Schoenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stokes, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—99.

**YEA'S**—Messrs. Ancona, Barker, Benjamin, Bergen, Bingham, Blaine, Blow, Boyer, Buckland, Campbell, Chanler, Cooper, Darling, Davis, Dawes, Dawson, Delano, Denison, Dodge, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Hise, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Kerr, Kuykendall, Lafin, George V. Lawrence, Le Blond, Leftwich, Marshall, Marvin, McCullough, McKee, McKuer, Miller, Moorhead, Niblack, Nicholson, Noel, Phelps, Pomeroy, Radford, Samuel J. Randall, Raymond, John H. Rice, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Stilwell, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thayer, Thornton, Trimble, Andrew H. Ward, Whaley, Winfield, and Wright—70.

**NOT VOTING**—Messrs. Conkling, Culver, Dixon, Driggs, Eekley, Garfield, Hale, Harris, Hawkins, Hogan, Asahel W. Hubbard, Jencks, Jones, Kasson, Latham, Marston, Morrill, William H. Randall, Francis Thomas, John L. Thomas, and Elihu B. Washburne—21.

So Mr. SHELLABARGER's amendment to the amendment was agreed to.

Mr. SHELLABARGER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

The SPEAKER. The question now recurs on concurring in the Senate amendments, with the amendment of the gentleman from Iowa, [Mr. WILSON,] as amended on the motion of the gentleman from Ohio, [Mr. SHELLABARGER.]

Mr. FINCK. I call for the yeas and nays. The yeas and nays were ordered.

Mr. RAYMOND. Is not the question first upon the amendment of the gentleman from Iowa as amended?

The SPEAKER. The question is now on concurring in the Senate amendments, with the amendment of the gentleman from Iowa, as amended by the amendment of the gentleman from Ohio.

Mr. RAYMOND. Then there is to be no separate vote on the amendment of the gentleman from Iowa as amended?

The SPEAKER. No separate vote can be taken on that.

Mr. ROSS. Is not the question susceptible of division?

The SPEAKER. It is not. If this question should be decided in the affirmative, it will end the matter for the present, so far as the House is concerned. If it should be determined in the negative, the Senate amendments will still be before the House.

Mr. FARNSWORTH. The Senate amendments have not yet been amended. The amendment of the gentleman from Iowa, as amended, has not yet been adopted.

The SPEAKER. It certainly will be, if the House now votes in the affirmative.

Mr. FARNSWORTH. Cannot the House vote separately on the amendment of the gentleman from Iowa as amended?

The SPEAKER. It cannot. The Chair will explain. The question is now upon concurring in the Senate amendments with the amendment of the gentleman from Iowa, as amended on the motion of the gentleman from Ohio. If this question should be decided in the negative, the Senate amendments will still be before the House. If it should be determined in the affirmative, the controversy is ended, so far as this House is concerned, until the Senate shall take action upon the amendments proposed by the House to the amendments of the Senate.

Mr. RAYMOND. Then the only way to vote against the amendment of the gentleman from Iowa is to vote against the proposition now before the House.

The SPEAKER. That is correct. Should this proposition be negatived, the question will recur upon the Senate amendments without amendment.

The question then recurred on concurring in the amendments of the Senate with the amendment of Mr. WILSON, of Iowa, as amended by Mr. SHELLABARGER; and being taken, it was

decided in the affirmative—yeas 126, nays 46, not voting 18; as follows:

**YEA'S**—Messrs. Alley, Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Bontwell, Brandegee, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Davis, Dawes, Defrees, Delano, Deming, Dodge, Donnelly, Dumont, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Lafin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, Maynard, McClurg, McIndoe, McKee, McKuer, Moreau, Miller, Moorhead, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schoenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stokes, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Hamilton Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—126.

**NAYS**—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Hawkins, Hise, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Kerr, Kuykendall, Le Blond, Leftwich, Marshall, McCullough, Niblack, Nicholson, Noel, Phelps, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Strouse, Taber, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Andrew H. Ward, Winfield, and Wright—46.

**NOT VOTING**—Messrs. Conkling, Culver, Dixon, Driggs, Eekley, Garfield, Hale, Harris, Hogan, Asahel W. Hubbard, Jencks, Jones, Latham, Marston, Morrill, William H. Randall, Stilwell, and Elihu B. Washburne—18.

So the Senate amendments, as amended, were concurred in.

Mr. WILSON, of Iowa, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MORNING HOUR.

Mr. BANKS. I ask unanimous consent to submit the following resolution to preserve the morning hour for business of committees:

*Resolved*, That during the remainder of this session the morning hour shall not be interrupted by any other business than that prescribed by the rules of the House.

Mr. STEVENS. I am afraid it will be inconvenient to the House, and therefore object.

Mr. BANKS. I move to suspend the rules. We want the morning hour for business.

The SPEAKER. This is one of the last ten days of the session, and the rules can be suspended.

The rules were suspended; and the resolution was received and adopted.

Mr. BANKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### FORTIFICATION BILL.

Mr. STEVENS, from the Committee on Appropriations, reported a bill making appropriations for the construction, preservation, and repair of certain fortifications and other works of defense for the fiscal year ending the 30th of June, 1868; and moved that it be made a special order for Saturday next, and ordered to be printed.

Mr. DAVIS. I reserve all points of order.

Mr. LE BLOND. I demand that the bill shall be read in full. I propose to keep the promise I made last night, to insist on the reading of all these bills.

The bill was read a first and second time, and then read *in extenso*; made the special order for Saturday next, and ordered to be printed.

#### JOHN K. HICKEY.

On motion of Mr. WRIGHT, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of John K. Hickey.

#### MILITIA BILL.

The SPEAKER stated the morning hour had now commenced, and the House resumed the consideration of House bill No. 1145, to

provide for organizing, arming, and disciplining the militia, and for other purposes.

Mr. PAINE. I find myself unable to resist the touching appeals of my friends on the other side of this House who are opposed to the passage of this bill for reasons which will be obvious to members of the House, and considering the condition of business before the House at this time, I therefore withdraw my demand for the previous question and again offer my amendment, and after its adoption I will move to recommit the bill to the Committee on the Militia and remove from my friends this bugbear for this session, although it may show "its horns and cloven foot", in the Fortieth Congress. I suppose the threat of any opposition of that sort, vulgarly called "filibustering," will not be tried against this amendment, but will be allowed to be adopted, when I shall move to recommit.

Mr. LE BLOND. With that understanding I shall let it go.

The amendment offered by the chairman of the committee was read, as follows:

*Sec. 37. And be it further enacted*, That in each military district into which Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Arkansas, and Texas may be by act of Congress divided, regiments and companies of the national guard herein provided for, composed exclusively of loyal persons, without respect of color, may be organized, armed, equipped, and paid, with the consent of the commander of such military district, not exceeding in number two regiments or twenty companies in each of such geographical sections as constituted congressional districts at the commencement of the late rebellion; and the commander of each military district shall exercise the same authority over the national guard therein which the Governors exercise in the respective States; and all of the provisions of this act shall be extended to the national guard organized in such military districts which shall not be in the nature of the case inapplicable thereto.

Mr. ELDRIDGE. A single suggestion to my friend. I cannot see the propriety or necessity of the House acting upon that amendment at this time, when the gentleman admits that the recommitment of the bill will inevitably defeat its passage during this Congress. I cannot understand either why the gentleman has taken the course he has, apprehending, as he seems to have done, that there was to be some filibustering here. There was no intention of that kind. It seemed to us that the long horns and cloven feet which appeared so plainly in the bill would be enough of themselves to defeat the measure even if the vote were taken. But since my colleague admits the fact of the existence of the horns and cloven feet, but that they are only to be presented before the next Congress, I shall make no further opposition.

The amendment was agreed to.

Mr. PAINE. Before I move to recommit this bill I wish, with the indulgence of the House, to say a single word. Up to this time I have heard but two objections urged against this bill, and those in private conversation rather than in this House. The first is, that it would be a tax upon the national Treasury. On the contrary, we shall be able to show when the time comes that for every dollar expended by this bill five dollars will be saved to the national Treasury.

Another objection is that it establishes a huge standing army in this Republic. On the contrary, it is a militia system which is proposed by this bill, the entire control of which will be in the hands of the local authorities, and none of it in the hands of the Federal Government. If there is any possibility of devising a plan whereby we can reduce the regular Army, it must be done through this very militia system.

My colleague [Mr. ELDRIDGE] has said that they had no purpose on the other side to filibuster against this bill. I am sorry to say that whatever their intention may have been during the two morning hours that have been consumed on this bill, nothing has been in fact done except filibustering, and I have been notified that the same thing would be continued during the session. If I should insist, therefore, upon action upon this bill, the result would be to keep back other gentlemen who desire to

bring before the House other business, without being able myself to carry through any practical measure. I now move to recommit the bill with the amendments to the Committee on the Militia.

The motion was agreed to.

Mr. ROSS moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DARIEN SHIP-CANAL.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back without amendment Senate joint resolution No. 149, to extend aid and facilities to citizens of the United States engaged in the survey of a route for a ship-canal across the Isthmus of Darien, with a recommendation that it do pass.

The joint resolution authorizes and requests the Secretary of the Navy to furnish such aid and facilities to citizens of the United States who are undertaking an exploration and survey of the isthmus of Darien for the purpose of discovering a favorable line for a ship-canal to connect the Atlantic and Pacific oceans, as he may be able to furnish without prejudice to the naval service and without additional expense to the Government of the United States.

Mr. SCOTFIELD. Is this the bill that was referred to the committee some time ago?

Mr. RICE, of Massachusetts. It is.

Mr. SCOTFIELD. All right, I believe.

Mr. HISE. I desire to make some remarks upon that resolution.

Mr. RICE, of Massachusetts. I would state to the gentleman from Kentucky that this is a Senate bill which has been considered in the Committee on Naval Affairs and reported after investigation without amendment. It simply provides that the Secretary of the Navy may afford to the persons who are making a survey of the route across the Isthmus such assistance as he may be able to afford them without detriment to the naval service and without additional expense. It involves no interference with the other duties of the Navy, and no additional cost to the Government of the United States. I call the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered; and under the operation thereof, the joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ADVERSE REPORT.

On motion of Mr. RICE, of Massachusetts, the Committee on Naval Affairs was discharged from the further consideration of bill of the House No. 671, a bill amendatory of the act of April, 1866, entitled "An act making appropriations for the naval service for the year ending June, 30, 1867;" and the same was laid on the table.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CHARLESTOWN NAVY-YARD.

On motion of Mr. RICE, of Massachusetts, the Committee on Naval Affairs was discharged from the further consideration of bill of the House No. 995, to repeal so much of the act approved April, 17, 1866, chapter forty-five, section one, as appropriates the sum of \$25,000 for the purchase of the right of drainage through the navy-yard at Charlestown, Massachusetts; and the same was laid on the table.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was laid on the table; and also moved to lay motion to reconsider on the table.

The latter motion was agreed to.

#### GRADES OF LINE OFFICERS.

On motion of Mr. RICE, of Massachusetts, the Committee on Naval Affairs was discharged from the further consideration of bill of the House No. 917, to amend an act entitled "An act to establish and equalize the grades of line officers of the United States Navy," approved July 16, 1862; and the same was laid on the table.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CHAPLAINS IN THE NAVY.

Mr. RICE, of Massachusetts, also reported adversely upon sundry resolutions in reference to chaplains in the Navy; which were laid on the table.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the resolutions were laid on the table; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### BOUNTY TO SEAMEN AND MARINES.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported a bill to render applicable to the seamen in the United States Navy and to marines the provisions relating to pensions in the act making appropriations for the civil expenditures, approved July 28, 1866; which was read a first and second time.

The bill was read. It provides that the provisions of sections twelve, thirteen, fourteen, and fifteen of the act approved July 28, 1866, relating to additional bounty to enlisted soldiers, &c., shall be, and is hereby, made applicable to the seamen of the United States Navy and marines; said bounties to be paid in the same amount and subject to the same conditions as provided in these sections, so far as the same are applicable, and otherwise in accordance with the laws regulating the payment of other bounties to seamen and marines.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### OFFICERS IN NAVY-YARDS.

Mr. RICE, of Massachusetts, from the same committee, reported a bill to establish the offices of civil engineer, master mechanic, and master laborer in the navy-yards of the United States; which was read a first and second time.

The bill was read. It provides that the offices of civil engineer, master machinist, master carpenter, master joiner, master blacksmith, master boiler-maker, master plumber, master painter, master caulker, and master laborer be, and are hereby, established in connection with the navy-yards at Kittery, Maine, Charlestown, Massachusetts, Philadelphia, Pennsylvania, and Washington, District of Columbia; that the persons appointed to fill said offices shall be appointed by the President, by and with the advice and consent of the Senate; and that they shall receive each a salary of \$1,500 per annum, and shall have immediate supervision and direction of the work to be performed in their several departments, with authority to select and to discharge workmen, subject always to the approval of the commandant of the navy-yard to which they are attached.

Mr. CHANLER. I would ask the gentleman from Massachusetts [Mr. RICE] wherein this bill conflicts with the established rule of the Department at this time?

Mr. RICE, of Massachusetts. I would state in reply to the inquiry of the gentleman from New York that I understand that ever since the establishment of these navy-yards until quite recently, the custom has been to have the positions at the heads of these several mechanical departments filled by civilians.

For example, the head of the machinist's department was a practical machinist; the head of the carpenter's department was a practical ship-carpenter; and so through all the other mechanical departments of the various navy-yards. These master workmen have heretofore been designated by the President, as is provided by this bill. But recently a change has been instituted in some or all of the yards, which dispenses with civilians at the head of these various departments and places the departments under the direction of commissioned officers of the Navy. For example, the machinist's department, which has a representation in nearly all the navy-yards of the country, and the machine-shops and foundries of which had practical machinists to superintend them, are now under the system recently established, and which, so far as I know, has no sanction or authority under specific law, placed under the charge of a naval engineer. The ship-carpenter's department is under charge of an assistant naval constructor, and so on through all these various departments.

Now, this bill provides that henceforth these positions shall be filled as they have been filled heretofore, with the exception of a short period recently, by the appointment of civilians, who shall be practical mechanics, and who shall be designated by the President and confirmed in their positions by the Senate. And I would further state that this bill is reported in accordance with instructions of this House to the Committee on Naval Affairs, which instructions were adopted by this House two or three weeks since.

Mr. TAYLOR, of New York. I would inquire of the gentleman from Massachusetts [Mr. RICE] why the master joiner has been omitted from this bill?

Mr. RICE, of Massachusetts. He is not omitted; all the mechanical departments, without exception, are embraced in this bill.

Mr. TAYLOR, of New York. Has not the master sail-maker been excepted?

Mr. RICE, of Massachusetts. I think I may have inadvertently omitted the master sail-maker. If the gentleman will move an amendment I will yield to him for that purpose.

Mr. TAYLOR, of New York. I move to amend this bill by inserting in the proper place the words "master sail-maker."

The amendment was agreed to.

Mr. TAYLOR, of New York. I desire to make another inquiry of the gentleman from Massachusetts. I think the compensation fixed by this bill seems to me to be inadequate. Journeymen mechanics are now getting more than is provided here for master mechanics.

Mr. RICE, of Massachusetts. I think not.

Mr. TAYLOR, of New York. Journeymen mechanics now receive four dollars per day; this bill provides that master mechanics shall receive \$1,500 a year.

Mr. RICE, of Massachusetts. That is five dollars a day.

Mr. TAYLOR, of New York. For working days.

Mr. RICE, of Massachusetts. Certainly.

Mr. RANDALL, of Pennsylvania. Will the gentleman from Massachusetts yield to me for a moment?

Mr. RICE, of Massachusetts. Certainly.

Mr. RANDALL, of Pennsylvania. The practical effect of this bill is simply to take away from the Navy Department the appropriations of the heads of Departments therein named. And it proposes to give a concurrent power to the Senate of the United States, with the President, in appointing these officers; thereby giving the Senate a voice in reference to every laborer employed in each one of these yards.

Now, it is true, as stated by the chairman of the Committee on Naval Affairs, that the committee acted under instructions from this House. But I do not believe the interests of the Government will in any manner be subserved by this change; depriving the Navy Department of a complete and thorough supervision over not only the master workmen, but also the laborers,

and transferring that responsibility to the President and the Senate of the United States.

Neither do I believe that the Senate of the United States desire to have in their official capacity any voice or control over the laborers in the navy-yards. Yet this is nothing more nor less, and the country and the people will so understand it, than a plan to accomplish the turning of people out of the navy-yards, and the substitution of others who may perhaps be the more supple tools of this Congress. I hope the bill will not pass, and I shall ask the yeas and nays on its passage.

Mr. RICE, of Massachusetts. The gentleman from Pennsylvania [Mr. RANDALL] is mistaken in his statement that the design of this bill is to take the appointment of those officers from the Navy Department, or to take their appointment away from the authority now empowered to appoint them. These officers are now subject to appointment by the President of the United States, and this bill retains the same provision, with the simple addition that their appointments shall be subject to confirmation by the Senate.

Mr. LYNCH. Will not the gentleman yield for an amendment?

Mr. RICE, of Massachusetts. I cannot. I have reported the bill under instructions of the committee, and I cannot accept any amendment.

Mr. CHANLER. With the consent of the gentleman from Massachusetts, I desire to make an inquiry.

Mr. RICE, of Massachusetts. I will hear the gentleman.

Mr. CHANLER. I desire to learn before the vote is taken what is to be the practical effect of this bill, if passed; wherein it will change the present organization of the navy-yards of the country. I would like to ask him whether practically it is going to turn out the present occupants of the yards? Is it the intention to open a new door for the distribution of patronage? We all know that practically the patronage of these yards has been used for the benefit of certain persons, not for the benefit of the Navy nor for the benefit of the Government. It has been used for the benefit of persons voting in a particular way. If the gentleman takes the ground that this bill will put an end to the corrupt system of patronage now prevailing to so great an extent in our navy-yards that they are almost worthless for the purposes for which they were established, so that the work which should be done at those yards must be put out in the neighboring yards belonging to private parties, then I ask the gentleman why he does not strike deeper and present some measure for organizing a system whereby the daily labor at those yards will inure to the benefit of the Government, and not to the advantage of a political organization.

Mr. RICE, of Massachusetts. In reply to the gentleman from New York [Mr. CHANLER] I will say that that is just the object of this bill. I call the previous question.

Mr. BANKS. I ask my colleague to yield to me for a moment.

Mr. RICE, of Massachusetts. I will do so.

Mr. BANKS. Mr. Speaker, I regard this as a most important measure and not at all amenable to the objection made to it by the gentlemen on the other side. This is a bill not to change the law, but to prevent an unauthorized departure from the true intent of the law by subordinate officers in these yards. This custom of the Government almost from time immemorial has been that these mechanical departments should be under the administration of civilians learned in the respective occupations or trades which they are called to superintend. Very recently, without any authority of law, but really in contravention of the law, commissioned officers have been charged with the superintendence of the mechanics and laborers in these yards. This bill is to put an end to this practice and reaffirm the law as it has existed from the beginning of the Government. I hope the bill will be passed.

Mr. RICE, of Massachusetts. I now insist on the call for the previous question.

Mr. LYNCH. I hope the previous question will not be seconded. I wish to offer an amendment.

Mr. LE BLOND. Will the gentleman from Massachusetts [Mr. RICE] yield to me for a single remark?

Mr. RICE, of Massachusetts. Yes, sir. As the gentleman is one of my colleagues on the committee I yield to him.

Mr. LE BLOND. I simply wish to say to the House, as one member of the Committee on Naval Affairs, that I have yet to learn why we should pass this bill. I think no information has been given to the House that the mechanics in the navy-yards have been turned out and other persons put in their places. I am aware that a resolution was introduced here instructing the Committee on Naval Affairs to take action on this matter and report a bill of the character of that now pending. But I know no reason for the change. If in some navy-yards the course stated has been pursued, I am free to say that I think it is improper. I think that practical mechanics ought to be had at the head of all these departments. But I know nothing of any facts calling for the passage of this bill. I do not know that any petition has been presented here setting forth the facts stated in debate here.

If the chairman knows of any I would be glad to have him state the fact, where they exist, in what different yards.

Mr. PIKE. I appeal to the gentleman from Massachusetts to allow my colleague to move his amendment, so that when he calls the previous question the House can take a vote on it.

Mr. RICE, of Massachusetts. I yield for that purpose.

Mr. LYNCH. I move to add "naval storekeepers" to the other officers named.

Mr. RICE, of Massachusetts. I now renew the demand for the previous question.

The previous question was seconded and the main question ordered.

The amendment was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. RANDALL, of Pennsylvania, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 33, not voting 61; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnold, James M. Ashley, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Brundage, Bromwell, Broomall, Cobb, Darling, Dawes, DeForest, Deming, Dodge, Donnelly, Eliot, Farnsworth, Ferry, Grinnell, Griswold, Abner C. Harding, Hawkins, Hayes, Henderson, Higby, Hill, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Kelley, Kelso, Ketcham, Koontz, Kuykendall, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, Maynard, McClurg, McIndoe, McKee, Mercier, Miller, Moorhead, Morris, Moulton, Myers, Newell, O'Neill, Orth, Patterson, Perham, Pike, Plants, Price, Raymond, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Starr, Thayer, John L. Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, Welker, Whaley, Williams, James F. Wilson, and Stephen F. Wilson—96.

NAYS—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Cooper, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Harris, Hise, Humphrey, Le Blond, Marshall, McCullough, Nicholson, Noell, Radford, Samuel J. Randall, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Taber, Trimble, Andrew H. Ward, Winfield, and Wright—33.

NOT VOTING—Messrs. Delos R. Ashley, Baker, Barker, Blaine, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Conkling, Cook, Cullom, Culver, Davis, Delano, Dixon, Driggs, Dumont, Ekeley, Eggleston, Farquhar, Garfield, Hale, Hart, Hogan, Holmes, Asahel W. Hubbard, Edwin N. Hubbard, Hunter, Ingersoll, Jencks, Jones, Julian, Kasson, Kerr, Laffin, Latham, Leftwich, Marston, McRuer, Morrill, Niblack, Paine, Phelps, Pomeroy, William H. Randall, John H. Rice, Ritter, Rousseau, Sloan, Stevens, Stillwell, Stokes, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, Hamilton Ward, Warner, Elihu B. Washburne, Wentworth, Windom, and Woodbridge—61.

So the bill was passed.

Mr. RICE, of Massachusetts, moved to recon-

sider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILL AND JOINT RESOLUTION.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 356) fixing the compensation for the bailiffs and criers of the courts of the District of Columbia; and

Joint resolution (H. R. No. 261) for the relief of Stephen E. Jones.

#### RIDGWAY'S BATTERY.

Mr. RICE, of Massachusetts, from the Committee on Naval Affairs, reported back Senate bill No. 290, authorizing the Secretary of the Navy to grant the use of guns for the use of Ridgway's battery, with the recommendation it do pass.

The bill authorizes the Secretary of the Navy to grant the use of two eleven-inch guns for trial of Ridgway's patent revolving battery.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

#### THE KEARSARGE.

Mr. RICE, of Massachusetts, from the same committee, reported a bill to compensate the officers and crew of the United States steamer Kearsarge, for the destruction of the rebel piratical vessel Alabama; which was read a first and second time.

The bill provides that the Secretary of the Navy be authorized and directed to pay to Commodore John A. Winslow and the officers and crew belonging to the United States steamer Kearsarge while engaged in the capture and destruction of the rebel piratical vessel the Alabama, on June 19, 1864, the sum of \$190,000, the same being the estimated value thereof; the same to be distributed to the officers and crew attached to the Kearsarge at the date above named, in the same manner as prize money, and to be in lieu of the bounty authorized by the eleventh section of the act of June 30, 1864, to regulate prize proceedings, &c.

Mr. FARNSWORTH. Does not that bill make an appropriation, and must it not therefore, under the rule, go to the Committee of the Whole?

The SPEAKER. It does not make an appropriation.

Mr. SPALDING. Have we not voted this down once or twice before?

Mr. RICE, of Massachusetts. Not this one.

Mr. SPALDING. Then something similar to it.

Mr. RICE, of Massachusetts. Mr. Speaker, it may be proper I should say, in explanation of this bill, a few words. I will not detain the House by any recital of the brilliant exploit of the Navy in the engagement between the Kearsarge and the Alabama, which resulted in the destruction of the latter vessel. It will always stand in American annals as one of the most gallant and heroic achievements of the American Navy.

The necessity for this bill arises from the fact of the magnitude of the service rendered to the commerce of this country and to the general interests of this country in the destruction of the rebel corsair Alabama. Gentlemen will remember that at the time this fight took place our commerce was being rapidly driven from the sea by corsairs fitted out by foreign Powers under the rebel flag, that all the efforts of the Navy up to the time of the engagement between the Kearsarge and Alabama to capture any one of these corsairs had been unavailing, that the Kearsarge fell in with the Alabama in the British channel in the very place of all others where we would have desired that such an action should have taken place, and that after one of the most brilliant and heroic conflicts in the annals of naval warfare the corsair was utterly



beaten, captured, and sunk with the entire loss of the vessel and the capture of a large number of prisoners.

Now, sir, under the prize law there is no provision made for an adequate compensation to the officers of an American vessel situated as these officers and crew of the Kearsarge are. In the cases of ordinary captures, where the vessel captured is of inferior force to that of the captors, one half of the proceeds of the sale of the captured vessel goes to the officers and crew of the vessel making the capture. When the captured vessel is of equal or superior force to that of the captors the whole of the proceeds of the prize goes to the officers and crew of the vessel making the capture. So that had the conflict between these two vessels resulted in the capture of and saving of the Alabama the whole value of the vessel and everything on board would have gone as a reward to the captors, namely, to the officers and crew of the Kearsarge. But inasmuch as the Alabama went to the bottom, there were no proceeds of prize in that case, because there was no vessel to sell.

In case a vessel is lost and destroyed in the conflict there is a provision of law that if the captured vessel be inferior to the capturing vessel there shall be distributed among the officers and crew of the latter a sum equal to \$100 for every man on board the captured vessel, or \$200 if the captured vessel be of equal or superior force to that of the captors. In this case the Alabama was superior to the Kearsarge, but if the officers and crew of the latter were to receive but \$200 for each man on board the Alabama, to be distributed in accordance with the law regulating prize money, it is probable that not more than ten dollars apiece would be distributed to the crew of the Kearsarge.

The Secretary of the Navy addressed a letter to Commander Winslow soon after this fight took place, congratulating him and his officers and crew on their splendid achievement, and intimating to him that he, the Secretary, had no doubt that Congress would make a suitable and generous award to them for their brilliant service. As soon thereafter as it was practicable for him to do it he appointed a commission to make an estimate of the actual value of the Alabama at the time she was destroyed. That commission made their investigation and reported the estimated value of the vessel at the time of her destruction at \$190,000. The bill which I have reported is in accordance with that estimate and with the recommendation of the Secretary of the Navy.

Mr. SPALDING. Will the gentleman allow me to ask one question? I would like to know if we have a precedent in our history for this—if the captors of the Constitution were paid for sinking the Guerriere the value of the captured vessel?

Mr. RICE, of Massachusetts. I think they were. At all events there are several precedents for this proceeding.

Mr. HILL. I understand the gentleman to say that the law authorizes the distribution of \$200 to each of the men of the capturing vessel, and yet that these men will receive only ten dollars.

Mr. RICE, of Massachusetts. What I stated was that the law authorized the payment to the men a sum equivalent to \$200 for every man on the captured vessel; that is to say, there would be distributed to the officers and crew of the Kearsarge a sum equal to \$200 multiplied by the number of men on the Alabama. That amount, I will say further, is to be distributed in accordance with the rule of law regulating the distribution of prize money, which gives a considerable portion of that sum to the officers of the vessel; and the sum remaining to be distributed among the members of the crew would not exceed ten or twenty dollars.

Mr. HILL. I understood the gentleman to make use of the term "capturing vessels" in each instance.

Mr. FARNSWORTH. What was the force of the Kearsarge?

Mr. RICE, of Massachusetts. About one hundred and seventy men, if I recollect aright.

Mr. FARNSWORTH. That would give them about a thousand dollars a piece. Are there any precedents for giving to the officers and crews of a capturing vessel bounties to the amount of the value of the vessel destroyed?

Mr. RICE, of Massachusetts. There are such precedents.

Mr. FARNSWORTH. I know there are precedents for giving bounties in such cases, but are there precedents for giving such bounties?

Mr. PRICE. Will the gentleman from Massachusetts [Mr. RICE] yield to me for a moment?

Mr. RICE. Yes, sir.

Mr. PRICE. Mr. Speaker, as is well known to the House, I generally oppose everything of this kind; but I gladly make this case an exception to that rule. Why, sir, there is not an American to-day above ground who does not remember well the dark clouds that hung upon our horizon at that time, when our commerce was driven from beneath our flag, and when no American merchantman dared to carry the stars and stripes. Nor is there one who does not remember also that when we heard that the double-shotted and well-aimed guns of the Kearsarge, under the conduct of her gallant officers and crew, had sunk the pirate Alabama beneath the waves of the ocean, never to rise again, the news lighted up the clouds of war that then hung so thickly and darkly about us, and lifted the gloom from the hearts and countenances of all men who loved their country and her cause. Sir, we ought not now to forget the brave men who then carried our flag to victory, nor fail to remember that if peace has again spread her white wings over us, it is due in no small measure to their heroism on that occasion. Therefore, I say, let us cheerfully give them this poor remuneration for the services then rendered by them to their country and to liberty.

Mr. RICE, of Massachusetts. I now demand the previous question upon the passage of the bill.

The previous question was seconded and the main question ordered.

The bill was then read the third time, and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JAMES TETLOW.

Mr. GRISWOLD, from the Committee on Naval Affairs, reported a bill for the relief of James Tetlow; which was read a first and second time.

The bill was read. It authorizes the Secretary of the Navy to pay to James Tetlow, for building four steam tug-boats, the sum of \$86,400, to be paid out of any money heretofore appropriated for constructing vessels or machinery, and not otherwise expended.

Mr. ROSS. I move to refer the bill to the Committee of Claims.

Mr. GRISWOLD. I hope the gentleman will not insist upon his motion. I desire simply to state some facts for the consideration of the House, and then I will leave the matter to the House to decide.

The Naval Committee have regarded this case as one of peculiar hardship. The facts, briefly, are these: Mr. Tetlow was a mechanic and builder of machinery, living near Boston. In response to a public solicitation on the part of the Navy Department he made a bid for the construction of two steam tugs. In December, 1868, the Navy Department advertised for proposals for the construction of certain tug-boats, each of three hundred and fifty tons burden. Mr. Tetlow sent his agent to Washington, and the agent put in a bid for the construction of two of those vessels at \$84,600 each. The lowest bid made at that time for the construction of any of those vessels except

these two (and they were all precisely alike) was \$128,000 each. Mr. Tetlow came on here and made an application to the Department to be released from the contract that had been thus made by his agent. That application, as I understand it, was refused; and an intimation was given to Mr. Tetlow that unless he carried out the proposition made by his agent he probably would not be able to get any more work from the Navy Department, and that his reputation would suffer in consequence of the failure. Upon that state of facts he determined to proceed, and he arranged with the Department for the construction of two other vessels at \$128,000 each, that being the lowest bid, except his own, that had been made for the construction of any of those vessels. He made this further arrangement with the hope of being able to make up for the loss which he knew would be inevitable in the construction of the first two vessels.

He went on and constructed the four vessels in accordance with his contracts, two of them at \$84,600 each, and the other two at \$128,000 each; and he absolutely lost money upon the whole of them. Upon the first two his losses amounted, I think, to between \$150,000 and \$200,000, more or less; I do not remember the exact amount. He asks now that in consideration of these facts—the fact that the first proposition was made through an agent and was made at that rate through an error; the fact that he applied to the Navy Department, before the contract was executed, to release him, but was refused, and that he went on, notwithstanding all these adverse circumstances, and fulfilled his contracts in good faith and built these four ships, and in doing so not only ruined himself, but also subjected his bondsmen to large outlays—he asks, I say, in view of all these facts, that we shall make this appropriation to at least partially reimburse him, and the Naval Committee have unanimously recommended the application as one eminently entitled to the favorable consideration of the House.

The SPEAKER. The Chair will state that the morning hour will expire in two minutes.

Mr. GRISWOLD. Then I demand the previous question upon the passage of the bill.

Mr. ROSS. I move that this bill be referred to the Committee of Claims.

The SPEAKER. The gentleman from New York [Mr. GRISWOLD] is now entitled to the floor.

Mr. GRISWOLD. I now insist upon the demand for the previous question.

Mr. LAWRENCE, of Ohio. I move to lay the bill on the table.

The question was taken; and upon a division, there were—ayes 45, noes 22; no quorum voting.

The SPEAKER. The morning hour has expired, and this bill goes over to the morning hour on next public bill day, when the pending question will be upon the motion to lay the bill on the table.

MESSAGE FROM THE PRESIDENT.

Several messages in writing from the President of the United States were delivered to the House by Colonel WILLIAM G. MOORE, his Private Secretary.

TARIFF BILL.

Mr. MYERS. I move to suspend the rules, in order that the House may consider at this time the resolution which I send to the Clerk's desk to be read.

The Clerk read as follows:

*Resolved*, That after the tax bill is acted on, all regular orders, (except the morning hour), and all other special orders shall be set aside, and the tariff bill shall be the special order until disposed of.

Mr. STEVENS. I hope the gentleman will allow that resolution to go over until to-morrow.

Mr. MYERS. I prefer to have it acted on now.

Mr. STEVENS. Then I move to postpone the further consideration of this resolution until Monday next.

The SPEAKER. The resolution is not yet

before the House. The pending question is upon the motion to suspend the rules in order to allow the resolution to be offered. The motion to suspend the rules cannot be postponed.

Mr. MYERS. I will withdraw the motion to suspend the rules for the present.

#### ELECTION CONTEST—THOMAS VS. ARNELL.

Mr. MAYNARD presented additional evidence in the contested-election case of Thomas vs. Arnell; which was referred to the Committee of Elections, and ordered to be printed.

#### ARMY APPROPRIATION BILL.

Mr. STEVENS. I rise for the purpose of moving that the rules be suspended and the House resolve itself into the Committee of the Whole on the Army appropriation bill. But I will say to gentlemen on the other side that if they are content to take a vote in the House on striking out the second section, I will not move to go into the Committee of the Whole, but will move to discharge the committee from the further consideration of the bill.

The SPEAKER. That would require unanimous consent, or a suspension of the rules.

Mr. DAVIS. I feel bound to object to that proposition upon this principle alone: that this second section has no place in an appropriation bill.

Mr. PRICE. We can vote on that question in the House.

Mr. DAVIS. Then I make no objection. There was no objection.

Mr. STEVENS. I move that the Committee of the Whole be discharged from the further consideration of the special order, being the Army appropriation bill, and that it be now considered in the House.

The motion was agreed to.

The SPEAKER. By general consent, the first question is upon the motion of the gentleman from Ohio, [Mr. LE BLOND], to strike out the second section of this bill. The Clerk will read the section which it is proposed to strike out.

The Clerk read as follows:

Sec. 2. *And be it further enacted*, That the headquarters of the General of the Army of the United States shall be at the city of Washington, and all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and in case of his inability, by the next in rank. The General of the Army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at said headquarters without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void; and any officer who shall issue orders or instructions contrary to the provisions of this section shall be deemed guilty of a misdemeanor in office; and any officer of the Army who shall transmit, convey, or obey any orders or instructions so issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon conviction thereof in any court of competent jurisdiction.

Mr. BINGHAM. Before the question is taken on striking out that section, I move to amend it by striking out the following words:

The General of the Army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at said headquarters without the previous approval of the Senate; and

If that provision is not stricken from this section circumstances might arise in which the operations of our armies might be seriously crippled, if the presence of the General is worth anything, which I suppose it is.

Mr. STEVENS. I hope the amendment of the gentleman from Ohio [Mr. BINGHAM] will not be adopted, for it will render the section almost worthless.

Mr. FINCK. I ask that the section may be read as it will stand if it shall be amended as proposed.

The Clerk read as follows:

Sec. 2. *And be it further enacted*, That the headquarters of the General of the Army of the United States shall be at the city of Washington, and all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and in case of his inability, by the next in rank; any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void; and any officer who shall issue

orders or instructions contrary to the provisions of this section shall be deemed guilty of a misdemeanor in office; and any officer of the Army who shall transmit, convey, or obey any orders or instructions so issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon conviction thereof in any court of competent jurisdiction.

Mr. STEVENS. I now call the previous question on the bill and pending amendments.

The previous question was seconded and the main question ordered.

Mr. BINGHAM. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 62, nays 69, not voting 61; as follows:

YEAS—Messrs. Ancona, Bergen, Bingham, Buckland, Campbell, Cooper, Darling, Davis, Dawes, Dawson, Denison, Eldridge, Farquhar, Finck, Glossbrenner, Goodyear, Aaron Harding, Hawkins, Hise, Hogan, Edwin N. Hubbell, James R. Hubbell, Humphrey, Hunter, Ketcham, Kuykendall, Ladin, George V. Lawrence, Le Blond, Leftwich, Loan, Marshall, Marvin, McCullough, McKuer, Moorhead, Niblack, Nicholson, Noel, Phelps, Pike, Pomeroy, Radford, Samuel J. Randall, Raymond, Ritter, Rogers, Ross, Rousseau, Schenck, Shanklin, Sitgreaves, Taber, Nathaniel G. Taylor, Thayer, Thornton, Trimble, Andrew H. Ward, William B. Washburn, Whaley, Winfield, and Wright—62.

NAYS—Messrs. Alley, Allison, Ames, Arnell, James M. Ashley, Baker, Baldwin, Barker, Beaman, Benjamin, Bidwell, Blaine, Blow, Boutwell, Brandegee, Bromwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cullom, Dodge, Donnelly, Eggleston, Eliot, Abner C. Harding, Hart, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Julian, Kelley, Koontz, William Lawrence, Longyear, Maynard, McClurg, Mercur, Miller, Moulton, Myers, O'Neill, Orth, Paine, Perham, Price, Rollins, Scofield, Shellabarger, Spalding, Starr, Stevens, Stokes, Upson, Hamilton Ward, Warner, Henry D. Washburn, Welker, Wentworth, Williams, Stephen F. Wilson, and Windom—69.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Banks, Baxter, Boyer, Chandler, Cobb, Conkling, Cook, Culver, Deftrees, Delano, Deming, Dixon, Driggs, Dumont, Eckley, Farnsworth, Ferry, Garfield, Grinnell, Griswold, Hale, Harris, Hayes, Asahel W. Hubbard, Chester D. Hubbard, Jencks, Jones, Kasson, Kelso, Kerr, Latham, Lynch, Marston, McIndoe, McKee, Morrill, Morris, Newell, Patterson, Plants, William H. Randall, Alexander H. Rice, John H. Rice, Sawyer, Sloan, Stilwell, Strouse, Nelson Taylor, Francis Thomas, John L. Thomas, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, James F. Wilson, and Woodbridge—61.

So the amendment of Mr. BINGHAM was not agreed to.

The question then recurred on the amendment of Mr. LE BLOND, to strike out the second section of the bill.

Mr. LE BLOND called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 41, nays 88, not voting 61; as follows:

YEAS—Messrs. Ancona, Bergen, Bingham, Campbell, Cooper, Davis, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Aaron Harding, Hise, Hogan, Humphrey, Hunter, Kuykendall, Le Blond, Leftwich, Loan, Marshall, Marvin, Niblack, Nicholson, Noel, Phelps, Radford, Samuel J. Randall, Raymond, Ritter, Rousseau, Sitgreaves, Nathaniel G. Taylor, Nelson Taylor, Thornton, Trimble, Andrew H. Ward, Whaley, Winfield, and Wright—41.

NAYS—Messrs. Alley, Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Barker, Baxter, Beaman, Benjamin, Bidwell, Blaine, Boutwell, Brandegee, Bromwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cook, Darling, Dodge, Donnelly, Eggleston, Eliot, Farnsworth, Farquhar, Abner C. Harding, Hart, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Julian, Kelley, Kelso, Koontz, Ladin, George V. Lawrence, William Lawrence, Longyear, Lynch, Marston, Maynard, McClurg, McIndoe, McKuer, Mercur, Miller, Moorhead, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Pomeroy, Price, John H. Rice, Rollins, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Stokes, John L. Thomas, Trowbridge, Upson, Burt Van Horn, Hamilton Ward, Warner, Welker, Wentworth, Williams, and Windom—88.

NOT VOTING—Messrs. Anderson, Baldwin, Banks, Blow, Boyer, Buckland, Chandler, Cobb, Conkling, Culom, Culver, Dawes, Deftrees, Delano, Deming, Dixon, Driggs, Dumont, Eckley, Ferry, Garfield, Grinnell, Griswold, Hale, Harris, Hawkins, Hayes, Asahel W. Hubbard, Chester D. Hubbard, Edwin N. Hubbell, Hulburd, Jencks, Jones, Kasson, Kerr, Ketcham, Latham, McCullough, McKee, Morrill, Morris, William H. Randall, Alexander H. Rice, Rogers, Ross, Sawyer, Schenck, Shanklin, Stilwell, Strouse, Taber, Thayer, Francis Thomas, Van Aernam, Robert T. Van Horn, Elihu B. Washburne, Henry D. Wash-

burn, William B. Washburn, James F. Wilson, Stephen F. Wilson, and Woodbridge—61.

So the amendment of Mr. LE BLOND was not agreed to.

During the roll-call,

Mr. WASHBURN, of Indiana, said: On this question I am paired with my colleague, Mr. KERR, who has been called away by business.

The result of the vote was announced as above stated.

The question recurred on ordering the bill to be engrossed and read a third time.

Mr. LE BLOND. I reserved in committee the privilege of calling for a separate vote on the amendment proposing to strike out all that portion of the first section relating to the Freedmen's Bureau. I was not in the House at the time when the bill was reported.

Mr. STEVENS. The gentleman did not raise that point till we had reached the last section; and I then declined to assent to the proposition.

Mr. LE BLOND. I did not so understand. I will say to the gentleman from Pennsylvania that we on this side desire to record our votes upon striking out the part I have indicated. It will not consume any more time to take a vote by yeas and nays on striking out this portion than to vote by yeas and nays on the passage of the bill. We would much prefer to have the vote on this proposition.

Mr. STEVENS. We had passed all the sections but the last when the gentleman made that request, and I declined it.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question being, "Shall the bill pass?"

Mr. LE BLOND called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 90, nays 82, not voting 68; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Arnell, James M. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Bidwell, Bingham, Blow, Boutwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cook, Davis, Deming, Dodge, Donnelly, Eggleston, Eliot, Farnsworth, Grinnell, Abner C. Harding, Henderson, Higby, Hill, Holmes, Hooper, Demas Hubbard, John H. Hubbard, Ingersoll, Julian, Kasson, Kelley, Kelso, Ketcham, Koontz, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marvin, Maynard, McClurg, McKuer, Miller, Moorhead, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Plants, Pomeroy, Price, William H. Randall, Alexander H. Rice, Rollins, Scofield, Shellabarger, Sloan, Spalding, Stevens, Stokes, Thayer, John L. Thomas, Trowbridge, Upson, Robert T. Van Horn, Hamilton Ward, Warner, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—90.

NAYS—Messrs. Ancona, Bergen, Campbell, Cooper, Dawson, Denison, Eldridge, Glossbrenner, Goodyear, Aaron Harding, Harris, Hise, Humphrey, Hunter, Le Blond, Marshall, McCullough, Niblack, Nicholson, Noel, Ritter, Rogers, Ross, Shanklin, Strouse, Taber, Nathaniel G. Taylor, Thornton, Trimble, Andrew H. Ward, Winfield, and Wright—82.

NOT VOTING—Messrs. Delos R. Ashley, Banks, Benjamin, Blaine, Boyer, Brandegee, Bromwell, Buckland, Chandler, Cobb, Conkling, Cullom, Culver, Darling, Dawes, Deftrees, Delano, Dixon, Driggs, Dumont, Eckley, Farquhar, Ferry, Finck, Garfield, Griswold, Hale, Hart, Hawkins, Hayes, Asahel W. Hubbard, Chester D. Hubbard, Edwin N. Hubbell, Hulburd, Jencks, Jones, Kerr, Kuykendall, Leftwich, Marston, McIndoe, McKee, Mercur, Morrill, Morris, Perham, Phelps, Pike, Radford, Samuel J. Randall, Raymond, John H. Rice, Rousseau, Sawyer, Schenck, Sitgreaves, Starr, Stilwell, Nelson Taylor, Francis Thomas, Van Aernam, Burt Van Horn, Elihu B. Washburne, Henry D. Washburn, and Whaley—68.

So the bill was passed.

During the vote,

Mr. WASHBURN, of Indiana, stated he was paired with his colleague, Mr. KERR.

The vote was then announced as above recorded.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TENNESSEE CONTESTED-ELECTION CASE.

Mr. COOPER presented evidence in the contested-election case of Mr. ARNELL; which was referred to the Committee on Elections.

## MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 549) for the establishment and maintenance of a public park in the District of Columbia; and

An act (S. No. 582) to provide for the payment of past and future use and purchase of the invention and patent upon "post-marking of letters, packets, &c., and cancellation of postage stamps thereon," made by and patented to Marcus P. Norton, of Troy, New York, April 14, 1863, and reissued August 23, 1864, and for other purposes.

It further announced that the Senate had indefinitely postponed House bill No. 901, to regulate the selection of juries for the several courts of the District of Columbia.

## CAPTURED COTTON.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, transmitting, in response to a resolution of the House, reports from the Secretary of the Treasury and the Secretary of War in regard to captured and forfeited cotton; which were ordered to be printed, and referred to the Committee of Ways and Means.

## REMOVAL OF POSTMASTERS, ETC.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Postmaster General, in answer to a resolution of the House, giving a list of postmasters removed between July 20, 1866, to December 6, 1866, with the reasons for their removal, and the names of new appointees, &c.; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. MAYNARD moved that five thousand extra copies be printed; which, under the law, was referred to the Committee on Printing.

## SALARY TAX OF POSTMASTER'S CLERKS.

The SPEAKER, by unanimous consent, also laid before the House, in response to a resolution of the House, a letter from the Postmaster General in reference to the salary tax on clerks to postmasters, &c.; which was referred to the Committee of Ways and Means, and ordered to be printed.

## ALLEGED CORRUPTION OF MEMBERS.

Mr. HILL. I submit the following resolutions, which I believe to involve a question of privilege:

Whereas the integrity of members of this House in the discharge of their official duties is of the utmost importance to the public; and whereas charges affecting that integrity ought not to be preferred upon this floor, except upon the gravest reason; and whereas the following preamble and resolution were introduced by Hon. JOHN WENTWORTH, a member of this House, on the 16th instant, namely:

Whereas the President of the United States has been impeached by a member of this House of high crimes and misdemeanors, and the Committee upon the Judiciary have been instructed to examine into the facts upon which said impeachment was based, with power to send for persons and papers, and report them to this House in order, if thought warrantable, that the President may be arraigned for trial thereon by the Senate; and whereas while the Committee on the Judiciary are examining witnesses with relation to said high crimes and misdemeanors of which the President has been impeached, with a view of making a report to this House for its disinterested action, it has for some time been rumored and has at last been asserted in public newspapers that certain members of this House, who are bound to act impartially upon the report of said committee when presented, are now holding, and have been for some time holding, private meetings with a view to a corrupt bargain, whereby, in violation of their oaths, they have pledged and are pledging themselves in advance to act adversely to said report if unfavorable to the President, and also to act adversely to certain other measures pending before this House to which they have heretofore been favorable, provided the President himself will do certain things to which he has heretofore declared himself hostile, and refrain from doing certain things to which he has heretofore declared himself favorable: Therefore,

Resolved, That a select committee of three be instructed to inquire whether any such meetings have been held for any such corrupt purposes, what

members of this House have attended the same, what persons besides members of Congress have attended them, what persons have carried communications from those members to the President, and from the President to them, and what has been the nature of such communications; and also that said committee report at the earliest practicable day the result of their inquiries, and that they also report such resolutions for the action of the House as they may deem necessary for the preservation of its honor and independence; and that said select committee have power to send for persons and papers and examine witnesses under oath.

Resolved, That the select committee of three appointed under said resolution be instructed to report, immediately after the reading of the Journal to-morrow, any evidence that may be in possession of said committee, or any member thereof, relating to the corrupt bargain referred to in the preamble to said resolution.

Resolved further, That Hon. JOHN WENTWORTH be requested at the same time to furnish to this House the newspaper assertions and a statement of the rumors in relation to said corrupt bargain referred to in the preamble to said resolution.

The SPEAKER. The Chair rules that this is not a question of privilege. The instruction of the resolution is that the committee report to-morrow, after the reading of the Journal; that involves a change in the order of business. The resolution, as it does not involve a question of privilege, is not in order at the present time.

## TAX BILL.

Mr. HOOPER, of Massachusetts. I move that the rules be suspended, and that the House now resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and resumed the consideration of the special order, being House bill No. 1161, to amend existing laws relating to internal revenue.

The pending question was on the amendment of Mr. MYERS to the paragraph in relation to cigarettes, cigars, and cheroots, to strike out all after the word "therefor" to the end of the paragraph and insert in lieu thereof the following:

On cigarettes, cigars, and cheroots of all descriptions, made of tobacco or any substitute thereof, five dollars per thousand.

Mr. MYERS. I withdraw my call for a division on this amendment, and ask a vote upon it in the House.

The CHAIRMAN. The amendment was rejected on a division; tellers were ordered, and no quorum voted. The Chair will again order tellers.

Mr. DEMING. I believe the Chair is mistaken. The amendment was carried on a division—ayes 48, noes 32; but no quorum voted.

The CHAIRMAN. All debate is closed on this paragraph and amendment. The Chair will order tellers.

Messrs. ALLISON and MYERS were appointed tellers.

Mr. SCHENCK. I would inquire if a vote in the House is permitted to be taken on this, whether it will or will not exclude further amendment. A vote in the House is an acquiescence in or disagreement to an amendment as passed in committee. It must be reported as if passed by the committee in order to get a vote.

The CHAIRMAN. Certainly.

Mr. SCHENCK. That will be inconsistent with further amendment.

The committee divided; and the tellers reported—ayes 54, noes 48.

So the amendment was agreed to.

Mr. STEVENS. I move to strike out the whole paragraph as just amended and insert in lieu thereof the following:

Also, in the third paragraph relating to cheroots, cigarettes, and cigars, insert between the words "twenty per cent. *ad valorem* on" and the words "the market value thereof" these words: "the excess over twelve dollars of."

I wish to explain how that will affect the bill.

The CHAIRMAN. No debate is in order on this paragraph. Is there objection?

Mr. DEMING. I object.

The question being put on the amendment, there were—ayes twenty-six.

Mr. STEVENS. I call for tellers.

Tellers were ordered; and the Chair appointed Messrs. SCHENCK and MARSHALL.

Mr. PAINE. Would it not be in order to read the law as it now stands with the amendment incorporated?

The CHAIRMAN. Not if there is any objection.

Mr. PAINE. The House does not understand it.

Mr. SCHENCK. And if we do not adopt the amendment our tobacco is gone. [Laughter.] That is not intended to be heard, however. [Laughter.]

Mr. HOOPER, of Massachusetts. Will it be in order for me to say that the committee approve of this? [Laughter.]

The CHAIRMAN. Debate is out of order. The committee divided; and the tellers reported—ayes 41, noes 55.

So the amendment was disagreed to.

The Clerk read as follows:

That section ninety-four be further amended so that in lieu of the taxes now provided by law upon the goods, wares, and merchandise hereinafter mentioned, which shall be produced and sold, or be manufactured or made and sold, or be consumed or used by the manufacturer or producer thereof, or removed for consumption or use, or for delivery to others than agents of the manufacturer or producer within the United States or Territories thereof, there shall be assessed, collected, and paid the following taxes, to be paid by the producer and manufacturer thereof, that is to say:

On boots and shoes, made wholly or in part of India-rubber, two per cent. *ad valorem*.

On brandy made of grapes, fifty cents per gallon.

Mr. PRICE. I move to strike out the last item: "On brandy made of grapes fifty cents per gallon." My object is to place brandy made from grapes upon the same footing as brandy made from anything else, and for the additional reason that I am of opinion that if you allow brandy made of grapes to pay only fifty cents a gallon, while brandy made of rye—[laughter.]

A MEMBER. Brandy is not made of rye.

Mr. PRICE. My friend says they do not make brandy of rye.

A MEMBER. They do, though. [Laughter.]

Mr. PRICE. At all events if you tax brandy made of other materials two dollars a gallon, while grape brandy is taxed only fifty cents, they will put in about a pint of grape brandy and then call it all brandy made of grapes, so as to have to pay only fifty cents tax. I propose all brandy shall pay two dollars.

Mr. HIGBY. If it be the only object of putting a tax on an article to drive it entirely out of use I will agree with my friend from Iowa that his amendment is proper. But, sir, I do not understand that that is the object of this bill; its object is to derive revenue to support the Government.

Now, a very few words in regard to making brandy out of grapes and other materials. Vineyards are not cultivated for the sake of manufacturing brandy.

The fact is there is a percentage of the grapes that has to be thrown away unless it be used for some other purpose than making wine. The proportion that is not used for wine is from ten to fifteen per cent., but it can be made into brandy. But vineyards in California are mostly small patches. There are only some three or four very large ones. These small vineyards are scattered over the country. There may be in one county thirty thousand gallons of wine made; ten per cent. of which is in a condition to be converted into brandy. A territory fifty miles square would give three or four thousand gallons of materials suitable for brandy. Now, of course that brandy has to be made in small stills if it is made at all. They cannot concentrate their operations into large establishments, where it could be manufactured at a cheaper rate. Now, you must either leave this tax as it is in the bill, or you will get no revenue from this source. I submit to the committee that if the object is to get a revenue you should keep it at this low rate, or else you will get nothing at all, and the vine-grower loses so much.



Mr. DODGE. I move to strike out the word "gallon" for the sake of saying a word. I would be as loth as any gentleman in this House to do anything that should militate against the prosperity of the State of California, but I am convinced that with all the efforts we are making in this House to guard against frauds with reference to whisky, it will be impossible to guard against them if we open this door so wide as to admit brandy made of grapes at fifty cents, for the simple reason that while frauds are existing we shall have a very large amount of brandy made of grapes, while there will be very little of grape brandy in it.

I hold in my hand a letter from certain parties, proposing to invest \$500,000 in the cultivation of beets in the State of Illinois for the purpose of manufacturing beet brandy. They say there is no reason why beet brandy should not be taxed at as low a rate as brandy made from grapes, and that if they can only have the tax at fifty cents they can afford to go into the manufacture. Now, I do not know who the parties are. The letter purports to come from the New York Sugar Beet Company. They propose to manufacture largely brandy from beets.

Now, I know very well that it would be very easy to convert whisky into beet brandy, or white brandy, and I am confident if we admit either of them at a less rate of duty than is put upon whisky, we shall open the flood-gates for fraud, and it will be impossible for us to close them.

Mr. HOGAN. I do not think the members of this House understand properly this matter of brandy made from grapes. I have no doubt the proposition of the gentleman from Iowa [Mr. PRICE] is made in the interest of temperance. I am a temperance man myself. But I desire to say that the making of brandy from the residuum of the grape, after the wine has been made, is carried on in but two or three places in the United States. The simple question for us to consider is this: whether we shall try to manufacture brandy for ourselves, or whether the brandy which we will necessarily use shall be imported from abroad. The manufacture of brandy in this country is still in its infancy. The tax upon it has heretofore been fifty cents per gallon; and but little revenue has been derived from that tax, because so little of it has been made.

Now, there is no analogy at all between the manufacture of brandy from grapes and the manufacture of whisky from corn and rye. You can put your corn in the still to-day and have the whisky on the market to-morrow. But in the manufacture of brandy from the residuum of the grape it requires four or five years to perfect it and make it ready for sale. There are, perhaps, only one thousand or fifteen hundred gallons of this grape brandy made in the United States, and if there is any object in getting rid of paying immense sums of money to foreigners for brandy, then Congress ought, instead of putting a prohibitory tax upon the manufacture of brandy in this country, to offer a premium for its manufacture. You get but little revenue from it now; and increase the tax upon it and you will get no revenue except in the way of tariff on foreign importations, and I understand it is not proposed to increase the tariff duty.

Mr. PRICE. I will vote to put a tariff duty of ten dollars a gallon on brandy.

Mr. HOGAN. Will that stop the production of it in foreign countries or the importation of it into this country? You may establish as many temperance societies as you please, still these foreign importations will be made. The idea that people will substitute whisky made from corn for brandy made from grapes is simply to declare that there is no honesty or integrity at all in the country.

Mr. ELDRIDGE. Will the gentleman from Missouri [Mr. HOGAN] allow me to ask a question?

Mr. HOGAN. Certainly.

Mr. ELDRIDGE. Is not the gentleman aware that the probable consumption of

brandy in the future will be very much reduced in consequence of the Congressional Temperance Society that has just been formed here? [Laughter.]

Mr. HOGAN. That may be the case; and the revenue of the country may not suffer from that cause.

Mr. PRICE. I would suggest that the gentleman from Missouri [Mr. HOGAN] is not the proper person of whom to ask or to answer such a question.

Mr. HOGAN. Why not? [Laughter.]

Mr. ELDRIDGE. Then I will ask the gentleman from Iowa, [Mr. PRICE], who consumes a great deal more than the gentleman from Missouri.

Mr. PRICE. It will be the case when all the members of Congress sign the pledge.

Mr. HOGAN. That will only operate here. But the point in this case is this: if parties wish to encourage the native production in this country—

[Here the hammer fell.]

Mr. DODGE. I withdraw the amendment to the amendment.

Mr. ALLISON. I renew it, for the purpose of saying a few words. When this subject was considered in the Committee of Ways and Means I was disposed to favor the insertion of this provision in this bill. But after a more mature examination of the subject I am satisfied that the adoption of such a provision will lead to frauds innumerable. While my friend from Missouri [Mr. HOGAN] says truly that but a few hundred gallons of brandy from grapes are made in this country, the effect of this provision will be to afford one additional means of fraud, beside the numerous frauds now practiced in this country upon the revenue. I hope, therefore, this entire provision will be stricken from the bill.

Mr. HIGBY. Does the gentleman believe there will be any less fraud if not one drop of this brandy is made in this country?

Mr. ALLISON. I only mean to say that the effect of this provision will be to encourage the manufacture to a large extent of an article called brandy from grapes, which may contain possibly a portion of the residuum of the wine from grapes, but which will contain a much greater proportion of alcohol, which will pay no tax whatever. Thus there will be afforded an additional inducement for frauds upon the revenue.

Mr. HOGAN. Will not the same objection apply in the case of brandy made from peaches and brandy made from apples, both of which, by law, pay a tax of only fifty cents?

Mr. ALLISON. I must call the attention of my friend to the fact that brandy made from apples and brandy made from peaches now pay the same tax as distilled spirits.

Mr. HOGAN. They pay only fifty cents.

Mr. ALLISON. It is true there is a provision in the internal revenue law which, I understand, is construed by the Commissioner of Internal Revenue as authorizing the Secretary of the Treasury to remit entirely the tax upon brandy made from peaches, brandy made by apples, and also brandy made from grapes. But such was not the intention of the law, and the misconstruction in this particular should be remedied by us; so that distilled spirits from whatever source obtained shall pay a tax of two dollars per gallon unless we make an equal and uniform reduction of the tax. There should be no discrimination, otherwise we afford an inducement for the perpetration of frauds upon the revenue.

Mr. DARLING. In order that I may present to the House some facts bearing on this question, I move *pro forma* to strike out the last word in the tenth line. I ask the Clerk to read the letter which I send to the desk.

The Clerk read as follows:

DEAR SIR: Allow me to state a case bearing on the grape-brandy question that I omitted this morning. Early this month (February) one of the signers of the petition presented you this morning received an order for fifty pipespirits from San Francisco—about eight thousand gallons—on which the tax to be paid would be \$16,000. On Tuesday last he received a tele-

gram from San Francisco, as follows: "Do not ship the spirits ordered, as we shall try the grape spirits here, as Congress will permit it to be manufactured much less. If you have bought, sell it in New York." This is a case directly in point, and the passage of the clause permitting this spirit to be manufactured at fifty cents per gallon will lose the Government at least \$2,000,000 per annum.

Yours very truly,

JOHN F. DALY,  
9 Nassau street.

Hon. W. A. DARLING.

Mr. DARLING. Mr. Chairman, I have called for the reading of this letter in order to show what would be the effect of this discrimination in regard to brandy made from grapes.

Mr. BIDWELL. Who is the gentleman who wrote that letter?

Mr. DARLING. He is a respectable merchant in New York city.

A MEMBER. Does he deal in liquor?

Mr. DARLING. I presume he does.

Now, Mr. Chairman, it is useless for the House to appoint a select committee to investigate frauds on the revenue and devise means to prevent them if we are going to insert in the tax bill any such provision as this. Why, sir, the amount of spirits transported from the city of New York to California has been for some time past gradually diminishing, the amount during the last year not exceeding eleven thousand five hundred barrels. The telegram referred to in the letter which has been read explains what will be the operation of such legislation as is now proposed. Persons in California will take spirits made from grapes, cover it, mark it "brandy," send it to New York city, and sell it in competition with whisky or rectified spirits, upon which the tax is two dollars.

I have here a petition upon this subject, signed by some of the most respectable merchants in the city of New York. I ask the Clerk to read it.

The Clerk read as follows:

The undersigned, merchants and shippers of spirits to California, respectfully represent that the proposed reduction of the tax on spirits made from grapes to fifty cents per gallon is calculated to do great injury to, if not entirely to ruin, the trade in grain spirits between the Atlantic and Pacific States; that it will open out great opportunities for fraud in the naming of spirits, so as to make them liable to the smaller rate only, and afford other opportunities for fraud which the law has hitherto been powerless to prevent.

J. LOWBER, PARR & CO.  
J. C. DAYTON & CO.  
WILLIAM T. COLEMAN.  
JOHN CHADWICK.  
G. W. SCHUCKLING.  
C. COMSTOCK & CO.  
RANDOLPH M. COOLEY & CO.  
SUTTON & CO.  
J. H. COGHILL & CO.  
JOHN TRACEY & CO.  
CHARLES W. CROSBY.  
YATES BERGUSON.  
FRANK RHODES.  
JOHN B. NEWTON & CO.  
DE WITT KITTLE & CO.  
GEORGE D. SUTTON.  
J. F. & W. H. DALY.

NEW YORK, February, 1887.

Mr. McRUER. Are not all the signers of that petition whisky manufacturers?

Mr. DARLING. I presume they are!

A MEMBER. Are they honest?

Mr. DARLING. I do not believe there is an honest distiller in the country; for they cannot be honest when products such as they manufacture can be bought in open market to-day for fifty cents less per gallon than the Government tax on them.

Mr. HILL. I move to amend this paragraph so it will read:

On brandy made of grapes, apples, or peaches, two dollars per gallon.

Mr. Chairman, I see no good reason why there should be any difference in the tax upon these intoxicating drinks. We have imposed a tax of two dollars a gallon upon whisky, and I do not see why we should not have the same tax upon brandy without regard to what it is made from, whether from grapes or anything else. It stands upon the same shelf with whisky as a general thing, and I now insist it shall bear the same tax.

Mr. BIDWELL. I cannot yield to any man upon this floor in a desire to see the cause of

temperance prevail in this country. I profess myself, although not having signed "the pledge," to be a temperance man; and wish to promote that cause by every means within my power. I take it for granted, however, in the present state of humanity, that brandy will continue to be an article of consumption. Therefore, unless we make the article ourselves, it will be imported from other countries.

Now, sir, the proposed tax of two dollars a gallon, as it affects a large and growing interest upon the Pacific coast, becomes a question demanding serious consideration. We are on that coast far removed from the markets of the world, and whatever we manufacture must be sent thousands, I may say almost tens of thousands of miles for sale. From what the gentleman from New York has said, it seems they are now growing jealous because they do not send us the large amount of intoxicating liquors that they did formerly. I think one reason for the diminution in that respect is the people on the Pacific coast have much improved in that particular. I have noticed lately there is not so much drinking done there as in previous years. Formerly you could not travel on any steamboat without being compelled to go up to the "bar" four or five times and take a drink if you did not wish to offend any person. Now you may travel throughout the length and breadth of California and see but very few intoxicated men. Such is my experience.

Our exports heretofore have been gold and silver, but our mines may give out. Our production in that regard is liable to change. In some localities they may give out altogether. We wish, therefore, to build up an interest, if need be, to take the place of the mining interest.

Mr. HILL. I desire to ask the gentleman from California, whether, as a member from that great State, he says that in order to supply his losses from a decline in his mining interest it is necessary that he should be favored with a tax of only fifty cents upon the grape brandy?

Mr. BIDWELL. I believe you will have as much revenue at fifty cents per gallon as at two dollars, for at fifty cents per gallon you will have probably ten times as much manufactured as at two dollars. Then in the manufacture of brandy you will use an article which otherwise would be thrown away; and it will be thrown away if the manufacture of brandy is prohibited in effect by the imposition of too high a tax. When you express wine from the grape, the must which is left is distilled into brandy, and if we make the tax two dollars a gallon that must will be thrown away.

[Here the hammer fell.]

Mr. HOOPER, of Massachusetts. I rise to oppose the amendment, for the purpose of calling attention to the fact that the gentleman from Indiana will reach his purpose by striking out the whole line as moved by the gentleman from Iowa, as all distilled spirits are now subject to a tax of two dollars. As has been stated, there is a proviso which allows the Commissioner, with the approval of the Secretary of the Treasury, to make any change in the law in regard to the manufacture of spirits distilled from grapes; but, sir—

Mr. HILL. I withdraw my amendment.

Mr. THAYER. If the gentleman expects to get this bill passed he is mistaken, unless there is some limit to this debate.

Mr. HOOPER, of Massachusetts. Unless it is the understanding that this debate shall now close, I will move that the committee rise for that purpose.

The amendment of Mr. PRICE was agreed to.

The Clerk read, as follows:

On hats, caps, bonnets, and hoods of all descriptions, two per cent. *ad valorem*.  
On hoop-skirts, two per cent. *ad valorem*.  
On manufactures of wool, two and a half per cent. *ad valorem*.

Mr. MOORHEAD. I move to insert in lieu of the last paragraph the following:

On woolen cloths, woolen shawls, and all manufactures of wool of every description, made wholly or in part of wool, two and a half per cent. *ad valorem*.

I do not suppose the committee will object to the amendment.

Mr. ALLISON. Does the gentleman offer that amendment as coming from the Committee of Ways and Means?

Mr. MOORHEAD. No, sir; but I supposed there would be no objection to it. If gentlemen will turn to page 5 of the House tariff bill they will find the description exactly as given here. This amendment was prepared in the office of the Commissioner of Internal Revenue. He thinks the language here not explicit enough, and prefers it should be amended as I have suggested.

Mr. ALLISON. I desire to make a suggestion in relation to this paragraph. The object of the committee was to exempt the manufacturers of wool, because we were led to believe that that interest is now very much depressed; but the effect of the amendment of the gentleman from Pennsylvania [Mr. MOORHEAD] will be, not only to exempt the manufacturers of wool, but also manufacturers of wool and cotton combined, even where there is but a single thread of wool and the remainder of the fabric is cotton.

Now, while I would have no special objection to exempting cotton manufactures to the extent of two and a half per cent., yet I do not think we ought to vary from the conclusion of the committee. I have therefore prepared this amendment, which I will offer as an amendment to the amendment of the gentleman from Pennsylvania, [Mr. MOORHEAD:]

On manufactures of wool, or of which wool is the chief component material and the component material of chief value, two and a half per cent.

That will apply the two and a half per cent. only to fabrics composed chiefly of wool, and of which wool is the chief material of value.

The CHAIRMAN. The Chair is of the opinion that the amendment of the gentleman from Iowa will not be in order until the amendment of the gentleman from Pennsylvania has been disposed of.

Mr. BROOMALL. Is it in order to move to perfect the original text of the bill before the vote is taken on the amendment of my colleague from Pennsylvania, [Mr. MOORHEAD?]

The CHAIRMAN. The amendment proposed by the gentleman's colleague is an amendment to the original text, and therefore the gentleman's amendment must be an amendment to the amendment of his colleague.

Mr. BROOMALL. I move then to insert after the word "wool," where it last occurs, the words "and cotton;" so that it will read:

On manufactures of wool and cotton, two and a half per cent. *ad valorem*.

I see no reason why manufactures of cotton should be put on a different footing from manufactures of wool. I am glad that the Committee of Ways and Means find that the condition of the finances of the country will, in their judgment, admit of a reduction of the tax upon woolen manufactures, and I had hoped that they would have seen occasion to reduce the tax upon cotton manufactures also. I hope they will assent to this amendment. It gets rid of the difficulty suggested by the gentleman from Iowa, [Mr. ALLISON,] one of the members of the committee, of discriminating between the tax upon cotton and that upon wool, and I hope it will be adopted by the committee.

Mr. DAWES. I have no objection to the amendment of the gentleman from Pennsylvania, [Mr. BROOMALL,] provided, in the opinion of the committee, the revenue of the country will bear the exemption of both these staple articles. But if the committee should be of the opinion that that is too large an exemption for the revenue of the country, there is a very marked difference between the condition of the woolen and the cotton manufacturing interests of the country; and it would be altogether wrong to both of those interests if in attempting to exempt them both we should fail to exempt either.

I hold in my hand returns from the internal revenue office touching the manufactures both of cotton and of wool, and I have to say that my own district is about equally divided in

these two manufactures. The State of Massachusetts produces exactly thirty-six per cent. of all the cotton manufactures of the country, and precisely that amount of all the woolen manufactures of the country, as revealed by the internal revenue office.

Now, sir, while the cotton manufactures of the country are, judging from the taxes paid upon them, more prosperous than they have ever been, are increasing in prosperity, and ask no increase of tariff at all, the woolen manufactures have never been so depressed for very many years. The loss to the internal revenue upon the woolen manufactures of the country for the last three months, as revealed in the internal revenue office, was thirty-three per cent. in the whole country, thirty-six per cent. in the State of Massachusetts, and sixty per cent. in my own district.

Now, my district is very largely interested in cotton manufactures, and I should be very glad to give this relief to the cotton interest. If the committee think that we can exempt both interests, I have not a word to say against it. But it is a serious question whether the woolen interest can survive the burdens now placed upon it or whether it will not be crushed out by their weight. The Committee of Ways and Means have recommended the reduction of two and a half per cent. on woolen manufactures, and I beg the gentleman from Pennsylvania, [Mr. BROOMALL,] unless his information in reference to the cotton interest differs from mine, that he will not hazard the fate of the whole woolen interest of the country by attaching to this proposition a reduction on cotton manufactures.

The question was taken on Mr. BROOMALL's amendment, and it was disagreed to.

The question recurred upon Mr. MOORHEAD's amendment.

Mr. ALLISON. I ask my friend from Pennsylvania to withdraw that amendment, so as to enable me to offer one which I have prepared.

Mr. MOORHEAD. I will hear it.

Mr. ALLISON. I propose the following:

On manufactures of wool, or of which wool is the chief component material and the component material of chief value, two and a half per cent. *ad valorem*.

Mr. MOORHEAD. I will accept that as a substitute for my amendment.

Mr. O'NEILL. I will ask my colleague to insert in his amendment after the word "shawls" the word "carpets."

Mr. MOORHEAD. I have accepted the amendment of the gentleman from Iowa, and the word "shawl" is not in it.

The question was taken upon Mr. MOORHEAD's amendment, as modified by Mr. ALLISON, and it was agreed to.

Mr. HOOPER, of Massachusetts. I move to insert after line one hundred and fifteen the following:

That section ninety-six be amended by inserting after the words, "and also all goods, wares, and merchandise and articles," and before the words "made or manufactured from materials," the words "not specially named and taxed, and which are."

The object of that amendment is to improve the phraseology of the present law and to remove some obstacles to the administration of it. The amendment comes from the internal revenue department, and is offered by instruction of the Committee of Ways and Means.

The amendment was agreed to.

Mr. WELKER. I move to insert after line one hundred and fifteen the following:

On saddles, bridles, and harnesses, two per cent. *ad valorem*.

Mr. Chairman, I see no reason why saddlers and harness-makers should not be placed on the same footing as shoemakers and tailors. Under the present law harness-makers are taxed five per cent. We have already exempted by our internal revenue law all the agricultural implements of the country, and this bill proposes to exempt two or three articles not heretofore exempted. I can see no reason why we should not extend the exemption to harness-makers and place them in the same position as shoemakers and tailors.

Mr. HOOPER, of Massachusetts. I rise to oppose the amendment. We have exempted leather altogether from tax.

Mr. WELKER. I understand that, but that exemption applies to shoemakers as well as to harness-makers.

Mr. HOOPER, of Massachusetts. All leather is exempted from taxation, so that the manufacturer works with a raw material that is untaxed.

Mr. WELKER. The law gives the shoemaker an advantage over the harness-maker, and I cannot see any reason for it. The present tax is five per cent. I propose to reduce it to two per cent., the same that the shoemaker pays. He uses leather the same as the harness-maker does, and I do not see the propriety of making any distinction between these classes of manufactures.

Mr. HOOPER, of Massachusetts. Saddles and bridles are not so generally used as the articles which the shoemakers manufacture. We put boots and shoes at a lower rate, because every man, woman, and child, rich or poor, has to use them.

Mr. WELKER. I know that.

Mr. HOOPER, of Massachusetts. We thought that clothing should pay as small a tax as possible.

Mr. WELKER. I suggest that all agricultural implements are now exempted, and saddles and bridles and harnesses are about as necessary to carry on agricultural operations as almost anything else that could be named. I think they ought not to be overtaxed. I call for tellers on my amendment.

Tellers were ordered; and Messrs. WELKER and HOOPER, of Massachusetts, were appointed. The committee divided; and the tellers reported—ayes 60, noes 40.

So the amendment was agreed to.

No further amendment being offered, The Clerk read as follows:

That section one hundred and three be amended by striking out the words "until the 30th day of April, 1867."

Mr. HOOPER, of Massachusetts. I move to amend this paragraph by inserting after the words "by striking out the" the words "word 'ferry'" where it occurs twice in the second proviso, and by striking out the quotation marks. And I will explain briefly the object of my amendment.

Mr. WILLIAMS. I move to strike out the entire paragraph.

The CHAIRMAN. That question cannot be put until the paragraph is perfected.

Mr. HOOPER, of Massachusetts. Under the present law steamboats now pay a tax of two and one half per cent. Ferries are included with bridges, under a tax of three per cent. That has made a great deal of confusion in the bureau, as to which head the steamboats used as ferry-boats should come under. The object of this amendment is to put steam ferry-boats upon the same footing with other steamboats.

Mr. WILLIAMS. In order that this House may be consistent with itself I think this entire paragraph should be stricken out. We have already decided the same principle in reference to the tax on gas companies, and that, too, by a very decided vote.

Mr. HOOPER, of Massachusetts. The amendment which I propose is distinct from the subject to which the gentleman from Pennsylvania, [Mr. WILLIAMS] refers. However, as he desires to submit his motion, I will withdraw my amendment for the present.

Mr. WILLIAMS. I now move to strike out the entire paragraph. I will merely say to the House that this is the same principle that was involved in the action of the House in reference to the tax on gas companies. The House by a very decisive vote, three or four to one, if my recollection serves me correctly, decided that it was not competent for Congress to shift a burden from one party to another; to remove limitations imposed upon corporations by State legislation; in fact to make contracts for corporations which they

never made themselves. Therefore, in order to be consistent in our action, this paragraph should be stricken out.

Mr. MOORHEAD. The House may have struck out the paragraph, as the gentleman says; but it was not upon the ground he has assigned.

Mr. WOODBRIDGE. If the Committee of the Whole adopt the amendment proposed by the gentleman from Pennsylvania, [Mr. WILLIAMS,]—

The hour of half past four o'clock p. m. having arrived, the Speaker resumed the chair, and the House, pursuant to order, took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

#### CONSTITUTIONAL AMENDMENT.

The SPEAKER laid before the House a communication from the Governor of the State of Pennsylvania, announcing the ratification by the Legislature of the State of Pennsylvania of the amendment to the Constitution of the United States, proposed by the Congress of the United States at its last session; which was laid on the table.

#### NATIONAL CURRENCY.

Mr. KUYKENDALL asked and obtained leave, by unanimous consent, to have printed in the Globe the following petition:

*To the Senate and House of Representatives of the United States in Congress assembled:*

Your petitioners, inhabitants of Oberlin, Ohio, respectfully represent to your honorable body that the present "national banking system" of currency is unjust in all its bearings; and especially in that—

1. It leaves the control of the currency, which should belong to the entire people, to the few capitalists;

2. It secures to these capitalists double interest on their bonds, which the people, the laboring classes, have to pay directly or indirectly; and

3. It deprives the Government, and thereby the people, of the benefits which would result from a proper system of national finance.

For these reasons, and for innumerable other collateral reasons, we heartily pray you to abolish the "national banking system," and to substitute for a currency a system to which not an honest laborer ever objected, namely, the issue of demand legal-tender Treasury notes. With such a currency as this, and with only such, are the people, or ever will they be, satisfied; and this is one of the essentials to a sound currency. No currency can be safe in which the people have not the most implicit confidence.

#### COMPOUND-INTEREST NOTES.

Mr. HOOPER, of Massachusetts. I ask unanimous consent to introduce and have referred to the Committee of Ways and Means, a bill to provide ways and means for the payment of compound-interest notes, and for other purposes.

Mr. PRICE. I object.

#### ORDER OF BUSINESS.

The SPEAKER. By unanimous consent, the House ordered that this evening's session should be devoted to the consideration of fifteen Senate bills, to be reported from the Committee on Invalid Pensions.

Mr. MOORHEAD. I move that the consideration of pension business be postponed, and that the House go into the Committee of the Whole on the tax bill.

The SPEAKER. That will require unanimous consent; as the consideration of pension business was assigned for this evening by unanimous consent of the House.

Mr. BRANDEGEE. I object to the postponement of the pension business.

#### PATRICK MEEHAN.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back, with an amendment, Senate bill No. 513, granting a pension to Patrick Meehan.

The bill was read. It directs the Secretary of the Interior to place the name of Patrick Meehan, late a corporal in company I, eighty-ninth regiment Indiana volunteers on the pension-roll, at the rate of fifteen dollars per month, to commence from June 6, 1866.

The amendment of the committee was to

strike out the words "at the rate of fifteen dollars per month" and to insert in lieu thereof the words "subject to the provisions of the pension law."

The amendment was agreed to; and the bill, as amended, was read the third time, and passed.

Mr. PERHAM moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EZRA B. GORDON.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back with amendments a bill (H. R. No. 602) entitled "An act granting a pension to Ezra B. Gordon."

The bill, which was read at length, proposes to authorize and direct the Secretary of the Interior to place the name of Ezra B. Gordon, late a private in company F, fourth regiment New Hampshire volunteers on the pension-roll at the rate of fifteen dollars per month, commencing with the passage of the act and continuing during his natural life.

The amendment reported by the committee was read, as follows:

Strike out all after the word "roll" in the second line and insert the words, "subject to the provisions of the pension law."

The amendment was agreed to.

The bill, as amended, was ordered to a third reading, read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CHARLES APPLETON.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back, with a recommendation that it pass, a bill (S. No. 514) entitled "An act for the relief of Charles Appleton."

The question was on ordering the bill to be read the third time.

The bill, which was read at length, authorizes and directs the Secretary of the Interior to increase the pension of Charles Appleton, late a soldier in the United States Army, from eight dollars per month to fifteen dollars per month, and to pay him such increased pension from the passage of this bill.

Mr. DAVIS. Does the committee propose any amendment to this bill?

Mr. PERHAM. No, sir.

Mr. DAVIS. Why is there is a discrimination between this case and the other?

Mr. PERHAM. Because the circumstances are different.

The bill was ordered to a third reading, read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JOHN CARTER.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back, with a recommendation that it pass, a bill (S. No. 554) entitled "An act granting a pension to John Carter."

The question was on ordering the bill to be read a third time.

The bill, which was read at length, authorizes and directs the Secretary of the Interior to place the name of John Carter, late a private in company H, fifth regiment United States infantry, on the pension-roll, at the rate of fifteen dollars per month, to commence from the passage of this bill, and to continue during his natural life.

Mr. DAVIS. I desire to know from the chairman of the committee the reason for this discrimination in reference to these different cases. Some of these persons are allowed a pension absolutely at the rate of fifteen dollars per month, while others are simply provided for "subject to the provisions of the pension law."



Mr. PERHAM. The gentleman may not be aware that under the provisions of the general law a person who has lost an arm or a foot in the service is entitled to a pension of fifteen dollars per month, and the same sum is allowed where the disability is equivalent to that. One of these cases is that of a person who lost an arm in the service, and the amount of pension is fixed by the law. In another of these cases the committee did not feel justified in deciding the extent of the injury, and concluded to leave the matter with the Pension Office, where a proper examination may be made and the case settled according to the provisions of the pension law.

Mr. DAVIS. I simply desired information in reference to the matter.

The bill was ordered to a third reading, read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARLES N. WEISS.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back with a recommendation that it pass a bill (S. No. 580) entitled "An act granting a pension to Charles N. Weiss."

The question was on ordering the bill to be read a third time.

The bill, which was read at length, authorizes and directs the Secretary of the Interior to place the name of Charles N. Weiss, of the District of Columbia, on the pension-roll, at the rate of fifteen dollars per month, to commence from the passage of this bill and to continue during his natural life.

The bill was ordered to a third reading, read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

KENNEDY O'BRIEN.

Mr. PERHAM, from the same committee, also reported back Senate bill No. 512, for the relief of Kennedy O'Brien, with the recommendation that it do pass.

The bill directs the Secretary of the Interior to increase the pension of Kennedy O'Brien, late a private in company K, fifth regiment Indiana volunteers, from eight dollars per month to twenty-five dollars per month, and to pay him such increased pension from the passage of this bill.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. JERUSA PAGE.

Mr. PERHAM, from the same committee, also reported a bill for the benefit of Mrs. Jerusha Page, with the recommendation that it do pass.

The bill directs the Secretary of the Interior to place the name of Mrs. Jerusha Page, of the State of Missouri, the widow of the late Thomas C. Page, deceased, on the pension-roll, at the rate of eight dollars per month, to commence from the passage of this bill and to continue during her widowhood.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. ADELINE M. GOULD.

Mr. PERHAM, from the same committee, also reported back Senate bill No. 497, grant-

ing a pension to Mrs. Adeline M. Gould, with the recommendation that it do pass.

The bill directs the Secretary of the Interior to place the name of Mrs. Adeline M. Gould, mother of Eugene E. Gould, late a private in company F, third regiment Rhode Island cavalry volunteers, on the pension-roll at the rate of eight dollars per month, to commence from December 22, 1864, and to continue during her widowhood.

Mr. DAVIS. I desire to ask the chairman upon what principle he reports the pension given to the mother of the child shall only continue during her widowhood? It seems to me she should be entitled during her natural life. I see no reason why it should be confined to her widowhood.

Mr. PERHAM. That is the law.

Mr. DAVIS. We are making the law. This House is a law to itself if the Senate concurs.

Mr. PERHAM demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof, the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CATHERINE MOCK.

Mr. PERHAM, from the same committee, also reported back the following amendment of the Senate to House bill No. 219, for the relief of Catherine Mock, with the recommendation that it be concurred in:

Strike out "and after the passage of this act" and insert "from the 1st day of May, 1865," so that it will read:

That the Secretary of the Interior be, and he is hereby, required to place upon the pension-roll the name of Catherine Mock, of the city of Baltimore, widow of William H. Mock, who was ordnance sergeant and died at or near Fort Mifflin, in 1837; and that she be paid a pension at the rate of eight dollars per month, to commence from the 1st day of May, 1865, and continue during her natural life.

The amendment was concurred in.

Mr. PERHAM moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. SALLIE ALLEN.

Mr. PERHAM, from the same committee, reported a bill for the relief of Mrs. Sallie Allen; which was read a first and second time.

The bill directs the Secretary of the Interior to cause to be paid to Mrs. Sallie Allen, widow of Isaac Allen, of Maine, \$25 33 due to her husband by special act at the time of his death.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. MARY FITZPATRICK.

Mr. PERHAM, from the same committee, also reported a bill granting a pension to Mrs. Mary Fitzpatrick; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Mrs. Mary Fitzpatrick, widow of James W. Fitzpatrick, late an acting assistant surgeon United States Army, who died at Harewood Hospital about May 6, 1864, upon the pension-roll, at the rate of seventeen dollars per month, to commence at the date of her husband's death, subject to the provisions of the pension law.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved

that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY A. CROSS.

Mr. PERHAM, from the same committee, reported back House bill No. 1068, for the relief of Mary A. Cross, with a recommendation that it do pass.

The bill directs the payment to Mary A. Cross, of Frémont, Ohio, widow of Hubbard H. Cross, late private in the seventy-second regiment Ohio volunteer infantry, a pension from the 12th of June, 1862, the date of the death of her husband, to the date at which the pension heretofore granted to her commenced at the same rate.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ISABELLA FOGG.

Mr. PERHAM, from the same committee, reported a bill increasing the pension of Isabella Fogg; which was read a first and second time.

The bill directs an increased pension to Isabella Fogg, who was granted a pension of eight dollars per month by act of Congress, approved April 17, 1866, from eight to twenty dollars per month.

Mr. ANCONA. Is there any report in this case?

Mr. PERHAM. There are reports in all these cases.

Mr. ANCONA. I do not call for the reading of it if the chairman will state some reason for this increase of pension.

Mr. PERHAM. Mrs. Isabella Fogg was a nurse in the Army, went all through the war with the soldiers, and contributed efficiently to their aid and assistance in the hospitals, on the field, and everywhere. Near the close of the war she fell through a hatchway of a vessel by which she was entirely disabled. She is now unable to move and is supported by some charitable institution in the city of Cincinnati. A pension was given at the last session of eight dollars per month, and since we have increased other pensions the committee thought proper to increase this.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LOUISE DANIEL.

Mr. PERHAM, from the same committee, reported a bill for the relief of Louise Daniel; which was read a first and second time.

The bill directs the Secretary of the Interior to pay to the petitioner, widow of Joseph Daniel, late of the first Tennessee volunteers, a pension at the rate of eight dollars per month from the 9th of May, 1862, to the 11th of September, 1865.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY J. DEXTER.

Mr. PERHAM, from the same committee, reported a bill granting back pension to Mary J. Dexter; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of the petitioner, widow of David H. Dexter, late second lieutenant of the

first Wisconsin volunteer infantry, on the pension-roll, with a pension at fifteen dollars per month from March 25, 1863, to July 10, 1866.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEWIS A. HORTON.

Mr. PERHAM, from the same committee, reported a bill granting arrears of pension to Lewis A. Horton; which was read a first and second time.

The bill directs an increase of pension to the petitioner, Horton, of Newburyport, Massachusetts, who was wounded on board the gunboat Rhode Island, from eight dollars to twenty-five dollars per month from July 4, 1864, to June 6, 1866, to be paid out of the naval pension fund.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY B. FOWLER.

Mr. PERHAM, from the same committee reported a bill for the relief of Mary B. Fowler; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Mary B. Fowler, of Cleveland, Ohio, on the pension-roll, at eight dollars per month, subject to the provisions of the law relative to dependent mothers of deceased soldiers.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. PERHAM, from the same committee, made adverse reports upon the following memorial and petitions, and the same were laid on the table: memorial of John Hicks; petition of citizens of Bradford county, Pennsylvania; petition of H. J. Whitman; petition of Lydia L. Perham.

On motion of Mr. PERHAM, the Committee on Invalid Petitions was discharged from the further consideration of bill of the House No. 813, to grant pensions to certain persons in East Tennessee; and the same was laid on the table.

Mr. PERHAM. I wish to say that I have one other Senate bill, but as it may possibly lead to debate, I prefer to yield to other members of the committee who have reports to make.

PETER FISHER.

Mr. LAWRENCE, of Pennsylvania, from the Committee on Invalid Pensions, reported a bill granting a pension to Peter Fisher; which was read a first and second time.

The bill was read. It directs the Secretary of the Interior to place the name of Peter Fisher, late a member of company G, thirty-seventh regiment Iowa infantry, on the pension-roll, subject to the provisions of the pension laws, commencing on the 24th day June, 1864, the date of his discharge.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LAWRENCE, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CHARLES VALENCE.

Mr. LAWRENCE, of Pennsylvania, from the same committee, reported a bill for the relief of Charles Valence; which was read a first and second time.

The bill was read. It directs the Secretary of the Interior to place the name of Charles Valence, late a private in company E, forty-second regiment Pennsylvania volunteers, upon the pension-roll, at the rate of eight dollars per month, from the 8th of September, 1862, the date of his discharge, up to the 27th of January, 1864, the date of the commencement of his pension, as allowed by the pension law.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LAWRENCE, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. DAVIS. I rise to a question of order. I wish to know whether the order of the House by which this committee were allowed to report fifteen Senate bills is being executed by making these reports.

The SPEAKER. The Chair is of opinion that several of the bills just passed are not Senate bills, as they were evidently House bills reported by the committee; but the Chair will further state that this committee has not been called for one month past, and may not be called again this session.

Mr. DAVIS. I feel great reluctance to interfere with this kind of business—

The SPEAKER. If the gentleman from New York raises the point of order, the Chair must decide that these reports are not in order.

Mr. DAVIS. The House is well aware that the tax bill is pressing upon us and that we ought to act upon it.

Mr. PERHAM. This will not take more than twenty minutes or half an hour; and I hope the gentleman will not press his objection.

Mr. DAVIS. I do not wish to be discourteous, and I withdraw the objection.

OBADIAH ADERTON.

Mr. LAWRENCE, of Pennsylvania, from the same committee, reported a joint resolution granting a pension to Obadiah Aderton; which was read a first and second time.

The joint resolution was read. It directs the Secretary of the Interior to place the name of Obadiah Aderton, of the State of Maine, on the pension-list, at the rate of eight dollars per month; payment to commence from the date of the passage of this act.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LAWRENCE, of Pennsylvania, moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate insisted on their amendments disagreed to by the House, to bill of the House No. 878, to quiet the title to lands in the town of Santa Clara, in the State of California; agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon; and had appointed Mr. CONNESS, Mr. WILSON, and Mr. FOWLER the conferees on the part of the Senate.

The message further informed the House that the Senate had passed, without amendment, joint resolution of the House No. 293, authorizing the employment of a public vessel for the transportation of provisions to the people of the southern States.

DAVID COLE.

Mr. LAWRENCE, of Pennsylvania, from the Committee on Invalid Pensions, also re-

ported a joint resolution for the relief of David Cole; which was read a first and second time.

The joint resolution directs the Secretary of the Interior to place on the pension-roll the name of David Cole, and pay him a pension at the rate of eight dollars a month.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

HEIRS OF HENRY E. MORSE.

On motion of Mr. LAWRENCE, of Pennsylvania, the Committee on Invalid Pensions were discharged from the further consideration of Senate bill No. 538, for the relief of the widow and children of Henry E. Morse; and the same was laid on the table.

HEIRS OF JOHN FARIS.

Mr. TAYLOR, of New York, from the Committee on Invalid Pensions, reported a bill for the relief of the orphan children of John Faris; which was read a first and second time.

The bill directs the Secretary of the Interior to pay to the legally-appointed guardian of the orphan children of John Faris, deceased, formerly of Henry county, Tennessee, until they severally attain the age of sixteen years, the pension awarded to orphan children of soldiers killed in the line of duty; the same to be paid under the limitations and restrictions of the pension law.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

WILLIAM H. HAFFER.

Mr. TAYLOR, of New York, from the same committee, also reported a bill for the relief of William H. Hafer; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of William H. Hafer, late of company E, second Pennsylvania cavalry, on the pension-list, at the rate of fifteen dollars per month; and in the event of his death, leaving a widow or orphan children, then the pension is to be paid to the widow or orphan children under the limitations and restrictions of the general pension law; this act to take effect from and after its passage.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

ANN S. DUCHMAN.

Mr. TAYLOR, of New York, from the same committee, also reported a bill for the relief of Ann S. Duchman; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Ann S. Duchman on the pension-roll, and to pay to her the pension to which she would have been entitled had her late husband, lieutenant colonel of the seventy-ninth regiment of Pennsylvania volunteers, been killed in battle, instead of having died of disease contracted while in service; the payment of the pension to be under the limitations and restrictions of the general pension laws.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

CAPTAIN GEORGE W. KNABB.

Mr. TAYLOR, of New York, from the same committee, also reported a bill for the relief of Captain George W. Knabb; which was read a first and second time.

The bill directs the Secretary of the Interior to pay to the legally-appointed trustee of Captain George W. Knabb, late of company A, eighty-eighth regiment of Pennsylvania volunteers, a pension at the rate of twenty dollars per month, from the date of his discharge from the service of the United States to the time when he commenced receiving a pension from the Government.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

## FRANCIS BARRON.

Mr. TAYLOR, of New York, from the same committee, also reported a bill for the relief of Francis Barron; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Francis Barron, late of the third Iowa battery, on the pension-list, and cause to be paid to him from the date of his discharge the pension which he would have been allowed had a pension been granted him by the Committee on Pensions; the pension to be paid and continued under the restrictions and limitations of the general pension laws.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

## RUFUS L. HARVEY.

Mr. TAYLOR, of New York, from the same committee, also reported a bill for the relief of Rufus L. Harvey; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Rufus L. Harvey, who enlisted in Captain Thomas Pitts's company of light artillery in the war of 1812, on the pension list, and cause to be paid to him the sum of eight dollars per month.

Mr. RADFORD. From what date is this pension to be paid?

Mr. TAYLOR, of New York. The bill does not fix any date.

The SPEAKER. It will take effect from and after the passage of the act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

## HEIRS OF WILLIAM WHELAN.

Mr. TAYLOR, of New York, from the same committee, also reported a bill for the relief of the orphan children of William Whelan; which was read a first and second time.

The bill directs the Secretary of the Interior to pay to the legally-appointed guardians of the orphan children of William Whelan, late a soldier in company H, one hundred and sixth Pennsylvania volunteers, the pension allowed by law to orphan children of soldiers dying of disease contracted in the line of duty; the pension to take effect from the date of his death, and to be paid under the limitations and restrictions of the general pension law.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

## MRS. JOSEPHINE SLOCUM.

Mr. TAYLOR, of New York, from the same committee, also reported back Senate bill No. 498, granting a pension to Mrs. Josephine Slocum, with a recommendation that the same do pass.

The bill directs the Secretary of the Interior to place the name of Mrs. Josephine Slocum, widow of Martin N. Slocum, late a second lieutenant in the sixty-fifth regiment of United States colored infantry, on the pension-roll, at the rate of fifteen dollars per month, to commence from the 18th of May, 1865, and to continue during her widowhood.

The bill was read the third time, and passed.

## MRS. CAROLINE M'GEE.

Mr. TAYLOR, of New York, from the same committee, reported back Senate bill No. 556, for the relief of Caroline McGee, of Greene county, Tennessee, widow of Lemuel McGee, with a recommendation that the same do pass.

The bill directs the Secretary of the Interior to place the name of Mrs. Caroline McGee, of the county of Greene, State of Tennessee, on the pension-rolls at the rate of eight dollars per month, to commence on the 27th of November, 1864, and to continue during her widowhood, upon satisfactory proof that she was and is the widow of Lemuel McGee, late of Tennessee, who died while in prison at Belle Isle, or Richmond, Virginia, during the late rebellion.

The bill was read the third time, and passed.

## MRS. MARY A. SMITH.

Mr. TAYLOR, of New York, from the same committee, also reported back bill of the Senate No. 558, for the relief of Mary A. Smith, of Johnson county, Tennessee, widow of Alexander D. Smith, deceased.

The bill directs the Secretary of the Interior to place the name of Mary A. Smith, of Johnson county, Tennessee, on the pension-roll, at the rate of thirty dollars per month, to commence from the 5th of November, 1863, and to continue during her widowhood, upon satisfactory proof that she was and is the widow of Alexander D. Smith, late lieutenant-colonel of the thirteenth regiment of Tennessee volunteers.

The bill was read the third time, and passed.

## MARTHA M'COOK

Mr. TAYLOR, of New York, from the same committee, also reported back joint resolution of the Senate No. 171, for the relief of Martha McCook, with a recommendation that the same do pass.

The joint resolution directs the Secretary of the Interior to pay or caused to be paid, out of any moneys appropriated for the payment of pensions, to Mrs. Martha McCook, widow of the late Major McCook, of Jefferson county, Ohio, in consideration of the service of her husband and of her eight sons in the late war for the Union, four of whom perished of wounds received in battle when in the line of their duty, an annuity from and after the passage of this joint resolution and during her natural life of \$250 per annum, to be paid semi-annually.

The joint resolution was read the third time, and passed.

## JOHN ROGERS.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, also reported a bill for the relief of John Rogers; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of John Rogers, a soldier of the war of 1812, and a private in Captain James Payne's company of Virginia militia, on the pension-roll, at the rate of eight dollars per month.

Mr. GRINNELL. Does this inure to the benefit of all the children of John Rogers?

The SPEAKER. The Chair thinks not; only to John Rogers himself.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

## WILLIAM GLEASON.

Mr. VAN AERNAM, from the same committee, also reported a bill granting a pension to William Gleason; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of William Gleason, who enlisted on the 15th of November, 1850, at Newport Barracks, Kentucky, and was discharged on the 14th of October, 1862, on the pension-roll, at the rate of twenty-five dollars per month.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

## JOSEPH WRENN.

Mr. VAN AERNAM, from the same committee, also reported a bill granting a pension to Joseph Wrenn; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Joseph Wrenn, a private of company M, ninth New York cavalry, upon the pension-roll, subject to the provisions of the pension laws.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ENROLLED JOINT RESOLUTION SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution (S. R. No. 149) to extend aid and facilities to citizens of the United States engaged in the survey of a route for a ship-canal across the Isthmus of Darien; when the Speaker signed the same.

## ORDER OF BUSINESS.

Mr. RADFORD. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the indemnity bill.

Mr. PERHAM moved that the rules be suspended to allow the Committee on Invalid Pensions to continue their reports.

The rules were suspended; and it was ordered accordingly.

## CHARLES MANS.

Mr. VAN AERNAM, from the Committee on Invalid Pensions, reported a bill granting a pension to Charles Mans; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of Charles Mans, of Lewisburg, Pennsylvania, a soldier of the war of 1812 with Great Britain, upon the pension-roll, at eight dollars per month.

Mr. RADFORD. I call for the reading of the report of the committee.

The report states that Charles Mans was in the service of the United States during the war of 1812, in the first regiment Pennsylvania militia, and that he is now totally disabled.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## JOHN RUSSELL.

Mr. VAN AERNAM, from the same committee, also reported a bill increasing the pension of John Russell; which was read a first and second time.

The bill increases the pension from eight to twenty dollars per month.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## MRS. MARGARET BOUCHER.

Mr. VAN AERNAM, from the same committee, also reported a bill granting back pension to Mrs. Margaret Boucher; which was read a first and second time.

The bill directs payment of pension to Mrs. Margaret Boucher, widow of Michael Boucher, of District of Columbia militia, at the rate of eight dollars per month from the date of her husband's death.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## LEVI M. ROBERTS.

Mr. VAN AERNAM, from the same committee, also reported a bill increasing the pension of Levi M. Roberts; which was read a first and second time.

The bill increases the pension from eight dollars to fifteen dollars per month.

Mr. RADFORD. What is the reason for this increase?

Mr. VAN AERNAM. This man lost a limb in the war of 1812, and was granted a pension by special law. The Pension Bureau decides



they will not extend relief to such cases under the recent general law, and this is only to include him under the general law.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

**EFFIE J. HARVEY.**

Mr. VAN AERNAM, from the same committee, reported a bill granting a pension to Effie J. Harvey; which was read a first and second time.

The bill directs the Secretary of the Interior to place the name of the petitioner, widow of Clinton D. Harvey, late acting assistant paymaster in the United States Navy, on the pension-roll, subject to the provisions of the pension law.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

**ERNESTINE BECKER.**

Mr. VAN AERNAM, from the same committee, reported back Senate bill No. 515, granting a pension to Mrs. Ernestine Becker, with a recommendation that it do pass.

The bill directs the Secretary of the Interior to place the name of the petitioner, widow of Leopold Becker, late captain of company D, twenty-fourth Illinois volunteer infantry, on the pension-roll at twenty dollars per month, to commence from May 5, 1865, and continue during her widowhood.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

**NANCY HINTON.**

Mr. VAN AERNAM, from the same committee, reported a bill for the relief of Nancy Hinton; which was read a first and second time.

The bill directs the payment of a pension to the petitioner, widow of John Hinton, late private in David's county home guard, at eight dollars per month, to continue during her widowhood, and in the event of her marriage or death to be paid to the minor children of John Hinton, subject to the conditions and restrictions of the pension law.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

**CHANGE OF REFERENCE.**

On motion of Mr. VAN AERNAM, the Committee on Invalid Pensions was discharged from the consideration of the petition of Wesley P. Bean, and the same was referred to the Committee on Military Affairs.

On motion of Mr. VAN AERNAM, the same committee was discharged from the consideration of the petition and papers of Adam Garlock, a revolutionary soldier, and the same were referred to the Committee on Revolutionary Pensions.

**ELIZABETH STALEY.**

Mr. SAWYER, from the Committee on Invalid Pensions, reported a bill for the relief of Elizabeth Staley; which was read a first and second time.

The bill directs the placing of the name of

Elizabeth Staley, of Cincinnati, mother of Theodore A. Jones, by adoption, who died while a private in the second regiment Missouri cavalry, in the service of the United States, on the pension-roll at eight dollars per month, commencing September 17, 1864, and to continue while she remains a widow.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SAWYER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

**DANIEL M'MAHON.**

Mr. SAWYER, from the same committee, reported a bill for the relief of Daniel McMahon; which was read a first and second time.

The bill directs the payment to the petitioner, late captain in the twentieth regiment New York State militia, of a pension at the rate of twenty dollars per month from June 29, 1864, to February 27, 1866.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SAWYER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

**THOMAS GLASGOW.**

Mr. SAWYER, from the same committee, reported a bill for the relief of Thomas Glasgow; which was read a first and second time.

The bill directs the placing on the pension-roll of the name of the petitioner, who was in the service of the United States from November, 1814, till June, 1815, at eight dollars per month, to continue during his natural life.

Mr. RADFORD. I call for the reading of the report.

The report was read.

Mr. MAYNARD. If the House will indulge me I will say a word in reference to this case, although I dislike to consume the time of the House at this period of the session with cases of this kind.

This gentleman was formerly a constituent of mine. His papers were made out and submitted to the last Congress before the war, and the report which has been read is, I presume, the report that was made by my colleague, Colonel Stokes, who was then on the Pension Committee. It was made at the session immediately before the war, when we were so much engrossed in trying to break up the Government and destroy it that we had little time left to look after the old defenders.

I propose to the House that this old man, who is now on the very brink of the grave, and to whom a pension beginning now and running forward would be little else than a mockery, shall have his pension date back to the time when it ought to have been granted, six years ago. I move that the pension shall date from the 4th of March, 1861.

Mr. RADFORD. At what rate per month is he to be paid?

The SPEAKER. Eight dollars per month.

Mr. PERHAM. This is a subject which has been before the Committee on Pensions a great many times, and the committee were unanimous, I think, in their conclusion in reference to this case. If we should adopt the course proposed by the gentleman from Tennessee, I feel that we should do injustice to others, and I therefore trust that the committee will be sustained.

Mr. HILL. I believe the other rule was established in the early part of the last Congress. I recollect that I endeavored in my feeble way to have the rule fixed that the pensions should date from the time when they ought to have been granted, instead of at the arbitrary time when the bills may pass; and the Committee on Pensions were instructed by two or three votes of the House to adopt this principle.

Mr. MAYNARD. I would not interfere with the general ruling of the committee, but

this case, I can assure gentlemen, is a peculiar case. This old man made out his case six years ago. A bill for his relief passed the House, with the approval of the Committee on Pensions, and if the Senate had not been so much engaged in the work of treason the old man would then have been placed on the roll of pensioners.

The only additional proof now adduced is to show that this old man during all the terrible years of the war maintained his loyalty, bright and burning, and has done so up to this time. I trust an exception will be made in favor of this old man, who stands, as I have said, upon the very brink of the other world, and to whom a pension dating from this time would be a mere mockery.

Mr. RADFORD. I hope the amendment will not prevail. It would establish a precedent which would lead to the introduction of innumerable bills of this character and involve a large expenditure of time and money. I think it is sufficient for us to pension this old man from this time. One so old and feeble cannot require a large amount of money. I think there must be something behind this, that there must be some heirs who expect to reap the advantage when the old man is gone. It would be a very dangerous precedent for us to establish, and I trust the amendment will not prevail.

Mr. SPALDING. It is very difficult to resist such appeals as that made by my friend from Tennessee. He appeals to the sympathies of the House, and we would all be glad to have this old man receive this sum which the gentleman asks, but we all know that we have a Pension Committee liberal to the last degree in this matter of giving pensions, and they with one accord, unanimously have reported against extending the pension back as the gentleman asks us to do. I object to it. It would be cited as a precedent for other cases, and if we do it in this case we must do it in hundreds of others.

Mr. MAYNARD. Did the gentleman hear my statement, that this case was before the Thirty-Sixth Congress and that the bill ought to have passed at that time? The old man made out his case then just as he has made it out now. It was our fault and not his that the bill did not pass.

Mr. SPALDING. Oh, we all understand that.

Mr. SAWYER. I demand the previous question on the bill.

The previous question was seconded and the main question ordered.

The question was taken on Mr. MAYNARD's amendment; and it was agreed to—ayes 55, noes 42.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SAWYER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

**ADVERSE REPORTS.**

Mr. SAWYER, from the Committee on Invalid Pensions, reported back adversely the petition of John A. Milligan and thirteen others, and the petition of William Dunham; and the same were laid on the table.

**VIRGINIA G. WILSON.**

Mr. BENJAMIN, from the Committee on Invalid Pensions, reported back, with a recommendation that it pass, a joint resolution (H. R. No. 165) for the relief of Virginia G. Wilson, widow of the late Captain George W. Wilson, with an amendment in the form of a substitute.

The substitute proposed by the committee directs the Secretary of the Interior to cause to be paid to Virginia G. Wilson, widow of George W. Wilson, deceased, late captain of company G, second Eastern Shore regiment Maryland volunteers, \$272, the amount of pension accruing to Captain Wilson between January 3, 1865, the date of his muster-out from

the United States service, to February 21, 1866, the date of his original application for a pension, which he failed to obtain in his lifetime by reason of his application not being filed within one year from the date of his disability.

The substitute reported by the committee was agreed to.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. MOORHEAD. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the tax bill.

Mr. PERHAM. I hope that motion will not be adopted until the Committee on Invalid Pensions have concluded their reports. There are very few cases remaining. In these bills the hopes of widows and maimed soldiers and orphan children are bound up.

The motion of Mr. MOORHEAD was not agreed to.

#### MARY HOSEA.

Mr. BENJAMIN, from the Committee on Invalid Pensions, reported, with a recommendation that it pass, a bill granting a pension to Mary Hosea, widow of James Hosea, late of Carbondale, Luzerne county, Pennsylvania; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the roll of invalid pensioners the name of Mary Hosea, widow of James Hosea, late of Carbondale, Luzerne county, Pennsylvania, at the rate allowed by existing laws to provost marshals, to continue during her widowhood.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### DAVID B. CHAMPION.

Mr. LEFTWICH, from the Committee on Invalid Pensions, reported, with a recommendation that it pass, a bill granting a pension to David B. Champion; which was read a first and second time.

Mr. SPALDING. I move that the reading of this bill be dispensed with.

The SPEAKER. And if there be no objection, the reporting of the bill at length will be dispensed with.

There was no objection.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LEFTWICH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MRS. RACHEL MCLELLAND.

Mr. LEFTWICH, from the Committee on Invalid Pensions, reported back, with a recommendation that it pass, a bill (H. R. No. 1153) for the relief of Mrs. Rachel McClelland.

The question was on ordering the bill to be engrossed and read a third time.

The bill, which was read at length, directs the Secretary of the Interior to pay or cause to be paid to Rachel McClelland, widow of private John F. McClelland, late of company E, sixteenth regiment Ohio volunteers, a pension of eight dollars per month from September 19, 1862, to December 6, 1866, the latter being the date at which her name was placed upon the pension-rolls.

Mr. RADFORD. I call for the reading of the report in this case.

The Clerk read the report.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LEFTWICH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JAMES RIDDLE.

Mr. LEFTWICH, from the Committee on Invalid Pensions, reported, with a recommendation that it pass, a bill for the relief of James Riddle; which was read a first and second time.

The question was on ordering the bill to be engrossed and read a third time.

The bill, which was read at length, authorizes and directs the Secretary of the Interior to place the name of James Riddle, a resident of the city of New York, late of company G, eighth United States infantry, on the pension-rolls, at the rate of eight dollars per month, to commence from July 29, 1863.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LEFTWICH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the joint resolution (S. R. No. 90) to suspend temporarily the collection of the direct tax within the State of West Virginia.

The message also announced that the Senate had passed, without amendment, bills of the following titles:

An act (H. R. No. 760) for the relief of James C. Cook; and

An act (H. R. No. 589) for the relief of Delia A. Jacobs, late Delia A. Fitzgerald.

The message further announced that the Senate had passed a joint resolution (S. R. No. 66) for the relief of Joseph R. Morris, in which the concurrence of the House was requested.

#### OLIVIA W. CANNON.

Mr. LEFTWICH, from the Committee on Invalid Pensions, reported back, with a recommendation that it pass, a bill (S. No. 581) entitled "An act granting a pension to Olivia W. Cannon."

The question was on ordering the bill to a third reading.

The bill, which was read at length, authorizes and directs the Secretary of the Interior to place the name of Olivia W. Cannon, widow of Joseph S. Cannon, late a midshipman in the United States Navy, upon the pension-rolls, at the rate of ten dollars per month, to commence upon the presentation of satisfactory proof of identity and widowhood, and to continue during her widowhood, the pension to be paid out of the naval pension fund.

Mr. RADFORD. I do not perceive from the reading of the bill that there is anything in the circumstances of this case to entitle this lady to a pension. I see no reason for the passage of the bill. I call for the reading of the report.

The Clerk read the report.

Mr. RADFORD. It strikes me very forcibly that we shall not be warranted in passing this bill. The report presents no sufficient ground for its passage. The committee do not claim to have acted on any testimony. Still they recommend that the name of this lady be placed on the pension-rolls. I wish that the gentleman reporting the bill would explain it more fully than the report does.

Mr. LEFTWICH. This lady will be required to make out her case according to the requirements of the law.

Mr. RADFORD. I do not see why the

committee should not satisfy themselves concerning the facts before reporting these bills. We are voting away hundreds of thousands of dollars, and nobody knows anything about the facts upon which the claims are supposed to rest.

Mr. LEFTWICH. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, read the third time, and passed.

Mr. LEFTWICH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MILTON VELZY.

Mr. LEFTWICH, from the same committee, also reported back House bill No. 1092, for the relief of Milton Velzy, with the recommendation that it do pass.

The bill provides that the Secretary of the Interior shall pay, out of any funds appropriated for payment of pensions, to Milton Velzy, of Machias, Cattaugus county, New York, of company C, one hundred and fourth New York volunteers, \$349 80, which is at the rate of eight dollars per month from 24th of December, 1862, to 13th of June, 1866.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LEFTWICH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CLEMENT HURTT.

Mr. LEFTWICH, from the same committee, also reported adversely on the petition of Clement Hurtt; and the same was laid on the table.

#### AMENDMENT TO PENSION LAW.

Mr. HARDING, of Kentucky, from the same committee, also reported back adversely House bill No. 398, to amend an act entitled "An act to grant pensions," approved July 14, 1864; and the same was laid on the table.

#### ADVERSE REPORTS.

Mr. HARDING, of Kentucky, from the same committee, also reported adversely upon the petition of Samuel Chambers, a soldier of the war of 1812; and also upon the petition of Weymouth Bean; and the same was laid on the table.

#### WARD B. BURNETT.

Mr. PERHAM, from the same committee, also reported back adversely Senate bill No. 418, for the relief of Ward B. Burnett; and the same was laid on the table.

Mr. PERHAM. Now, Mr. Speaker, I wish in behalf of wounded soldiers, of widows and orphans, to thank this House which has so kindly given us this opportunity to make so many reports.

#### TAX BILL.

Mr. HOOPER, of Massachusetts. Before moving to go into committee on the special order, I move that all debate on the pending paragraph of the tax bill be closed in ten minutes after its consideration shall be resumed.

The motion was agreed to.

Mr. HOOPER, of Massachusetts, moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the State of the Union, (Mr. BOWWELL in the chair,) and resumed the consideration of the tax bill as the special order.

The Chairman stated the pending amendment was as follows, on which Mr. WOODBRIDGE was entitled to the floor:

Strike out the following:

That section one hundred and three be amended

by striking out the words "until the 30th day of April, 1867."

Mr. WOODBRIDGE. Mr. Chairman, I hope the motion to strike out will not prevail, for I think it would be unjust to the railroads of the country if it should prevail. It is well known, in the first place, that the railroads of this country, as a general thing, do not pay the persons who have invested in their stock. Of all the railroads in Vermont there is but one, from the time it was put into running condition to the present day, that has paid one single dividend on the money which went to construct them; and all the railroad stock in Vermont, at any rate of the two great trunk lines leading to Boston, and the two trunk lines leading to New York, as investments are worthless. So far as railroad stock is concerned as an investment, not only in Vermont, but as the statistics show, in the country at large, it has not been, and probably will not be, a paying one. Look at some of the great lines; take the lines in New York, take some of the northern lines which are not trunk lines, running from East to West, and their stock pays no dividends while they are restricted to a fare of two or three cents a mile.

But, sir, take the great East and West roads. One of the greatest roads of this country is the New York Central. It is restricted to a fare of two cents a mile, and I undertake to say, from my knowledge of railroads, which is very considerable, that two cents a mile does not in the present state of things pay expenses of transportation.

I know it is said that these city roads are monopolies; but what is the fact? Take, for instance, the Sixth Avenue horse railroad in New York city, a road that has been managed with as much care and economy as any road in the city, as I am informed by a credible gentleman who knows whereof he speaks. In 1864 they lost over forty thousand dollars which they were obliged to make up in order to relieve themselves of the burden they incurred for running expenses that year. Their fare is limited to five cents, and we have it under oath by the president of the road, a gentleman whose standing is as high as that of any man in the city of New York, that from January 1, 1866, to January 1, 1867, the actual cost of running the road was five and six hundredths cents per passenger. The company paid no dividends for several years until the past year, when they managed to pay a dividend out of the profit, between the fraction of a cent they are required to pay as Government tax on each passenger and the whole cent additional that the passenger had to pay.

Now, these railroads pay a tax to the Government on everything they use, from the nail that is put into the horse's shoe to the last stroke of the painter's pencil upon the car. And they pay these taxes without any expense to the Government. They pay them without the interposition of collector or assessor or any officer of the Government. The New York Central railroad pays now and has paid \$200,000 per annum into the Treasury of the United States.

Mr. UPSON. Will the gentleman tell us whether the company pays it or charge it over to their customers?

Mr. WOODBRIDGE. The company itself pays the tax which the Government imposes upon it of three per cent. upon its gross receipts. Now, gas companies are upon a different foundation from railroad companies. I am not going to quarrel with gentlemen here in relation to gas companies, but they are more of the nature of individual or private enterprises for investment, while railroads are got up for the development of the country. In very many cases they run through regions where they cannot pay, and are never expected to pay.

[Here the hammer fell.]

Mr. WILLIAMS. The argument of my friend from Vermont [Mr. WOODBRIDGE] is entirely aside from the question—allow me to say it—not to the purpose at all.

Mr. WOODBRIDGE. I am obliged to you. Mr. WILLIAMS. It is suggested that railroads are not paying investments. Grant it. We are not quarreling about that. But what does he find in that fact to authorize us to do a thing that is not within our constitutional competency?

Mr. WOODBRIDGE. I ask the gentleman if he did not vote to relieve the gas companies?

Mr. WILLIAMS. I voted upon that question as I shall on this. Now, I say to the gentleman that if the railroads are valuable enterprises to the people at large, and if they cannot pay interest upon their cost under the limitations imposed upon them by existing legal contracts, and after paying the Government tax, then relieve them. Let the gentleman introduce an amendment declaring them entitled to exemption and that they shall not be charged. But what does he find in that circumstance to authorize him to transfer the burden imposed upon them upon the shoulders of other persons? Where does he find the power to make contracts for third persons? Is it in the Constitution? Does he suppose we can take off limitations imposed by the charter of a State corporation or make a new contract? I said the other evening that that was simply impossible as well as unconstitutional, because it is undertaking to make it our contract, and not that of the parties.

Mr. ALLISON. I entirely concur with the gentleman from Pennsylvania in his motion, but I should like to add a provision to apply peculiarly to horse railroads: that horse railroads may be permitted to add the fraction of a cent which the tax imposes, but they shall only add that fraction when the party pays for his passage on the cars, and that they shall keep for sale at convenient points and in each and every car tickets at the rate of fare only, without adding the tax. I shall offer an amendment to that effect when this amendment shall have been disposed of.

Mr. DAVIS. I am somewhat surprised, Mr. Chairman, at the position assumed by the honorable gentleman from Pennsylvania [Mr. WILLIAMS] upon this question, in regard to the railways. He declares that we have no right as a sovereign Government to interfere at all with any contract made between a State and an individual or a corporation. Now, sir, I submit that his whole action during his membership in Congress has been in direct violation of that principle, and that he has been one of those who have not hesitated to affirm the power of the Government to interfere with every State right.

Mr. WILLIAMS. Can you name one case?

Mr. DAVIS. Yes; I could name a dozen.

Now, in respect to this question, I affirm that the power of taxation is a sovereign power that belongs to a sovereign Government. Sir, I have always held that this Government was sovereign in everything that related to its nationality, and the power of taxation is necessary for the purpose of preserving its national character; and therefore when it imposes taxes it may impose conditions; it may prescribe that the party or corporation upon whom a tax is imposed may impose it upon its own patrons and customers.

The CHAIRMAN. All debate upon this clause of the bill is now closed by order of the House.

The question being on Mr. WILLIAMS'S amendment,

Mr. POMEROY demanded tellers.

Tellers were ordered; and Messrs. WILLIAMS and DAVIS were appointed.

The committee divided; but the tellers were unable to agree upon a report.

The Chairman thereupon appointed Messrs. NICHOLSON and ALLISON to act as tellers.

The committee again divided; and the tellers reported—ayes 46, noes 51.

So the amendment was disagreed to.

Mr. HOOPER, of Massachusetts. I move to amend by inserting after the word "until," in line one hundred and seventeen, the words

"ferries, where they occur twice in the second proviso, and by striking out the word."

Mr. HILL. I should like some information as to what that amendment means; it is impossible to understand it.

Mr. HOOPER, of Massachusetts. I will state the object of the amendment if there be no objection.

No objection was made.

Mr. HOOPER, of Massachusetts. I will state that ferry-boats are now taxed three per cent., whereas steamboats are taxed two and a half per cent. A great many ferry-boats, indeed most of them, are steamboats, and a good deal of difficulty has occurred in the department to ascertain under which tax a steam ferry-boat should be taxed: whether it should pay three per cent. as a ferry-boat or two and a half per cent. as a steamboat. I propose to solve the difficulty by placing ferry-boats on the same footing as steamboats. That is the sole object of the amendment.

Mr. RANDALL, of Pennsylvania. I desire to ask the gentleman a question.

The CHAIRMAN. No debate is in order.

Mr. RANDALL, of Pennsylvania. Then I hope the amendment will be voted down.

The amendment was agreed to.

Mr. ALLISON. I move to insert after line one hundred and eighteen the following:

Amend section one hundred and three by striking out the following: "And whenever the addition to any fare shall amount only to the fraction of one cent, any person, or company, liable to the tax of two and a half per cent., may add to such fare one cent, in lieu of such fraction, and such person or company shall keep for sale, at convenient points, tickets in packages of twenty and multiples of twenty, to the price of which only an amount equal to the revenue tax shall be added." And insert in lieu thereof the following:

And provided further. That whenever the addition to any fare shall amount only to a fraction of one cent, any person or company liable to the tax of two and a half per cent. may add to such fare one cent in lieu of such fraction; but such person or company shall keep for sale, without adding the tax, at convenient points, and on each and every car, tickets in packages of five and multiples of five.

Mr. PAINE. I would ask the gentleman from Iowa [Mr. ALLISON] if his amendment applies to tax on railway lines other than street railways?

Mr. ALLISON. It is intended to apply only to street railways.

Mr. WOODBRIDGE. I would inquire of the Chair if the amendment of the gentleman from Iowa [Mr. ALLISON] is not in direct conflict with the vote just had by the Committee of the Whole?

The CHAIRMAN. That is not for the Chair to determine.

The question was then taken upon the amendment of Mr. ALLISON, and it was not agreed to.

Mr. DARLING. I offered an amendment the other night to come in on page 8 of this bill after line forty-five, to which the gentleman from Kentucky [Mr. WARD] objected. I have prepared an amendment to which I think he can have no objection, and I therefore ask unanimous consent to return to that portion of the bill, for the purpose of moving an amendment.

Mr. WILSON, of Iowa. I object.

Mr. WILLIAMS. I move to amend by inserting after line one hundred and eighteen, on page 10 of this bill, the following paragraph:

That section ninety-seven be, and the same is hereby, repealed.

I ask that the Clerk read the section of the present law, which I propose by my amendment to have repealed.

The CHAIRMAN. Reading the section would be in the nature of debate; and under the order of the House debate is not in order.

Mr. WILLIAMS. The order of the House, as I understood it, applied to the paragraph which we have just passed upon. I do not propose to amend that paragraph, but to insert a new paragraph to succeed that one.

The CHAIRMAN. Under the order of the House, according to the construction heretofore given to such orders there can be no debate until the next paragraph is read.

Mr. WILLIAMS. I would inquire if, after



a clause has been passed upon, it is not competent to introduce another to immediately follow it?

The CHAIRMAN. It is.

Mr. WILLIAMS. That is precisely what I have done; and I propose to have read the section of the old law, in order that the House may be informed of the effect of my amendment.

Mr. DAVIS. I object.

The CHAIRMAN. No debate will be in order until another paragraph of the text of the bill has been read.

Mr. ROSS. Do I understand the Chair to decide that the reading of the section would be in the nature of debate?

The CHAIRMAN. That is the decision of the Chair.

Mr. WILLIAMS. If I cannot now explain the effect of my amendment I will withdraw it. No further amendment being offered,

The Clerk read as follows:

That schedule B, in relation to stamp duties named in section one hundred and fifty-one, be amended by inserting after the paragraph relating to conveyance, and before that relating to entry, the following words: "Where any deed, instrument, or writing executed to convey property which is incumbered, the amount of such incumbrance shall not be included as a part of the sum upon which the value of the stamp is to be estimated. No conveyance merely quieting title, or discharging any incumbrance, or merely confirmatory of preexisting title given without actual consideration, whether given before or after the passage of this act, shall be treated as invalid for want of a revenue stamp."

Mr. BINGHAM. I move to amend the paragraph just read by adding to it the following:

Nor shall revenue stamps be required in any matter pertaining to administration or guardianship, where the trust fund does not exceed \$2,000.

Mr. HOOPER, of Massachusetts. I would suggest to the gentleman from Ohio [Mr. BINGHAM] that this is not the precise place for his amendment.

Mr. BINGHAM. Oh, yes; it comes in well enough here, because the text of the bill is to insert in the statute what is there recited.

Mr. ALLISON. I would call the attention of the gentleman from Ohio to the fact that what he desires is already provided for in the present law.

Mr. BINGHAM. I will withdraw my amendment until I can examine the law in the respect to which the gentleman from Iowa [Mr. ALLISON] refers.

Mr. HARDING, of Illinois. I propose to amend the paragraph proposed to be inserted in the present law by striking out the words "of such incumbrance shall not be included as a part of the sum upon which the value of the stamp is to be estimated," and inserting in lieu thereof the words "paid for stamps upon such incumbrances shall be deducted from the stamps required;" so that the paragraph will read as follows:

Where any deed, instrument, or writing is executed to convey property which is incumbered, the amount paid for stamps upon such incumbrances shall be deducted from the stamps required. No conveyance merely quieting title, or discharging any incumbrance, or merely confirmatory of preexisting title given without actual consideration, whether given before or after the passage of this act, shall be treated as invalid for want of a revenue stamp.

I think that will better effect the object intended to be accomplished by the amendment of the Committee of Ways and Means than the text which they have reported. There are many incumbrances upon real estate which have not paid any stamp duty. Incumbrances for mortgages I believe are stamped in the same ratio as deeds are. But large incumbrances by judgments and by other means will be found in practice to be liens upon real estate. And if these sums are taken from the value of the real estate the Government will derive very little revenue from this provision. Old incumbrances which were imposed upon property before the passage of any revenue law requiring stamps, and judgments recovered do not, I believe, pay any stamp duties under the present law. I therefore propose that we shall allow the deduction of such sums as have been paid for stamps upon incumbrances only, leaving the parties to pay the

residue which the value of the property would require.

Mr. BENJAMIN. Mr. Chairman, I am opposed to the amendment of the gentleman from Illinois, [Mr. HARDING,] and I will say in this connection that I propose, when it shall be in order, to move to amend by striking out the following clause:

Where any deed, instrument, or writing executed to convey property which is incumbered, the amount of such incumbrance shall not be included as a part of the sum upon which the value of the stamp is to be estimated.

The effect of this amendment will be to strike out all relating to deeds where the property has been incumbered. I will state my reasons for favoring such a proposition.

It is not often, as we all know, that property is sold to the party holding the incumbrance. An individual owns, we will suppose, a piece of property worth \$20,000, upon which there is a mortgage of \$10,000. The property is sold to a third person for its full value, \$20,000; the money is paid, and with a part of this the incumbrance is discharged. In that case why should not the full amount of tax be paid? I can conceive no reason why the tax should not be paid in such a case just as if the property were not incumbered at all, because with the purchase money received the incumbrance is discharged. Where the property is sold to the party having the equitable title, or the legal title if it is a mortgage, only the balance, perhaps, over the incumbrance should pay the revenue tax.

In my judgment, a large amount of money would be lost by the adoption of the clause which I propose to strike out. We know that a great deal of the property of the country is incumbered in various ways. Nothing is more common than for an individual to sell his property and with the purchase money pay off the incumbrances upon it. If these incumbrances are equal to the value of the property, then no revenue stamp should be required. But I take it the Committee of Ways and Means intended by the provisions of this bill to cover something more than this; and it seems to me that in such a case as I have supposed this exemption would not be proper.

Mr. DAWES. I suggest to my friend from Missouri [Mr. BENJAMIN] that he modify his amendment before offering it so as to strike out the whole paragraph instead of simply the clause he has read. I think the gentleman from Missouri will agree with me that the most unfortunate thing about these amendments is that every additional one adds to the complication of the law. Now, Mr. Chairman, look at the last portion of this paragraph:

No conveyance merely quieting title, or discharging any incumbrance, or merely confirmatory of preexisting title given without actual consideration, whether given before or after the passage of this act, shall be treated as invalid for want of a revenue stamp.

Who shall decide that? There never was a paragraph framed for litigation more successfully than this, that is in my judgment.

The best way is to have this as simple as possible, with as few exceptions as may be. Such a conveyance under the present law would pay fifty cents, and there is no litigation and no question about it. Any title worth quieting or confirming is worth fifty cents.

I trust the House will not multiply these exceptions. Let stamps upon written instruments be as plain and simple and with as few exceptions as possible. I do not see any wisdom in these two exceptions. I agree with the gentleman from Missouri [Mr. BENJAMIN] in reference to the first one, and I think he will agree with me in reference to the last. I understand the gentleman accepts my modification to strike out the whole paragraph.

Mr. DELANO. That is the motion I was about to make.

Mr. HARDING, of Illinois. I withdraw my amendment.

Mr. COOK. I move the following amendment:

At the end of line one hundred and twenty-eight

insert "or conveyance of real estate which is donated without valuable consideration for any public or charitable use."

The amendment was disagreed to.

Mr. LONGYEAR. I move in line one hundred and twenty-four, after the word "incumbered," to insert "at the same time to secure a portion of the purchase money."

The amendment was disagreed to.

Mr. ROSS. I move in line one hundred and twenty-eight, after the word "title," to insert "or a title by gift or donation."

As it is now in conveying a lot for a school-house or for a church or for a grave-yard, you will have to put on a stamp according to the value of the real estate, and I do not think there is any propriety in that.

Mr. ROLLINS. If they get the land for nothing they can afford to pay for a stamp. [Laughter.]

The amendment was disagreed to.

The question recurred on the motion to strike out the entire paragraph; and it was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend by inserting the following at the end of the paragraph relating to probate of wills:

Provided, No stamp, either for probate or for guardian's bond, shall be required when the value of the estate and effects does not exceed \$500; and all papers relating to deceased soldiers shall be exempt from stamp duties.

Mr. BINGHAM. I move to make it \$1,000.

Mr. HOOPER, of Massachusetts. I have no objection to that, and accept it as a modification.

Mr. DAWES. It should read when the amount of the bond does not exceed, &c.

Mr. BINGHAM. This is the same thing.

Mr. DAWES. I know, but the other language is more definite.

Mr. HOOPER, of Massachusetts. I will read a portion of a letter I received from a register of wills:

"The stamp duty on administrators' bonds and letters of administration, one dollar each, is very oppressive in many cases. Many letters of administration are granted to obtain twenty to one hundred dollars from a savings bank, the net result of a long life, and laid away to defray funeral expenses. The stamp duties on such cases amount to \$2 05. Estates not exceeding \$2,000 pay about \$2 20 for stamps. Many of these small administrations relate to deceased soldiers. Their widows and orphan children, in order to obtain a part of their well-deserved bounty, and which was placed in bank, are compelled to administer to withdraw the money from bank, and must pay the Government \$2 05 for the privilege of obtaining it."

"The same oppression exists in the appointment of guardians, where the sum involved is very small. The case of the orphans of soldiers often excites my sympathy. In many cases duplicate papers are required, and the stamp duties are one dollar for the bond and six five-cent stamps for the certificates, making \$1 30."

I respectfully suggest for your consideration:

"1. Exempt all estates under \$500 from all stamp duties, including guardian's bonds."

"2. Exempt all papers relating to deceased soldiers from stamp duties."

"3. Large estates may well afford to pay higher stamp duties."

"I have prepared bonds on the same day for \$100, and for \$300,000, and the stamp on each was one dollar! Is that just and equal?"

I confess my sympathies were excited by that letter.

Mr. WILSON, of Iowa. My sympathies also are excited by that letter. He is a humane register of wills. But the gentleman's amendment will not reach the subject. "Papers relating to deceased soldiers" is not certain. It leaves the whole matter open instead of making it certain.

I suggest to the gentleman that his amendment had better be withdrawn for the present and redrafted. And I will suggest further that if the estate of a deceased soldier should be worth \$100,000 under the construction the gentleman has given, it would be relieved from stamp duty. There is no reason for exempting estates of that kind from the stamp duties which are imposed upon them by law.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. ALLISON. I move to strike out the last word for the purpose of suggesting to my colleague to strike out that portion relative to deceased soldiers, because already all estates up to the value of \$1,000 are exempt.

Mr. HOOPER, of Massachusetts. I will withdraw the latter portion of the amendment.

Mr. BINGHAM. I suggest a modification of the proposition by inserting after the word "probate," the words "of wills, letters-testamentary, or of administration, or of administration or guardian bonds."

Mr. HOOPER, of Massachusetts. I will modify it so as to read as follows:

Also, by inserting at the end of the last paragraph relating to probate of will the following words: "Provided, That no stamp either for probate of wills, or letters-testamentary or letters of administration, or on guardian or administrator bonds, shall be required when the value of the estate and effects does not exceed \$1,000."

Mr. WILSON, of Iowa. I suggest to the gentleman from Ohio [Mr. BINGHAM] a difficulty that may grow out of this amendment. If before the value of the estate has been finally determined any question should arise in court where it is necessary to use the will or the bond, it would be necessary to try and determine the question as to whether the value of the estate was greater than \$1,000 before the bond or will could be used in evidence.

Mr. BINGHAM. I apprehend in all estates where they grant letters of administration the amount of the estate is certified upon the record, and the question is not raised under the law.

Mr. WILSON, of Iowa. By no means.

Mr. BINGHAM. If the gentleman thinks it is necessary to guard that part of it I have no objection at all. But one thing I am very certain of, that it is an enormous burden imposed upon small estates to subject the administrator, executor, or guardian at every step to these taxes, and the people are clamorous to have the imposition removed.

Mr. ALLISON. The difficulty suggested is found in the language of the law "where the estate shall be sworn and declared not to exceed \$1,000." If it is so sworn and declared that is conclusive upon the court.

Mr. BINGHAM. Very well; that will make it all right.

The question being put on the amendment of Mr. HOOPER, of Massachusetts, there were—ayes 28, noes 33; no quorum voting.

Mr. HOOPER, of Massachusetts. I withdraw it.

The Clerk read as follows:

Also, by striking out of said schedule all after the words "legal documents," and inserting in lieu thereof the following: "Provided further, That the stamp duties imposed by the foregoing schedule (B) on manifests, bills of lading, and passage tickets shall not apply to steamboats or vessels plying between ports of the United States and ports of British North America: And provided further, That all affidavits shall be exempt from stamp duty."

Mr. HOOPER, of Massachusetts. I move to strike out the word "further" where it first occurs, and to strike out the word "also" at the beginning of the paragraph, and insert in lieu thereof the words to be found at the commencement of the preceding paragraph, namely:

That schedule B, in relation to stamp duties, named in section one hundred and fifty-one, be amended.

This is rendered necessary in consequence of the amendment just made to the preceding paragraph.

The amendments were agreed to.

Mr. THAYER. I wish to call the attention of the committee to the fact that if all after the words "legal documents" be stricken out there is no sense in retaining the words "legal documents."

Mr. ALLISON. None whatever; it should be including "legal documents."

Mr. THAYER. I propose to strike out in the first line the words "all after," and to insert after the words "legal documents" the words "and all thereafter in schedule B," and then add the proviso as reported by the committee.

The CHAIRMAN. While the gentleman is preparing his amendment, the gentleman from Ohio [Mr. SPALDING] desires to offer an amendment to the same paragraph.

Mr. SPALDING. I move to amend line one hundred and thirty-eight by inserting after

the word "affidavits" the words "and receipts for the payment of money." I think there is no single tax that operates as much to embarrass common people in the transaction of business as this one of being required to put stamps upon simple receipts given upon payment of money; and therefore I move this amendment, to make such receipts exempt from that tax. I suppose there is no man within the sound of my voice who has not at some time experienced inconvenience from that requirement of the law.

Mr. WRIGHT. The concluding words of this paragraph are, "provided further, that all affidavits shall be exempt from duty." The gentleman from Ohio [Mr. SPALDING] suggests that that will operate to require a stamp on an ordinary receipt. I do not see it.

Mr. SPALDING. Neither do I see that. The amendment was agreed to.

Mr. THAYER. I have now prepared my amendment. I move to strike out in line one hundred and thirty-one the words "all after," and to insert after the word "documents" the words "and all thereafter;" so that it will read, "by striking out of said schedule the words 'legal documents,' and all thereafter." The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I send an amendment to the Chair which I think will meet the views of the gentleman from Iowa, [Mr. WILSON.]

Mr. SPALDING. Before that is offered I wish to understand what we are doing. I am told that my friend here [Mr. THAYER] has knocked my amendment which has just been adopted by the House into a cocked hat. [Laughter.]

The CHAIRMAN. Not at all.

Mr. THAYER. I believe that my amendment will accomplish at least a portion of what the gentleman desires to accomplish by his.

The Clerk then read the amendment offered by Mr. HOOPER, of Massachusetts, as follows:

Insert at the end of the last paragraph, relating to the probate of wills, the following words: "Provided, That no stamp, either for probate of wills, letters-testamentary or of administration, or on administrator or guardian bonds, shall be required when the value of the estate and effects, real and personal, does not exceed \$1,000."

Mr. GRINNELL. That is right.

The amendment was agreed to.

Mr. CULLOM. I move to amend by adding to line one hundred and thirty-eight the following additional proviso:

And provided further, That no stamp tax shall be required upon any papers necessary to be used for the collection from the Government of claims by soldiers of the United States, for pensions, back pay, bounty, or for property lost in the service.

Mr. HILL. I desire to move an amendment to that by inserting the words "or application for prize money."

Mr. GRINNELL. No, no; that is another thing. Prize money is clear gain.

Mr. HILL. Whether clear gain or not, it is given as a reward of merit, and as something due from the Government to the men who get it.

Mr. PRICE. I rise to a question of order. I suggest to the Chair and to the House that when an amendment is offered the member offering it has a right to advocate it, and other members have a right to discuss it and oppose it if they choose; but it cannot be discussed unless they can be permitted to hear each other, and they cannot hear each other while sixteen other gentlemen talk loudly between them, and between each of them and the Chair, causing such noise and confusion that no white man, unless he has more ears than two, can hear or understand what is going on in the House. [Laughter.]

The CHAIRMAN. Gentlemen will be in order.

Mr. HILL. I move this amendment because I think it will merely do justice in this respect to the class entitled to prize money. It is said here that the prize money is clear gain. I do not so understand it. I believe we have to-day passed a bill appropriating a very large sum of prize money because it was understood to

be due from the Government to the men on account of certain vessels having been sunk instead of captured. Now, it is quite as unjust to tax sailors as to tax soldiers. Our sailors, who have hazarded their lives as much, and indeed more, than the soldiers have hazarded theirs, apply to us for this money to which they are fully entitled by law as the soldiers are to their claims, and I see no reason why there should be any special obstacle or special facility created by us in the one case more than in the other.

Mr. MAYNARD. I suggest that the gentleman limit his amendment to the cases of ordinary seamen.

Mr. HILL. I am willing to limit it to seamen and marines, and if the gentleman from Tennessee will present that form of amendment I will be happy to adopt it; as it is, I offer the amendment in these words: "on application for prize money by sailors or marines."

The amendment to the amendment was disagreed to.

The question recurred on the amendment offered by Mr. McCULLOM.

Mr. O'NEILL. I move to amend further by striking out in schedule B, in section one hundred and fifty-one, in the paragraph commencing "bank check," the words "at sight or on demand," and inserting in lieu thereof the words "on demand or at one day's sight."

The amendment to the amendment was disagreed to.

Mr. PRICE. I move that the committee now rise.

Mr. MOORHEAD. I hope not; we will never get through this bill if we do not work more on it than we have done heretofore.

Mr. PRICE. It is now after ten o'clock; and I think it is time we should go home and get some rest. I insist upon my motion.

The question was taken; and upon a division there were ayes 44, noes 27.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BOURWELL reported that the Committee of the Whole on the state of the Union, pursuant to the order of the House had had under consideration the Union generally, and particularly the special order, being House bill No. 1161, amending the existing laws relating to internal revenue, and had directed him to report that they had come to no resolution thereon.

#### AMERICAN COLONIZATION SOCIETY.

Mr. MAYNARD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Appropriations be, and they are hereby, instructed to inquire into the expediency of an appropriation to aid the American Colonization Society in furnishing conveyance and support to such persons as may desire to emigrate to the republic of Liberia.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles: when the Speaker signed the same:

An act (S. No. 497) granting a pension to Mrs. Adeline M. Gould;

An act (S. No. 512) for the relief of Kennedy O'Brien;

An act (S. No. 514) for the relief Charles Appleton;

An act (S. No. 535) for the benefit of Mrs. Jerusha Page;

An act (S. No. 554) granting a pension to John Carter; and

An act (S. No. 580) granting a pension to Charles N. Weiss.

#### RELIEF OF CERTAIN DRAFTED MEN.

On motion of Mr. SCHENCK, the House took from the Speaker's table and proceeded, by unanimous consent, to the consideration of the amendments of the Senate to the bill of the House No. 811, for the relief of certain drafted men.

Mr. SCHENCK. I move that the amendments of the Senate be non-concurred in; and that the House ask the appointment of a committee of conference on the disagreeing votes of the two Houses upon this bill.

The motion was agreed to.

#### RIGHTS OF VOLUNTEERS.

On motion of Mr. SCHENCK, the House took from the Speaker's table and proceeded, by unanimous consent, to the consideration of the amendments of the Senate to the bill of the House No. 1134, declaring and fixing the right of volunteers as a part of the Army.

Mr. SCHENCK. I move that the amendments of the Senate be non-concurred in; and that the House ask the appointment of a committee of conference on the disagreeing votes of the two Houses upon this bill.

The motion was agreed to.

And then, on motion of Mr. DAVIS, (at ten o'clock and ten minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. CLARKE, of Kansas: Resolutions of the Legislature of the State of Kansas, requesting Congress to submit an amendment to the Constitution of the United States providing that the Senators from each State shall be chosen directly by the qualified electors thereof.

By Mr. HOOPER, of Massachusetts: The petition of John Lewis and others, clerks in the Boston post office, that rent of homestead shall be deducted in estimating the amount of their incomes subject to taxation.

By Mr. LAFLIN: The petition of William Lamey and 28 others, citizens of Herkimer county, New York, praying for a reduction of tax on leather.

By Mr. LYNCH: The petition of the Maine Historical Society, asking for the purchase of library of Peter Force.

By Mr. MYERS: The petition and claim of the widow of Frederick A. Whitfield, late acting third assistant engineer in the Navy, for pension.

By Mr. SCHENCK: The petition of Lot S. Bayless, administrator of Lieutenant Marcus Bayless, deceased, praying compensation for the military services of said officer.

Also, the petition of soldiers of the war of 1812, for the passage of a law granting them pensions.

By Mr. SLOAN: The petition of H. S. Conger and 49 others, stockholders in national bank and citizens of Wisconsin, protesting against interference with the rights of said bank and the petitioners.

By Mr. UPSON: The petition of Daniel Severy, Isaac Ayres and 48 others; also, of Nicholas Hill and 80 others, all citizens of St. Joseph county, Michigan, asking that the five per cent. tax on manufactures be removed.

Also, the petition of Mervin Pennel and 22 others, citizens of Berrien county, Michigan, praying Congress to take measures for the impeachment of the President.

By Mr. VAN HORN, of New York: The petition of cigar manufacturers of Lockport, New York, asking a specific tax of five dollars per thousand on cigars.

By Mr. WILSON, of Iowa: The remonstrance of John W. Ellis and others, of Bloomfield, Iowa, against legislation depreciating or unsettling the established national currency.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, February 21, 1867.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

On motion of Mr. ALLEY, the reading of the Journal of yesterday was dispensed with by unanimous consent.

MAJOR A. S. BLOOM.

Mr. McKEE, by unanimous consent, introduced a bill for the relief of Major A. S. Bloom, late major of the seventh Kentucky cavalry; which was read a first and second time, and referred to the Committee of Claims.

#### ENROLLED JOINT RESOLUTION AND BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 589) for the relief of Delia A. Jacobs, late Delia A. Fitzgerald;

An act (H. R. No. 219) for the relief of Catharine McKee;

An act (H. R. No. 760) for the relief of James C. Cook; and

A joint resolution (H. R. No. 293) authorizing the employment of a public vessel for the transportation of provisions to the people of the southern States.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the amendments of the House to the amendments of the Senate to House bill No. 1143, to provide for the more efficient government of the late insurrectionary States.

It further announced that the Senate had concurred in the amendments of the House to bills of the following titles:

A bill (S. No. 513) granting a pension to Patrick Meehan; and

A bill (S. No. 602) granting a pension to Ezra B. Gordon.

It further announced that the Senate had passed House bill No. 607, to amend an act granting the right of way over the military reserve at Fort Gratiot, Michigan, without amendment; and that it had passed House joint resolution No. 266, granting certain public property to the State of Ohio, with an amendment, in which he was directed to ask the concurrence of the House.

#### HOOR OF MEETING.

On motion of Mr. STEVENS, by unanimous consent, it was

Ordered, That from and after to-morrow, the 22d instant, the House shall meet daily at eleven o'clock a. m.

#### MISSISSIPPI TUBULAR BRIDGE.

On motion of Mr. ALLEY, Senate bill No. 421, to authorize the construction of a submerged tubular bridge across the Mississippi river, at the city of St. Louis, was taken from the Speaker's table, and read a first and second time.

The question was upon ordering the bill to be read a third time.

The bill was read at length. The first section empowers the Mississippi Submerged Tubular Bridge Company, a corporation organized under the laws of the State of Missouri, to construct, maintain, and operate a submerged iron tubular bridge across the Mississippi river, between the city of St. Louis, in the State of Missouri, and the city of East St. Louis, in the State of Illinois, subject to all the conditions contained in said act of incorporation and not inconsistent with the provisions of this act. And in case of any litigation arising from any obstruction, or alleged obstruction, to the free navigation of said waters the cause may be tried before the District Court of the United States of any State in which any portion of said obstruction or bridge touches.

The second section provides that any bridge built under the provisions of this act shall be tubular in construction, and sunk below the bed of said river, so that the top of said structure shall be below the bed of the channel of the Mississippi river, and so that the same shall in no wise interfere with or obstruct navigation when completed, or prevent a safe and expeditious transit for all classes of vessels upon said river during construction.

The third section provides that any bridge erected under the provisions of this act shall be a lawful structure, and shall be recognized and known as a post route, upon which no higher charge shall be made for the transmission over the same of the mails, the troops, the munitions of war of the United States, than the rate per mile which the railroad companies terminating at either end receive for such services.

The fourth section provides that no exclusive right or privilege shall ever be granted to any of the steam railroads now concentrating at St. Louis or East St. Louis by the said bridge company to use the same, but it shall be equally open to all, under such regulations and at such charges as may be fixed, not to exceed those now charged by the Wiggins Ferry Company.

The bill was then read the third time, and passed.

Mr. ALLEY moved to reconsider the vote

by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### COMPOUND-INTEREST NOTES.

Mr. HOOPER, of Massachusetts. In accordance with the instructions of the House, I am directed by the Committee of Ways and Means to report a bill to provide ways and means for the payment of compound-interest notes.

Mr. PRICE. I ask that the bill be read before I raise a point of order upon its reception.

The bill was read at length. The first section directs the Secretary of the Treasury to receive on deposit compound-interest notes, with the accrued interest, as a temporary loan, and to issue therefor certificates as provided by section four of the act approved June 30, 1864, bearing interest at a rate not exceeding three and sixty-five hundredths per cent. per annum, principal and interest payable in lawful money on demand. And said certificates may constitute and be held by any national bank holding or owning the same as a part of the reserve provided for in sections thirty-one and thirty-two of the act to provide a national currency, approved June 3, 1864; provided, that not less than two fifths of the entire reserve of such banks shall consist of lawful money of the United States; and provided further, that the amount of such temporary certificates at any time outstanding shall not exceed \$100,000,000.

The second section provides that the first proviso of the act entitled "An act to amend an act entitled 'An act to provide ways and means for the support of the Government,' approved March 3, 1865," approved April 12, 1866, be, and the same is hereby, repealed; and the Secretary of the Treasury is hereby prohibited from retiring and canceling any of the United States notes commonly called "greenbacks" during the current year.

Mr. PRICE. I rise to a question of order. The point of order is that this bill not only covers the instructions given to the Committee of Ways and Means under the resolution of my colleague, [Mr. GRINNELL,] but it goes beyond and introduces a measure that has been twice checked by the action of this House within the last two days.

Now, I will say to the gentleman from Massachusetts [Mr. HOOPER] that I will not object to the introduction of this bill, if he will allow an amendment to be offered to it and considered by the House. I only want a fair consideration of this question; and then if the House is in favor of burdening the country with \$3,000,000 a year more in the way of interest, they can do so.

The SPEAKER. It is for the House to determine whether this bill is in accordance with its instructions. The Clerk will read from page 74 of the Digest.

The Clerk read as follows:

"When any motion or proposition is made, the question, 'Will the House now consider it?' shall not be put, unless it is demanded by some member, or is deemed necessary by the Speaker." [Rule 41.] "And it is competent for a member to raise the question of consideration upon a report, even though a question of privilege is involved in the report." [Journal 1, 34, pp. 1083, 1085.]

The SPEAKER. The resolution of the gentleman from Iowa [Mr. GRINNELL] was general in its character; if the recollection of the Chair is correct, it did not specify any particular bill. The Committee of Ways and Means were instructed to report some measure to stop the curtailment of the currency. The gentleman from Iowa [Mr. PRICE] insists that his bill is not in accordance with those instructions of the House. But even if it involved a question of privilege the House would have the right to determine that question for itself. The question is, Will the House consider and receive this bill as in accordance with the instructions of the Committee of Ways and Means?

Mr. BROOMALL. Is this bill open to objection?

The SPEAKER. It is, upon the point of order made by the gentleman from Iowa, [Mr. PRICE.]



Mr. PIKE. The resolution of the gentleman from Iowa [Mr. GRINNELL] expressly named the "currency called greenbacks," and the action of the committee was limited to that.

Mr. HILL. I desire to make a motion to recommit this bill.

The SPEAKER. The Chair will state to the gentleman from Indiana it is not before the House, and cannot be recommitted.

Mr. HOOPER, of Massachusetts. If the Clerk will read the second section I think the House will perceive it is precisely in accordance with our instructions.

Mr. WILSON, of Iowa. I ask that the bill be reported.

The bill was again read.

The SPEAKER. The question having been made, the House will determine whether it will accept this bill as the report of the committee under the instructions of the House or not.

Mr. HOOPER, of Massachusetts. The second section covers the resolution of the House of the 4th instant. It was then resolved that the public interest demands there shall not during the coming year be any reduction in the amount of outstanding United States notes, commonly called "greenbacks;" and further, that the Committee of Ways and Means be instructed to report such bill as may be necessary on this subject. The committee have reported that second section to cover the whole ground. I do not propose to call the previous question on the bill; and if the House should prefer to see the bill in print, I do not object to it going over till to-morrow to be printed and made the special order.

The SPEAKER. If the committee had reported back the second section and then moved the remaining portion as an amendment it would have been in order.

Mr. HOOPER, of Massachusetts. The committee of Ways and Means reports this bill.

The SPEAKER. If the gentleman reports this bill for reference, then it is in order.

Mr. HILL. I rise to a point of order. Is it in order when the committee has been instructed to report a certain bill to report an entirely different one?

The SPEAKER. It is for the House to determine whether they have done so or not. The committee report that under the order to report a bill for the curtailment of the currency this bill is necessary. It is for the House to decide.

Mr. HILL. If it be in order, I move that this report be not received as a response to our resolution; and that they now be instructed to report a bill with the first second stricken out.

The SPEAKER. The point will be submitted to the House whether it will or not receive this report in response to its order.

Mr. WILSON, of Iowa. I suggest the committee modify the bill by striking out the second section. Then if it is desired they can move the other portion as an amendment.

Mr. THAYER. I rise to a point of order. The chairman of the Committee of Ways and Means has not the right to report at any time except for reference. If this is for reference it is in order; if not it is not in order.

The SPEAKER. The Chair has already stated the Committee of Ways and Means have been instructed to report a certain bill. They have reported this bill, and it is for the House to determine whether it is in accordance with their instructions or not.

Mr. THAYER. Have they the right to report at the present time?

The SPEAKER. They have, under the instructions of the House.

Mr. FARNSWORTH. I rise to a point of order. Either the Speaker's chair should be removed to the center of the Hall, or members should be prevented from crowding into the area. [Laughter.]

The SPEAKER. Gentlemen will resume their seats.

Mr. PRICE. I made the objection to the

bill because there are some things in it not according to the instructions of the House. And in my judgment the majority of this House are not prepared to put this upon the country at this time without consideration, without debate, and without opportunity to amend it. I will, however, withdraw my objection and let it be considered now, for it might as well be considered now as at any other time.

Mr. HOOPER, of Massachusetts. I wish to say the committee considered two things coming together. The instructions of the House had reference to the withdrawal of compound-interest notes, and we thought their withdrawal would be a sufficient reduction. We believed, and I think properly, the two subjects came together and ought to be reported in the same bill. The second resolution is in entire conformity to the resolution of the House, and the first truly belongs to and is connected with it. Both carry out fully the instructions of the House.

Mr. PIKE. The House will recollect a proposition of this sort came from the Senate, and was referred to the Committee on Banking and Currency.

Mr. HOOPER, of Massachusetts. If the gentleman will permit me to correct him I will say it is different.

Mr. PIKE. It is in relation to six per cent. compound-interest notes.

Mr. HOOPER, of Massachusetts. There was a bill from the Senate having relation to these notes.

The SPEAKER. The question of the priority of business is not debatable. The Chair has allowed this conversation to progress so that the House might vote intelligibly.

Mr. LYNCH. I ask the gentleman from Massachusetts to accept an amendment to the first section.

The SPEAKER. The bill is not before the House.

Mr. HILL. I wish to understand the exact position in which the bill now stands, with a view to bringing it before the House for action.

The SPEAKER. The Chair will again state that the objection being made that this is not in conformity to the instructions of the House, the question is, Will the House receive it as such?

Mr. PRICE. I withdraw my objection.

Mr. FARNSWORTH. Is it now in order to move to strike out the first section of the bill?

The SPEAKER. It is; the objection being withdrawn.

Mr. FARNSWORTH. I desire to make that motion.

Mr. BROOMALL. I renew the objection.

The SPEAKER. The question then is whether the bill will be received as in accordance with the instruction of the House.

The motion to receive the bill was agreed to—ayes 61, noes 39.

The bill was read a first and second time.

Mr. HOOPER, of Massachusetts. I think the House is not really acquainted with the provisions of this bill, but that when gentlemen come to understand it entirely there will be no opposition to it. In my opinion it meets the views of the gentlemen who most object to it. I therefore propose that the bill be printed and made the special order after the reading of the Journal to-morrow, so that members can have time to understand it.

The SPEAKER. The Chair will state that if that is agreed to it will come up after the final disposition of the indemnity bill, which, by unanimous consent, has been made the special order from day to day until disposed of.

Mr. KELLEY. I object to its being a special order.

The SPEAKER. The House can make it the special order.

Mr. LYNCH. Will the gentleman from Massachusetts yield?

Mr. HOOPER, of Massachusetts. No, sir.

The SPEAKER. The motion to postpone till to-morrow can be adopted by a majority, but the motion to make it the special order requires a two-thirds vote.

Mr. FARNSWORTH. If that motion is carried, I understand it will not probably be reached at all this session.

The SPEAKER. Probably not.

Mr. FARNSWORTH. Then I hope the motion will be voted down.

Mr. HOOPER, of Massachusetts. In that case I withdraw the motion.

The SPEAKER. The bill is before the House, and the gentleman from Massachusetts [Mr. HOOPER] is entitled to the floor.

Mr. HOOPER, of Massachusetts. Mr. Speaker, the object of this bill is to provide the means for taking up the compound-interest notes which fall due during the present year. There are various ways in which they may be met. The Secretary of the Treasury has power under existing law to exchange one form of indebtedness for another; that is, he may provide the means for taking up these notes by the issue of five-twenty bonds or of seven-thirty Treasury notes; or he may increase the issue of United States notes, known as greenbacks, to the extent of \$50,000,000. He has express authority for doing either of these; but if he chooses the latter we would still have to provide other means to take up the excess of these notes beyond \$50,000,000.

The whole amount of compound-interest notes outstanding is \$140,000,000, making, with the addition of the interest, about one hundred and seventy millions, all of which comes due in the course of the fiscal year. This bill, therefore, proposes to facilitate the taking up of these notes by allowing them to be exchanged for temporary loan, bearing interest at a rate not exceeding three and sixty-five hundredths per cent.

The committee were of opinion that the banks that held these compound-interest Treasury notes would be very glad to exchange them for these certificates, as provision is made in this section for their making the same use of them that they now make of the compound-interest notes, that is, holding them as part of their reserve.

Mr. WILSON, of Iowa. I desire to ask the gentleman to explain what reason has induced the Committee of Ways and Means to recommend a departure from the principle of the banking law, by which the banks are required to hold in reserve "lawful money." Why is it that that committee now recommend that certificates bearing interest and not being a legal tender may be held by the banks in reserve for the redemption of their circulation?

Mr. HOOPER, of Massachusetts. I will state in reply that under the law, the banks in cities where there is an Assistant Treasurer of the United States can hold these certificates as part of their reserve now; and certificates of this character have been used for this purpose, bearing, however, a higher rate of interest than what is now proposed. They were used by the banks for the purposes of the clearing-house.

The banks held such certificates as a part of their reserve. I will call the attention of the gentleman to another fact, that these certificates are payable on demand; so that the banks can at any time call upon the United States Treasury to exchange them for lawful money.

Mr. WILSON, of Iowa. That may be very well in cities where there are Assistant Treasurers of the United States, but how will it be with the country banks? The holders of the bills of a bank present them for redemption, and the bank is holding these certificates, which are not legal tender and which cannot be used for the redemption of its notes. The holders of its bills, therefore, cannot receive from the bank the amount of their bills until the bank can send to some office of the Government and have these certificates exchanged for legal tender, and in the mean time the credit of the bank is destroyed, and it goes into liquidation merely because it has not in its hands the legal tender required by the banking act to be held in reserve.

Mr. HOOPER, of Massachusetts. I will

state briefly to the gentleman from Iowa that this bill makes no change in the law in that respect. The banks are now allowed to hold deposits in other banks as a part of their reserve. This merely allows them to hold certificates of the Treasury Department instead of deposits in other banks. It does not diminish the amount of lawful money which a bank is bound under the law to hold, and it leaves it exactly where it now is; because the banks are still required to keep two fifths of their reserve in lawful money.

Mr. WILSON, of Iowa. I would ask the gentleman why we should not strike out this first section of the bill, and provide for the redemption of the compound-interest notes by non-interest-bearing legal tenders? Let the banks hold these non-interest-bearing legal tenders as a reserve, and it will save \$3,000,000 of interest a year to the Government.

Mr. HOOPER, of Massachusetts. That will involve the issue of \$100,000,000 of legal tenders.

Mr. WILSON, of Iowa. Eighty millions are now held by the banks.

Mr. HOOPER, of Massachusetts. Not as currency; they are held as an investment. This bill does not change the position of the banks at all, as the gentleman supposes it does. They will still have a right to hold legal tenders. This merely proposes to allow these certificates of the Treasury Department to be held in the country banks in the place of bank deposits. The idea is that the banks will hold these certificates in place of the balances which they now hold in other banks.

Mr. WILSON, of Iowa. The difference, then, seems to be this: that if we issue these certificates the banks can receive \$3,000,000 a year in the way of interest from the Government for holding their reserve, and at the same time will be holding that which they cannot use for the immediate redemption of their bills, but which they must convert into legal tender.

Now, on the other hand, it is proposed to permit the issue of legal-tender notes not bearing interest for the purpose of taking up the compound-interest notes, and requiring the banks to hold them. The banks will not receive interest on them from the Government, and thus we will save some \$3,000,000 a year.

Mr. ORTH. And have a currency.

Mr. PIKE. This bill provides, as I understand it, for the issue of \$100,000,000 of these certificates.

Mr. HOOPER, of Massachusetts. Not exceeding that amount.

Mr. PIKE. I understand that there are about \$80,000,000 of these compound-interest notes in the hands of the banks. I ask, therefore, what is the necessity of issuing so large an amount of these certificates?

If I understand the position of the currency, it is this: there are \$142,000,000 of six per cent. compound-interest notes now out besides interest. Of that amount a little more than \$100,000,000 will mature before we meet in December; and some eighty million dollars are now held by the banks as a portion of their reserve, their whole reserve being, I believe, according to the last report, \$205,000,000. Now, the point which I wish to make is that there is no necessity for any legislation providing for that portion of the compound-interest notes now held in the country by way of investment, because the persons holding them in this way may as well take our long bonds when these compound-interest notes mature and they wish to change their investments.

Mr. HOOPER, of Massachusetts. The gentleman will permit me to suggest that if they were paid in anticipation it would reduce the interest from six per cent. to three and sixty-five hundredths; so that the Government would not suffer; and if the holders of compound-interest notes do not choose to exchange them in anticipation, they can continue to hold them till maturity.

Mr. PIKE. I submit to the gentleman that under that arrangement the Treasury would

be embarrassed, for the present effort of the Secretary of the Treasury is to relieve himself from temporary claims—immediate and demand claims—and put everything, so far as possible, into long bonds. This proposition leaves these as an immediate charge upon the Treasury constantly; and the consequence will be that the Secretary will have to present constantly his monthly report with a large amount of currency on hand, giving as a reason for it these immediate liabilities and the necessity of holding a large amount of currency on hand to meet such charges.

Mr. HOOPER, of Massachusetts. In reply to the gentleman from Maine, [Mr. PIKE,] I would say that the law now provides that the Secretary of the Treasury may issue \$50,000,000 of greenbacks whenever it may be necessary to meet such demands.

Mr. PIKE. One word more and I shall be done. The issue of greenbacks would not swell the volume of the currency, because they would serve as a part of the banking reserve. They would not be a charge upon the Treasury, because until we resume specie payments the Secretary of the Treasury is not bound to provide for their payment. Besides that, the issue of greenbacks would save the interest, as the gentleman from Iowa says. So there are three reasons, which seem to me to be controlling reasons, why we should take up these compound-interest notes, so far as we take them up at all, by legal-tender notes rather than by this new mode of temporary loans.

Mr. HOOPER, of Massachusetts. I now yield to the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. STEVENS. I wish to offer an amendment, upon which the gentleman from Massachusetts agrees to test the sense of the House. My amendment is to strike out in the first section the words "receive on deposit," and insert in lieu thereof the words "redeem the," and to strike out all after the words "accrued interest," and insert in lieu thereof the word, "and to issue therefor United States legal-tender notes;" so that the section will read as follows:

That the Secretary of the Treasury is hereby authorized and directed to redeem the compound-interest notes, with the accrued interest, and to issue therefor United States legal-tender notes.

Mr. FARNSWORTH. Not bearing interest?

Mr. STEVENS. Of course they bear no interest.

The SPEAKER. Does the gentleman from Massachusetts yield to allow the amendment to be offered?

Mr. HOOPER, of Massachusetts. Yes, sir; I am willing that the sense of the House shall be taken upon it. I now yield to my colleague on the committee, the gentleman from Iowa, [Mr. ALLISON.]

Mr. ALLISON. I wish to suggest to the gentleman from Pennsylvania that if he proposes to issue greenbacks in lieu of the compound-interest notes, he should say "at or after the maturity thereof."

Mr. STEVENS. What difference does it make? They bear interest till maturity, and if the holders choose to exchange them before maturity for legal-tender notes bearing no interest it is so much advantage to the Government.

Mr. HOOPER, of Massachusetts. I now yield to the gentleman from New York, [Mr. HOTCHKISS.]

Mr. HOTCHKISS. Mr. Speaker, I can see no reason why the banks should not be allowed to take care of their own interests. So far as concerns their reserve on hand, I see no more impropriety in allowing them to hold it in five-twenty bonds than in allowing individuals to purchase those bonds. Why should not the banks here at home hold those bonds rather than have them purchased by foreign capitalists?

Mr. PRICE. Will the gentleman allow me to ask him a question?

Mr. HOTCHKISS. Certainly.

Mr. PRICE. The gentleman says he sees no reason why the reserve fund of the banks should not be held in five-twenty bonds. Now, suppose that the gentleman has deposited in bank \$100,000, and presents a check for that amount; suppose that the bank pays him in five-twenty bonds, would the gentleman consider himself as paid in currency which could be used by him in ordinary business?

Mr. HOTCHKISS. If I have a deposit in bank and I draw my check for that deposit, it is a matter between me and the bank whether I am paid or how I am paid. It is for me to make complaint if I consider myself aggrieved. If a bank does not so conduct its business that it can redeem its pledges, take care of its deposits, provide for meeting its obligations, the bank will fail. But if we must constantly watch over these banks to protect the public against them, and if in order to accomplish this we must constantly make war upon them, we had better let the banking business alone and allow it to be conducted under the management of the States. A bank that is sound will take care of its depositors and its bill-holders. If any bank does not do this it will be wound up.

The proposition now is that the banks shall not be allowed to hold in five-twenties what they have heretofore held in compound-interest notes. We are to compel them to hold as their reserve a portion of the currency of the country; and in order to enable them to do this we must issue additional currency.

Mr. HOOPER, of Massachusetts. I rise to a point of order. I think that the gentleman is not speaking upon this bill.

The SPEAKER. The gentleman from Massachusetts has the right to resume the floor whenever he pleases.

Mr. HOOPER, of Massachusetts. I must resume the floor. I now yield to the gentleman from Maine, [Mr. LYNCH.]

Mr. LYNCH. I ask the gentleman from Pennsylvania to accept as a substitute for his amendment the following:

In the first section, strike out all after the enacting clause and insert in lieu thereof the following:

That the Secretary of the Treasury is hereby authorized and directed to issue, in addition to the amount now authorized by law, \$100,000,000 of such United States notes as are authorized by section one of an act to authorize the issue of United States notes, &c., approved February 25, 1862; which notes shall be issued in payment of compound-interest notes, and for no other purpose, until all of such notes shall have been redeemed; and the Secretary of the Treasury shall so redeem the same as they shall be presented at the Treasury of the United States.

Mr. STEVENS. I cannot accept that.

Mr. LYNCH. I offer it as an amendment to the amendment.

The SPEAKER. Does the gentleman from Massachusetts yield for that purpose?

Mr. HOOPER, of Massachusetts. I do not. I yield to the gentleman from Pennsylvania for a few moments.

Mr. RANDALL, of Pennsylvania. I ask the Clerk to read for information the following, which I shall move as an amendment if I get an opportunity:

That the Secretary of the Treasury is hereby authorized and directed to issue, on the credit of the United States, such sums as may be necessary for the purposes set forth in this act, not exceeding in the aggregate amount \$100,000,000 of Treasury notes, not bearing interest, of such denominations as he may deem expedient, which said notes shall be lawful money and a legal tender for debts in like manner as provided in the first section of an act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," passed February 25, 1862. And the provisions of the sixth and seventh sections of said act are hereby reenacted and applied to the notes herein authorized; and the same to be used for the payment of the compound-interest notes as they mature.

Mr. Speaker, I will, with the permission of the gentleman from Massachusetts, say a few words in explanation of my proposition. It will be observed it provides for the payment of compound-interest notes to the extent of \$100,000,000, an amount sufficient for the coming year, by the issue of legal-tender notes. I prefer the mode of issuing these legal-tender notes; and further it places these legal tenders under the operation of the law in reference to counterfeiting.

Now, sir, it is manifest to my mind, this House is not prepared to issue for the benefit of these banks three per cent. loan. Under the provisions of the bill as it came from the Senate the expense to the Government and to the taxpayers during the coming year would be \$5,400,000. I apprehend in the present condition of the Government this would not only be improper but culpable expenditure.

In reference to the contraction or anti-contraction question, it is my opinion this issue of \$100,000,000 of legal tenders in place of the present reserves will not produce inflation in the monetary markets of the country. If my proposition be adopted, I think the Senate and House will agree to leave the law as it is for retiring \$4,000,000 per month.

Mr. LYNCH. I wish to ask the gentleman a single question before he sits down. Wherein does his amendment differ from mine?

Mr. HOOPER, of Massachusetts. I yield now to the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. BROOMALL. It ought to be distinctly understood that the proposition of my colleague is for the direct expansion of the currency. It may be it is impossible for us to contract, but at least we ought to hesitate before we agree to expand the currency. I know that it is desirable to get rid of the interest upon the interest-bearing legal tenders; but to get rid of that interest by a further expansion of the currency would create much more evil than the burden of the amount of interest would be detrimental to the Government.

I have said it was for the direct expansion of the currency, and any gentleman who will follow me for a moment in the argument will see that I am right. A part of this interest-bearing currency is held by the banks in their reserve, and that for the substitution of legal tenders would not increase the currency of the country, because that far the interest-bearing legal tenders operate as currency. But nearly one half of the entire interest-bearing legal tenders are held by individuals as investments.

A MEMBER. You are not stating it exactly.

Mr. BROOMALL. I do not know the exact proposition, but to substitute non-interest-bearing legal tenders for interest-bearing legal tenders would be putting them out into the country in the way of currency, and to that extent would inflate the currency. I trust the House is not prepared to do that.

Mr. HOOPER, of Massachusetts. I now yield to the gentleman from New York.

Mr. POMEROY. I wish to say, Mr. Speaker, that it seems to me all the discussion that has been had on this subject is entirely foreign to the real issue before the House. The measure introduced is not one from the Committee on Banking and Currency. It is not a question in which the banks or the banking interest of the country is directly concerned. It is a question presented by the Committee of Ways and Means, involving the funding of the debt of the United States.

Now, I wish to ask members of this House whether they are ready to-day, after the passage of a reconstruction bill, more radical in its nature than was ever dreamed of even by the veteran Radical on my left, [Mr. STEVENS]—whether they are determined now, a year and a half after the last weapons of the rebellion have been grounded, to persist in burdening the industries of the country by a further issue of interest-bearing legal-tender notes. Sir, I say, let us come up to the work. If the Republican party goes down, it goes down not because the moral sentiment of the people does not stand by it, but because it is wanting in the financial ability to protect the pockets and supply the bellies of the people. It is time to begin to pay off the public debt, not by sending out a year and a half after the conclusion of the war, \$100,000,000 of continental paper to pay the war debt. If we cannot pay off the debt, say so; but do not let us indirectly in this way stab the credit and undermine the industry of the country. As a member of this Congress I am ashamed to have a proposition made at the

close of the Thirty-Ninth Congress to pay off the debt of the United States or any portion of it otherwise than by bonds payable, principal and interest, in gold, or else by gold itself.

Mr. GRINNELL. Will the gentleman yield for a question?

Mr. POMEROY. Yes, sir.

Mr. GRINNELL. I ask him if he is in favor of paying off more than \$200,000,000 a year; if he is not very well satisfied not to break us down at once, but to let up a little on taxation.

Mr. POMEROY. Mr. Speaker, at the time these \$150,000,000 of compound-interest notes were issued it was right in the heat of the contest with the rebels. The Secretary of the Treasury was ashamed to come to Congress and ask even then, in that desperate condition of public affairs, the issue of another dollar of greenback currency.

Mr. LYNCH. Will the gentleman allow a question?

Mr. POMEROY. Yes, sir.

Mr. LYNCH. I ask him whether this proposition is not precisely this, and not as stated by him: whether it is not to give to the banks of the country, having the monopoly of \$300,000,000 of currency granted to them by the Government, these three per cent. notes to hold as part of their legal reserve. Instead of six per cent. notes we propose to give them three per cent. notes. Because it is in part payment for the privilege of issuing these \$300,000,000. Now, what we propose to do is, instead of giving three per cent. notes, is to give them nothing but legal-tender notes and let them issue currency upon them. It is not an inflation of the currency by a single dollar.

Mr. POMEROY. I am trespassing upon the courtesy of the gentleman from Massachusetts, but in reply to the gentleman from Maine [Mr. LYNCH] I have but this to say, that when the question of the existence of the national banks comes to be agitated, as I see it must, before the Congress of the United States, I stand ready to defend the banking institutions of the country as against this irredeemable greenback circulation. But that is not the question now. It is a question of the funding of the public debt, and when the gentleman asks me if it is in the interest of the banks I tell him I do not care in whose interest it is. I see in this a proposition to convert \$150,000,000 of compound-interest notes into a debt bearing three and sixty-five hundredths per cent. interest. Whoever wants it let them take it. I do not care who takes it; it will be better than it is now. We shall have floating, instead of compound-interest notes, the same amount, at three and sixty-five hundredths per cent. interest; and I would rather, if it can be done without injury to the business interests of the country, that it should be invested in five-twenty per cent. bonds. But I insist that the Committee of Ways and Means have done well in introducing this bill; simply looking to the existing condition of affairs, they have sought neither to inflate nor to contract the currency, but seeing these compound-interest notes lying in the way, and treating that as a debt, as they are a debt, they propose, for a temporary purpose, to fund it into a loan bearing three and sixty-five hundredths per cent. interest. If they can do that they deserve well of the country.

#### ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 1143) to provide for the more efficient government of the rebel States; when the Speaker signed the same.

#### COMPOUND-INTEREST NOTES—AGAIN.

Mr. HOOPER, of Massachusetts. I now yield ten minutes of my time to the gentleman from Iowa, [Mr. PRICE.]

Mr. PRICE. As the basis of the few remarks which I design to make I send to the Clerk's desk an amendment which I shall propose and get a vote on if I can.

Mr. HOOPER, of Massachusetts. I cannot yield to allow the amendment to be offered, but I will hear it read.

The Clerk read Mr. PRICE's proposed amendment, as follows:

Amend section one, as follows:  
Strike out all after the enacting clause in the first section and insert: "That the Secretary of the Treasury be, and he is hereby, authorized and directed to issue to the holders of compound-interest notes, when presented for redemption, legal-tender non-interest-paying notes; but no such legal tenders shall be issued except for the purpose of taking up said compound-interest notes as they shall be presented for payment."

Mr. PRICE. Mr. Speaker, the proposition contained in that proposed amendment is simply this: the Government has at this day over one hundred million dollars of compound-interest notes out. They were issued at a time when the pressure on the financial interests of the country made them a matter of necessity. Those notes become due in a very short time, and the Government will be compelled to take them up in some way. The gentleman from New York [Mr. POMEROY] says that he proposes to take them up with five-twenty bonds. It requires no argument to show that if you take them up with five-twenty bonds you are burdening the Government—and when I say the Government I mean the tax-payers of the country—with just that much interest, which would be something between six and seven million dollars. For that reason I am opposed and shall be opposed to funding these compound-interest notes in five-twenty bonds.

Mr. HOTCHKISS made a remark, which was entirely inaudible at the reporter's desk.

Mr. PRICE. My proposition is that when these notes come in for payment, as they are presented the Secretary of the Treasury shall be authorized and directed to take them up with legal-tender notes bearing no interest.

In that way I accomplish two things. In the first place, I take up notes that the Government issued in its day of trial, and I pay for them, dollar for dollar, principal and interest, the amount that the holder can demand, so that he loses nothing.

I also save the country, that is, the tax-payers, from the burden of interest, a burden which is now between eight and nine millions, and which, under the proposition of this bill of the Committee of Ways and Means now under consideration, would be increased between three and four millions. I save that to the country by my proposition. This amendment would operate hardly upon no class in the community, and upon no interest, save the banking interest; and I think I may say, without fear of successful contradiction on this floor or elsewhere, that the interest that is advocating the issue of these three and sixty-five hundredths per cent. notes is the banking interest of the country.

Now, I have no objection to the banks making money. I hope they will all make money and get rich, and that every man connected with them will do so; but I do not propose in my place here as a legislator to take money from the tax-payers of the country to make rich the men who stand behind the counters of the banks of the country. This is simply a proposition of that kind.

Let me now answer the proposition made by the gentleman from New York [Mr. HOTCHKISS] a moment ago. He proposed that the banks should hold five-twenty bonds as a reserve fund. Sir, that proposition is only paralleled by another that I have heard of—and I am told that the person who perpetrated the grim joke is now on the Supreme bench of the nation. When a young man he was elected to the Legislature of his own State.

Mr. PIKE. Do not name the State.

Mr. PRICE. I will not tell what State it was. He took up a bank report and discovered that there were a great many hundreds of thousands of dollars on deposit in the different banks of the State. Being a young man, and desiring to signalize in some way his entrance into public life, and at the same time to benefit his constituents, he introduced a resolution



directing that the deposits in the different banks in the country should be divided among the people *pro rata*. That would have been a nice thing for those people who would have received any of the money; but so far as my information goes the resolution did not pass.

Now, the gentleman from New York [Mr. HOTCHKISS] proposes that the banks shall keep their reserve fund in five-twenty bonds. Sir, what is the reserve fund for? Every man who has ever seen even the outside of a bank knows that this reserved fund is to pay the claims of depositors and bill-holders. A depositor comes into the bank and says that he wants to draw his deposits. He draws his check, stamps it properly, and lays it down on the counter. Now, will he be satisfied if the cashier hands him a five-twenty bond? Certainly not; he wants something he can circulate as money. The next man who comes in holds in his hand \$1,000 of the circulation of that bank, which he wants to have redeemed. Now, will the bill-holder be satisfied with a five-twenty bond?

Now, I am willing to concede that the gentleman from New York [Mr. HOTCHKISS] is a first-rate lawyer; but I say he does not know everything about banking or he would not make such a proposition.

Mr. Speaker, I am opposed to that provision of the bill which looks to the repeal of the law which authorizes the retirement of \$4,000,000 of the currency per month. As I have already said, I propose that these compound-interest notes shall be redeemed with legal-tender notes, which, for the sake of argument only, I will admit would put that much more in circulation upon the country. I say I admit that only for the sake of argument, for there is not even a moderate business man who does not know that when these compound-interest notes are replaced by legal tenders the amount of circulation is very little, if any, increased; nothing worth talking about. The banks are compelled to put in their reserve fund the legal tenders which are issued in place of these compound-interest notes; so that that really works no inflation of the currency.

Mr. HOOPER, of Massachusetts. I must now resume the floor.

Mr. PRICE. The gentleman is a banker, and certainly he will keep his contract with me.

Mr. HOOPER, of Massachusetts. I yielded to the gentleman for ten minutes.

Mr. PRICE. I certainly have not spoken for ten minutes.

Mr. HOOPER, of Massachusetts. I think the gentleman has used up his time.

Mr. PRICE. If I have, a portion of it has been taken up by gentlemen who interrupted me.

Mr. HOOPER, of Massachusetts. I will yield to the gentleman two minutes more.

Mr. PRICE. I thank the gentleman for his courtesy. Sir, this country must look forward to an ultimate resumption of specie payment. And where the receipts of the Government exceed the expenditures, as they have done during the last year, we can very safely prepare to return to specie payment at some future day, I grant you we cannot contract the currency very much at this time; and I do not propose by any action to contract the currency so as to create any disturbance in the commercial or other values of the country.

But with the tax list before us, showing an excess of receipts of \$200,000,000 over the expenditures, we can relieve the tax-payers of the country at least \$150,000,000 a year by a reduction of the taxes. That will leave us \$50,000,000 with which to retire the currency, and in that way we will in time bring down the \$900,000,000 of currency which we now have to some point where we may look for an ultimate resumption of specie payment. Now, this can be done in this way without any check upon or interference with the business of the country, and in no other way. Now, if we retire those compound-interest notes and replace them with five-twenty bonds, and also retire \$48,000,000 of the currency per

year, there will be a contraction this year of \$148,000,000.

I know the country is not prepared for that, and will not agree to it. If we will in this bill strike out the clause requiring the repeal of the law which now authorizes a contraction of \$4,000,000 per month, and will authorize the issue of legal-tender notes for for this purpose and no other, to take the place of the compound-interest notes as they fall due and no faster, the country will move on in that tide of prosperity which has characterized it for the last few years.

Mr. HOOPER, of Massachusetts. I now yield five minutes to the gentleman from Ohio, [Mr. EGGLESTON.]

Mr. EGGLESTON. Mr. Speaker, I have been somewhat surprised at the views which have been expressed by several gentlemen on this important subject. It strikes me that this is a very simple proposition; and if every gentleman here would divest himself of all biasing influences outside and inside of this House, and of his own private feelings on the subject, he could come to a correct conclusion without any trouble.

What is this question? In the first place, the national banks of the country are required by your banking law to keep a certain amount upon deposit to protect the depositors and other creditors of the banks. It requires about one hundred million dollars to supply the national banks with the amount which they are thus by law required to keep on hand. Of these hundred millions now proposed to be redeemed nearly ninety millions are locked up in the vaults of the banks, drawing six per cent. interest. Those notes become due during this year, and we are bound to provide for their redemption. The object of this bill is to provide the ways and means of meeting those notes.

It is urged that if we redeem those notes with legal-tender notes we shall increase the volume of the currency. But, sir, this is impossible, because as soon as these notes become due and the interest upon them ceases the banks must put something else in their places. If they cannot obtain interest-bearing notes in their places they must accept legal tenders and put them in their vaults in place of these compound-interest notes. Now, sir, the object of the proposition of my friend from Massachusetts [Mr. HOOPER] is to give these banks in return for their compound-interest notes certificates bearing three and sixty-five hundredths per cent. interest. But I say let us give the people the legal-tender notes. Let us authorize the issue of \$100,000,000 of legal-tender notes, and as fast as the compound-interest notes mature let the Secretary of the Treasury redeem them with legal tenders. These will go into the vaults of the banks in place of the others, and there will be no increase of the volume of the currency.

But it is said that these compound-interest notes are held as an investment. Now, Mr. Speaker, I have only to say that if any persons are holding these notes as an investment they are very "green," for they can do much better with other kinds of securities.

I hope, Mr. Speaker, that the amendment of the gentleman from Pennsylvania [Mr. STEVENS] will prevail, so that the people will be saved the payment of interest upon the certificates which the gentleman from Massachusetts proposes shall be issued.

Mr. HOOPER, of Massachusetts. I now yield two minutes to the gentleman from New York, [Mr. HOTCHKISS.]

Mr. HOTCHKISS. Mr. Speaker, I might have claimed the floor, I suppose, upon a question of privilege to answer that portion of the language of the gentleman from Iowa which was addressed to me. He says that I am a good lawyer; but a poor banker. Now, sir, I do not profess to be a banker; the gentleman does. I want to ask him how these moneys are to be applied for the benefit of the depositor, when the law requires that they shall lie in the vaults of the bank perfectly idle. The language of

the law is that they shall be there "at all times." In the second place, these banks of \$100,000 capital generally have on deposit one, two, or three hundred thousand dollars.\*

Now, if this twenty-five per cent. is there as security for the depositors, the depositor is not entitled to more security than the bill holder. When this banking law was enacted and amended in the Thirty-Eighth Congress I stood almost alone in the Republican party, there being with me only a few friends like my colleague from New York, defending the privileges of the community to tax these banks and to make them carry a portion of the burdens of the Government. I would like to know where my friend from Iowa was then; whether he voted as a friend of the people or of those banks on that occasion. There can be no earthly objection to the banks holding these five-twenty bonds to the extent of twenty-five per cent. They do not pay them out. They may as well have interest upon them as foreign bond-holders. It is better for the country they should remain there in so far as they save our bonds from going abroad, and the annual export of gold to pay the interest on those bonds. It is a suicidal policy, and if the defendants in this case could be heard as well as the plaintiffs, I have no doubt this House could be convinced to allow these banks to hold these bonds. Let them go into the market, if they choose, and buy bonds. They take them and hold them in reserve instead of holding "greenbacks" in reserve.

Mr. HOOPER, of Massachusetts. I now yield to the gentleman from Iowa.

Mr. GRINNELL. I only wish to say that I am satisfied with the report of the committee as proposed to be amended by the gentleman from Pennsylvania, [Mr. STEVENS;] and I think it will be satisfactory to the country, and is as good as anything we can expect to get.

Mr. HOOPER, of Massachusetts, demanded the previous question.

Mr. RANDALL, of Pennsylvania. I hope it will not be seconded.

The House divided; and there were—ayes 55, noes 55.

Mr. THAYER demanded tellers.

Tellers were ordered; and Mr. HOOPER, of Massachusetts, and Mr. RANDALL, of Pennsylvania, were appointed.

The House again divided; and there were—ayes seventy-two, noes not counted.

So the previous question was seconded.

The main question was then ordered to be put.

Mr. HOOPER, of Massachusetts. I rise under the rules to close the debate. I will not presume to occupy the time of the House in further discussion of this bill, except simply to say I look upon the proposition of the gentleman from Pennsylvania (Mr. STEVENS) as one producing inflation of the currency. The certificates as proposed in this section I think would not have that effect. So far as these banks hold these compound-interest notes as part of their reserves, they would be merely substituted for the certificates which are authorized. It would be exchanging the compound-interest notes bearing six per cent. interest for certificates at a rate of interest not exceeding three and sixty-five hundredths. My own impression is, the Secretary would not issue them over three per cent. I now yield to my colleague on the committee.

Mr. ALLISON. Mr. Speaker, I desire to say a word or two in defense of the first section of this bill so far as it is regarded as a bill in favor of national banks. The proposition is simply to exchange certificates of indebtedness for compound-interest notes; and we are told it is a mere device for the purpose of enabling the banks to receive interest. On the contrary, I regard it to a certain extent as a measure of contraction in the direction where we should have contraction. It is known by this House, under existing laws, the country banks so called, that is, the banks outside of the city of New York or nearly all of them.

now keep three fifths of their reserves in that city for redemption of outstanding notes, and it is well known that the banks of New York to-day pay four per cent. on those balances, which are used for speculative purposes; and, sir, this causes expansions and an unsettled state of business more than anything else in the country. The proposition is simply to authorize these banks to use the Government as a depository instead of the New York banks, and allow an interest at the rate of three and sixty-five hundredths as an inducement to the country banks to deposit with the Government.

Mr. HARDING, of Illinois. I desire to ask whether the redemption fund in the clearing-houses in the large cities is not usually invested in compound-interest notes, and whether the interest on them is credited to the country banks?

Mr. ALLISON. I know country banks keep deposits in New York city and receive four per cent. interest, while these balances are loaned out to brokers at seven and eight per cent., or they may and doubtless have invested largely in compound-interest notes. In this way when money is scarce in New York this scarcity reaches to remote parts of the country, and when money is easy in New York a carnival of speculation follows.

Mr. HARDING, of Illinois. My question is whether the banks get any credit for that?

Mr. ALLISON. Of course they get no credit. Now, it is proposed to authorize the country banks, instead of keeping deposits in New York at four per cent., as the law now authorizes them to do, to keep Government deposits at three and sixty-five hundredths. Now, gentlemen say, why not issue greenbacks? I have no objection to the proposition, but I am in favor of the proposition reported by the committee as the best proposition offered, unless it be one to issue greenbacks instead of compound-interest notes; because if we do not issue these certificates of indebtedness or greenbacks in lieu of these maturing compound notes, the Secretary of the Treasury will be compelled to redeem these compound-interest notes, and issue in lieu thereof United States five-twenty bonds, bearing six per cent. in gold, as he cannot redeem them with the accruing revenues of the Government; and for one I am opposed to any further extension of the issue of the gold-bearing bonds of this country, if it is the policy of the Government, as I understand it to be, to pay off gradually the national debt. Therefore, unless we issue the plain greenbacks in lieu of compound-interest notes, it is a measure of economy on the part of the Government to issue certificates of indebtedness for the time being, and, as we collect taxes and raise money, pay off these short maturing obligations drawing a low rate of interest, instead of converting them into long bonds, drawing interest at six per cent. in gold.

Mr. HARDING, of Illinois. Will the gentleman allow me to ask how far this will probably enable the country banks to keep in reserve these certificates?

Mr. ALLISON. My friend knows that the demand certificates of this Government are just as good for purposes of redemption as the certificates of the New York banks; and therefore it is, if they exhaust their two fifths reserve of lawful money, they can at any time convert these certificates into lawful money as easily and readily as they could their funds deposited in the New York banks.

Now, I desire to say further, that for myself I am prepared to vote for the issue of United States notes in lieu of these compound-interest notes to the extent proposed by the amendment, and I deny that the proposition of the gentleman from Pennsylvania, [Mr. STEVENS,] to issue greenbacks in lieu of compound-interest notes, is an expansion of the currency. These banks to-day hold \$90,000,000 of compound-interest notes. They are a part of their reserve as currency, and when they are withdrawn this reserve must be made up by legal-tender notes, which legal-tender notes to that extent are withdrawn from circulation. Therefore, if we take from

the banks \$90,000,000 of compound-interest notes and substitute for them the United States notes, we do not increase the circulation of the country to any great extent. Hence, I am in favor of adopting either one or the other of these propositions, and I shall first vote to issue greenbacks to the extent of \$90,000,000. If that fails, I shall ask gentlemen who are in favor of withdrawing \$143,000,000 of currency this year to support the proposition of the committee, so that we will substitute bonds or a class of indebtedness bearing a low rate of interest instead of converting these compound-interest notes into six per cent. gold-bearing bonds payable twenty years hence, principal and interest, in gold. It must be apparent to all that we must change this form of indebtedness before August, 1868. And I shall vote for that proposition which imposes the least burden upon the Government and the people.

Mr. HOOPER, of Massachusetts. I now yield to the gentleman from New York.

Mr. DODGE. I am prepared to vote for the report of the committee. I think it will give more satisfaction to the entire community than to pass an amendment to issue \$140,000,000 more of greenbacks. There is very great anxiety in the country now lest in some way this Congress will adopt some resolution for the increase and further inflation of the currency. Now, the currency cannot be disturbed at all if this bill shall become a law, for the notes now to be redeemed bearing six per cent. interest will be substituted by interest-bearing notes of three and sixty-five hundredths per cent. On the other hand, if you issue the greenbacks, I believe the Government, let alone the country, in the purchases to be made during the coming year, will lose more than the \$3,000,000 of interest which it would allow the banks. No plan can be devised which will give such ease to the anxious and provide for the \$140,000,000 of compound-interest notes as to pass this bill. They will be substituted immediately and there will be no inflation of the currency. On the other hand, if some provision is not made, the banks will be obliged to substitute greenbacks, and there will be a contraction of over \$100,000,000. I trust the bill as reported by the committee will be passed.

Mr. HOOPER, of Massachusetts. I now yield to the gentleman from Maine, [Mr. PIKE.]

Mr. PIKE. I want to make a suggestion in relation to the proposed amendment. It seems to me a very valuable amendment with just one change in it. It now provides that the Secretary of the Treasury shall issue legal-tender notes in place of the compound-interest notes. I think it ought to be changed so that the Secretary of the Treasury shall issue as many legal-tender notes as he deems necessary. The difference, which is very marked, is this: the Secretary of the Treasury holds on hand now \$40,000,000 of legal-tender notes, or their equivalent at currency value. Now, if he can dispose of a portion of that \$40,000,000 and take up six per cent. notes, why not do it? If he hereafter chooses to keep \$20,000,000 on hand instead of \$40,000,000, and uses the balance to take up six per cent. notes, what is the objection to his doing it? Why oblige him to increase the volume of the currency, no matter what the circumstances in which the Treasury is placed? It does seem to me that the House is taking upon itself the management of the currency in a particular that it would not do if it realized the condition in which the Secretary of the Treasury finds himself placed.

Mr. HOOPER, of Massachusetts. I yield five minutes to the gentleman from Maine.

Mr. LYNCH. Mr. Speaker, section thirty-one of the national currency act provides:

"That every association in the cities hereinafter named shall, at all times, have on hand in lawful money of the United States an amount equal to at least twenty-five per cent. of the aggregate amount of its notes in circulation and its deposits, and every other association shall have fifteen per cent."

That twenty-five per cent. and fifteen per cent. of lawful money which the national banks

are required to keep as a reserve amounts at the present time to something over two hundred million dollars, \$100,000,000 of which is held in compound-interest notes. Sir, I am told by the Comptroller of the currency that about ninety million dollars are returned, but there is mixed in the returns, according to the estimate, about ten million dollars more.

Now, within the present fiscal year the compound-interest notes mature and are to be paid, and they amount, with the interest added, to \$170,000,000. I suppose that with the exception of the \$100,000,000 held by the banks the others are out of circulation, but are held as investments. So that retiring the \$70,000,000 held as investments by individuals would not contract the currency, but the \$100,000,000 which are held by the banks as a reserve must be replaced by \$100,000,000 of legal tenders withdrawn from circulation.

As has been stated to-day, the Secretary of the Treasury is authorized to withdraw \$4,000,000 per month, or \$48,000,000 in the course of a year, and in addition to that the banks will have to supply the place of these compound-interest notes now held as a reserve, which will withdraw \$100,000,000 more, making \$148,000,000 in a single year. Now, I take it any business man knows we could not stand any such contraction as that, and hence this bill is reported by the Committee of Ways and Means for the substitution of \$100,000,000 for that amount of compound-interest notes to be taken from the banks as a reserve of lawful money.

Now, look at the effect of it. Here are \$100,000,000 of three per cent. notes made, for what? As the gentleman from Iowa well said; to take the place of lawful money and redeem the obligations of the banks. Every gentleman knows that without a reserve of lawful money they cannot redeem their obligations when presented. But gentlemen say these bonds are on demand, and they can be carried back to the Treasury and receive their \$100,000,000. True, but the Government in the mean time is not only paying three per cent. on this \$100,000,000 but holding \$100,000,000 of currency in the Treasury with which to redeem these demand bonds.

Now, what is the proposition of the gentleman from Pennsylvania? It is to issue legal-tender notes to the full amount of these compound-interest notes. It goes very much further than any other proposition which has been made here. It proposes that we shall not only provide for these \$100,000,000 of compound-interest notes, which would be no inflation of the currency, but simply a substitution by the banks of legal-tender notes for the compound-interest notes now held in reserve by them; but that the other \$70,000,000 of compound-interest notes not held by the banks, but by private individuals, shall be replaced by legal-tender notes which are to go immediately into circulation. We therefore, by the provisions of this bill, if amended as the gentleman proposes, not only forbid the contraction of \$4,000,000 of the currency per month, now authorized by law, but we increase the present circulation by \$70,000,000. I am not prepared to support any such proposition.

Now, the plan I proposed would replace the \$100,000,000 of compound-interest notes by legal tenders, instead of by these interest-bearing demand bonds, provided for in the first section of this bill, thus saving the Government not only the interest on the bonds, but also upon whatever amount the Secretary of the Treasury would be obliged to hold with which to redeem them when presented. This would be neither inflating nor contracting, but would leave the amount in circulation precisely the same as at present. It is said by gentlemen that the banks would use their reserve if all in United States notes, but they have \$100,000,000 of such notes under this bill and \$100,000,000 of these proposed bonds payable on demand, for which they can at any time obtain United States notes at the Treasury. There is no protection whatever against

banks using their reserve by issuing bonds payable on demand instead of United States notes.

Mr. STEVENS. I will modify my amendment by limiting the amount to \$100,000,000, and providing that the notes so issued shall bear no interest.

Mr. LYNCH. As that is exactly my own proposition of course I shall not object to it.

#### MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House, by Colonel WILLIAM G. MOORE, his Secretary.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the House of the following title; when the Speaker signed the same:

An act (H. R. No. 607) to amend an act granting the right of way over the military reserve at Fort Gratiot, Michigan.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had insisted on its amendments to the bill of the House No. 598, to establish a uniform system of bankruptcy throughout the United States, disagreed to by the House of Representatives, and asked a committee of conference on the disagreeing votes of the two Houses thereon; and had appointed Mr. POLAND, Mr. MORGAN, and Mr. McDUGALL as the conferees on the part of the Senate.

The message further announced that the Senate insisted upon its amendments to the bill of the House No. 811, for the relief of certain drafted men, disagreed to by the House of Representatives, and agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon; and had appointed Mr. WILSON, Mr. COWAN, and Mr. NESMITH the conferees on the part of the Senate.

#### COMPOUND-INTEREST NOTES—AGAIN.

Mr. HOOPER, of Massachusetts. I now yield five minutes to the gentleman from New York, [Mr. DAVIS.]

Mr. DAVIS. Mr. Speaker, the business men all along our eastern coast and in the great cities of the West are looking with intense anxiety to the action of Congress in relation to the financial affairs of the country. And the apprehension is broad-spread that we will do something during this session toward a further expansion of the currency. I hope that we will show that such an anticipation is not well founded.

If I am right in my judgment of the proposition before the House, the Committee of Ways and Means do not propose to expand the currency, but they propose rather a moderate and reasonable contraction. I think their plan of allowing interest-bearing certificates of indebtedness to be substituted for these compound-interest notes is only an act of justice toward the banking institutions from whose reserves they will be taken. It has been stated here that we shall be giving a great gratuity to the banks by allowing them to keep on hand these interest-bearing certificates instead of these compound-interest notes. Now, I say it would be unjust to do otherwise. This Government received a full consideration for these compound-interest notes when they were issued. And are these institutions to receive nothing by way of interest upon the capital which they advanced to the Government at the time of its sorest need?

We are in this matter but following the example set by many of the States. In the State of New York, years ago, a banking system was established by which the banks of the State were permitted to lock up the stocks of the State as security for their issues. And the banks received interest upon every dollar of that stock from the State. And so it has been in other States. I believe the principle is a correct one, and that we ought to apply it here.

And by the issue of these three per cent. certificates we will satisfy the just expectations of the country, and not injure its interests.

Mr. HOOPER. I now yield to the gentleman from Pennsylvania [Mr. STEVENS] for five minutes.

Mr. STEVENS. Mr. Speaker, several gentlemen seem to misapprehend my proposition, and I desire to explain it.

There is at present outstanding a certain amount of six per cent. compound-interest notes. One hundred million dollars of these will in a short time fall due; and I propose to substitute for them as they mature greenbacks bearing no interest. The proposition of the Committee of Ways and Means is to issue in lieu of the compound-interest notes certificates bearing interest not exceeding three and sixty-five hundredths per cent. Now, why should we not redeem these compound-interest notes with legal tenders? Why should we pay an interest of three and sixty-five hundredths per cent. when we can as well pay legal tenders bearing no interest?

Gentlemen talk about "inflating the currency." How shall we "inflate the currency" by redeeming these compound-interest notes with greenbacks? We simply pay dollar for dollar. I cannot understand why gentlemen should call this "inflating the currency." By the adoption of the proposition which I submit, the Government will save \$6,000,000 a year, which it now annually pays in the form of interest.

I admit that if we exchange these compound-interest notes for certificates bearing three and sixty-five hundredths per cent. interest it will be a good thing for the banks. I have no animosity against those institutions; but we are legislating here for the good of the country and for the interests of the national Treasury. My proposition if adopted will save over that of the committee the yearly interest on \$100,000,000 at three and sixty-five hundredths per cent.; while it will save \$6,000,000 now annually paid in the shape of interest. It appears to me that I could not make this plainer if I were to talk a thousand years; so I will sit down.

Mr. DODGE. I wish to put a single question to the gentleman from Pennsylvania, [Mr. STEVENS.] The banks are holding \$90,000,000 of these compound-interest notes. There are in circulation \$140,000,000. There are \$50,000,000 unaccounted for. If \$140,000,000 of greenbacks are now issued, the banks will receive \$90,000,000, while \$50,000,000 will go to redeem the compound-interest notes held by individuals. Thus you will have added \$50,000,000 to the greenback circulation.

Mr. STEVENS. I restrict the amount to be issued to \$100,000,000.

Mr. DODGE. Still the proportion will be the same. Now, the gentleman will remember, I am sure, how this country was agitated years ago when it was proposed to withdraw the—

Mr. STEVENS. I merely wish to say to the gentleman that it is impossible for any arithmetic to make one dollar count more than one. We redeem an interest-bearing debt and its accrued interest by paying dollar for dollar. Certainly this does not increase the amount of the circulation; but it diminishes the burdens of the nation.

[Here the hammer fell.]

Mr. HOOPER, of Massachusetts. I now yield to the gentleman from Ohio, [Mr. SPALDING.]

Mr. SPALDING. Mr. Speaker, I suppose that we all know enough of the sense of this House to know that one or the other of these two propositions will be adopted. It is conceded that for the \$100,000,000 of compound-interest notes which are to be paid off during the ensuing twelve months we shall put in the vacancy either certificates bearing three and sixty-five hundredths per cent. interest or Treasury notes, commonly called greenbacks.

Now, Mr. Speaker, it seems to me to be a specious argument to say: "We had better

redeem these compound-interest notes with greenbacks, because these bear no interest. If you redeem these notes with certificates bearing interest at the rate of three and sixty-five hundredths per cent. it is so much money needlessly taken from the Treasury." Sir, there is another consideration. We do not wish, we all say, to expand the currency; neither do we wish to contract the currency to the injuring of business men. Will these three per cent. certificates enter into the currency? Can they do so? If the banks hold them, can they issue them as a circulating medium to pass in the community from hand to hand? No sir. But if we pay over to the banks \$100,000,000 of Treasury notes, then, when they find themselves, as they often do, short of currency, out will go these greenbacks, and the currency will be to that extent expanded.

It may be in violation of the law, but the temptation will be so great the law will be violated, and in spite of us the currency will be thus extended. That is the objection in my mind.

Mr. PRICE. I ask the gentleman to yield to me.

Mr. SPALDING. I cannot; the gentleman has had his time, and I have only five minutes. That is the objection in my mind. I think it better for the Government to pay three per cent. interest on these certificates and let the banks hold them in lieu of Treasury notes, than to issue Treasury notes to the same extent, which may enter into circulation and thus expand it to the injury of the credit of the country and the increase of the present enormous high price of living. That is my objection.

I will vote first for the proposition as it comes from the committee, for I think it is best for the country; and then, if that fails, I will take the \$100,000,000 in "greenbacks."

Mr. HOOPER, of Massachusetts. I will now yield five minutes to the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. RANDALL, of Pennsylvania. Mr. Speaker, I desire to state in the short time allotted to me the reason why I shall support the proposition of my colleague, [Mr. STEVENS,] and it is this: at that point I consider \$100,000,000 of issue is neither a contraction nor an expansion of the currency. The banks of the country hold \$90,000,000 in reserve of these compound-interest notes, and this provides for the issue of \$100,000,000 of legal-tender notes to take their place. Now, these legal-tender notes do not go into circulation, but go into the reserve funds to supply the place of the compound-interest notes, which the banks are now holding, I think, without authority of law. This is a plain business matter; and there are not ten individuals on this floor, if it were a business transaction of their own, who would not be in favor of following the plan as suggested by my colleague.

I hope that amendment will be adopted, and I shall vote for it, because it is at the point where the Senate now stands, leaving the contraction of the currency, as it is under existing law, at \$4,000,000 per month. I vote for it as an economical transaction on the part of the Government, for, mark you, if the proposition of the committee is adopted it will cost the Government next year \$5,000,000, which the Government is in no manner called upon to pay, and which I think the House should, by the adoption of the amendment of my colleague, save to the tax-payers of the country. I am opposed to giving this gratuity to stockholders of banks, to the pecuniary loss of the people. As one Representative of the people I am unwilling to do any such thing.

Mr. HOOPER, of Massachusetts. I think the debate on this bill has gone far enough, and I propose to close it with the remark that the certificates as proposed by the committee would be held by the banks in the place of compound-interest notes, and would not form part of the circulation; whereas the hundred millions of "greenbacks" would be so much expansion of the currency. There would be saved, as gentlemen say, about three million



five hundred thousand dollars by issuing these notes which bear no interest.

Mr. DAVIS. Will the gentleman yield to allow a question?

Mr. HOOPER, of Massachusetts. Certainly.

Mr. DAVIS. When the national banking system was adopted the banks were required to purchase the Government bonds and to deposit them in the banking and currency department as a security for the redemption of their own notes.

The banks paid for these bonds to the Government, and they received the interest as a return upon the capital thus advanced to the Government.

Now, I desire to ask the gentleman whether, if the interest-bearing notes had been issued to the banks originally instead of bonds, and if the banks were required to receive for such interest-bearing notes the demand notes of the Government, of course bearing no interest, and were further required to retain these demand notes in their vaults for the sole purpose of redemption, would these banks receive a dollar of interest for the money advanced to the Government on the original purchase?

Mr. HOOPER, of Massachusetts. Certainly not.

Mr. DAVIS. Then the proposition to substitute greenbacks for the interest-bearing notes is manifestly unjust.

Mr. HOOPER, of Massachusetts. I merely mean to state in my opinion that while the Government saves \$3,500,000 the people would lose ten times that much by the effect of this large addition to the currency of the country. I now ask for the vote.

The question recurred on Mr. STEVENS's amendment as modified.

Mr. BENJAMIN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 99, nays 58, not voting 33; as follows:

YEAS—Messrs. Allison, Ancona, Anderson, Arnell, Baker, Barker, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blow, Boyer, Brandegee, Bromwell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, DeFrees, Denison, Donnelly, Dumont, Eggleston, Eldridge, Farnsworth, Farquhar, Ferry, Finck, Grinnell, Aaron Harding, Abner C. Harding, Harris, Hawkins, Hayes, Henderson, Higby, Hill, Hise, Chester D. Hubbard, James R. Hubbard, Humphrey, Ingersoll, Kasson, Kelley, Kerr, Kuykendall, Le Blond, Leftwich, Longyear, Lynch, Marshall, McClurg, McIndoe, Moulton, Myers, Niblack, Nicholson, Noell, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Ritter, Ross, Rousseau, Sawyer, Schenck, Shanklin, Shellabarger, Sloan, Starr, Stevens, Stokes, Strouse, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, Thornton, Trimble, Upson, Van Aernam, Warner, Henry D. Washburn, Welker, James F. Wilson, Stephen F. Wilson, and Windom—99.

NAYS—Messrs. Alley, Ames, Banks, Blaine, Boutwell, Broomall, Campbell, Cooper, Culver, Darling, Davis, Dawes, Dawson, Deming, Dodge, Eliot, Glossbrenner, Goodyear, Griswold, Hart, Hogan, Holmes, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, Hunter, Jenckes, Ketcham, Koontz, Laffin, George V. Lawrence, Marvin, Maynard, McKee, McRuer, Mercier, Miller, Moorhead, Morris, Phelps, Pike, Pomeroy, Raymond, Alexander H. Rice, John H. Rice, Rollins, Scofield, Sitgreaves, Spalding, Taber, Burt Van Horn, Hamilton Ward, William B. Washburn, Wentworth, Winfield, and Woodbridge—58.

NOT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Baldwin, Chanler, Conkling, Delano, Dixon, Driggs, Eckley, Garfield, Hale, Asahel W. Hubbard, Hubbard, Jones, Julian, Kelso, Latham, William Lawrence, Loan, Marston, McCullough, Morrill, Newell, Rogers, Stilwell, John L. Thomas, Trowbridge, Robert T. Van Horn, Andrew H. Ward, Elihu B. Washburne, Whaley, Williams, and Wright—33.

So the amendment was disagreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was adopted; and also move to lay the motion to reconsider on the table.

Mr. THAYER. I hope my colleague will not make the motion to lay the motion to reconsider on the table. I understand that no amendments are now in order.

The SPEAKER. The House is operating under the previous question, which does not exhaust itself until the third reading of the bill.

Mr. THAYER. I wish the House to recon-

sider the vote by which the main question was ordered.

The SPEAKER. That cannot be done, because the order has been partially executed.

Mr. THAYER. I desire to strike out that part of the bill which prohibits the Secretary of the Treasury from retiring \$4,000,000 a month.

The SPEAKER. That is not now in order.

The question was taken on Mr. STEVENS's motion, and it was agreed to.

So the motion to reconsider was laid on the table.

The question recurred upon ordering the bill to be engrossed and read a third time.

Mr. THAYER. Cannot I now move to reconsider the vote by which the main question was ordered?

The SPEAKER. The previous question cannot be reconsidered after it has been partially executed; but when it has been executed and the previous question is called on the passage of the bill then the engrossment can be reconsidered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOOPER, of Massachusetts. I move the previous question on the passage of the bill.

Mr. THAYER. I now move to reconsider the vote by which the bill was ordered to be engrossed and read a third time.

Mr. RANDALL, of Pennsylvania. State your reasons.

The SPEAKER. The motion is not debatable.

Mr. THAYER. I should like to state my reasons.

The SPEAKER. The Clerk will read the rule on the subject.

The Clerk read as follows:

"It is in order, pending the demand for the previous question on the passage of a bill, to move a reconsideration of the vote on its engrossment; but such motion is not debatable under the practice which has prevailed for many years."

Mr. THAYER. I ask the unanimous consent of the House to explain my reasons for making this motion.

Mr. WILSON, of Iowa. I object.

Mr. SPALDING. I suppose the gentleman's object is to move to strike out the second section of the bill, and that is all.

Mr. THAYER. That is it. The House understands it.

The question was taken on Mr. THAYER's motion; and there were—ayes 45, noes 70.

So the motion to reconsider was disagreed to.

The previous question was seconded and the main question ordered on the passage of the bill.

Mr. BOUTWELL demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 74, nays 84, not voting 32; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, James M. Ashley, Baker, Barker, Beaman, Benjamin, Bidwell, Bingham, Bromwell, Buckland, Bundy, Reader W. Clarke, Cobb, Cook, Cullom, DeFrees, Donnelly, Eggleston, Farnsworth, Farquhar, Ferry, Goodyear, Grinnell, Abner C. Harding, Harris, Hawkins, Hayes, Henderson, Higby, Hise, Chester D. Hubbard, Edwin N. Hubbard, James R. Hubbard, Ingersoll, Kasson, Kelley, Kelso, Kuykendall, Leftwich, Longyear, Marshall, Maynard, McClurg, McKee, Miller, Moulton, Noell, Orth, Paine, Plants, William H. Randall, Ritter, Ross, Sawyer, Schenck, Shanklin, Shellabarger, Sloan, Starr, Stevens, Stokes, Nathaniel G. Taylor, Francis Thomas, Thornton, Trimble, Upson, Van Aernam, Henry D. Washburn, Welker, James F. Wilson, Stephen F. Wilson, and Windom—74.

NAYS—Messrs. Alley, Ames, Ancona, Baldwin, Banks, Baxter, Bergen, Blaine, Blow, Boutwell, Boyer, Brandegee, Broomall, Campbell, Chanler, Cooper, Culver, Darling, Davis, Dawes, Dawson, Deming, Denison, Dodge, Dumont, Eldridge, Eliot, Finck, Glossbrenner, Griswold, Aaron Harding, Hart, Hill, Holmes, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Humphrey, Hunter, Jenckes, Julian, Kerr, Ketcham, Koontz, Laffin, George V. Lawrence, Le Blond, Lynch, Marvin, McRuer, Mercier, Moorhead, Morris, Myers, Niblack, Nicholson, O'Neill, Patterson, Perham, Phelps, Pike, Pomeroy, Price, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Scofield, Sitgreaves, Spalding, Strouse, Taber, Nelson Taylor,

Thayer, Burt Van Horn, Hamilton Ward, Warner, William B. Washburn, Wentworth, Winfield, and Woodbridge—84.

NOT VOTING—Messrs. Delos R. Ashley, Sidney Clarke, Conkling, Delano, Dixon, Driggs, Eckley, Garfield, Hale, Hogan, Asahel W. Hubbard, Hubbard, Jones, Latham, William Lawrence, Loan, Marston, McCullough, McIndoe, Morrill, Newell, Rogers, Rousseau, Stilwell, John L. Thomas, Trowbridge, Robert T. Van Horn, Andrew H. Ward, Elihu B. Washburne, Whaley, Williams, and Wright—32.

So the bill was rejected.

Mr. RANDALL, of Pennsylvania. I move to reconsider the vote by which the bill was ordered to be engrossed; and I believe that question is debatable.

The SPEAKER. The first motion would be to reconsider the vote by which the bill was rejected. Then a motion to reconsider the vote on engrossment would be in order, and if it prevailed the bill would be open for amendment.

Mr. HILL. I voted in the negative for the purpose of moving to reconsider myself.

Mr. RANDALL, of Pennsylvania. I move to reconsider the vote by which the bill was rejected.

I desire to say a word or two, so that the House may understand the object I have in view.

The SPEAKER. As the previous question is exhausted by the rejection of the bill, the gentleman from Pennsylvania, who voted with the majority, moves to reconsider; which is a debatable motion, and he is entitled to the floor for one hour.

Mr. RANDALL, of Pennsylvania. I desire to say to the House, so that they may understand what I intend to accomplish by this motion, that the motion to reconsider the vote on the engrossment of the bill will enable the House to strike out the second section, which has been the cause of the defeat of the entire bill; the first section of the bill being acceptable to the House, as shown by the vote on the motion of the gentleman from Pennsylvania, [Mr. STEVENS,] 99 to 58.

I now call the previous question on the motion to reconsider.

Mr. ROLLINS. I move to lay the motion to reconsider upon the table.

The SPEAKER. The effect of that motion will be to leave the bill finally rejected.

Mr. WILSON, of Iowa. I demand the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 56, nays 93, not voting 41; as follows:

YEAS—Messrs. Alley, Ames, Baldwin, Banks, Bingham, Boutwell, Boyer, Broomall, Sidney Clarke, Culver, Darling, Davis, Dawes, Dawson, Dodge, Eliot, Finck, Griswold, Hart, Holmes, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Hunter, Jenckes, Ketcham, Koontz, Laffin, George V. Lawrence, Le Blond, Marvin, McRuer, Mercier, Moorhead, Morris, Perham, Phelps, Pike, Pomeroy, Raymond, Alexander H. Rice, John H. Rice, Rollins, Rousseau, Scofield, Sitgreaves, Strouse, Taber, Francis Thomas, Burt Van Horn, Hamilton Ward, William B. Washburn, Wentworth, Winfield, and Woodbridge—56.

NAYS—Messrs. Allison, Ancona, Anderson, Arnell, James M. Ashley, Baker, Barker, Baxter, Beaman, Bergen, Bidwell, Blow, Brandegee, Bromwell, Buckland, Bundy, Campbell, Chanler, Reader W. Clarke, Cobb, Cook, Cooper, Cullom, DeFrees, Deming, Donnelly, Eggleston, Eldridge, Farnsworth, Farquhar, Ferry, Goodyear, Grinnell, Abner C. Harding, Hawkins, Hayes, Henderson, Higby, Hill, Hise, Chester D. Hubbard, Edwin N. Hubbard, James R. Hubbard, Humphrey, Ingersoll, Julian, Kasson, Kelley, Kelso, Kuykendall, Leftwich, Longyear, Lynch, Marshall, Maynard, McClurg, Miller, Moulton, Myers, Niblack, Nicholson, Noell, O'Neill, Orth, Paine, Patterson, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Ritter, Ross, Sawyer, Schenck, Shanklin, Shellabarger, Spalding, Stevens, Stokes, Nathaniel G. Taylor, Thayer, Thornton, Trimble, Upson, Van Aernam, Warner, Henry D. Washburn, Welker, Whaley, James F. Wilson, Stephen F. Wilson, and Windom—93.

NOT VOTING—Messrs. Delos R. Ashley, Benjamin, Blaine, Conkling, Delano, Denison, Dixon, Driggs, Dumont, Eckley, Garfield, Glossbrenner, Hale, Aaron Harding, Harris, Hogan, Asahel W. Hubbard, Hubbard, Jones, Kerr, Latham, William Lawrence, Loan, Marston, McCullough, McIndoe, McKee, Morrill, Newell, Rogers, Sloan, Starr, Stilwell, Nelson Taylor, John L. Thomas, Trowbridge, Robert T. Van Horn, Andrew H. Ward, Elihu B. Washburne, Williams, and Wright—41.

So the House refused to lay the motion to reconsider on the table.

During the roll call, Mr. MARVIN said: I desire to state that Mr. NEWELL, of New Jersey, is paired with Mr. ROGERS, of the same State.

The question recurred upon the motion to reconsider the vote by which the bill was rejected.

The motion to reconsider was agreed to.

The question recurred upon the passage of the bill.

Mr. RANDALL, of Pennsylvania. I now move that this bill be committed to the Committee on Banking and Currency, with instructions to immediately report the same back to the House with the second section stricken out.

Mr. STEVENS. Cannot the same thing be accomplished by moving to strike out this section by way of amendment to the bill?

The SPEAKER. That motion would not be in order without a reconsideration of the engrossment of the bill, and the engrossment of this bill cannot now be moved, because one motion to that effect has already been made and laid on the table.

Mr. LE BLOND. Will my friend from Pennsylvania [Mr. RANDALL] yield to me for a question?

Mr. RANDALL, of Pennsylvania. I will yield for a question simply.

Mr. LE BLOND. I rise for the purpose of obtaining some information in regard to the effect of the vote we are about to take. In the event that we vote to commit this bill to the Committee on Banking and Currency with instructions to report the same back with only the proposition of the gentleman from Pennsylvania [Mr. STEVENS] contained in it, and the bill is passed in that shape, will it not have the effect of adding the sum of \$100,000,000 to the amount of currency now in circulation?

I understand the facts to be these: these compound-interest notes mature this year, and of course they must be retired. The proposition of the gentleman from Pennsylvania [Mr. STEVENS] is to issue \$100,000,000 of currency in the place of these compound-interest notes. Now, it is said the Government will save the interest by doing that. But instead of getting rid of the amount of circulating medium which these compound-interest notes constitute you merely substitute \$100,000,000 of other notes in their stead. Now, I would like to know if that is not the practical effect of the proposition of the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. RANDALL, of Pennsylvania. I will answer the question of the gentleman from Ohio, [Mr. LE BLOND.] There are now, principal and interest, \$170,000,000 of compound-interest notes issued. If this bill is adopted, as I propose to have it modified by the Committee on Banking and Currency, \$100,000,000 of compound-interest notes will be retired by the issue of legal-tender notes. The banks now hold \$90,000,000 of these compound-interest notes; and of course that amount of the new issue of notes will go into the bank reserves where the compound-interest notes now are. And I take it the Treasury of the United States can dispose of the other \$70,000,000 of compound-interest notes out of the current revenues of the Government. Therefore this issue of \$100,000,000 of legal-tender notes will be neither an inflation nor a contraction of the amount of currency in circulation.

And further: if you do not provide in this manner for the liquidation of these compound-interest notes, you will force the Secretary of the Treasury to throw upon the market five-twenty bonds to the extent of \$100,000,000, which can but prove disastrous to the financial interests of the Government. Now, the Government does not desire to have these five-twenty bonds forced upon the market, but that they shall be used in the liquidation of the seventhirties as they fall due.

And the striking out the second section of this bill will allow the contraction of the currency at the rate of \$4,000,000 per month to continue as now provided by law; which will be in accordance with the action of the Senate,

and I believe in accordance with the best interests of the country.

Mr. DAWSON. Is it not proposed to make a new issue of greenbacks to the extent of \$100,000,000?

Mr. RANDALL, of Pennsylvania. It is proposed to retire these compound-interest notes now held by the banks to the extent of \$100,000,000 by the issue of non-interest-bearing evidences of indebtedness, thereby saving to the Government the interest on the sum of \$100,000,000.

Mr. DAWSON. That \$100,000,000 is to be in addition to the present circulation?

Mr. RANDALL, of Pennsylvania. It is.

Mr. DAWSON. And is it not to that extent an increase of the amount of currency in circulation?

Mr. RANDALL, of Pennsylvania. No, sir.

Mr. DAWSON. I think it must be, for the reason that the compound-interest notes are not in circulation while this new issue will be in circulation.

Mr. RANDALL, of Pennsylvania. I will only say now that the gentleman is incorrect in his conclusions. I now yield to the gentleman from Wisconsin [Mr. ELDRIDGE] for five minutes.

Mr. ELDRIDGE. I understand the gentleman from Pennsylvania to affirm that this is a mere substitution of \$100,000,000 of non-interest-bearing notes for compound-interest notes which are now in existence. I wish to know from him whether the compound-interest notes will not be retired by lapse of time, by the expiration of the term for which they were issued, no matter whether the \$100,000,000 now proposed to be issued be issued or not.

Mr. RANDALL, of Pennsylvania. These compound-interest notes mature in a short time and must be retired in some manner. I think that the only common-sense manner in which this can be done is the manner in which the House has determined it shall be done.

I now yield to the gentleman from Iowa, [Mr. ALLISON,] and after that I shall demand the previous question.

Mr. ALLISON. I desire to say a single word in support of the position which has been taken by the gentleman from Pennsylvania, [Mr. RANDALL.]

There will mature this year \$111,000,000 of compound-interest notes, which, with the interest, will amount to nearly one hundred and forty million dollars. The Secretary of the Treasury must retire these notes in some way. If he does not retire them by issuing \$100,000,000 of greenbacks, he must do it by the issue of \$100,000,000 of five-twenty bonds; because we cannot expect to raise revenue enough during the present year to pay off these \$140,000,000 of compound-interest notes. The question, therefore, is simply whether the Government will issue \$100,000,000 of non-interest-bearing indebtedness, which shall run for a year or two until the revenues of the Government shall suffice for its redemption, or whether the Government shall issue six per cent. bonds payable in twenty years, the principal and the interest to be paid in gold. The proposition advocated by the gentleman from Pennsylvania does not involve any expansion of the currency in the true meaning of that phrase.

Mr. BOYER. I desire to put a question to my colleague from Pennsylvania, [Mr. RANDALL.] There is one point which I desire shall be made clear, and that is whether there is anything in this bill, or in any existing law, which would prevent the banks from immediately putting into circulation the \$100,000,000 of greenbacks proposed to be issued. Is there any provision which would secure the country from an inflation of the currency to that extent?

Mr. RANDALL, of Pennsylvania. I thought I had made myself understood on that point. The present law provides for a certain reserve to be held by the banks. We now propose a mere substitution in the character of that reserve. I think it a doubtful question whether, under the present law, the banks are author-

ized in holding these compound-interest notes as a reserve; but they do it. We now propose to substitute for this reserve of compound-interest notes an indebtedness without interest in the form of \$100,000,000 of legal tenders.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a joint resolution (S. R. No. 178) in relation to national banking associations; in which the concurrence of the House was requested.

The message also announced that the Senate had passed a bill (H. R. No. 965) declaring Clinton bridge across the Mississippi river at Clinton, in the State of Iowa, a post route, with an amendment; in which the concurrence of the House was requested.

#### COMPOUND-INTEREST NOTES—AGAIN.

Mr. HOOPER, of Massachusetts. I want to call the attention of the gentleman from Pennsylvania to the fact that the banks are authorized to hold three fifths of their reserve in balances due from other banks. They would, therefore, if the pending proposition should become a law, increase the amount of those balances and use as a circulating medium a considerable portion of these \$100,000,000 of legal-tender notes. I see nothing to prevent them from doing it.

Mr. RANDALL, of Pennsylvania. That would do them no good. In addition to that the contraction now authorized by law at the rate of \$4,000,000 per month is to continue, and this in two years would counterbalance this issue of \$100,000,000.

Mr. HOOPER, of Massachusetts. The banks now hold these compound-interest notes as their reserve, because they bear six per cent. interest. If these compound-interest notes be withdrawn and \$100,000,000 of greenbacks be issued in their place, the banks will then hold as their reserve balances due from other banks, on which they get four or five per cent. interest, and these greenbacks will go into circulation.

Mr. RANDALL, of Pennsylvania. They cannot put the reserves in anything but legal tenders.

Mr. HOOPER, of Massachusetts. I beg the gentleman's pardon; the law says they may hold the balance of three fifths in dues from other banks and count it in their reserves. I wish the House to understand it clearly.

One word more. The gentleman says it repeals the law which obliges the Secretary to contract the legal tenders at the rate of \$4,000,000 per month or \$48,000,000 a year. I should like to know where that law is. The only law is that which prohibits him from contracting more than \$4,000,000 per month, and there is no law requiring him to contract it to that extent.

Mr. RANDALL, of Pennsylvania. If he does not carry out the law it is not my fault. But I believe he is in favor of contraction. I yield to the gentleman from Iowa, [Mr. PRICE.]

Mr. PRICE. The only effect of this bill is to leave the law precisely where it is, in favor of contraction. There is no outside tinkering with the currency. It provides that the compound-interest notes shall be retired in the next twelve months, and these non-interest-bearing legal tenders are to be held by the banks in their place as reserves. If the bill passes we will go on contracting as we have done for the last nine months, while we substitute for notes that bear interest notes that bear no interest. There is no other change, no interference with the currency whatever, and in my opinion there ought not to be any unless as under existing law. The country wants to know how this matter is to be settled, and as long as we talk about inflation and contraction this turmoil will continue. Let the contraction go on at the rate of \$4,000,000 per month, and these legal tenders without interest take the place of the compound-interest notes.

Mr. RANDALL, of Pennsylvania, demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was referred with instructions to the Committee on Banking and Currency.

Mr. RANDALL, of Pennsylvania, from the Committee on Banking and Currency, reported, under instruction of the House, the bill back, with the second section stricken out.

Mr. HOOPER, of Massachusetts. The Committee on Banking and Currency have never had charge of this bill; it has never got into their hands, and I make the point of order the gentleman cannot report it.

The SPEAKER. The Chair overrules the point of order. The committee are under the orders of the House, and in previous Congresses when the House has been in the same dilemma as now by reconsidering and laying on the table the vote by which the bill was engrossed, and they could not again reconsider, they have committed with instructions to report back immediately.

Mr. DAWES. What authority has the gentleman from Pennsylvania to speak for the committee? They have not authorized him.

Mr. RANDALL, of Pennsylvania. Great emergencies require some assumption.

The SPEAKER. The gentleman is a member of the committee.

Mr. WARD, of New York. The gentleman does not constitute a quorum of the committee. He is not the chairman.

The SPEAKER. Neither would the chairman. The chairman of the committee is the gentleman from New York, [Mr. POMEROY,] and if he insists he has the right to report the bill back. Following the practice of previous Congresses, the member of the committee who moved to commit the bill has been recognized to report it back.

Mr. POMEROY. I wish to say nothing but the order of the House could induce me to make such a report.

Mr. RANDALL, of Pennsylvania, demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. HOOPER, of Massachusetts, moved to lay the bill on the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 59, nays 95, not voting 36; as follows:

YEAS—Messrs. Alley, Ames, Baldwin, Banks, Blaine, Boyer, Broomall, Chapler, Culver, Darling, Davis, Dawes, Dawson, Denison, Dodge, Eldridge, Eliot, Finck, Goodyear, Griswold, Aaron Harding, Hart, Hise, Hogan, Holmes, Hooper, Chester D. Hubbard, John H. Hubbard, Humphrey, Hunter, Jenckes, Ketcham, Koontz, George V. Lawrence, Le Blond, Marvin, McRuer, Mercer, Moorhead, Morris, Niblack, Patterson, Phelps, Pomeroy, Radford, Raymond, Alexander H. Rice, John H. Rice, Rollins, Scofield, Strouse, Taber, Burt Van Horn, Hamilton Ward, William B. Washburn, Wentworth, Winfield, and Woodbridge—69.

NAYS—Messrs. Allison, Ancona, Anderson, Arnell, James M. Ashley, Baker, Barker, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blow, Brandegee, Brownell, Buckland, Bundy, Campbell, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cooper, Culom, Defrees, Delano, Donnelly, Eggleston, Farnsworth, Farquhar, Harris, Hawkins, Hayes, Henderson, Higby, Hill, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Ingersoll, Julian, Kasson, Kelley, Kelso, Kerr, Kuykendall, Leftwich, Longyear, Lynch, Marshall, Maynard, McClurg, McIndoe, McKee, Miller, Moulton, Myers, Nicholson, Noel, O'Neill, Orth, Paine, Perham, Plants, Price, Samuel J. Randall, William H. Randall, Ritter, Ross, Rousseau, Sawyer, Schenck, Shanklin, Shellabarger, Spalding, Starr, Stevens, Stokes, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, Thornton, Trimble, Upson, Van Aernam, Warner, Henry D. Washburn, Welker, Stephen F. Wilson, and Windom—35.

NOT VOTING—Messrs. Delos R. Ashley, Boutwell, Conkling, Dixon, Driggs, Dumont, Eckley, Garfield, Glossbrenner, Hays, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Jones, Latham, William Lawrence, Loan, Marston, McCullough, Morrill, Newell, Phelps, Rogers, Sloan, Stilwell, Francis Thomas, John L. Thomas, Trowbridge, Robert T. Van Horn, Andrew H. Ward, Elihu B. Washburn, Williams, James F. Wilson, and Wright—36.

So the motion was not agreed to.

During the roll-call,

Mr. LAFLIN stated that he had paired with Mr. WILSON, of Iowa, who would have voted in the negative, while he [Mr. LAFLIN] would have voted in the affirmative.

The result having been announced as above recorded, the question recurred on seconding the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. RADFORD. I call for the reading of the engrossed bill.

The SPEAKER. It is too late.

Mr. RANDALL, of Pennsylvania. I call for the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. HOOPER, of Massachusetts. I demand the yeas and nays on the passage.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 95, nays 65, not voting 30; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Barker, Baxter, Beaman, Benjamin, Bergen, Bingham, Boutwell, Brandegee, Brownell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Culom, Defrees, Delano, Donnelly, Eggleston, Farnsworth, Farquhar, Ferry, Goodyear, Grinnell, Abner C. Harding, Harris, Hawkins, Hayes, Henderson, Higby, Hill, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Ingersoll, Julian, Kasson, Kelly, Kelso, Kerr, Kuykendall, Leftwich, Longyear, Lynch, Marshall, Maynard, McClurg, McIndoe, McKee, Moulton, Myers, Niblack, Nicholson, Noel, O'Neill, Orth, Paine, Perham, Plants, Price, Samuel J. Randall, William H. Randall, Ritter, Ross, Rousseau, Sawyer, Schenck, Shanklin, Shellabarger, Spalding, Starr, Stevens, Stokes, Nathaniel G. Taylor, Nelson Taylor, Thayer, Francis Thomas, Thornton, Trimble, Upson, Van Aernam, Warner, Henry D. Washburn, Welker, Whaley, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—95.

NAYS—Messrs. Alley, Ames, Ancona, Baldwin, Banks, Bidwell, Blaine, Boyer, Broomall, Campbell, Chanler, Cooper, Culver, Darling, Davis, Dawes, Dawson, Denison, Dodge, Eldridge, Eliot, Finck, Glossbrenner, Griswold, Aaron Harding, Hart, Hise, Hogan, Holmes, Hooper, John H. Hubbard, Hubbard, Humphrey, Hunter, Jenckes, Ketcham, Koontz, Laflin, George V. Lawrence, Le Blond, Marvin, McRuer, Mercer, Moorhead, Morris, Patterson, Pike, Pomeroy, Radford, Raymond, Alexander H. Rice, John H. Rice, Rollins, Scofield, Sitgreaves, Strouse, Taber, Burt Van Horn, Hamilton Ward, William B. Washburn, Wentworth, Williams, and Winfield—65.

NOT VOTING—Messrs. Blow, Conkling, Cook, Dixon, Driggs, Dumont, Eckley, Garfield, Hale, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Jones, Latham, William Lawrence, Loan, Marston, McCullough, Morrill, Newell, Phelps, Rogers, Sloan, Stilwell, John L. Thomas, Trowbridge, Robert T. Van Horn, Andrew H. Ward, Elihu B. Washburn, and Wright—30.

So the bill was passed.

Mr. HOOPER, of Massachusetts. Would it be in order to move to amend the title, so as to read, "A bill to provide for the further expansion of the currency?"

The SPEAKER. It will if the gentleman from Pennsylvania [Mr. RANDALL] yields.

Mr. RANDALL, of Pennsylvania. I do not yield. I move to reconsider the vote by which the bill was passed; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES TETLOW.

The SPEAKER. The morning hour has now commenced, and the House resumes the consideration of the bill reported from the Committee on Naval Affairs, which was pending at the close of the morning hour yesterday, for the relief of James Tetlow, the pending question being on the motion of Mr. LAWRENCE, of Ohio, to lay the bill on the table, on which no quorum voted.

The bill authorizes the Secretary of the Navy to pay to James Tetlow, for building four steam tug-boats, the sum of \$86,400, to be paid out of any money heretofore appropriated for constructing vessels or machinery, and not otherwise appropriated.

The question being taken on laying the bill on the table, it was disagreed to.

Mr. GRISWOLD. I withdraw the demand temporarily for the previous question, in order to allow my colleague on the committee to make some reports.

CHANGE OF REFERENCES.

On motion of Mr. DARLING, the Committee on Naval Affairs was discharged from the consideration of the petition of W. A. Wheeler, of New York, for relief upon his contract with the Navy Department; also from the consideration of the petition of A. D. Bishop; and the same were referred to the Committee of Claims.

Mr. ROSS. Mr. Speaker, I did not hear any motion to lay aside the other bill.

The SPEAKER. Does the gentleman insist on its going on in order?

Mr. DARLING. Will not the gentlemen permit me to make these brief reports?

Mr. ROSS. I insist on the regular order.

The SPEAKER. Then the House will resume the consideration of the bill which was temporarily laid aside.

JAMES TETLOW—AGAIN.

Mr. GRISWOLD. On the taking up of this bill yesterday I endeavored to convey to the House so much of the facts in the case as would enable it to act understandingly upon its merits. I will very briefly repeat the circumstances under which this petition comes before the House.

In 1863 the Navy Department advertised for the construction of four gunboats. Among others who applied was James Tetlow. He sent his agent to investigate the character of the boats required, with an estimate as far as practicable of their cost, and authorized him to make an application in his name to the Department for the construction of two of these boats. This agent using the discretion with which he was thus clothed made a proposition to construct the two vessels for \$84,600 each. The lowest of the other offers was \$128,000. Immediately on becoming advised of the fact, Mr. Tetlow came to Washington and applied to the Department to be released from his obligation to abide by the proposal his agent had made, the contract not having yet been signed by him. This the Department refused to do, and from certain considerations presented at the Department he was induced to undertake the contract at the low price offered, while others were awarded contracts for precisely the same work at \$128,000. The Department it seems, as a means of relieving him partially from the difficulty, proffered him a contract for two other of these boats at \$128,000, which was the lowest bid of any but his own; and in the hope of retrieving his inevitable losses he accepted the contracts for building four boats in all. He went on in good faith, and in doing so not only exhausted his own resources, but fell back upon his bondsmen, who went on and completed the contract in a manner entirely acceptable to the Department. The result was that Mr. Tetlow was a loser to the amount of \$86,000.

He now comes to the Congress of the United States praying them to authorize the Secretary of the Treasury to make up to him that loss on the construction of the two boats which he undertook to build at a little more than one half what was paid to the other contractors. The Naval Committee were unanimous in their recommendation to grant this relief. The applicant is an entire stranger to me. I never saw him except when he appeared before the committee; but, sir, he extorted from me, as he did from every member of the committee, the concession that his claim was not only just and fair, but that the Congress of the United States would be doing injustice to itself and an outrage to one of its citizens not to grant this very reasonable relief. The man is utterly ruined, pecuniarily and in a business point of view, by reason of the Government of the United States insisting upon his carrying out his contract from which he begged to be relieved, and he now throws himself, not upon his legal



rights, but upon the justice and magnanimity of the American Congress.

Mr. BRANDEGEE. Will the gentleman yield to me?

Mr. GRISWOLD. Yes, sir.

Mr. BRANDEGEE. Mr. Speaker, I am aware with what impatience this House listens, if it listens at all, to a statement of the claim of a mere private party who asks for justice from the Government of the United States. We are so in the habit in this Hall of having our thoughts drawn toward millions—a most conspicuous illustration of which has occurred this morning, where we have decided to issue another one hundred millions or so of legal-tender notes, as the ordinary business of a forenoon—we are so accustomed to vote our lands by the square mile, and our money by the million, that the plaintive cry for private relief, no matter how meritorious, rarely makes its voice heard above the war of contending parties, or the clash of contending interests in this stormy forum. And if by chance some case more meritorious than usual, or some cry from the depth of a more than ordinary distress, draws for a moment aside the eye engaged in the momentous business of reading the morning newspaper, or arrests the pen in the all-important task of franking the latest speech to one's constituent, the eye and the ear are at once closed if it be ascertained that that claim is presented in the hated name of a Government contractor.

A Government contractor! Why Mr. Speaker, it is a proscribed name within these walls. A publican was not as odious to the Jews. To name him is to name that son of Ishmael whose hand was not only against every man, but every man's hand from that day to this was in duty bound to be against him.

Mr. Speaker, notwithstanding all this I stand here to-day to advocate the claim of James Tetlow, a contractor; a naval contractor; an honest mechanic who asks of the Government, whom he has served, simply justice. And I have faith to believe, if I can get the ear of the House, that he will not go from this Hall without that justice which will prove a blessing both to those who give and to him upon whom it is bestowed.

I implore the House to listen before it shall decide. There is a tribunal—the classical gentleman from New York, who honors me with his attention, [Mr. RAYMOND,] knows where it is located, and who presides—which is said to first decide and afterward to hear the argument, "*Rhadamanthus castigat audit que*." But I am sure this House will at least listen before by its decision it invites bankruptcy and beggary to sit down at the hearthstone of this honest claimant.

Mr. James Tetlow, of Massachusetts, was, before the Navy Department called upon him for assistance, a plain, simple, honest, ship-builder in East Boston. He had not, perhaps, a national or trans-Atlantic reputation; he built but few ships, but he built them well, and he had a good name for the quality, if not for the quantity of his work. During the early part of the war he had done some work for the Navy Department, and had won their confidence for the skill and fidelity with which he had performed all his contracts.

When at last that Department was obliged to appeal to the patriotic ship-builders of the country for assistance to put afloat that matchless navy which was to bear upon every ocean the thunders of your cannon, they applied to Mr. Tetlow at once, as one of the parties in whom they had confidence, and from whom they desired to receive proposals for contract. Mr. Tetlow sent on his agent to make a bid for two of the vessels. There were no terms stated in the proposition which he furnished to his agent; he furnished the agent a blank writing in the nature of a bid, with the names of the securities attached, leaving to his agent, upon consultation with the bureau at Washington, to put in the appropriate price. The agent, by the grossest of blunders, by the most inexcusable negligence, not by any latent ambiguity,

but by leaving out an estimate of one of the most important particulars of the construction of the vessel, failed to estimate for one third of its entire cost. So that he put in a bid upon this blank, offering to construct for two of these vessels at a cost of \$84,600 each, and that, too, when they could not then be built for less than \$128,000 each. Indeed, the Department contracted that very day with other parties for the construction of vessels of a similar class in every respect for the sum of \$128,000 each.

This agent telegraphed to his principal the bid he had made and which was accepted. At once Mr. Tetlow telegraphed back that there must be some mistake; that it could not be possible that the agent could have entered a bid at such a price. Mr. Tetlow immediately came on in person to protest against the bid being accepted. When he arrived here he found, as many others have found, that his hand was in the mouth of the lion. The Navy Department had his bid with sureties, and proposed to hold on to it. The Department then had its grasp upon every naval contractor, every public navy-yard, and every private shipyard in the country; as the War Department had also its grasp upon all the shops in the country where materials of war and even locomotives were manufactured. And the heavy hand of the Department could be laid upon any manufacturer in the country, and his shop, his tools, his business, and even his operatives could be taken away from him if they thought proper to do so.

When Mr. Tetlow protested against the execution of this contract, he was informed by the Department that he must fulfill his contract; and if he did fulfill it honestly and to the satisfaction of the Department and he sustained a loss they would recommend to Congress to grant him relief.

Mr. SPALDING. Did he enter into a written contract after he had this knowledge?

Mr. BRANDEGEE. That is just what I am stating; a bid was made which was accepted. Mr. Tetlow protested against signing a contract predicated upon that bid. But the Department stated to him that he must sign the contract, else the Department would compel the execution of the bid he had made under surety. At the time he also had other Government work which he was doing for the Navy Department, which put it in the power of the Department to compel him to sign that contract.

Now, there is nothing clearer in the case than that Mr. Tetlow protested against the execution of the contract, and it was only upon the Department holding out the contract with one hand and saying they would compel him to execute it, and saying, on the other hand, that if he executed the contract satisfactorily and sustained a loss they would recommend that a bill be passed for his relief, that he was finally prevailed upon to sign it and enter upon its execution.

Mr. Tetlow then signed the contract. He went on and built two ships for the Government, the *Fortune* and the *Speedwell*, I believe; and he built them so well, so successfully, so thoroughly, that, according to the testimony of the Department adduced before the committee, they were, if not the very best, among the best vessels of their class in the Navy. They were felicitous names for the Navy, the *Speedwell* and the *Fortune*; but they were unfortunate names for this contractor. They would more appropriately have been named *Beggary* and *Bankruptcy* so far as he is concerned, unless he can obtain from this Congress the relief which the Department authorized him to expect; for he incurred a loss of more than fifty thousand dollars upon each of those vessels. Those who put in bids at the same time for the same class of vessels fixed the price at \$128,000 apiece; yet the men who took contracts at this price are here to-day asking relief. This man Tetlow took a contract at \$84,600, \$43,400 less than these other contractors, and he merely asks to be allowed the amount which he would have received if he

had contracted on the same terms as they did.

Now, sir, the construction of these for him, ill-starred vessels has brought upon him not only bankruptcy, but imprisonment; for, while the committee were considering this very meritorious case, this man was arrested for debt in the State of Massachusetts and lodged in a debtor's cell, under a law (the relic of a barbarous and abominable system) by which when a creditor swears that he suspects his debtor is going to leave the State or flee from the execution of process for the collection of debt the debtor may be thrown into jail.

Mr. SPALDING. Do they imprison for debt in Massachusetts unless there be an allegation of fraud? I do not so understand.

Mr. BRANDEGEE. From his prison cell that man wrote to the committee asking that the decision in his case might be deferred until he could appear and present his case before the committee. Subsequently he appeared before the committee in person. We found him a plain, simple, honest mechanic, with no array of legal learning, with no famous lawyers to present his case, backed up by no lobby, supported by none of the vermin that swarm around this Capitol and choke up these aisles, seeking all sorts of legislation. He came alone before the committee and stated his case; and when he had stated it there was not a member of the committee who was not ready to recommend the granting of the relief which the Department had promised him. I shall vote for this bill with all my heart, for I believe that it is a just and equitable measure.

Mr. HIGBY. Was it on Tetlow's statement of his case that the committee acted?

Mr. BRANDEGEE. No, sir; the facts presented in evidence from the Navy Department recommended this case most strongly and urgently to our consideration; and the testimony of the naval constructor of the Department also recommended it.

Mr. SPALDING. If the gentleman from Connecticut will allow me a word, I desire to say that I may have done this claimant injustice by a question which I asked a short time ago. I desire now to say that I am informed by the gentleman from Massachusetts who sits beside me [Mr. AMES] that this contract, so material in the case, was not signed after the discovery that there was an error in the calculations; but it was signed and sent on in advance, a blank being left for the amount of the bid, and the agent filled up the blank with the amount that he bid. This fact alters the case very much. I beg pardon for having done injustice to the case of this claimant.

Mr. BRANDEGEE. I have stated the facts as they were in testimony before the committee, and I have no authority from any gentleman from Massachusetts or any gentleman from any other quarter beyond the facts as they appear.

Mr. SPALDING. I trust I have not injured the case by stating that fact.

Mr. BRANDEGEE. Of course you have. On the statement of the facts I have made, it seems to me, it is not only an equitable, but a just claim, just in every strict sense of justice. I heard a gentleman state yesterday this man could not recover this in a court of justice. Good God, are we sitting here as a court of justice governed by the arbitrary rules of law? I supposed we were the grand inquest of the nation. I supposed we represented the nation's magnanimity, its equitable side as well as its just side; but if it were not so I claim the state of facts I present here if presented in a court of equity would reform that contract. Under these circumstances, with the promise of the party of the first part in case of loss and the good faith on part of the loser, I believe any court of equity would interpolate for reformation in the contract and afford relief such as is here granted.

Mr. BROMWELL. I wish to ask the gentleman whether it is certain a mistake was made—whether, in fact, it was not a mere business blunder?

Mr. BRANDEGEE. It was a mistake in leaving out one of the elements of the calculation, in leaving out an estimate for iron or wood out of which the ship was to be built, the very grossest error on the part of the agent, discovered at once by the principal and by the Navy Department. It would not have been insisted upon by the Navy Department but for the fact they wanted to hold out a lesson to the other contractors. They are willing this relief should be granted.

I have but one word more to say. Gentlemen having finished their newspapers and written their letters to their own wives and children now make objection to a claim like this, that it is opening the door to other claims. I think it is an exceptional case. It depends upon the year or nay of certain members whether penury and want shall sit down at the hearthstone of James Tetlow. I say he is an honest, honorable contractor. He has done his work well. He is suffering from no fault of his own. He has the promise of the Government for his relief. They advocate him here. It is for you to say whether he will go from here a crushed man while the earnings of his life enter into the Navy which has been volleying out its thunders for your flag. For one, my vote and voice shall be against writing bankruptcy over the door-post of James Tetlow.

Mr. ROSS. I hope the other side will be heard.

Mr. GRISWOLD. I will yield to a question, but not to a speech. I think the House understands the matter perfectly, and I call for the previous question.

Mr. ROSS. I hope the previous question will not be seconded.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. DELANO demanded the yeas and nays on the passage.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 91, nays 39, not voting 60; as follows:

YEAS—Messrs. Ames, Ancona, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Bergen, Bidwell, Bingham, Blaine, Boutwell, Boyer, Brandegee, Bromwell, Chandler, Sidney Clarke, Cooper, Darling, Davis, Dawes, Deming, Dodge, Eldridge, Eliot, Ferry, Finck, Glossbrenner, Grinnell, Griswold, Hart, Higby, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, Hunter, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Ladin, Le Blond, Longyear, Lyngh, Marvin, McKee, McKuer, Mercer, Moorhead, Morris, Myers, Nicholson, Noell, O'Neill, Perham, Phelps, Pike, Plants, Pomeroi, Radford, Raymond, Alexander H. Rice, Rousseau, Sawyer, Spalding, Starr, Strouse, Taber, Nathaniel G. Taylor, Thayer, Upson, Van Aernam, Burt Van Horn, Warner, Whaley, James F. Wilson, Stephen F. Wilson, Windom, and Winfield—91.

NAYS—Messrs. Baker, Benjamin, Broomall, Buckland, Cook, Cullom, Dawson, DeFrees, Delano, Aaron Harding, Abner C. Harding, Harris, Hawkins, Hill, Hise, James R. Hubbell, Humphrey, Koontz, George V. Lawrence, Leftwich, Maynard, Miller, Niblack, Orth, Samuel J. Randall, William H. Randall, Ritter, Rollins, Ross, Scofield, Shanklin, Shellabarger, Sitgreaves, Stokes, Francis Thomas, Trimble, Henry D. Washburn, Wentworth, and Williams—39.

NOT VOTING—Messrs. Alley, Allison, Blow, Bundy, Campbell, Reader W. Clarke, Cobb, Conkling, Culver, Denison, Dixon, Donnelly, Driggs, Dumont, Eckley, Eggleston, Farnsworth, Farquhar, Garfield, Goodyear, Hale, Hayes, Henderson, Asahel W. Hubbard, Demas Hubbard, Hulburd, Jones, Kerr, Latham, William Lawrence, Loan, Marshall, Marston, McClurg, McCullough, McIndoe, Morrill, Moulton, Newell, Paine, Patterson, Price, John H. Rice, Rogers, Schenck, Sloan, Stevens, Stilwell, Nelson Taylor, John L. Thomas, Thornton, Trowbridge, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, William D. Washburn, Welker, Woodbridge, and Wright—60.

So the bill was passed.

Mr. BRANDEGEE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. LATHAM. I ask leave of absence until next Monday.

No objection was made, and the leave of absence was granted.

Mr. STROUSE. I rise to a privileged question.

The SPEAKER. Under the order of the House, the gentleman cannot interrupt the morning hour.

Mr. STROUSE. Is it still the morning hour?

The SPEAKER. The morning hour will last until the time for taking a recess, and for nine minutes of the evening session.

#### ABOLITION OF THE MARINE CORPS.

Mr. DARLING, from the Committee on Naval Affairs, made an adverse report on a resolution in reference to abolishing the Marine corps and substituting soldiers of the Army therefor.

The report was laid on the table and ordered to be printed.

Mr. DARLING, from the same committee, reported the following resolution; which was referred under the law to the Committee on Printing:

*Resolved*, That there be printed for the use of the House one thousand extra copies of the report of the Committee on Naval Affairs in reference to abolishing the Marine corps and substituting therefor soldiers of the Army.

RICHARD M. BOUTON AND HARRIET M. FISHER.

Mr. PHELPS, from the Committee on Naval Affairs, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Navy be, and is hereby, directed to furnish to this House, if not incompatible with the public interest, a copy of the communication addressed by Richard M. Bouton and Harriet M. Fisher to the Secretary of the Navy in the month of February, 1863, with the indorsement thereon of Admiral Dahlgren, then chief of ordnance.

EDWARD ST. CLAIR CLARKE.

Mr. PHELPS, from the same committee, reported back, with the recommendation that it do pass, bill of the Senate No. 238, for the relief of Edward St. Clair Clarke.

The bill was read. It directs that in the settlement of the accounts of Edward St. Clair Clarke, as assistant paymaster United States Navy, there shall be allowed him the sum of \$4,022, on account of the loss of that amount of public funds in his hands by theft on the night of the 9th of May, 1863, said loss being without neglect or fault on the part of said Clarke.

Mr. PHELPS. I call for the reading of the report.

The report was read. The committee arrive at the conclusion from the testimony and the findings of a naval court of inquiry that the loss for which the bill provides relief was the result of most gross and culpable neglect of duty on the part of the captain and watch officers of the United States steamer Sumter while lying at the Brooklyn navy-yard for repairs, and of the robbery and desertion of the mate and quartermaster of that vessel on the 9th of May, 1863.

They hold that the claimant was blameless in the affair. They report further that the discipline of the service has been vindicated by the dismissal of five of the officers of the Sumter for neglect of duty in connection with this transaction; and they consider that great injustice would be inflicted upon the claimant by holding him responsible for a loss which was occasioned by the crime of two petty officers.

The bill was ordered to a third reading; and it was accordingly read the third time.

Mr. SCOFIELD. What committee does this bill come from?

The SPEAKER. The Committee on Naval Affairs.

Mr. SCOFIELD. What have they to do with a claim of this kind?

The SPEAKER. It was referred to them.

Mr. SCOFIELD. I hope the bill will be referred to the Committee of Claims.

The SPEAKER. Does the gentleman from Maryland [Mr. PHELPS] yield for that motion to be made?

Mr. PHELPS. No, sir.

Mr. SCOFIELD. The Committee on Naval

Affairs has nothing to do with claims of this kind.

Mr. PHELPS. The bill was originally reported by the Committee on Naval Affairs of the Senate. It passed the Senate, and was referred by the House to its Committee on Naval Affairs.

Mr. SCOFIELD. There are a great many paymasters claiming relief under similar circumstances, and there ought to be some uniform rule upon the subject.

Mr. PHELPS. As the morning hour has nearly expired, I demand the previous question on the passage of the bill.

Mr. STROUSE. I ask the gentleman from Maryland to yield to me for a single moment.

Mr. PHELPS. For what purpose?

Mr. STROUSE. To-morrow is the 22d of February, and I desire to move that the House adjourn over.

Mr. PHELPS. I cannot yield for that purpose. I insist on the demand for the previous question.

The previous question was seconded and the main question ordered.

The question being upon the passage of the bill, it was put; and there were—ayes 46, noes 18; no quorum voting.

Mr. PHELPS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 55, nays 25, not voting 110; as follows:

YEAS—Messrs. Allison, Ancona, Bergen, Bingham, Blaine, Boyer, Brandegee, Buckland, Bundy, Campbell, Sidney Clarke, Cooper, Davis, Eggleston, Eldridge, Glossbrenner, Grinnell, Griswold, Hart, Hayes, Higby, Hooper, Chester D. Hubbard, Edwin N. Hubbell, Humphrey, Jenckes, Kasson, Kerr, Kuykendall, Ladin, Le Blond, Leftwich, McKee, McKuer, Niblack, Noell, O'Neill, Perham, Phelps, Pike, Price, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Rousseau, Schenck, Spalding, Strouse, Taber, Thayer, Upson, Henry D. Washburn, Welker, and Williams—55.

NAYS—Messrs. Ames, Baker, Broomall, Cobb, Finck, Abner C. Harding, Hawkins, Hill, John H. Hubbard, Hunter, Julian, George V. Lawrence, Lynch, Maynard, Mercer, Miller, Moorhead, Paine, Rollins, Sawyer, Scofield, Hamilton Ward, William B. Washburn, and James F. Wilson—25.

NOT VOTING—Messrs. Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Blow, Boutwell, Bromwell, Chanler, Reader W. Clarke, Conkling, Cook, Cullom, Culver, Darling, Dawes, Dawson, DeFrees, Delano, Deming, Denison, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Goodyear, Hale, Aaron Harding, Harris, Henderson, Hise, Hogan, Holmes, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jones, Kelley, Kelso, Ketcham, Koontz, Latham, William Lawrence, Loan, Longyear, Marshall, Marston, Marvin, McClurg, McCullough, McIndoe, Morrill, Morris, Moulton, Myers, Newell, Nicholson, Orth, Patterson, Plants, Pomeroi, Radford, John H. Rice, Ritter, Rogers, Ross, Shanklin, Shellabarger, Sitgreaves, Sloan, Starr, Stevens, Stilwell, Stokes, Nathaniel G. Taylor, Nelson Taylor, Francis Thomas, John L. Thomas, Thornton, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Andrew H. Ward, Warner, Elihu B. Washburne, Wentworth, Whaley, Stephen F. Wilson, Windom, Winfield, Woodbridge, and Wright—110.

No quorum voted.

The hour of half past four o'clock p. m. having arrived during the roll call, at the termination of the call, the House, pursuant to order, took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

#### THE CONSTITUTIONAL AMENDMENT.

The SPEAKER laid before the House the following message from the President of the United States:

*To the House of Representatives:*

I transmit a report from the Secretary of State, giving information of States which have ratified the amendment to the Constitution proposed by the Thirty-Ninth Congress, in addition to those named in his report, which was communicated in my message of the 16th instant, in answer to a resolution of the House of Representatives of the 15th instant.

ANDREW JOHNSON.

WASHINGTON, February 20, 1867.

Mr. WILSON, of Iowa. I move that the message and accompanying report be referred to the Committee on the Judiciary, and printed.

The motion was agreed to.

The SPEAKER also laid before the House a communication from the Governor of the State of Rhode Island and Providence Plantations, announcing the ratification by that State of the constitutional amendment; which was referred to the Committee on the Judiciary, and ordered to be printed.

#### SHIP-BUILDING INTEREST OF MAINE.

Mr. PIKE, by unanimous consent, presented resolutions of the Legislature of the State of Maine relative to the ship-building interests of that State; which were referred to the Committee of Ways and Means, and ordered to be printed.

#### TARIFF BILL.

Mr. O'NEILL, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing under the law:

*Resolved*, That there be printed for the use of the House two thousand copies of the tariff bill, as reported from the Committee of Ways and Means.

#### ABANDONED PROPERTY IN LOUISIANA.

Mr. WILSON, of Iowa, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to report to this House all information in the War Department, and particularly such as may be in possession of the Bureau of Refugees, Freedmen, and Abandoned Lands, relative to property seized or taken possession of by the Government or its agents in the State of Louisiana; and that there be embraced in said report the kind of property, whether abandoned or confiscable, names of the reputed owners, date of seizure, assessment value, amount of profits received from rents or otherwise; what amount of such property has been restored to said reputed owners, when the same was restored, by whom and upon whose order; and also all the papers in the cases of Duncan F. Kenner and J. W. Zachary.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BRIDGE ACROSS THE POTOMAC.

Mr. STEVENS, by unanimous consent, introduced a joint resolution providing for surveys and estimates for a bridge across the Potomac, in the District of Columbia; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution was read at length. It directs the Secretary of the Interior to cause a survey to be made by a competent engineer of the ground and river at and near the Aqueduct bridge, in this District, and to report upon the practicability of constructing there a bridge across the Potomac without obstructing the navigation of the river, and the probable cost thereof, separately estimating for a common bridge and a bridge both for railway and common travel; also to examine and report touching like bridges at or near the Long bridge, and whether the same can be there built so as to avoid obstruction to navigation thereby, and the probable cost thereof; said report to be made at the earliest day practicable.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

#### CLINTON BRIDGE ACROSS MISSISSIPPI.

Mr. SCOTFIELD. There is upon the Speaker's table an amendment of the Senate to the bill of the House No. 965, declaring Clinton bridge, across the Mississippi river at Clinton, in the State of Iowa, a post route. It is merely an amendment to correct a clerical error; and I ask consent to take it from the Speaker's table for consideration at this time.

No objection was made.

The amendment was to strike out in line five,

page 2, the word "legislation" and insert the word "litigation."

Mr. SCOTFIELD. I move the amendment of the Senate be concurred in.

The motion was agreed to.

Mr. FARQUHAR moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BOSSSES BY LOYAL INDIANS.

Mr. CLARKE, of Kansas, by unanimous consent, presented joint resolutions of the Legislature of the State of Kansas, in favor of providing for the payment of certain awards for losses sustained by loyal Choctaw and Chickasaw Indians; which were referred to the Committee on Indian Affairs, and ordered to be printed.

#### ADMISSION OF COLORADO.

Mr. CLARKE, of Kansas, by unanimous consent, presented joint resolutions of the Legislature of the State of Kansas, urging Congress to pass the bill admitting Colorado as a State, the objections of the President to the contrary notwithstanding; which were referred to the Committee on the Territories, and ordered to be printed.

#### GENERAL SETH EASTMAN.

Mr. SCHENCK. I ask unanimous consent to report from the Committee on Military Affairs a joint resolution, which I think the House will see the propriety of passing at once, if it is to be passed at all. The joint resolution is one authorizing the employment of Brevet Brigadier General Seth Eastman in the decoration of the Capitol. I will ask that the joint resolution be read.

The joint resolution was read. It provides that, if the President shall deem it proper to assign Brevet Brigadier General Seth Eastman, of the United States Army, now on the retired list, to duty so as to entitle him to the full pay, emoluments, and allowances of his lineal rank, it shall be competent to have such duty consist in the employment of said officer in the execution, under the supervision of the architect of the Capitol, of painting after his own design for the decoration of the rooms of the Committees on Indian Affairs, and the Committees on Military Affairs of the Senate and House of Representatives, and other parts of the Capitol; and no additional compensation for such services is to be paid to said Eastman beyond his full pay, emoluments, and allowances as an officer as aforesaid.

Mr. CULLOM. I object to the introduction of the joint resolution.

#### R. W. JONES.

On motion of Mr. DELANO, the Committee of Claims were discharged from the further consideration of the petition of R. W. Jones; and leave was granted the petitioner to withdraw his papers.

#### RAILROAD LAND GRANT.

Mr. STOKES. I ask unanimous consent to present the joint resolutions of the Legislature of the State of Tennessee, asking Congress to grant land to aid in the construction of a railroad; which I ask may be printed and referred to the Committee on the Pacific Railroad.

The SPEAKER. The Chair would inform the gentleman that copies of the same joint resolutions have been already twice presented, referred, and ordered to be printed.

Mr. STOKES. Then I withdraw it.

#### TAX BILL.

Mr. WENTWORTH. I desire to propound an inquiry to the Chair. I am extremely desirous that the House shall determine to sit out the tax bill to-night. If this should not be done, I desire to know whether it would be in order in the morning to move to discharge the Committee of the Whole on the state of the Union from the further consideration of the bill, so that it may be considered in the House, members offering their amendments and moving

the previous question upon them, thus bringing the House to a direct vote. If we proceed hereafter at the rate we have been going on heretofore I fear that we shall not get through the bill at this session.

The SPEAKER. It will be in order to move to discharge the Committee of the Whole on the state of the Union from the further consideration of the tax bill, and either put it on its passage immediately or consider it in the House, under such restrictions as the House may see fit to impose. This could be done under a suspension of the rules by a two-thirds vote.

Mr. WENTWORTH. I do not propose to make that motion to-night; but, I hope that members will determine to sit the bill out to-night. The tariff bill has not yet been touched by this House; and unless that bill can be passed as well as this at the present session, it is scarcely worth while to pass either, as they are connected with and dependent upon each other.

#### EMPLOYÉS IN TREASURY DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with the act of August 26, 1842, a list of clerks, messengers, &c., in that Department, with their compensation, &c.; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### EDWARD ST. CLAIR CLARKE.

Mr. THAYER. I call for the regular order. The SPEAKER. Nine minutes of the morning hour remain; and the first business in order is the consideration of the bill (S. No. 283) for the relief of Edward St. Clair Clarke, reported from the Committee on Naval Affairs. On the arrival of the hour for the recess this afternoon the House had voted by yeas and nays on the passage of the bill; but that vote showed no quorum present.

Mr. PHELPS. I move a reconsideration of the vote ordering the yeas and nays on the passage of the bill. If the reconsideration be agreed to, I propose to withdraw the call for yeas and nays.

The motion to reconsider was agreed to.

The question recurred on ordering the yeas and nays.

Mr. PHELPS. I withdraw the call for the yeas and nays; and I ask that the bill be again read for the information of members who were not present when it was last reported.

The bill was read.

Mr. PHELPS. I wish to state in a few words the facts of this case, which are very simple. Mr. Clarke was a paymaster of the United States on board the steamer Sumter, which in 1863 was undergoing repairs at the Brooklyn navy-yard. One night a burglary was committed by two of the petty officers of that ship. The safe with its contents was abstracted. No suspicion of any connection with that crime has ever rested upon this paymaster. The Senate committee and the committee of this House concur in absolving him from any blame whatever in regard to the transaction. The occurrence resulted from the culpable neglect of the captain and the watch officers of that steamer. The discipline of the service has been vindicated by the dismissal of those officers; and there is no justice in holding this gentleman responsible for the misconduct of parties who have been already punished.

The bill was passed.

Mr. PHELPS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ALBERT GREENLEAF.

On motion of Mr. PIKE, the Committee on Naval Affairs was discharged from the further consideration of the memorial of Albert Greenleaf; and the same was referred to the Committee of Claims.



## ADVERSE REPORTS.

Mr. PIKE, from the Committee on Naval Affairs, reported adversely upon the following, which were laid upon the table: memorial of Norman Wiard; memorial of Robert L. May; joint resolution (H. R. No. 177) for the relief of Benjamin Moore Dove.

## NEW SITE FOR NAVAL ACADEMY.

Mr. BRANDEGEE. Mr. Speaker, in response to a resolution of the House I submit the following joint resolution:

That the Secretary of the Navy be, and he is hereby, authorized and directed to appoint a board of not less than three competent officers, whose duty it shall be to examine into all the facts connected with the location of the Naval Academy at Annapolis, Maryland, with a view to the expediency of removing the same to a locality more advantageous to the Government of the United States; and also to make careful examination and survey of the harbor of New London, Connecticut, and of Newport, Rhode Island, with a view to the advantages presented by each for the location of said Naval Academy, and to report all the facts to the Fortieth Congress, together with such recommendation in the premises as they shall deem will best promote the public interest.

The joint resolution was read a first and second time.

Mr. ROSS. Is it in order in this way to authorize a report to be made to the Fortieth Congress?

The SPEAKER. It is.

Mr. BRANDEGEE. Retaining my right to the floor, I now yield to the gentleman from Ohio, the author of the original resolution.

Mr. SCHENCK. I offer the following substitute:

*Resolved*, That the Speaker of this House be authorized and directed to appoint a committee, consisting of three members, whose duty it shall be to make careful examination at New London, Connecticut, and Newport, Rhode Island, with a view to the advantages presented by each of said sites for the permanent location of the United States Naval Academy, and with a view to the removal of that institution from Annapolis. That the said committee have power to send for persons and papers, and to call upon the Secretary of the Navy for the detail of any one or more officers of the Navy to assist in the investigation, and for such information as the files of his Department may afford; and that the said committee report all the facts, with their conclusions, to the House of Representatives of the Fortieth Congress, together with such recommendations in the premises as may best subserve the public interests.

Mr. GRINNELL. I hope the commission will be instructed to examine some point upon our western lakes.

Mr. BRANDEGEE. I do not yield to the gentleman. There is no wool in this question.

Mr. SCHENCK. Mr. Speaker, I wish to make an explanation of the amendment I offer. In the first place I have followed the resolution reported by the Committee on Naval Affairs in indicating only two points. My impression is other points ought to be named, or there should be some general provision that they may examine any sites at the discretion of the committee. Probably some general language of that kind would be better unless it is thought advisable to name certain other points. Wiscasset in Maine has been mentioned as a place that ought to be examined. Some point on the North river, or the Hudson river, is suggested. Neversink in New Jersey also has been named. Other places may be indicated. There is no difficulty in my agreeing to any suggestion of that kind which is to give greater breadth to the inquiry.

Now, as to the form of the resolution as a substitute for that presented by the Committee on Naval Affairs. They propose the Secretary of the Navy shall appoint three naval officers to examine the facts about Annapolis and these other points indicated, and report. What will that report be? The Navy Department is well understood to be in favor of keeping this institution at Annapolis, and if any commission consisting of three officers of the Navy be selected by the Secretary of the Navy and charged with this duty, it will be simply to make a report which will whitewash Annapolis. I object to any such inquiry if that is to be the scope of it, and these are to be the instrumentalities alone by which the inquiry is to be made. I think that the examination would be better made by a committee of Congress or a commission of citizens.

The SPEAKER. The morning hour has expired; and the joint resolution goes over till Tuesday morning next.

## REDEMPTION OF SEVEN-THIRTIES.

Mr. DAVIS. I ask unanimous consent to submit the following resolution:

*Resolved*, That the Committee of Ways and Means be instructed to report a bill authorizing the Secretary of the Treasury to issue United States notes not bearing interest, and not exceeding \$500,000,000 in amount, to redeem the seven-thirty notes as they become due; and that the committee be authorized to report at any time.

Mr. RANDALL, of Pennsylvania. I object.

## COMMITTEE ON ENROLLED BILLS.

The SPEAKER stated that in consequence of the absence to-night of all the members of the Committee on Enrolled Bills he would ask unanimous consent to appoint temporarily on that committee Mr. WELKER, as there were a number of bills to be examined.

No objection being made, the appointment was accordingly made.

## TAX BILL.

Mr. HOOPER, of Massachusetts. I move that the rules be suspended, and that the House now resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and resumed the consideration of the special order, being House bill No. 1161, to amend existing laws relating to internal revenue.

Mr. HOOPER, of Massachusetts. When we have left off, the Clerk had commenced reading section ten, I believe.

Mr. MILLER. I believe not. Amendments were in order to the preceding paragraph in relation to stamp duties. I move to amend that paragraph by adding the following:

And also all single bills, due bills, promissory notes, and receipts, where the sum is under \$100, shall be exempt from stamp duty.

I will state that notes on demand for a less amount than \$100 require no stamp, and I wish to put receipts on the same footing. I will add that it is a great inconvenience to be obliged to put stamps on these receipts, and I hope the amendment will not be objected to.

Mr. HOOPER, of Massachusetts. I rise to oppose the amendment. In the first place, receipts have already been stricken out by a vote which the record shows was adopted last evening, though nobody knew it. Another objection is that if receipts for \$100 and less do not require a stamp, a man can pay a \$1,000 in ten payments of \$100 each. We might as well strike out the whole.

The amendment was disagreed to.

The Clerk read, as follows:

Sec. 10. And be it further enacted, That the act amendatory to the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, approved July 13, 1866, be amended as follows, namely:

Mr. HAWKINS. I move the following amendment:

At the end of line six insert:

That section one be amended by adding thereto the following: *Provided*, That there shall be exempt from tax, in the hands of actual producers of cotton in the United States, five bales of cotton; and it shall be the duty of the revenue assessor of the district where such cotton is produced, to designate the same by appropriate marks and brands, and to give the producer a permit to remove the same, stating in the permit the marks and brands.

Mr. HOOPER, of Massachusetts. I rise to oppose the amendment. In the first place, I do not exactly understand what section that applies to.

The CLERK. At the end of line six, section one.

Mr. HOOPER, of Massachusetts. What tax bill? Section ten of this bill amends the act of the 30th of June, 1864.

Mr. HAWKINS. It reads, "the act amendatory thereto."

Mr. HOOPER, of Massachusetts. This is simply in the act of 1866, not 1864.

Mr. HAWKINS. It speaks of the act amendatory to the act of 1864. The object I have in introducing this amendment is simply to call the attention of the House to a few facts connected with the production of cotton at this time. Prior to the war we had almost a monopoly in the production of this article in this country; but now, instead of four million bales of cotton per annum, the country has produced during the past year a very little over one million and a half. The question is whether it is good policy on the part of this Government to impose such a tax on that article at a time when Great Britain has been making such a prodigious struggle to supply her own and other countries with the article and to impede the growth of the cultivation of it in this country. Now, I am aware of the fact that it was not for the purpose of inflicting any wrong or injury upon the cotton interest that the present tax was imposed, but it was with the hope of realizing a revenue to the Government.

May I venture to call the attention of the House to a very important fact in connection with this subject. We have dependent upon this single, solitary production of the earth nearly four million people, perhaps now the poorest on the face of the earth, and who must depend to a very great extent, if not almost entirely, upon the growth of this article for their support in the future. When I say this, I refer to the colored population of the South, to say nothing of the impoverished condition of thousands and hundreds of thousands of white people who produce a small quantity of cotton. I have lived all my life in a district which produces this article to a limited extent, and I profess to know something in regard to the profits derived from its production, and I say here without fear of successful contradiction that there is not a crop raised anywhere in the United States that does not yield as much profit as a crop of cotton. I have lived in the midst of it all my life, and I never yet saw the day when I could have been induced to engage in the production of this article. I say to the House that if this tax is continued, the production of this article will be actually suppressed, and you will find that instead of enhancing the revenue of the Government you will actually diminish it.

[Here the hammer fell.]

Mr. HOOPER, of Massachusetts. I rise to oppose the amendment of the gentleman from Tennessee. As I understand it, it simply proposes to take off the tax of three cents a pound on cotton which was imposed at the last session after a great deal of discussion. If this tax is to be taken off on the production of five bales, it should be taken off entirely, because a great amount of the cotton is produced on plantations where but a small quantity is raised. I was opposed at the last session of Congress to the tax upon cotton, but the House by a very decided vote imposed it, and it is simply a question now whether we shall take off the tax of three cents a pound on cotton, which I think we cannot afford to do at this time.

The question was taken on Mr. HAWKINS's amendment, and it was disagreed to.

Mr. DARLING. I offer the following amendment:

Amend section seventy-nine, paragraph sixteen, by inserting after the words "one hundred dollars," the following:

For distillers whose annual product is less than one hundred barrels; and the sum of \$500 for distillers whose annual product exceeds one hundred barrels and is less than five hundred barrels; and the sum of \$1,000 for distillers whose annual product exceeds five hundred barrels; said license tax to be assessed quarterly, and to be effective only for three months.

Mr. HOOPER, of Massachusetts. I rise to a question of order. I think that amendment is not germane to this section.

The CHAIRMAN. The Chair is of the opinion that the point of order is well taken.

Mr. HOOPER, of Massachusetts. I move to strike out lines ten, eleven, and twelve, which are as follows:

By adding to the paragraph relating to "iron bridges and casting for iron bridges" the words "thimble-skins and pipe-boxes made of iron."

I offer that amendment by the instruction of the committee. We propose to put those articles on the free list.

The amendment was agreed to.

Mr. DAVIS. I wish to ask the gentleman from Massachusetts, for information, to what law does this amendment refer? In the law of 1864 I find no section number ten that refers to any such subject as this; neither do I find any such section in the act of 1866.

Mr. HOOPER, of Massachusetts. What subject?

Mr. DAVIS. The subject of distilled spirits.

Mr. PAINE. I rise to a question of order. We cannot hear anything that the honorable gentleman is saying. If the honorable gentleman from New York and the honorable gentleman from Massachusetts desire to hold a private conversation, they ought to retire to the cloak-room. [Laughter.]

Mr. DAVIS. I am only seeking information.

The CHAIRMAN. The gentleman is not in order, as there is no question before the committee.

Mr. DAVIS. I rose for the purpose of getting some information in regard to the subject now before the committee.

Mr. HOOPER, of Massachusetts. I refer the gentleman to page 49, on which he will find inserted on the free list, "iron bridges and castings for iron bridges," in the ninety-first section, which is the tenth section of the law of July 13, 1866, amending the law of June 30, 1864.

The CHAIRMAN. There is no question before the committee.

The Clerk proceeded with the reading of the bill.

Mr. HOOPER, of Massachusetts. I propose to amend section eleven, in lines one and two, by striking out the words "from and after the passage of this act" and inserting in lieu thereof "on and after the 1st of March, 1867;" so that it will read:

SEC. 11. And be it further enacted, That on and after the 1st of March, 1867, the articles and products hereinafter enumerated shall be exempt from internal tax, namely:

Mr. MOORHEAD. Do you not mean the 1st of April?

Mr. HOOPER, of Massachusetts. No; the 1st of March. The object is to have the bill go into operation on the first of the month, so as not to divide a month; the returns being made for the even month.

The amendment was agreed to.

Mr. THAYER. I move further to amend that clause by inserting after "1867" the words "in addition to the articles now exempt by law."

Mr. HOOPER, of Massachusetts. I see no objection to that amendment.

The amendment was agreed to.

No further amendment being offered, The Clerk read as follows:

Alcoholic and ethereal vegetable extracts used solely for medicinal purposes.

Mr. HOOPER, of Massachusetts. I am instructed by the Committee of Ways and Means to move to amend this clause by inserting after the word "extracts" the words "when solid and." Whisky, which is a vegetable extract, is a fluid; and the committee propose to limit the operation of this provision to solid extracts.

The amendment was agreed to.

Mr. PIKE. I move to insert after the clause just read "carbolic acids, and carbolate of lime used solely for disinfectants."

Mr. MOORHEAD. I hope the Committee of the Whole will not indulge in amendments, but stick to the bill as reported. We will never get through the bill if we keep making amendments to it all the time. And besides I consider this an improper amendment. The Committee of Ways and Means endeavored to exempt everything they possibly could to relieve manufactures and encourage the industry of the country. We do not think there is room

for any more exemption and do justice to the needs of the Government. It is exceedingly important that this bill should pass, and I hope the committee will sit to-night until the bill is passed.

Mr. HOOPER, of Massachusetts. I only hope my colleague on the committee [Mr. MOORHEAD] has not already consumed too much time. [Laughter.] In regard to the amendment of the gentleman from Maine, [Mr. PIKE,] I will say the articles embraced in it yield very little revenue, and I think there can be no sort of objection to introducing them into the free list.

The amendment of Mr. PIKE was agreed to.

Mr. DEMING. I had prepared an amendment to section one hundred and five of the original law, which I wanted to have inserted in this bill just after the provision relating to section ninety. I did not offer the amendment at the proper time because I was informed, and incorrectly as I now understand, that that provision had been transferred to another portion of the bill; I now ask permission to return to that portion of the bill for the purpose of offering the amendment I have prepared.

Mr. MOORHEAD. I object to going back; I want to go on.

No further amendment being offered,

The Clerk read as follows:

Bale rope, seines, twine, and lines of all kinds.

Mr. HOOPER, of Massachusetts. I move to amend this clause by inserting after the word "seines" the words "and netting for seines."

The amendment was agreed to.

Mr. KELLEY. I move to insert after the clause just read "cords, tassels, braids, fringes, gimps, laces, ladies' dress trimmings, and ribbons."

The amendment was not agreed to.

Mr. HOOPER, of Massachusetts. I move to insert after the clause of the bill last read "brush blocks."

The amendment was agreed to.

No further amendment being offered,

The Clerk read as follows:

Canned and preserved fruits, not including shell-fish;

Carpet-bag and caba frames.

Mr. DODGE. I move to insert in the clause relating to canned and preserved meats, after the word "preserved," the words "vegetables and fruits."

Mr. MOORHEAD. As the clause relating to carpet-bags and caba frames has now been read, I object to going back.

Mr. ALLISON. Then I move to insert after the last clause read "canned and preserved vegetables and fruits."

Mr. PAINE. I do not know but what I shall vote for this amendment; but I would like the gentleman from New York [Mr. DODGE] to assure me that it is not a plan of his to evade the duty on brandy by attempting to import it in the form of brandy peaches. [Laughter.]

The amendment was agreed to.

No further amendment being offered,

The Clerk read as follows:

Casks, barrels, tanks, and kitts made of wood, including cooperage of all kinds, and packing-boxes, and match-boxes, whether made of wood or other materials, and on match-boxes heretofore made on which a tax has not been paid.

Mr. HOOPER, of Massachusetts. I move to amend this clause by inserting after the words "cooperage of all kinds" the words "bungs and plugs." [Laughter.]

Mr. SPALDING. The gentleman means barrel bungs and plugs, I suppose?

Mr. HOOPER, of Massachusetts. Yes, sir. And I will state that, although gentlemen laugh, it is a very important interest.

Mr. MOORHEAD. I would inquire of the acting chairman of the Committee of Ways and Means, the gentleman from Massachusetts, [Mr. HOOPER,] if he moves these amendments on his own motion or by direction of the Committee of Ways and Means?

Mr. HOOPER, of Massachusetts. By direction of the committee.

Mr. MOORHEAD. All I have to say is that I have attended the meetings of the committee pretty regularly, and I never heard of them before.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to further amend the clause by inserting after the words "packing boxes" the words "nest boxes."

Mr. ASHLEY, of Ohio. Not "nesteggs?" [Laughter.]

Mr. HOOPER, of Massachusetts. No, sir. The amendment was agreed to.

Mr. DODGE. I move to amend by inserting after the words "made of wood or" the word "any;" so that it will read "made of wood or any other materials."

Mr. HOOPER, of Massachusetts. I rise to oppose that amendment; I do not think it necessary.

Mr. DODGE. Very well; I withdraw it.

Mr. ROSS. I move to strike out this entire claim as amended. I do not see why these articles should be exempted from taxation any more than many other articles which are taxed. It only produces complication in the law, and I think it better be stricken out.

The motion to strike out was not agreed to.

Mr. McKEE. I move to amend the clause by inserting after the word "casks" the word "churns." That is a very important article in our country.

The amendment was agreed to.

Mr. TAYLOR, of New York. I move still further to amend this clause by inserting after the words "packing boxes" the words "cigar boxes." I presume they are probably included in the term "packing boxes;" but to remove all doubt I suggest that the words "cigar boxes" should be inserted.

Mr. HOOPER, of Massachusetts. I hope the amendment of the gentleman from New York [Mr. TAYLOR] will not be adopted.

The amendment was not agreed to.

Mr. GRISWOLD. I move to amend by inserting after the words "packing boxes" the words "cheese boxes."

The amendment was not agreed to.

Mr. CLARKE, of Ohio. I move to amend by inserting after the words "made of wood or other materials" the words "wooden hames, plow-beams, split-bottomed chairs, and turned materials for the same unmanufactured, and saddle-trees made of wood."

The amendment was agreed to.

Mr. BERGEN. I move to amend by inserting after the word "barrels" the word "baskets." Baskets are largely used by farmers.

Mr. SPALDING. I would ask the gentleman if he means wooden baskets?

Mr. BERGEN. Yes, sir.

Mr. SPALDING. Then the amendment should be modified.

Mr. BERGEN. I modify it so as to read "wooden baskets."

The amendment, as modified, was agreed to.

No further amendment being offered,

The Clerk read as follows:

Castings of iron, copper, or brass used for machinery, cars, or scales, and castings used for any other article upon which a tax is assessed and paid on the article of which the casting is a part.

Mr. HOOPER, of Massachusetts. I move to amend this clause, so that it shall read as follows:

Castings of iron, copper, or brass made for machinery, cars, or scales, and castings made to form a part of any article upon which in the finished state a tax is assessed and paid.

This is merely a change of the phraseology to render the meaning of the clause more clear.

Mr. MOORHEAD. I rise to oppose the amendment. This clause was considered in the Committee of Ways and Means when the chairman of the committee [Mr. MORRILL] was present, and after a great deal of discussion it was agreed upon and directed to be reported in the language used in the bill. I am opposed to

amendments made upon the motion of one member of the Committee of Ways and Means; and I hope the Committee of the Whole will vote them down.

Mr. DAWES. I desire to say—

The CHAIRMAN. No further debate is in order upon this amendment, it having already been debated for and against.

Mr. DAWES. Then I move to amend the amendment by striking out the last word, for the purpose of calling the attention of my colleague [Mr. Hooper] to this fact: I find in this clause castings to be used for scales put down in the free list, and on the very next page of this bill I find scales put down in the free list also.

Mr. HOOPER, of Massachusetts. The one refers to castings before they are put in scales; the other to scales after they are completed.

Mr. DAWES. I withdraw my amendment to the amendment.

The amendment was agreed to.

The Clerk read as follows:

Cast-iron hollow-ware, and cast-iron hollow-ware tinned, enameled, japanned, or galvanized.

Mr. MYERS. I move after line eighteen to insert "stoves."

Mr. Chairman, I desire to say in the present law stoves and hollow-ware are taxed alike. So they have been in all our tax laws hitherto. Hollow-ware is exempted, while stoves are not. If we make this discrimination against stoves they will be increased in price all over the country.

Mr. DARLING. The gentleman will observe we have already taken the tax off the castings that go into the stoves, so if we now take the tax off the stoves there will be no tax at all.

Mr. MOORHEAD. The revenue tax from stoves and hollow-ware last year was \$279,631, the largest portion being from stoves. I wish the committee to understand this.

Mr. MYERS. I wish to say that was the revenue from stoves and hollow-ware, and the largest part came from hollow-ware. If it was thought proper in former bills that they should go together, I do not see why, when the tax is taken off one, it should not be taken off the other. The man who makes hollow-ware and stoves will have advantage of the man who only makes stoves. Everybody will admit that cheap stoves will be a general blessing.

The amendment was rejected.

Mr. EGGLESTON. To accommodate my friend from Pennsylvania, I move to strike out the paragraph.

The motion was disagreed to.

The Clerk read as follows:

Clock trimmings, namely: clock work, clock pillars, snash fastenings for clocks, winding keys, verges, and pendulum rods.

Mr. EGGLESTON. I move to strike that out, and I should like to hear some good reason why clock trimmings should be exempted.

Mr. HOOPER, of Massachusetts. I oppose that amendment, and I will state as a reason why these parts of a clock should be exempted, that the clock itself is taxed.

Mr. THAYER. Is the committee willing to carry that out to its logical consequences?

Mr. HOOPER, of Massachusetts. As far as it is proper.

Mr. DEMING. I move to strike out the last word. I am somewhat familiar with the articles enumerated in this paragraph. The principal part of these articles are made in my district. Each separate patentee of a clock requires different articles of this kind. They never enter into the market. They are made for different patentees. They go into the clock and the clock is taxed, and the Commissioner has repeatedly held that these articles should be exempted from taxation because they do not go into the market, but are made for the patentees.

Mr. DODGE. These articles compose those clocks which go ticking all over the West.

Mr. EGGLESTON. I am satisfied with the explanation, and withdraw my amendment.

The Clerk read as follows:

Clothing made from materials that have been assessed and paid a tax, not including articles woven on frames or knitted.

Mr. HOOPER, of Massachusetts. I move to strike that out and insert the following:

Clothing or articles of dress not specially enumerated, made by sewing for use of men, women, or children, from cloths or fabrics on which a duty has been paid.

It makes it more definite.

The amendment was agreed to.

Mr. HARDING, of Illinois. I move to insert "home-made clothing, and articles woven or knitted for the use of the maker."

Mr. ALLISON. They are exempted now. All manufacturers are exempted except over \$1,000 a year.

Mr. HARDING, of Illinois. I withdraw my amendment.

The Clerk read as follows:

Coffee-mills and coffee-grinders and roasters.

Mr. PRICE. I move to insert:

Grinders of coffee, with hand-mills, only by retail dealers for their own use where the amount so ground does not reach the value of \$500 in any one year.

Mr. FARQUHAR. For their own use and retail.

Mr. PRICE. I accept that.

The amendment was agreed to.

Mr. BALDWIN. I move to strike out the word "and," and after the word "mills" to insert "apple-paring machines." I believe this amendment has the consent of the committee. It seems to me to be a very important article, one necessary to every family of farmers, and every one who has an apple orchard. Moreover, many of the articles entering into its manufacture are already taxed.

The amendment was adopted.

The Clerk read as follows:

Copper bottoms for articles used for domestic and culinary purposes;

Doors, window sash, blinds, frames, and sills of whatever material;

Drain, gas, and water pipe made of wood, iron, cement, or any other material.

Mr. HOOPER, of Massachusetts. I move to insert at the end of the last line "sheet lead, lead pipe, and shot."

Mr. DODGE. Add "bar lead."

Mr. HOOPER, of Massachusetts. The reason for this is, the cost of changing lead into sheet pipe, or shot is so trifling that there is a doubt about the tax. In some instances it is claimed as free by not adding five per cent. to the value, while in other cases, where the work is a little more expensive, it exceeds five per cent. This was recommended by the Commissioner of Internal Revenue.

The amendment was agreed to.

Mr. ALLISON. I desire to call the attention of the committee to a further amendment of the last paragraph by adding the words "metals excepted;" so that it will read "drain, gas, and water pipe made of wood, cement, or any other material, metals excepted."

Mr. HOOPER, of Massachusetts. I accept the amendment.

The amendment was adopted.

Mr. SPALDING. I move to insert after the word "gas" the word "sewer;" so as to read "drain, gas, sewer, and water pipe made of wood," &c.

Mr. ALLISON. That is already exempted by the law of last year.

Mr. SPALDING. It can do no hurt at all events.

Mr. HOOPER, of Massachusetts. I call the gentleman's attention to the fact that fire-brick, drain tile, cement, drain and sewer pipes are now on the free list.

Mr. SPALDING. Then I withdraw the amendment.

Mr. DODGE. I move to insert after the word "lead," in the amendment of the gentleman from Massachusetts, the words "bar lead." They always go together.

The amendment was disagreed to.

Mr. MOORHEAD. I would like to hear the paragraph read as amended.

The Clerk read the amended paragraph as follows:

Drain, gas, and water pipe, made of wood, iron, cement, or any other material, metals excepted, sheet lead, lead pipe, and shot.

Mr. DEMING. I move to add as a new paragraph: "Envelopes used for inclosing letters and newspapers."

Mr. SPALDING. I move to amend the amendment by adding "and bank checks."

Mr. ALLISON. I hope that will not be adopted.

Mr. SPALDING. I will withdraw mine, and I hope the gentleman will withdraw his.

Mr. DEMING. Envelopes enter into universal use, and it is public policy to increase their consumption.

The amendment was disagreed to.

The Clerk read as follows:

Frames and handles for saws and buck-saws.

Mr. MYERS. I move to insert after the last item, as a separate paragraph, "glass hollow-ware." This ware is not made by machinery, but, if I may so describe it, by hand and mouth. And, sir, if this Congress does not hurry along a little faster, so that we may pass the tariff bill, our constituents may have to live from hand to mouth. I hope the amendment will pass.

Mr. HOOPER, of Massachusetts. I oppose the amendment, and I hope we may get along faster.

The amendment was disagreed to.

The Clerk read as follows:

Glue and gelatine, of all descriptions, in the solid state;

Glue and cement made wholly or in part of glue in the liquid state;

Horse-rakes and tedders.

Mr. HOOPER, of Massachusetts. I move to strike out the word "and" after "horse-rakes" and to insert the words "horse-powers;" also to add after the word "tedders" the words "hames, scythe snaths and hay-forks."

Mr. LONGYEAR. I move to add the word "hoes."

Mr. HOOPER, of Massachusetts. I accept that.

Mr. DELANO. I move to add "portable grinding-mills."

Mr. HOOPER, of Massachusetts. I accept that.

The amendment, as modified, was agreed to.

Mr. DARLING. I move to insert after line thirty-six the words "hard-wood moldings." I will simply explain the effect of the present law on these molders. They are principally Germans, who are obliged to pay a tax on their manufactures, while the large cabinet-makers are exempt from tax on the moldings they make themselves, and only pay a tax on the manufactured article. I have a petition in reference to this subject from a member of German molders of New York asking this exemption, as the effect of the present law is to exempt this article in the hands of the large manufacturers and entirely destroy their business. It seems to be entirely just and proper that they should be exempt.

The amendment was disagreed to.

Mr. HOOPER, of Massachusetts. I move to strike out lines thirty-seven and thirty-eight, as follows:

"Horse-blankets, on which a tax has been once assessed and paid, when lined, trimmed, or made up and fitted for use;" and to insert in lieu thereof the following:

Horse blankets made from cloth, on which a tax or duty has been paid.

I will state that the amendment is merely verbal, to make the phraseology more concise.

The amendment was agreed to.

Mr. BIDWELL. I move now to strike out the whole paragraph. If there be a class of people in the United States who can pay taxes, those who have these fine blankets for their horses can afford to do it. I am willing to do it for one.

Mr. HOOPER, of Massachusetts. I rise to oppose the amendment. The blanket itself has paid a tax. This refers to the mere trim-



ming of the blanket. The material itself has paid a tax.

The amendment was disagreed to.

The Clerk read as follows:

Leather of all descriptions, and goat, calf, kid, sheep, horse, hog, and dog skins, tanned or partially tanned, curried, finished or in the rough.

Mr. HOOVER, of Massachusetts. I move to amend that paragraph by inserting after the word "goat," in the first line, the word "deer."

The amendment was agreed to.

Mr. HUMPHREY. I move now to strike out the entire paragraph.

Mr. Chairman, I apprehend from the manner in which we are making appropriations of money almost every day that the Government, when it comes to pay, will want to have some funds coming into the Treasury wherewith to make payments. I am very anxious at the same time to relieve the industry of the country as much as possible, but when I see a branch of manufacturing from which we collected last year a revenue of \$4,000,000 placed on the free list, it strikes me with amazement that the committee should have proposed this exemption. There is no other branch of manufacturing from which so large an amount of revenue can be collected at so small an expense to the Government.

Mr. ALLISON. I desire to call the attention of the gentleman from New York to the fact that we collected from these articles last year \$5,384,000.

Mr. HUMPHREY. Very well; so much the better. The number of tanners and curriers is comparatively small in view of the immense amount of business that is done, and hence there is very little expense to the Government in collecting this money. This yields an immense revenue, and it not only does that, but that revenue is derived from an article that goes into universal consumption, so that the whole community, without any oppression or any invidious distinction between any classes or interests, pays something toward this \$5,000,000.

I hope that we shall not put this immense source of revenue into the free list. There are thousands of other articles of manufacture that much better deserve encouragement, and much better deserve to be put on the free list than this, which not only affords an immense revenue to the Government, but which, I undertake to say, for the last four years has afforded a larger profit to the men who are engaged in it than any other pursuit except it may be, perhaps, the manufacturing of cotton and woolens in some of the New England factories. I believe this would be most unjust to the articles not exempted, and most unwise so far as the great object is concerned of obtaining revenue in the cheapest possible manner to the Government, and of obtaining it in such a way as shall work no injustice to any particular class of the community, or any particular interest in the community.

I hope the committee will examine this matter and will strike out this paragraph. It seems to me that we ought to do it, and I hope it will be done.

Mr. BANKS. I rise to oppose the amendment. I think if anything is to be exempted it should be leather. Nothing enters into the consumption of the people so generally and nothing is so important to their welfare. I hope the amendment will not be adopted.

Mr. WILLIAMS. I move to amend the amendment by striking out the last word of the paragraph proposed to be stricken out. I hope, on the other hand, that the amendment will be adopted. I confess I have found great difficulty in ascertaining or determining how it is that an interest of this sort, so prosperous, and which I believe has never been complaining, and which yields so largely to the revenue of the country, should be singled out as a special object of favor while others equally important, as iron, for instance, in some of its coarser forms, should be still subject to taxation.

Now, sir, the proceeds of the tax on this article are, as has been stated by the gentleman from Iowa, nearly five and a half million dollars, and, as he very well suggests, may amount to \$7,000,000 this year. I believe the idea of the Committee of Ways and Means was that we could spare some thirty or forty millions of the revenue heretofore raised by internal taxation. A reduction to that amount is, as I understand, proposed in this bill. But, why should one favored article alone receive the benefit of one fifth, one sixth, or one seventh of this reduction? It seems to me that the relief ought to be distributed. At any rate we should be furnished with some reason why this article is to be so specially favored.

Mr. LAFLIN. I move to amend the amendment by striking out the words "tanned or partially tanned." Mr. Chairman, I am opposed to the amendment offered by my colleague, [Mr. HUMPHREY.] If I correctly understand the matter, all these tax bills proceed upon the principle that the tax imposed upon each article comes eventually out of the consumer. Hence, the argument of my colleague with reference to the prosperity of this branch of business falls to the ground. The question which we have to consider is, who actually pays this tax?

This is an article the taxation upon which comes home directly to every person in the community, whether rich or poor. The man who is worth millions wears out no more leather than the poor laboring man whose daily wages are a dollar or a dollar and a half. If the principle which I have enunciated is correct, Congress owes it to the toiling men of the country to relieve them as far as possible of every species of taxation. I hope the amendment will not be adopted.

Mr. MAYNARD. If the gentleman's proposition is correct that this tax comes out of the consumer, why are the manufacturers here clamoring to be relieved from it?

Mr. LAFLIN. I said that that was the principle on which the bill was based. I withdraw my amendment to the amendment.

Mr. HOGAN. Mr. Chairman, I renew the amendment. I wish to say that the Committee of Ways and Means thoroughly examined this question in all its bearings. It is true that the diminution of revenue resulting from the exemption of this article will be large; but we contemplated a reduction of taxation to a certain extent, and we knew no single article in which the masses of the community were so much interested as in the article of leather. Every man, every woman, every child in the country wears boots or shoes. Leather is used also in harness and in saddles of all kinds. It is used in every portion of the country and by everybody. If we are to enact an exemption of taxation for the benefit of the masses how can we perform so good a service as by taking off this tax on leather?

Mr. HUMPHREY. I can answer the gentleman. By taking the tax from cotton cloth, which everybody wears.

Mr. HOGAN. Everybody does not dress horses in cotton cloth. [Laughter.]

Mr. HUMPHREY. Everybody does not own a horse to wear harness.

Mr. HOGAN. Why, Mr. Chairman, you can accomplish nothing in the world without leather. [Laughter.] The committee, deeming this article one of the most important with regard to the universality of its use, have deemed it wise that it should be exempted entirely. The committee were of opinion that the sooner we could reduce taxation to the smallest possible number of articles the better it will be. Several of the large classes of manufactures will still pay large amounts of taxes. But as to the article of leather, which is used by everybody, the committee thought this exemption should be made. I hope that the Committee of the Whole will coincide in this particular with the Committee of Ways and Means. I withdraw the amendment to the amendment.

Mr. ALLEY. Mr. Chairman, I renew the amendment. Like the gentleman from Missouri, [Mr. HOGAN,] I believe also in leather. But, sir, I did not intend to say a single word on this matter, and I should not do so now, but that I have been appealed to by several members around me to state what I know in reference to this question.

Now, sir, I have been a manufacturer of leather almost all my life; and I think that I know about the business sufficiently to talk understandingly upon it. But I would not claim exemption for that article, so far as I am concerned, upon any other ground than that which the committee place it upon; for I do not believe that the exemption would promote the interests of the manufacturer any more than it would the interests of the public. The committee will bear me witness that I have never said a single word to them upon this subject, and asked for a reduction because it was a hardship to the manufacturer. I have never asked for any reduction upon any other ground than as a relief to the consumer. If the committee are right in saying that it is the duty of the Government to relieve the people of the burdens of taxation first upon all articles of general consumption, then surely they are justified in putting leather upon the free list; for you cannot name any article in more general use with all parties, the poor and the rich, men, women, and children.

Mr. ALLISON. I would like my friend from Massachusetts, as a manufacturer of leather, to inform us whether the effect of taking off this tax would be to reduce the price of leather.

Mr. ALLEY. Yes, sir; the effect would be to reduce the price of leather just to the amount of the tax and no more.

I have always contended, as the committee well understand, that this tax comes out of the consumer. I have always told all the manufacturers who have appealed to me—and most of them believe that this tax comes out of them—that they have never paid a dollar of it; that it comes out of the consumer. For this reason, if the Government can spare the amount of revenue which has been derived from this article, I am rather in favor of the tax being taken off; not that I believe this will promote in the slightest degree the interests of the tanners. I believe that those with whom I have conversed will all bear me witness that I have uniformly expressed my belief that these taxes come out of the consumer.

Now, Mr. Chairman, the gentleman from New York [Mr. HUMPHREY] is mistaken in saying that there has been no complaint on this subject. There has been great complaint from the manufacturers. They have sent to this House numerous petitions, some of which I have myself presented. From me the manufacturers have invariably received the reply that, while I did not believe the tax affected their interests, I was in favor of its being taken off because it affected the consumer; and this article of leather enters into the consumption of everybody in the country.

So far as regards the manufacturers, there is only one reason in favor of the removal or abatement of the tax, and that I think the committee will agree is a forcible one. It is that under the present tax the manufacturers are prevented from importing any leather whatever. They pay a duty of ten per cent. on hides, and then manufacture them into leather and pay a tax of five per cent. on the manufactured article, thus precluding the possibility of any export of leather to foreign countries. Previously to the imposition of this tax, and prior to the increase of duty on hides, which was formerly five per cent., the leather manufacturers made considerable exports. But now I believe not a single dollar's worth of leather is exported; if any is exported the amount is very small.

In regard to the remark of the gentleman that this interest is exceedingly prosperous, let me say—

Mr. SPALDING. I was just going to ask whether it was a living business? [Laughter.]

Mr. ALLEY. I was about to say, Mr. Chairman, that during the last year no interest has suffered more than the leather interest.

[Here the hammer fell.]

Mr. ALLEY. I withdraw the amendment to the amendment.

Mr. RAYMOND. Mr. Chairman, I renew the amendment. I desire to make one remark in regard to the proposed abolition of the duty on leather by putting it upon the free list.

It seems to me that the true way to reach the object which gentlemen around me seem to desire, namely, to reduce the cost of shoes and other articles made of leather, and used by the poorer portion of the community, is to abolish the duty upon the manufactured article and not upon this, which is really the raw material. Leather undoubtedly enters into a great many articles consumed by poor and rich alike; but I do not see how we are to reach the point indicated as particularly desirable by the gentleman from Massachusetts on my right [Mr. BANKS] and the gentleman from Missouri [Mr. HOGAN] by simply putting leather on the free list.

The way is to put boots, shoes, and articles consumed by the great mass of humanity, especially boots and shoes of the cheaper kind, on the free list, and then the manufacturers of these articles will be encouraged.

It may be true no leather is exported under the present duty; but the Government has no direct interest in exporting leather. It gets no duty on it.

I am touched by the disinterestedness of the gentleman from Massachusetts, [Mr. ALLEY], who has just addressed the committee, and his willingness to pay this duty, although he states all the other manufacturers of the country besiege him with applications to have it removed. I do not think it is desirable to have this duty removed.

I wish to say one word more. It seems to me it is important this committee should know something more definitely than it does of the extent to which the putting of these articles upon the free list will affect the aggregate amount of revenue to be collected. It seems to me one of the duties of the Committee of Ways and Means is to report the aggregate amount expected to be received from each particular article on which tax is imposed, and then we will know how much we will lose by putting an article on the free list. We have no estimate of that sort, none but vague individual estimates. If the committee has made any such estimates they have not brought them before the House.

Mr. HOTCHKISS. Mr. Chairman, what more direct way can we take to exempt these cheap articles of general consumption than by exempting the article from which they are manufactured? The man who manufactures the articles has to buy these materials and has to pay a price enhanced by the tax imposed upon the leather man. It may be reached as directly as by taking the tax off of these various articles of boots and shoes and saddles and all the others that have been mentioned. I am therefore for sustaining the committee in this matter. It goes more directly to the interest of the men who are burdened by taxation than almost any other measure which has been proposed. I hope those who are really the friends of the people, who have been oppressed by taxation and who have borne the burden of the war we have prosecuted, will show that friendship in voting for this measure. Let us at least try the experiment for one year. If we do not raise revenue enough next year we can put the tax on again.

Mr. ALLISON. The gentleman from New York desires some information in respect to the amount collected on this article, and I propose to give it to him. During the year 1866 there was collected on this article of leather alone \$5,384,000. During the same

year there was collected on boots and shoes manufactured of leather, which reach all these poor people, over six million dollars. For the purpose of relieving that class of people we reduced last year the tax from five per cent. to two per cent. on boots and shoes. It occurs to me it would be better to put boots and shoes in the list of exemptions. We will save to the revenue some \$3,000,000, as compared with the proposition to exempt leather, as proposed by the Committee of Ways and Means, and in addition relieve the consumers of boots and shoes from this burden; that is, assuming the gentleman from New York to be correct, that the consumer pays this tax and not the manufacturer. I suggest that this paragraph be stricken out and boots and shoes inserted. By this amendment the reduction in the amount of revenue would be less than three million dollars, instead of \$6,000,000, as will result from the exemption of leather.

Mr. HUMPHREY. I would be glad to hear what the gentleman proposes if we do not get sufficient money to pay our debts. It is without any question we will have to get a large amount of money. There is no doubt the revenue from every source will be less than it was during the past year, while our expenses do not diminish, and will probably be larger during the coming year than in the one that is past. It seems to me when we have a resource from which we can derive as large an amount of revenue as from these leather manufacturers, who are very few comparatively, and who are very rich, for I undertake to say the men who have capital invested in this business have derived more than fifty per cent. upon that capital yearly for the last three years—my friend from Massachusetts will agree with me in this—I say when we have such a resource we ought not to throw it away.

And there is another fact stated in the report of the Commissioner of Internal Revenue in reference to the experiment made last year of putting on the free list and reducing the revenue on various articles which entered into general use. He states that instead of reducing the price of the article, if it had any effect at all it increased it. The men who had control of the business kept the price up and put the money into their own pockets instead of contributing to the relief of the poor people.

This article of leather stands precisely in the same position as cotton and wool, and I want the gentlemen who are against imposing this tax upon the manufacture of leather to remember when the tariff bill comes into the House, and those who oppose it shall ask to have the tariff on cotton and woolen goods taken off—because the people who consume them are so numerous, and because we want to help everybody—I hope they will concur with us upon that proposition.

Now, I believe that the interests of the revenue require that this tax should be continued upon manufactured leather, and I am in favor of its being so continued; and I am in favor at the same time of putting boots and shoes and all articles manufactured out of leather upon the free list. All the additional cost of the leather is in the labor, and we ought certainly to protect labor.

[Here the hammer fell.]

Mr. ALLISON. I understand the gentleman from New York to accept the amendment.

The CHAIRMAN. The Chair does not so understand.

Mr. ALLISON. Then I move it as an amendment.

Mr. HUMPHREY. I think we had better take a vote on the first proposition, and then the gentleman can make his amendment. It seems to me we had better preserve the sources of revenue which the manufacture of leather furnishes, and I would like to take the sense of the committee on this question.

The CHAIRMAN. The first question then is to strike out the paragraph.

Mr. ALLISON. I move in lieu of that to

strike out the paragraph and insert as follows:

Boots and shoes, shoestrings and shoe binding of leather or skin, and gloves of skin or leather.

The CHAIRMAN. The motion to strike out and insert takes precedence.

The question being put, no quorum voted. The Chair ordered tellers, and appointed Messrs. ALLISON and THAYER.

The committee divided; and the tellers reported—ayes 50, noes 65.

The CHAIRMAN. The Chair votes in the negative to make a quorum, and the amendment is agreed to. The question now recurs on the motion of the gentleman from New York, [Mr. HUMPHREY,] to strike out the whole paragraph.

Mr. SCHENCK. I raise the point of order that after striking out and inserting an entire paragraph it is not competent to strike out the inserted paragraph. It is only where a part has been stricken out that you can move to strike out the whole.

The CHAIRMAN. The Chair sustains the point. Striking out and inserting precludes the striking out again of the whole paragraph.

The Clerk read as follows:

Legs of pianofortes, melodeons, and billiard tables.

Mr. HOOPER, of Massachusetts. I move to add the words "and spiral springs used for the manufacture of furniture."

The amendment was agreed to.

Mr. MAYNARD. I move to strike out the words "legs of pianofortes, melodeons, and billiard-tables." These articles go with the manufacture of such things as are used only by the wealthy, articles of taste certainly, possibly of luxury, if not of dissipation. If there is anything in the principle of which we have heard so much, of increasing the revenue, it seems to me we should let these things pay taxes, so that those who buy pianofortes or melodeons or billiard-tables shall pay for their own legs. I do not know but this may be right, but it certainly has a very ugly, disagreeable look, and will make a very bad impression upon the eye of the tax-payers to find themselves taxed for their shirts, coats, and other articles of woolen and cotton manufacture, the necessities of life, while they see billiard-table legs and pianoforte legs exempt from taxation.

Mr. WASHBURN, of Massachusetts. I wish to say to the gentleman that he probably does not understand the question as now presented.

Mr. MAYNARD. I concede I do not.

Mr. WASHBURN, of Massachusetts. These pianoforte legs are manufactured as articles by themselves, and the makers of pianofortes buy them and place them on their instruments. Now the manufacturer of legs first pays a tax of five per cent., and then the maker of pianofortes pays an additional tax of five per cent. The only object of this exemption is that they shall not be twice taxed. The whole value of these articles when completed is taxed; the pianoforte maker pays a tax on the entire cost of the pianoforte, including these legs; and that being so, the object of the amendment is to avoid a double tax upon the legs, and to exempt from the tax the poor men who make them for the large manufacturers, leaving it to be paid by the latter class in the general tax upon the completed article.

The CHAIRMAN. Debate is exhausted upon the pending amendment.

Mr. HOOPER, of Massachusetts. I move to amend by striking out the last word, merely to get an opportunity to state that this amendment does not refer, as the gentleman from Tennessee seems to suppose, to the legs of the players, but to the legs of the instruments. [Laughter.]

Mr. MAYNARD. I lost the joke.

Mr. HOOPER, of Massachusetts. And the object of the proposed exemption is merely to prevent the duplication of the tax upon the same articles. Billiard-tables pay a tax upon their whole cost; and the purpose of the amend-

ment is to provide that where a poor workman makes billiard-table legs in his own house or shop for a large manufacturer he also shall not be required to pay a tax upon the legs.

Mr. MAYNARD. I rise to oppose the amendment.

Mr. FARNSWORTH. I move to strike out "piano legs," for the purpose of saying a word. It seems to me that it is immaterial how many taxes are piled on to these articles; for they are all articles of luxury. My friend says that the poor people who make these legs for the large manufacturers have to pay the tax. Now, sir, that is not so. The consumers, the man who purchases the piano and the billiard-table and the man who plays upon them, pay the tax.

Mr. HOOPER, of Massachusetts. I do not say the workman pays the tax upon the piano or the billiard-table itself; but I say that where the legs are made separately the poor workmen who make them are required to pay a separate tax upon them.

Mr. FARNSWORTH. Every cent of the tax that is put upon these articles is added to the prices of them when they are sold. There is no doubt about that. Pianoforte legs and billiard-table legs that are taxed sell for more than those that are not taxed, if there are any such. The articles named in this amendment are articles of luxury, and no matter if the taxes upon them are duplicated let him who plays pay; let him who dances play the fiddler. [Laughter.] I am in favor of the motion of the gentleman from Tennessee, [Mr. MAYNARD,] to strike out these articles. There are other things that had much better be put upon the free list than these; things that enter largely into the general consumption by the poor men of the country who cannot afford to buy pianos or to play billiards. Let us put those things upon the free list and tax these articles of luxury.

Mr. DAWES. I do not object to enlarging the free list as suggested by the gentleman from Illinois to any extent that the revenue will bear; but I hardly think it is worth while to pile up a double or treble tax upon any individual article for the sake of enlarging the free list by placing upon it these other articles. This is the first time that I have heard that doctrine advocated, and I hope that the amendment will not be adopted; that these articles may not be required to pay the tax twice over.

Mr. BAKER. I move to amend the amendment by inserting the word "sewing-machines." I think it altogether more appropriate to exempt those machines than to give a place upon the free list to pianos, billiard-tables, and other articles of luxury.

Mr. DAWES. Nobody asks to put pianos or melodeons or billiard-tables on the free list; but you might just as well tax the screws separately that enter into the piano, and then tax them again in the piano, as to tax these legs first as a separate manufacture and again as a part of the whole instrument. I go with the gentleman to place sewing-machines on the free list, but—

Mr. BAKER. That is the extent of my desire in the matter.

Mr. DAWES. When the gentleman makes that proposition he will find me helping him.

Mr. BAKER. If there is any hazard of the success of placing sewing-machines on the free list in this way I will withdraw my motion.

Mr. DAWES. The gentleman had better do so, and let the House first decide whether they want to tax these other articles.

Mr. BAKER. I withdraw it.

Mr. LYNCH. I renew the amendment. I think, Mr. Chairman, that gentlemen who have opposed striking out these articles do not understand the effect of it. As I understand it, if these articles (the legs of pianos and billiard-tables) are placed on the free list, they will be made separately by small manufacturers and sold to the manufacturers of pianos and billiard-tables. But if you leave them to bear a double tax, the effect will be that the large manufacturers will make the legs themselves,

paying only one tax of five per cent. upon the completed pianos or billiard-tables; while the men whose business it is to make the legs separately will be thrown entirely out of employment.

Here the committee rose informally; and the Speaker resumed the chair.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed, without amendment, bill of the House No. 910, granting lands to the State of Oregon to aid in the construction of a military wagon-road from Dalles City, on the Columbia river, to Fort Boisé, on the Snake river; and bill of the House No. 1130, to amend section twelve, chapter two hundred and twenty-nine of the laws of the first session of the Thirty-Ninth Congress.

The message further announced that the Senate had passed a bill (S. No. 620) for the relief of Joshua H. Butterworth, in which he was directed to ask the concurrence of the House.

#### ENROLLED BILLS AND JOINT RESOLUTION.

Mr. WELKER, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 421) to authorize the construction of a submerged tubular bridge across the Mississippi river, at the city of St. Louis;

An act (S. No. 581) granting a pension to Olivia W. Cannon;

An act (S. No. 498) granting a pension to Mrs. Josephine Slocum;

An act (S. No. 558) for the relief of Mary A. Smith, of Johnson county, Tennessee, widow of Alexander D. Smith, deceased;

An act (S. No. 515) granting a pension to Mrs. Ernestine Becker;

An act (S. No. 556) for the relief of Caroline McGee, of Greene county, Tennessee, widow of Lemuel McGee, deceased; and

Joint resolution (S. R. No. 171) for the relief of Martha McCook.

#### TAX BILL—AGAIN.

The Committee of the Whole again resumed the consideration of the tax bill.

Mr. MAYNARD. I move to strike out the words "billiard-tables." I suppose the facts are substantially as stated by the two gentlemen from Massachusetts [Mr. DAWES and Mr. HOOPER] who seem to take such an interest in this matter, that the manufacture of these legs was formerly the business of one class of craftsmen, while the manufacture of the completed table was the business of another class. Now, I can see no reason why the manufacture of the legs should not be taxed.

There are a great many manufactures which are composite in their character, and which must necessarily include to a greater or less extent the use of articles which have previously paid taxes on their manufacture. But these particular articles will, in the language of legislation, bear "a double tax" very well. As I have already remarked, billiard-tables are articles of taste, of luxury, of amusement, if not of dissipation, and those who use them can well afford to pay the tax upon them. These are the very articles that should be taxed, upon the very theory upon which our system of internal taxation is said to be based. You tax heavily the manufacture of whisky, because the man who wants to drink it will do so whether he has to pay ten cents or twenty-five cents per glass; and so you tax cigars heavily, because the man who smokes will buy them, whatever the tax may be upon them; and persons of wealth and leisure who spend their evenings in billiard-saloons can pay and will pay the tax. The tax falls upon the billiard-players at last, and it would be well if we could impose even a higher tax.

It is very objectionable to me to have these articles stand in the free list. Their appearance there will be odious in the eyes of the tax-payers. It will be one of those little

things which will render them dissatisfied; not amounting to much in itself, but like many of the little ills, vexations, and nuisances of life, which cause more dissatisfaction than even more important things.

I withdraw the amendment to the amendment, and hope the whole clause will be stricken out.

The question recurred upon the motion to strike from the free list "legs of pianofortes, melodeons, and billiard-tables."

The motion was agreed to.

The clerk read as follows:

Licorice and licorice paste.

Mr. HOOPER, of Massachusetts. I move to insert after the clause just read "Magnesium lamps." This is a new lamp used for signal lights, made with clock work, and constructed to burn magnesium wire. I hope they will be put upon the free list.

The amendment was agreed to.

The Clerk read as follows:

Manufactures of jute.

Mr. SCHENCK. I move to strike out the words "manufactures of jute." There is an old interest, but always a struggling one, in the West, particularly in the States of Missouri and Kentucky; the growth of hemp for manufacture. As a friend near me suggests, there might lately have been a great deal of it used and very properly. And there is a new and growing interest connected with the flax fiber in my own State and in all the western States, with which this jute manufacture comes directly in competition.

Now I have remarked that there has been a systematic effort from the very beginning to bring a pressure to bear upon Congress by manufacturers of jute and others connected with the jute interest, which, if it succeeds, must necessarily cripple and crush out this interest in the interior of our country. For instance, when they came upon the tariff question in the Senate, they succeeded in getting the tariff on Russian hemp reduced I believe from forty dollars to twenty-five dollars per ton; the tariff on Russian tow reduced from twenty-five dollars to ten dollars per ton, I think; and the tariff on jute from fifteen dollars to five dollars per ton. I do not know what the Committee of Ways and Means of this House have determined to do in relation to the tariff on these articles, whether to restore the rates or not.

Now, not satisfied with these reductions in the tariff, it is proposed in this bill that all the manufactures of jute shall be placed upon the free list, thus striking another blow at the production and manufacture of hemp and flax textiles in this country.

Now, let me state a fact in regard to the production of flax fiber alone in this country of which gentlemen may not be aware. The production has increased from 1860, when it was only two thousand tons, until 1866, when, according to the report, I think, the production in this country was forty-eight thousand tons. And it is estimated that there are about thirty thousand tons of flax straw which is capable of being manufactured into flax fiber if it had any protection, and used for manufactures at home, but which is now thrown away because of the competition with it of the manufactures of jute. And there seems to be a disposition here to encourage whatever is made by eastern manufacturers at the expense utterly of western interests.

Mr. MOORHEAD. I desire to call the attention of the gentleman from Ohio to several of the amendments which the Committee of Ways and Means have made to the tariff bill as passed by the Senate. On the class of articles embracing that now under discussion the Committee of Ways and Means propose the following increase of the duties as fixed in the Senate bill:

On flax unmanufactured, twenty dollars per ton, instead of fifteen dollars.

On flax hackled, known as dressed line, forty dollars per ton, instead of thirty dollars.



On Russia hemp, unmanufactured, forty dollars per ton, instead of twenty-five dollars.

On Manila, Italian, and all other humps, unmanufactured, thirty dollars per ton, instead of twenty-five dollars.

On flax straw, three dollars per ton, instead of one dollar.

On the tow of flax or hemp, ten dollars per ton, instead of five dollars.

On jute, unmanufactured, and Sisal grass, and other vegetable fibers, not otherwise provided for, fifteen dollars per ton, instead of five dollars.

Mr. SCHENCK. I am very glad to learn what the gentleman has just stated. By taking from the free list the manufactures of jute we shall afford some further protection to the hemp and flax interests of the West. I am very glad to hear that the Committee of Ways and Means have done so well on the tariff.

Mr. WENTWORTH. Mr. Chairman, once already this evening I have called the attention of the House to the fact that, in order to do justice to the interests of the country, the tariff bill must be passed as well as this bill. But for the hope I still entertain that we shall pass the tariff bill, I could not vote for the proposition of this bill with reference to jute. If the tariff bill is not to be passed, then the motion of the gentleman from Ohio [Mr. SCHENCK] should prevail. Those gentlemen who do not intend to vote for the tariff bill ought to vote against the exemption proposed in this bill. But, Mr. Chairman, I do not yet despair of the passage of the tariff bill.

The duties placed upon jute, as well as upon all our agricultural products, have not been properly regulated in the Senate bill. The bill as amended by the House committee places agriculture where it ought to be. The Committee of Ways and Means have proceeded upon the assumption that a prosperous agriculture furnishes the best home market for manufactures; that there is no way to build up a home market except by fostering the agricultural interests of the country. Relying upon this House to do us justice in the tariff bill I shall vote against the amendment of the gentleman from Ohio, though I should vote in favor of it if this bill were before us as an independent measure, unconnected with the tariff.

Mr. ALLISON. I move *pro forma* to amend the amendment by striking out the last word.

Mr. Chairman, I am in favor of retaining this item in the exemption list for the reason that manufactures of jute are assimilated to the manufactures of flax, though the flax fabric costs about three times as much as the jute. But, in addition to this, the manufacture of jute, as I understand, enters largely into carpets, and when thus manufactured into carpeting pays a tax. Thus there is a duplication of taxes. I hope, therefore, that this manufacture will be exempt. It certainly should be, inasmuch as we exempted the flax fabric last year.

Mr. GRISWOLD. If I understand the matter correctly, the rate upon jute was fixed with reference to the tariff bill as now proposed, and if I am not misinformed the difference in the duties on unmanufactured jute and that on the manufactured article, as proposed in the tariff bill, is five per cent.; the duty on the raw material being twenty-five per cent., and on the manufactured article thirty per cent. I submit to the gentleman from Ohio that this is a difference so little that no one should object to it.

Mr. ALLISON. I withdraw my amendment to the amendment.

Mr. SCHENCK. I renew the amendment to the amendment. I propose to have read, with the permission of the House, some statistics upon this subject, which will show that this manufacture at home is not so insignificant as some gentlemen seem to think. I shall be content with reading this criticism of a western paper upon the internal revenue report:

The Clerk read as follows:

"In the report of Commissioner Wells on flax,

hemp, and jute, and his tariff recommendations, he has ignored the needs of both western manufacturers and producers of this class of fibers. He has not only ignored their interests, but he has positively misstated or suppressed facts which might materially affect the projects of eastern manufacturers, the profits of importers, and the ocean-carrying trade with India. The relation of the producers and manufacturers of these fibers in the West to the eastern manufacturers and foreign producers is similar to that of the seed producers and consumers stated above.

"Illustrating Mr. Wells's fairness and accuracy, he states, in substance, that Indian hemp, or jute, is not analogous to, nor does not compete with, any of the products of the United States. It is a coarser, weaker, and far less flexible fiber than that of either flax or hemp. And yet he asserts that it can be worked on either hemp, flax, or tow machinery, and is especially adapted to the manufacture of coarse, heavy goods, such as gunny-cloth, gunny-bags, burlaps, canvas paddings, carpets, yarns, and other similar fabrics.

"Mr. Wells must have been very ignorant indeed, considering his opportunities for acquiring information, if he did not know that jute goods are extensively manufactured in the East and in Europe and sold as flax fabrics in our markets. He must have known that there is no imported fiber that comes so directly and extensively in competition with our flax and hemp products as jute.

"During the war, the importation of jute, gunny-bags, and gunny-cloth were interrupted, and an eastern demand for flax-tow sprung up, which was supplied, to a considerable extent, by the establishment of mills in the West for the preparation of tow from the tangled flax straw, hitherto permitted to rot, or burned on the farms, after threshing the seed from it. With this product jute and imported jute goods come directly in competition in the American market. And the production and manufacture of hemp is similarly affected by these importations. Jute, as Mr. Wells says, can be and is manufactured upon the same machinery as flax and hemp. To such an extent is it substituted for these fibers in eastern manufactures as to entirely destroy the market there for western prepared flax-tow. The annual waste of flax fiber in the West, resulting from this want of a paying market for the same, is estimated at thirty thousand tons.

"No one can doubt the ability of the West to supply all the flax and hemp fiber needed to meet the demand for the class of goods manufactured from jute. In 1865, the importations of jute and jute fabrics amounted to forty-five thousand seven hundred and seventy-four tons. Before the war, the State of Missouri alone produced nineteen thousand tons of hemp fiber. Kentucky is also a hemp-producing State. And there is no limit to the amount which may be produced in Illinois and other western States, both of hemp and flax, with adequate encouragement. Already Illinois is laying broad foundations for its culture; and it only requires a home market for the straw or prepared fiber to develop this branch of husbandry amazingly, and thus diversify and add to our resources for wealth.

"But with the thirty thousand tons of flax fiber now wasted in the West, because its consumption is supplanted by jute—and that is an under rather than an over estimate—together with the capacity for increased flax and hemp production which would develop on call, no existing manufacturing interest need suffer, no mill need stop, no hand need lie idle, in consequence of the exclusion of jute from the country. And since Mr. Wells seems so solicitous for the development of the manufacturing industry of the country, we may assure him and Congress that such protection of the western producer will result in the development of the western manufacture of home-grown fibrous material in precisely the same proportion to the demand for public consumption in this country of these coarse manufactures that the admission of jute, duty free, will develop the manufacture of that fiber.

"It is simply a question of whether we shall grow on our uncultivated cheap lands what we manufacture or not. Mr. Wells and the Senate Finance Committee seem to have an ear for the manufacturer, but not for the western producer. Shall more than one class of industry be developed here by the protection of the Government? Shall the money we send abroad be kept in the country to develop its industries and enrich its people? Shall we compel skilled labor, now supported abroad, to remove hither and consume and make a home market for our fibers and cereals?

"The western manufacturer of fibers is interested in securing protection for the producer against the importation of foreign fibers, because with the difference in transportation from the sea-board West against him he cannot compete with the eastern manufacturer in their use. He must therefore depend upon that grown at home; and the home grower must be protected from competition with cheap foreign fibers, if he produces a supply.

"The report of the Senate committee which, we understand, embraces substantially the recommendation of Mr. Wells in this respect, protects the manufacturers of the foreign fiber in this country from competition with foreign manufactures, but it does not adequately protect the domestic producers. Indeed in some cases existing tariffs are diminished. The tax proposed on Russia hemp is twenty-five dollars per ton; it is now forty dollars. On the tow of hemp, five dollars per ton; it is now ten dollars. On jute, Sisal grass, and other vegetable fibers, five dollars per ton; it is now fifteen dollars per ton. Thus it will be seen that what was bad for the home producer it is proposed to make worse.

"Contrast this proposed protection with what the experience of western manufacturers has proved necessary. We quote from a letter written by a prominent western manufacturer to our Senators in

Congress: 'To give the West a fair chance in the adjustment of this question, in addition to the duties on manufactures there are needed duties on imported flax and flax-tow of at least fifty dollars per ton; the same, or nearly the same, on hemp and hemp-tow; and most of all, sixty dollars per ton on jute, and eighty dollars per ton on jute-buts, when the latter are imported separated from the finer portions of the fiber of the jute plant.'

"It is proper to say in this connection, that these 'jute-buts' are imported at a cost of two and a half cents per pound, and largely used in the manufacture of gunny-bags and other coarse material coming most directly in competition with western flax-tow, as prepared here for manufacture.

"Such is a fair presentation of the manner in which Mr. Wells, in his recommendations, regards or comprehends the best interests of the country, and the manner in which he labors for the general good. We regard it desirable that if a man is to be employed to collect and present facts and recommendations to Congress having so grave a bearing upon industrial interests, he should be both competent to comprehend and honest enough to give all the facts relating to the matter he attempts to investigate and discuss."

The committee divided; and there were—ayes 26, noes 39; no quorum voting.

Mr. SCHENCK. I ask that by unanimous consent my amendment shall be considered as adopted, so that we may have a vote on it in the House.

There was no objection; and it was ordered accordingly.

The Clerk read as follows:

Molasses, concentrated molasses or melado, sirup of molasses or sugar-cane juice, and cistern bottoms.

No amendment being offered,

The Clerk read as follows:

Oil naphtha, benzine, benzole, or gasoline, marking more than fifty-nine degrees Baumé's hydrometer, the product of the distillation, redistillation, or refining of crude petroleum, or of crude oil produced by a single distillation of coal, shale, peat, asphaltum, or other bituminous substances.

Mr. SCHENCK. I move the following amendment, agreed to by the committee and which was withdrawn the other day to be inserted at this place:

But if any person shall mix for sale naphtha and illuminating oil, or shall sell or keep for sale or offer for sale such mixture, or shall sell or offer for sale oil made from petroleum for illuminating purposes, inflammable, at less temperature or fire-test than one hundred and ten degrees Fahrenheit, such persons shall be held to be guilty of a misdemeanor, and on conviction thereof, by indictment or presentment in any court of the United States having competent jurisdiction, shall be punished by imprisonment for a term of not less than six months nor more than three years.

The amendment was agreed to.

The Clerk read as follows:

Palm-leaf and straw, bleached, split, prepared, or advanced by being braided or woven, but not made up into hats, bonnets, or hoods.

Mr. LONGYEAR. I move to insert between lines fifty-four and fifty-five "potato hooks, pitchforks, manure and spading forks."

The amendment was agreed to.

The Clerk read as follows:

Pottery ware of all descriptions, including stone, earthen, brown-earthen, and common gray-stone ware.

Mr. THAYER. I move in line fifty-six, after the word "brown," to insert "yellow."

The amendment was agreed to.

Mr. THAYER. I move to insert after the word "common" the word "or."

The amendment was agreed to.

The Clerk read as follows:

Rock and root-diggers or excavators.

Mr. HOOPER, of Massachusetts. I move to insert "root-beer and other small beer."

Mr. O'NEILL. I hope the gentleman will insert "mead."

Mr. HOOPER, of Massachusetts. That was put in last year.

The amendment was agreed to.

Mr. DARLING. I move to insert "brown soap in bars costing less than seven cents per pound." Common soap has got to be an article of universal use. [Laughter.]

Mr. HOOPER, of Massachusetts. Soft soap is already in the free list. [Renewed laughter.]

The amendment was agreed to.

The Clerk read as follows:

Salt.

Mr. HUMPHREY. I move to strike out "salt," and in relation to this question let me say I would be very willing to see this article on the free list provided it were not for the fact

that the tariff bill as it passed the Senate has increased the present duty on salt nearly one half. Now, it is proposed to take off the internal revenue tax, which last year gave to the Government \$450,000. The article of salt upon which this whole tax is paid into the Government is manufactured mainly at two places, Syracuse, New York, and Saginaw, Michigan. There are but comparatively a small number of men engaged in its manufacture; so that anything that is done, either by increasing the tariff on salt or by taking off the burden by putting it in the free list, instead of inuring to the benefit of a large number of persons, is simply putting \$450,000 into the pockets of those two immense monopolies.

Now, as I have already said upon another occasion, this amount of money is all collected at two points. The consequence is it costs the Government but a mere trifle to collect it. By taking off the tax on salt, and increasing the tariff on it, instead of aiding the people and relieving those who use the article, the effect is to add to the cost of the article, because the increase of the tariff is more than what is taken off here; and the result will be that this sum of money which these two corporations can well afford to pay is given to them. Their stock to-day is worth more than one hundred and fifty per cent., if not two hundred; and with these facts before us, I submit whether we ought to put these articles on the free list. If the question was open, so that we could have the tariff bill and this bill alongside of one another under consideration, then we might with some propriety take off the tax, because we would have the control of the foreign article, and we could so fix the tariff as to result in benefiting the consumer. But the tariff bill, which passed the Senate practically, settles the question, the committee of this House having concurred in reporting in favor of the action of the Senate in that particular. It is not, therefore, to be supposed that there will be any reduction of the tariff on salt; and that being so, I submit that we should not relieve these companies from the payment of this internal revenue.

Mr. PIKE. I move that the committee rise.

Mr. HOOPER, of Massachusetts. I hope not. Let us get through the free list this evening; there is very little more of it.

The question being put, no quorum voted.

Tellers were ordered; and Messrs. PIKE and PRICE were appointed.

The committee divided; but the tellers made no report, and the motion was withdrawn.

Mr. MAYNARD. I desire to say a word in opposition to the amendment, and in doing so, if my remarks have a local application, I hope I shall be pardoned. It was part of the old democratic doctrine that foreign salt should be admitted into this country duty free. A citizen of Tennessee, who afterward attained a very high position in this country, now deceased, made use of the expression: "The poor man's cow consumes more salt than the broker of Wall street." That policy prevailed, and the result was nearly all the salt in the southern country was imported. The salines of that country were very imperfectly developed, and during the recent struggle, when the southern country was beleaguered by the blockade and the importation of foreign salt was thereby cut off, the supply of domestic salt was wholly inadequate, and the people suffered beyond all measure.

I need not remind gentlemen here that salt is one of those prime necessities of life that ought to be placed within our reach beyond all possible contingency, and it is one of those articles that we can manufacture at home. The gentleman from New York [Mr. HUMPHREY] is mistaken in saying there are only two places in this country where it is manufactured. I appeal to my friend from West Virginia [Mr. WHALEY] if there is not enough salt that can be manufactured in his district to supply the wants of the whole country, to say nothing of the salines of the State of Louisiana. Mr. WHALEY. The gentleman from New

York [Mr. HUMPHREY] states that the tariff bill that has come from the Senate proposes an increase of a double tariff on salt. The gentleman ought to be aware that it only proposes an increase of six cents per hundred. Here is the bill before me. That, sir, is a long way for a double duty. And the gentleman is not probably aware of another fact, and that is that we consume in the United States, according to the census report, thirty-six million bushels, while we manufacture less than eight million bushels. In one county in my district they manufactured, seven years prior to the war, more than three million bushels; but since the internal revenue tax has been imposed, not only on their salt, but upon their coal and other articles used in the manufacture, they now make less than one million bushels. The gentleman argues that we should legislate for the poor. He is certainly aware that throughout the length and breadth of the land there is not a single article named in this tariff bill that is consumed to a greater extent by the poor than salt, and none that more needs to be exempt. I hope the amendment will be rejected.

The amendment was disagreed to.

Mr. HOTCHKISS. I move to insert "saws when used by the maker in the manufacture of cotton-gins."

The amendment was agreed to.

Mr. DARLING. I move to strike out the word "scales."

The amendment was agreed to.

Mr. DAVIS. I move to insert between lines fifty-nine and sixty, as a separate line, the words "sewing-machine." I will briefly state my reasons for offering this amendment. This invention of sewing-machines is one which has largely increased the employment of female labor, especially among the lower classes, and has afforded a means of livelihood to hundreds and hundreds. It has also decreased the price of clothing of all descriptions, and this extension of labor and this extension of the manufacture of clothing has added very much to the revenue of the country. Let me turn to some statistics upon this subject.

Several MEMBERS. Oh, never mind the statistics; let us vote.

Mr. DAVIS. Well, sir, I do not wish to detain the committee, but I think that these articles ought to go into the free list.

Mr. ALLEY. I am opposed to the amendment offered by the gentleman from New York, and I will detain the committee with but a single remark in regard to it. I should be in favor of taking the tax off sewing-machines if it would benefit these poor people of whom the gentleman has been talking. But, sir, there is no business in this country that is in the hands of monopolists to a greater extent than this interest, and there is no class of business men who are making so much money as those who own the patents and who are engaged in the manufacture and sale of sewing-machines. At any rate, this is true of those manufacturers who own the patents. They are all patented articles, and it seems to me that they are the last articles of manufacture that should be exempt from taxation.

Mr. DAVIS. I move to amend the amendment by striking out the last word; and I do it simply for the purpose of saying a word in reply to my friend from Massachusetts, [Mr. ALLEY.] The sewing-machine is the only article manufactured in the whole country the price of which has not largely gone up since 1861. I have the figures here showing the prices in 1860, 1861, 1862, 1863, and 1866 respectively. I find that the price of a family sewing-machine was sixty dollars in 1863 and sixty dollars in 1866, and so of the second-class machines, and so of the third-class machines.

Mr. ALLEY. Several of the patentees of sewing-machines are worth millions of dollars.

Mr. DAVIS. I withdraw my amendment to the amendment.

Mr. ALLISON. I move to amend the amendment of the gentleman from New York [Mr. DAVIS] by substituting therefor the words

"shirt fronts or bosoms and wristbands or cuffs for shirts." I understand the gentleman from New York to propose this amendment for the purpose of aiding the sewing girls, and inasmuch as the articles named in my amendment now pay a tax when they are made into shirts I think they should be exempt. I hope that will be satisfactory to the gentleman.

Mr. BLAINE. Will the gentleman from Iowa, who is a member of the Committee of Ways and Means, tell us how this will benefit the sewing-girls?

Mr. ALLISON. Because these articles are made by sewing-girls.

Mr. BAKER. Mr. Chairman, I wish to say a word upon the amendment of the gentleman from New York, [Mr. DAVIS.] It appears to me that sewing-machines ought to be on the free list. I suppose it must be conceded upon general principles that if sewing-machines are released from taxation on their manufacture, that circumstance will affect the price which they bear in the market. We were informed by a gentleman from Massachusetts a while ago, and in regard to like matter, that if taxation was taken off leather it would tend to diminish the price of articles made of leather. This is undoubtedly a sound principle, and the principle being sound it appears to me that we should apply it in this case. When we consider that these sewing-machines are very largely used by the poor laboring women of this country, and when we reflect, in addition to that, that many, nay, most of the avenues to lucrative employment are closed to women and open to men, it devolves upon the men of this country to favor as much as they can the labor of women.

I did hope that sewing-machines would have been placed upon the free list by a unanimous vote of this committee.

Mr. BLAINE. Does the gentleman from Illinois think that if we reduce the tax on sewing-machines the labor of these poor women will be increased?

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. BRANDEGEE. I rise to a privileged motion. We have now been in almost continuous session since twelve o'clock this noon, and by the order of the House we are to meet at eleven o'clock to-morrow; there is scarcely a quorum present, and I therefore move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 1161, to amend the existing laws relating to internal revenue, and had directed him to report that they had come to no resolution thereon.

And then, on motion of Mr. DEFREES, (at ten o'clock and forty minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees: By Mr. ASHLEY, of Ohio: The petition from B. Tuller and others, citizens of Wood county, Ohio, protesting against the passage of a law curtailing the national currency, and against a sudden resumption of specie payments.

Also, the petition from journeymen cigar-makers and manufacturers of cigars, in Toledo, Ohio, praying for an equal tax on all cigars manufactured.

Also, the memorial of Chusman Miller, Esq., and 110 citizens of Brecksville, Cuyahoga county, Ohio, praying for the impeachment of the President.

Also, the memorial of John W. Pease and others, citizens of Sylvania, Ohio, praying for the impeachment of the President or acting President of the United States.

Also, the petition from F. J. King and others, citizens of Toledo, Ohio, praying for an appropriation for a breakwater and light-house at the mouth of Saginaw river, in the harbor of Port Huron, in the State of Michigan.

By Mr. DARLING: The petition of manufacturers and dealers in envelopes, printers and stationers, against Government competition.

By Mr. ELDRIDGE: The petition of sundry citizens of Ripon, in the State of Wisconsin, for the removal of the five per cent. on manufactures.

By Mr. FARNSWORTH: The petition of Bigsby E. Dodson, for back pension.  
 By Mr. KUYKENDALL: The petition of citizens of Elizabethtown, Illinois, against the curtailment of the currency.  
 By Mr. ROLLINS: The petition of S. D. Baldwin and others, of Bennington, New Hampshire, praying that the five per cent. tax on manufactures be removed.

## IN SENATE.

SATURDAY, February 16, 1867.

Prayer by Rev. W. C. VAN METER, of New York.

On motion of Mr. STEWART, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

## PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislature of Wisconsin, in favor of a grant of land to aid in the construction of the Green Bay and Lake Pepin railway; which was referred to the Committee on Public Lands.

He also presented resolutions of the Legislature of Kansas, in favor of an amendment to the Constitution of the United States providing that the Senators from each State shall be chosen by the qualified electors thereof instead of by the Legislature; which were referred to the Committee on the Judiciary.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of an increase of the salaries of the members and officers of the Legislative Assembly, and an increase of the salaries of the territorial officers of that Territory; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of an appropriation of money in lieu of the lands set apart in that Territory for school purposes; which was referred to the Committee on Territories.

He also presented a memorial of the Legislative Assembly of the Territory of New Mexico, in favor of an appropriation to indemnify the citizens of that Territory who suffered loss by the revolution in 1847, and the Indian depredation since that period; which was referred to the Committee on Territories.

Mr. POMEROY presented a petition of citizens of Kansas, praying that the late treaty with the Osage Indians in that State be so amended as to give them the benefits of the homestead and preemption law; which was referred to the Committee on Public Lands.

Mr. MORGAN presented resolutions of the Legislature of New York, approving the action of Congress in passing the bill to regulate the elective franchise in the District of Columbia; which were ordered to lie on the table.

## HOUSE BILL REFERRED.

The bill (H. R. No. 886) to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

## BANKRUPT BILL.

Mr. POLAND. The House of Representatives have non-concurred in our amendments to the bill (H. R. No. 598) to establish a uniform system of bankruptcy throughout the United States. I move that the Senate insist on its amendments, and ask for a conference on the disagreeing votes of the two Houses.

The motion was agreed to; and the President *pro tempore* being authorized to appoint the conferees on the part of the Senate, Messrs. POLAND, MORGAN, and McDUGALL were appointed.

## BAILEFFS, ETC., OF COURTS IN DISTRICT.

Mr. MORRILL. The House has disagreed to our amendment to the bill (H. R. No. 356) fixing the compensation for the bailiffs and criers of the courts of the District of Columbia, and asked for a conference on the disagreeing votes. I move that the Senate insist on its amendment, and agree to the conference asked by the House.

The motion was agreed to; and the President *pro tempore* being authorized to appoint the conferees, Mr. MORRILL, Mr. CONNESS, and Mr. PATTERSON were appointed.

## DIRECT TAX OF WEST VIRGINIA.

Mr. VAN WINKLE. The joint resolution (S. R. No. 90) to suspend temporarily the collection of the direct tax within the State of West Virginia has been returned from the House of Representatives, with a message concurring in our amendments, except that one which strikes out the sixth section of the House amendment, and asking a conference. I move that the Senate insist on its action, and agree to the conference.

The motion was agreed to; and Mr. VAN WINKLE, Mr. HOWE, and Mr. DAVIS were appointed the committee on the part of the Senate by the President *pro tempore*.

## REPORTS OF COMMITTEES.

Mr. POMEROY. The Committee on Public Lands, to whom was referred the petition of John Kirkwood, of Arkansas, have directed me to report it back, and ask to be discharged from its further consideration, and that it be referred to the Committee on Claims. The Committee on Public Lands are impressed with the reasonableness and justice of this claim, but think the relief asked for cannot be appropriately reported upon by them, and it would establish a precedent that has never been set by this Government. While the claim may be very just, it is proper for the consideration of the Committee on Claims.

The report was agreed to.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the joint resolution (H. R. No. 218) to extend the provisions of the act in regard to agricultural colleges, to the State of Tennessee, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 571) to amend an act entitled "An act granting lands to the State of Kansas to aid in the construction of a southern branch of the Union Pacific railway, and the telegraph from Fort Riley, Kansas, to Fort Smith, Arkansas," approved July 26, 1866, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 473) making agricultural and mechanical college scrip receivable in payment for preemption claims, reported adversely thereon.

Mr. FRELINGHUYSEN, from the Committee on Claims, to whom was referred the bill (H. R. No. 818) for the relief of Norman Ward, reported it without amendment, and submitted a report, which was ordered to be printed.

Mr. HOWE, from the Committee on Claims, to whom were referred the following bills, reported adversely thereon:

A bill (H. R. No. 483) for the relief of Norman J. Hall;

A bill (H. R. No. 531) for the relief of the legal representatives of Major John A. Whitall, late paymaster in the United States Army, deceased, on account of lost or stolen vouchers; and

A bill (H. R. No. 824) for the relief of Edward Blanchard.

Mr. HOWE. I wish to state that these are all bills to relieve disbursing officers on account of money expended for which the vouchers were lost; and upon consultation with the Second Comptroller of the Treasury we are advised that there is no necessity for these acts of relief, that all these cases are covered by a law, passed in May last I think, which authorizes all such disbursing officers to appeal to the Court of Claims, and upon showing the loss of their vouchers and the amount of their payments, the court enters a judgment which the officers of the Treasury carry into execution. I send with these papers to the desk a letter from the Second Comptroller on that point.

Mr. MORRILL. The Committee on the District of Columbia, to whom was referred a

petition of Louis Schade and others, who sign themselves naturalized citizens and immigrants in the District of Columbia, and also a petition of Henry Kellogg and numerous other persons of Pennsylvania, have had the same under consideration, and instructed me to make a report. The petitioners ask that the right of the elective franchise may be conferred upon that portion of the petitioners who style themselves immigrants. Therefore, the prayer of these naturalized citizens and immigrants, whom the committee can regard in no other light than as aliens, strangers to our jurisdiction, subjects of foreign jurisdictions, and, I suppose, all of them subjects of the monarchies of Europe, is that such persons should share in the making and administration of the laws which, according to our theory of government, the committee supposed to be devolved exclusively upon the American people. There does not appear to be anything in the circumstances of these people which should lead the committee to make them an exception to the general principle applicable to foreigners. They do not claim to have performed any service for the country in its recent struggle; they do not profess any particular sympathy with republican institutions or with popular rights, and, therefore, there is nothing, so far as these facts might tend, to make their case at all peculiar. They seem to have conceived the idea that the right of citizenship was personal in this country, and they lay their claim to the exercise of the elective franchise, in this particular instance, upon the general assumption that they are of the Caucasian race, that they are all white, and that their associates from foreign countries are at least as favorably known for their wealth and refinement and influence as a certain other class of persons upon whom they suppose Congress has recently conferred the elective franchise. It seems to have been based upon that idea, on the idea that Congress had regarded the question of the elective franchise as one of personal merit. The committee instruct me to report adversely to the prayer of the petitions, and I move that the committee be discharged from their further consideration.

The motion was agreed to.

## CREDENTIALS.

Mr. LANE. I take pleasure in presenting the credentials of Hon. Oliver P. Morton, elected a Senator by the Legislature of the State of Indiana for the term of six years commencing on the 4th day of March, 1867.

The credentials were read, and ordered to be filed.

## BILLS INTRODUCED.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 609) allowing the duties on foreign merchandise imported into the port of Albany to be secured and paid at that place; which was read twice by its title, and referred to the Committee on Commerce.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 610) in relation to a certain tract of land in Burlington, Iowa; which was read twice by its title, and referred to the Committee on Public Lands.

## ALEXANDER F. PRATT.

On motion by Mr. WILLIAMS, the Senate proceeded to consider the amendment of the House of Representatives to the bill of the Senate (S. No. 435) for the relief of Alexander F. Pratt. The amendment was to strike out "\$530" and insert "\$300."

Mr. WILLIAMS. I move that the Senate concur in the amendment.

The motion was agreed to.

## GOLD MINES EAST OF ROCKY MOUNTAINS.

Mr. RAMSEY submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That ten thousand copies of the letter of the Secretary of the Treasury of February 13, 1867, transmitting to the House of Representatives a report by James W. Taylor, upon gold and silver mines and mining east of the Rocky mountains, be



printed for the use of the Senate; and that one thousand of said extra copies be placed at the disposal of the Secretary of the Treasury.

#### BLOCK ISLAND.

Mr. SPRAGUE. I present resolutions of the Legislature of Rhode Island in favor of the building of a breakwater at Block Island; and I wish at the same time to introduce a joint resolution and ask the attention of the Senate for a few moments to this important subject.

Since I have received the resolutions of the Legislature, I have examined the record in relation to the situation of this island. The island is ten miles and a half from the southernmost coast of the State of Rhode Island. The State of Rhode Island holds jurisdiction over this island, which is eight miles long and from two to five miles wide. It has a pond or lake, which in early times, in a petition presented to the Legislature of Rhode Island, was said to have a capacity sufficient to float the entire British navy. Between it and the waters of the sea is but a slight obstruction. The agitation since it became a part of the State of Rhode Island has been with a view to cut into that lake, and thus in mid-ocean find a safe harbor of refuge both for the coastwise commerce of the country and for foreign commerce. It stands at the eastern outlet of Long Island sound. The commerce going to New York passes within easy distance of Block Island. It is quite apparent to those familiar with our coast that vessels many times approach that vicinity and are by unfavorable winds driven out into the ocean, and loss is frequently occasioned thereby. The inhabitants of this island will number in 1870 two thousand people. They have at present no accommodations, no harbor.

Mr. President, this is one of the most interesting subjects I have been called upon to examine. This island was in 1622 occupied by the Narragansett tribe of Indians, and in the wars which they waged with the Pequods the island changed hands many times, and was the battle-ground of many of the most severe and sanguinary contests known in Indian warfare. In 1664 the island became a part of the jurisdiction of Rhode Island. It was a bone of contest between Connecticut, Massachusetts, and Rhode Island, but from that period it was held as a part of Rhode Island, and has ever since sent its Representatives to the Legislature of Rhode Island.

It may not be known to every member of this body that Rhode Island sent into the Navy of the United States its first commander-in-chief. It may not be known that of the eighteen officers who performed the first naval exploit in the Revolution, eight were from that State. It may not be known that the first naval contest waged with Great Britain was fought mainly by the men and the officers who manned the vessels from Providence that brought to you arms and supplies of ammunition to wage your war of the Revolution. It may not be known that the first naval contest of the Revolution was fought in the vicinity of the island that I am now here to speak for.

Sir, the men who performed these exploits were of this population, and they have from that day to this, whether as officers or as men, occupied positions in your Navy. And why should it not be so? They are in the midst of the sea, and must be sailors. It is their education. Brought up amid the dangers of ocean, they are taught to look upon them without concern, and when their country calls them into its service, they know no danger to deter them. They are materials for your Navy; they are materials for your commercial marine. The island stands in the midst of the sea, where your Navy and your commercial marine may find refuge in times of danger.

I look with great concern at the condition of the commerce of the country, and I desire that whatever can be done for its improvement may be done by my vote or by any influence that I may bring to bear; and I know of no better way to facilitate commerce than to fur-

nish safe and commodious harbors for the refuge, not only of your war vessels, but of your commercial marine.

From 1664 till 1773 Rhode Island appropriated means and money to facilitate the commerce between this island and the main land, inadequate of course during the storms of ocean as of the inclement season for any fixed purpose. She now requires attention to the subject to-day, and in times gone by she has required that attention. In 1838 the two Houses of Congress passed resolutions directing the attention of the Departments to this subject, and authorizing a favorable report in regard to this island. But, sir, those who were actors at that time have passed away. The State soon afterward entered upon her revolutionary contest, and from that time till the present day that contest has absorbed the attention of that people. I refer to the contest for the establishment of a permanent republican form of government, commencing in 1842 with the convulsions growing out of charter privileges. That people have only now, through trials and difficulties, been able to stand firmly upon what is deemed a republican form of government. Rhode Island gave to the service in the revolutionary war its first negro regiment. She in 1842 gave the first votes to the negro population in that State. She in the last war for the Union gave to the country the example of calling into service the first negro regiments. She has, therefore, been far in advance of her times.

Then, sir, on account of the record this people have made, on account of the fitness of these men, in the midst of the ocean, to perform active, efficient parts in your Navy, in consequence of the appropriations heretofore made by that State for the purpose of furnishing adequate accommodations for the advantage of commerce—and there is no interest in which I have more concern, no interest to the prosperity of which I would devote myself with more earnestness—on all of these accounts I ask that the Committee on Commerce may receive this proposition with that favor which it is entitled to; and when it comes before this body I ask that they may give it the favorable consideration which, from my contemplation of it, I know it is entitled to. I present my joint resolution.

By unanimous consent, leave was given to introduce the joint resolution (S. R. No. 174) for the erection of a breakwater on Block Island; which was read twice by its title, and referred to the Committee on Commerce.

#### ALLOTMENT OF SUPREME JUDGES.

On motion of Mr. TRUMBULL, the bill (S. No. 534) to provide for the allotment of the members of the Supreme Court among the circuits, and for the appointment of marshals for the Supreme Court and for the District of Columbia, was considered as in Committee of the Whole.

The first section provides that the Chief Justice of the United States and the associate justices of the Supreme Court shall be allotted among the circuits now existing by order of the court; and whenever a new allotment shall be required or found expedient by reason of alteration of one or more circuits, or of the new appointment of a Chief Justice or associate justice, or otherwise, it shall be the duty of the court to make it; and if a new allotment shall become necessary at any other time than during the term, the allotment shall be made by the Chief Justice, and shall be binding until the next term, and until a new allotment by the court.

The second section authorizes the Supreme Court, upon the nomination of the Chief Justice, to appoint a marshal for the said court, whose compensation shall be \$3,500 per annum. The marshal is to take charge of all property of the United States used by the court or its members, and to serve and execute all process and orders issuing out of the court, or made by the Chief Justice or an associate justice, in pursuance of law; and he is to pay into the

Treasury of the United States all fees and compensation allowed by law, and render a true account thereof, at the close of each term, to the Secretary of the Interior. The marshal, with the approval of the Chief Justice, may appoint assistants and messengers in place of the crier and messengers now employed, with such compensation as is or may be allowed to officers of the House of Representatives of similar grade; and all acts and parts of acts now in force relating to the marshal of the District of Columbia are to apply to the marshal of the Supreme Court, except in so far as the act otherwise provides.

Section three authorizes the supreme court of the District of Columbia to appoint a marshal of the United States for the District of Columbia, whose powers and duties shall be the same as the powers and duties of the marshal of the United States for the District of Columbia under existing laws; and he is to receive the same compensation for his services as the marshal now receives for like services; and from and after such appointment the office of the marshal now held under appointment by the President is to cease and determine.

The Committee on the Judiciary proposed two amendments to the bill: in section two after "courts" in line two to strike out "upon the nomination of the Chief Justice," and to strike out the third section.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. JOHNSON. When this bill was before the Judiciary Committee an amendment was suggested which met the approbation of all the committee, to strike out the clause requiring the appointment of a marshal by the court to be on the nomination of one of the judges.

Mr. TRUMBULL. That has been stricken out.

Mr. JOHNSON. That is right.

The bill was ordered to be engrossed for a third reading; and was read the third time, and passed.

Mr. TRUMBULL. I move to amend the title to conform to the bill as amended, so as to read: "A bill to provide for the allotment of the members of the Supreme Court among the circuits, and for the appointment of a marshal for the Supreme Court."

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had agreed to the amendment of the Senate to the bill of the House (H. R. No. 903) making appropriation for the payment of invalid and other pensions of the United States for the year ending June 30, 1867.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 431) providing for the punishment of certain crimes therein named in the District of Columbia, and for other purposes;

A bill (H. R. No. 571) to regulate proceedings before justices of the peace in the District of Columbia, and for other purposes;

A bill (H. R. No. 788) to establish and protect national cemeteries;

A bill (H. R. No. 848) to amend an act entitled "An act to incorporate the National Soldiers' and Sailors' Orphan Home," approved July 25, 1866;

A bill (H. R. No. 903) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1868;

A bill (H. R. No. 907) to amend the law of the District of Columbia in relation to judicial proceedings therein;

A bill (H. R. No. 1044) for the relief of John Gray, a revolutionary soldier;

A bill (H. R. No. 1045) for the relief of

Daniel Frederick Bakeman, a revolutionary soldier;

A bill (H. R. No. 1053) granting an increased pension to John J. Sohan;

A bill (H. R. No. 1058) for the relief of the children of Solomon Long, under sixteen years of age;

A joint resolution (S. R. No. 163) to provide in certain cases for the removal of alcohol from bonded warehouse free from internal revenue tax;

A joint resolution (H. R. No. 173) for the relief of Ober, Nanson & Co., merchants of New York;

A joint resolution (H. R. No. 251) to extend the time for codifying the laws relating to customs, authorized by the joint resolution approved July 26, 1866;

A bill (H. R. No. 643) to alter the places of holding the circuit courts of the United States for the Rhode Island district;

A bill (S. No. 435) for the relief of Alexander F. Pratt;

A joint resolution (S. R. No. 99) for the relief of Paul S. Forbes, under his contract with the Navy Department for building and furnishing the steam screw sloop-of-war Idaho; and

A bill (S. No. 506) to authorize the trustees of the Foundry Methodist Episcopal church to sell and convey square No. 235 in the city of Washington.

HENRY S. DAVIS.

On motion of Mr. POLAND, the bill (H. R. No. 820) for the relief of Henry S. Davis, was considered as in Committee of the Whole. It proposes to appropriate \$5,725 04 for the relief of Henry S. Davis, which shall be in full of his claim against the United States for work done by him on the west wing of the Patent Office building, under his contract of November 6, 1857.

Mr. FESSENDEN. From what committee does the bill come?

Mr. POLAND. The Committee on Public Buildings and Grounds.

Mr. BROWN. This is a claim that has produced a good deal of controversy. It has been reported back to the Senate with a majority report and also a minority report. I should like to have the reports read.

The Secretary commenced the reading of the views of the minority.

Mr. WILLIAMS. I perceive that that is a very lengthy document. I move that the Senate proceed to the consideration of the unfinished business of yesterday.

The PRESIDENT *pro tempore*. The motion is unnecessary, as the morning hour has expired; and it is the duty of the Chair now to call up the unfinished business of yesterday.

Mr. ANTHONY. I hope the Senator from Oregon will allow me to get up the bill I have been trying to obtain the floor all the morning to call up; but, like the unfortunate man in Scripture, some one always stepped before me. I allude to the bill for the election of a Congressional Printer. I do not think it will occupy much time, and it is very desirable it should be passed early.

Mr. WILLIAMS. I should be very happy to accommodate my friend from Rhode Island, but under the circumstances I must be excused. I suppose some of the Senators will desire to attend church to-morrow, and it will be necessary to have a final vote on this bill before eleven o'clock to-morrow. I think it is necessary we should proceed with it; the Senator from Wisconsin is ready to go on.

GOVERNMENT OF SOUTHERN STATES.

The PRESIDENT *pro tempore*. The bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States is before the Senate as in Committee of the Whole, the pending question being on the amendment of the Senator from Maryland [Mr. JOHNSON] as amended.

Mr. DOOLITTLE. Mr. President, I rise to plead for what I believe to be the life of the Republic, and for that spirit which gives it life. I stand here also to answer for myself;

because, foreseeing and resisting from the beginning what I knew must follow as the logical consequences of the adoption of certain fundamental heresies originating in Massachusetts, and of which the honorable Senator upon my right [Mr. SUMNER] is the advocate and champion, I have been for more than eighteen months denounced in my State by many of my former political associates and friends. For foreseeing these logical results which have now come, which are now pending before this Senate in the bills which have come from the House of Representatives, for denouncing them in advance, for asserting to the people of Wisconsin over and over again that yielding to these fatal heresies would of necessity dissolve the Union and establish concentrated military despotism, I have, I repeat, been most severely denounced throughout the State of Wisconsin and elsewhere. That denunciation has been carried to such an extent as to culminate at last in resolutions of the Radical Legislature of Wisconsin instructing me to resign my seat in this body.

I say, therefore, Mr. President, first, that I stand here to-day to plead for the life of the Republic, and to plead for that spirit in which it lives and moves and has its being, and without which it is dead already; and second, to answer for myself because I have been pleading for it with all the power that God has given me for the last two years in my own State, in this Senate, and elsewhere. If I shall on this occasion give utterance to deep and earnest convictions in strong and earnest language Senators will understand it is with no disrespect to them. It is because my soul is filled with sentiments which language can hardly utter. Never, sir, in my life, though I have stood in many trying situations and have often risen here to discuss grave questions, have I felt the weight of responsibility which rests upon me now. Never was there a time in my life when my heart could go up and ask Almighty God to grant me the power to give utterance to the truth as it goes up now.

Sir, let us look into the measures now pending. No such measures were ever before presented in the American Congress. What are they? Call them by what name you will, they are, in substance, a declaration of war against ten States of this Union. They are nothing more; they are nothing less. We know that the rebellion has been suppressed. We know that every armed soldier of the rebellion from the Potomac to the Rio Grande has surrendered his arms and pledged anew his allegiance to the Constitution, the Union, and the flag. We know that there is not one armed soldier against this Republic throughout the whole of our vast domain. We know that in these ten States civil governments in form, and in fact, have been reestablished by the voice of their people, and that, with all the machinery of civil governments, they are in full operation. We know that peace has been proclaimed by the authorities of this Republic, pursuant to the acts of Congress conferring that power. In all the States of this Union peace has come.

But, sir, what do these bills propose? They propose open, direct war on every form of civil government within these States. They propose to supersede and annul them all, and take from the people, and all the people, in these States, all voice in the power which is to govern them. The bayonet, and the bayonet alone, in the hands of the soldier is to be the law of these ten States. All resistance is to be overcome; the States are to be taken into military possession; and all civil authority subjected to the bayonet. That is war. Suppose we should propose to do that to the neighboring territories of Canada; that, by act of Congress, we should send our troops there, take the judge from the bench, the jury from the box, remove all civil officers, disrobe them of all authority, and subject them to martial law—in one word, should we make the bayonet in Canada the only law upon which life, liberty, and property depend, would not that be war? No man can doubt that would be war; nothing

more nor less than war. These propositions now pending, by whatever specious name they may be called, are declarations of war and subjugation against ten States and eight million people.

Now, Mr. President, upon what ground is war thus to be declared on these ten States and on these eight million people? The first ground is because they have not accepted the constitutional amendment which was submitted for their acceptance or rejection by Congress at the last session. Let us look for one moment at the logic of this proposition. You have submitted to them for their ratification an amendment to the Constitution of the United States which you say—and that is probably true, at least of several of these States that have taken action—they have rejected it; and therefore you have a right to make war. What is implied in submitting a constitutional amendment to those States for ratification or rejection? It implies that they have the power to ratify it or reject it. How can that power be exercised? By their Legislatures. It cannot be exercised in any other way under the act of Congress which submitted the amendment, because in so many words it submits this proposition to the Legislatures of the several States. And yet gentlemen now say they have no Legislatures, they are not States at all, they are merely disorganized provinces, conquered territory, subjugated, overthrown. And yet the very constitutional amendment which you submit to them, and for rejecting which you propose to declare war against them, implies of necessity that they are States, and that they have the power either to accept it or reject it. If they have no power to reject, why go to war with them because they have rejected it? What logic is there in that? If you admit that they have the power to accept, they of necessity have the power to reject. And if they have Legislatures capable of accepting or rejecting they have valid State governments, and Congress has no more power to impose or force a constitutional amendment upon them than upon the State of New York.

Look at it, Mr. President, in any point of view. We have heard of the *coup d'état* of Napoleon, and when the question was submitted whether Napoleon should be Emperor of France word was given out to the French people, "You are free to vote as you please, but you must vote for Napoleon as Emperor of France or you will feel the power of the bayonet." This proposition now made by Congress to the States of the South is substantially that if you vote for this amendment you have the liberty to do so, but you have no liberty to vote against it; if you do we shall put the bayonet to your throat, and hold it there until you do accept it. That is guaranteeing to them a republican form of government with a vengeance! That is a mode of ratifying an amendment by the people under a republican form of government in the States from which even Louis Napoleon could take a new lesson. What, sir, compel them at the point of the bayonet to vote for the constitutional amendment, when by submitting that amendment to their vote you recognize them as free States with power as freemen to accept it or reject it! If they are States with power to vote on a constitutional amendment at all they are States under the Constitution for all purposes, and Congress has no right to impose any condition upon them. Congress has no right to say that these States shall not have their rights in this Union under this Constitution.

And yet this is precisely what you say. You say these States shall never have any representation under the Constitution as it is. You say to these States there must be a new Constitution before you can have any right of representation. If you ever have any rights in this Union it must be under some other Constitution—some new Constitution—some amended Constitution; but under the Constitution which our fathers made, you shall never have any representation whatever. That is

what Congress says. It is a most flagrant usurpation in this Congress.

Mr. WILLIAMS. Mr. President—

Mr. DOOLITTLE. I beg that the Senator will not interrupt me, for it will draw me from the line of my argument. I prefer to finish, and then I shall be glad to hear whatever the Senator may have to say.

Mr. President, I have stated one of the grounds upon which this declaration of war is proposed to be made upon these States. I will now call attention for a moment to the other ground upon which this war is said to be justified, to wit, that within all the States of the South there is now no such thing as civil government, that there is no safety for Union men or for freedmen. I shall not deny that disorders exist in some of the States of the South. Undoubtedly they do exist, and for various reasons. We all know these States were greatly impoverished by war. Thousands and tens of thousands of persons were reduced to the most abject poverty, and I undertake to say that there is no people upon the face of the earth who can be reduced to abject poverty, whether from war or from any other cause, where the result will not be to produce a good many disorders. Crimes of every kind necessarily follow abject impoverishment. But as to the charges so often repeated, so industriously circulated, so often published in the newspapers of the North for the purpose of exciting and inflaming the passions of the people of the North against the people of the South, to goad them on to the point of sustaining the military subjugation of the people of the South, I undertake to say that they are most grossly exaggerated, and in very many instances absolutely, unqualifiedly, and wickedly false. Upon that subject I have some facts within my personal knowledge, as well as facts which have come to me through sources which cannot be questioned.

It was my fortune not many months ago to pass through several of the States of the South; I was in Louisiana and in Texas, and I undertake to say that gentlemen there who are well informed and cannot be otherwise, and whose names I will mention, informed me that these stories of outrages against Union men and the freedmen were, as I have stated, grossly exaggerated and many of them willfully and wickedly false. I refer to General Herron, formerly of Iowa, who was for a long time commandant in the department of New Orleans. He told me in November last that single and alone he could drive with a horse and buggy all over the State of Louisiana with as much safety as in the State of Iowa. Colonel Mann, who is the collector of the port of New Orleans, confirms the statement. General Benton, who is also at the city of New Orleans, and who was engaged in our service, states these facts. I do not deny that outrages occasionally exist there as they do elsewhere; but that there is any such persistent purpose to destroy Union men because they are Union men, to drive away northern men because they are from the North, or to destroy or to injure the freedmen, is not true.

Mr. President, gentlemen say that they have reports from the agents of the Freedmen's Bureau, and reports from persons whose names they dare not read, and other authorities which they dare not mention. They talk of outrages by the hundred and by the thousand. I do not deny that some outrages exist. But these things are grossly exaggerated.

Gentlemen tell us that military men in command of these departments give their opinion that the best mode of dealing with the States of the South is to subject them to military rule. Sir, I do not question the patriotism of these military men; I do not question their personal or professional capacity; but I never yet saw a military man who, if he wore the uniform of a lieutenant, did not desire to be a captain; if he wore the uniform of a captain, did not desire to become a field officer; if he were in command of a regiment, who did not desire a brigade, and if the command of

a brigade, did not desire the command of a division or the command of a department. Sir, it is in human nature. It belongs to human nature, and military men are as ambitious as other men. Every tribunal that ever existed upon earth desires to enlarge its powers and extend its jurisdiction. There is no man who if he has \$100,000 does not desire \$100,000 more. There is not a railroad company with a line of road one hundred miles in length that does not desire to obtain possession of and control all the branches that can be built or be connected with it. There is no judge upon the bench—to use the old maxim, there is no good judge who does not amplify his jurisdiction. All who know anything of human nature know that power in human hands, in any form or shape, always seeks to enlarge itself; and when you call upon the commander of a military department and ask him whether it is advisable to put that department under his absolute control, and give him the complete civil and military administration of all affairs in the department, there is not one man out of a thousand, nor one in ten thousand, who will not answer: "Yes; it is in the line of my profession; it gives power and dignity to my profession."

Sir, there is no man who has greater confidence in the integrity, the patriotism, or the capacity of the high officers of our Army than I have; but I have read all history in vain, the warnings of our forefathers are to be taken as of no account, if I do not look with jealousy and well-founded distrust upon the opinions of men in the Army when given upon the question whether martial law or civil law shall be supreme in their several departments. From the very profession of the soldier the civil law is to him a thing unknown. Martial law, the law of forces, the government of men by power and force, is of the very essence of the profession of the soldier. Therefore, when men press upon me the consideration that officers of the Army advise that these various States be placed as military departments under their absolute military jurisdiction, I look upon it with extreme jealousy.

The insidious plea under which military despotism is usually established is threefold: First, it is necessary; second, it is temporary; third, it will be very mild in its operations.

Sir, the last is perhaps the most insidious and dangerous of the three. It should never be forgotten that, in the establishment of a military despotism, the milder that despotism when it begins the more dangerous it becomes. The milder its form, the juster the hand that wields the sword, the more dangerous is the despotism which flows from it; for it accustoms the people to it; the yoke is made so easy upon their necks, the burden is placed so lightly upon their shoulders, that before they are aware they find themselves held with an iron hand in a silken glove, and that it is easier to wear their chains than break them.

On this point, Mr. President, namely, as to the condition of the South, I desire to read some extracts from letters of gentlemen whose truth I cannot question. I refer to the letter of General Tarbell; and to show who he is I will read a few words from a letter of the Governor of New York, Hon. Reuben E. Fenton, indorsing General Tarbell:

STATE OF NEW YORK, EXECUTIVE DEPARTMENT.  
ALBANY, October 23, 1865.

Brevet Brigadier General Jonathan Tarbell, late colonel of the ninety-first New York volunteers, is known to me as a highly intelligent, patriotic, and reliable gentleman. As an officer he was gallant and distinguished. His command was thoroughly organized and disciplined, and served with credit. I take pleasure in commending General Tarbell to the confidence and kind consideration of all with whom he may connect himself in future business relations.

R. E. FENTON.

I received from General Tarbell in May last a letter referring to the condition of the South, from which letter I propose to read certain extracts to the Senate:

"DEAR SIR: Allow me to say that I have been in the States of Georgia, Alabama, and Mississippi since December last; that I was a Whig and am a Republican, and hence looked closely at southern

society. I have no hesitation in denouncing the reports in northern newspapers of outrages upon the blacks and upon northern settlers as utter fabrications or malicious exaggerations. I traveled by rail, by water, on horseback, on foot, in company and alone, by day and by night, totally unarmed except a pocket knife, purposely, openly and frankly declaring to every one I was a 'Yankee and Black Republican.' I met others who had traveled on horseback from Florida to Mississippi, who, like me, were Republicans, and I do assure you I would sooner travel throughout the South than the North, so far as personal safety is concerned." \* \* \* "To say that the South is 'caricatured' in the North does not express it; she is slandered, vilified, wickedly, infamously belied. Were the South to come North she would not recognize herself; if she did she would disown herself. Were the North to go South she would be astounded at the misrepresentations and falsehoods and with the cruelly unjust and erroneous sentiments prevailing there. The North is all wrong, not in its consistent anti-slavery sentiments, but in its impressions of southern character. The negroes are neither hated nor ill-treated; northern settlers are not molested; the South accepts the situation in good faith." \* \* \* "There are just grounds of complaint against the Freedmen's Bureau officers. Most of them are interested in plantations, and so many are corrupt and incompetent that the service, the Government, and the North are scandalized by their conduct."

And such, you remember, sir, were the reports of the generals sent to investigate those affairs. But to return to the letter:

"But not to be too lengthy, I assure you, sir, that this terrific public opinion that is driving the North to the support of the startling and dangerous centralization of power in Congress is based upon falsehood and misrepresentation."

As I expect to be judged by my Maker at the great day of final judgment, I state to you solemnly that from extensive travels in these States, from conversations with all classes and colors, and after listening to hundreds, I believe, before high Heaven, that all these newspaper reports of hatred to and outrages upon blacks by whites and of the molestations of northern settlers are baseless, wicked fabrications, concocted and reported expressly to create this fearful public opinion which should sustain the change of the fundamental principles of the Constitution, devised by our forefathers with a wisdom and foresight they themselves scarcely comprehend."

That letter was addressed to me last year.

Mr. WILLIAMS. What is the date of the letter?

Mr. DOOLITTLE. It is dated in April last. I have also another letter from him which I received in November last, in which, referring to this former letter, he uses these words:

"So far from having seen reason to retract my letter to you I am more than confirmed in the truth of the assertions then made."

That was written in November last, from the State of Mississippi, where he now resides; and I undertake to say upon my personal responsibility and my personal honor that in going into the States of Louisiana and Mississippi and conversing with men of all classes, Union men and men who had been rebels, the statement was universal that these newspaper reports now filling the journals of the northern States, were to a very great extent base, malicious, and wicked fabrications, made for the purpose of inflaming the passions of the people of the northern States and influencing the popular elections.

I have also before me a letter of Mr. Walker, Governor of Florida, dated the 15th of this month, in which he says:

"It is utterly untrue that Union men in the State of Florida are subjected to violence or insult of any kind. Their position in society is exactly that of other citizens. No questions are asked concerning their antecedents or birthplace. We are delighted and manifest our joy when good and worthy persons from the North come to visit or live among us. This is the general disposition of the people. I have never seen or heard of a Union man who, since the war, has been persecuted on account of his politics. Every man stands upon his own merits, and justice in the courts is administered equally to all."

Why, in God's name, should they not be glad to have northern men come there? A poor, impoverished, desolated people, why should they not welcome every man to the community that would help to restore their prosperity and build up the waste places that war has laid in desolation and in ruins? Sir, it is to suppose that human nature does not seek its own interest. Why should they bear hatred toward the freedmen whose labor is at this time so necessary to the regeneration of the South? From what I heard, and it was stated universally all along through these States, the high inducements which were



held out for the labor of the freedmen in the valley of the Mississippi were withdrawing them from the States of North Carolina, South Carolina, Georgia, and Alabama, and the people of these States, instead of desiring to destroy the freedmen or to injure them, desired to keep them for the cultivation of those staples absolutely necessary to the prosperity of those States. The Governor of Florida further says:

"The freedmen are protected by the laws in life, liberty, and property the same as the whites. The educational system provided for them by the laws is in full operation, and the general disposition of the people is to render them as happy and enlightened as possible."

And why should they not? If that people are there, as they are, and to live there as they must, why, I ask, in Heaven's name, should not the people of the southern States desire them to be as loyal and law-abiding and intelligent and respectable a people as they are capable of being? Is it possible that a people desire to destroy themselves? It seems to me men are beside themselves who think so or can say so here or elsewhere.

Mr. President, I have dwelt longer upon this point than under other circumstances it would be either proper or necessary, simply because this is made the basis upon which Congress is now urged, in hot haste, to make this declaration of war against all civil government in these States and against the people of these States.

I said a little time since that because I foresaw the logical results and the necessary conclusions to which the heresies of Massachusetts, advocated here by the honorable Senator on my right, would inevitably lead, and because I opposed and denounced them from the beginning, I have been assailed by my political associates and friends in the State of Wisconsin. It is substantially for that, that I have been instructed to resign. While I stand here, then, pleading the cause of my country, I am here to answer also for myself; and as this, the grave charges brought against me by the Radical Legislature of Wisconsin, involve not only my public conduct but also my private character, the Senate will indulge me if on this occasion I refer to some facts in connection with these charges personal to myself.

The Legislature of Wisconsin has instructed me to resign my office as Senator. Where do they find authority to do that? Neither in the constitution of Wisconsin nor in the Constitution of the United States. It is an attempt at usurpation upon both. A State Legislature has power to fill vacancies in the office of Senator; it has no power to create them. It has no power to make or to dictate removals. By the true theory of Union, Senators elected under the Constitution are officers of the United States. They are not officers of the State where they are chosen. Secessionists at the South have always maintained the contrary. Indeed, the ideas upon which the doctrine of State secession and the doctrine of State instruction to Senators rest are nearly related to each other. They are born of the same spirit and at the bottom they are one and the same idea, namely, in case of conflict of opinion or of jurisdiction between State and Federal authority, paramount allegiance is first due to the State; and therefore, the State being sovereign, it can break when it pleases the lien which binds the State to the Union or which binds a Senator residing in the State to his allegiance and his duty to the whole United States. All the Senators from the secession States obeyed instructions and resigned their seats excepting only one, Andrew Johnson. Grant the theory of secession, that these States are only bound together in a league or confederation under the Constitution, and it follows, of course, that Senators are merely ambassadors, subject to be instructed or withdrawn at the pleasure of their State.

But grant the theory of Union that a government is established by the Constitution for the whole United States, and it follows of necessity that a Senator, during his term of office, must legislate for the whole country and not for that State alone which elects him. He

should know no North, no South, no East, no West, but discharge his duty to the country and to the whole country. Without a violation of his oath, therefore, he cannot in times of great public danger acquiesce in this doctrine of instructions, surrender his convictions of duty, or abandon the post of high responsibility.

I admit as a question of fair and honorable dealing, as a question of political ethics, that if a Senator after his election should materially change his opinions upon some great question upon which he was understood to have formed and expressed his deliberate opinion before his election, and in view of which it had taken place, it would be both honorable and manly in him to tender his resignation. But when he feels and knows that his opinions upon those great questions have undergone no change, and that the allegations brought against him of the desertion of his principles and of the great cause in which he is engaged are utterly false and without the shadow of foundation, he would be unworthy of the respect of honorable men, and more than all cease to be worthy of his own, if for one moment he should entertain the thought of acquiescing in the degrading imputation sought to be cast upon him.

This doctrine of State instruction is against both the letter and the spirit of the Constitution. By its express terms a Senator is chosen for the term of six years. The assertion by a Legislature of the right to shorten that term or to make it depend upon the will or the caprice of a Legislature is as clear a violation of the Constitution as the doctrine of secession itself. If by instructions they can make it the duty of a Senator to resign four years after his election, they can within two years or one year or six months even. Ay, sir, at the same session, the Legislature which elects him may instruct him to resign. And it is a singular fact in connection with my relations to the Legislature and Governor of Wisconsin, that the very Legislature and Governor, who were elected in Wisconsin upon a platform of principles which I drew and submitted to the convention at Madison in 1865, did instruct me to resign substantially because I would not abandon the platform upon which they were elected and follow the lead of the bolting convention at Janesville of the same year, whose creed is the creed of the Radicals to-day, and which is embodied in the two bills pending before the Senate, namely, negro suffrage as a condition precedent to representation from the southern States, and the assertion of the doctrine that those States are out of the Union, mere subjugated Territories. That is a famous example of political gratitude and political consistency displayed in times of political excitement.

Sir, the very ground upon which Senators are chosen for six years is to make them independent in their action as Senators for that period of time, to enable them to withstand the current of the changing opinions of popular assemblies until the people shall have sufficient time for that "sober second thought" which is sure to come when the hour of excitement and passion is over. When that time comes, and come it will, there will be found very few men of any political party at the North who will not regard this assumed right to instruct a Senator to resign as a violation of the letter and spirit of the Constitution, and the Legislature asserting it gives strong evidence that sober judgment, for a time at least, has been put aside from their deliberations.

Besides, sir, what would be the effect of this doctrine upon the character of this body? What independence of judgment, what manliness of character, what statesmanship worthy of the name could be expected in the Senate of the United States should such a doctrine be acquiesced in? Who would accept the position of Senator to become a mere tenant at will? Who could keep his oath to support the Constitution if, at the very moment he believes it most in danger, he must, cowardlike, abandon his post of duty, danger, and responsibility?

Such is not the teaching of the great men who made it, nor of those who have defended

it. It is a heresy born of secession, to which the judgment cannot yield. Let us inquire for a moment, what do the great men of the Republic say of this doctrine borrowed by the Legislature of Wisconsin from the secessionists and nullifiers of the South? I will refer to only two. I first read from the works of Madison, who perhaps more than any other helped to form and to expound the Constitution:

"Nothing is more certain, [says Mr. Madison, (vol. iv, p. 429)] while discussing this doctrine of instructions, than that the tenure of the Senate was meant as an obstacle to the instability which not only history, but the experience of our country, had shown to be the besetting infirmity of popular Governments. Innovations therefore impairing the stability afforded by that tenure, without some compensating remedifications of the powers of the Government, must affect the balance contemplated by the Constitution."

Again, Chancellor Kent declares that this doctrine of instructions is repugnant to the theory of our Government—

"Which supposes that the representatives are to meet and consult together for the common welfare, and to have a regard in making the laws to the greatest general good, and to make the local views and interests of a part of the community subordinate to the general interest of the whole."

He shows clearly that the true doctrine on this subject is derived from the common law applicable to members of Parliament; and that, as an important and undoubted constitutional principle, it was asserted in Parliament as long ago as 1571, and for three hundred years it has remained unshaken.

I call special attention to the no less powerful argument of Edmund Burke against the doctrine of instruction. In his speech to his constituents at Bristol, he maintained, with his usual force, that the representative ought not to sacrifice his unbiased opinion, his mature judgment, his enlightened conscience, to his constituents; to any man or set of men living. These he does not derive from the pleasure of his constituents; no, nor from the law and the Constitution. They are a trust from Providence, for the abuse of which he is deeply answerable. Said he:

"Your representative owes you not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion."

Government and legislation are matters of reason and judgment, and not of inclination. What sort of reason is that in which the determination precedes the discussion; in which one set of men deliberate and another decide; and where those who form the conclusion are perhaps three hundred miles distant from those who hear the arguments?

Parliament is not a congress of ambassadors from different and hostile interests, which interests each must maintain as an agent and advocate against other agents and advocates; but Parliament is a deliberative assembly of one nation, with one interest, that of the whole; where not local purposes, not local prejudices ought to guide, but the general good resulting from the general reason of the whole. You choose a member indeed, but when you have chosen him he is not a member of Bristol, but he is a member of Parliament."

In the Chamber of Deputies in France, also, this doctrine of instruction finds no toleration even. So important is it regarded there that the representative should remain free to discuss, deliberate, and judge upon all questions that the election of M. Droult was annulled by a vote of the Chamber on the ground that he had engaged with his constituents to vote for a certain measure. That vote of the Chambers was supported by M. Guizot, one of the greatest statesmen of France, or of any age or country, in a most powerful and convincing argument. These arguments and these authorities are conclusive against this assumed right of instructions.

And, Mr. President, if ever, in the history of a great country, a statesman was called upon to exercise unbiased judgment, unflinching fidelity to his convictions of duty, and unmoved by local passions and prejudices, by the denunciations of demagogues, by lawless mobs, excited and infuriated by an unscrupulous press, to stand fast to his integrity in the discharge of that high trust which he owes to the Constitution, and to every State under it, to the country, and to the whole country, it is now and here. [Applause in the galleries.]

The PRESIDING OFFICER. Order!

Mr. DOOLITTLE. Humble though I may be, during my official term, God helping me, I shall stand here, sir, to speak and to vote in

this great crisis; not for Wisconsin alone, but for the whole United States; not for one State and one million people, but for thirty-six States and more than thirty million people.

Mr. President, in my character as a Senator of the United States, I am called upon to speak, to act, and to legislate for the States of the South as a part of the United States; for the eight or ten millions of our fellow-citizens of the South, but who are now, in my judgment, in violation of express law, in violation of the Constitution, and the spirit which gives it life, denied all right to choose representatives under this Constitution for themselves by this majority in Congress; my oath to support the Constitution makes it my duty to speak and to legislate for them, within the powers granted by the Constitution, as well as for the people of Wisconsin and the twenty millions of my fellow-citizens of the North, the East, and the West.

Mr. President, I proceed to inquire, in the second place, if any such power existed in the Legislature as the power claimed to instruct me to resign and to make it my duty to withdraw from this Chamber, upon what grounds do they claim to exercise that power, and thus to sever me from my duty and from my allegiance to the United States?

First, they say because of disobedience to the instructions of a former Legislature. Sir, at the last session of Congress I gave my reasons for not obeying those instructions. They are just, and, in my opinion, unanswerably true. I leave them upon the record where they now stand, and where they will stand forever, as the full vindication of my course in this body.

Second, because they allege I have renounced my former professions and principles, and have placed myself in active antagonism to them, and have united my political fortunes to the enemies of the Republic. In short, sir, they charge that I am a traitor to my principles and a traitor to my country.

Mr. President, this charge so gravely made, involving, as it does, not only my public, but my private life, I cannot suffer to pass unnoticed. It might move me to the deepest indignation against the men who make it did I not know, as sure as the sun shines in Heaven, it to be utterly false and without the shadow of foundation. As it has been placed, however, upon the public journals of Wisconsin, and has been forwarded here to be placed among the archives of this body to remain forever, I deem it due to the truth of history, due to the Senate, due to myself, and due to my children, to whom the only legacy I expect to leave is the fair fame of an honorable man, that I should briefly state my relations to great political questions and my relations to political parties.

It will be observed—and I desire all the world to take notice, by gentlemen here as well as elsewhere—that in my whole political life my allegiance to certain great principles has always been paramount to my allegiance to any party.

It is known to all that I was reared from my youth up in the great Democratic-Republican school of Jefferson and Madison. In 1847, when the party in power under Mr. Polk sought to extend slavery into the Territories just acquired from Mexico, I left a powerful and dominant majority in the State of New York to unite my fortunes with a minority against it. In fact, sir, I drew and offered in the Democratic convention of that great State the "corner-stone resolution" upon which the Free Soil party was organized in 1848. Hon. David Dudley Field, from the city of New York, seconded that resolution in a powerful speech. It was called familiarly "Field's resolution," for he was then known to fame, and I an humble youth. You all remember the result which followed that organization. General Cass was defeated; General Taylor was elected. In 1849 the discovery of gold deposits in California filled that Territory with a large free population. That cut the gordian knot which the statesmen in Congress could not untie. In 1850 California was organized

and admitted into the Union as a free State. That admission settled forever the question of slavery in the Mexican Territories.

In 1852, upon the basis of that settlement, the division in the Democratic party was healed. General Pierce was accepted as the candidate of both wings of that party, and was elected President. In the canvass no question in relation to slavery was made between him and his great competitor, General Scott. Their platform upon that subject was the same. In 1851, the year before that canvass came on, I removed to the State of Wisconsin, and acting once more with the Democratic party upon the basis of that settlement I gave my support to General Pierce.

In 1854, however, in violation, as I understood them, of the pledges of 1850 and 1852, the Missouri compromise was repealed. That repeal reopened the slavery question. It again divided the Democratic party. It brought on the troubles and the civil war in Kansas, which became the forerunner if it was not the cause of that terrible civil war from which we have just emerged. In 1853, the year after General Pierce's election, I was chosen as judge of the first judicial circuit of Wisconsin. Of course while acting as a judge upon the bench I made no public speeches upon any political question; but in conversation with the men of all parties I denounced that repeal from the moment it was proposed. With Benton and Houston and Truman Smith, and hosts of others, I saw, or thought I saw, nothing of good but everything of evil in that fatal measure.

By that repeal Kansas and Nebraska were opened as a battle-field to the introduction of slave labor or free labor just as their first settlers each for himself should determine. It was the beginning of strife. It was in fact a challenge passed and accepted between the two systems and the two sections to the dreadful wager of battle. Each rallied its forces. The struggle came. It began in fraud. It ended in blood. It brought on civil war. The slavery propagandists by force and fraud first subjugated the Territory of Kansas, and as the triumph of their victory enacted the slave code.

In March, 1856, I resigned my position as judge and returned to my profession. During all that year the fearful strife went on, Congress remained in session until late in autumn. There was a long and earnest struggle between the House and the Senate. By an amendment to an appropriation bill the House insisted upon a substantial repeal of that slave code. The Senate opposed it. At the same time a presidential election was pending: upon the one side Buchanan, sustained by the Democratic party and backed by a powerful majority in the Senate; upon the other, Fremont, sustained by the Republican party recently organized and a feeble majority of the House. The Senate remained inexorable and determined to sustain that slave code with the whole power of this Government. The House at length yielded. The Senate triumphed. That triumph sanctioned and assumed the responsibility of the border-ruffian invasion, the subjugation, and its victorious fruits, the slave code of Kansas.

From that moment I determined to do all in my power to undo that great and inexcusable wrong. I once more withdrew from a dominant majority in the wrong to give my support to a minority in the right. I espoused the cause of that minority with the frankness and earnestness inseparable from my nature, without which I should cease to be myself. I was not then insensible any more than I am now to the appeals nor to the denunciations of political associates and friends; and yet I could not be moved by them to smother my inmost convictions. My heart was filled with indignation at the folly and the wrong done by the repeal of the Missouri compromise, the war which followed, and perhaps even more by the indorsement by a dominant and overbearing majority in the Senate of the United States of the slave code of Kansas. Sir, I

could no more restrain the utterance of my sentiments than then hold coals of fire in my bosom. They demanded they would have, and they did have free utterance. I would not restrain them if I could; I could not if I would. It came as the outpouring of the spirit comes. It came with an abiding faith in man and truth and God, which denunciations cannot shake nor dangers appall. It came with an assurance of that faith which the soul feels when it leans on the Almighty for its strength. Sir, it does not become me to say more. I could not say less under the degrading imputations which are sought to be cast upon me, that I have betrayed the principles which have guided my life and for which I would lay down that life.

Much to my personal regret there was no Murphy to report those utterances. Except as they are imperfectly stored in the memory of my countrymen they are lost to me forever.

But, sir, the doctrines which I then avowed in 1856 everywhere in Wisconsin and through the whole North I still believe with all the fervor and all the earnestness with which I believe in my religious creed.

In the winter following 1857 I was first elected to the Senate, and took my seat here in March. From that time my course here is known to all the members of this body. Mistakes I have sometimes made; errors from insufficient examination, from want of proper judgment, and sometimes from acting, as we are all compelled to do, upon opinions of committees where we have not opportunities to examine for ourselves; but, Senators, you will bear me witness that upon every important question I have brought to its discussion, if not great ability, an earnest desire to find the right and the courage to be true to my convictions.

My course here was well known and approved by the people of Wisconsin and the Legislature of Wisconsin, which re-elected me in 1863.

I come now to speak more particularly upon those questions upon which my course has been denounced.

First, as to my course upon the civil rights bill. From the time my attention was first seriously called to that bill by the able speech of Mr. BINGHAM in the House of Representatives, after the bill had passed this body, I became satisfied that some of its provisions were clearly unconstitutional. I have never doubted it; I do not doubt it now. His masterly speech on that bill was conclusive. Indeed, sir, because the civil rights bill was unconstitutional, with him originated in the House of Representatives the first clause of the pending amendment to the Constitution of the United States, which is for the purpose of making the civil rights bill constitutional.

So far as that bill takes from the State judiciary and transfers to the Federal judiciary the protection of the private rights of the citizens of the several States who were not emancipated by the constitutional amendment—I mean the free white citizens in those States—it is clearly a usurpation on the part of Congress of the reserved rights of the States. So far as it subjected State judges and State Legislatures to be punished as culprits and criminals in the courts of the Federal judiciary for acts done in their official capacity, that civil rights bill is a degradation unbearable upon the States of this Union. Whenever it comes to be discussed, when times of passion and excitement are over, in the tribunals of great judges or before the tribunals of a dispassionate people, it will meet with universal execration and condemnation as a usurpation upon all the rights reserved in the States, and a consolidation of unlimited power in this Government over the private rights of the citizens. What, I ask, should be thought of a law of Congress, and what will be thought of this law of Congress, when considered by the people of Wisconsin, when it assumes to arraign before the Federal judge the district judge at Milwaukee, the judges of the supreme court of Wisconsin, and the members of the Legislature for their official acts?

But, sir, I do not propose to go into that

question any further. I pass on at once to the great question of reconstruction, which involves Freedmen Bureau bills, civil rights bills, and military bills. All bills are concentrated and brought together in these two propositions now pending, which abolish all the laws of those States except the absolute will of the brigadier generals, who are to be put in command over the districts into which they are divided.

Mr. President, in 1862-63 Mr. Lincoln, with the unanimous approbation of his Cabinet, all of them earnest Republicans, brought forward this much-abused policy of reconstruction, called the presidential policy. It was based upon two fundamental ideas: first, the existence of the States and of the rights of the States under the Constitution in this Union; secondly, that the governments of those States should be left in the hands of the citizens of those States who, by the constitutions of those States, were entitled to hold it; that is, the white male citizens of those States, embracing all who had remained loyal to the Union during the struggle, and all who having once joined in the rebellion against the Union had in good faith returned to their allegiance and thereby once more become loyal to the Union, with a few, a very few specified classes excepted.

These fundamental ideas controlled and guided that policy. Neither Mr. Lincoln nor any member of his Cabinet, nor more than two Senators I believe in this body, the Senator from Massachusetts [Mr. SUMNER] and the Senator from Missouri, [Mr. BROWN,] at that time advocated reconstruction upon a basis including negro suffrage. The bill of Henry Winter Davis, which passed the House of Representatives under his lead, and passed the Senate under the able lead of the able Senator from Ohio, [Mr. WADE,] expressly confined suffrage in those States to white male citizens twenty-one years of age and upward.

I do not doubt, I never had the slightest occasion to doubt, the sincerity of the honorable gentleman from Ohio in advocating and in urging now what he repudiated then. I doubt not the sincerity of more than twenty other Republican Senators on this floor who stood with me then advocating reconstruction upon the white basis, because they now go with him over to the side of the Senator from Massachusetts, and advocate his theory of reconstruction upon the basis of negro suffrage and white disfranchisement. He has a right to do so if his convictions lead him there, and others, as a matter of course, have a right to go with him. I honor any man who is true to his convictions, however much he may differ from me. But what I do claim, and what I have a right to claim, is this: if I have not also changed my opinions, if I do not now go over with the Senator from Ohio to join the Senator from Massachusetts, if I still continue to advocate reconstruction upon the fundamental ideas of Mr. Lincoln's policy, no man or set of men in this Senate or in the Legislature of Wisconsin or anywhere else have the right to charge me with being a traitor to my principles or a traitor to my country.

Mr. President, I go further. I maintain that I stand to-day upon the very ground occupied by the National Union party in 1864 in renominating and reelecting Mr. Lincoln. I stand upon the very platform of the Union convention of Wisconsin which nominated the present Governor, and upon which he and the Legislature of 1866, which instructed me to resign, were elected to power.

Nor have I abandoned those principles by sustaining what I regard as substantially the same policy under the administration of Mr. Johnson. Not to rely upon my own authority alone, I read a masterly statement of the policy of Mr. Lincoln and of Mr. Johnson, when compared, by that able statesman, Governor Morton, of Indiana:

"JOHNSON AND LINCOLN COMPARED.—I propose for a few moments to contrast the plan of reconstruction adopted by Mr. Johnson with that proposed by Mr. Lincoln in 1863, and we shall find several very important consequences, at least so far as the public

mind is concerned, to flow from this comparison. Mr. Lincoln, in his policy of reconstruction presented to Congress in his message of December 8, 1863, prescribed an oath of allegiance to be taken by those who were entitled to take it under the proclamation. I propose to read that oath and contrast it with the one which Mr. Johnson's proclamation requires. It is in the following language:

"I do solemnly swear, in the presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder; and that I will in like manner abide by and faithfully support all acts of Congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by Congress or by decision of the Supreme Court; and that I will in like manner abide by and faithfully support all proclamations of the President made during the existing rebellion, so long and so far as not modified or declared void by the decision of the Supreme Court: so help me God."

"That is Mr. Lincoln's oath as prescribed in his proclamation. I will now read Mr. Johnson's oath, and you will find it is more stringent than Mr. Lincoln's, inasmuch as he leaves out this clause: 'So long and so far as not modified or declared void by the decision of the Supreme Court.' Mr. Lincoln's oath was objected to because it was said it might perhaps leave room for mental reservations. Referring to the action of Congress and the Supreme Court, Mr. Johnson's oath says:

"I do solemnly swear, (or affirm,) in the presence of Almighty God, that I will henceforth faithfully defend the Constitution of the United States and the Union of the States thereunder; and that I will in like manner abide by and faithfully support all the laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves: so help me God."

"Mr. Johnson required that oath to be taken, leaving out the provision Mr. Lincoln made, which was said by many to weaken it. Mr. Lincoln excluded certain classes of persons from the benefit of his amnesty. I shall read in your hearing the classes of persons whom Mr. Lincoln would not permit to take the oath, nor have the benefit of amnesty, except as they might first receive special pardon from him. They were:

"1. All who are, or shall have been, pretended civil or diplomatic officers or otherwise, or domestic or foreign agents of the pretended confederate government.

"2. All who left judicial stations under the United States to aid the rebellion.

"3. All who shall have been military or naval officers of said pretended confederate government above the rank of colonel in the army, or lieutenant in the navy.

"4. All who left seats in the Congress of the United States to aid the rebellion.

"5. All who resigned or tendered resignations of their commissions in the Army and Navy of the United States to evade their duty in resisting the rebellion.

"6. All who have engaged in any way in treating otherwise than lawfully as prisoners of war persons found in the United States service as officers, soldiers, seamen, or in any other capacity."

"Mr. Johnson, in his amnesty proclamation, first makes the same exceptions that Mr. Lincoln does, and in the same language; and he afterward goes on to specify eight other classes whom he excludes from the benefit of the amnesty, which I will read. I will commence in Mr. Johnson's proclamations where he leaves off quoting from Mr. Lincoln:

"7. All persons who have been or are absentees from the United States for the purpose of aiding the rebellion.

"8. All military or naval officers in the rebel service who were educated by the Government in the Military Academy at West Point, or at the United States Naval Academy.

"9. All persons who hold the pretended offices of Governors of States in insurrection against the United States.

"10. All persons who left their homes within the jurisdiction and protection of the United States and passed beyond the Federal military lines into the so-called confederate States for the purpose of aiding the rebellion.

"11. All persons who have engaged in the destruction of the commerce of the United States upon the high seas, and all persons who have made raids into the United States from Canada or been engaged in destroying the commerce of the United States upon the lakes and rivers that separate the British Provinces from the United States.

"12. All persons who, at the time when they seek to obtain the benefit thereof, by taking the oath herein prescribed, are in military or civil confinement or custody, or under bond of the military or naval authorities or agents of the United States as prisoners of war, or persons detained for offenses of any kind, either before or after their conviction.

"13. All persons who have voluntarily participated in said rebellion, and the estimated value of whose taxable property is over \$20,000.

"14. All persons who have taken the oath of amnesty as prescribed in the President's proclamation of December 28, or the oath of allegiance to the Government of the United States since the date of said proclamation, and who have not thenceforward kept and maintained the same inviolate; provided that special application may be made to the President for pardon by any person belonging to the excepted classes, and such leniency will be liberally extended as may be consistent with the facts and the peace and dignity of the United States.

"The Secretary of State will establish rules and regulations for administering and recording said

amnesty oath so as to insure its benefit to the people and to guard against fraud.

"In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed."

#### "MR. LINCOLN'S PLAN."

"So that Mr. Johnson has restricted from taking the oath eight classes permitted by Mr. Lincoln, and so far his plan is more stringent than Mr. Lincoln's was. Mr. Lincoln, in his plan of reconstruction, declared all persons should have the right to vote for delegates to the conventions which might be called in the States to form State constitutions who had taken the oath prescribed by him, and who were lawful voters according to the laws of the State in which they resided before the passage of the ordinance of secession. Mr. Johnson has made precisely the same condition. Mr. Lincoln provided for the appointment of provisional governors, giving to them the power of calling State conventions, with a view of forming State constitutions, for the purpose of being received back into full practical relations with the Government. Mr. Johnson did the same. Each required that the constitutions thus formed should be republican in form. Mr. Lincoln put forth no requirement or condition that was not equally contained in Mr. Johnson's proclamation. Their plans of amnesty and reconstruction cannot be distinguished from each other, except in the particulars I have already mentioned, that Mr. Johnson restricts certain persons from taking the oath, unless they have a special pardon from him, whom Mr. Lincoln permitted to come forward and take the oath without it; and in the further difference before mentioned, that Mr. Lincoln required one tenth of the people of the State to show a willingness to take the oath, while Mr. Johnson has said nothing whatever about that. This was Mr. Lincoln's favorite policy. It was presented by him to Congress on the 8th of December, 1863, accompanied by a message. In the course of the next year, 1864, on several occasions, Mr. Lincoln distinctly presented again and again this policy of amnesty and reconstruction to the people of the South. It was his settled and favorite policy at the time he was nominated for reelection by the Union convention at Baltimore last summer; and in that convention the party sustained him, and strongly indorsed his whole policy, of which this was a prominent part. Mr. Lincoln was triumphantly and overwhelmingly elected upon that policy, and soon after his election, in December, 1864, in his last annual message to Congress, he again brings forward this same policy of his and presents it to the nation. And again, on the 12th of April, only two days before his death, he referred to and presented this policy of amnesty and reconstruction."

Thus it appears most conclusively that upon these great underlying, fundamental ideas they were and are and always have been the same; and by continuing to sustain them, whatever gentlemen may think of the justness of my course, I have been consistent with my avowed principles and the principles upon which I have stood from the beginning and from before the beginning of this controversy.

Bear in mind, sir, I am not at this moment arguing the question of the justice or the injustice, the soundness or unsoundness of those ideas. I am only showing their identity, and that I have always sustained and have never deserted them. When Congress unanimously resolved, in 1861, that the whole purpose of the war was not to destroy the southern States; was not to deprive them of representation nor of the right of representation; was not to establish negro suffrage or to interfere with the right of the States for themselves to determine the question of suffrage; but was to preserve and defend the Union and the States, and the rights of all the States in the Union, with their "equality, rights, and dignity unimpaired," I believed in those ideas and that purpose then, and I believe in them now. Who has deserted them? Who has abandoned them?

When Congress, in 1862, apportioned by law Representatives among the States, including the southern States as well as the northern States, by a law which now remains in force unrepealed upon your statute-book, and which gives the States of the South just as much right to Representatives in that House as it does to any State in the North, I believed in those ideas then, that they had a right to representation. I believe in them now. I have not abandoned them; I do not expect to abandon them.

When Congress again declared, in 1862, and repeated the declaration by an amendment of the same law in 1863, that whenever the people in those States should elect a loyal Legislature, who would take an oath to support the Constitution of the United States, the President should be authorized to declare the fact in a proclamation to the country, I believed in their right to return to their allegiance then, and their right to have representation when they



did return. I believe in it now. Who has abandoned those ideas and those declarations?

When the Congress of the United States, in 1862, by an enactment, declared expressly that the President of the United States should have power to grant pardon and amnesty to those who had been in rebellion against the United States upon such terms and such conditions as he should deem proper, which law remained unrepealed upon our statute-books till January, 1867, I believed that those States and the people of those States had a right to return to their allegiance and accept pardon and amnesty.

I believe, also, that the proclamations of amnesty of President Lincoln in 1862 and 1863, and of President Johnson in 1865, were not only constitutional under the power which the Constitution gives, but they were sanctioned by the express authority of Congress itself. I hold that it is founded upon a basis which cannot be shaken; it is as firm as the rock of Gibraltar itself, that every man who accepted pardon and amnesty upon those terms, thus tendered by the President, in pursuance of the Constitution, and in pursuance of the express law of Congress, has been restored to all his rights as a citizen; and there is no power in Congress, and no power on this earth that can justly deprive him of them. Sir, the good faith of this nation is pledged in the most solemn form; and though this pledge was given to men who were once enemies, and been accepted by them as the condition of their return to friendship and to allegiance as citizens of this Republic, that pledge cannot be broken without covering this nation with infamy. Infamy does not express what ought to be said of the proposition thus to break this plighted faith.

I may be mistaken, sir, I may be blinded in all this. Other men may justify themselves in their own consciences for annulling at one sweep those pardons, and trampling under their feet those rights of citizenship which those pardons have restored; but, sir, with my views of the subject, it is just as inherently wrong by any *ex post facto* law or proceeding to undertake to annul the pardons thus given and thus accepted as it would be to try and condemn a person who has once been tried and acquitted. It is a violation of the national faith. It is in my judgment an outrage upon the rights of civilized man either in peace or in war. Whatever in the heat of the moment partisans of this day may now say or may now do, history, impartial history, will arraign the deed as a crime against civilization. She will hold it up to the execration of all mankind; she will pass inexorable judgment against it; and with her whip of scorpions scourge it through all time.

Mr. President, Mr. Lincoln proclaimed those fundamental ideas of restoration in which I have believed, and which I have sustained for more than four years. Every day has deepened and strengthened my convictions of their wisdom and their truth. He and the mass of the great Union party which he led steadfastly believed in them, and until the time of his death he continued to advocate and to urge them upon his countrymen.

That policy was, with very few exceptions, cordially sustained by the Legislature which reelected me in 1863. It was sustained by the National Union party which renominated and reelected Mr. Lincoln in 1864. I do not say that there were not some Radicals who opposed it then. I must admit there are a great many now who oppose it. I find the facts very precisely and ably stated in a speech of General Thomas Ewing, jr., from which I will read an extract:

"In the early spring of 1864 a national convention was called to meet in Cleveland to nominate Fremont or Chase for President, denounce Mr. Lincoln's policy of restoration, and read him of the party."

"The call of that convention sounds like a blast from the bugle of Greeley or Forney of to-day. Hear it: 'The imbecile and vacillating policy of the present Administration, its treachery to justice and freedom in its plan of reconstruction, whereby the honor and dignity of the nation have been sacrificed in conciliating the arrogant slave power and to further the ends of an unscrupulous ambition, call in thunder tones upon the lovers of justice and their country to come to the rescue of the imperiled nationality and the

cause of impartial justice and universal freedom, threatened with betrayal and overthrow.'"

"It is hard to realize the fact that this thunderbolt was aimed at President Lincoln two years ago instead of at President Johnson this year. But the thunderbolts of to-day are forged on the same anvil, and hurled by the same hand, as those which fell in noisy impotence at the feet of Abraham Lincoln."

"Nearly all of the present Radical leaders of Congress were notoriously in full sympathy with this movement, but only a few of them were bold or rash enough to commit themselves to it openly and in advance. They knew Mr. Lincoln's high place in the hearts and confidence of the war party, and, though they then as now had the organization of the party in their hands, they halted and balked when the issue came."

"Afraid"

To be the same in their own act and valor, As they were in desire."

"Gratz Brown, Wade, Davis, Cochrane, Pomeroy, Wendell Phillips, Moss, Fred. Douglass, and a few hundred leaders of less note, 'stood the hazard of the die.'"

"The convention nominated Fremont and Cochrane; denounced the President's restoration policy; claimed that all power over the subject belongs to Congress; and insisted on the disfranchisement of all rebels repentant and unrepentant and the confiscation of all their lands for our soldiers. Its platform was pretty radical, but fell a bow-shot short of the radical programme of to-day, omitting as it did negro suffrage."

"Then followed the convention of the war party at Baltimore, which unanimously indorsed President Lincoln's policy, renominated him by acclamation, admitted to seats and votes in the convention the delegates chosen from Arkansas, Tennessee, and Louisiana, which had been recognized under his proclamation; and declared in a platform reported by Henry J. Raymond, that the only conditions of peace and reunion shall be the unconditional surrender of hostility to the rebels, and their return to their allegiance to the Constitution and laws of the United States."

"To make its repudiation of the theories of the Radical faction more marked, the convention nominated Andrew Johnson, of Tennessee, for Vice President, against the protest of that faction led by THADDEUS STEVENS, who declared that patriot State was but a conquered province, and her loyal son 'an alien enemy.' The war party hailed the triumph of the President and his restoration policy over the Radicals, and indorsed them overwhelmingly. The leaders of that faction, baffled and angry, and were carried by the skirts of the Administration, and were carried with it again into power. The Radical ship launched at Cleveland was abandoned almost before it touched water, and after drifting idly a month or more sunk unnoticed, and, I regret to add, without its crew."

This last expression is to be taken of course in a political sense.

This bolting convention of Radicals at Cleveland was condemned in severest terms by the great mass of the Union party in the country, which maintained and continued to maintain the policy of Mr. Lincoln. In 1864 that policy of reconstruction was boldly advocated by the leaders of the Republican party upon the floor of this Senate in the case of Arkansas. In 1865, in the case of Louisiana, that policy was sustained in this Senate by a majority among Republicans of three to one.

In spite of this false and unfounded charge, that I have abandoned my avowed principles, I have the satisfaction of knowing that in adhering to them now, as well as during the lifetime of Mr. Lincoln, in standing for them through good report and through evil report, I have been endeavoring to discharge the highest possible duty to my country, to the Constitution, and to liberty itself. Other men, as they have the right clearly and unquestionably, may change their opinions of that policy. Multitudes who once hailed its triumphant march under President Lincoln, with glad hosannas casting their garments and flowers of adulation at its feet, may now cry out against it, and blindly led by the chief priests and elders of the people join the Radical cry, shouting, "Crucify it, crucify it." I still believe in the justice and wisdom of that policy and the principles upon which it was founded. I believe that the States still live, that they are still States under the Constitution which forms the Union, and that to declare any other doctrine is to dissolve the Union and destroy the Government. I believe that so long as republican liberty is to exist in this country under our Constitution and laws the people of those States have a right to be represented in the Government which taxes and rules them. I believe that the purpose of our war was to compel those who had been disloyal to return to their allegiance to the Constitution and the

Union; and further, that after that return those who were once in rebellion against the Government, upon their acceptance of pardon and amnesty tendered by the President, under the constitutional power which he possesses as such, and under the express provisions of the law of Congress, are restored to their rights, which no power on earth can justly take away.

I hold that Congress has no right to impose as a condition precedent to these States being represented in the Union that they shall join in the change of the Constitution and shall be forced to adopt that change at the point of the bayonet.

Heaven only knows what is in reserve for us in the future, and perhaps in the immediate future; but when we have done all and suffered all and borne all that is to come, we shall come back at last, if this Republic is to live at all, to the fundamental and vital principles upon which the Lincoln-Johnson policy rests, upon which alone it can rest, upon which alone constitutional liberty can be maintained in this great Republic.

I believe, sir, as much as I believe in my existence, that if at the beginning of the last Congress this policy of Mr. Lincoln had been sustained and cordially accepted by Congress by the admission to seats in the two Houses of loyal representatives from those States, not receiving any others, almost all the evils which are now upon us would have been avoided. The Union would have been completely restored. Every State would have been represented by loyal men ready to join with all their hearts in the great duty of the hour, namely, to rebuild and restore the places made waste by war. Our national credit would have been restored. Our six per cent. bonds would have commanded gold at par in all the money centers of the world. Specie payment would have resumed itself without shock and without convulsion. So far from increasing the pay of the officers of the Army, as now proposed by the bill on your table, thirty-three and one third per cent., instead of largely increasing, doubling, and perhaps quadrupling as we shall be compelled to do the standing Army, that standing danger of this and of all other republics, we could have reduced it below twenty thousand men. The tranquil administration of the civil law by civil tribunals would have reigned throughout our vast domain. Peace and fraternity would have stricken hands together. Liberty and Union long ago would have kissed each other.

Mr. President, I shall detain the Senate but a few moments longer. I desire in a few words to speak of the precise point upon which the Radicals of Wisconsin and elsewhere have called me in question. In the Union convention at Madison, in 1865, I had the honor of being a member and was chairman of the committee on resolutions. In that committee it was proposed to make direct and open war upon the reconstruction policy of Lincoln and Johnson, by a resolution declaring that the States of the South were to be regarded as conquered territories, and in express terms requiring as a condition precedent to their admission to the right of representation the adoption of negro suffrage. I opposed that resolution in the committee; I opposed it in the convention, which laid it upon the table by a large majority. It is for that act, sir, for opposing these two ideas which are now embodied in these very bills now upon your table that uncompromising war was made upon me by the Radicals of Wisconsin. It first showed itself in the call of a bolting Radical convention at Janesville, in that State, called for the purpose of denouncing me and denouncing the Union convention of the State, which sustained me. From that day to this the vials of relentless wrath and intolerance have been poured upon my head. The furnace of denunciation has been heated seven times hotter than usual. The weak, the time-serving, the cowardly, and even many good men have given way before the storm. But, sir, during all this tornado I have never wavered for one moment.

I believe in truth. It is eternal, for it is born of God.

"Truth crushed to earth shall rise again."

Believe in the resurrection and the life of the great truths upon which the Republic and civil liberty depend. In this Government and under this system of ours, with a Federal Government for general purposes, and with State governments to defend local rights and interests, liberty, equality, and fraternity between the States and all the States under the Constitution in this Union are essential to that life. If that equality of the States, if that liberty of the States, if that fraternity of the States is to be trampled under foot by the consolidated, usurping powers of Congress overriding the Constitution, then, sir, the Republic is gone—forever gone; anarchy or empire has come.

If during all this struggle, and under all this load of obloquy and denunciation, I had ever for one moment doubted the wisdom and the justness of the course I have pursued in opposing the ideas which underlie the revolution now going on, and which day by day and every day is bringing us nearer and nearer to the brink of absolute consolidation, to be sustained by unlimited military despotism, all doubts are now removed. The last report from the Reconstruction Committee, the two bills from the House of Representatives lying upon your table and pressed for immediate action here, have removed the last vestige of those doubts, and have made to my vision the course I ought to pursue as clear as the path of the sun in the heavens.

Sir, there is no longer room for me to doubt the truth of what I told the people of Wisconsin: that to adopt the ideas and follow the lead of those radical men was to dissolve the Union, drive the southern States out of the Union, abolish all constitutions and all civil governments in those States, and reduce those States and the people of those States to absolute, unqualified military despotism, of all forms of human government the worst that was ever conceived. In my opening speech at Janesville, in reply to the unwarrantable attacks upon me, I told the people of Wisconsin there what I now repeat: that those ideas, if adopted, would culminate, as they are now culminating, in their legitimate, natural, inevitable results—in that result which we now see—a proposition to establish, accompanied by a threat to push it through this Senate in twenty-four hours from the time it is proposed, concentrated military despotism. Sir, I need no other vindication for the course I pursued in Wisconsin, nor for the course that I have pursued here. That vindication is full, ample, and overwhelming. I told them also that if Congress should follow the lead of these men, and insist upon universal negro suffrage as a condition precedent to admitting those States to representation, it would be a revolution; it would be virtually abolishing the rights, the independence, and the equality of the States under the Constitution. Both of these ideas have culminated here at last. They have reached their logical results. They are embodied in the two pending measures from the House.

Mr. President, I arraign these measures and denounce them before the country and before the civilized world, because they overthrow the Constitution of the United States in ten States of the Union; because, instead of guaranteeing a republican form of government, they establish a military despotism in each of those States, with absolute power of life and death, without any appeal beyond the uniformed gentleman who, under the title of brigadier general, holds the life, liberty, and property of every man, woman, and child, black and white, at his absolute control. Great God! has it come to this, that in this age, in this country, a republican people and a pretended Republican party shall propose to establish such a dictatorship, such a despotism as this?

"O Judgment, thou art fled to brutish beasts,  
And men have lost their reason."

I arraign these measures further as an open

abandonment of all practicable reconstruction by Congress after all its professions. I say "practicable," for I will refer in a moment to the proposed bill for the reorganization of Louisiana. For two long years Congress has debated and abandoned the various propositions from various men and various committees. Members of Congress have lashed each other; they have inflamed themselves; they have infuriated the country North and South. They made open war on the Lincoln-Johnson policy, boasting that they had a better policy to come; and that better policy we now see. In fact, during all this time Congress has had no policy; and what Wendell Phillips said of this boasted policy of Congress, claimed to be so much superior to the Lincoln-Johnson policy, I fear has foundation in truth. I have no disposition to wound the feelings of any, and perhaps I shall not, by substantially stating what he said: This proposed constitutional amendment has proved to be a cheat, a sham, a lie, a mere contrivance to tide over the fall elections, a political platform upon which to elect members of Congress and inflame the war passions of the North, not yet allayed, against the people of the South. Even now, sir, that boasted policy is to be abandoned; all reconstruction by civil law is abandoned; you turn it all over at last to a brigadier general with the Army of the United States. Some gentlemen see no danger in putting despotic powers in the hands of a general. Sir, how did the republic of Rome pass from its republican condition to become an empire? It was by passing from the power of its consuls and tribunes to the power of the general of the army—the *imperator*, which simply means general commanding the army. The name was not changed, but the thing called empire, the embodied despotism, the concentrated essence of despotism, was in the power of the general of the army, the *imperator*. From his assuming imperial powers in Rome the general became an emperor. The very name of emperor has been derived from the Latin word for general. Is there no suggestion for all serious minds in this great fact?

I arraign these measures as an open, shameless confession before our country and before the civilized world that republican institutions are a failure; that republicanism, constitutional liberty regulated by law, for which the good men of all ages have longed and prayed, which our ancestors fought and struggled for and hoped they had obtained, with all that longing, praying, hoping, and struggling, is here, in the home of republican institutions, in this land of liberty, in this Senate, in the very house of its friends, after all admitted to be nothing more than a terrible, bloody dream; and that dream is over.

I arraign these measures as a stupendous folly, equaled only by the more stupendous crime contained in them against this age and against civilization. No man, it seems to me, can seriously believe for one moment that thirty million freemen of the northern States can deprive eight millions of their fellow-citizens of the South of all liberty, and hold them in vassalage under absolute, unqualified military despotism by a standing army, and be able to maintain republican liberty for themselves and for their children. It concerns not merely the South; the South is wasted, almost ruined and destroyed; but it concerns the people of the North more than the people of the South whether we shall enter upon this folly and crime.

But, sir, I arraign this Louisiana bill as insidious, treacherous, and false. It pretends to bring peace. It sows the seeds of eternal internecine war. By disfranchising the great majority of the whites and by extending universal suffrage to the blacks it will inevitably lead to a conflict between the races. The idea of white disfranchisement and negro domination is born of unforgiving hate and lust for despotic power. If this Louisiana bill, as it came from the House, should be adopted by Congress and forced upon the people of that

State by the Army and despotic power to back it, thus to subject the white people of our own blood, with our own history, Anglo-Saxons fighting for liberty for a thousand years, and compel them to submit to negro rule and negro domination, it will produce such a horrible state of things as no language can describe, and which has never entered into the heart of man to conceive.

It was that idea above all others which inflamed the people of New Orleans and goaded them into that terrible riot. No language can express my abhorrence and condemnation of all riots, of all lawlessness, and of all crime. I condemn that riot in the strongest and most unequivocal language; but, sir, the responsibility for it rests upon that idea of white disfranchisement and negro domination. It was that idea which inflamed the passions of that people beyond control and beyond conception. I only mention this fact to show how deeply and how terribly all the passions of the human heart are to be aroused and infuriated in the State of Louisiana if you once adopt this bill as it came from the House. Should it pass, sir, its title should be amended. It should read: "A bill," not "to reestablish civil government," but "to organize hell in the State of Louisiana." [Manifestations of applause in the galleries.]

THE PRESIDING OFFICER. Order!

Mr. DOOLITTLE. Sir, the men who made the Constitution of the United States were wise men; they were great men. When they formed that Constitution it was proposed in the Convention, while defining the powers to be given to Congress, by one member that Congress should have power to declare war and make peace; but when they came to consider the proposition they struck out the last clause giving Congress the power to make peace. Why did they do it? It is a significant question. Because they knew two things: first of all that in the very nature of things the making of peace is an executive duty, not legislative. Making peace is the execution of the law. When the laws are resisted, the executive power wielding the sword overcomes the resistance, and when the laws are no longer resisted, but peacefully executed in the tribunals of the law, peace has come. Obedience to the law is peace. They knew another thing: that of all bodies in the world Congress with its three hundred members and its three hundred different conflicting and varying propositions was poorly constituted to agree upon or settle the terms of peace. The wisdom of this conclusion of our forefathers in framing the Constitution is fully justified by the history of the present Congress, and its efforts at making peace and agreeing on the basis of reconstruction and the restoration of tranquillity. A hundred propositions have been made, debated, advocated, resisted, rejected. The Committee on Reconstruction again and again has brought forward its propositions and abandoned them as impracticable; and at last we come to what? Reconstruction by Congress? Not at all; but reconstruction by the sword; reconstruction by the General of the Army. Where is your boasted congressional policy? Where is your wisdom so superior to what was proposed by Mr. Lincoln, the great chieftain of the Union party?

Mr. President, I know gentlemen may say that if we confide to General Grant, who commands the Army, all will be well. There is no man in this body or out of it who entertains for the General of the Army a higher or more profound respect than I do; but, sir, I know that this power of despotism should not be placed in any hands, though an angel from heaven could descend and take it.

Mr. SAULSBURY. Mr. President, it is with exceeding reluctance that I rise to break the charm which has been produced by the very able and eloquent speech of the honorable Senator from Wisconsin. It is not for me to intervene between him and the members of the General Assembly of his State. I hope, however, he will pardon the suggestion that his

is not the first example where ingratitude has been shown to a man who has faithfully served a bad cause. He has told us that he once belonged to the good old Democratic party. He has told us how he strayed away from that honored and honorable fold; and he has told us how he became connected with that party which has filled your land with tears and made every acre of your territory fresh with graves.

Sir, it is a fact that should rejoice the Democratic heart, that from the origin of that party to the time when it ceased to control the political action of this country no such grave charges could be made against it as those which a member of the Republican party, and a faithful disciple of it, as he himself professes to be, brings against the party to which he professes to belong.

Having its origin in the early periods of American history, when your population did not number over five millions, nor your States over some fifteen or sixteen, the Democratic party never attempted to impose taxation without representation. It never repeated the offense for the commission of which our fathers went to war with an English king. It never assumed to lock the doors of this Senate Chamber against the representatives of ten States of this Union or to keep from the councils of the other House Representatives chosen by the people. It never suspended or abolished the writ of *habeas corpus*. It never suppressed one newspaper. It never made one arbitrary arrest. Faithful to the Constitution and careful of the rights of the people, under its guidance your country progressed in the short period of sixty years to become one of the greatest among the nations of the earth. Peace, plenty, prosperity, and happiness everywhere prevailed. In the short period of sixty years you numbered thirty-four States and more than thirty million people.

Sir, it never assumed to be wiser than the fathers. Observant of their teachings, it heeded the Charter of our liberties. It never turned traitor to God and to Providence, and never attempted to say that those whom God had said were not and should not be equals should be equals. The founders of that party were wise men, prudent men, men of common sense. When they looked forth upon nature and reviewed the handiwork of the Almighty, it never occurred to them that equality was the law of nature or of nature's God. They saw a difference in the majestic oak from the small sapling by its side. They saw a difference in the rolling of the mighty waves of the ocean and the running waters of the little brook. They saw a difference between the majestic animals that rove your forests and the humble mole which burrows in the ground. From nature's teachings and from nature's works they learned that the law of Providence and the law of God was not equality, but inequality in diversity.

They looked out upon society and they viewed the different races of men and they learned the same lesson. When they saw the race to which we belong making every improvement in their condition which was possible to be made; when they saw them commanding the lightnings of heaven and the winds of heaven; and when they looked upon the humbler, inferior negro race, and saw that throughout all the periods of the existence of that race they had never made any such strides, and that whenever left to themselves they were to be found in the most abject ignorance, poverty, and degradation, it did not occur to our fathers that that race was meant to associate with the nobler and superior race in the administration of the affairs of government.

It cannot be laid to the charge of that party, as has been laid to the charge of the dominant party in this Chamber by one of its own members to-day, that in contravention of every principle of civil and constitutional liberty it sought to govern a free people by the arbitrary will of an arbitrary military despot. No, sir; the framers of our Government, who were the fathers of the Democratic party, secured the blessings of constitutional, civil liberty in a

written charter, which they swore to defend, and which, while they lived, was honestly and faithfully observed.

It cannot be laid to the charge of that party, as has been charged upon this Republican party, this "party of progress," this "party of sublime moral ideas," this party upon whose advent to power happiness and prosperity were to follow, that they brought a bill into the two Houses of Congress for reducing their own race to the abject control and government of an inferior race. Sir, go and search the history of the world; go read the history of any civilized people on earth, and point me if you can to a single instance where members of a superior race have attempted to degrade their own race into subjection to an inferior and a lately servile race. Such an instance is not to be found in all recorded history, and yet such is the proposition which is made to-day in the Senate of the United States.

What, sir; has it come to this, that you, the descendants of honored, noble, revolutionary, patriotic sires, make the open confession before the civilized world that you are incapable of administering the affairs of Government without the superior enlightenment of your colored brethren? Has it come to this, that negro intelligence and negro patriotism and negro loyalty are to be invoked for the preservation of constitutional American liberty, and that, unless they are brought into participation in the affairs of Government by this superior race your Union is destroyed and your liberty gone? That is the confession which you are making.

Sir, allow me to say that if it were not for the fact that I regard these few passing hours as the most momentous in the history of my country since the formation of the Federal Constitution; ay, sir, more momentous than in times of civil war, I would not stand up here to utter one word upon the present occasion. I have felt an indisposition during the whole period of this session to mingle in the debates of this body. Why have I felt that indisposition? When I first entered this Chamber eight years ago, peace, prosperity, and happiness abounded everywhere. From the Atlantic to the Pacific, from the British Possessions to the Gulf, there was naught but joy and gladness. No weeping Rachel then mourned for her children because they were not. No aged father then bent in sorrow over the fresh-made grave of his first born. No shock of arms resounded throughout your land. No public debt of any amount burdened the industry of your people. No attempt had been made to degrade the race to which I belong, and to make superior to me and mine that inferior race which God in his providence never meant should control white men, and which God Almighty and the valor of the American people will see to it shall never govern them.

Mr. President, such measures as these must have their origin in motives. I know of no motives in which they could have their origin but in three: the desire of gain, the desire of power, or the spirit of revenge. I believe that these measures had their origin in all three of those unhallowed principles. What has been proclaimed upon the floor of this Senate Chamber by the advocates of this bill? Allow the southern rebels, as they are called, to vote, and exclude the negro population, and they will send representatives here and again be the political party in power. That has been unblushingly avowed upon the floor of this Chamber as one of the controlling reasons for the passage of these measures.

What do we hear every day? Bitter, unrelenting denunciation of men of high and noble hearts; men who, for the vindication of what they thought to be their rights, met you in open, manly conflict upon the field of battle; but when they conceived their cause was lost laid down their arms, submitted to the situation, and from that day to this have done everything which even the President of the United States or the Congress of the United States has asked of them, save to adopt an infamous proposed amendment to the Consti-

tution, which if they had adopted they would have shown themselves unworthy of their sires. "Rebels," "traitors," are the words. It is well known to every gentleman in this Chamber that I had no part in what is called the rebellion; my State did not link her fortunes to those of the southern States which seceded; but do you believe, sir, that the hundreds and thousands of brave men and noble women who gave their hearts and their all to the success of that cause are any worse at heart than you are? Do you believe that they conceived themselves as rebels or as traitors and were deserving of a rebel or traitor's doom? No, sir. The noblest spirits that this world has ever produced or that God ever made have gone into similar contests. There have been some rebellions, as they are called, that have been successful, and then their chieftains have become heroes. Your own Washington was called a rebel, and you are descended to-day from a race of rebels, for so your revolutionary fathers were called and said to be. There have been other rebellions which ought to have succeeded and have not. I do not think that this which you call a rebellion ought to have succeeded; but the fact that it did not succeed gives you no right to impose terms upon their people greater than they can bear, or to visit the consequences of your vindictive passions upon them. In the solitude of their own homes, I have no doubt, there are many of them to-day who can honestly exclaim with the poet:

"Rebellion! Foul, dishonoring word,  
Whose wrongful blight so oft has stained  
The holiest cause that tongue or sword  
Of mortal ever lost or gained!  
How many a spirit born to bless,  
Hath sunk beneath that withering name,  
Whom but a day's, an hour's success  
Had wafted to eternal fame!"

Because, Mr. President, men may be engaged in a course which I do not approve, and seek an object to the attainment of which I will lend them no help, I will not come in to usurp the seat of Almighty God and cast my thunderbolts of damnation upon the land of those I judge to be my foes.

Sir, there is a little incident in Spanish history that nobly contrasts with this spirit of vindictiveness and cruelty which is now being practiced by the Congress of the United States, and which I am sorry to say finds approval with many of the American people of the North. I will read it. It is a beautiful incident, and we may gather lessons of instruction from it. I read from a lecture delivered by a very able historian of this country:

"Some centuries ago two kings were contending for the Crown of Castile. I forget their names for the present, but to facilitate the telling of my story, I shall call one Alfonso and the other John. Alfonso proclaimed of course that John was a usurper and a rebel, and John returned the compliment. Well, John at last defeated his rival, horse and foot, and carried everything triumphantly before him, with the exception of a single town which Alfonso had entrusted to a stout old knight, called Aguilar, and which after a long siege still remained impregnable. 'You have done enough for honor,' said King John one day to the knight, 'surrender, and you shall have the most liberal terms.' 'If you had read the history of your country,' answered Aguilar, 'you would have known that none of my race ever capitulated.' 'I will starve you, proud and obstinate fool,' 'Starve the eagle, if you can.' 'I will put you and the whole garrison to the sword.' 'Try,' was the laconic reply, and the siege went on. One morning, as the rising sun was beginning to gild with its rays the highest towers of the beleaguered city, a parley sounded from the camp of the enemy. The old knight appeared on the wall and looked down on the king below. 'Surrender,' said John again; my rival, Alfonso, is dead, and the whole of Castile recognizes my sway as that of its legitimate sovereign.' 'Sir, I believe you, but I must see my dead master.' 'Go then to Seville, where his body lies. You have my royal word that I shall attempt nothing against you on your way, nor against the city in your absence.' The knight came out with banner flying and a small escort of grim-visaged warriors. Behind him the gates closed; before him the dense battalions of the enemy opened their ranks, and as he passed along, slowly riding his noble war-horse, shouts of admiration burst wide and far from the whole host who had so often witnessed his deeds of valor, and the echoes of the loud and enthusiastic greeting accompanied him until the red plume which waved over his helmet was out of sight. He arrived at Seville, and went straight to the cathedral, where he found the tomb of his former sovereign. He had it opened, and after gazing awhile with moist eyes at the pale face which met his look, he thus addressed the dead monarch: 'Sir, I had



sworn never to deliver to anybody but yourself the keys of the town which you had intrusted to my care. Here they are; I have kept my oath," and he deposited them on the breast of King Alfonso. Then bestriding his good steed, he galloped back to his post. As soon as he approached, again the ranks of the enemy opened, and King John confronted him. "Well," said the king, "are you satisfied, and do you now give up the contest?" "Yes, sire," "Where are the keys of the town?" "On King Alfonso's breast. Go and get them. We meet no more." "By heaven, we shall never part," exclaimed the king. "Get the keys back yourself, and remain in command of the town in my name." The followers of the king murmured, and complained of his rewarding a rebel. "He is no longer one," said King John. "Such rebels, when won, become the best of subjects."

Sir, let the Republican party take a lesson from this incident in Spanish history; and now that that people have deposited the keys upon the dead body of the southern confederacy let them say with King John, "No longer rebels; we never part more."

But, Mr. President, I stated that the love of gain might also be a principle which actuated the party now in power in the course which they are pursuing against the people of the South in inaugurating measures of this kind and pressing them to enactment. Such a feeling was foreseen by the men of the Revolution. You know, sir, that when the Federal Constitution was proposed for adoption there were some persons advocating unlimited monarchy, some a united republic, some separate confederacies, three or four in all. John Jay, one of the writers for the Federalist in that day, in opposing the creation of three or four or more confederacies and advocating the adoption of the Constitution by which all the States could be united under one government, uses the following language. Speaking of the distrust and jealousy which would exist between the rival confederacies in case of their formation, he says:

"The North is generally the region of strength, and many local circumstances render it probable that the most northern of the proposed confederacies would at a period not very far distant be unquestionably more formidable than of the others."

He was a northern man himself.

"No sooner would this become evident than the northern hive would excite the same ideas and sensations in the more southern parts of America which it formerly did in the southern parts of Europe, nor does it appear to be a rash conjecture that its young swarms might often be tempted to gather honey in the more blooming fields and milder air of their luxurious and more delicate neighbors."

Mr. WILLIAMS. With the permission of the Senator from Delaware, I move that the Senate take a recess until seven o'clock.

Mr. HENDRICKS and Mr. PATTERSON. Say half past seven o'clock?

Mr. WILLIAMS. No; seven o'clock.

Mr. HENDRICKS. I move to amend that motion by saying half past seven o'clock. Let us have a little rest. The House always meets at half past seven.

Mr. WILLIAMS. It is now but a few minutes after four o'clock.

Mr. HENDRICKS. I will not insist upon it against the wishes of the Senator.

The motion of Mr. WILLIAMS was agreed to; and the Senate took a recess until seven o'clock.

#### EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

#### PETITION.

Mr. WILSON. I present the petition of Adeline G. Tarr, widow of Addison Tarr, a private in company A, thirty-fifth regiment Massachusetts volunteers, praying that her name be restored to the pension-rolls, to date from the 25th of February, 1865. She lost her pension by marrying again, and she then found that the husband she married had another wife. She now asks that her pension be restored. I move the reference of the petition to the Committee on Pensions.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the following bills and joint resolution of the Senate, with amend-

ments, in which it requested the concurrence of the Senate:

A bill (S. No. 347) to change certain collection districts in Maryland and Virginia;

A bill (No. 605) to amend the twenty-first section of an act entitled "An act further to prevent smuggling, and for other purposes," approved July 18, 1866; and

A joint resolution (S. R. No. 159) authorizing the Secretary of the Treasury to permit the owner of the yacht Mayflower to change the name of the same to that of *Silvie*.

The message further announced that the House had passed, without amendment, the bill (S. No. 399) relative to collection districts in North Carolina.

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 878) to quiet the title to land in the town of Santa Clara, in the State of California;

A bill (H. R. No. 899) in relation to revenue-cutter service;

A bill (H. R. No. 937) to authorize changes in the location of lights and other aids to navigation on the southern coast of the United States;

A bill (H. R. No. 1001) for the relief of William B. Todd;

A bill (H. R. No. 1142) to amend the act entitled "An act to incorporate a Newsboys' Home," and also for the relief of abandoned children in the District of Columbia;

A bill (H. R. No. 1166) to authorize the building of light-houses therein mentioned, and for other purposes;

A joint resolution (H. R. No. 283) authorizing the Secretary of State to present to Captain James G. Smith, of the British brig *Victoria*, a gold chronometer, in token of appreciation of his services in rescuing from death the master, officers, crew, and passengers on board of the American brig E. H. Fidler; and

A joint resolution (H. R. No. 284) authorizing examinations of improvements in vessels, and for other purposes, in aid of navigation and for the protection of life and property at sea.

#### GOVERNMENT OF SOUTHERN STATES.

The Senate, as in Committee of the Whole resumed the consideration of the bill (H. R. No. 1143) to provide for the more efficient government of the insurrectionary States.

Mr. SAULSBURY. Mr. President, the formation of one Confederacy or Federal Union did not prevent the manifestation of a disposition on the part of the northern people which was predicted by Mr. Jay in the extract which I read to the Senate before it took a recess. From the earliest period of our history that same northern hive, as he described it, have continuously looked upon the sunny plains of the South, and in his expressive language, "sought to gather honey from those more blooming fields." Hence, after the commencement of the late civil war we find confiscation bills introduced into both Houses of Congress, the estates of all the southern people sought to be taken away from them by unconstitutional acts of confiscation, and a large portion of the American people, among whom were generals who never won a battle and scarcely ever disgraced a field by their presence, clamoring for a general partition of the lands of the people of the South among the conquering hordes.

I shall now proceed, Mr. President, to a brief analysis of the measures before the Senate, and then consider the question whether you have the constitutional power to pass them. The immediate bill under consideration contains just half of one truth and no more. It does not contain a single constitutional provision, but it has the merit of containing just one half of a truth. It sets out by saying that—

"The pretended State governments of the late so-called States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were set up without the authority of Congress."

That is the only particle of truth there is in it. The State governments there existing were set up without the authority of Congress in most of these States; but even that is not true of all of them. The governments in the States of Virginia, North Carolina, South Carolina, and Georgia were set up without the authority of Congress; but Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas were admitted into the Federal Union by virtue of an act of Congress. And what authority, pray, has Congress to set up the State governments of Virginia, North Carolina, South Carolina, and Georgia? They were of the original thirteen States. They were States and had State governments before Congress was formed; they helped to frame the Constitution which creates Congress; and yet we are gravely told in the preamble to this bill that these States, the creators of Congress, were set up without the authority of Congress!

The preamble further says that these Governments were set up "without the sanction of the people." Mr. President, is it possible that men can so delude themselves as to bring their minds to the belief that these original States, whose constitutions were formed and whose governments were in operation before the oldest of the members of this body had an existence, were set up without authority of their people? Does any one pretend to assert that the State governments of the other States which are named in the preamble were set up without the authority of their people, when your very records show that years ago by a convention of their people, and in accordance with an act of Congress their State governments were set up.

I know what is the pretended answer to this. It is said that though it is true that Virginia, North Carolina, South Carolina, and Georgia had State governments prior to the late war; somehow or other, during the continuance of the war, they lost those State governments, have not been able to find them, and must appeal to Congress to set up State governments for them. Sir, this doctrine is contradictory of the whole theory upon which you carried on this war. As I said last night, during the existence of the late civil war you passed more than one hundred, yea more than two hundred bills through both Houses of Congress, receiving the sanction of the President of the United States, in which you designated them as States of the Union. You published to the people of the whole country, North and South, that these States were in the Union, and you voted down a proposition made by the Senator from Massachusetts [Mr. SUMNER] that they could by an act of what you call rebellion commit political suicide and destroy their own State governments. You have since the termination of the late civil war submitted to them a constitutional amendment to abolish slavery.

You submitted it to them as States, and as States they ratified it; and yet you now pretend that there were no State governments to which you could submit a proposition to amend the Constitution of the United States. Sir, last night by a vote of this body, when the Senator from Massachusetts attempted to get an expression of the opinion of the Senate, that it only required three fourths of the Legislatures of the States represented in Congress to adopt a constitutional amendment, you voted down that proposition, every man in the Chamber but seven voting against it. So late as last night, while this very bill was under consideration, you solemnly, by a vote of this body, affirmed your own belief that there are legally existing State governments within these States. And this very day the honorable chairman of the Committee on the Judiciary called up a bill in the Senate with reference to the holding of circuit courts and assigning judges of the Supreme Court of the United States to the circuit courts now open and in operation over the whole South. And yet a majority of this body, I suppose, in the face of all this recognition of State governments in the section of the country lately at war with you, are going

to vote that there are no such things as State governments there.

But, sir, this preamble goes further, and declares that these "pretended State governments afford no protection for life or property, but countenance and encourage lawlessness and crime;" and yet you have not a particle of reliable evidence of any such fact. I know there are men prowling about the city of Washington, some of whom I have seen, whose record, if there be treason in this whole Government, is covered all over with treason, who are trying to poison the mind of Congress against the people of their own section of the country, and pretending that there are great oppressions in that portion of the country against the Union men; and some of those very men who have your confidence and the confidence of the majority in Congress were men to make speeches to confederate flags and to encourage confederate soldiers to go to the field. Such creatures are always to be found in every community. There are some men who have so degraded their character that for profit and gain they would not only turn traitors against their own section of the country, not only against their neighbors and their friends, but would sell the cross upon which their Saviour died to a Jew for firewood for the filthy gain that would accrue to them.

You further declare by this preamble that "it is necessary that peace and good order should be enforced in said so-called States until loyal and republican State governments can be legally established," and this on account of the want of protection to life and property in these States! Why, sir, any person who takes the southern journals, and knows the temper of the people there, is well aware that they recommend quiet submission, attention to business, and the withdrawal of the consideration of the people of that section of the country from mere political questions. They feel that, having submitted to your power, having been conquered by the force of arms, they are helpless in your hands; and they witness no doubt to-night this proposed outrage upon their rights, upon humanity, upon liberty, and upon law with feelings of sorrow and despondency, but with no idea of giving you occasion to trample on them further on account of any attempted resistance to Federal authority.

Then, sir, your bill proposes to divide this whole country, some ten States, occupying a territory larger than several of the most powerful and extensive Governments of Europe, into five military districts, and proposes to place over that people, whom? Military officers, who, "dressed in a little brief authority," may exercise their power in the oppression of the people. Everything, life, personal liberty, property, is made subject by this bill to the absolute will and control, the despotic will and control, of a miserable petty military officer, who perhaps before he was an officer was a beggar. I do not say this in reference to all military officers. There are gentlemen who are military officers as much so as in any class of the community; but I have seen some of them in my own State who could show their valor and their patriotism by catching up, without any pretense of justification, my own neighbors and friends and transporting them beyond the Federal lines, without even giving them a hearing or informing them of the cause of their arrest. Sir, your House of Representatives to-day is disgraced by a military officer who, when in command of the middle department, sent his soldiers into my State to keep Democrats from voting, who caused innocent, quiet, peaceable citizens of my State to be arrested and dragged from their families and their homes; and when they begged to know the cause of their arrest they were sent across the lines with a warning that if they returned their lives should be the forfeit. Here, sir, you propose to place all the people of the South under the jurisdiction of military officers.

And then, although the Constitution of the United States gives to Congress, and to Con-

gress alone, the power to suspend the writ of *habeas corpus*, and that only in time of invasion or rebellion, you propose to delegate to a lieutenant or any petty officer this great power to suspend the writ of *habeas corpus* throughout that whole territory; and you deny to a Federal judge even the power to issue that great writ of right unless some military officer shall certify to him on honor that he believes it to be a proper case.

Mr. President, the pending amendment to this bill, I believe, is the one submitted by the Senator from Missouri, [Mr. HENDERSON,] and it goes the whole figure. It is plain upon its face; it shows what it means; there is no deception or fraud about it. It is a proposition from beginning to end to give the government of all these States to the negro population to the exclusion of the white population; for it is expressly provided in that amendment that a Governor and provisional council shall be appointed, and that when elections are called no one shall vote who was ever engaged in or countenanced what you call rebellion, and who cannot take your test oath, except persons who have never occupied a higher position than that of a common soldier, and even his right is made subject to question and put at the mercy of any challenging party. What is the effect of that? You say that you want to give loyal governments to the people of the South; you say that the negroes are all loyal; and you say that scarcely any of the white population of the southern States are loyal. Well, sir, according to your standard of loyalty, there are very few men in the southern States who can conscientiously take your test oath. Those who did not go to battle, those who were too old to go to battle, or who were exempted from going to battle, had brothers and sons who were engaged in the war, and do you suppose they sat quietly at home and saw their suffering kindred in distress and did nothing to relieve them? You excluded all this class of people and what is the consequence? The giving over to the absolute control of the negro population of the entire government of that section of the country. Sir, such a proposition was never heard of in any civilized country before; and such a proposition, although you may adopt it, will never be submitted to by the people of this country. It seems to me if your design was to provoke another war, to drive an oppressed people again to desperation, you could not adopt more efficient or effective means to accomplish your design and purpose. I am very much afraid that there are some, and not a few, in this country who have such a design.

Sir, as these two bills have been so fully discussed by gentlemen who have preceded me, I shall not further consider them in detail, but proceed to inquire into the authority of Congress to pass them, and that will lead necessarily to a brief review of the nature and character and form of government under which we live. That political party which now controls the legislative branch of the Government seems to think that Congress is omnipotent, that it has all power, that there is no limitation upon its authority, that it may do just what it pleases. Hence, if a President displeases them they threaten impeachment, suspension, removal; if the Supreme Court of the United States displeases them they threaten the abolishment of the court; and they, a coördinate branch of the Government, are assuming to themselves all power and attempting to reduce the Government to an absolute despotism. Now, sir, where did Congress get this power?

There was a time when there was no such thing as the Federal Union. A long time ago many of the people from the continent and islands of Europe, some under the pretense of the enjoyment of religious and political liberty, came to this shore; others for the purpose of benefiting their worldly condition. A portion went to Massachusetts and exercised themselves in the delightful employment of burning witches, whipping women, banishing Quakers,

and buying and selling negroes and Indians into slavery; others went to Virginia, South Carolina, and other Colonies. They were all Colonies of the parent country, England. They had no political connection between themselves; a citizen of the one was not a citizen of another. They were totally distinct, and dependent upon the British Crown. In the course of time the British Government attempted to do toward them as a majority of Congress are doing to the people of the South now, imposing upon them taxation and denying to them representation. For this among other causes, and for the suspension of the writ of *habeas corpus*, which you propose now to effect in the southern States, the Colonies took up arms against the parent country. They never, except for the purpose of carrying on the war against the common enemy, had any such union as we have had since. During the progress of that war and before its termination they entered into the Articles of Confederation, each reserving to itself its own absolute sovereignty. They were united for certain common specified objects and purposes; and yet even under that limited restraint, that restive section of the country which is always meddling with the affairs of the others could not live in peace and harmony with the other sections. In 1786, if you look at the writings of Mr. Monroe you will find that he wrote a letter to Patrick Henry, in which he described that section of the country as trying to break up the Union formed by the Articles of Confederation, and he also addressed a similar letter to Mr. Madison. To show that I speak by the book on this point, I beg leave to quote from the second volume of Rives's *Life and Times of Madison* this letter addressed by Mr. Monroe, then a delegate in Congress from Virginia, to Patrick Henry, the Governor of the State, dated New York, August 12, 1786:

"Certain it is that committees are held in this town of eastern men, and others of this State, upon the subject of a dismemberment of the States east of the Hudson from the Union, and the erection of them into a separate government. To what length they have gone, I know not, but have assurances as to the truth of the above position, with this addition to it: that the measure is talked of in Massachusetts familiarly, and it is supposed to have originated there. The plan of the Government, in all its modifications, has even been contemplated by them."

On pages 123 and 124, of the same work, is Mr. Monroe's letter to Mr. Madison of September 3, 1786, in which he says:

"I consider the party, especially Jay and the principal advocates, as having gone too far to retreat. They must either carry the measure or be disgraced, (as the principle already hath been by the vote of five States,) and sooner than suffer this they will labor to break the Union. I therefore suspect they have been already (and indeed have too much reason for my suspicion) intriguing with the principal men in these States to effect that end in the last resort. They have even sought a dismemberment to the Potomac, and those of the party here have been sounding those in office thus far."

To defeat the measure therefore, completely, we must follow their movements everywhere; advise the leading men of their designs, the purposes they are meant to serve, &c.; and, in the event of the worst extremity, prepare them for a union with the southern States.

When peace was declared in 1783 what did the parent country do? Did it recognize the people of the United States as one collective independent sovereign Power and Government? No, sir. If you look to the treaty of peace, you will find that it names specifically every State in the Union and recognizes each one of these States to be a free, sovereign, and independent State. Subsequently our fathers sent their delegates to a Convention to frame a Federal Constitution. What kind of a Constitution did they frame? Such a one as would give omnipotence to the legislative branch, Congress? Assuredly not. You hear it often said in this Chamber and by the press of the country and elsewhere that this Government was framed by "the people of the United States" based upon the language of the preamble, "We, the people of the United States." In violation of the historic records and of all the facts connected with the adoption of the Constitution, we hear this doctrine almost every day in the legislative halls of this country; and the only proof that is pretended to be given in support

of the proposition is that the preamble to the Constitution commences with the words "We, the people of the United States, in order to form a more perfect Union," &c. Now, what is the historic fact connected with that?

When the Constitution was drafted, completed, and agreed upon, the preamble read, "We, the people of New Hampshire, of Massachusetts, of Connecticut," and so on, naming all the thirteen States specifically, "do ordain and establish this Constitution." After the Constitution was adopted by the Convention, it was referred to a committee of revision and style, who changed the language to "We, the people of the United States," and for a very obvious reason, because some of the States might not enter into the Union at first, as Rhode Island, New York, Virginia, and North Carolina did not for a time; and hence, the assent of only nine States being required to the ratification of the Constitution, it would be improper to place in the preamble the names of the States, until they had assented to the ratification of the Constitution.

The Constitution then formed was not a national Constitution, nor did it create a national Government; but it was a Federal Constitution, creating a Federal Government. This is apparent by an examination into the organization of the different departments of the Government. Is the Congress of the United States a national Congress? Why has Delaware two Senators and New York but two? Because in this Hall the States are represented, and represented as equals. Is the House of Representatives a national body or a federative body? In no sense national; and why? If so, the whole people of the country must have a voice in determining who shall compose it; but each member of the House is elected by the people of his own State. You provide a certain ratio for representation in that House, and yet every State must have at least one member. The present ratio I think is one hundred and twenty-seven thousand, and yet Florida, when she was in the Union with only about fifty thousand inhabitants, was held entitled to one Representative. It is not therefore the body of the people, the whole mass of the people, that are represented in either branch of Congress, but it is the States. So with the executive power of your Government; it is not national in the sense that you use the term. Why? Is the President elected by a majority of the people of the whole United States? Not so; but each State elects its members of the Electoral College, and it is possible that a President may receive a majority of the electoral votes although two thirds of the people of the United States may be opposed to his election. So in the organization of the judicial department of your Government, the President nominates the judges, but the States represented in the Senate give their advice and consent. It never was intended, as I maintain, that the powers which you claim, which are powers that can only be exercised by a national consolidated Government, should be delegated to you.

But, Mr. President, let me ask the attention of the friends of this bill for a moment to the consequences which would result from its adoption. It treats all the State organizations existing in the South as having no legal existence. Then, what is the consequence? Then the proclamations of the President were void, then the convening of their State conventions was void, then the repeal of their ordinances of secession was void, then the abolition of slavery in the southern States was void, and there are as many slaves in the southern States to-day as there were at the time of the repeal of the ordinances of secession. These are some of the consequences which the assumed friends of this negro race, in their blindness and madness, are bringing about. If these State organizations be not valid, then the conventions which abolished slavery, ratified that amendment to the Constitution, and repealed the ordinances of secession were unlawful bodies.

Now, Mr. President, I know that much; if not all, the feeling engendered against the southern section of the country arises from the fact that the people of that section, for reasons which they thought sufficient, but which we thought were insufficient, took up arms and attempted to assert their independence. But where, let me ask you, did the southern people learn this doctrine? I mention the facts which I am about to state, not for the purpose of reflecting upon any section of the country, but to show you that if they did act upon the impression that they had a right to secede from the Union and to resist your authority by force of arms, there were mitigating circumstances in their case which should relieve them from the visitation of punishment because the people of the northern States had held to the same doctrine. Where did it first originate? As I have stated to you, upon the authority of Mr. Monroe, it sprang up in the North. We know that the first commentator upon the Constitution of the United States, and the ablest one in his day, Mr. Rawle, broadly asserted the doctrine and maintained that it was the universal sense of the founders of the Government; and he was a northern man. We know that Josiah Quincy, of Massachusetts, on the floor of Congress, when the bill for the admission of Louisiana into the Union was under consideration, avowed that in case that bill passed and became a law, it would be the right of all, as it would be the duty of some, to secede, peaceably if they could, forcibly if they must.

But, sir, they had higher authority than Josiah Quincy or Mr. Rawle: they had the authority of Mr. Madison and Mr. Hamilton for the doctrine that their primary allegiance was due to their native State. I am not here justifying the doctrine of secession, because I do not believe that a State has a right to secede; but when a State does secede and calls upon her citizens to support her authority, even as against the Federal Government, I hold as both Mr. Madison and Mr. Hamilton held that the people of the State would be justified in so doing; and why?

Mr. McDUGALL. Allow me to ask the Senator from Delaware how, if a State had not a right to secede, her citizens could be justified in war against the United States.

Mr. SAULSBURY. I will answer the Senator's question and then I hope I shall be allowed to proceed with my remarks without further interruption. The reason is this: the citizen is not responsible for the action of his government; and when his State, acting as a State, although she may act wrongfully, demands his obedience, he having been born upon her soil, she having the right to compel his obedience and to hang him if he refuses obedience, and the Federal Government not having the power to protect him from the consequences of disobedience, allegiance and protection being reciprocal, he is justified if he obeys his State. This is no new doctrine. It is a doctrine recognized by the English law. It is a doctrine which was practiced upon and executed by the judgments of the courts in this country during your revolutionary war. It is the doctrine which Mr. Madison asserted in the case of William Smith in the First Congress of the United States. Let me refer to the authorities on this point.

In the third volume of Dallas's Reports will be found the case of Talbot vs. Janson. In the argument of the case the doctrine of expatriation, allegiance, and citizenship was discussed. I read from page 140:

"With this law, however, human institutions have often been at variance, and no institutions more than the feudal system, which made the tyranny of arms the basis of society; chained men to the soil on which they were born; and converted the bulk of mankind into the villains, or slaves of a lord, or superior. From the feudal system sprang the law of allegiance, which pursuing the nature of its origin, rests on lands, for when lands were all held of the Crown, then the oath of allegiance became appropriate; it was the tenure of the tenant, or vassal. (Black's Commentaries, 366.) The oath of fealty and the ancient oath of allegiance were almost the same; both resting on lands; both designating the person to

whom service should be rendered; though the one makes an exception as to the superior land, while the other is an obligation of fidelity against all men. (2 Black's Commentary, page 33, paragraph 140.) Service, therefore, was also an inseparable concomitant of fealty, as well as of allegiance. The oath of fealty could not be violated without loss of lands; and as all lands were held mediately or immediately of the sovereign, a violation of the oath of allegiance was, in fact, a voluntary submission to a state of outlawry. Hence arose the doctrine of perpetual and universal allegiance. When, however, the light of reason was shed upon the human mind the intercourse of man became more general and more liberal; the military was gradually changed for the commercial state, and the laws were found a better protection for persons and property than arms.

But even while the practical administration of government was thus reformed some portions of the ancient theory was preserved; and, among other things, the doctrine of perpetual allegiance remained with the fictitious tenure of all lands from the Crown to support it. Yet it is to be remembered that whether in its real origin, or in its artificial state, allegiance as well as fealty rests upon lands, and it is due to persons. Not so with respect to citizenship which has arisen from the dissolution of the feudal system; and is a substitute for allegiance, corresponding with the new order of things. Allegiance and citizenship differ, indeed, in almost every characteristic. Citizenship is the effect of compact; allegiance is the offspring of power and necessity. Citizenship is a political tie; allegiance is a territorial tenure. Citizenship is the charter of equality; allegiance is a badge of inferiority. Citizenship is constitutional; allegiance is personal. Citizenship is freedom; allegiance is servitude. Citizenship is communicable; allegiance is repulsive. Citizenship may be relinquished; allegiance is perpetual. With such essential differences the doctrine of allegiance is inapplicable to a system of citizenship, which it can serve neither to control nor to elucidate."

In the case of William Smith, of South Carolina, in the First Congress of the United States, I have before referred the Senate to the doctrine of Mr. Madison. Let me read his very words:

"What was the situation of the people of America when the dissolution of their allegiance took place by the Declaration of Independence? I conceive that every person who owed this primary allegiance to the particular community in which he was born retained his right of birth as the member of a new community; that he was consequently absolved from the secondary allegiance he had owed to the British sovereign. If he was not a minor, he became bound by his own act as a member of the society who separated with him from a submission to a foreign country. If he was a minor, his consent was involved in the decision of that society to which he belonged by the ties of nature. What was the allegiance as a citizen of South Carolina, he owed to the King of Great Britain? He owed his allegiance to him as a king of that society to which, as a society, he owed his primary allegiance. When the society separated from Great Britain, he was bound by that act and his allegiance transferred to that society, or the sovereign which that society should set up, because it was through his membership of the society of South Carolina that he owed allegiance to Great Britain."

"This reason will hold good unless it is supposed that the separation which took place between these States and Great Britain not only dissolved the union between those countries, but dissolved the union among the citizens themselves; that the original compact which made them altogether one society being dissolved, they could not fall into pieces, each part making an independent society, but must individually revert into a state of nature. But I do not conceive that this was of necessity to be the case; I believe such a revolution did not absolutely take place. But in supposing that this was the case lies the error of the memorialist. I conceive the Colonies remained as a political society, detached from their former connection with another society, without dissolving into a state of nature, but capable of substituting a new form of government in the place of the old one, which they had for special considerations abolished. Suppose the State of South Carolina should think proper to revise her constitution, abolish that which now exists, and establish another form of government; surely this would not dissolve the social compact. It would not throw them back into a state of nature; it would not dissolve the individual members of that society. It would leave them in perfect society, changing only the mode of action, which they are always at liberty to arrange. Mr. Smith being then, at the Declaration of Independence, a minor, but being a member of that particular society, he became, in my opinion, bound by the decision of the society with respect to the question of independence and change of government; and if afterward he had taken part with the enemies of his country he would have been guilty of treason against that Government to which he owed his allegiance, and would have been liable to be prosecuted as a traitor."

I read not these authorities to justify the acts of the southern States. I only cite them to show that men may honestly entertain at this day a doctrine to which such men as Mr. Madison, Mr. Rawle, and Mr. Josiah Quincy assented. But, sir, if you will look into the twenty-eighth number of the Federalist, a number written by Mr. Hamilton, you will find that he lays down in clear and express terms the



right of the States to use force to repel the aggressions of the Federal Government. I will read it:

"It may safely be received as an axiom in our political system, that the State governments will, in all possible contingencies, afford complete security against invasions of the public liberty by the national authority."

How mistaken even the wisest of men may be!

"Projects of usurpation cannot be masked under pretenses so likely to escape the penetration of select bodies of men as of the people at large. The Legislatures will have better means of information; they can discover the danger at a distance; and possessing all the organs of civil power and the confidence of the people, they can at once adopt a regular plan of opposition, in which they can combine all the resources of the community. They can readily communicate with each other in the different States; and unite their common forces for the protection of their common liberty."

What did he mean by that? Did he not mean that whenever in the judgment of the people of a number of the States the Federal Government has trespassed upon their rights they may unite their forces in repelling that aggression and in subduing it; all their forces, mental, moral, and physical? It meant that or it meant nothing.

But, sir, Mr. Madison went further, as you will find in the debates of the Convention. When it was proposed to authorize the calling forth of the force of the Union against a delinquent State, he said:

"An Union of the States containing such an ingredient seemed to provide for its own destruction. The use of force against a State would look more like a declaration of war than an infliction of punishment, and would probably be considered by the party attacked as a dissolution of all previous compacts by which it might be bound. He hoped that such a system would be framed as to render this resource unnecessary, and moved, therefore, that the clause be postponed."

The proposition was, says the historian, "accordingly postponed and finally pretermitted altogether."

I have already referred to the claim of omnipotent power asserted for Congress under the allegation that "we, the people of the United States," made the Constitution according to the language of the preamble. Perhaps I may as well here read on that point an instructive statement from a work "by a Virginian," published in 1840, entitled "A Brief Inquiry into the Nature and Character of our Federal Government":

"The history of the preamble itself ought to have convinced our author that the inference which he draws from it could not be allowed. On the 6th of August, 1787, the committee appointed for that purpose reported the first draft of a Constitution. The preamble was in these words: 'We, the people of the States of New Hampshire, Massachusetts, Rhode Island, and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, do ordain, declare, and establish the following Constitution for the government of ourselves and our posterity.' (1 Elliott's Debates, 255.) On the very next day this preamble was unanimously adopted: and the reader will at once perceive that it carefully preserves the distinct sovereignty of the States, and discountenances all idea of consolidation. (Id., 256.) The draft of the Constitution thus submitted was discussed, and various alterations and amendments adopted (but without any change in the preamble,) until the 8th of September, 1787, when the following resolution was passed.

"It was moved and seconded to appoint a committee of five, to revise the style of and arrange the articles agreed to by the House; which passed in the affirmative." (Id., 324.) It is manifest that this committee had no power to change the meaning of anything which had been adopted, but were authorized merely to 'revise the style' and arrange the matter in proper order. On the 12th of the same month they made their report. The preamble, as they reported it, is in the following words: 'We, the people of the United States, in order to form a more perfect Union, to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.' (Id., 326.) It does not appear that any attempt was made to change this phraseology in any material point or to reinstate the original. The presumption is, therefore, that the two were considered as substantially the same, particularly as the committee had no authority to make any change, except in the style. The difference in the mere phraseology of the two was certainly not overlooked; for on the 13th September, 1787, it was moved and seconded to proceed to the comparing of the report from the committee of revision with the articles which were agreed to by the House, and sent to them for arrangement; which was passed in the affirmative. And the same was read by paragraphs, compared, and in some places cor-

rected and amended.' (Id., 338.) In what particulars these corrections and amendments were made we are not very distinctly informed."

But, Mr. President, in addition to the authorities which I have adduced on the question of the right of the States to compel the obedience of their citizens, let me refer on the question of secession to John Quincy Adams. In an address before the New York Historical Society, in 1839, he said:

"But the indissoluble link of union between the people of the several States of this confederated nation is, after all, not in the right, but in the heart. If the day should ever come (may Heaven avert it) when the affections of the people of these States shall be alienated from each other: when the fraternal spirit shall give way to cold indifference, or collisions of interest shall fester into hatred, the bands of political association will not long hold together; parties no longer attracted by the magnetism of conciliated interest and kindly sympathies; and far better will it be for the people of the dissipated States to part in friendship from each other than to be held together by constraint. Then will be the time for reverting to the precedents which occurred at the formation and adoption of the Constitution, to form a more perfect union, by dissolving that which no longer could bind, and to leave the separated parts to be reunited by the law of political gravitation to the center."

These are some of the reasons that these southern gentlemen had for pursuing the course they did. Admitting that the doctrine they held was wrong, that the theory they adopted was fallacious, yet that it was honestly entertained you cannot for a moment doubt, because it was honestly entertained by the fathers. Then, being a theory, though erroneous, honestly entertained, will you visit upon honest intentions and honest purposes and honest objects the vengeance provided for in this bill?

But, sir, you have not the authority to pass the bill, because all the power you have is derived from the Federal Constitution. Now, turn to the article of the Constitution in which your powers as the legislative department of this Government are conferred, and show me the slightest particle of authority for you to take under control States of this Union—States of this Union as recognized by yourselves—States of this Union as recognized by the very bills under consideration, because you yourselves in these bills call them Virginia, North Carolina, South Carolina, Georgia, &c. What do we know about Virginia, North Carolina, South Carolina, and Georgia, except as States? And yet, in this very bill, you propose to put these States under absolute military authority, to erect a despotism absolute and complete, over nearly one half of the whole territory of the United States and one third of the people.

But, sir, the power to pass this bill is claimed by its friends to be based in that provision of the Constitution which makes it the duty of Congress to guaranty to every State in the Union a republican form of government. Under the pretext of guarantying to these States a republican form of government you are creating over them an absolute despotism, denying them the benefit of the writ of *habeas corpus*, of trial by jury, and of every right that is guarantied and secured to the people of the whole country by the fundamental law of the land. That is the republican government which you in your boundless munificence and generosity are bestowing upon an unwilling people. You make slaves of them that they may be republicans and enjoy republican liberty. You will put their former slaves over them for Governors; you will send their slaves as Senators to represent their States in this body; you will send them to the lower House to represent them in that branch of Congress; and you will deny to the people of these States—the only people existing there within the meaning of the Federal Constitution—any voice in the management of their own affairs. Sir, it shows to what madness and folly, fanaticism and party zeal and the hope of public plunder and the love of political power will drive men. I think I have as much of the milk of human kindness in my bosom as most men, and I like to be as charitable as other men, but I cannot for the life of me see any other reason for the passage of these bills, any intention to pass them based upon any other reason than that of secur-

ing to the Republican party a lease of power for years to come. You think that if you give electoral votes to the negroes they will be your allies. You say they are superior to their disloyal masters, and they will yet be clothed with all the power in their respective States, and having done this great act for them, you will call upon them to rally to your support at the polls. I suppose it is true that you may have to sit side by side with them in this Chamber if you should accomplish your purpose, and be enlightened by their superior wisdom in your deliberations, and share the benefit of their sage advice in the council chambers of the nation. All that can be borne so that your party is perpetuated in power. Do not talk to me about guarantying to the people a republican form of government when you practice despotism. Rather speak out and say, "We have got a brief hold of power in this Government: the Treasury is ours, the public plunder is ours, and we mean to keep it, even by violating every principle of the Constitution of the United States."

But, Mr. President, even if you had the power to pass this act there are reasons why you should not do it. If it is not a case for the exercise of vengeance, I ask your attention to one important consideration. You call all these southern people rebels. I do not believe a word of it, and never have. They do not believe they are rebels. You say they are. How, let me ask, can one equal rebel against another? Who were the parties to the Federal Union? Were they not the independent States? Was it not ratified separately by each? Has it been ascertained even that a majority of all the people of the United States were in favor of it? Certainly, there was no convention or congress of the people of the whole United States to act upon that matter; but the Constitution was ratified by the people of the several States, and was a compact or agreement between the States, not between the individual people composing the different States of the Union.

Then, it being a compact between the States, it is a compact between equals; and being a compact between equals, let me ask you; how can one equal rebel against another. How can the State of Georgia rebel against the State of Delaware? They entered into a compact with each other. When one gets dissatisfied and a revolution is started, civil war follows; but "tell it not in Gath" that one sovereign, independent party to a compact ever could or ever did rebel against another. This has been the recognized doctrine among all republican States that were ever united together for common purposes. Go, read Grecian history. The republics of Greece were united for certain purposes; but because they had their dissensions and their wars, do you ever read in Grecian history that one of the States of Greece rebelled against the others? Go, read Roman history, and though you will find that Romans might sometimes be called traitors, a Roman citizen was never called a rebel, and it is not to be found in all Roman history or Roman literature. It is on the ground that equals cannot rebel against equals.

Oh, but you say that they rebelled against the Federal Government. Is that possible? The creator rebel against the creature! What power has the Federal Government in reference to the States that a State can rebel against it? It does not possess in reference to the States a single element of original, sovereign power. The powers of the Federal Government are derivative, delegated, not original in any sense of the word, nor sovereign when considered in reference to the States, the creators of the Federal Government. What is sovereign power? Original, inherent, independent, a power above all other powers; and such was the power of the States of this Union when they entered into this compact of Government, and formed a Federal Union with each other. What, then, is derivative power? Sovereign power may be compared to the light of the sun; derivative power, delegated au-

thority, to the light of the moon reflected from the sun.

Mr. President, what I have thus far said has been intended as preliminary to the more succinct, legal argument which I intended to make upon this occasion. Your bill establishes martial law throughout the whole southern country; it puts every person within the limits of the States designated in it under the authority of martial law. I propose now to show that you have no right to pass this bill, by showing that you have no authority, that the Federal Government in all its departments combined has not the authority, and that no officer of the Federal Government has the authority to declare martial law.

The Government of the United States nearly two years ago succeeded in completing the suppression of a most formidable revolution after a struggle of four years. Being the first that has ever occurred in the country on so extended a scale, it is not surprising that we should have lacked experience in the management of such conflicts. And perhaps it was natural that our zeal in the cause should have induced us to disregard the means employed to accomplish the end. But now that peace has been restored it becomes us to profit by the lessons of the revolution. Let us look back and inquire into the constitutionality of the measures we have employed during the progress of the revolution to bring it to a close, and some of the most objectionable of which measures we propose by the bill under consideration to continue over the southern States. It may be that we have inflicted wounds upon the body-politic which require a speedy correction before they become precedents. Junius, in the dedication of his letters to the English people, gives this profound and impressive warning to his countrymen:

"Let me exhort and conjure you never to suffer an invasion of your political Constitution, however minute the instance may appear, to pass by without a determined, persevering resistance. One precedent creates another. They soon accumulate and become law. What yesterday was fact, to-day is doctrine. Examples are supposed to justify the most dangerous measures; and when they do not suit exactly the defect is supplied by analogy. Be assured that the laws which protect us in our civil rights grow out of the Constitution, and they must fall or flourish with it."

Every word of this warning is peculiarly applicable to us. Let us, therefore, now inquire whether we have not suffered invasions of our political Constitution to pass by without resistance, and be warned in time to suffer no such invasions in the future. The innovation of to-day will become a precedent for to-morrow; and passive submission to one encroachment on the Constitution, however slight, will provoke others of a more aggravated character. Power, stimulated by ambition, which is common to all men, never relaxes its hold. The people cannot, therefore, with safety, submit to the exercise of even doubtful powers; and as the Constitution is the supreme law, it cannot be expanded or contracted to suit emergencies, either real or imaginary. If it does not suit all emergencies the remedy is to be found exclusively in amendments to be made in the proper manner.

These remarks have been introduced as preliminary to an inquiry into the constitutionality of "martial law" in the United States, which has been proclaimed and enforced until the people have been, and even now are, in the condition of the people at a memorable period in English history, when it was said, "The whole nation was sick of government by the sword, and pined for government by law."

As "martial law" has been declared and enforced to such an extent that it has been, and is even yet, sought to be made the law of the land, and has been practiced to the utter subversion of civil law, I propose to inquire whether it be within the scope of the powers of the Government of the United States, or of any department thereof, or of all the departments together, or any officer, civil or military, to establish and enforce what is now understood to be martial law either against the citizen or the soldier in actual service. Is it

competent for our Government or any of its officers, either civil or military, to subject the citizen, who is wholly unconnected with the Army or the Navy or the militia in actual service, to be charged and tried in a manner unknown to the Constitution, but actually prohibited by it, for alleged offenses unknown to the law, or even for acts made offenses by law? These are grave questions, and merit the most profound and attentive consideration. The liberties of the people and the preservation and utility of the Constitution are involved in their solution. Such powers have been claimed and exerted, and their validity or invalidity should be promptly settled. If the Constitution has been thus violated, either in its letter or its spirit, the people should know it, and either Congress or the judiciary department should promptly so declare and strangle the monster usurpation before it becomes too powerful to be resisted. The tyrant's plea of necessity can furnish no palliation or excuse; that is a poisonous parasite that too often fastens itself on the body-politic but to eat out its substance.

It is essential to a correct understanding of the subject to be discussed that we should, in the outset, ascertain precisely what is meant by "martial law," a term that has been used until it has become familiar to all, but which is understood by few. What is its appropriate definition? Does it signify a prescribed rule of conduct, commanding what is right and prohibiting what is wrong? Has it been promulgated for the information of the people, or is it a mere arbitrary unknown theory of right and wrong, not found in any known code of laws, but locked up in the bosom of the commanding officer or the military tribunals that may be called on to enforce it, with no other guide to direct them than their own crude ideas of right and wrong, or perhaps their own resentments? Does it hold a sort of inquisitorial right of supervision over the actions of men, and by a magical power convert acts into crimes, although not prohibited by any law where they were committed? It cannot be unwritten or common law for two obvious reasons: it is not part of the common law of England, from which we receive what we have of that system; but if it were so, the United States have no common law, though the States may have it. The Constitution, the acts of Congress and treaties constitute the whole body of laws of the United States.

Judge Story and Chancellor Kent, our ablest commentators, have both failed to shed any light on "martial law," even by a definition of the term. And Blackstone, whose definitions are usually so pertinent and clear, has failed to give us any just idea of the meaning of the term. He makes a quotation from Sir Matthew Hale, who said that "martial law is built upon no settled principles, being entirely arbitrary and in truth no law at all." And the commentator adds, "the necessity of order and discipline in the army is the only thing that can give it countenance." He spoke of it as something applicable to the army only; the idea that it could be extended beyond the lines of the army, or to persons not connected with the army, never seems to have entered his mind; indeed the idea of such an extension is excluded by the language employed. Even the equivocal recognition which it received from these English commentators had reference to the nature and extent of its existence in Governments very different from our own; it was left for a free Government of limited powers to extend its sphere of operation, and to give it universal application to citizens as well as to armies. Indeed, it seems now as during the war to be altogether applicable to citizens; there is no pretense that it is necessary for the government of the army.

It is true that Congress, by an express provision in the Constitution, has power to make rules for the government and regulation of the land and naval forces and for the government of the militia when in actual service, and the Senator from Maine seemed to consider this

bill simply as such a rule. But these rules must not only be written out and passed by Congress like any other act or law, for it is a power confided to Congress as a legislative body. And the application of these rules can extend no further than to the Army or Navy. That is the extent of the grant to Congress by this clause of the Constitution; they cannot be employed or enforced on the citizen; his rights are placed entirely above the power of Congress by other provisions in the Constitution. This clause in our Constitution supplies the place of the power to enforce martial law in more arbitrary Governments, whose powers are not limited by written constitutions, which confer only so much power, and no more, on the rulers. Nor can Congress delegate the power herein granted to any other person or set of persons.

But the rules prescribed by Congress for the regulation and government of the Army and Navy do not constitute the martial law under which the country has been placed and under which it is proposed to permanently place the South. The chief law officer of the Military Department, Mr. Holt, defines it thus: "Martial law," says he, "is defined to be the will of the General who commands the Army." And he adds:

"While its declaration could not properly be referred to as authorizing acts of excess or wanton wrong, it would at the same time justify the military commander in summary and stringent measures, which, in the absence of martial law, might be deemed extraordinary and oppressive."

We thus see what "martial law" is, and the scope of its application; and we see, too, that it substitutes a new and paramount unwritten code of laws, if it may be called a code, for existing laws, with no other limitations or restraints except such as may comport with the will of the General in command, whose will is the criterion of law and justice. And this is the law that was put in force throughout the United States by the proclamations of the late President Lincoln. As the will of the commander is the law, both citizens and soldiers must square their actions by his will whether they know it or not; and according to this definition of "martial law," I shall proceed to inquire whether it be consistent with a just idea of constitutional liberty, no matter what emergencies may be supposed to exist.

Before proceeding to a critical test of the constitutionality of "martial law" by trying it by the Constitution itself, it may not be amiss to submit a few general remarks which may serve to present it in contrast with the general spirit of a free government. I shall call this mode of government by no harsh name; every one knows the proper appellation of a government where all its powers, legislative, judicial, and executive are vested in the same person or body of persons. But even such a government, if the laws be written, is vastly better than "martial law," since the will of the commander may be violated without a knowledge of that will, inasmuch as he is not required to promulgate his will. Blackstone informs us that—

"A bare resolution confined in the breast of the legislator, without manifesting itself by some external sign, can never be a law. It is requisite that this resolution be notified to the people who are to obey it."

So universal and so just is this principle that even tyrants have not dared directly to disregard it. In the worst days of Roman despotism Caligula, the greatest tyrant of all the Cæsar's, in order to render a seeming compliance with this humane requirement, but at the same time to entrap the people, wrote his laws in small characters and hung them on high pillars. By the aid of ladders the people could still have informed themselves as to the law. Even the code of Draco, which has been stigmatized in history as the "bloody code," was written so that the people had some chance of escaping its penalties. But not so with "martial law;" nothing but supernatural power could enable the people to penetrate the commander's breast and find out his will.

The author of the definition above quoted says, "and its (martial law) proclamation by

the President necessarily invests a general commanding in a district where it is declared that it shall prevail, with plenary powers;" that is, full power to enforce his will. The people may be inclined to ask where the President got his authority to invest any person with such power, or where did he get the power to declare what should be law. Does he himself profess this absolute power? Not at all; he professes only a limited executive power to enforce law, not to make it. Our Federal Government is not a sovereignty, but it professes only derivative, limited powers, all of which have been delegated to it by the States. It is the creation of the States; and all powers not delegated to it are reserved to the States or to the people. As a matter of course such a Government can do only what it has been empowered to do. The Constitution created it and is the law of its being, its enabling law; it has enabled it to do all that it may do. The natural person can do only what the law of his nature has enabled him to do; he cannot do what is physically impossible, because the law of his nature has not enabled him to do it. The artificial person, the Government, cannot do what is morally impossible; the law of its being, the Constitution, has not enabled it to do so. But as the Government must be administered by agents or officers, they may exceed its just powers; this is usurpation. Where, then, did President Lincoln get his power to proclaim martial law, and to invest his officers with "plenary powers" and whence is the power claimed by this bill for Congress derived? Where did he get the power to prescribe a rule of conduct for the people which has not been passed by Congress, the only law-making power of the Government, and the only body in which the people, through their representatives, announce the public will, which becomes the law? There is no express power given in the Constitution either to a President or Congress to enforce martial law; that instrument is entirely silent on the subject. The necessary logical consequence is, if it has not been given, it is not possessed by the Government or its officials. But it is said to be an implied power, resulting from the war-making power, or from the power to suppress rebellions; these being expressly granted. But there is now no rebellion. The resistance of the southern people to Federal authority has ceased. It is true, there are such things as implied powers, resulting from that clause in the Constitution which authorizes Congress—

"To make all laws which shall be necessary and proper for carrying into effect the foregoing powers."

But what is the legitimate office of implied powers? To give practical utility and energy to some express power which would be defective or inefficient without incidental aid, or a resort to implied power, which is supposed to be included in the grant. But such powers are to be exercised with great caution and limited to the sole purpose of carrying out some express power from which they are supposed to result as within the intention of the framers of our organic law. And they must receive the recognition of the legislative or judicial department. It is not the province of civil or military officers to judge of the existence and extent of implied powers. And it is monstrous to suppose that a mere implied power, something which is but auxiliary, should not only become paramount to the express grant from which it is deduced, but that it is sufficiently potent to override the whole Constitution, and to establish on its ruins an unrestrained military despotism. Yet this is the inevitable effect of "martial law;" it is above all restraints; it arrests, tries, and punishes by a method of its own, unknown to the Constitution and the law, for offenses not made so by the legislative department. Our Government is republican in form; it does not countenance or tolerate anything which is anti-republican; and yet we see the singular spectacle of a despotic Government springing from it, and claiming legitimacy by construction. The Constitution was ordained by the people as the framework of Government, consisting of cer-

tain great fundamental principles, to be filled out by legislation in strict accordance with these principles, and not at variance with them. But it was not intended to establish a flexible thing, or an elastic fabric, that should be bent by the breeze of popular opinion, or that should change to any imaginable necessity, being a Republic at one time, a despotism at another. Whenever experience proves that amendment is necessary, let it be made in the proper way, and not by so straining the original framework as to make it useless.

"Martial law" presupposes that the Constitution is defective in not having granted sufficient powers, or that it imposes improper restraints, and also that legislation is insufficient, and it undertakes to remedy all defects by a short method, by a total disregard of both. In any well-regulated Government, laws suited to the condition of the people are prescribed by the legislative department. Whatever is deemed wrong either as against the public safety or individual security is prohibited by law, and suitable tribunals, with ample jurisdiction, are provided for trying and punishing offenders. It is not a crime to do what the law does not prohibit, and any one who is punished for such an act is punished wrongfully. Martial law, however, makes its own crimes, and punishes in its own way. The people may well complain that their inalienable rights may be swept away by the breath of a military commander or at the bidding of the President.

The first objection to "martial law" as it is defined, when tried by the critical test of the Constitution, and by the spirit and genius of our Government, is that it makes the civil power subordinate to the military power. No one, surely, will deny that when the will of a military commander at the head of an army is announced as the law, and when he acts accordingly, he is thus placed above the civil authorities. If there could be a doubt left on this subject, it is completely removed by the broad declaration of the same law-officer of the Government in his exposition of the province of martial law, which he says will "justify the military commander in summary and stringent measures; which in the absence of martial law might be deemed extraordinary and oppressive." And why would they be deemed "extraordinary and oppressive?" Because contrary to and in violation of the Constitution and laws, neither of which permit, but on the contrary prohibit, measures which are extraordinary and oppressive. Of course when such measures are put in practice, it must be in virtue of some power which is above the restraints of the Constitution and the laws. The civil authorities act under the laws, and cannot proceed in a summary way, or impose "extraordinary or oppressive" punishments; and of course the power which can do so must be above or superior to the civil law.

The question then arises, can any power be placed in this most extraordinary position? Can any power be placed so far above the Constitution as to deprive the citizen of the sacred rights secured to him by that instrument? For example, can the citizen be deprived of his liberty of speech, his liberty of conscience, his right of trial by jury, and can he be thus deprived in the face of that provision which declares that—

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."

What is meant by this language? What is the meaning of the words "supreme law?" "Supreme" is a relative term, having relation to something below it, for to call that supreme which has nothing below it or inferior to it would not be a very intelligible mode of expression; and certainly it would be absurd to call that a supreme law which has another law above it. Supreme law, then—and this involves the idea of constitutionality—means that which is above all other laws, in the States or in the United States; and being supreme, it

necessarily makes void and of no effect whatever is contrary to it or in conflict with its provisions. Where, then, do we get a foothold for martial law to stand upon in harmony with the Constitution? It arrests without affidavit and without warrant, it tries without jury, and it punishes without offense. It will not be doubted, it is presumed, that if Congress were to enact a code of laws after the pattern of martial law it would be decided to be void by every court in the country, provided the question could ever be brought before a court. It is a peculiarity of this system, however, that it does not need the incumbrances of courts and juries; or if they should be at all in his way, the military commander may suspend their functions.

It cannot be necessary at this day to enter into a lengthy argument to prove what every one ought to know, that it is of the very essence of a free Government that the military shall always be subordinate to the civil power. This is now an axiom in our American system of government; it admits of no dispute. Most, or perhaps all, of our State constitutions declare this in express terms. It was not necessary so to declare in the Constitution of the United States, because it created but a limited Government, which could do nothing but what it was authorized to do, and especially could it not pervert the whole purpose and object of its creation. If the military may be placed above the civil power, of course the Government may be easily subverted and converted into a military despotism. An army has always been regarded as dangerous to a State. A distinguished writer on Government tells us "when a country is to be enslaved the army is the instrument to be used. No nation was ever enslaved but by an army." Another tells us "whether our enemies shall conquer us is uncertain; but whether a standing army will enslave us neither reason nor experience will suffer us to doubt." And it is an easy matter to make a temporary army a standing one.

The republic of Athens was subverted by the power of an army which had its beginning from fifty guards raised to protect a crafty tyrant. A Praetorian guard in Rome made reigning princes at pleasure, and once murdered a good one and sold the kingdom at auction to a bad one. The framers of our Constitution had the solemn warnings of history before them; they knew that military power had in all ages been the irresistible instrument of oppression, and they surely did not intend to foster such a foe to liberty by laying a foundation from which it might spring up in its most terrific form and claim by implication a constitutional parentage. They could not have forgotten that one of the causes of the Revolution was that the king had affected to make the civil power subordinate to the military, and that another was that in many cases he had deprived them of the right of trial by jury, both of which wrongs and grievances your bill proposes to inflict upon the people of all the southern States.

Sir, these people went to war, as they supposed, for sufficient cause, but which we deemed insufficient cause. Had they had one tithe of the cause for going to war then that they would have now if this bill should pass, if they did not go to war they would be the veriest cravens that ever disgraced God's footstool or dishonored His image. And yet, sir, I suppose they will submit. They have been conquered, their country laid waste, and ruin and desolation are all around them; and you, finding them in this subjugated, helpless, blighted, ruined condition, propose the exercise of a tyrant's power to drive them to further desperation and madness. Sir, such legislation is a disgrace to a civilized age, and those who advocate it I am afraid will live to regret it.

Martial law has reestablished the grievances which our fathers thought good cause for revolution, and it is perfectly certain that they did not intend to revive them; and yet they are revived to a far greater extent than ever they were practiced by George III, and



we submit almost without a murmur; and you propose to revive them now in times of peace. I have no doubt that the people of the desolated, ruined South will retire in quietude, sadness, and sorrow to their homes and submit. I advise no resistance. But, sir, speaking for the people of my State, small and limited in extent as she is, few as her population are, if you were to attempt such legislation in reference to her I believe that her gallant sons would seek out some second Thermopylæ and fall, if fall they must, in defense of their constitutional liberties and the rights of their State; and would send a second message—

"Go, stranger, and at Lacedæmon tell  
That here, obedient to her laws, we fell."

It is not very wonderful that we should bear the evil so quietly when the object of the complaint, the usurper, is to be the judge, and his usurpation the cause of complaint. But the people may rest well assured that when these two powers, civil and military, are made to change places, liberty is at an end.

The bill under consideration delegates to even a lieutenant the power to punish a citizen of any one of these States for freedom of speech or freedom of worship or for anything he pleases. Sir, you may have the days of Daniel revived. He may fancy it to be an offense and mark you. You do not define the offenses in your bill; you leave it discretionary with him and him alone to determine what shall be an offense. He may consider it an offense that man prays to his God three times a day; and if there be a lion's den in all that section of country you may have, by the arbitrary will of a little petty despot, the man of God thrown into the den of lions. Your bill is capable of reviving the days of Shadrach, Meshach, and Abednego; and if your little, petty military tyrant takes it in his head that fidelity to Heaven is an offense to him, he may arrest the offender, and he may throw him into the fiery furnace, not only seven times heated, but seventy times heated. And yet the party who are pressing and advocating this measure are *par excellence*, according to their self-laudation, the friends of liberty, a liberty so pure, so universal that they hug to their bosoms the degraded African, while denying liberty of thought, liberty of speech, and every other species of liberty to their own race.

I shall proceed with the inquiry by taking up, in the order in which they stand, the several provisions of the Constitution to which I wish to call particular attention, beginning with the first article of the amendments, which declares that—

"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances."

The value of the rights here secured to the people by the prohibition imposed on Congress must be too well understood to require extended comment. It might be enough to say that no Government can claim to be free which has the power to abridge them. A celebrated Roman emperor, whose character has come down through history as that of a tyrant, once said, "In a free Government the mind and the tongue must be free." And no one who has reflected on the subject will deny that "the liberty of the press is the palladium of all our civil, political, and religious rights."

This encomium coming from one so completely master of the science of government as its distinguished author is eulogy enough. But it is not the language of flattery or of an over-estimated value of the liberty of the press. To the political world it is a source of light; all would be darkness without it. The press is the medium of intelligence to the people; the sentinel that warns them of danger. It is the good man's shield and the bad man's scourge; the hope of good public servants and the terror of bad ones. By its instrumentality the one receives his just reward, and the other his just punishment. It is emphatically the home

guard of the people. Now, I ask, has not this clause of the Constitution been violated? Has not press after press been suspended and publishers punished for venturing to express their opinions; and has not this been done under the authority of martial law? This bill confers the power on the most insignificant lieutenant to destroy the freedom of the press. And if one press be stopped why not as well the whole of them? The same breath that suspends one may suspend the whole. True, this is not very likely to occur on so comprehensive a scale, because there always will be those who—

"Crook the pregnant hinges of the knee,  
Where thrift may follow fawning."

But can they be called the friends of the people, or can their exemption be called the freedom of the press? They are the reverse; they are but the miserable instruments of oppression, properly only a part of the machinery of martial law. Even in France a press cannot be stopped until after it has been notified to desist in its objectionable course. Now, I ask any American citizen, after he shall have read the Constitution, if any power in this country can rightfully abridge the freedom of the press? I ask him then if this has not been done, and then I ask if the power by which it was done was not usurped? I present these questions to the advocates of this bill, and ask that they should ponder on them and invent an answer if they can that will harmonize our action with our Constitution.

We may remember that Congress once undertook to extend its fostering care to the ever-restless spirit of despotism by means of the sedition law, which abridged the freedom of speech and of the press and imposed heavy penalties against such as might by speech or by writing traduce the character of the President or the judges. While that measure was pending before Congress, a distinguished Virginian, Mr. Nicholas, said:

"He was not ready to create a domestic tyranny. The people of this country were competent judges of their own interests, and he was desirous the press should remain free to give them information relative to them; and to restrict it would be to create a suspicion that there is something in our measures which ought to be kept from the light. It was striking at the root of republican government to restrict the use of speaking and writing."

The sedition law had but a brief existence; public indignation soon consigned it to a grave of ignominy; but its spirit seems to have been a restless tenant of the tomb; like Hamlet's ghost, it has arisen to stimulate revenge. As it was not successful under congressional authority, it now claims a more potent paternity, and is marching and proposes in this bill to continue marching over the land under the banner of martial law with an escort of bayonets to execute its will. But an insulted and outraged people, if they are true to themselves, will yet check its career and consign it and its votaries to such a destiny as marked the exit of the sedition law and its friends. If they do not, it will surely consign them to slavery. It is very certain that no legislative body in that country could pass a valid law abridging the freedom of speech or of the press, and yet we have seen it done over and over again without law, and this bill proposes by pretense of law to make valid the outrage. And it is surely absurd to say the Constitution is so inconsistent, so contradictory, and so repugnant in its provisions as to authorize in one place what it has so positively prohibited in another, or that it authorizes inferences or implications which destroy, nullify its express and leading declarations, which constitute the very groundwork of liberty. If such an intention could be imputed to the framers of the Constitution, they would be justly chargeable with fraud in having provided a concealed instrument to defeat their open expressions of protection to the people.

The next article to which I desire to direct particular attention, as being directly prohibitory of martial law, is the fourth article of the Amendments, which is in these words:

"The right of the people to be secure in their per-

sons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched or the persons or things to be seized."

Now, I ask, has it not been the daily practice to search houses, seize papers, and arrest persons without warrant, without affidavit, without charge of crime, under the authority of martial law? On the precedents of the Inquisition, citizens have been often arrested without even a knowledge of the charges against them.

Why, sir, only two or three years ago, during the continuance of the war, an able judge in the adjoining State of Maryland, whom I knew when I was a boy, had been, as I heard, arrested and placed in Fort Delaware. I went over to see him. I found him, a wealthy gentleman and a man of great ability, in a wooden shanty, with common horse-blankets for his bed. I inquired into the alleged causes for his arrest. He was a judge on the bench; and some persons having no authority, but calling themselves loyal, wishing in that guise to steal off the Treasury, had, without affidavit or warrant or any authority whatever, in the night time seized and arrested some citizens of his county, and he, as a judge, in a charge to the grand jury, told them that this conduct was in violation of law, that the laws of Maryland forbade such outrages. While he was holding his court, and a case was on trial, a set of loyalists from Baltimore—and when I say loyalists I mean those who style themselves loyalists; and you know Dr. Johnson said that patriotism was the last refuge of a scoundrel, and it has become now-a-days that some of the so-called loyalists in this country are an exemplification of that remark—these men went and dragged that judge from his bench, beat him over the head with their pistols till he fell prostrate upon the floor, dragged him away from the temple of justice, and placed him in a military fort for no other cause than that; and this bill of yours justifies any lieutenant in the whole South in dragging a judge from the bench if he declares the law to a grand jury.

This summary mode of arrest has not been confined to persons connected with the Army or Navy, but it has been freely practiced on citizens. And the question is: can this be done without a plain, palpable violation of the Constitution; is there any power in this country that can exercise such authority? If so, the Constitution must be inferior and subordinate to that power. I assert that this provision was intended to guard against abuses by martial law, and I appeal to history—to its origin.

We derive this clause in our Constitution from the "Petition of Right" of our English ancestors, or, as it is often called, the second charter of liberty. The right of personal liberty is a natural right, but innovations having been made upon it by kingly prerogative a more permanent security was demanded, and by Magna Charta it was declared that—

"No freeman may be taken or imprisoned, or disseized of his freehold or his free customs, or be outlawed or exiled, or in any manner destroyed, but by the lawful judgment of his peers, or by the laws of the land."

By the common law an oath was required before a warrant could be issued, and this charter was an affirmation of the rights of Englishmen. Notwithstanding that strong and explicit guarantee, in subsequent reigns kingly prerogative, which is always restive under restraints, was used to make inroads on Magna Charta, until in the reign of Charles I it had occupied almost absolute supremacy. That misguided monarch, in virtue of his prerogative, claimed and exerted the right to extort forced loans, benevolences, and taxes from the people without the consent of Parliament. He also made arbitrary arrests, and issued general commissions to his officers to proceed by "martial law," which brought unparalleled outrages on the people.

And, Mr. President, your bill under consideration authorizes these petty military officers to try civilians by a military commis-

sion, a thing unknown in American history till Abraham Lincoln became a statesman and Edwin M. Stanton a patriot.

Their liberties were thus placed under the discretion of the monarch. The pressure on Charles was so great that at length he was obliged to convoke a Parliament. The House of Commons was composed of the foremost men in England—foremost in talent, in firmness, in independence, and in devotion to liberty. Being determined to rebuke and to check the usurpations of the Crown, and to reiterate and protect their ancient rights, the "Petition of Right" was prepared for that purpose. It was introduced, discussed, and passed in defiance of the threats of the king and his ministers. Compromises were offered, but the Commons would not yield, and Charles was obliged to sign it; and for failing to observe it in good faith he lost his head. This celebrated instrument recited the grievances under which the people had been laboring, one, and not the least of which, was that commissions of martial law had been issued and men had been imprisoned without any cause shown.

Yes, sir, the fathers of English liberty beheaded their king because he had illegally issued military commissions; and you, the descendants of the men who fought one of the kings of England—and our grievances then did not bear any comparison with those which you now propose to inflict by this bill—in the nineteenth century are repeating the outrages of Charles. He lost his head for his outrages upon liberty. What will the friends of liberty and the admirers of liberty, when your stormy passions shall cease, if not before, when you lie still in the grave, think of you, and your proposed outrages upon civil liberty and constitutional law? Let not your memories be cursed by all the friends of free government and civil liberty in the future. Think not that your reputation will be safe in the future. Think not, if this be your action, that you will go down to the grave with honored names. The oppressors of the weak, the foes of the right, may prosper for a time; but God is just. He is the fountain of justice. He will take care of it that retributive justice shall either meet you in this life or in that which is to come.

To remedy this particular evil the provision we now have in our Constitution was inserted in the "Petition of Right." This being the history of that constitutional provision, I assert that it was intended to prevent the exercise of martial law, inasmuch as that was its object in England. We must suppose the framers of our Constitution knew something of history, and when they inserted precisely such a provision as had existed in England they intended it should answer precisely the same end it had answered in England; that is, to guard against arbitrary arrests and the exercise of martial law. The inference is irresistible; there is no escape from it. They knew the evil and they knew the remedy. Notwithstanding this safeguard thrown around us we are now in the depressed condition the people of England were in under the tyrannical reign of Charles; but we have not such a House of Commons to give us relief. Our authorities have done and are now doing with impunity such acts as caused an English king to lose his head. That which was a remedy for an evil in England is disregarded here. The Queen of England would not dare to do at this day what President Lincoln has done; and the British Parliament would not dare to do what Congress proposes by this bill to do. Indeed, it has been judicially declared to be out of her power to declare martial law. And such a thing has not existed in England for two hundred years, except in two instances, when it was declared by Parliament in virtue of its attribute of omnipotence. Our limited constitutional Government does not hesitate, however, to declare and enforce martial law; and American citizens, under their boasted constitutional liberty, will meekly submit to

acts of usurpation which would dethrone a British monarch. What a commentary on what is miscalled free Government! An Englishman may well boast of his freedom; his monarch knows the penalty for a violation of the sacred rights of his subjects. An American is content with the name, the idle and senseless boast of having freedom in form, which his President or a Congress may trample on at pleasure; and yet he, in his degraded condition, boasts of the name of a freeman while wearing the manacles of a slave. His great Charter says that no person shall be arrested without warrant founded on affidavit; but a President has said, "I declare martial law, and invest my lieutenants with power to arrest any one without warrant, without oath, and to imprison him at pleasure, try him without jury, and punish him according to the will of a military commander;" and Congress now proposes to do the same thing. I repeat, then, not only are arbitrary arrests, either under martial law or without it, not allowed by inference or construction of any clause in the Constitution, but expressly prohibited by it in words so appropriate that it is impossible to mistake their meaning, and by no fair and legitimate course of reasoning can their meaning be perverted.

The next provision in the Constitution to which I wish to direct attention is the fifth article of the Amendments, which is in these words:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

This language is so plain that no reasoning, no illustration can make it clearer. This is one of the safeguards placed around the liberty of the citizen by the dictates of judgment, founded on the history of oppression in past ages. Like the preceding article, it originated from abuses practiced in the barbarous days of that nation from which we chiefly derive our ideas of the necessary checks against the encroachments on liberty. This provision secures the benefit of a grand jury to every person and in every criminal case, except only in cases arising in the Army or Navy. The exception is so clearly marked and defined as to leave no room to doubt as to what class of cases and persons it applies. To be within the exception the person must have belonged to the land or naval forces, and the case must have originated in the land or naval forces, or in the militia when in actual service. By what possible forced construction can mere citizens, men over age and boys under age, the man of eighty, the boy under sixteen, and the women of the country be deprived of the right here secured to them? The exception only applies to persons belonging to or connected with the land or naval forces, and the reason of the exception is perfectly apparent; it is founded on necessity and it ends with the necessity; it was because resort could not be had to civil tribunals in the class of cases excepted, and because the discipline and the efficiency of the Army and Navy could not wait the tardy process of civil law.

Yet, we have seen a court of "star chamber" established under the name of a "military commission," for the trial of all persons and for all grades of offenses the existence of which court this bill proposes to make perpetual. The civil tribunals of the country are stripped of their constitutional jurisdiction and have become useless incumbrances in the system of government, and the Constitution is a sort of peace establishment, to take effect only when a state of peace shall be proclaimed, which may be postponed at the pleasure of the Executive or at least of Congress. The clangor of arms and the array of armies are no longer the *indicia* of war; it exists wherever those in authority shall choose to say it exists, and while it does so exist the Government is transformed; martial law and the law of nations are made to supersede the Constitution and convert the

country into a camp, and subject the people to the will of a commander.

The English law, when it was disgraced by what were called constructive treasons, was a mild and humane system compared to our own as recently administered and as the advocates of the bill would have it now administered in the South. The tyrant Jeffreys, while carrying on King James's celebrated western campaign, though he made the law to bend to satiate his thirst for blood, still gave the unfortunate victims of his vengeance the forms of trial by course of law. They were indicted by grand jury and tried by petit jury. These we dispense with as useless ceremonials, and our citizens are tried without the intervention of either.

This same article contains the further provision that "no person shall be deprived of life, liberty, or property, without due process of law." What is due process of law? We know what it was under Magna Charta, from which we derive this provision, and it has been already shown that Charles's commissions to proceed by "martial law" were considered so gross a violation of this provision in Magna Charta that the Petition of Right to check these violations of the rights of Englishmen was introduced and passed by Parliament. We have the principles of Magna Charta and the Petition of Right fully incorporated into our Constitution, but they are far less potent than in England; there they put an end to martial law; here it flourishes under it.

The remaining provision of the Constitution to which I would direct particular attention is the sixth article of the Amendments, which declares that—

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed," &c.

This of course does not refer to cases arising in the land or naval forces, for the exception in the preceding article applies also to this. But this provision secures to every citizen, to any person not connected with the Army, the Navy, or the militia in actual service, the right of trial by jury; and before it can be taken from them, some law, some authority higher than the Constitution must be shown. It will not do to fall back on martial law or the laws of nations; they do not, they cannot, deprive the citizen of his right to trial by jury, and the absurdity lies in relying on the precedents of monarchies and in applying them to our constitutional Government. The precedents of sovereignties can never apply to a limited Government without extending to it the attributes of a sovereignty. Queen Elizabeth established her court of high commissions, more terrible than the star chamber; but can our President or Congress do the same? But even that self-willed monarch, when she complained that martial law had not been practiced, was admonished by her ministers that such a law could only be enforced in times of rebellion by authority of Parliament. We, however, practiced and enforced it long after civil war has ceased, and it is now sought to be made the law in the southern States, although no hostile arm has been raised against the Government for nearly two years. What Queen Elizabeth did not dare to do under her almost unlimited prerogative our President does with impunity. Citizens have been tried, they have been executed, long since the war ceased. Why or how is this? It is simply by usurpation; by trampling the Constitution under foot, and by erecting a military despotism on its ruins; for the people are now and have been living under an unmitigated despotism. The Constitution has been, by construction, by the exercise of ordinary power, set aside, and martial law and the laws of nations constitute now the supreme law of the land.

The pretext for all these violations of our rights is that the President and Congress had a right to suppress rebellion; but in doing this has he or Congress a right to disregard all the provisions of the Constitution? Not at all;

they must do so in subordination to the Constitution. A rebellion is but an effort to throw off the obligations the citizen owes to the Government, and the President, and those who advocate a violation of the Constitution, by disregarding these obligations were precisely in the attitude of the rebels; they rebel against the Government, and by one rebellion attempt to suppress another. And if the Constitution be the true form of government, those who have discarded its sacred injunctions by the adoption and practice of martial law are as much rebels in principle as those who attempted openly to throw off its obligations. We are now a nation of rebels; we have thrown off all the securities of the Constitution, and have in practice adopted a despotism; the party in power have rebelled against the Government our fathers left us.

I will barely allude to another article, the tenth, which is not without great significance. It declares that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people thereof." The object of this is too plain to be mistaken; it was intended to guard against the very system which has been inaugurated, the system of latitudinous construction, which without this guard was likely to be employed to the total overthrow of the instrument itself and to the utter subversion of the rights of the States and the rights of the people. In its effect this is a plain declaration that no power shall be raised by construction. How flagrantly this provision has been violated the history of the last six years but too abundantly proves. Construction has built up an entirely new and different Government from that established by the Constitution.

It is not remarkable that there should be a meagerness of judicial precedent on this question in this country, for it is so bold an innovation on our theory of government that it has been seldom ventured on. We are not, however, entirely without judicial authority of the highest character, though these precedents seem never to have been discovered by the advocates of this system. Judge Bay, of South Carolina, in Lamb's case, said:

"If by martial law is to be understood that dreadful system, the law of arms, which in former times was exercised by the king of England and his lieutenants when his word was the law and his will the power by which it was exercised, I have no hesitation in saying that such a monster could not exist in this land of liberty and freedom. The political atmosphere of America would destroy it in embryo. It was against such a tyrannical monster that we triumphed in our revolutionary conflict. Our fathers sealed the conquest by their blood, and their posterity will never permit it to tarnish our soil by its unhallowed feet or harrow up the feelings of our gallant sons by its ghastly appearance. All our civil institutions forbid it; and the manly hearts of our countrymen are steeled against it."—*Car. Law Rep.*, page 330.

This is strong language, directed against precisely the same system under which we have been living for the last four years. Our definition gives precisely the English idea of martial law as practiced by the king and his lieutenants. What was such a monster in the estimation of Judge Bay has been the presiding genius in this our once free country for four years past. We have had the will of the commanding generals for the law, and their words the power to carry it into execution. However much the manly hearts of our countrymen may be steeled against it, it is nevertheless the law of arms, which emanated, not from our legislative halls, but from the edict of a single person, and by the power of the sword compelled submission to its mandates.

The colleague of Judge Bay in that case delivered a very able and learned opinion that under the Constitution of the United States there could exist in the free Republic of the United States no such martial law. Sir, it cannot be administered as against the citizen; it cannot be administered as against the soldier in the field, because the soldier in the field has his law which to him is "due process." It is the Rules and Articles of War, enacted by the Congress of the United States.

He is not subject to the arbitrary will of the commander. That is the definition given of martial law by the Duke of Wellington—the will of the commander in the field. It cannot be administered as against the citizen, because the Constitution, which is the bulwark of his liberty, says that if he is accused of crime he shall have the benefit of an indictment by a grand jury and trial by a petit jury; that he shall not be arrested except upon warrant; and that the warrant shall not issue except upon an affidavit showing the commission of crime. This authority does not stand alone. I shall make an extract at some length from a decision of the supreme court of Louisiana in the case of Johnson vs. Duncan, 8 Louisiana Reports, 551; 1 Condensed Louisiana Reports, 157. This case was decided in 1815, and involved the validity of "martial law" as declared by General Jackson at New Orleans:

"Martin, J. A motion that the court might proceed in this case has been resisted on two grounds: "1. That the city and its environs were, by general orders of the officer commanding the military district, put on the 15th of December last under strict martial law."

"2. That by the third section of an act of Assembly, approved on the 18th of December last, all proceedings in any civil case are suspended."

1. At the close of the argument on Monday last, we thought it our duty, lest the smallest delays should countenance the idea that this court entertained any doubt on the first ground, instantly to declare *viva voce* (although that practice is to deliver our opinions in writing) that the exercise of an authority vested by law in this court could not be suspended by any man.

"In any other State but this, in the population of which are many individuals, who not being perfectly acquainted with their rights, may easily be imposed on, it could not be expected that the judges of this court, in complying with the constitutional injunction in all cases to adduce the reasons on which their judgment is founded, take up much time to show that the court is bound utterly to disregard what is thus called martial law; if anything be meant thereby but the strict enforcing of the rules and articles for the government of the Army of the United States, established by Congress, or any act of that body relating to military matters, on all individuals belonging to the Army or the militia in the service of the United States. Yet we are told that by this proclamation of the martial law, the officer who issued it has conferred on himself, over all his fellow-citizens, within the space he has described, a supreme and unlimited power, which being incompatible with the exercise of the functions of the civil magistrate necessarily suspends them."

"This bold and novel assertion is said to be supported by the ninth section of the first article of the Constitution of the United States. It is there provided that the privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of invasion or rebellion the public safety may require it. We are told that the commander of the military district is the person who is to suspend the writ, and is to do so whenever in his judgment the public safety appears to require it; that as he may thus paralyze the arm of the justice of his country in this most important case, the protection of the liberty of the citizen, it follows that as he who can do the more can do the less, he can also suspend all other functions of the civil magistrate, which he does by his proclamation of martial law."

"This mode of reasoning varies *totò cœlo* from the decision of the Supreme Court of the United States in the case of Swartwout and Boleman, arrested in this city in 1806, by General Wilkinson. The court then declared that the Constitution had exclusively vested in Congress the right of suspending the privilege of the writ of *habeas corpus*, and that body was the sole Judge of the necessity which called for suspension."

"If at any times said the Chief Justice the public safety shall require the suspension of the powers vested in the courts of the United States by this act [the *habeas corpus* act] it is for the Legislature to say so. This question depends on political considerations, on which the Legislature is to decide. Till the legislative will be expressed, this court can only see its duties and must obey the law." (4 Cranch, page 101.) The high authority of this decision seems, however, to be disregarded, and a contrary opinion is said to have been lately acted upon to the distress and terror of the good people of this State; it is therefore meet to dispel the clouds which designing men endeavor to cast on this article of the Constitution, that the people should know that their rights thus defined, are neither doubtful nor insecure, but supported by the clearest principles of our laws."

Judge Martin then proceeded at some length and with great force and clearness to show that the power to suspend the writ of *habeas corpus* is exclusively a legislative power, and cannot be exerted by any other authority in the Government, and after having done so, he continued:

"If it be said that the laws of war, being the laws of the United States, authorize the proclamation of martial law, I answer that in peace or in war no law can be enacted but by the legis-

lative power. In England, from whence the American jurist derives his principles in this respect, martial law cannot be used without the authority of Parliament. (5 Comyns, 229.) The authority of the monarch himself is insufficient. In the case of Grant vs. Sir C. Gould, (2 H. Black, 69,) which was on a prohibition [applied for in the Common Pleas] to the defendant as judge advocate of a court martial to prevent the execution of the sentence of that military tribunal, the counsel who resisted the motion said it was not to be disputed that martial law can only be exercised in England so far as it is authorized by the mutiny act and the Articles of War, all which are established by Parliament or its authority, and the court declared it totally inaccurate to state any other martial law as having any place whatever within the realm of England. In that country and in these States by martial law is understood the jurisprudence of those cases which are decided by military judges or courts-martial. "When martial law is established and prevails in any country, [said Lord Loughborough] in the case cited, it is totally a different nature from that which is inaccurately called martial law, (because the decisions are by court martial) but which bears no affinity to that which was formerly attempted to be exercised in this kingdom, which was contrary to the Constitution, and which has for a century been totally exploded." When martial law prevails, [continued the judge,] the authority under which it is exercised claims jurisdiction over all military persons in all circumstances; every species of offense committed, by any person who appertains to the army is tried, not by civil jurisdiction, but by the jurisdiction of the corps or regiment to which he belongs."

After having made this reference to the English law, Judge Martin continued:

"This is martial law as defined by Hale and Blackstone, and which the court declared not to exist in England. Yet it is confined to military persons. Here it is contended, and the court must admit, if we sustain the objection, that it extends to all persons, that it dissolves for a while the government of the State."

And he might have added also, with perfect truth, that it dissolves also the Government of the United States.

"Yet, according to our laws, [continues Judge Martin,] all military courts are under a constant subordination to the courts of law. Officers who have abused their powers, though only in regard to their own soldiers, are liable to a prosecution in a court of law, and compelled to make satisfaction. Even a flagrant abuse of authority by members of a court-martial, when sitting to judge their own people, and determine in cases of a military kind, makes them liable to the animadversions of a civil judge. (Delolme, 447; Jacob's Law Dictionary, Verbo Court-Martial.) How preposterous, then, the idea that a military commander may, by his own authority, destroy the tribunal established by law as the asylum of those oppressed by military despotism."

I have extracted at length from the opinion of Judge Martin because of his eminence as a jurist, and because of the force and clearness of his opinion. He has not only shown us what American law is, but he has also shown us what English law is on this very interesting subject. He has shown us, too, that we have picked up and practiced a system of oppression which, according to Lord Loughborough, has been exploded in England for a century. We have invested our President with a power that was claimed and exerted as a prerogative of the Crown when English monarchs were despots, and which has, happily for the people of that country, been expelled from its dominions to find a lodgment here.

But I will also make an extract from the opinion of one of Judge Martin's associates, Judge Derbigny, who said:

"To have a correct idea of martial law in a free country, examples must not be sought in the arbitrary conduct of absolute Governments. The monarch who unites in his hands all the powers may delegate to his generals authority unbounded as his own. But in a republic where the Constitution has fixed the limit and extent of every branch of Government, in time of war as well as of peace, there can exist nothing vague, uncertain, or arbitrary in the exercise of any authority."

"The Constitution of the United States, in which everything necessary to the general and individual security has been foreseen, does not provide that in times of public danger the executive power shall reign to the exclusion of all others. It does not trust into the hands of a dictator the reins of Government. The framers of that charter were too well aware of the hazards to which they would have exposed the fate of the Republic by such a provision; and had they done it, the States would have rejected a Constitution stained with a clause so threatening to their liberties."

Judge Derbigny then made an extract from Delolme in regard to the suspension of the *habeas corpus* in England, and proceeded thus:

"And can it be asserted that while British subjects are thus secured from oppression in the worst of times, American citizens are left at the mercy of the will of



an individual, who may in certain cases, the necessity of which is to be judged of by himself, assume a supreme, overbearing, unbounded power? The idea is not only repugnant to the principles of any free Government, but subversive of the very foundations of our own.

"Under the Constitution and laws of the United States, [continued the judge] the President has a right to call or cause to be called into the service of the United States even the whole militia of any part of the Union in case of invasion. This power exercised here by his delegate has placed all the citizens subject to military duty under military authority and military law. That I conceive to be the extent of the martial law, beyond which all is usurpation of power.

"The proclamation of martial law, therefore, cannot have had any other effect than that of placing under military authority all citizens subject to militia service. It is in that sense alone that the vague expression of martial law ought to be understood among us. To give it any larger extent would be trampling upon the Constitution and laws of our country."

If any question can be settled by a judicial determination, fortified as this is both by reason and by precedent, then this decision surely is sufficient to put at rest forever in this country the question of the power to proclaim and enforce martial law. It is the argument of profound jurists who were acting in the discharge of the solemn duty of protecting the Constitution from innovations from those who were clothed with "a little brief authority," and with the strong arm of power to enforce their will. As such I commend it to the calm consideration of the lovers of constitutional liberty.

I will also call attention to the very able opinion of Judge Woodbury, delivered in the case of Luther M. Borden and Martin Luther, 7 Howard, S. C. Rep., 1. The case grew out of what is known as the Dorr rebellion in Rhode Island. To suppress that rebellion the old or charter government, through its Legislature, declared martial law in the State, and while this was in existence the cause of action originated. A majority of the Supreme Court, and it was but a bare majority, three out of the nine judges being absent and one dissenting, bestowed a brief notice on the question of martial law, and sanctioned its declaration by the State. But Judge Woodbury did not choose that a question of such vital importance should be so briefly passed over, and he took the pains to state that he dissented on the question of martial law. I should here remark that even the meager decision of the majority of the court sustaining the Legislature in declaring martial law would by no means be an authority for the exercise of a like power by the Government of the United States or any of its officials. A State constitution is a limitation of power imposed by the people on the legislative and other departments of the State government; and as a State is a sovereignty, its Legislature can exert all legislative power if there be no limitation or prohibition. The United States Government possesses only such power as has been given to it. Owing to the great length of Judge Woodbury's opinion, I can only state some of the points he did decide, and give a few extracts. He held that a State Legislature had no power to declare martial law, and the whole course of his very conclusive argument and the principles he lays down show that no such power exists in this country, but that it is utterly at war with the spirit of our Government, State and Federal. He said:

"For convincing reasons like these, in every country which makes any claim to political or civil liberty, martial law, as here attempted and as once practiced in England against her own people, has been expressly forbidden there for near two centuries, as well as by the principles of every other free constitutional Government. (Hallam's Con. His., p. 420.) And it would be not a little extraordinary if the spirit of our institutions, both State and national, was not much stronger than in England against the unlimited exercise of martial law over a whole people, whether attempted by any Chief Magistrate or even by a Legislature."

He also said:

"Under the worst insurrections and even wars in our history, so strong a measure as this is believed never to have been ventured on before by the General Government, and much less by any of the States, as within their constitutional capacity either in peace, insurrection, or war. And if it is to be tolerated, and the more especially in civil feuds like this, it will open the door in future domestic dissensions here to a series of butchery, rapine, confiscation, plunder, conflagration, and cruelty unparalleled in the worst contests in history between mere dynasties for su-

preme power. It would go in practice to render the whole country what Bolivar seemed at one time to consider his—a camp, and the administration of the Government a campaign."

The judge also urged the importance of always keeping the military subordinate to the civil power, and utterly denied that the suspension of the writ of *habeas corpus* would furnish any pretext for or in any way justify martial law.

I make one further extract from the judge's learned opinion. He says:

"It is to be hoped we have some national ambition and pride under our boasted dominion of law and order, to preserve them by law, by an enlightened and constitutional law, and the moderation of superior intelligence and civilization, rather than by appeals to any of the semi-barbarous measures of darker ages, and the unrelenting, lawless persecutions of opponents in civil strife which characterized and disgraced those ages."

This is Judge Woodbury's opinion of martial law, and I ask the candid observer if he has not witnessed the fulfillment of many of his predictions, and much more, under its relentless rule?

Odious, however, as this system is, and much as it conflicts with the Constitution, the means or instrumentalities employed to give it a vigorous, practical operation are equally so. The whole country has been filled with swarms of secret emissaries, spies, and detectives, watching the people, by eaves-dropping and loitering about hotels and public resorts, to catch and report every word they hear uttered, and each striving to distinguish himself in his ignoble vocation by collecting most information, which he does not hesitate to exaggerate. Such agents can only be found among the vicious and depraved, such as would not hesitate to gratify their malice and revenge on the slightest pretext. And their work is often done under the mask of duplicity. Such men were the detestable agents of the clubs in France in furnishing subjects for persecution, and of the Inquisition in its days of most vigorous prosperity. By such men have the people of this country, men and women, been watched, and on their information incarcerated in prisons or exiled from their homes. Such were their masters, the *custodes legum*, as a celebrated Roman tyrant called his hired witnesses and false accusers. In the language of Judge Woodbury, the whole country has been converted into a camp and the Government into a campaign against its own citizens. Provost marshals, officers unknown to the Constitution and to the laws, have been placed in most of our towns, with just such powers as they might choose to exercise. The civil government and the civil laws have scarcely been heard of. In such a state of things the people fail to realize the bright promise held out in the Constitution that it was intended to establish justice, insure domestic tranquillity, and to secure the blessings of liberty to ourselves and to our posterity. Nor will they incline to give to the Government a stronger hold in their affections. Well-founded prejudices have arisen against a Government which must live, if it live at all, by the force of public opinion, of public confidence. If we would preserve a Republic in substance it must be kept within its proper landmarks, for of all other forms of government it is most liable to revolutions, and consequently most easily converted into a despotism. Burke maintained that all Governments were alike in effect, all tyrannies; and perhaps he was not far wrong; certainly all may be made so by abuses of power. These abuses, wrongs, and crimes are now, in a time of universal peace, sought to be established over eight million white people through a senseless fanaticism in behalf of the degraded negro race.

But I have said that martial law, in the sense of our definition, cannot be enforced against the soldier in actual service, by which I mean that he is not liable to be punished for a violation of the will of the commander; or in other words, the commander cannot exercise a discretionary power over the soldier in actual service. He is subject to the rules and articles

of war, but is subject to nothing else. These rules must be prescribed by Congress, and while Congress may repose some discretion in the commander, this discretion does not exist unless it be expressly confided to the General. For any violation of these rules the soldier is entitled to a fair and impartial trial by court-martial; which to him is "due process of law." He is entitled to know what the law is before he can be punished. Is the soldier to be told when he leaves his home to fight the battles of his country that he leaves behind him the mantle of the law which protects him as a citizen, and that he submits himself entirely to the will of his commander? This cannot be; he is entitled to all the protection which the Government can give him. His condition would be otherwise deplorable, indeed; he has no means of protection against the exercise of arbitrary power, which may often be exacted unjustly, unless he can find it in the laws of his country; and as he is removed from the protection which is enjoyed by him as a citizen, his condition and the character of his duty should make him the especial object of governmental protection. When without offense he is punished, or when he is tried in a manner unknown to the law, the officer who so directs is himself liable to be punished for the offense. This could not be the case if the will of the commander be the law.

It is proper that a few remarks should be added on the effect of the proposed suspension of the writ of *habeas corpus*, which is supposed by some to furnish a justification for the declaration of "martial law;" a conclusion which is reached by a most singular process of reasoning: that inasmuch as a man can have no speedy remedy to relieve himself from illegal imprisonment, therefore he may be imprisoned without cause as well by a military or executive officer as by a civil magistrate. The right of personal liberty is a natural right; the privilege of the writ of *habeas corpus* is a civil right, derived from government, for the better protection of the natural right, being a speedy mode of obtaining our liberty when illegally imprisoned, and this writ is intended to give better protection to the natural right. The right of personal liberty existed long anterior to the *habeas corpus*, and it is a most illogical argument which would make the natural right depend on the civil right and end with it. If this were true, it would follow that before the invention of the *habeas corpus* man had no right to his liberty; yet we know this is the gift of God, which cannot be taken away without a forfeiture first legally established in the manner prescribed in the Constitution. We are informed by writers of high authority, especially by Burlamaqui, in so many words, that the organization of civil society does not destroy or impair natural rights, but secures and strengthens them. This theory, however, would make the natural right depend on the civil one, and it would follow that the civil right being destroyed, no man has a right to his liberty, and *prima facie* every one ought to be put in jail until he can show good cause for his discharge.

But the writ of *habeas corpus* is not the only remedy for an accused party; he is entitled to be enlarged on bail; he is entitled to a speedy and impartial trial by jury, and he is entitled to his action for false imprisonment. Are all these destroyed by the suspension or privation of the former? Absurd as this may seem it must be so if by the suspension of the writ of *habeas corpus* he loses his natural right of personal liberty. These remedies were all invented and intended to secure the natural right, and it is therefore very clear that the mere suspension of one remedy does not suspend the others; and if these others still exist, then it is also clear that no one may be arrested without warrant founded on affidavit. The *habeas corpus* does not change the mode of arrest; it only operates on the imprisonment.

In the ninth section of the first article of the Constitution this provision is found:

"The privilege of the writ of *habeas corpus* shall

not be suspended, unless when in cases of rebellion or invasion the public safety may require it."

And the fourth article of the Amendments declares that—

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

These provisions have no necessary connection or dependence on each other, except that if the right secured by the latter be invaded the first is but one of the remedies for the aggrieved party. The history of the latter provision has already been given.

It has been shown to have originated out of abuses practiced by Charles I., which gave rise to the celebrated Petition of Rights, in which it is incorporated. The privilege of the writ of *habeas corpus* received further security by that instrument. Prior to that time the courts had refused the writ where the warrant of arrest contained the words "by special command of the king;" which words that instrument declared to be insufficient cause for refusing the writ. And it received further security in the reign of Charles II by the celebrated *habeas corpus* act, which made the writ a matter of right. But in no part of this history do we find anything which gives countenance or pretext for the idea that the suspension of the writ of *habeas corpus* authorizes arrests to be made without warrant founded on affidavit. On the contrary, the right of personal liberty is the paramount right, the privilege of the writ of *habeas corpus* being but the auxiliary. And it would seem to be very certain that the framers of the Constitution did not intend to make the natural right of personal liberty depend alone on the remedy by *habeas corpus*. If all remedies had been taken away, man would still have had the natural right of personal liberty: a right so essential that no civil society can deprive him of it unless it be legally forfeited. And if any civil government should undertake to deprive the citizen of this natural right of liberty such act would undoubtedly be held void. How, then, can the mere suspension of the writ of *habeas corpus* effect this object? But it is sufficient on this subject to refer to the decision of Judge Woodbury, already quoted.

It remains only to add a brief notice of that most remarkable opinion of Attorney General Speed, given to the President in support of the power of the military to try and execute the assassins of the President. The best refutation that can be furnished to this extraordinary document, so far as the members of the legal profession are concerned, is to ask them to read it. It carries with it its own condemnation; it exhibits the workings of a mind intent on one purpose, which is clearly foreshadowed in the beginning: that the accused should be tried and punished by military commission. Starting out with the affirmative of the proposition, it is not very wonderful that the document should abound in error, in assumption without precedent, in sophistry without logic, and in false deductions from axiomatic truths. In the outset the late Attorney General makes an admission that shows the fallacy of his whole argument, and would show the fallacy of any and every argument that could be made which reached a like conclusion. He says:

"In time of peace neither Congress nor the military can create any military tribunals except such as are made in pursuance of that clause of the Constitution which gives to Congress the power to make rules for the government of the land and naval forces. I do not think that Congress can, in time of war or peace, under this clause of the Constitution, create military tribunals for the adjudication of offenses committed by persons not engaged in or belonging to such forces. This is a proposition too plain for argument. But it does not follow that because such military tribunals cannot be created by Congress under this clause that they cannot be created at all. Is there no other power conferred by the Constitution upon Congress or the military under which such tribunals may be created in time of war?"

I should answer certainly, none whatever.

But hear how and where the Attorney General finds this other power. He says:

"That the law of nations constitutes part of the laws of the land must be admitted. The laws of nations are expressly made laws of the land by the Constitution when it says Congress shall have power to define and punish piracies and felonies committed on the high seas and offenses against the laws of the nations."

In the first place, I for one do not admit that the laws of nations constitute part of the laws of the land, which the Attorney General says must be admitted. To sustain his theory probably this must be admitted, but to sustain the true theory of our Government it must be flatly denied; that denial I make. But he says again:

"The laws of nations are expressly made the laws of the land by the Constitution, when it says 'Congress shall have power to define and punish piracies and felonies committed on the high seas, and offenses against the laws of nations.'"

Now, I say that this provision in the Constitution does not expressly or impliedly make the law of nations the law of the land, except only so far as we have intercourse with other nations. And I assert, moreover, that this is the first time that it ever was contended that the laws of nations became the municipal laws of a State or nation, with cognizance of offenses committed by individuals of the same community against each other. What is the law of nations? It is the law of nature as applicable to States in their intercourse with each other, either in peace or in war—

"And it is not applicable to men considered simply as such, but to nations or States in the relations they have together and the several interests they have to manage between each other."—*Burlamaqui*, 135.

The Constitution, in express terms, declares itself to be the supreme law of the land, and yet the Attorney General has so contrived as to make it subordinate to the law of nations, and hence maintains that although Congress cannot establish a military tribunal for the adjudication of offenses by persons not engaged in the Army or Navy, either in peace or in war, yet such tribunals may be established under the laws of nations. This, of course, is making the laws of nations supreme over the Constitution, and that, too, long after war had actually ceased. The Constitution declares that no one shall be arrested unless on warrant founded on affidavit; that no one shall be held to answer for a criminal charge except on indictment found by a grand jury, and that every one shall be entitled to trial by jury. These rights are all expressly and clearly guaranteed to every citizen of the country by the Constitution; they are placed beyond the reach of legislative authority; they constitute part of our bill of rights that no power on earth can invade. But, says the Attorney General, although neither the executive nor legislative department of our own Government can invade these rights, either in peace or in war, yet they may be overridden by the laws of nations; therefore the laws of nations are paramount to the Constitution. This is a fair statement of the case as presented by the Attorney General; and it is the irresistible deduction from his premises. The mere statement is sufficient to show the error of his conclusion. He is entitled to the credit of the terrible enormities practiced on the Constitution and on the citizen. It is hoped the precedent set by him will not be followed. If it should be, the Constitution is but an instrument by which the Government may be converted into a despotism at pleasure. It is not, as it declares itself to be, the supreme law of the land, but it is subordinate to the laws of nations. How the Attorney General could bring his mind to the conclusion that the laws of nations had anything to do with our mere domestic quarrels is impossible to conceive. If he be right, we should cease to talk about treason.

But the laws of nations make no provision for military commissions to hold their sessions under the very shadow of the civil tribunals for the trial of citizens on charges of having violated the municipal laws of the State. The American people may be inclined to ask: if

the Constitution has been so grossly violated, where is the remedy? The usual remedy for a violation of law is the punishment of the offenders. And it is presumed that no well-read lawyer or judge will at this day question the power of the civil tribunals to punish the members of a court-martial or of a military commission for having acted without authority or for having transcended authority, and in such cases the criminality of the party tried by them has no influence in the decision of the question of power. Guilt must be established and punished in the manner prescribed by the laws of the land; this is the great bulwark of individual security. If neither Congress nor the judiciary can apply a remedy, the people will at once perceive the necessity for a radical change in their organic law.

Mr. President, a few words more and I have done. You engaged in a conflict of arms with the southern people. You proclaimed that your object was the preservation of the Constitution and the restoration of the Union. You either had a right to wage that war, or you had not. Some of the ablest men in this whole country now living believe, many of the ablest men among our fathers believed, that when the whole people of a State spoke it was the voice of the State, and the Constitution not conferring upon Congress the power to make war upon a State, that in case a State chose to discontinue its connection with the Federal Union, force could not be used against it to compel it to continue that connection. One thing, however, is certain, you had no power to wage that war unless it was for the preservation of the Union and of the Constitution. You had no power to wage it unless it was to compel the parties who had contracted with you to live up to their contract, that contract being the bond of Union, and when that war ceased by their submission, then it necessarily arises from the objects and purposes for which you could prosecute the war, that these States and these people are remitted to all the constitutional rights secured to you by the Constitution and secured to them by the Constitution; and when they have submitted to the authority of the Federal Government they have a right to representatives in this Chamber and in the other House of Congress, and they have a right to be represented by just whom they please without the interposition of any other oath than that required by the Constitution, to observe and obey the Constitution of the United States. You have no right to impose upon that people taxation and deny them representation. You have no more authority to try them by military commission than you have to try the people of your State or my State; and whenever the party in power attempt to do so, they become tyrants and oppressors and violators of the Constitution of their country, and history will adjudge them such.

I appeal to you, sir, and I appeal to those who exercise political power in this country now, by all the memories that cluster around the glorious past; by the recollection of the noble deeds and heroic sufferings of our ancestors, for you and for me, for your posterity and for my posterity; by all the bright realizations which might be ours in this present hour; by all the bright future and all the glories which are in that immediate future, stop your aggressions upon the Constitution of your country; cease to think that party is above country; awake, arise to the noble, solemn, awful duties and responsibilities of the hour; observe with fidelity the constitutional obligations imposed upon you as grave and learned Senators here to act for the benefit of your country; and the people of the present age shall bless you, coming generations shall proclaim your name to their children, and you will go down to posterity the saviors of a country bought for you, and of liberty purchased for you with the blood of patriotic sires.

Mr. DAVIS addressed the Senate. [His remarks will be published in the Appendix.]

Mr. SHERMAN. I desire to offer an amend-

ment in the nature of a substitute. I do not know the precise stage of the question, and I ask for information what is the state of the bill.

The PRESIDING OFFICER. (Mr. HARRIS in the chair.) The Chair is informed that there has been already submitted a proposition to strike out the original bill and insert a substitute; but the amendment proposed by the Senator from Maryland [Mr. JOHNSON] is first in order.

Mr. SHERMAN. The Senator who offered that substitute is not present; but I believe he is willing to withdraw it. Perhaps we can take a vote and informally vote down the pending amendment, and I will then offer my substitute.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Maryland.

The amendment was rejected.

Mr. SHERMAN. I now desire to offer the substitute.

The PRESIDING OFFICER. The question now recurs on the amendment proposed by the Senator from Missouri, [Mr. HENDERSON,] which is to strike out all after the enacting clause of the bill and to insert a substitute.

Mr. SHERMAN. Well, let us vote it down. The amendment was rejected.

Mr. SHERMAN. I now move to strike out all after the word "whereas" in the preamble, and to insert what I send to the Chair.

Mr. COWAN. What is now the question?

Mr. SHERMAN. I desire to have my amendment read. I have modified somewhat the printed amendment which is lying on the table of Senators. The modification does not change the meaning in any respect, but simply transposes some words in the fifth section to make the meaning clearer.

The Secretary read the words proposed to be inserted, as follows:

No legal State governments or adequate protection for life or property now exist in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That said rebel States shall be divided into military districts and made subject to the military authority of the United States, as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida, the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

Sec. 2. *And be it further enacted,* That it shall be the duty of the President to assign to the command of each of said districts an officer of the Army, not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

Sec. 3. *And be it further enacted,* That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals, and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose; and all interference under color of State authority with the exercise of military authority under this act shall be null and void.

Sec. 4. *And be it further enacted,* That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted; and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the Army shall not be affected by this act, except in so far as they conflict with its provisions.

Sec. 5. *And be it further enacted,* That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition of servitude, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion, or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all

such persons as have the qualifications herein stated for electors of delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors of delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have appointed the same, and when said State by a vote of its Legislature elected under said constitution shall have adopted the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State.

Mr. COWAN. Mr. President—

Mr. HENDRICKS. If the Senator from Pennsylvania will yield to me, I will make a motion to adjourn. It is now about the commencement of the Sabbath day. I have not been in my professional life in the habit of working on the Sabbath day, and I do not see the necessity of doing it to-night. I make the motion that the Senate do now adjourn.

Mr. COWAN. I yield to that motion of course.

Mr. WILLIAMS. I hope the Senate will not adjourn.

The motion was not agreed to.

Mr. COWAN addressed the Senate. [His remarks will be published in the Appendix.]

Mr. BUCKALEW. I beg you to be assured, sir, that I do not rise to make a speech. In the fourth section of this measure appears the following clause:

And no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district.

I spoke to a similar provision in the original bill last evening, and stated the insuperable, and, I think, well-founded objection which exists to depositing this power of life and of death in the hands of these subordinate military officials in the several districts established by the bill or amendment. I propose after the word "district" in the seventh line to add these words:

And when it affects life, the approval also of the President of the United States.

By irresistible inference the section as it stands makes the decision of the officer in command of the district adequate for the purpose of the execution of the sentence. The conclusion cannot be denied successfully or resisted by argument, if there be any sense or meaning to be attached to the words. I am content to meddle as little as possible with this amendment, and to provoke as little as possible of debate. The ordinary and the most numerous class of cases which can arise under that clause will be those in which imprisonment is inflicted. The cases where life is to be taken of course will be but occasional and rare, and the exception of cases where life is involved will not cast upon the President any large amount of duty, and will produce no considerable delay in the administration of the peculiar system of criminal justice provided by this amendment. I leave untouched by my amendment cases of imprisonment; but where life is involved I propose to add a security which the amendment of the Senator from Ohio does not contain—a security which it negatives and excludes—and for the reason which I stated before.

Now, sir, I feel myself under the pressure of necessity, moral necessity, to offer this amendment when I perceive a bill or an amendment of this sort proposed and about to be passed, as I suppose, by the Senate. In the interests of human life, in the interests of justice, in the interests of humanity, in the interests of public decency, and in view of the character of this nation, I protest against the passage of a measure which allows the life of an American citizen to be determined upon finally by a brigadier general of the Army of the United States.

Gentlemen say, "Why, this is the existing system." To be sure it is. Except in some

exceptional cases during the war, under the pressure of stern necessity and justified only by the existence of hostilities, the complicated and necessary operations of enormous masses of military force in the field, the provision is universal that human life cannot be taken under the laws of the United States, except by the consent of the President. We are in a time of profound peace. There is no necessity upon us that a statute which contains a provision of this kind must now be enacted, because of carelessness, inattention, disregard to human life, or, an alternative which I will not suppose to influence any member, from an innate cruelty or malignity of heart.

Mr. WILLIAMS. I think this amendment is quite unnecessary. This identical question was considered by the Committee on Reconstruction, and there was supposed to be no occasion for putting the word "President" in the section. The word "officer" was only put into the section out of abundant caution, so as to make it absolutely certain that in no case should the life of a person be taken without the approval of the commanding officer of the district. This very section provides that the regulations for the government of the Army shall not be affected by this bill, except in so far as they conflict with its provisions, intending to put in force as applicable to the administration of justice under this bill the laws of the United States as they now stand.

Mr. DOOLITTLE. I should like to ask the Senator from Oregon: do not the rules and regulations of the Army as they now stand declare that the sentence of death, on a conviction by a military commission, shall not be inflicted until it is approved by the President? Is not that the way the law now reads?

Mr. WILLIAMS. That is my understanding.

Mr. DOOLITTLE. Very well. Then, if the existing law reads that the sentence of death by a military commission shall not be inflicted but by the approval of the President, and you now enact in this section that the sentence of death passed by a military commission shall not be inflicted except by the approval of the brigadier general, you change the regulation. That is the difficulty in the case. By the very terms of the statute itself your regulations are modified by this very bill. That is just as clear as that two and two make four.

Mr. WILLIAMS. It may be very clear to the gentleman, but I insist that it is not so by any reasonable construction of this statute, because the provision is:

And no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district; and the laws and regulations for the government of the Army shall not be affected by this act, except in so far as they conflict with its provisions.

Now, to say that that clause requiring the approval of the commanding officer of the district is a repeal of the law which requires the President to approve the sentence is a construction that the section will not bear.

Mr. HENDRICKS. I will ask the Senator, if that is the construction of it, why not make it plain, as the Senator from Pennsylvania proposes?

Mr. WILLIAMS. Because I will not consent to unnecessary amendments. I think we may as well proceed with the bill and not amend it unnecessarily.

Mr. DOOLITTLE. You admit that that is the law. What is the objection to putting it in the bill?

Mr. WILLIAMS. I have stated the objection. The Senate can put it in if it pleases. I object to it.

Mr. BUCKALEW. I will simply add that by the express language of the third section there is direct power conferred upon this officer or these officers to punish for these offenses. A direct substantive, positive power of punishment and to punish.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. BUCKALEW. I call for the yeas and nays upon it.



The yeas and nays were ordered; and being taken, resulted—yeas 14, nays 26; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Foster, Grimes, Hendricks, Kirkwood, McDougall, Morgan, Nesmith, Norton, Patterson, and Saulsbury—14.

NAYS—Messrs. Anthony, Brown, Cattell, Chandler, Conness, Cragin, Creswell, Fogg, Frelinghuysen, Howard, Howe, Lane, Morrill, Poland, Pomeroy, Ramsey, Ross, Sherman, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—22.

ABSENT—Messrs. Dixon, Edmunds, Fessenden, Fowler, Guthrie, Harris, Henderson, Johnson, Nye, Riddle, Sprague, and Sumner—12.

So the amendment to the amendment was rejected.

Mr. SAULSBURY. I rise to what I regard as a privileged question, and that is to suggest that this in the law is *dies non*. It is now a quarter to two o'clock on the Sabbath morning. I hold that it is not proper for those who observe that day to continue in session at this hour. I submit that it is not proper to transact any legislative business at this hour. I therefore move that the Senate do now adjourn.

Mr. WILLIAMS. I hope not.

The motion was not agreed to.

Mr. HENDRICKS. I move to amend the amendment by inserting at the end of the fourth section the following:

And no punishment shall be inflicted which is not prescribed by law.

Mr. President, this amendment is kindred to the amendment just proposed by the Senator from Pennsylvania, which has been rejected by the Senate by a decided vote, and I suppose this amendment will receive the same fortune which befell the amendment offered by the Senator from Pennsylvania. I understand that this measure is not now in a condition for amendment. It has received the sanction and approval of a body from which there is no appeal, which allows no amendment or modification of its decrees. I speak of a political party caucus. The Senator from Oregon was not justified in saying that this bill was considered by the Committee on Reconstruction organized by the Senate and by the House. It is known to us all that this is not the bill of that committee. Therefore his answer to the argument of the Senator from Pennsylvania was not sustained. The bill that came from the Committee on Reconstruction is on our tables. The language of this bill and of that in this particular regard is alike; but the bill is not the bill of the committee. It is a bill that is brought in—I presume it is not disguised—from no committee, but from a political caucus. I do not think it is possible otherwise that the amendment of the Senator from Pennsylvania would have been rejected, and otherwise I do not think it possible that the amendment which I have proposed would be rejected.

The bill as it now stands provides that cruel and unusual punishments shall not be inflicted. Otherwise there is no rule prescribed to the military court in the trial of men for crime, and therefore, except as the punishment may in some instances be defined by the regulations of the Army, the will of the court becomes the law for the punishment of the defendant; and I use no words more descriptive of oppression. It is marvelous, Mr. President, that it shall be proposed to organize a court for the trial of persons not belonging to the Army or the Navy, and to punish men without a definition of the crime or a regulation in regard to the punishment that shall be imposed.

My amendment is simply that this court as thus organized shall in the punishment it inflicts be governed by the law of the land. It is a plain, straightforward amendment, an amendment which I think the common people of the country will understand, and they will think it marvelously strange when they come to read that that amendment was voted down. In advance, I say to them, the common people of the country, North as well as South that when a proposition like this is voted down in the American Senate, it is because the judgment of the Senate is not without embarrass-

ment. If this bill came from an ordinary committee of the body, having inadvertently omitted to place some little restriction upon the judgment and decision of this extraordinary court, then the Senate would provide for the omission.

Does any Senator wish a man to be punished in some mode not known to the law? Why, sir, there is a bill pending in this body to change the mode of punishment in some of the States. Although the mode of punishment is fixed by law where whipping is resorted to, it is proposed that Congress shall interfere to prevent it. So careful are Senators of the manner and mode in which men shall be punished, that some members of this body at least believe it to be right to interfere to control the mode of punishment in the States, and that, too, under State laws. But that is particularly in the interest, as it is said, of the colored people. This amendment is in the interest of all. All are liable to be brought before these courts upon a charge ever so vague and uncertain, the mode of proceeding not defined, the manner of establishing the offense, the character of the testimony not pointed out, and last and greatest of all, the character of the punishment which shall be inflicted upon the man is not prescribed. That is to depend upon the pleasure of the court. I know, ordinarily, this Senate would not leave a bill thus upon its passage.

Mr. WILLIAMS. I wish simply to say that this section provides that "no cruel or unusual punishment shall be inflicted;" and by its requirements if a man is sentenced by a military tribunal to punishment he is to be sentenced to that punishment which is usual in cases of such crimes, and no others.

Mr. HENDRICKS. I suggested the fact that that was the only limitation upon the court. But go down to the State of North Carolina and whipping is a usual punishment for misdemeanors. That is a usual punishment for whites and blacks—a punishment most offensive to my sentiments. To prevent that punishment a bill is pending before this body. When that punishment is inflicted in the court after full trial and the verdict of the jury, we would interfere with it; and I have no doubt the Senator from Oregon will vote for that bill when it comes up; but in this bill we would enact that that very punishment may be inflicted upon a white man or a negro either. Because it is decreed outside of the Senate we must enact that if this military court arrests a man and puts him upon summary trial, and he is found guilty, he may be tied up and lashed, a usual punishment in some localities. A white man in North Carolina who may all the while have been true to this Government, who has never breathed a disloyal breath or done a false act to the country, may be brought before this military court for some misdemeanor and tried and tied up and lashed. Now, I ask that, if he be lashed, the number of lashes shall be defined by the law.

Mr. TRUMBULL. Allow me to ask the Senator from Indiana if his amendment would help it?

Mr. HENDRICKS. I say the number of lashes shall be limited by law.

Mr. TRUMBULL. Have you proposed it in your amendment?

Mr. HENDRICKS. My amendment is that the punishment shall be limited and defined by the law; the court shall be limited by the law in the infliction of the punishment. The Senator from Oregon answers me that this section provides that unusual punishments shall not be inflicted. I give an instance. Under this law the lash may be used and without limit as to the stripes, except that in the judgment of the court they shall be not unusual, not cruel.

Mr. LANE. I believe that whipping is expressly abolished in the Army and Navy by express law, and never can be inflicted under this or any other law until that is repealed.

Mr. HENDRICKS. Does that apply to civilians or to the Army and Navy?

Mr. LANE. To the Army and Navy.

Mr. HENDRICKS. That is right. I would

not want to see it applied to a soldier. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 28; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Hendricks, Nesmith, Norton, and Saulsbury—8.

NAYS—Messrs. Anthony, Brown, Cattell, Chandler, Conness, Cragin, Creswell, Frelinghuysen, Grimes, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Poland, Pomeroy, Ramsey, Ross, Sherman, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—23.

ABSENT—Messrs. Dixon, Edmunds, Fessenden, Fogg, Foster, Fowler, Guthrie, Harris, Henderson, Johnson, McDougall, Nye, Patterson, Riddle, Sprague, and Sumner—16.

So the amendment to the amendment was rejected.

Mr. HENDRICKS. I move to amend the amendment in section five, lines fourteen and fifteen, by striking out the words "elective franchise shall be enjoyed by all," and inserting "right to vote shall not be denied to," and by inserting after the word "stated," in line sixteen, the words "or in any way abridged because of race, color, or previous condition of servitude;" so that the clause will read:

And when such constitution shall provide that the right to vote shall not be denied to such persons as have the qualifications herein stated, or in any way abridged because of race, color, or previous condition of servitude, and shall have been submitted to Congress, &c.

As it now stands I think the section would give universal suffrage or would provide for it. The amendment which I have proposed would require impartial suffrage, and I have used the language, as far as it was applicable to the case, of the constitutional amendment adopted at the last session of Congress. "The right to vote shall not be denied or in any way abridged," was the language of the constitutional amendment, "because of race, color, or previous condition of servitude," and this is to carry out, as I understand, the purpose of the constitutional amendment upon that question. I do not care about discussing it. I wish to place myself right about it.

The amendment to the amendment was rejected.

Mr. HENDRICKS. In section three, line three, after the word "property," I move to insert the words "as fixed by law;" so that it will read:

That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property as fixed by law, to suppress insurrection, &c.

The object of this amendment is that these military commanders shall, in deciding what are the rights of persons and property, be governed by the law of the land. It may be claimed that under the language of the bill they would be thus governed. I do not choose to leave a question of that sort vague and uncertain. In my judgment, the military officers would regard themselves as clothed with very large power under the language that is now used. It is not safe to pass the bill in its present language. When they come to decide civil suits between man and man in regard to their property there should be a provision requiring them to be governed by the law of the land.

Mr. LANE. All the rights of person and property are fixed by law. You may repeat it a hundred times and not make it any stronger. It is precisely the same. There are no rights of persons or property but what are guaranteed by law and exist by law.

The amendment to the amendment was rejected.

Mr. HENDRICKS. In section three, line five, after the word "criminals," I move to insert "according to law;" so as to read:

And to punish, or cause to be punished, all disturbers of the public peace and criminals, according to law, and to this end, &c.

In a word or two I can explain the effect of this amendment. The section now provides that the officer assigned to the district shall punish or cause to be punished all disturbers of the public peace and criminals. He may allow the local tribunals to try cases, or in cases where in his judgment he may think it necessary he may organize a military court

to try criminals; so that, take it altogether, I understand that if this be passed he may himself order the punishment of persons disturbers of the public peace, and criminals. My amendment is that in punishing he shall punish according to law; that his discretion shall be controlled by those words. On this question, as it is kindred to the first one that I offered, I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 29; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Hendricks, Nesmith, Norton, and Saulsbury—8.

NAYS—Messrs. Anthony, Brown, Cattell, Chandler, Conness, Cragin, Creswell, Fogg, Frelinghuysen, Grimes, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Poland, Pomeroy, Ramsey, Ross, Sherman, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—29.

ABSENT—Messrs. Dixon, Edmunds, Fessenden, Foster, Fowler, Guthrie, Harris, Henderson, Johnson, McDougall, Nye, Patterson, Riddle, Sprague, and Sumner—15.

So the amendment to the amendment was rejected.

Mr. HENDRICKS. I hope the Senate will not be vexed with me if I offer one more amendment. It is in section five, line eight, after the word "State," to insert the words "voting therein."

Mr. SHERMAN. I will state to the Senator that that is so in the amendment as it stands. I have modified the phraseology somewhat from the original printed amendment.

Mr. HENDRICKS. Will it accomplish the same thing?

Mr. SHERMAN. Yes, sir; I have changed the phraseology.

Mr. HENDRICKS. I withdraw my amendment. I am glad that I have offered one amendment that is clearly right, so that Senators will not charge me with simply offering amendments for the purpose of consuming time, or anything of that sort.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question now is on the amendment offered by the Senator from Ohio as a substitute for the original bill.

Mr. HENDRICKS. I will ask the patience of the Senate for a few minutes while I submit a few remarks on this bill. I do not intend to occupy more than a few minutes in regard to it. Most of the views that I thought it my duty to present to the Senate I expressed last night. There are one or two others to which I will now ask the attention of the Senate. It is with very great pain to myself that now, at near three o'clock on the Sabbath morning, I am called upon to discuss this particular measure; but it is not my fault that it is so. I am a little in the condition on this question of one of the chief justices of the State of Pennsylvania, not altogether, however, I will say to the Senate. In the assignment of the circuits at the commencement of the courts on Monday morning, it became necessary for the chief justice, in order to reach his courts by the time the juries would be in, to travel on the Sabbath, and upon some friend of his speaking to him about it he said that he had to travel on the Sabbath; it was much against his will; but the Legislature had so fixed it, and he hoped the Legislature would be damned for it. [Laughter.] I would not hope that the Senate would be damned for compelling me to labor upon the Sabbath day, which is against my sentiments.

But, Mr. President, we are here engaged in the consideration of perhaps one of the most important bills that has ever passed the Congress of the United States, and as we must dispose of it to-night, I suppose it is right that I should say what I have got to say upon it. And I beg to assure the Senate that I do not wish to consume the time. I have had no such motive from the first. I said yesterday evening that this bill had to be considered. The Senator from Oregon thought otherwise. He has now found that it had to be. And when his bill was well torn to pieces it had to go to another body to be fixed up, and it comes in this evening, printed this evening, and we have this opportunity to look at it. What will be

its final construction of course on so brief an examination of it none of us can tell.

This bill rests upon the proposition that for ten States of the Union we have the power to establish a new form of government. I suppose it rests upon the proposition of the Senator from Massachusetts, [Mr. SUMNER,] that these States are conquered States and subject to the legislative will of Congress. I do not admit that doctrine at all. I do not concede that these States have ceased at any time to be States of the Union. I believe they have been and now are States of the Union. Sir, some of these States helped to form the Union; they helped to fight the battles of the Revolution, and were parties to that great Convention that made the Constitution which established the Union. I do not believe they have been out of the Union. I am fixed in that opinion.

But, sir, for the sake of argument, suppose that the position be true that these States are now in the condition of conquered countries, at the feet of the conqueror; that they are held by us by conquest; then I wish to ask the lawyers of this body what are the powers that we have as conquerors? Is it the right and the power to establish any form of government that we choose? No, sir; I deny the proposition. The conqueror holding territory by conquest has not the power to establish over the conquered country any form of government that he may please. He is restricted in his power. I suppose the right rule is that the conquered country comes to the conqueror with its local laws, and that all those laws that are not inconsistent with the policy of the Government of the conqueror continue in force. We are told that the conqueror may prescribe laws for the conquered country; but what sort of laws? The laws that the conqueror in that case may establish over a conquered country are laws analogous to the laws of the conqueror. Ours is a free Government, as we claim. Among the provisions of the Constitution is one that the States shall have republican forms of government, and it is made the duty of the Congress of the United States and all the departments of the Government to guaranty to each State a republican form of government. Now, can we, under any power, establish over a conquered country a form of government altogether inconsistent with the Government which we ourselves have? The government proposed by this bill is the most arbitrary government possible; it is a government by the most irresponsible power, the military power; a form of government not analogous to ours, not consistent with it, but wholly inconsistent with it.

On the 7th of July, 1846, California was a conquered country. The Supreme Court have recognized the conquest of California as being completed on the 7th day of July, 1846. The treaty was made and came in force in 1848. There was a period between 1846 and 1848 that we held a large country by conquest. Now, let me ask Senators, after war had ceased, after peace had been restored, what form of government could we give to California, a conquered country? What form of government could we establish over California? Pending arms, of course the question was settled upon other principles; but after the war ceased, after hostilities between Mexico and the United States had ceased, what form of government could we, as a Republic, establish over California? Could we establish over that country, conquered from a foreign Power in a war declared by Congress, or recognized as existing by Congress, a monarchy and place a king upon the throne to govern in California?

Senators seem to assume that over a conquered country any form of government may be established at the will and pleasure of the conqueror. I deny the proposition, and give a case now. California is at the feet of the conqueror, a subjugated country, wrested by military power from a foreign foe. Could we have established over California a kingly government? No, sir. In establishing a government in California we were compelled to establish one analogous to and in harmony with the

Government of the United States, and not one in conflict with it in its very nature. Over California could we have established permanently a provisional government, to be controlled by the military power, in which the rights of person and property should be decided at the will of the commanding general assigned to the conquered province, and in which punishments should be imposed at the will and pleasure of the commanding general? No, sir. We could establish in California such a form of government as would enable the people to set up a State government. It is not within the powers of the Government of the United States to establish anywhere in any country conquered by arms or ceded by treaty a form of government inconsistent and not in harmony with the Government of the United States.

Could France establish a republican form of government in a conquered province? I presume it will not be questioned that in the exercise of the powers of that Government, if those powers are defined and limited, that country would be required to establish over a conquered country a form of government similar to her own. But however that may be, our Government, the Government of the United States, is one of defined powers, and when we conquer a country or receive it by treaty we must establish over that country a form of government similar to and in harmony with our own.

Now, sir, if this principle be sound, if it be correct, and if I should concede the southern States to occupy the position of a foreign territory conquered by arms, what form of government must we establish there? What does the country become according to this argument? Does it become a country in which we can gratify revenge and passion, and do the work of hatred instead of establishing a wholesome and useful government? No, sir; according to the argument of the gentlemen who occupy this opposite position it is territory, territory to be provided with a proper form of government. What sort of government then may we establish in our Territories? The practice during the whole history of the country has established that. In the Territories we establish a government in harmony with our own, extending the laws of the United States over them, the institutions of the country, the trial by jury, the writ of *habeas corpus*. All these guarantees and securities for liberty are extended over the Territories; and according to the established doctrine, Congress may go just so far in the establishment of territorial governments as will enable the people to establish State governments with a view to their admission as States.

Mr. President, it was not my purpose to continue the discussion at any length. I wished to meet this one point, for I cannot conceive that this bill rests upon any proposition other than that the State governments of the South have been crushed down and that we hold that country as the conqueror holds a country wrested from a foreign foe by the power of his arms. Holding that doctrine, then I say to Senators, even under that extreme proposition, they have not the power to establish such a form of government as this. Holding even that proposition, we must establish a form of government in harmony with our own. I have illustrated it by the case of California. When the Senator from California [Mr. CONNESS] votes for this bill does he understand himself as voting that when we conquered California we could have established in that beautiful land a monarchy and placed upon a throne a king to govern them? No, sir, we have no such power. That is not a power that can be exercised by our Government. We must establish a government in harmony with our own.

But the fact I do not admit, upon which I have based this argument. I do not admit the fact that these States are disrobed of their sovereignty. They are States of this Union. This bill proposes to go into ten States of this Union and establish a military government

there, unknown to the common law, unknown to the law of our race for a thousand years; that military power and military government, the will of the commanding general, shall be the form of government for men, women, and children in a time of peace. That is the bill that we have before us; a bill which, under the pretense of establishing republican governments, takes away from the government there every republican principle and form that can possibly be conceived. A republican form of government is one in which the people govern themselves through their representatives. Here we establish a government most despotic in its character, having no republican features about it, in no way analogous either to our State governments or to the Government of the United States.

I do not intend, sir, to examine the provisions of this bill that have been for the first time brought to the attention of the Senate this evening. I offered such amendments as in good faith could be adopted upon this bill, not with any purpose of voting for the bill, because no amendment could be made to it that would induce me to vote for a bill that I consider so dangerous to my country. I proposed those amendments, because I thought they would, to some extent, mitigate the evils of the measure.

Mr. SHERMAN. Even at the risk of wounding the feelings of others, I propose to take four or five minutes, not to exceed five, in stating why I offer this amendment as a substitute.

The principle of this bill is contained in the first two lines of the preamble. It is founded upon the proclamation of the President and Secretary of State made just after the assassination of President Lincoln, in which they declared specifically that the rebellion had overthrown all civil governments in the insurrectionary States, and they proceeded by an executive mandate to create governments. They were provisional in their character, and dependent for their validity solely upon the action of Congress. These are propositions which it is not now necessary for me to demonstrate. Those governments have never been sanctioned by Congress, nor by the people of the States where they exist; that is, all the people.

Mr. COWAN. Mr. President—

Mr. SHERMAN. I hope the Senator will not interrupt me, for I shall be through in three minutes.

Mr. COWAN. I have but a simple question to ask.

Mr. SHERMAN. I decline to yield. I simply wish to state the proposition; I do not want to debate it. Taking that proclamation and the acknowledged fact that the people of the southern States, the loyal people, whites and blacks, are not protected in their rights, but that an unusual and extraordinary number of cases occur of violence and murder and wrong, I do think it is the duty of the United States to protect those people in the enjoyment of substantial rights.

Now, the first four sections of this substitute contains nothing but what is in the present law. There is not a single thing in the first four sections that does not now exist by law.

The first section authorizes the division of the rebel States into military districts. That is being done daily.

The second section acknowledges that the President is the commanding officer of the Army, and it is made his duty to assign certain officers to those districts. That is clearly admitted to be right.

The third section does no more than what the Supreme Court in their recent decision have decided could be done in a State in insurrection. The Supreme Court in their recent decision, while denying that a military tribunal could be organized in Indiana because it never had been in a state of insurrection, expressly declared that these tribunals might have been, and might now be, organized in insurrectionary States. There is nothing in this third section, in my judgment, that is not

now and has not been done every month within the last twelve months by the President of the United States. The orders of General Sickles, and many other orders that I might quote, have gone further in punishment of crime than this section proposes.

Now, in regard to the fourth section, that is a limitation upon the present law. Under the present law many executions of military tribunals are summarily carried out. This section requires all sentences of military tribunals which affect the liberty of the citizen to be sent to the commanding officer of the district. They must be approved by the commanding officer of the district; and so far as life is concerned the President may issue his order at any moment now, or after this bill passes, directing that the military commander of the district shall not enforce a sentence of death until it is submitted to him, because the military officer is a mere subordinate of the President, remaining there at the pleasure of the President.

There is nothing, therefore, in these sections that ought to alarm the nerves of my friend from Pennsylvania or anybody else. I cannot think that these gentlemen are alarmed about the state of despotism that President Johnson is to establish in the southern States. I do not feel alarmed; nor do I see anything in these sections as they now stand that need endanger the rights of the most timid citizen of the United States. They are intended to protect a race of people who are now without protection, and they are not intended to oppress anybody who now can oppress.

Now, in regard to the fifth section, which is the main and material feature of this bill, I think it is right that the Congress of the United States, before its adjournment, should designate some way by which the southern States may reorganize loyal State governments in harmony with the Constitution and laws of the United States and the sentiment of the people, and find their way back to these Halls. My own judgment is that that fifth section will point out a clear, easy, and right way for these States to be restored to their full power in the Government. All that it demands of the people of the southern States is to extend to all their male citizens, without distinction of race or color, the elective franchise. It is now too late in the day to be frightened by this simple proposition. Senators can make the most of it as a political proposition. Upon that we are prepared to meet them. But it does point out a way by which the twenty absent Senators and the fifty absent Representatives can get back to these Halls, and there is no other way by which they can justly do it.

It seems to me that this is the whole substance of the bill. All there is material in the bill is in the first two lines of the preamble and the fifth section, in my judgment. The first two lines may lay the foundation by adopting the proclamation issued first to North Carolina, that the rebellion had swept away all the civil governments in the southern States; and the fifth section points out the mode by which the people of those States in their own manner, without any limitations or restrictions by Congress, may get back to full representation in Congress. That is the view I take of this amended bill; and taking that view of it I see no reason in the world why we should not all go for it. I desire to say, in closing, that I am authorized by the Senator from Maryland, [Mr. JOHNSON,] indeed he requested me, to say that if he were here he would feel bound to vote for this amendment, and then on the final passage of the bill he would vote against it; but on that question he is paired with the Senator from Maine, [Mr. FESSENDEN.]

Mr. WILLIAMS. I will, with the indulgence of the Senate, take five minutes to answer these numerous and long speeches that have been made against this bill.

Mr. COWAN. If the Senator from Oregon wants to make the last speech I hope he will allow me to say a word at this place.

The PRESIDING OFFICER. Does the

Senator from Oregon yield to the Senator from Pennsylvania?

Mr. WILLIAMS. Certainly.

Mr. COWAN again addressed the Senate. [His remarks will be published in the Appendix.]

Mr. BUCKALEW. Mr. President, the Senator from Ohio made a few remarks, which, in my opinion, ought not to go upon the record of the debates without a word in reply. He said that at the end of the war the present President of the United States, through the Secretary of State, announced to the people of this country and to the world that the then existing governments in the South were unlawful, and commenced a proceeding for reestablishing valid governments in that section of the country; and as I understand him, he places this amendment of his that he proposes to make a law, upon the ground, at least to some extent, of that official declaration of the Chief Magistrate of the United States. In other words, the country is to understand and accept the position of the member who offers this proposition, that this bill is based upon that executive action; that it is a natural, or at least a proper sequence from it.

The Senator, in speaking, forgot that the State of Virginia reorganized had been set up long before, and that that organization yet continues. He forgot that Louisiana had been reorganized, and that that reorganization yet continues, modified in form. He forgot that the same state of things existed with reference to the State of Arkansas, the reorganization of which was instigated by a communication from President Lincoln to General Steele, in command in that State. He forgot that Tennessee herself was in the same category. So that, as to a large part of the States of the South which had been concerned in the rebellion they had been organized under new State authorities before the time which he mentioned; that is, before the close of the war; and as to those States, constituting a large part of the whole number, there was no executive declaration, no executive proceeding for their reorganization; but upon the contrary they were then held, as they have since been held, by the President of the United States to be lawful State governments, and as such entitled to the respect, to the amity, or rather to the protection of the Government of the United States. The Senator's argument therefore fails, for the enactment of this bill is applicable to all the States which I have enumerated, save Tennessee.

Why, sir, let us go a step further. Not only was that the position of the present President with regard to these States, but in point of fact it was the position of his predecessor; for the State government in each one of the States which I have mentioned was organized under his administration at his instance, and under proclamations and messages which are known to the whole world. Mr. Lincoln announced to the inhabitants of all the States in insurrection that wherever in any State a number of legal voters, according to the qualifications which existed before the rebellion, not less than one tenth in number, should organize a State government in conformity with the views which he stated, the government so organized should be recognized by the Government of the United States; and the Congress of the United States, by its silence, by its acquiescence, concurred in that public proclamation and declaration of his. I say, therefore, that at the conclusion of the war, the time mentioned by the Senator from Ohio, and upon considerations connected with which he puts the measure now before the Senate, a large part of these States were acknowledged in the full sense by the executive department as the governments of those States, as they had been previously recognized by Mr. Lincoln when he exercised the duties of that high office.

Mr. DOOLITTLE. If the Senator will allow me to interrupt him right upon that point, I will suggest that when the question arose as to



the division of Virginia and the establishment of West Virginia the opinions of the members of the Cabinet of Mr. Lincoln were taken in writing, and they all unanimously, including the present Chief Justice Chase, gave their opinion in writing in favor of the validity of the act of Virginia in giving its consent through the Legislature to the division of the State; and the act of this Congress of March 10, 1866, one year ago, the transfer act by which this Congress consented to the transfer of two counties to West Virginia from the State of Virginia acknowledged that the State of Virginia had given its valid consent by its Legislature.

Mr. BUCKALEW. Why, Mr. President, so general was the concurrence of public opinion in this policy announced by Mr. Lincoln in proclamations and messages, that it was with extreme difficulty in this very Senate that we prevented the introduction of Senators from Arkansas and from Virginia at former sessions. I was obliged, as a member of the minority, as were others who thought with me, to stand with a section only of the dominant party in resisting their introduction at that early period. But as governments of the States, so far as the Executive was concerned, their recognition was complete.

I say, then, that the Senator from Ohio, standing here as the organ of those who introduce this measure and ask for our votes for it, is not justified by the facts in putting the enactment of this bill upon the ground which he has stated to the Senate in its justification. I go further. I say that the second or other ground which he stated is equally incorrect. He says that the Supreme Court have expressed an opinion which justifies this bill. Pray, when did they announce any such opinion or express any such sentiment? Certainly it was not in any of those recent cases which have attracted public attention and been the subject of vituperative denunciation in the country. They determined that military commissions in the State of Indiana were illegal because that State was not within the theater of military operations. That conceded, impliedly at least, perhaps the court said so expressly, that such military commissions or military courts might be organized in States in rebellion, might be organized within the theater of active hostilities, that they were an incident of military operations when warranted by the Rules and Articles of War or by the legislation of Congress. But, sir, that court in no part of either of the opinions delivered by it laid down the doctrine that military commissions might now be organized, as stated by the Senator from Ohio, in the States of the South. They did not enter upon that field of inquiry which has been entered upon by members of Congress at all. They did not cover it by their investigations. They did not explore it. They did not attempt to determine whether the war yet continued, as some gentlemen seem to think. They did not attempt to determine what was the present condition of those States in a political point of view, and very properly they refrained from that investigation, and that for two reasons: in the first place, because it is a political question, and therefore not appropriate to their examination unless brought before them directly and in such manner that they cannot evade it in a judicial investigation; in the next place, the case before them invited no such inquiry, and they made no such inquiry. I say the Senator from Ohio will search in vain in any of those opinions for any such doctrine as that which he has suggested. I presume without reflection, on the spur of the moment, in the heat of debate. So much in reply to the Senator from Ohio. His speech has led to these remarks which I should not otherwise have made.

There is, however, a question which I would desire to ask him; I perceive he is present. It is what is the signification of the expression used in the first line of this preamble? What is its meaning? The language is—

Whereas no legal State governments \* \* \* now exist in the rebel States of Virginia, North Caro-

lina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas and Arkansas.

What is meant by the expression "legal State governments" in this preamble? Does it mean that there is no government in existence in any one of these States which has a legal character, which can, in point of law, take jurisdiction, through its courts or through its political authorities, of rights of person or property, or of any other matter pertaining to the jurisdiction of a government within a State? Because, if that be so, perhaps there is some ground and some reason for congressional action; but if, on the contrary, the Senator supposes these governments have some sort of validity, I should like to know to what extent he assigns them their validity and consequence. What is their legal character?

Mr. SHERMAN. I prefer to answer the Senator's question at once if he will yield to me for that purpose.

Mr. BUCKALEW. Certainly.

Mr. SHERMAN. The view I take of it is the same that was taken by the President and Secretary of State when the proclamation of May, 1865, was issued, that the authorities of those States were overthrown by the act of rebellion, precisely like the case of the authority of a Government being overthrown by the occupation of its territory by a hostile Power. That does not disturb the courts or the sheriff or the ordinary operations of the law. The Senator from Indiana [Mr. HENDRICKS] stated properly the law, that where we occupy a conquered territory we occupy it subject to the local laws for the administration of private justice between man and man; for the disposition of rights of property, and for the punishment of crime. If this bill passes the law will be administered there. But the legal State governments are the governments represented here in Congress. A legal State government is a government which forms a part of the United States. I agree with the President and Secretary of State in the proclamation to which I have referred, that that government there was overthrown; the rebellion overthrew all civil authority there; but the ordinary municipal regulations, administered by their courts and sheriffs and officers of justice are not disturbed even by the occupation of an armed force. If the Government of Great Britain should occupy the State of Ohio by her military power, and exclude the authority of the United States, that would not necessarily disturb the administration of justice except so far as military law might be substituted for civil law. I think that is an answer to the Senator's question.

Mr. BUCKALEW. Then I understand the Senator in general terms to hold that these are not State governments in the sense of the Constitution as entitled to representation in the Congress of the United States, holding that relation to the Union which is held by the States represented; but at the same time that they are governments for municipal or local purposes, if this Government so chooses to treat them.

I have said what I have said from no desire to delay the action of the Senate, but because these points were raised by what had previously been said.

Mr. NORTON. Mr. President, I had desired and intended to express my views to the Senate upon the subjects that are embraced in this bill; but I did not suppose that business would be pushed forward so rapidly, and that it was expected by anybody that bills of this character would be pressed on the attention and consideration of the Senate so hastily as this bill has been pressed. I desire now, without going into any discussion of the details of the bill, to move merely to strike out the preamble, and I do so for the reason that, in my judgment, it is false in fact and false in inference. In my judgment, not a single statement or a single recital of this preamble is true in point of fact; and if it were possible for it to be more false in inference than it is in fact I would say it is much more false in inference.

The details of the bill probably are as nearly correct as they could be if the principle upon which it proceeds were correct. If it is necessary to establish in the ten States that are now unrepresented in Congress a military government, if it is necessary to set up there a military power which shall override and supersede everything like civil government, this amendment, perhaps, is sufficient for that purpose. But, sir, I cannot remain in my seat silently and permit the passage of a bill that recites, as this bill does, what are, in my judgment, and what I think the history of legislation for the last three or four years and the history of legislation of the present Congress should be, allegations that are not true in point of fact. The preamble of the amendment of the Senator from Ohio recites that "no legal State governments or adequate protection for life or property now exists" in certain "rebel States." The first assertion is that there are no legal State governments in these States.

I shall not refer to the proclamations of the President, nor to the manner in which these governments were organized; but for the purpose of showing the falsity of that recital, I will merely refer to the action of the committee of fifteen organized by the present Congress, who for eight long months sat in deliberation upon this subject, knowing all the time that these State governments as they were organized by the President, as gentlemen say, by usurpation, were in existence, and that committee never proposed to interfere with them, nor has this Congress in any manner attempted to interfere with them. On the contrary, Congress has recognized them as legal, valid, subsisting State organizations and State governments; and not only that, but this Congress has proposed constitutional amendments and submitted them to the very Legislatures which gentlemen now say derived all their validity from executive usurpation, for those Legislatures to act upon the amendments and adopt or reject them as they saw fit. It is true, it may be said that those amendments were proposed to the States generally; but who is there now upon this floor who would object to the admission of representatives from these States if they had adopted your constitutional amendment? Suppose the Legislatures of these various States had adopted the amendment which you proposed as article fourteen, and upon its adoption by them that article had become a part of the Constitution of the United States, who is there here that would have dared to object to the admission of Senators from those States under such circumstances, if they could take the prescribed oath? No one. Perhaps the Senator from Massachusetts, not now present, [Mr. SUMNER,] would have objected, because he did not consider himself committed by the proposal of that amendment to the judgment of the country. But, sir, your elections last fall were carried upon the idea that that amendment was a settlement and an adjustment of the whole question of reconstruction, and that if the southern States would adopt it their Representatives and Senators would be admitted to seats.

Then I say that this recital that there are no legal State governments in these States is false in point of fact, because we have treated and we have regarded them as legal, valid, subsisting State governments. I do not go at all into the question of the power of the President to institute these governments. I shall not attempt to discuss that power or to speak of the proclamations to which the Senator from Ohio has referred as instituting State governments for these States. I am willing, for the purposes of the argument, to grant that the President had no such authority, and that all that has been done is the result of usurpation; but I say it does not lie in the mouth of the Senate to say, by way of recital in a bill, that there are no legal governments in these States, and to undertake to wipe them all out.

Mr. DOOLITTLE. Suppose the people had acted without any proclamation?

Mr. NORTON. As is suggested by the Senator from Wisconsin, if the people themselves had come together without a proclamation, without invitation, and had themselves instituted these State governments, elected their Legislatures and State officers, and set all the machinery of State government in motion, would it then lie in the mouth of this Congress to say that those governments were not legal State governments, especially after it had submitted to their consideration as States amendments of the Federal Constitution?

But, sir, this preamble is more false in inference than in fact. It not only asserts that there are no legal State governments, but it asserts that "no adequate protection for life or property now exists" in the ten States named; and why? Because of the want of civil government there? Because of the want of tribunals where parties can go and test and try their rights of person and property? That is the inference. That is supposed to be the condition of things there. Is that so? If such a state of facts exists at all, it is because Congress has not allowed or permitted them to have civil governments and civil tribunals, courts of justice into which parties can go and test their rights of person and property. Such a condition of affairs as is alleged to exist is not because, as the inference might be from the recital in this preamble, of the action of that people; but it is because Congress will not allow them to have their courts, and will not allow the supremacy of civil authority and of civil law; and following that, Congress undertakes in this amendment and in this bill to set up military power and a military authority, before which persons shall ascertain and settle their rights of person and of property. Why, sir, in every one of these States the Federal laws are enforced as they are in any of the northern States. Rights of person and property are determined in the courts as they are in the northern States, save and except when they are interfered with by your military or Freedmen's Bureau agents. What is there in these States now that prevents an individual from going into court and enforcing his rights of person and property? Nothing, save and except your Freedmen's Bureau agents and your military officers; they sometimes interfere with the administration of justice and obstruct and prevent the action of the courts.

The last clause of the preamble recites that—

It is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established.

That is all very well; it is necessary, it is desirable that peace and good order should be enforced in these States; but how? How do you enforce peace and good order in the northern States? You enforce the laws there through the civil tribunals, the tribunals established by law, in which persons seek redress for wrongs and injuries to person or to property. But this bill proposes that all this shall be done by the military commander in each district, a brigadier general; it overrides and supersedes the civil tribunals and authorizes him to mete out justice to suitors as he may see fit.

For these reasons I move to strike out this preamble. It is false in fact, because there are legal governments in these States. If there are legal governments in any of the States of this Union there are in these States; and it does not lie in the mouth of this Congress to allege that there are no legal State governments there. Whatever defects there may be in the administration of justice and securing the rights of person and property there result from the fault of Congress, and not the fault of these States or their people.

Mr. NESMITH. Will the Senator from Minnesota allow me to interrupt him for the purpose of calling his attention to this clause: "and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders."

Mr. NORTON. I thank the Senator, and I was just going to refer to that clause myself.

The PRESIDING OFFICER. It is the duty of the Chair to state that the motion of the Senator from Minnesota is not in order at this time. The first question is upon the amendment of the Senator from Ohio, to strike out all after the enacting clause of the bill, and insert a substitute. After that shall have been disposed of, if no other amendment be moved, the question will come up on the adoption of the preamble moved by the Senator from Ohio. In that way the Senator from Minnesota will get a vote on the preamble.

Mr. NESMITH. I think from the range of this debate almost anything is in order.

Mr. NORTON. I was going to refer to the fact that in the body of this bill there is a recognition of the validity of the civil tribunals of these States, because it allows the brigadier general in command of a district to permit the local civil tribunals to take part in the administration of justice in these various States.

I said I should move to strike out the preamble, and I shall further move to amend the first section by striking out in line three "said rebel States" and inserting "the States now unrepresented in Congress."

As I have said, I do not propose to enter into any discussion of the details of this bill. The Senator from Ohio has said that it is a very simple proposition. Certainly it is simple to my mind, and yet it strikes me very differently from what it does him. Yes, sir, it is a simple proposition to establish for ten States of this Union a purely military government; and if by any possibility a civil tribunal may have anything to do with the administration of justice in these States, it is to be only by the permission of the military governor. It will not do to say that this bill is intended to subvert some good purpose; it will not do to say that this bill is intended to protect persons in their rights of persons and property; it will not do to say that the object you have in view is a praiseworthy object. I look to the details of the bill, to the manner in which you propose to accomplish the object which you say you have in view, and I say that the argument which sustains this bill is the same argument under which the fugitive slave law was sustained. Persons who were in favor of the fugitive slave law said it was carrying out a constitutional obligation; but it was the manner in which that obligation was attempted to be enforced by that bill which made it so objectionable to the people. While the people of the northern States acknowledged the constitutional obligation, the mode in which it was attempted to be executed under that bill was offensive to them. So with this bill. It will not do to say that you are here attempting to accomplish a good object or a good purpose. It is the manner in which you attempt to do it that is offensive to the people. In my judgment you will find any such measure offensive to the people, and if they can reach it in any manner (no matter what the object may be, no matter what good purpose you may attempt to subvert,) they will condemn a proposition to hand over ten of the States of our Union to unlimited military power, ignoring or superseding all civil tribunals, all civil law, and all civil authority.

For these reasons, Mr. President, I move to strike out the preamble, it being, as I said, unfounded and false in fact and in inference.

The PRESIDING OFFICER. An amendment to the preamble is not now in order.

Mr. BUCKALEW. Is not the preamble a part of the amendment of the Senator from Ohio?

Mr. NORTON. I understand that the preamble is a part of the amendment.

The PRESIDING OFFICER. Action on the preamble will not be in order till after action on the amendment proper.

Mr. NORTON. Then I move to amend the amendment of the Senator from Ohio by striking out in the third line of the first section the words "said rebel States," and inserting "the States now unrepresented in Congress."

Mr. VAN WINKLE. As this preamble has

been brought into discussion, I wish to say a few words upon it. I have waited till it should come up regularly. I have no motion to make in reference to it; but I merely want to justify, as far as may be necessary, the position of my State and the vote I shall give in reference to it.

The preamble contained in the bill as it came from the House of Representatives was so framed as in my opinion to question the very foundation upon which the State of West Virginia rests. It assumed—and there were no qualifying words in it as there are in the preamble offered by the Senator from Ohio—that the Legislature which gave its consent to the erection of that State was a "pretended" Legislature only. I did, three years ago, in the Senate, attempt to set that matter on its proper footing, and I showed in full the motives that governed us and the causes for the action we took; and I cited most illustrious examples to justify the course we felt ourselves compelled to take for our redress, and I showed that it was the only way in which our State could be retained in the Union.

But the language of the preamble has been modified in the amendment of the Senator from Ohio, and it reads, "whereas no legal State governments" "now exist" in the State of Virginia among other States. As to the present status of the State of Virginia, I have only to say that some change may have taken place since our State was admitted into the Union and since her consent to our formation was given. It must, however, have taken place very lately, because the government of Virginia has always been recognized at any rate by the executive department of the Government of the United States, and it has been recognized, I think, by acts of Congress subsequent to the erection of the State of West Virginia.

But, sir, it is not important to go into that now. I rise not for the purpose of attempting to discuss or settle the question whether the present State government of Virginia is legal or not; that is aside from the purpose I have in view; but it is simply to say that since the modification of the preamble by the amendment of the Senator from Ohio, if that amendment be adopted by the Senate, I do not feel that the State of West Virginia is at all called in question. The government of Virginia may have changed its character since the consent to the formation of West Virginia was given. I am not called upon to examine into that point; but as the phraseology of the preamble of the amendment relates to the government which now exists in that State, it leaves the State of West Virginia in my opinion free from any such imputation as was conveyed by the original preamble. I do, so far as I may, in the name of my State and in my own as one of its representatives, protest against any inference from the passage of this bill, if it shall pass through Congress, that would be against the perfect legality and constitutionality of the mode in which the State of West Virginia was erected.

Mr. BUCKALEW. I should like to understand the point the Senator makes: it is a very interesting one. Do I understand him to say that he is willing to vote that the government of old Virginia is now wholly illegal, while at the same time he holds that it was legal in some former year when the assent was given to the formation of West Virginia?

Mr. VAN WINKLE. I have said that I was not called upon at this time, at all events, to say anything about the present State of Virginia. My object is to vindicate the position of my own State. If the old preamble had been continued here, I should have felt constrained, in spite of any reasons to the contrary, to vote against the bill; I could not have done otherwise. But I say, as this preamble refers to the condition of the government of Virginia at this time, the word "now" being used, making it somewhat emphatic, it cannot be supposed to refer to the condition of that government in 1862, when the consent was given under which the State of West Virginia was erected. I know that up

to the time the government of Virginia was removed from Wheeling to Alexandria it was acknowledged by every department of this Government. I know that the Senate admitted into this body, with a full understanding of the whole case, the Senators who had been elected by the Legislature of Virginia when it sat at Wheeling; and I know, moreover, as all here know, that but for the unfortunate death of Mr. Bowden, who resided in the Williamsburg district in Virginia, he would have been sitting among us at this time as a Senator from Virginia, with two years of his term unexpired.

I know, therefore, from the records of Congress, from the records of the executive department, and from a subsequent acknowledgment by the Supreme Court itself, that at the time the consent was given, which is the only important matter in the view I am now taking, the government of the State of Virginia was a legal government and so acknowledged to be. What I may do in reference to this preamble, and what I may do with reference to the bill itself if amended as proposed by the Senator from Ohio, I am not now called upon to say; nor do I wish to take up the time of the Senate at this hour with any remarks as to my views upon it.

Mr. SAULSBURY. If there is any Senator upon this floor who knows of any change in the government of Virginia since the act passed by its Legislature which gave validity and constitutionality to its assent for the formation of West Virginia, which now makes it an illegal government, certainly the Senator from West Virginia is more acquainted with these facts than any other gentleman here. When West Virginia was admitted into the Union as a sovereign, independent State, that admission was advocated by my honorable friend upon the ground that the Legislature of Virginia, and the Government of Virginia, then existing, was a legal, constitutional Legislature, and a legal, constitutional State. If any change has since occurred which has rendered the Legislature of that State or the government of that State illegal, it is, I think, due to this body from that honorable Senator above all men on this floor to make that fact known to this body. Living within the border of old Virginia, "the mother of States and statesmen"—though now in ruins, still glorious, noble Virginia—he should feel sufficient pride in her noble character, now unrepresented on this floor, to state to us any fact or circumstance with which he must be presumed to be acquainted to show how she has forfeited that relation; and how it is that since she gave her assent to the formation of the new State which he so honorably and so ably represents on this floor she has forfeited her State character. What has she done since to forfeit her character as a State in the Union or to render her Legislature an illegal body? There is no Senator on this floor who is to be presumed *prima facie* to know of any such change so well as my honorable and distinguished friend from West Virginia. Have not her elections gone on under the same laws, under the same Constitution without change or modification?

It will not do for my honorable friend to claim that at the time the new State of West Virginia was admitted into the Union old Virginia was a State, that she had a constitutional Legislature and a constitutional government, and then to decline to enter into the discussion whether she has any such constitutional government or constitutional Legislature now. Sir, when we shall have departed from these Halls, when other men shall fill our places, when we shall be known no more among men, when the places that now know us shall know us no more, the rising generation and future generations will read our debates, and they will ask and anxiously inquire what change has transpired in the government of old Virginia since the admission of West Virginia which has rendered her constitution, her government, and her Legislature illegal now, when they were legal then. What has occurred since the passage of that important act admitting my friend

to a seat on this floor to cause old, noble, glorious Virginia to forfeit her status in the Federal Union as a State? I call upon my honorable friend, therefore, if there be any facts or circumstances within his knowledge of that character, to disclose them to the Senate and not to tell us that he is not bound to enter into the consideration of that question now.

Mr. VAN WINKLE. Mr. President, I was so long a resident of the State of Virginia under the old organization of that State that I should regret that it should fall to me to say anything that would seem to reflect upon it. I rose on this occasion simply for the purpose of stating my position in reference to this preamble, and saying that I was satisfied with the change that had been made, because it did not refer to the time at which West Virginia was separated from the old State. I will say, however, as the Senator from Delaware puts his questions so closely, that actions have been taken by the State of Virginia and by the Legislature of Virginia since West Virginia separated from her that did not at the time meet my approval. How far they constitute illegal acts; how far they go to invalidate the legality of the government of that State, others must judge. After that government removed to Alexandria, it called a convention for amending its constitution. I had objections to that course at the time. I strongly urged members of the convention and of the Legislature not to act in that way. They were representing but a small number of counties, while the whole State ought properly to have been consulted. I thought they could have got along without amending the constitution, and that they had better defer it under the circumstances, the then expectation being that there would be a speedy restoration to Richmond. But they amended their constitution at that time, and they inserted in it a provision that—

"No one shall be allowed to vote who, when he offers to vote, shall not thereupon take or shall not before have taken the following oath."

And the oath prescribed, after binding the affiant to uphold and advocate the government of Virginia as restored by the convention which met at Wheeling on the 11th of June, 1861, adds:

"That I have not since the 1st day of January, 1864, voluntarily given aid or assistance in any way to those in rebellion against the Government of the United States for the purpose of promoting the same."

It is well known that in the Legislature of Virginia at this time are not only those who cannot take that oath, but that they were elected by voters who could not take it; and I am sure—my colleague will be able to correct me if I am wrong—that oath was not set aside by any convention of the people of Virginia. How precisely it was managed I do not distinctly recollect; but I think it was by some calling of the Legislature together; I do not know whether it was by a legislative act or in what form the oath was attempted to be got rid of. I do not think that was a perfectly legal act. How far it may tend to invalidate the legality of the State government I will not say.

Mr. DAVIS. Allow me to ask the honorable Senator the date of that amended constitution?

Mr. CONNESS. Is this in order?

The PRESIDING OFFICER. Debate on the main question is in order.

Mr. CONNESS. Is this debate on the main question?

The PRESIDING OFFICER. If the Senator makes a point of order the Chair will decide it.

Mr. VAN WINKLE. The ordinance providing for establishing the restored government passed May 4, 1864. I have been called upon to state what I believed in reference to this matter. I now wish to add that from private information communicated to me from an authentic source, I know that the law is not administered in that State as it ought to be. I know this particularly in reference to the freedmen. I know that they are taken, tried for petty and trivial offenses, and the utmost

penalty of the law is inflicted upon them. I am happy to say in regard to my former fellow-citizens that I am told this is not the fault of the judges nor the fault of the lawyers at the bar, who frequently try to mitigate these penalties; but it is the fault of the juries, uninstructed men probably. The administration of the criminal law in Virginia is peculiar. In the first place, the juries are judges of both law and fact; and in the second place, in every case the jury fix the term of imprisonment, so that the judge has no control whatever over it. I can give one instance. A negro whose employer kept a tavern broke into the bar in order to get some liquor, and he was taken up and tried for burglary and sentenced to five years in the penitentiary; and Governor Peirpoint has had to exercise the pardoning power and the mitigating power constantly and repeatedly.

Mr. BUCKALEW. I did not intend to provoke a discussion of this subject. I simply asked a question for my own information. I think the fact last stated by the Senator is a pretty strong reason for assigning some merit to the government of Virginia, for the Governor mitigates penalties.

Mr. VAN WINKLE. The Governor, I think, holds his office by a perfectly valid election; but his term of four years is about expiring.

Mr. CONNESS. I trust I shall be pardoned for suggesting that we lay over these discussions about Virginia statutes and Virginia authorities until we get through with the business before us. It is rather trying to us to engage in it on the Sabbath. I hope we shall come to the main question.

Mr. DAVIS. I understood the honorable Senator from West Virginia, in his statement with relation to the administration of the law in Virginia, to assert that the law was executed with the extremest rigor. Did I understand him to state that any jury, in trying the case of any negro, found a verdict in conflict with and in opposition to the law?

Mr. VAN WINKLE. I did not say that; but I say great injustice is done if juries invariably put a heavy punishment upon a slight offense by a certain class of the population.

Mr. DAVIS. I do not think there is anything in the statement of fact by the honorable Senator from West Virginia to authorize the passage of such a law as the Senate is now considering.

Mr. VAN WINKLE. I have not said that.

Mr. DAVIS. The honorable Senator concedes that the administration of justice there by the juries in rendering their verdicts is in conformity to the letter of the law; but his position is that it is an excessive punishment. If that be so, the law itself ought to be mitigated: certainly the juries are not censurable; and it is no reason for declaring that a government is insufficient for the purposes of government and must be set aside and another one raised upon its ruins and substituted for it by Congress, because juries find verdicts in conformity to the law!

But there is another idea suggested to me by the remarks of the honorable Senator from West Virginia. The objection by the majority of the Senate to the continuance of Virginia in the Union after the act of rebellion is that by the act of rebelling Virginia ceased to be a State. That is the ground upon which all legislation of this class has been placed by those who advocate it. If that ground be true, what becomes of the State of West Virginia? Virginia had rebelled before the consent of the government of Virginia or the pretended or seeming government of Virginia was given to the erection of the State of West Virginia. The rebellion of the State of Virginia by the authorities of its government was a consummate act before this consent was given by the State of Virginia to the erection of West Virginia as a State. If, then, the ground assumed by the majority in the Senate be valid, and it authorizes the Senate to treat the State of Virginia as dissolved and as not being in existence at all at a time previous to the giving of consent to the erection



of West Virginia, how can the honorable Senator support a measure that sweeps that State from existence at the very time it was attempting to give its consent to the erection of West Virginia?

Mr. VAN WINKLE. It gave its assent two years before the making of the constitution to which I referred.

Mr. DAVIS. That I admit; but the consent that was given was after the fact of rebellion; that is the point I make, and that is the material point. The honorable Senator does not controvert that the consent of Virginia to the erection of the new State of West Virginia was given after the rebellion of the State of Virginia occurred and after the promulgation of the act of secession by the State of Virginia.

Mr. VAN WINKLE. I wish to remind the Senator from Kentucky of what I said when I first rose. I stated that three years ago I had gone over the whole question of the admission of the State of West Virginia, and I did not think it necessary to go over it again in the Senate. I stated that I believed all that was done then to have been constitutional and legal; that it had had the approbation of I thought every department of the Government, and that it had the sanction of most illustrious precedents. I have that speech here; the gentleman can read it if he chooses. I shall not occupy the time of the Senate in going over ground I have heretofore presented.

Mr. DAVIS. The honorable Senator has not yet reached the point of objection which I make. It is simply this: if the theory or the assumed principle upon which the measure now before the Senate has been framed be true, which is that Virginia by her ordinance of secession ceased to be a State of the Union, that secession having occurred before the consent which Virginia is said to have given to the erection of the State of West Virginia, the honorable Senator cannot sustain the measure now before the Senate and at the same time insist upon the validity of the consent which Virginia after the act of secession gave to the erection of the new State of West Virginia.

Mr. WILLEY. Will the Senator allow me to ask him whether I correctly understood him that Virginia by the act of secession thereby ceased to be a State in the Union?

Mr. DAVIS. I have made no such admission; but I have stated that that was the principle upon which the bill before the Senate was based by its friends. I said the act of secession amounted to nothing; it was simply void then and now for every purpose; but the friends of this measure claim the act of secession to be a sufficient ground for the introduction of the bill which the Senate now has under consideration. My position is that if the act of secession was sufficient for the purpose of dissolving the State, the honorable Senator from West Virginia cannot make that concession and at the same time say that the State of Virginia existed after the act of secession for the purpose of giving her consent to the erection of West Virginia as a State.

Mr. President, I was struck with the pertinent and most sensible criticism of the Senator from Minnesota [Mr. NORRIS] upon this preamble. I agree with him that the preamble is false in fact and false in inference. I am not going to repeat the remarks which he made to prove that position, but I will make a statement of one or two facts auxiliary to his position.

The honorable Senators from Massachusetts have told us again and again, and have read letters here by the score declaring that life and property were not safe in the southern States, that especially the lives of Union men in those States were not safe. They have studiously and perseveringly withheld the names of the writers of those letters from the knowledge of the Senate. Instead of frankly laying them before the Senate, they have studiously withheld them. The honorable Senator from Massachusetts, now in his place, [Mr. WILSON,] has done so in a number of instances, and a

day or two since he gave a statement or table of cases in which, as he said, justice had not been administered according to law in the southern States. The number was very large. He and his colleague have time and again read to the Senate, without reading the names of the writers, letters giving accounts of violations of law and of right in the southern States. I regarded and still regard these letters as fictions, as the merest fabrications and falsifications, and I say so for this reason: the writers of these letters have amounted, not only to scores, but to hundreds, and they were written from communities in regard to which it was said that a knowledge of these letters and of the names of the writers could not be made known without peril to their persons and lives. Now it is morally certain that in many cases the writers of these letters were known in the communities in which they lived. Nobody can doubt that general fact. Amidst the writers of so many letters, hundreds of them, from communities hostile to the writers themselves and to the statements they were giving in those letters, it would be impossible that that number of letters should have been written and many of the writers not have become known to the hostile people among whom they lived. Now, has either of the Senators from Massachusetts given us an example of any case where any writer of any such letter has lost his life, where any writer of such letters has been assassinated or murdered, or where any personal violence has been perpetrated upon any one of them? The absence of all allegations that any of these consequences came to the writers of these letters is to my mind most satisfactory and conclusive evidence that the state of feeling, of society, of vengeance, and of violence and bloodshed that these letters represented to exist in the States from whence they were written did not in fact exist.

But, Mr. President, I have some other evidence bearing upon that point. There was a General Clinton Fisk that commanded at the post at Lexington, Kentucky, some year or two ago. He had previously been a Methodist preacher. He was one of the preacher-warriors, so many of whom entered into this war, not to assuage its fury or cruelties, but to aggravate and inflame them. This General Fisk went from Lexington to the city of Cincinnati, and there made a public speech, in which he described the condition of things in Lexington, and in that speech, as reported in the Cincinnati Commercial, a paper friendly to the speaker and to his policy and principles, was this passage:

"Only the day before yesterday, in Lexington, thirteen discharged colored soldiers stood in the street, in full sight of Henry Clay's monument, with their bodies lacerated, their backs bleeding from the cruel lath, their heads out to the scalp, and one or two of them with their eye put out; and what for do you suppose? Simply for going to their former masters and asking for their wives and children. I appealed to the civil authorities in their behalf, but was told that there was no law in Kentucky to help them."

Sir, was there ever a more atrocious statement embodied in as few words? If it were true, it was disgraceful not only to the community of Lexington, but to the State and to the age; it revealed a state of violence and of crime as revolting as any I ever have read. But it turned out—I have the evidence before me—that there was not a word of truth in this passage from the speech of General Fisk. Madison Johnson, the sheriff of Lexington, himself a Radical, and other men of character and truth, went to work and inquired diligently for the fact whether such enormous crimes as these against the law and against humanity had been perpetrated in Lexington, and they could not find a vestige of truth in the charge; they could not find a solitary fact upon which to base it. The Legislature of Kentucky was then in session. This speech from which I have read reached the members of that Legislature. They immediately raised a committee of investigation to inquire into the truth of the charge. That committee immediately summoned General Fisk to appear before it. It was allowed to

sit during the sessions of the Legislature; it sent him citations and information time and again when it would hold its sittings and invited him to appear before it and to make good his statements; but General Fisk could never be got to appear before the committee. He failed to appear when challenged to come and to prove the foul libel which he had uttered in the city of Cincinnati upon Lexington, upon the State of Kentucky, and upon the judiciary of the State, for he said that he had appealed to the proper authorities for the redress of such enormities and that they had refused, saying there was no law in Kentucky to punish them. The latter proposition is utterly false; the whole statement is false in all its points. There have been laws in Kentucky from the beginning of the State to punish such wrongs and outrages upon negroes, and no magistrates and no people could be more prompt to give full redress to negroes who had been injured and outraged in the mode in which that parson-general in his slanderous charges against Kentucky denounced the people and the State for. Every word of it was untrue.

If a Methodist preacher and a general in the service in command of such a place as a military post as Lexington could have the audacity to go to the city of Cincinnati and make a speech in which he uttered such charges against that people and that State and against the magistracy and the laws of that State, and on being challenged for their truth would not come forward to make good his charges, and when they turn out to be, and are proved to be, entirely false and atrocious, as they are, how can these anonymous letters from the South making charges of such violations of law, such violence, such outrages and crimes as figure in the correspondence of the two Senators from Massachusetts be believed? They are not true. I know men living in the South, I have seen hundreds of them since these charges were first made. We have heard the disclosures in this debate in relation to the order and observance of law in these States as a general rule. That there are acts of violence and crime in the southern States no man can deny; such things occur in all the States. A looseness, a violation of law, a proneness to commit crime and to indulge in deeds of violence and blood, are the natural fruits of war, and especially of civil war. They are the natural consequences that have resulted from this war; but sporadic cases of murder, of cruelty, of flagrant aggression on the rights of others exist all over the United States. They do not exist in greater numbers at the South than at the North. Indeed, I do not believe, judging by the statements in the newspapers, that they are anything like as numerous. I believe that in the State of New York there are more outrages and crimes of that character than in any half dozen southern States.

Mr. President, I simply rose to enter my protest against any authority, any credence being given to these anonymous letters; and I have adduced some evidence of that kind here for the purpose of furnishing a test and a rule by which the value of such statements may be ascertained.

THE PRESIDING OFFICER. The question is on the amendment of the Senator from Minnesota [Mr. NORRIS] to the first section of the amendment of the Senator from Ohio, [Mr. SHERMAN.]

The amendment to the amendment was rejected.

THE PRESIDING OFFICER. The question recurs on the amendment of the Senator from Ohio, as a substitute for the original bill after the enacting clause.

Mr. WILSON. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. I am not in favor of the original bill, nor of the substitute as an independent measure; but deeming the substitute less objectionable than the bill I shall vote for it as an amendment.

The question being taken by yeas and nays, resulted—yeas 32, nays 3; as follows:

YEAS—Messrs. Anthony, Brown, Cattell, Chandler, Conness, Cragin, Creswell, Fogg, Frelinghuysen, Grimes, Henderson, Hendricks, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Patterson, Poland, Pomeroy, Ramsey, Ross, Sherman, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—32.

NAYS—Messrs. Buckalew, Davis, and Saulsbury—3.

ABSENT—Messrs. Cowan, Dixon, Doolittle, Edmunds, Fessenden, Foster, Fowler, Guthrie, Harris, Johnson, McDougall, Nesmith, Norton, Nye, Riddle, Sprague, and Sumner—17.

So the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment proposed by the Senator from Ohio to the preamble.

Mr. NORTON. I renew my motion to strike out the preamble.

The PRESIDING OFFICER. There is an amendment now pending in reference to the preamble. The question is on the amendment of the Senator from Ohio; which is to strike out the preamble of the bill and in lieu of it to insert the following:

Whereas no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore.

Mr. SAULSBURY. Is that open for discussion? ["Certainly."] Then I have but a word to say, and that is that however much I am opposed to this bill in its sections and to the recitals contained in the preamble, and however fully I may be convinced that the enactment of this bill into a law will be disastrous to my country, there is one little consolation left to me, and that is that I feel a full assurance that "life's fitful fever" will soon be over with the political party which has done so much injury to this country for the past six years. The passage of this act I regard as the death-knell to the worst enemy of my country, and that is the Republican party.

The amendment to the preamble was agreed to.

Mr. McDOUGALL. I now move to amend the bill, as amended, by adding to the fifth section the following:

Provided, That the provisions of this act as to the elective franchise shall not apply to citizens made such by virtue of the act of April 9, 1865, entitled "An act to protect all persons in the United States in their civil rights and furnish the means of their vindication," until such persons so made citizens shall have been five years such citizens.

Now, Mr. President, I present the inquiry exactly, not to yourself, sir, but to all Senators and to the country, whether we are to introduce by one act of law a body of men known to be altogether ignorant and altogether different from our own race into our society and to be a part of our institutions, with privileges over and above those of our own race and kindred, educated, intelligent, and who understand our institutions. I desire to know whether a Feejee Islander who may be in my State, or a Malayan who may now inhabit there, shall take precedence of a man from Europe; whether it is the determined policy of this majority to force upon the intelligence and virtue of the country those who are unfit for citizenship, who are unequal for this high office, and to attempt to give them equality with me or with any other man educated under our institutions, and who has learned what liberty is and tried to learn the system of our Government.

My amendment simply proposes that these new recruits of the Republican party shall have five years of discipline. Frederick of Prussia would not let a fellow go into the ranks of his cavalry till he had served five years and jumped ditches and hedges. Now, you propose to improvise citizenship of persons whom every man in this Senate knows to be as ignorant as a horse in the stable about all things that belong to government, and you propose to give them no time for education or information. They have been made free. I

am glad that they have been made free. Freedom is one thing, government another. I am free; but I am free only subject to the law as the law is established. I am not altogether free, nor is any man; for I have to bow my knee to the law and subject myself to it, and pay penalties for its violation if I violate it. That a body of men, known to me, known to every man here, known more particularly to every western man; to be altogether unfit for the office of electing a magistrate in a town or a village, altogether unfit even for the ceremonies of social life, unfit for anything beyond mere obedience to law and to the law of some present particular superior should be obtruded immediately into the office of government, is strange. When we receive from Germany, from England, from Ireland, from Scotland, from the Frankland, and from all the lands of Europe men of our own blood, who will intermingle with us and make a great race, no matter how highly they may be cultivated, no matter how well instructed, no matter how learned they may be, we require them to go through the discipline of a certain period of years that they may be citizens of the United States and entitled to the right of suffrage.

Now, Mr. President, there are a great many things about this question, as it has been presented, that are so singular that they seem to me absurd, and I would rather send Sancho Panza after the controversy than engage in it myself. Nevertheless, as Sancho is not here, and died I believe in Salamanca, I will have to do something on his account. [Laughter.] Sir, I say these words not as a jest of the fellow who rode the ass after Don Quixote del Manche and told all the good things Don Quixote was supposed to think, but I say it in a more serious vein. I say that this thing of degrading the right of suffrage is one of the most serious things, and it is a pressing evil on the country dangerous to the public health, and it will culminate in time in great confusion. Already the right of suffrage in this Republic is beneath the standard of intelligence; already the right of suffrage is beneath the standard of true virtue. Virtue is said to be the true foundation, the true quality of a republic; fear the quality of a despotism; and honor the particular quality of a monarchy. A republic cannot be maintained without virtue. This virtue means first virtue in the entire people, and then virtue in office. Honor may be represented by the idea of chivalrous character, a man who submits to no wrong—

"But rights his wrong where'er 'tis given  
Though it be in the courts of Heaven."

as Rhoderick Dhu said he would. Despotism, as I said, is characterized by the quality of fear. Sir, I fear not, I would do nothing from a sense of fear.

A good many of these ideas are found in those who have taught us wisdom and who taught our fathers wisdom. These ideas belong to the business of the present age. They have not so much to do with the present amendment I propose as they will have to do with the discussion I propose to make after the amendment is disposed of. I undertake to say now that the Hungarian, the Russian, the Frenchman, the Irishman, the Englishman, the Scotchman, the man from any land of Europe who comes to our country, is entitled to equal rights with the negro, and that is all this amendment involves, and I ask that it may be adopted. I call for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 30; as follows:

YEAS—Messrs. Davis, Hendricks, McDougall, Nesmith, Norton, Patterson, and Saulsbury—7.

NAYS—Messrs. Anthony, Brown, Cattell, Chandler, Conness, Cragin, Creswell, Fogg, Frelinghuysen, Grimes, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Poland, Pomeroy, Ramsey, Ross, Sherman, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—30.

ABSENT—Messrs. Buckalew, Cowan, Dixon, Doolittle, Edmunds, Fessenden, Foster, Fowler, Guthrie, Harris, Johnson, Nye, Riddle, Sprague, and Sumner—15.

So the amendment was rejected.

The bill was reported to the Senate as amend-

ed, and the amendment made as in Committee of the Whole was concurred in.

Mr. NORTON. Now I move to strike out the preamble of the bill as it stands, and upon that motion I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 9, nays 27; as follows:

YEAS—Messrs. Buckalew, Davis, Doolittle, Hendricks, McDougall, Nesmith, Norton, Patterson, and Saulsbury—9.

NAYS—Messrs. Anthony, Brown, Cattell, Chandler, Conness, Cragin, Creswell, Fogg, Frelinghuysen, Grimes, Henderson, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Poland, Pomeroy, Ramsey, Ross, Sherman, Stewart, Trumbull, Wade, Williams, and Wilson—27.

ABSENT—Messrs. Cowan, Dixon, Edmunds, Fessenden, Foster, Fowler, Guthrie, Harris, Johnson, Nye, Riddle, Sprague, Sumner, Van Winkle, Willey, and Yates—16.

Mr. BUCKALEW. I desire to renew the amendment I moved in committee to the fourth section.

The PRESIDING OFFICER. The amendment made as in Committee of the Whole has been concurred in by the Senate. It is not in order now to amend an amendment which has been concurred in.

Mr. BUCKALEW. I move an addition.

The PRESIDING OFFICER. The Senator will state his amendment; if it is an addition to the amendment already adopted it is in order, not otherwise.

Mr. BUCKALEW. My amendment is to insert after "district," in line seven of section four the words "and when it affects life, the approval also of the President of the United States."

Mr. WILLIAMS. Is it in order now to renew that amendment?

The PRESIDING OFFICER. The Chair thinks it is not strictly in order to move the amendment this time.

Mr. HENDRICKS. Why not?

The PRESIDING OFFICER. Because it is an amendment to an amendment which has been adopted in Committee of the Whole and concurred in in the Senate.

Mr. BUCKALEW. If the amendment is ruled out of order, I shall content myself with reading what I proposed to do upon the reception of the amendment as a proper proposition.

The PRESIDING OFFICER. The amendment is not strictly in order; but the Senator from Pennsylvania is entitled to the floor and he can make any remarks.

Mr. BUCKALEW. By the fifth section of the act of July 17, 1862—

The PRESIDING OFFICER. The Chair will suggest that the amendment will be in order if the vote concurring in the amendment made as in the Committee of the Whole be reconsidered. ["Oh, no!"]

Mr. BUCKALEW. I presume there is no general determination among members to reconsider anything. [Laughter.] By the fifth section of the act of July 17, 1862, it was provided that—

"No sentence of death or imprisonment in the penitentiary shall be carried into execution until the same shall have been approved by the President."

Then by the twenty-first section of the act of March 3, 1863, it was enacted—

"That so much of the fifth section of the act approved 17th July, 1862, entitled 'An act to amend an act calling forth the militia to execute the laws of the Union,' &c., as requires the approval of the President to carry into execution the sentence of a court-martial, be and the same is hereby repealed, as far as relates to carrying into execution the sentence of any court-martial against any person convicted as a spy or deserter, or of mutiny or murder; and hereafter sentences in punishment of these offenses may be carried into execution upon the approval of the commanding general in the field."

Then by the act of July 2, 1866, section one, it was provided:

"That the provisions of the twenty-first section of an act entitled 'An act for enrolling and calling out the national forces, and for other purposes,' approved 3d March, 1863, shall apply as well to the sentences of military commissions as to those of courts-martial, and hereafter the commanding general in the field, or the commander of the department, as the case may be, shall have power to carry into execution all sentences against guerilla marauders for robbery, arson, burglary, rape, assault with intent to commit rape, and for violation of the laws and customs of war, as well as sentences against spies, mutineers, deserters, and murderers."

So that these special exceptions cover all the classes of cases mentioned in the last enactment read—murder was included in the former one—and apply to cases before courts-martial, and military commissions also, and expressly confer powers upon the commander of a department to execute these sentences without any appeal whatever to the President of the United States. Thus there is excepted from the supervising power of the Commander-in-Chief of the Army and Navy of the United States by the Constitution the very class of cases to which I alluded in my former remarks; and there is, therefore manifestly upon the face of the existing law good and sufficient reasons for inserting the words which I proposed.

Mr. SHERMAN. The third section of the bill provides that a military officer may punish crimes. How? By a trial either before a civil or a military tribunal. Then the fourth section provides that—

No sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district.

This does not change in the slightest degree the law read by the Senator; but simply further provides that, before any sentence affecting the life or liberty of a citizen shall be executed, it shall be approved by the commander of the district. The President may by a simple order direct that no military warrant involving the life of an individual shall be executed until he shall have had an opportunity to pass upon the case. He has the undoubted power to pardon a person convicted of a military offense, and this does not propose to interfere with it; it simply provides that the penalty shall not be enforced until it is approved by a military officer. That does not prevent the President from exercising his pardoning power or preventing the execution of the sentence until he shall have passed upon it.

Mr. BUCKALEW. Of course this provision in the present bill does not affect the general power of pardon possessed by the President under the Constitution, but under the existing law for cases of murder, arson, rape, and a number of other offenses recited there is an exception of those cases from the supervision of the President. That was intended for time of war; but by this bill the action in those very classes of crimes is expressly brought within the approval of the commander of the department, besides those in the former law.

Mr. CONNESS. As I understand this provision, it is a mere prohibition on the exercise of such power by any officer less than the commander of the district. It is a prohibition as to that, and leaves the law just as it stands in other respects.

Mr. BUCKALEW. Yes, sir; and the law as it stands authorizes a final approval and the execution of a sentence by the commander of a district. I have done my duty, however, in bringing the matter to the attention of the Senate. I have nothing further to say.

Mr. HENDRICKS. This is an addition to the amendment already adopted. I think it is in order. It does not strike out anything.

The PRESIDING OFFICER. It is a change of an amendment already adopted and therefore is not in order.

Mr. DOOLITTLE. I will offer it as an additional section:

That no sentence of death under the provision of this act shall be carried into effect without the approval of the President.

Mr. HENDRICKS. Two or three years ago we established a Bureau of Military Justice; it was supposed that before that bureau were to go all important cases of military trials. It seems to me that this amendment is right; it ought not to be questioned.

Mr. DOOLITTLE called for the yeas and nays; and they were ordered.

Mr. GRIMES. I shall vote for this amendment as I voted for it before. It seems to me that, even admitting everything that is claimed by the Senator from Ohio and by the Senator from Oregon, it is not a very bad thing to add this amendment.

The question being taken by yeas and nays, resulted—yeas 21, nays 16; as follows:

YEAS—Messrs. Anthony, Brown, Buckalew, Davis, Doolittle, Fogg, Frelinghuysen, Grimes, Henderson, Hendricks, Kirkwood, McDougall, Morgan, Morrill, Nesmith, Norton, Patterson, Saulsbury, Van Winkle, Willey and Yates—21.

NAYS—Messrs. Cattell, Chandler, Conness, Creswell, Howard, Howe, Lane, Poland, Pomeroy, Ross, Sherman, Stewart, Trumbull, Wade, Williams, and Wilson—16.

ABSENT—Messrs. Cowan, Cragin, Dixon, Edmunds, Fessenden, Foster, Fowler, Guthrie, Harris, Johnson, Nye, Ramsey, Riddle, Sprague, and Sumner—15.

So the amendment was agreed to.

Mr. SHERMAN. In order not to derange the sections of the bill, I prefer to have that amendment put as a proviso at the end of the fourth section, by general consent.

The PRESIDING OFFICER. Is there any objection to that suggestion? No objection being made, the change will be made.

Mr. McDUGALL. Mr. President, I observe that gentlemen are disposed to laugh when I rise at this hour to address the Senate upon this question. Sir, I am in no humor for jesting. On a question of this kind, as solemn and grave as this, this is no time for jesting. It is so grave and solemn a question that I tremble when I look upon it and dare to advance to its exact consideration. Looking through the field of former years, and looking back through our own history, and looking at our present condition, I cannot but both think and feel that this is the gravest question which has arisen in the civilized world, and it is now presented for determination by this Senate. There were those who jested when Rome was burning; I say nothing about the use of musical instruments on that occasion. We are approaching a great crisis in the history and condition of this Republic, and those who do not see and feel it must be exceedingly ignorant of the time and the time's necessities and the time's condition. I, not ordinarily uncourageous, approach this subject trembling. It is graver than any subject that ever came within the range of my life where I had an opportunity for effort and where good or evil depended upon the result.

This is a question that involves anarchy. Whether anarchy exists now or not I will not affirm; but whether it exists or not I know that the anarchy is abroad, and whether they have the power to triumph and to achieve anarchy and again make chaos is the question of the hour. In the providence of Him who is master of us all, it may be that out of the influence of anarchy and out of the condition of chaos order may finally be made; but if anarchy triumphs now, order will not be achieved out of anarchy in the day of any one here, in my judgment. It is the office of men gifted by God with intelligence, whose duty it is to exercise their intelligence for the benefit of themselves and their kindred and mankind, to inquire what is best. That inquiry has been made from the ancient ages down to our present time.

I think all who hear me thought in their youth the fathers of this Republic had determined best how order could be produced out of anarchy, or rather how order could be best established so that anarchy could not be triumphant. Anarchs are governed by no law but their own particular will, and that is supposed to be often an evil will. Those who govern adverse to them throughout the universe are supposed to hold that the right is right and should be maintained; and that is the idea on which our Republic was based by those who constructed it. They inquired carefully into what was the right; they tried to lay the foundations deep; they tried to make them strong; they tried to build up walls; they tried to establish the edifice so that it might last forever. Five years ago there was nobody here who differed in that opinion from myself; but some strange force of demoralization has gone abroad and has entered into the council chambers of States and has entered into the council Chambers of the nation, demoralizing, depraving; and by force of untruthful reason inducing

men to think that the wrong was the better reason, and to lend themselves to the forces of anarchy, the forces of evil opinions, the forces of disturbing causes against those forces that seek harmony, that seek unity, that seek truth.

We in our agitations necessarily come in conflict with each other. Man comes in conflict with man; States with States; and out of these conflicts it is expected that accord will result, and it does generally result. But there is a disposition exhibited here to-day that concord shall not be achieved, or at least that it shall be long delayed. There is no reason why we should not behold all the States of this Republic united and in accord. Nothing but sectional feeling, nothing but party interests, nothing but political ambitions interfere with the accomplishment of a result desired by all persons who love their country more than they love themselves. The idea that a large portion of the nation comprising the great North American Republic should be not of us, not with us, should be excluded from among us by arbitrary power, when they affirm all that is asked; that they should be denied a place at our table or a place in our councils, is something that we would not deny to the savage barbarians of our frontiers, and that was never denied by any State. It is not a subject much to be reasoned about. If men's hearts and men's instincts and men's prompt judgments, accompanying their instincts, do not see what is right about these things, then God giving the dispensations has got to give us a new revelation.

We, having vanquished a rebellion of our own people, and they having submitted themselves to our power, it is proposed to make them go beneath the yoke and humiliate themselves below the dignity of men. Sir, no Roman citizen would go beneath the yoke; he would suffer death first. It will be found, probably, in the experience of this country, that there will be the same hostility to going beneath the yoke. The Senator from Massachusetts [Mr. Wilson] said last evening I think, "We will make them do it." Sir, there is no such thing as "make." You cannot conquer an indomitable will. That these men were wrong they have admitted; that they were deceived they acknowledge; that they would be at home again with us they ask as a request; but it is denied. Why denied? That power may culminate in certain quarters so as to be capable of exerting forces sufficient to control this confederacy, united or disunited. Sir, there is no such devil, no such Beelzebub, or Apollyon in all the angels of hell, as this thing of political ambition; and, in my judgment, it is the ambition of power in a section of the country that induces a majority of Congress to deny to States which I recognize and hold to be States in the Union any right except the right to be taxed and the right to suffer and be punished; denying all the superior rights of liberty that belong to free men.

Those who think that they are to-day possessed with power and that now the skies are pleasant and the showers falling just so as to make the meadows grow green and the grass grow high, may in their jocund and pleasant days think that this will last forever; but all things move in circles, and I say now that those who think they possess the power to enjoy for their particular purposes the functions of this Republic will find themselves vastly askant in a few years from this. They will go off tangentially, and they will only come back comet-like after centuries. It is a foolish notion that many entertain that politicians govern this country. They may for a day; they may while the sun shines upon them; but there is a people in this country who not merely read, but converse and think; and in and about that business they have been engaged for some time past; and it is my inclination that they will think that the powers of this Government intrusted in the two Houses of Congress have been vastly abused, and that instead of judgment governing conduct, interest sometimes



pecuniary, more frequently political interest, has frequently been the master, and that the millions, the people of the Republic have not been regarded at all.

I care not, Mr. President, particularly to pursue these remarks. I would if time were convenient pursue them at some length. I rather choose to characterize the present measure now than to speak at length of my particular views with regard to it. A more atrocious measure never was submitted to any convened body in a civilized state. The measure need not be characterized in detail, although I could discuss it in detail, for it is all of the same quality, black as night, and hideous as it is black. That in our free Government, where all the gentlemen who surround me have been raised, where they received their early lessons of freedom, lessons of regard for free institutions, they could for a moment attempt to make pro-consuls here as emperors were made in Rome, to divide a large portion of our country and give them absolute jurisdiction and deprive the inhabitants of their freedom and undertake to govern them as consulates, with a power on the part of the Governor, or the general commanding, if you please, changing the term, to do as he may please with regard to all matters even as to matters of justice; because it is only by the permission of the general commanding that a judge can render a sentence or pronounce a judgment; that such things can be excites my special wonder. It so excites my wonder that I cannot think of it in the form of argumentation, for it is so great an outrage that reason furnishes no premises for discussing it. That men bred in this Republic, taught the principles and foundation rules of our institutions, should undertake to make a military despotism over ten States of this Republic, I know of no words that can reach up to the conception of my feeling of high indignation at the thought, conceived by whom it may have been originated by whom it may have been; for who will undertake to carry into execution here, who has been educated under republican institutions in our republican Government, under our laws, and who have by their intelligence or supposed intelligence at least arrived at the dignity of Senators of the Republic, military rule superseding the courts of justice?

I believe it is only proposed to create five tyrants now. Like all recent tyrants they will probably all be killed. My impression is that no tyrant can live, and these would only be tyrants. They might, if they were good tyrants, as one was; and I do not know but one or two good tyrants that ever did live, and one was chosen I believe by the oracle of Delphis, Miltiades.

Mr. HOWARD. And Cincinnatus.

Mr. McDUGALL. No, he was not a tyrant. Cincinnatus was called upon by the Roman people; and as the idea is suggested by the Senator, if such a time should come to us as did to Rome, it might be necessary for us to do the same thing. The enemy were thundering at the gates of the capital and threatened Rome itself, and not relying upon the Senate alone, who were trembling in their places, they had to call upon a great man; they had to call Cincinnatus from his plow, and he came as a dictator for the day to lead its armies into battle and achieve a victory, and then he did as did Washington: he laid down the baton of command and resigned power again to the Government. So with all the old dictators in the Roman period. If the time should come when we should be threatened at our capital, it might be necessary for us to do the same thing. That time has not yet come. It has never been. Some of my friends have been alarmed at the thundering across the other side of the Potomac, and hundreds left here over the Baltimore and Ohio railroad. They never did really thunder about here at all. It is all a mistake, and we never had any occasion for those alarms, and the instruments on the top of the Capitol. We are free from all such dangers. No enemy of ours, no Sabines from the hills about Rome

or the valleys there, will come as they came to Rome, and attack us. When they do, we will talk then about Cincinnatus and his plow.

Mr. President, I shall feel, if this bill be passed, that we have passed the period of belief, of faith in our institutions. I have lived with great faith; I have great faith now; but my faith will be terribly shattered if we undertake to establish a military despotism throughout the whole southern part of our Republic. I shall feel that we have forgotten all the lessons that belong to the past. I shall feel that there are some evil, anarchic spirits now seeking and securing rule who do not aim at the security or the unity of the Republic, but seek anarchy and confusion for ultimate results, the exact ultimates of which I cannot now understand. I have endeavored to comprehend them. They have been beyond my comprehension; but I can conceive of their being nothing less than this, at least: that out of this confusion, this trampling down of others, they may arise themselves. It may be well for some men to think that these things can be done; it may make them happy for a day; they may enjoy the prospect of triumph for a day; but that will not be a long day. It must necessarily be a brief one, for the truth must triumph, and I cannot myself but feel that those who seek this trampling down, crowding down, compelling and conquering, as they say, an already conquered and vanquished people, are men whose hearts have no touch of the milk of human kindness and whom God hath not blessed.

Mr. President, I do not dare to pursue this thing into lengthy discussion, although were it not for the hour and the occasion I would discuss it at particular length. In all this there is great wrong, and for all this the vengeance that is asserted—and they say that vengeance belongs to God alone; it is His—but then there is a vengeance that will return upon the authors of this measure, though it may be long concealed within the skies; for no wrong, no cruelty, no injury to others, but leaves its scar upon the body of him who commits it; and when you go down to Hades, all of you, you have got to unclasp yourselves, and for every piece of iniquity you have committed, every piece of wrong you have committed, there is a scar upon your body; and when you pass through all your scars will be examined, and I say that those who promote this measure will be so full of scars that they will never be admitted into the company of the heroes and sages.

The amendment was ordered to be engrossed and the bill to be read a third time. It was read the third time.

Mr. WILSON. I ask that the vote be taken by yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. MORRILL. My colleague [Mr. FESSENDEN] is detained from the Senate by illness, and he desired me to say that if he were here he would vote for the bill with or without the amendment, but that he had paired off with Mr. JOHNSON, who would vote against the bill.

The question being taken by yeas and nays, resulted—yeas 29, nays 10; as follows:

YEAS—Messrs. Anthony, Brown, Cattell, Chandler, Connors, Cragin, Creswell, Fogg, Frelinghuysen, Grimes, Howard, Kirkwood, Lane, Morgan, Morrill, Poland, Pomeroy, Ramsey, Ross, Sherman, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—29.

NAYS—Messrs. Buckalew, Cowan, Davis, Doolittle, Hendricks, McDougall, Nesmith, Norton, Patterson, and Saulsbury—10.

ABSENT—Messrs. Dixon, Edmunds, Fessenden, Foster, Fowler, Guthrie, Harris, Henderson, Johnson, Sumner, Nye, Riddle, Sprague, and Sumner—13.

So the bill was passed.

Mr. SHERMAN. I move to amend the title of the bill by striking out the word "insurrectionary" and inserting "rebel;" so as to read: "A bill to provide for the more efficient government of the rebel States."

Mr. McDUGALL. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. SAULSBURY. I simply wish to say that I cannot vote on this question. I do not

believe that these States are either rebel States or insurrectionary States.

The question being taken by yeas and nays resulted—yeas 27, nays 4:

YEAS—Messrs. Anthony, Cattell, Chandler, Connors, Creswell, Frelinghuysen, Grimes, Howard, Howe, Kirkwood, Lane, Morgan, Morrill, Patterson, Poland, Pomeroy, Ramsey, Ross, Sherman, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—27.

NAYS—Messrs. Buckalew, Doolittle, Hendricks, and McDougall—4.

ABSENT—Messrs. Brown, Cowan, Cragin, Davis, Dixon, Edmunds, Fessenden, Fogg, Foster, Fowler, Guthrie, Harris, Henderson, Johnson, Nesmith, Norton, Nye, Riddle, Saulsbury, Sprague, and Sumner—21.

So the title was amended.

Mr. WILSON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate (at twenty-two minutes past six o'clock, Sunday morning, February 17,) adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, February 22, 1867.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

On motion of Mr. ALLEY, the reading of the Journal of yesterday was dispensed with by unanimous consent.

### TARIFF BILL.

Mr. O'NEILL. I offered a resolution yesterday, which was referred to the Committee on Printing under the rule, asking for the printing of two thousand extra copies of the tariff bill as amended by the Committee of Ways and Means. We are daily in receipt of many letters from our constituents who take a great deal of interest in that bill. I would inquire whether it is in order to move to suspend the rule by which that resolution was sent to the Committee on Printing, so that it may be acted upon at once?

The SPEAKER. It is not a rule of the House, but a law of Congress, which no order of the House, even by unanimous consent, can set aside.

### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. STEVENS. I am directed by the Committee on Appropriations to report back the Senate amendments to the bill of the House No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1868, and for other purposes. The committee recommend concurrence in some of the amendments and non-concurrence in others. I ask that they may be considered now.

No objection was made.

First amendment of the Senate:

On page 3, line five, strike out the words "for Congressional Globe," and insert in lieu thereof the words "for reports of debates and proceedings of the Senate in book form."

The Committee on Appropriations recommend non-concurrence in the amendment of the Senate.

The amendment was non-concurred in.

Second amendment:

On page 3, strike out all after "proceedings" in line seven, and including "Congress" in line eight, and insert "of the Senate daily."

The committee recommend non-concurrence.

The amendment was non-concurred in.

Third amendment:

On page 3, line eleven, strike out "for the Congressional Globe."

The committee recommend non-concurrence.

The amendment was non-concurred in.

Fourth amendment:

On page 3, strike out all after "Senate" in line twelve to the word "eight" in line thirteen.

The committee recommend non-concurrence.

The amendment was non-concurred in.

Fifth amendment:

On page 6, strike out all after "dollars" in line four down to "twenty-five" in line six, as follows: "Amounting to \$50,000, one half of which is to be paid by the Senate."

The committee recommend concurrence.

The amendment was concurred in.

## Sixth amendment:

In lines thirteen and fourteen, on page 6, strike out "Congressional Globe and Appendix," and insert "debates and proceedings of the House."

The committee recommend non-concurrence.

Mr. LE BLOND. I have noticed quite a number of these amendments relating to the Congressional Globe. I would ask what changes have been made in the bill by the Senate in which the Committee on Appropriations recommend non-concurrence?

Mr. STEVENS. In the original bill the House made the usual appropriations for the Globe, and the Senate struck them all out. The Committee on Appropriations recommend non-concurrence in the amendments of the Senate.

Mr. LE BLOND. That is all I desired to know.

The amendment was non-concurred in.

## Seventh amendment:

Page 6, lines fourteen and fifteen, strike out "first regular session of."

The committee recommend concurrence.

The amendment was concurred in.

## Eighth amendment:

On page 6, in lines eighteen and nineteen, strike out "Congressional Globe and Appendix," and insert "debates and proceedings of the House."

The committee recommend non-concurrence.

The amendment was non-concurred in.

## Ninth amendment:

On page 6, strike out all after "provide," in line twenty-five down to the end of line three, on page 7, and insert in lieu thereof the following:

That the notice required by the fourth section of the act entitled "An act to pay in part for publishing the debates in Congress, and for other purposes, approved July 4, 1864," is hereby given that Congress will in two years from the close of the present Congress abrogate the provisions of the first and second sections of said act.

The committee recommend non-concurrence.

The amendment was non-concurred in.

## Tenth amendment:

On page 7, in lines twenty-three and twenty-four, strike out "in the Daily Globe" and insert "of the House daily."

The committee recommend non-concurrence.

The amendment was non-concurred in.

## Eleventh amendment:

On page 7, in line twenty-seven, strike out "for the Congressional Globe."

The committee recommend non-concurrence.

The amendment was non-concurred in.

## Twelfth amendment:

On page 8, in line one, strike out "for the first regular session of the Fortieth Congress."

The committee recommend concurrence.

The amendment was concurred in.

## Thirteenth amendment:

On page 9, in line fourteen, after "loading" insert "periodicals and"

The committee recommend concurrence.

The amendment was concurred in.

## Fourteenth amendment:

On page 11, after line six insert "for rent of said building, \$15,000."

The committee recommend concurrence.

The amendment was concurred in.

## Fifteenth amendment:

On page 11 insert "for alterations and improvements of building, and for means of protecting against its destruction by fire, \$15,000."

The committee recommend concurrence.

The amendment was concurred in.

## Sixteenth amendment:

On page 12, in line sixteen, after "department" insert "chief clerk."

The committee recommend concurrence.

The amendment was concurred in.

## Seventeenth amendment:

On page 13, in line three, after "clerks" insert "laborers."

The committee recommend concurrence.

The amendment was concurred in.

## Eighteenth amendment:

On page 14, after line sixteen, insert "for temporary clerks in the Treasury Department, \$50,000: *Provided*, That the Secretary of the Treasury be, and is hereby, authorized, in his discretion, to classify the clerks authorized according to the character of their services."

The committee recommend non-concurrence.

The amendment was non-concurred in.

## Nineteenth amendment:

On page 14, after line twenty insert "for janitors for Treasury Department, \$15,000."

The committee recommend concurrence.

The amendment was concurred in.

## Twentieth amendment:

On page 16, after line eight insert "Bureau of Statistics, for contingent expenses, namely: laborers, office furniture, carpets, fitting up files, and miscellaneous items, \$4,000; for the collection of statistics of mines and mining, \$15,000."

The committee recommend concurrence.

The amendment was concurred in.

## Twenty-first amendment:

On page 32, in line twelve strike out "five" and insert "nine."

The committee recommend concurrence.

The amendment was concurred in.

## Twenty-second amendment:

On page 32, in line fourteen, strike out "four" and insert "seven;" strike out "seven" and insert "six."

The committee recommend concurrence.

The amendment was concurred in.

## Twenty-third amendment:

On page 32, in line fourteen, strike out "fifty" and insert "thirty."

The committee recommend concurrence.

The amendment was concurred in.

## Twenty-fourth amendment:

On page 34, strike out all after "provided," in lines fourteen and fifteen down to the end of line seventeen.

The committee recommend concurrence.

The amendment was concurred in.

## Twenty-fifth amendment:

On page 34, after line twenty-four, insert "for the purchase of the Glover Museum, \$10,000."

The committee recommend concurrence.

The amendment was concurred in.

## Twenty-sixth amendment:

On page 45, strike out lines eighteen, nineteen, twenty, and twenty-one.

The committee recommend concurrence.

The amendment was concurred in.

## Twenty-seventh amendment:

On page 46, in line two strike out "tenth" and insert "ninth."

The committee recommend concurrence.

The amendment was concurred in.

## Twenty-eighth amendment:

Insert:  
And in case said court shall in any year direct said reporter to publish a second volume of its decisions, \$1,500 in addition thereto, to be paid on the delivery by said reporter to the Secretary of the Interior for distribution, according to existing laws, of three hundred copies of such second volume.

The committee recommend non-concurrence.

The amendment was non-concurred in.

## Twenty-ninth amendment:

Insert:  
For the purchase of reports for the Supreme Court of the United States and for the use of the State Department, \$1,000.

The committee recommend concurrence.

The amendment was concurred in.

## Thirtieth amendment:

Page 46, strike out all after "dollars" in line twenty-three to the end of line twenty-five, on page 47, as follows:

*Provided*, That no further expenditures shall be made for the experimental system of hydrostatic printing by the Treasury Department until such experiments shall have been definitely authorized by law and a distinct appropriation made therefor.

The committee recommend concurrence.

The amendment was concurred in.

## Thirty-first amendment:

Page 47, after line one, insert:  
For facilitating communications between the Atlantic and Pacific States by electrical telegraph, \$40,000.

The committee recommend concurrence.

The amendment was concurred in.

## Thirty-second amendment:

Page 47, line twenty-one, strike out "four" and insert "five;" so it will read:

For compensation to the laborer in charge of the water-closets in the Capitol, \$538.

The committee recommend concurrence.

The amendment was concurred in.

## Thirty-third amendment:

Page 47, line twenty-three, strike out "in" and insert "the."

The committee recommend concurrence.

The amendment was concurred in.

## Thirty-fourth amendment:

Page 48, line eight, strike out "two" and insert "eight."

The committee recommend concurrence.

The amendment was concurred in.

## Thirty-fifth amendment:

Page 48, line eleven, strike out all after "house" and insert "\$3,168."

The committee recommend non-concurrence.

The amendment was non-concurred in.

## Thirty-sixth amendment:

Page 48, after line thirteen, insert:  
For compensation of two watchmen at the President's House, \$1,800.

The committee recommend concurrence.

The amendment was concurred in.

## Thirty-seventh amendment:

Insert the following:  
For compensation of three watchmen on the dome, \$2,700.

The committee recommend concurrence.

The amendment was concurred in.

## Thirty-eighth amendment:

Insert the following:  
For compensation to a person to take care of the heating apparatus of the Library of Congress, \$1,000.

The committee recommend concurrence.

The amendment was concurred in.

## Thirty-ninth amendment:

Page 50, line one, strike out "twenty" and insert "fifty."

The committee recommend concurrence.

The amendment was concurred in.

## Fortieth amendment:

Page 50, line three, strike out "November" and insert "July."

The committee recommend concurrence.

The amendment was concurred in.

## Forty-first amendment:

Page 50, line three, strike out "six" and insert "seven."

The committee recommend concurrence.

The amendment was concurred in.

## Forty-second amendment:

Page 50, line ten, after "Washington" insert "beyond the limits of said city."

The committee recommend concurrence.

The amendment was concurred in.

## Forty-third amendment:

Page 50, line twelve, strike out "empowered" and insert "required."

The committee recommend concurrence.

The amendment was concurred in.

## Forty-fourth amendment:

Strike out the following:  
Sec. 2. *And be it further enacted*, That to enable the Clerk of the House of Representatives to pay the increased compensation voted by the House during the Thirty-Ninth Congress to its employees, clerks, and others, and to pay the increased rate of compensation thereby authorized, a sum sufficient therefor is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The committee recommend non-concurrence.

The amendment was non-concurred in.

## Forty-fifth amendment:

Strike out the following:  
Sec. 3. *And be it further enacted*, That the proviso contained in the third section of chapter two hundred and ten of the act of July 2, 1864, shall be construed to embrace all suits to which the United States shall be a party in the Court of Claims, either plaintiff or defendant.

The committee recommend non-concurrence.

The amendment was non-concurred in.

## Forty-sixth amendment:

Add the following:  
Sec. 4. *And be it further enacted*, That each night watchman at the Treasury Department shall, from the 1st day of July, 1867, receive a compensation of \$900 per annum; and an amount sufficient to pay said increased compensation for the fiscal year ending June 30, 1868, is hereby appropriated.

The committee recommend concurrence, with an amendment striking out "night."

The amendment was agreed to; and the amendment, as amended, was concurred in.

## Forty-seventh amendment:

Add the following:

SEC. — *And be it further enacted*, That the Secretary of the Interior is hereby authorized to appoint in the office of Commissioner of Pensions, in addition to clerks now authorized in said office, twenty-eight clerks of class one; twenty-four of class two; eighteen of class three, and ten of class four; said clerkships to expire at the end of this year; and a sum sufficient to pay the salaries of said clerks from the date of their appointment to the 30th of June, 1867, and for the fiscal year ending the 30th of June, 1868, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The committee recommend non-concurrence.  
The amendment was non-concurred in.

## Forty-eighth amendment:

Add the following:

*And be it further enacted*, That the salary of the district judge of California shall be \$5,000; the salary of the district judge of the district of Massachusetts, southern and eastern districts of New York, eastern district of Pennsylvania and Maryland, northern district of Illinois, Louisiana, Oregon, and Nevada, shall be \$4,500 each; and the salaries of the district judges of every other district shall be \$4,000 each; and such salaries shall be in full compensation for all official services performed by such judges, and no other allowance or payment shall be made to them for traveling expenses or otherwise; and the amount necessary to pay the increased compensation herein provided for shall be paid out of any money in the Treasury not otherwise appropriated.

The committee recommend concurrence.

Mr. KASSON. Mr. Speaker, on the part of the committee I move non-concurrence, with a view of a modification of one or two items.  
The amendment was non-concurred in.

## Forty-ninth amendment:

Add the following:

*And be it further enacted*, That the Secretary of War is hereby authorized to direct a geological and topographical exploration of the territory between the Rocky mountains and the Sierra Nevada mountains, including the route or routes of the Pacific railroad: *Provided*, The same can be done out of existing appropriations.

The committee recommend concurrence.  
The amendment was concurred in.

## Fiftieth amendment:

Add the following:

*And be it further enacted*, That the salary of the Chief Clerk of the Senate shall be \$4,000, that of the Sergeant-at-Arms \$3,500 per annum, and that of the Assistant Doorkeeper shall be \$2,500 per annum; that section eighteen of an act allowing twenty per cent. on the pay of officers and employes of the Senate shall not apply to the salaries hereby fixed; and the sum necessary to pay the increased compensation herein provided for the current and ensuing fiscal year shall be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The committee recommend non-concurrence.  
The amendment was non-concurred in.

## Fifty-first amendment:

Amend the title of the bill by adding thereto "and for other purposes."

The committee recommend concurrence.  
The amendment was concurred in.

Mr. STEVENS moved to reconsider the vote by which the various amendments of the Senate were concurred in and non-concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STEVENS moved a committee of conference.

A committee of conference was ordered; and the Chair appointed Messrs. STEVENS, NIBLACK, and CONKLING conferees on the part of the House.

## ENFORCEMENT OF THE RULES.

Mr. SPALDING. I rise to a privileged question. I wish to obtain, if necessary, the sense of the House on having the rules rigidly enforced in regard to the admission of others than members and officers of the House to the floor and in the lobbies. If necessary I will offer a resolution directing the Doorkeeper to rigidly enforce the rules.

Mr. MAYNARD. I hope the gentleman will give some reason.

Mr. SPALDING. Because we are impeded every hour by outsiders and lobby members. We must have the Hall clear in order to go on with the necessary business of the House.

The SPEAKER. Any member has a right

to call for the enforcement of the rules, and they will therefore be enforced.

## COLLECTION OF TAXES IN WEST VIRGINIA.

Mr. ALLISON, from the committee of conference on the disagreeing votes of the two Houses on Senate joint resolution No. 90, to suspend the temporary collection of direct taxes in West Virginia, submitted the following report:

The committee of conference on the disagreeing vote of the two Houses on the joint resolution (S. R. No. 90) to suspend temporarily the collection of the direct tax within the State of West Virginia, having met, after full and free conference have agreed to recommend to their respective Houses as follows:

That the Senate recede from their disagreement to the sixth amendment of the House to said joint resolution and agree to the same.

W. B. ALLISON,  
ROBERT C. SCHENCK,  
*Managers on the part of the House.*  
P. G. VAN WINKLE,  
T. O. HOWE,  
*Managers on the part of the Senate.*

The report of the committee of conference was agreed to.

Mr. ALLISON moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HUBBELL, of Ohio. I ask unanimous consent of the House to make a report from the Committee on Agriculture, which will occupy very little time.

Mr. MOORHEAD. I demand the regular order of business. I move that the rules be suspended for the purpose of setting aside the morning hour entirely, so that we may now go on with the tax bill.

Mr. HUBBELL, of Ohio. I object to that.  
The SPEAKER. The Chair will state that on the motion of the gentleman from Massachusetts, [Mr. BANKS,] under a suspension of the rules, it was ordered that the morning hour should not be interrupted by any other business. The gentleman from Pennsylvania [Mr. MOORHEAD] now moves to suspend the rules, for the purpose of rescinding the action taken upon the motion of the gentleman from Massachusetts.

The question was taken upon the motion of Mr. MOORHEAD, and two thirds not voting in favor thereof the rules were not suspended.

Mr. MOORHEAD. I now demand the regular order of business.

## MILITARY ACADEMY.

Mr. STEVENS, from the Committee on Appropriations, reported back the amendments of the Senate to bill of the House No. 912, making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1868, with the recommendation that some of the amendments of the Senate be concurred in and some be not concurred in.

The first amendment of the Senate was to strike out all after the word "dollars," in line forty-one, page 3, down to the end of the fifty-third line, as follows:

*Provided*, That no part of the sums appropriated by the provisions of this act shall be expended in violation of the provisions of an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862. *And provided further*, That no part of the moneys appropriated by this or any other act shall be applied to the pay or subsistence of any cadet from any State declared to be in rebellion against the Government of the United States, appointed after the 1st day of January, 1866, until such State shall have been returned to its original relations to the Union under and by virtue of an act or joint resolution of Congress for that case made and provided.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Second amendment:

Add the following as an additional section:

SEC. — *And be it further enacted*, That the chaplain of the West Point Military Academy shall hereafter be relieved from academic duties, in order that he may devote himself exclusively to the moral and religious training of the cadets. He shall be required to hold daily in the chapel morning prayers, and to form a class for Biblical instruction on the Sabbath day; and all parades and other military duty shall

be dispensed with at the Academy on that day, as far as consistent with proper military discipline.

The committee recommend non-concurrence.  
The amendment was non-concurred in.

## Third amendment:

On page 3, line sixty, strike out the words "stove in," and insert in lieu thereof the words "stove and."  
The committee on recommend concurrence.  
The amendment was concurred in.

## Fourth and last amendment:

Amend the title of the bill by adding thereto the words "and for other purposes."

The committee recommend concurrence.  
The amendment was concurred in.

Mr. STEVENS moved to reconsider the votes by which the several amendments were concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STEVENS moved that a committee of conference be appointed on the part of the House on the disagreeing votes of the two Houses, on the amendments of the Senate to the bill.

The motion was agreed to.

The SPEAKER appointed Mr. SPALDING, Mr. KASSON, and Mr. ELDRIDGE, the conferees on the part of the House.

## CONSULAR AND DIPLOMATIC APPROPRIATIONS.

Mr. STEVENS, from the Committee on Appropriations, reported back the amendments of the Senate to bill of the House No. 904, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1868, and for other purposes.

## First amendment of the Senate:

On page 1, line nine, after the word "Peru" insert "Portugal."

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

## Second amendment:

On page 2, line nine, strike out "sixty-five" and insert "thirty."

The committee recommend non-concurrence.  
The amendment was non-concurred in.

The remaining amendments of the Senate were, on the recommendation of the committee, concurred in.

Mr. LE BLOND. I move to reconsider the vote by which the House non-concurred in the Senate amendment in reference to the Minister of Portugal. I hope the House will concur in the Senate amendment in that case.

Mr. STEVENS. There will have to be a committee of conference, and probably some arrangement will be made in reference to that mission.

Mr. LE BLOND. I am aware of that; but I am also aware of the difficulty of separating one amendment from the rest in a committee of conference; hence I move to reconsider the concurrence at this time.

Mr. FARNSWORTH. I move to lay the motion to reconsider on the table.

Mr. LE BLOND. Upon that motion I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division, there were — yeas 18, noes 80; not one fifth voting in the affirmative.

Before the result of the vote was announced, Mr. LE BLOND called for tellers upon ordering the yeas and nays.

The question was taken upon ordering tellers, and twenty-five voted in the affirmative.

So (one fifth of a quorum voting in the affirmative) tellers were ordered; and Mr. FARNSWORTH and Mr. LE BLOND were appointed.

The House again divided; and the tellers reported that there were yeas twenty-five, noes not counted.

So (the affirmative being more than one fifth of the last vote) the yeas and nays were ordered.

The question was taken; and it was decided



in the affirmative—yeas 86, nays 30, not voting 74, as follows:

**YEAS**—Messrs. Alley, Anderson, Arnell, James M. Ashley, Baker, Beaman, Benjamin, Bidwell, Boutwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Conkling, Cook, Cullom, Darling, De-frees, Deming, Donnelly, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Abner C. Harding, Hart, Hawkins, Henderson, Higby, Hill, Holmes, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Jenckes, Julian, Kasson, Kelley, Kelso, Kootz, Kuykendall, George V. Lawrence, Longyear, Lynch, Marvin, Maynard, McIndoe, McKee, McRuer, Mercer, Miller, Morris, Myers, Newell, O'Neill, Orth, Paine, Perham, Phelps, Pike, Plants, Pomeroy, Price, Rollins, Sawyer, Schenck, Seofield, Shellabarger, Sloan, Spalding, Stevens, Stokes, Thayer, John L. Thomas, Trowbridge, Upson, Bart Van Horn, Warner, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, and Stephen F. Wilson—86.

**NAYS**—Messrs. Ancona, Bergen, Boyer, Campbell, Chanler, Cooper, Davis, Dawes, Dawson, Denison, Eldridge, Finck, Hise, James R. Hubbell, Humphrey, Kerr, Le Blond, McCulloch, Niblack, Neill, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Taber, Nelson Taylor, and Trimble—30.

**NOT VOTING**—Messrs. Allison, Ames, Delos R. Ashley, Baldwin, Banks, Barker, Baxter, Bingham, Blaine, Blow, Brandegee, Bundy, Sidney Clarke, Culver, Delano, Dixon, Dodge, Driggs, Dismont, Eekley, Glossbrenner, Goodyear, Grinnell, Griswold, Hale, Aaron Harding, Harris, Hayes, Hogan, Hooper, Hotchkiss, Asahel W. Hubbard, Edwin N. Hubbell, Hulburt, Hunter, Ingersoll, Jones, Ketcham, Laffin, Latham, William Lawrence, Letwith, Loan, Marshall, Marston, McClurg, Moorhead, Morrill, Moulton, Nicholson, Patterson, Radford, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Starr, Stilwell, Strouse, Nathaniel G. Taylor, Francis Thomas, Thornton, Van Aernam, Robert T. Van Horn, Andrew H. Ward, Hamilton Ward, Elihu B. Washburne, Wentworth, Whaley, Williams, Windom, Winfield, Woodbridge, and Wright—74.

So the motion to reconsider was laid on the table.

During the roll-call,

Mr. FERRY said: I desire to state that my colleague, Mr. DRIGGS, is still confined to his bed by illness; and therefore is unable to be present in the House at this time.

Mr. STEVENS moved to reconsider the various votes of the House upon the amendments of the Senate; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. STEVENS. I move that a committee of conference be requested upon the disagreeing votes of the two Houses upon this bill.

The motion was agreed to.

The SPEAKER appointed the following as the conferees on the part of the House: Mr. STEVENS, Mr. FARNSWORTH, and Mr. LE BLOND.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 910) granting lands to the State of Oregon to aid in the construction of a military wagon-road from Dalles City, on the Columbia river, to Fort Boise, on the Snake river;

An act (H. R. No. 965) declaring Clinton bridge, across the Mississippi river, at Clinton, in the State of Iowa, a post route; and

An act (H. R. No. 1130) to amend section twelve, chapter two hundred and ninety-nine of the laws of the first session of the Thirty-Ninth Congress.

#### PUBLICATION OF LAWS OF CONGRESS.

Mr. COOPER, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing, under the law:

*Resolved*, That the Committee on Printing be directed to inquire into the expediency of having ten thousand copies, in pamphlet form, of the laws of the United States, enacted during the Thirty-Sixth, Thirty-Seventh, Thirty-Eighth, and Thirty-Ninth Congresses, published for distribution under the direction of the Clerk of the House, in the States lately in rebellion, and to report by bill or otherwise.

#### UNITED STATES COURTS IN NEW YORK.

Mr. HUMPHREY, by unanimous consent, introduced a bill in relation to district and circuit courts for the northern and southern districts of New York; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. CONKLING moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RELIEF OF GOVERNMENT CONTRACTORS.

Mr. SLOAN. I call for the regular order of business.

The SPEAKER. This being private bill day, the first business in order during the morning hour is the consideration of reports from committees of a private nature. At the conclusion of the morning hour on Saturday last the bill under consideration was the bill of the Senate No. 220, for the relief of certain contractors for the construction of vessels-of-war and steam machinery, upon which the gentleman from Wisconsin [Mr. SLOAN] is entitled to the floor for forty minutes.

Mr. SLOAN. I desire to explain briefly the principle which governed the Committee of Claims in making their report in these cases, and then if there is no desire for further discussion I will call the previous question.

The case, as presented to the Committee of Claims by the Senate bill referred to the committee, is an application for relief on the part of over forty contractors who were engaged in building vessels-of-war and steam machinery for the Government. These claims are based upon two grounds. The first is that the Government, through the action of the Navy Department, did not comply with its contract with these contractors; that these vessels and machinery were required to be constructed according to certain plans and specifications prescribed in the contracts; that the Government failed to furnish the plans and specifications which were necessary that the contractors might prosecute the work; that after the work of construction was entered upon the Government, in consequence of its plans being imperfect, made extensive alterations which much delayed the execution of the contracts until, in consequence of the continuance of the war, the demand for men and material, prices had greatly increased; and that thus the contractors, by the action of the Government in not complying with the contracts, were subjected to large losses.

Mr. SPALDING. I desire to ask the gentleman whether that extra work was not paid for?

Mr. SLOAN. I will refer to that point directly.

Mr. SPALDING. Certainly it was paid for by the Navy Department. It so appeared in the evidence.

Mr. SLOAN. As I understand, the Navy Department undertook to adjust and settle with these contractors all the loss and increased expense which they suffered on account of the delays caused by the action of the Department and the changes and alterations which were made in the vessels.

Mr. HILL. Will the gentleman permit a single inquiry? The report of the committee states that a certain resolution accompanies the report. I have been unable to find it.

Mr. SLOAN. The resolution is printed and ought to be upon the desks of members. I presume the gentleman can obtain a copy.

Mr. HILL. It has not been furnished.

The SPEAKER. As the Chair understands the propositions now pending, they are, first, the Senate bill; then the substitute reported from the Committee of Claims by the gentleman from Wisconsin, [Mr. SLOAN;] and then the proposition reported as an amendment to the amendment by the gentleman from Kentucky, [Mr. McKEE,] a minority of the committee. Those, as the Chair understands, are the several propositions pending.

Mr. SLOAN. I do not understand that the proposition of the gentleman from Kentucky is pending. I believe he simply gave notice that it would be offered.

The SPEAKER. The gentleman from Kentucky, as the Chair understood, had leave to make a minority report and to offer a substi-

tute for the amended bill reported by the committee.

Mr. SLOAN. As I understood, he simply had consent to make a report, and gave notice that he would, if he had an opportunity, offer a proposition as a substitute for the bill reported by the committee.

The SPEAKER. The Chair will have the Journal examined. Meanwhile, perhaps, the gentleman from Kentucky, can state whether when he made the minority report he obtained consent to have his substitute pending.

Mr. McKEE. On the day the report of the committee was presented, just at the conclusion of the morning hour, I gave notice of my intention to offer a substitute; and on the next day, when the matter was under consideration, the gentleman from Wisconsin yielded to me that I might offer my substitute, which I did.

The SPEAKER. It is recorded on the Journal as having been offered on the second day, when the bill was under consideration.

Mr. SLOAN. Mr. Speaker, the second ground upon which these claimants ask relief at the hands of Congress, is that these contracts were made at a time when labor and material were at ordinary prices, that subsequently the price of labor and materials advanced so greatly that it was impossible for the contractors to build these vessels at the prices stipulated.

The first action taken upon these claims in the Senate was to pass a resolution directing the Navy Department to cause a board of naval officers to investigate and report to the Department and to Congress how much each of these vessels has cost the contractors over and above the contract price.

In that resolution there was no discrimination as to whether the loss was caused by the mismanagement of the contractor or by the action of the Government.

This same resolution required a report as to how much these vessels and machinery had cost over the contract price. That report was submitted to Congress, and it presents some remarkable features. It will be observed by the gentlemen who have examined the report that the difference in cost of those vessels over the contract price varies very much. They were built at different stations, by different contractors, at very different prices. For instance, in constructing the machinery for the double-enders the contract price was the same, in all cases \$82,000, and the machinery was of the same description, of the same character and dimensions; and we find in this report the loss of contractors at the same price for work of the same description varied from \$5,817 in one case to \$61,752 in another. You will find that the other cases vary between these two sums. You will also find there were five iron-clad vessels contracted for, the contract price for which was \$275,000 in each of the five cases, and the increased cost over the contract price ranges from \$28,974 to \$118,554 on vessels where the contract price was the same and where they were of the same dimensions. There were six other contracts in which the contract price is \$460,000 in each case, and the cost over contract price, according to the award of the naval board, varies from \$4,793 38 to \$119,020 57. It will thus be observed in the contracts for the same work the cost was very widely different, some contractors being subjected to a small loss and others to a very heavy loss.

Now, when this report came into the Senate, instead of attempting to pay these claims according to the loss, in each case, instead of investigating how much of the loss had been produced by the action of the Government, and how much by the mismanagement and improvidence of the contractor, a bill was passed to pay each of these claimants twelve per cent. upon the contract price, without regard to whether the Government had been at fault, or had not been at fault; without regard to whether the execution of the contracts had been managed prudently, economically, and wisely on the part of the contractors or not. The Senate adopted the arbitrary rule to pay

twelve per cent. upon the contract price. The result of that rule as applied to these cases is this: some contractors are paid in full for the loss they sustained, while other contractors are paid a small percentage, as low as fifteen per cent. in some cases; the amount ranging from fifteen to one hundred per cent. The Committee of Claims were of the opinion there was no reason, no justice in this rule to pay this amount without regard to whether the Government was in fault in regard to the contract; whether there was any legal or even equitable liability on the part of the Government to pay them.

I think it must be conceded if this loss was produced by the mismanagement of the contractor himself there is no claim even on equitable grounds that he should be reimbursed out of the Treasury of the United States. The Committee of Claims therefore in the first place discarded the partial and inequitable rule upon which the Senate bill afforded relief. The next question presented was what rule ought the Government to adopt in dealing with these contractors. There is certainly a desire I take it on the part of every member of this House and the other House that the Government of the United States should deal justly and equitably with all of these contractors; if there are any legal grounds of liability on which they can be reimbursed for any loss they have sustained in dealing with the Government, that the Government should promptly, freely, and without reluctance do it.

The Committee of Claims have decided that if it be true the Government has failed to perform its part of the contract, if it subjected the contractors to delay in prosecuting their work by not furnishing specifications and drawings, then they ought to be reimbursed for all loss occasioned by such delay; also in case of alterations and changes in the construction of these vessels or their machinery which the contracts did not provide for, the Government ought to indemnify the contractors.

The second ground upon which the claimants ask relief is that the price of labor and materials advanced greatly during the time the work was being prosecuted, and claim that the Government ought to make good the loss occasioned by such advance. By adopting that principle in every case where the Government enters into a contract with an individual, if prices go up so as to render the contract unprofitable to the contractor and subjecting him to loss, the Government would be bound, following the precedent we are asked to establish in this case, to make good the loss. The Committee of Claims probably take a more serious view of the consequences of establishing this principle than other members on this floor, for the reason that they have had their attention called to the large amount of expenditure it would involve if the principle is adopted. Already applications have been made to the committee to reimburse men who have done work upon the Treasury buildings because prices advanced during the execution of the contract; and the same is true in regard to contracts for work on the Capitol dome, in contracts with the Post Office Department, and for light-houses. And this would be the case with contracts made by all the Departments of the Government if you establish the principle of giving relief because prices advanced during the fulfillment of the contract. In order to deal impartially you would have to give relief to all, for there is no contract between the Government and individuals entered into before 1862 any part of which was to be fulfilled after that time, in which the same ground for a claim against the Government does not exist.

The committee therefore decided that that is not a safe or a proper ground upon which to afford relief to the claimants in these cases, and accordingly we have reported this resolution which provides that the Navy Department shall inquire how much loss each of these claimants was subjected to on account of any delay which the Government caused in the execution of the contract on its own part,

and also on account of any change or alteration which it directed in the work during its prosecution, with a view that when Congress becomes possessed of that information it may award to these claimants what is properly and equitably due them; or if nothing is due, it may have some substantial reasons to base its refusal upon.

As the case now stands, Congress is asked to legislate upon these cases blindly, and to appropriate more than a million dollars from the Treasury with no knowledge whether a single dollar ought to be paid or not. These contractors allege that the Government is at fault, that it has dealt unjustly and harshly with them; but there has been no investigation, no report that shows to what extent the Government has violated its contract, if at all. And in addition to that, it appears from the report of this naval board that the Government has already paid over fourteen hundred thousand dollars to these same contractors to reimburse them for delays and for the alterations which the Government caused them to make in the vessels. It is thought that this amount which the Government has already paid may be sufficient to reimburse all the losses it has caused, but no one can form an intelligent opinion in relation to that until we have a report of the facts.

Now, by the resolution reported by the committee, if this \$1,400,000 already paid is not sufficient to make good to the contractors all the losses which occurred from the action of the Government, the necessary information is required to be furnished upon which Congress can act and give them a just and true measure of compensation.

Mr. MILLER. Will the gentleman allow me to ask if that \$1,400,000 already paid was over and above the contract price?

Mr. SLOAN. It was. It is alleged that this allowance is not large enough to compensate for the action of the Government, and the House is in entire ignorance whether it is or not, or whether it was at fault at all; and there are no means of judging to what extent, if any, the Government was at fault. I apprehend, if the Senate bill shall be adopted by this House in lieu of the resolution which the Committee of Claims have reported, it will not be a final settlement of these claims; for when the claimants find themselves in the situation of having this arbitrary and partial rule applied to them by which some will be paid in full one hundred per cent. on all their losses, others fifteen per cent., others twenty-five, and others fifty, we shall find those who have been awarded but a portion of their loss coming here at some future session and saying, without inquiring whether there was any liability on the part of the Government, "You have paid A, B, and C in full one hundred per cent. for all their losses, and you have paid me but fifteen per cent.," or twenty-five or fifty per cent., as the case may be. Now, I desire to know what answer will be made to that by any member who desires to do justice between the Government and the claimant? No answer can be made; and the result will be that in addition to this \$1,100,000 which the Senate bill requires to be taken out of the Treasury, another \$1,100,000 must follow at some future time for the purpose of equalizing the claims and putting them upon just grounds.

Mr. GRINNELL. I desire to ask the gentleman whether he considers that a payment in this case would be the establishment of a precedent which could not be resisted in the settlement of the claims of other contractors, which are sure to be presented for consideration?

Mr. SLOAN. I do regard it as the establishment of such a precedent. I know of no reason why, if one contractor is paid on a certain principle and another contractor also comes and brings his case within the same principle, he shall be denied the same measure of relief. If the House adopts this Senate bill, it will be an instruction to the Committee of Claims to give to those contractors who have

built light-houses, who have furnished paper to the Post Office Department, who have done work on the Treasury Department, or on the Capitol dome, and who bring similar claims before the committee, the same relief.

Mr. GRINNELL. I have a great many friends who are mail contractors, and they want to come in and get pay for the losses they have incurred.

Mr. SLOAN. It will depend upon the action of the House in this case whether they shall apply or not. If we afford relief to the contractors in this case without having it established that the Government occasioned the loss, then, in my judgment, we can refuse relief to no contractor who is in the same situation and who falls within the same rule, through the whole wide range of business which is carried on by the Government in the Navy Department, the War Department, the Interior Department, the Treasury Department, and the Post Office Department. The contractors under all these Departments will stand in the same situation as these men wherever prices went up during the execution of their contracts. The establishment of this principle by the adoption of the Senate bill would be an invitation to swarms of claimants from all the Departments of the Government, and from all parts of the country, to come here and ask relief, because they lost on their contracts in consequence of the increase of prices during their execution; and what answer can gentlemen make to them if they vote for this Senate bill? Are we to say that we will arbitrarily, as it pleases us, give relief to one man and deny it to another who stands upon the same principle and who has every consideration of justice and equity to support his claim that these claimants have? I trust not. It is equivalent to establishing the principle that no man shall ever sustain a loss by taking a contract of the Government of the United States; that if from any cause prices go up so that he is involved in loss in executing his contract the Congress of the United States will make him good; no matter what enormous profits he may make from contracts with the Government when he has a good one he may retain them; but when he happens to have an unfortunate contract, the Government will insure him against loss.

I speak more strongly on this question because I have been in a situation as member of the Committee of Claims to see and to judge to what an alarming extent such a principle would involve the Government in the expenditure of money. If it is adopted it ought immediately to be followed by a law which would abolish the making of contracts on the part of the Government for any work, or in any of its Departments.

Mr. MYERS. With the permission of the gentleman from Wisconsin, I desire to say that I am in favor of the principle adopted generally in this bill, but I want to ask the gentleman why the committee omit the names of a large number of men, such as C. H. & W. M. Cramp, Neafe & Levy, and Hillman & Streaker, who are equally entitled to relief with those named? I should like the gentleman to answer that question.

I am in favor of the Senate amendment, or the equally fair substitute of my friend from Kentucky, on the committee, [Mr. McKEE.]

Mr. SLOAN. It is true, as the gentleman from Pennsylvania states, that the amendment which we have reported includes only a part of the cases which the Senate bill proposes to relieve; but the reason for our omitting the cases which are left out is this: the largest amount of the loss which is claimed to have occurred was sustained by the builders of iron-clads and their machinery. The claims of the builders of wooden vessels and the machinery for wooden vessels are generally small, and it is not urged in relation to them that they were delayed or that, to any considerable extent, important changes or alterations were made on the part of the Government; and we therefore thought that those cases could be omitted from this inquiry. We proposed to let the principle

upon which relief shall be granted be settled in the case of the more important claimants, and then if there were any of the contractors for wooden vessels or for the machinery for wooden vessels who were entitled to relief on like principles, it would be very easy to give them relief in the same way.

Mr. MYERS. Only one moment, in reply to the gentleman from Wisconsin, [Mr. SLOAN.] One of the parties to whom I have referred has a claim of \$22,000; I do not know that the gentleman will consider that of much importance. Now, if we adopt the principle recommended by the committee—that the Government shall pay these men for losses occasioned by the fault of the Department—the matter will be left to a commission appointed by the Department to determine whether the Department has been in fault.

Mr. SLOAN. I think all important interests will be subserved by having the reference which the committee recommend.

I now call the previous question on the adoption of the substitute reported by the committee. If the previous question is seconded there will be an hour for debate, of which I will yield some to others.

Mr. LYNCH. Is the bill now open to amendment?

The SPEAKER. There is now pending to the Senate bill an amendment and an amendment to the amendment. The amendment was reported by the majority of the Committee of Claims; the amendment to the amendment was reported by the minority of the committee. That is as far as the power of amendment can go, except by unanimous consent, now that the previous question has been called.

Mr. LYNCH. I ask unanimous consent to amend the substitute reported by the committee by inserting the words "Portland Company" after the words "Stover Machine Company."

Mr. SLOAN. I have no objection to that.

The SPEAKER. If there is no objection the substitute will be modified as suggested. No objection was made.

Mr. SLOAN. I now call for the previous question.

Mr. MYERS. I desire to move to amend by inserting the following: "C. H. & W. M. Cramp, Neafie & Levy, and Hillman & Streaker" after the words "Stover Machine Company."

Mr. J. L. THOMAS. And also to insert "Poole & Hunt."

Mr. SLOAN. I think such change will be made as will be satisfactory. I insist upon the call for the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from Wisconsin [Mr. SLOAN] is now entitled to one hour to close the debate.

Mr. SLOAN. I now yield ten minutes of my time to the gentleman from Vermont, [Mr. WOODBRIDGE.]

Mr. WOODBRIDGE. I may want a little more than ten minutes. I would inquire of the Chair if the Senate bill is now pending?

The SPEAKER. The Senate bill is pending with the substitute reported by the majority of the Committee of Claims, and the amendment to the substitute reported by the minority of the committee.

Mr. WOODBRIDGE. Doubtless all the members of the House, in their private and business relations, desire to do justice to all with whom they are brought in contact. Now, I believe that the passage of the measure proposed by the majority of the Committee of Claims will fail to do justice to a class of men with whom the Government have had business relations, and who have devoted their best energies and their capital for the benefit of the Government, and have met with very serious losses by reason thereof.

In 1861, when the late rebellion was inaugurated, the vessels of our Navy were scattered all over the world. We had a coast of three thousand miles to blockade. In the insurgent region there were forts and important places

then in possession of the enemy, which it was indispensable for us to take. And it became necessary to raise in the shortest possible time—to build a fleet sufficient not only to blockade our coasts, but monitors and iron-clads were required which could successfully pass forts and resist the cannon with which they were mounted.

The Government had no experience in the building of iron-clads, and were not able in their own work-shops and navy-yards to meet the necessary demands. All the ship-yards of the country of any magnitude and importance were called into requisition; and the ship-builders abandoned their accustomed work and devoted their money and their time to the service of the Government.

The claimants do not ask any profits out of their contracts. They only ask that they may be placed just where they were before they began the construction of the vessels which were imperatively demanded at the time they were constructed. They do not ask to make one cent, and if we pass the Senate bill they will lose the interest on their money for several years.

Now, sir, the gentleman from Wisconsin, [Mr. SLOAN,] representing the majority of the committee, has said that if we vote for the Senate bill we must vote blindly. He admits that where losses resulted from the delays caused by the action of the Government in changing the specifications and plans, &c., it is proper that some compensation should be made; but he holds that no compensation should be made except where loss occurred by the direct interference of the Government. In other words, his position is that the Government should pay nothing except what it would be obliged to pay in an action at law, could the Government be made a party to a suit at law.

Now, sir, so far as regards the argument that in adopting the Senate bill we must act blindly, the gentleman, who I know would not misrepresent, is mistaken. What are the facts in reference to the matter? Some of these applications were before the Thirty-Eighth Congress, and were then discussed, being conscientiously opposed by some gentlemen and advocated by others, who held that the Government would only perform its duty by paying these claims. Finally a resolution passed the Senate authorizing the Secretary of the Navy to raise a commission of intelligent and scientific gentlemen, who should examine the vessels each by themselves, take testimony, and decide what had been the actual loss to the contractors. Any gentleman who will examine that report will find that so far as the iron-clads are concerned, the naval commission in almost every instance finds that the losses were incurred to the greatest extent and in some cases entirely by reason of changes made in specifications and plans by the Government, which caused great delays and large losses by reason of the advance in the prices of materials and labor during the time that the work was suspended. Sir, with this report before us, we shall not vote blindly. These scientific naval men, honorable and intelligent gentlemen, made their investigation under the authority of the Secretary of the Navy and the Senate of the United States, and reported the result of their investigation, with the testimony adduced before them, and a specification of the losses incurred on each vessel.

There is no doubt, sir, that for all loss incurred by reason of the interference of the Government in the contract, there would be a legal claim against the Government if it could be enforced; and it is urged that if we go further and pay a claim based only upon equity we make an extravagant and unwarrantable use of the people's money. But, sir, I hold that a Government which cannot be made a party in an action at law, which cannot be sued and compelled to do right by a decision of the courts, should deal equitably with its citizens. The claimants simply ask us, who are the guardians of the people's rights, as well as of the people's Treasury, to do that equity which a

generous and conscientious man would do in his personal business. Ought we not to do it? Are gentlemen frightened at the idea of taking \$1,000,000 from the Treasury of the United States to place these men in *statu quo*, to protect them from the actual loss which they have incurred in doing their duty to the utmost extent of their ability? What is proposed is that we shall say to these contractors, "We will not allow you one dollar of profit; you shall lose the labor of months; you shall lose the interest on your money; you shall lose the use of your yards; but we will pay you precisely what the vessels, which have been of such service to the country, have cost you." Is there anything wrong in this? Surely not, sir.

The contractors when the war broke out abandoned their customary business that they might do this work for the Government. None of them expected that in consequence of the war and the necessary inflation of our currency the price of labor, the price of timber, and the price of everything entering into the building of a ship would be doubled, if not quadrupled. They did not know this, and they could not be expected to know it.

The SPEAKER. The gentleman's time has expired.

Mr. SLOAN. I now yield twenty minutes to my colleague on the committee.

Mr. WOODBRIDGE. I am sorry that my time has expired, as I have a few more observations to make.

Mr. SPALDING. I move the gentleman have leave to print the remaining portion of his speech.

Mr. McKEE. I yield to the gentleman from Vermont five minutes of my time.

Mr. WOODBRIDGE. I will not trespass on the gentleman's time to the extent of five minutes, as I have already gone through the principal argument respecting the propriety of affording the relief which the bill as it passed the Senate grants. The demand is not unreasonable, and is based upon the highest equity. There is no pretense of any fault or laches on the part of the contractors. The delays were occasioned by the action of the Government, and in the mean time the contractors were obliged to pay their employes, while waiting for permission to continue their work. They were in the hands of the Government and utterly remediless. The currency was constantly depreciating. Gold was constantly advancing, and with it every species of labor and material. They lost money which they would not have lost if it had not been for the direct and positive interference of the Government with their contracts.

Mr. Speaker, I think it is always best to do right. Henry Clay uttered a noble sentiment when he said it was better to be right than to be President. Is it not just that these petitioners should be made good for the losses they have sustained? They constructed a new and powerful navy for the country, and had it not been for the efficiency of their work the result of the war through which we have just passed successfully would have been postponed to a still later day. It was the iron-clads that protected our northern ports from the ravages of the pirates of the rebel confederacy which so long preyed upon our commerce. It was the iron-clads that captured the fortresses at the mouths of southern rivers, and blockaded those rivers against the entrance of all articles contraband of war.

To these gentlemen we are indebted for the iron-clads which accomplished such great results for the country; and by voting to them this relief we do nothing but what is equitable. Although we may not come down to the absolute point of division where the loss was occasioned by the delay of the Government, and by the rise of materials, still we know that the greatest portion of the loss was caused by the direct interference of the Government. We were the first nation that ever attempted to build iron-clads. It was an experiment, and whenever any new suggestion was adopted, the contractors were obliged to wait for draw-



ings and specifications of the proposed changes, and this was the main cause of their loss. I think there should be no objection to the Senate bill.

Mr. McKEE. As a member of the committee to whom this subject has been referred, and not exactly agreeing with the substitute for the Senate bill, I feel it to be my duty to say a few words in regard to this matter. While I agree very fully, and I believe the committee in this were unanimous, in the reasons upon which they made up their minds that the Senate bill was an unfair settlement of this question, I do not agree in the substitute reported by that committee. My reasons I will give briefly. In the first place these contractors for these vessels-of-war all stand upon the same footing, with the slight difference in a few instances that the Government in these contracts had no reservation for changes of plans and specifications. The original resolution of the Senate of March, 1865, when these contractors went before that body demanding relief, provided for a board to be appointed by the Navy Department to examine into and report the exact amount of loss accruing to each of the contractors for the building of war vessels and steam machinery made during the years 1862 and 1863. These contractors claimed to have incurred loss from various causes, loss from rise in material, loss from interference on the part of the Government, loss because in some instances the Government seized their yards, loss from the fact that the labor they needed was taken by the Government and appropriated to its own purposes. The committee agreed on this general rule, which I think is sound, that where the contractor suffered loss from the direct fault of the Government he shall be paid.

That is the rule laid down by the committee upon which they make their report. The objection to the Senate bill was that it applied a partial rule; that while it recognized the justice of the claims of the contractors to a certain amount for losses sustained, it proposed an unequal remuneration, whereby some got more than the amount of their claim, while others got but a very small part.

I concurred with the committee in their objection to the rule adopted by the Senate; but when we come back to the principle laid down in the report of the majority of the House committee, that the contractors shall be paid for losses accruing to them by the direct interference of the Government, and when the committee make a report which contains a very few of these contractors, leaving the whole of the rest out, I cannot agree with them. The resolution submitted by the committee as a substitute embraces simply a few iron-clad vessels. The original resolution of the Senate committee embraced all the contracts for iron-clads and machinery in 1862 and 1863. There are perhaps not more than ten or twelve cases embraced in the report of the Committee of Claims; the rest are summarily thrown out, and that, too, in the face of the declaration made in the report that if these men had lost by the fault of the Government they should be paid.

Now, sir, so far as the claimants for the iron-clads are concerned, I do not wish to say one word against them, because they have suffered the greatest amount of loss on their work. This country had never had an iron-clad navy before, and the work of building iron-clad vessels was experimental in great part. On account of the fact that changes were necessarily continually to be made in the construction of these vessels the Government saw fit to reserve the right to make these changes, with a stipulation that it would pay for the additional cost occasioned thereby. For that increased cost the Government claims to have settled. But while it claims to have settled for the additional work, it is not pretended on the part of the Government that it has ever paid one dollar for the additional cost added to the construction of the vessels on account of the change. By the rule adopted by the committee

the Government is held to be liable for that. The builders of iron-clads were the heaviest losers. They were to get the most in the Senate resolution. The builders of the double-enders have suffered very largely and they have suffered on this account; when the contracts for the machinery of some sixteen wooden double-enders were made it was given out that the machinery was to be for the class of vessels built after the plan or model of the Paul Jones. When, however, the specifications were furnished for the machinery the contractors found that the weight of metal required was more than double. Now, should these men be turned out with nothing on that account? Not at all. Yet that is the proposition of the committee. They propose to exclude everything but iron-clads, and they do not embrace even all these.

The report of the committee is objectionable in my view on one other ground. It provides for a board to report to the next Congress which will have to examine the matter again. I ask gentlemen to consider in what better position they will be after they have a report made than they are now? Such an investigation has already been made, approved by the Navy Department, referred to the Congress of the United States, and now it is proposed to go over the same ground once more and bring these men right back to the same point where they are to-day.

What is the alleged reason for giving Congress the supervising power over the award made by the Naval Bureau? Gentlemen seem unwilling to trust the Department with this matter. Well, sir, in all matters of this kind of course humanity is liable to err, but so far as I am concerned individually I do not hesitate to say that I believe the Government would mete out justice just as well through any of its Departments as through the Congress of the United States. What interest have they in the matter? These men are appointed by the Navy Department, wholly uninterested, to examine into and report upon this matter. They are paid officers of the Government. They receive a salary, get nothing for this work, and as a matter of course, as discreet men—and it is presumed only such would be selected for that purpose—their report is presumed to be a fair one.

But take for granted that it is unfair; what does this Congress know about it? When it comes here you take up a vast mass of paper, running over many pages, showing all the specifications, all the items, all the allowances; and what member of Congress, what member of the committee, knows whether it is right or wrong? After all, you are reduced to the necessity of making up your report on the award made in pursuance of the examination by the naval board.

Therefore I object to the report of the committee. I desire this thing ended; and the substitute that I have offered from the minority of the committee provides for an examination by a competent board. It provides that an examination shall be made by this board, and that nothing shall be taken into account in that examination except the actual cost to the contractors, over and above the contract price—extra cost arising from the acts of the Government itself; and it provides that then, after that examination, payment shall be made.

Now, Mr. Speaker, I know that there are a great many men in Congress and out of it who raise up their hands in holy horror whenever such a thing as an appropriation is mentioned; and I appreciate their feeling in regard to the public Treasury, and appreciate their feeling that it is our duty to regulate our expenditures by rules of the strictest economy. But what kind of economy is that which leads a great nation, when its life is imperiled, when its very existence is at stake, to summon its citizens to aid in its defense, and then, when it has been saved through their exertions and sacrifices, to turn to them and say, "Yes, you have done well, and I know that in my service you have suffered great loss, but I cannot think of paying you anything?" That is such economy as

no liberal-minded man would adopt in dealing with his fellow, and certainly it is not the economy of a liberal and great nation.

With the gentleman from Vermont, I might well ask the House and the country, where would we be now but for the noble Navy created by these men?

But I am met by the question, "Why did not these men withdraw from their contracts when they found they were going to lose?" Sir, they had no option in the matter. They had the establishments for the construction of these naval vessels, and it needed but a nod from the head of the Department to authorize the United States authorities to pounce upon these yards and take possession of them and run them on their own account, as they did on more than one or two occasions. Therefore, I say, these men had no option.

But besides, they were liberal-minded, patriotic men, desirous of serving their country, and they went on under the assurance that they would be reimbursed by the Government, to the amount of whatever actual losses they might suffer—to the amount of their actual losses, I say, and that is all they ask now. We do not want these men to make profit out of the Government; they do not ask that themselves; but we have the sworn testimony and the figures showing the amounts that they actually lost in this way, and that is what they ask the Government to make good.

Now, Mr. Speaker, some of these naval contractors have already been relieved. We propose in this case only to follow the rule laid down by Congress in 1864 in the case of Ericsson, the builder of the Dictator and the Puritan. That contractor found that he was going to suffer severe loss under his contract, and Congress came in and by a joint resolution provided that he should be paid by the Government for whatever actual loss he incurred. We only propose to follow the just action of Congress in that case.

Talk about the Government being thus involved in the expenditure of a million of dollars.

What are one million or ten million dollars compared with the great Navy that we now have upon the seas, which enables us to defy the world, and the creation of which is so largely due to the enterprise of these men who have suffered such heavy losses?

The SPEAKER. The gentleman from Wisconsin [Mr. SLOAN] is again entitled to the floor.

Mr. SLOAN. I yield to the gentleman from Massachusetts, [Mr. WASHBURN.]

Mr. GRISWOLD. I wish to inquire if an amendment would be in order.

The SPEAKER. It would not be in order; the House is now acting under the operation of the previous question.

Mr. WASHBURN, of Massachusetts. I do not propose to occupy more than a few moments upon this question. I desire to explain to the House the position in which the question is, so that they may understand the action of the committee.

Now, I do not know that any report of the committee upon this question will affect the vote of the House at all. It has been said and reiterated time and again to the committee, by the multitudes who are interested in this bill, that if they could only get the committee to bring it before the House, they knew their men there, so that whatever might be the report of the committee they knew they could carry through the House any measure that they desired. If that be the situation of the question, all I can say is that any report that may be made by the committee, and anything that may be said here *pro* or *con.*, is simply time lost.

But the gentleman from Vermont, who appears here as the advocate of this measure, says that we ought to act in this matter as any generous, liberal-minded man would act in dealing with his fellow-man.

Now, that is not the principle upon which your committee have acted. A liberal-minded

man may be generous and may give away any amount of property or money that he chooses; but your committee supposed that they were simply sitting in judgment to decide whether there was a legal or a fair and equitable claim upon the Government on the part of these contractors, and to ascertain upon what principle their claim could be sustained. According to the report of the Senate committee, that claim was based upon the principle that the Government, by its action in expanding the currency, caused a rise in the materials which entered into the work for which the contracts were made, and thereby greatly increased the expense to the contractors; and therefore that the Government was bound to make good to the contractors the consequent loss. But when they adopted that principle as a basis for action, they adopted a principle upon which nearly every contractor with our Government during the four years of our great struggle might with equal justice come to the Government and plead for relief.

Now, is the example to be set of giving relief to all contractors with this Government in all its callings, because of any action of the Government, the expansion of the currency, or the rise in the prices of materials? If so, then \$100,000,000 will not cover the expense to the Government. Every contractor, whether with the Government or with individuals, has suffered from this rise of prices, and they do not all expect to obtain relief.

Therefore the Committee of Claims settled the principle that no such broad ground for relief could be established; because if they once opened the door and set the precedent of affording relief on account of the action of the Government in this regard there would be no end to it.

Then the next point which presented itself to the committee was this: is there anything in these cases to take them out of the action of the general principle referred to? In the examination of that question it was claimed on the part of the contractors that the Government, after it had made contracts with these various parties, had caused them to be delayed by not giving them the plans or by making alterations in them, so that they were unable to go on and complete their contracts within the specified time. In reference to that, the committee say that if it can be shown that the Government caused delays to these contractors which were not contemplated when the contracts were made, and on account of those delays any or all of these contractors have sustained losses which have not been satisfied by the Government, there may be a clear claim which may be valid against the Government.

But it is said on the part of the Navy Department that this omnibus bill, as reported by the Senate, contains some twenty-five cases in which no such claim can be set up; in which there was no allegation of delays or alterations on the part of the Government. Therefore the committee concluded that those cases did not come within the principle which they had adopted; and consequently they do not recommend the passage of the Senate bill.

The question then arose: are there any other cases in which alterations or delays have been occasioned by the action of the Government? The evidence submitted shows that there were such cases. But the claim was made on the part of the Government that it had paid on account of those alterations nearly a million and a half of dollars. But it is also claimed on the part of the contractors that that million and a half of dollars does not pay them for the losses they sustained in consequence of those delays and alterations.

Then what was left for us to do? We could not settle the question whether those parties had or had not been properly paid. We did all we could do: we referred the subject to the House, and recommended that the whole matter should be referred to the Navy Department to determine and report to Congress what extra cost had been incurred by contractors on account of these delays and alterations which

the Government had not already paid for, the Department to report just what expense had thus been incurred in each case.

What more or what less could we do? One of my colleagues upon the committee has said that all these contractors stand upon the same ground. Not at all. As I have already said, in twenty-five of these cases it is not claimed that there was any fault on the part of the Government, so far as alterations or delays are concerned.

In some other cases it is claimed that such was the fact; and in some of those cases \$100,000, and in other cases \$50,000 has been paid. And the simple question in each individual case is this: has the amount paid been sufficient to cover the damage and loss which the Government has occasioned to those contractors by reason of the various delays and alterations made, and which were not contemplated when the contracts were made? If it does not, then the commission shall examine each individual case and report to us how much more is due on the part of the Government. Does any individual find fault with that? Is it not fair? Can we stand upon any other principle? Certainly not, unless we adopt the broad principle which, as I have said, throws your doors wide open and lets in an irresistible flood of claims. As has been well said by my colleague on the committee, [Mr. SLOAN,] there are claims being pressed to-day for work on this Capitol, for work on the Post Office building, for work done on various light-houses.

[Here the hammer fell.]

Mr. DELANO obtained the floor.

Mr. O'NEILL. With the consent of the gentleman from Ohio, [Mr. DELANO,] I wish to put an inquiry to the gentleman from Massachusetts, [Mr. WASHBURN.]

Mr. DELANO. I will yield for that purpose.

Mr. O'NEILL. I wish to inquire of the gentleman from Massachusetts whether the report of the committee has been predicated upon the loss of any profits by these contractors. My reason for asking this question is that some of my constituents, who have made nothing on their contracts for furnishing machinery for some of these vessels, have refrained from making any claim for loss of profits; but if it is proposed to grant compensation in any such cases these men have as strong a claim as any others can have.

Mr. WASHBURN, of Massachusetts. In reference to that point, the opinion of the committee was that these individuals might have a just claim for whatever they have actually lost on account of the action of the Government. Let me make one further remark. It has been objected by some members of the House that the report of the committee does not cover all the cases. Of this the committee were fully aware; but we supposed that by our action in this case we should establish a precedent. If the House believes that we have acted properly, it will sustain our report; and the precedent being once established other cases can be settled in the same way. I know very well that there are other cases not embraced in this bill. There may be fifty such. The cases to which the gentleman refers may be among those. But when we shall have once established the precedent I have no doubt that the same principle will be applied to the cases not now embraced in our action.

Mr. O'NEILL. A single remark further. If I have correctly understood the gentleman, this report does embrace cases where there was a claim on account of loss of profits which might have been realized but for the interference of the Department in directing the machinery to be made in a different manner from that stipulated in the contract. If this be so, then, in behalf of these conscientious constituents of mine to whom I have referred, I ask that their names may be inserted. I see no reason why their claims should be overlooked when others no more meritorious are provided for.

Mr. WASHBURN, of Massachusetts. The

gentleman has misunderstood me. In no case do we propose to pay anything on account of profits which it may be supposed should have been realized. In these cases it is claimed that the contractors have actually made a loss. The simple question before the committee was, has the action of the Government imposed on these contractors a loss which we are bound to relieve? We adopted the principle—

Mr. DELANO. I believe I must resume the floor. I cannot yield further because I have but little time remaining.

There are three propositions before the House, and I desire that the House shall understand them so as to be able to vote intelligently upon them. The first is the bill of the Senate, which proposes a horizontal payment to all these contractors of twelve per cent. on the contract price. I wish the House to understand distinctly that in the Senate bill these contractors all stand on the same level, and if that bill be adopted they will get a uniform payment of twelve per cent. on the contract price. My colleagues on the committee, the gentleman from Wisconsin [Mr. SLOAN] and the gentleman from Massachusetts, [Mr. WASHBURN,] have, I think, shown the injustice and the viciousness of such a principle. A bill resting on that principle is nothing but an omnibus to carry through bad, worthless measures with those that have some merit.

Why, sir, here are embraced in this Senate bill fifteen contracts for wooden double-enders; twenty-two contracts for machinery for wooden double-enders, and twenty-one contracts for iron and iron-clad steam vessels of war; fifty-eight, I believe, in all. Now, sir, take wooden double-enders. They were all contracted for at \$75,000 apiece. Listen. Some of the contractors claim \$4,000 and some \$77,000. The Senate bill will give each \$9,000, and pay some of them twice as much as they claim and some of them only half as much as they claim. If Congress does not want to disgrace itself, I hope it will not adopt a principle like this. It is nothing less than what I have characterized it, an omnibus to carry white and black together; I suppose upon the rule there shall be no distinction of race or color.

The bill of the Senate was made on the report of a naval board which undertook to give to these gentlemen the cost of these fifty-eight contracts over and above the contract price. That estimate was made on the advance in the price of material growing out of the depreciation of currency and the increase in the value of gold. It proposes to remunerate all these contractors for all the increase of expenses which the change in the condition of the country had brought upon them. Why, sir, that principle will bankrupt this Government. If this House adopts that principle it is impossible to anticipate the end of the expense. There is, as has been well said, a claim for \$100,000 for finishing the dome of the Capitol now before the House resting on this very principle. There is also a claim for \$50,000 for building the custom-house in Baltimore, another claim for \$50,000 by the contractor who furnished paper and stationery to the Post Office Department, and another for \$15,000 for a light-house, and God only knows how many more that have not come before us. There is no end to it. You will have to increase tenfold your taxes. There are the contractors for Army supplies; not only for the commissary but for all the other departments of the Army. You will have to go into a general settlement with all these contractors to do equity to them. My friend from Vermont [Mr. WOODBRIDGE] has a large heart and would to God his constituents had purses long enough to pay for its benevolence.

That would be the state of things if we adopt a principle like this. The Committee of Claims have repudiated this principle. They have said the principle on which these claims ought to be settled is this: where the contractor has suffered loss by reason of alteration in his contract not provided for in the contract, then he should be paid such increased expense

as this change has caused, and in that they have the payment of the rise of prices during the time prolonged by this change, but not otherwise. It is a just principle if the House will understand it. As it is impossible for the committee to investigate all these claims in detail, we propose to refer it to the Navy Department to settle the amount due to these claimants on this principle, and report that back to the next Congress for their action. Congress will then proceed with intelligence and upon a correct principle, one upon which they can stand before the world.

Mr. MYERS. Which bill does the gentleman favor?

Mr. DELANO. The resolution reported by the House committee, which provides that the Secretary of the Navy shall be authorized and directed to investigate the claims of the contractors named; but I am willing to change it to embrace all the contractors for vessels-of-war and steam machinery.

Mr. MYERS. That is what I want.

Mr. McKEE. That is my resolution.

Mr. DELANO. But the gentleman's resolution has a tail to it, and I want to cut that tail off. [Laughter.] We provide that said investigation to be made upon the following basis: he shall ascertain the additional cost which was necessarily incurred by each contractor in the completion of his work by reason of any changes or alterations in the plans and specifications required and delays in the prosecution of the work occasioned by the Government, which were not provided for in the original contract; but no allowance for any advance in the price of labor or material shall be considered unless such advance occurred during the prolonged time for completing the work, rendered necessary by the delay resulting from the action of the Government aforesaid, and then only when such advance could not have been avoided by the exercise of ordinary prudence and diligence on the part of the contractor; and from such additional cost, to be ascertained as aforesaid, there shall be deducted such sum as may have been paid each contractor for any reason heretofore over and above the contract price, and shall report to Congress a tabular statement of each case, which shall contain the name of the contractor, a description of the work, the contract price, the whole increased cost of the work over the contract price, and the amount of such increased cost caused by the delay and action of the Government as aforesaid, and the amount already paid the contractor over and above the contract price.

Then he is required to make a tabular statement, showing the names of the contractors, the amount of the contract price, the increased cost under these rules, and the amount already paid above the contract price, and then Congress can act upon that report.

Now, sir, the third proposition on this subject, which comes from the gentleman from Kentucky, [Mr. McKEE,] is that the Secretary of the Navy may make up his mind to pay the claims without referring them back to Congress. It is not safe, it is not right, it is injudicious legislation; it is best that Congress should retain the power of revision.

Mr. McKEE. I would like to correct my colleague on the committee. My proposition is not that the Secretary of the Navy shall do this, but that a board shall be appointed and that board shall do it.

Mr. DELANO. If there is any advantage in submitting it to a board, I have never found it out. The board is always so constructed as to break through, so far as the Government is concerned, and give the contractors the advantage. I would rather leave it to the Secretary of the Navy than any of the employés or agents of that Department. It is unwise legislation to commit this matter to the ultimate judgment of any board of men. Let Congress reserve the power, when this subject comes back, of examining and ascertaining whether the investigation and report of the

Navy Department are in accordance with justice and right.

These, Mr. Speaker, are the three propositions that are before this House. The majority report was made by the gentleman from Wisconsin, [Mr. SLOAN;] the minority report by the gentleman from Kentucky, [Mr. McKEE.] The latter, as I have already said, adopts the same principle for damages that the majority report adopts, only it proposes to give to the Department or to the agents of the Department authority to close the matter up. That is a proposition that I oppose.

Now, Mr. Speaker, I know very little about your rules, and perhaps never shall have sense enough to understand them; but I would like to know how this proposition may be amended so that it will embrace all contractors for building vessels-of-war and steam machinery. I would like to have that amendment made if it is possible.

The SPEAKER. It can be done by reconsidering the vote by which the previous question was seconded, and then by the gentleman from Kentucky [Mr. McKEE] withdrawing his amendment to the amendment reported by the committee. That would open the substitute to amendment; but if the gentleman from Kentucky insists upon his amendment, no amendment can be made except by unanimous consent.

Mr. DELANO. I will submit to the House the proposition that all these contractors may be included by unanimous consent.

The SPEAKER. Is there objection to making the proposed amendment? The Chair hears none.

Mr. DELANO. The amendment is to strike out the names of the contractors in the substitute of the committee, and insert in place of the words "the following" the word "all," and further, by striking out the words "iron and iron-clad;" so that the clause will read as follows:

That the Secretary of the Navy is hereby authorized and directed to investigate the claims of all contractors for building vessels-of-war and steam machinery for the same.

The amendment was by unanimous consent agreed to.

Mr. BIDWELL. I wish to ask the gentleman from Ohio a question. I would like to understand why the claim of Donohue, Ryan, & Secor is excepted by the committee?

Mr. DELANO. We have made no exceptions. We are of opinion that some of these claims are more meritorious than others, but we do not think that any one of them ought to be singled out and excepted. We do not know enough about it to recommend that; therefore, we have now put them all on the same level by the amendment which has been adopted by unanimous consent. They all go to the naval board, to be investigated on the principles that we have named in the substitute; and when that investigation is made and the report made to Congress, it can act intelligently upon the question.

But, sir, if you adopt the principle contained in the Senate resolution, of remunerating every contractor for losses sustained, as I said before, you will bankrupt your Government. I know enough about the claims that are presented to this Government to be warranted in saying that there is no end to them and no safety for the finances of the nation in this time of onerous taxation if that principle is adopted. There is no way with safety to the nation but to adopt the principles laid down in this majority report. They will be found to be broad, liberal, and comprehensive. They will also be found to be principles that will prevent us being governed by mere sympathy and compassion. I saw \$80,000 voted here yesterday for the relief of a contractor which, in my judgment, ought not to have been spent. The day will come when our people will inquire of us why we are so lavish of their money which is so precious to them while their taxes are so heavy.

Mr. McKEE. I desire to make two slight

verbal changes in my amendment: first to strike out the word "which," in the first section, and insert instead the words "where such;" and then to strike out in section two the words "in the first section" and insert in lieu thereof the words "within the limit prescribed by the first section of this resolution."

The amendments were by unanimous consent agreed to.

Mr. GLOSSBRENNER. I move now to lay the joint resolution and pending amendments on the table; and on that I call the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 47, nays 109, not voting 34; as follows:

YEAS—Messrs. Ancona, Arnell, Baker, Benjamin, Boyer, Bromwell, Broomall, Campbell, Reader W. Clarke, Cobb, Cooper, Dawson, Defrees, Eldridge, Finck, Glossbrenner, Aaron Harding, Hawkins, Hise, John H. Hubbard, Humphrey, Kerr, Koontz, Le Blond, Leftwich, Loan, Maynard, McClurg, Mercier, Miller, Moulton, Niblack, Paine, Plants, Samuel J. Randall, Ritter, Sawyer, Scofield, Shanklin, Spalding, Stokes, Thayer, Trimble, Andrew H. Ward, Hamilton Ward, Warner, and Wentworth—47.

NAYS—Messrs. Alley, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Barker, Baxter, Beaman, Bergen, Bidwell, Bingham, Blow, Boutwell, Brandegee, Buckland, Bundy, Sidney Clarke, Conkling, Cook, Cullom, Darling, Davis, Dawes, Delano, Deming, Denison, Dodge, Donnelly, Dumont, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Goodyear, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Henderson, Higby, Hill, Hogan, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Ingersoll, Jenckes, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Ladin, George V. Lawrence, Longyear, Marshall, McCullough, McKee, McRuer, Moorhead, Morris, Myers, Newell, Nicholson, Noell, O'Neill, Orth, Perham, Phelps, Pomeroy, Price, Radford, William H. Randall, Raymond, Alexander H. Rice, Rogers, Rollins, Ross, Rousseau, Schenck, Shelabarger, Stigraevs, Starr, Stevens, Taber, Nathaniel G. Taylor, Nelson Taylor, John L. Thomas, Thornton, Trowbridge, Upson, Burt Van Horn, Henry D. Washburn, William B. Washburn, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Woodbridge—109.

NOT VOTING—Messrs. Allison, Blaine, Chandler, Culver, Dixon, Driggs, Eckley, Garfield, Hale, Harris, Hotchkiss, Asahel W. Hubbard, Hunter, Jones, Julian, Latham, William Lawrence, Lynch, Marston, Marvin, McIndoe, Morrill, Patterson, Pike, John H. H. Rice, Sloan, Stilwell, Strouse, Francis Thomas, Van Aernam, Robert T. Van Horn, Bihu B. Washburne, Welker, and Wright—34.

So the joint resolution was not laid on the table.

The question recurred on agreeing to the amendment of Mr. McKEE to the substitute reported by the committee, to strike out all after the enacting clause and insert as follows:

That the Secretary of the Treasury be, and hereby is, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the contractors of vessels-of-war and steam machinery, on contracts made by the Navy Department during the years 1862 and 1863, the actual cost to each contractor incurred, over and above the contract price, and allowance for extra work, where such cost was the result of delays, caused by the order of the Department, either from changes in plans and specifications or from delays in furnishing the same: *Provided*, That none but those which have given satisfaction to the Department shall be considered.

SEC. 2. *And be it further resolved*, That in the adjustment of these claims the Secretary of the Navy is authorized and directed to appoint a board of three competent persons to examine into and report upon each separate case as provided within the limit prescribed by the first section of this resolution, and the award of losses so ascertained shall be paid to the claimants by the Secretary of the Treasury without further authority than that given in this resolution.

SEC. 3. *And be it further resolved*, That the payments hereby authorized to be made shall be in full for all claims on the part of said contractors, and no moneys shall be paid until each party to whom an award is made shall execute to the Secretary of the Treasury a receipt in full, and releasing all claims against the Navy Department for further compensation on account of said contract or alterations thereto.

Mr. WINFIELD. I wish to make an inquiry of the Chair. If this amendment is rejected, will there then be an opportunity to amend the Senate resolution?

The SPEAKER. There will. The antagonizing questions now are between the minority report of the committee and the majority report, and the question will recur between whichever amendment prevails and the Senate resolution.

The question was taken on the amendment



of Mr. McKee to the substitute of the committee, and it was not agreed to—ayes 36, noes 79.

The question recurred upon the substitute reported from the committee, which had been modified to read as follows:

Amend the bill of the Senate by striking out all after the enacting clause, and inserting in lieu thereof the following:

That the Secretary of the Navy is hereby authorized and directed to investigate the claims of all contractors for building vessels-of-war and steam machinery for the same, said investigation to be made upon the following basis: he shall ascertain the additional cost which was necessarily incurred by each contractor in the completion of his work by reason of any changes or alterations in the plans and specifications required and delays in the prosecution of the work occasioned by the Government which were not provided for in the original contract; but no allowance for any advance in the price of labor or material shall be considered unless such advance occurred during the prolonged time for completing the work, rendered necessary by the delay resulting from the action of the Government aforesaid, and then only when such advance could not have been avoided by the exercise of ordinary prudence and diligence on the part of the contractor; and from such additional cost, to be ascertained as aforesaid, there shall be deducted such sum as may have been paid each contractor for any reason, heretofore, over and above the contract price, and shall report to Congress a tabular statement of each case, which shall contain the name of the contractor, a description of the work, the contract price, the whole increased cost of the work over the contract price, and the amount of such increased cost caused by the delay and action of the Government as aforesaid, and the amount already paid the contractor over and above the contract price.

Mr. ALLEY. Is this the amendment reported by the majority of the Committee of Claims?

The SPEAKER. It is, as modified on the suggestion of the gentleman from Ohio, [Mr. DELANO.]

Mr. GRISWOLD. And if this is voted down we will then come to a vote on the Senate bill?

The SPEAKER. The gentleman is correct.

Mr. INGERSOLL. Will the Senate bill then be open to amendment?

The SPEAKER. It will not, for the House is acting under the operation of the previous question.

Mr. SPALDING. If we adopt this amendment, that will be an end of the matter for a time at least.

Mr. SCOFIELD. And if we vote down both the amendment and the Senate bill, that will kill the matter for a time at least.

The question was then taken upon the amendment as modified; and upon a division, there were—ayes 88, noes 44.

So the amendment was agreed to.

The bill, as amended, was then read a third time.

The question was upon the passage of the bill.

Mr. SLOAN. Upon that question I call for the previous question.

The previous question was seconded and the main question ordered.

Mr. BROMWELL, Mr. SCOFIELD, and Mr. LE BLOND called for the yeas and nays upon the passage of the bill.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes seventeen.

Before the noes were counted,

Mr. SCOFIELD called for tellers.

The question was taken upon ordering tellers, and there were—ayes twenty-one.

So (more than one fifth of a quorum having voted in the affirmative) tellers were ordered; and Messrs. BROMWELL and DAWSON were appointed.

The House again divided; and the tellers reported that there were—ayes thirty-one.

So (the affirmative having more than one fifth of the last vote) the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 105, nays 42, not voting 43; as follows:

YEAS—Messrs. Alley, Ames, Anderson, James M. Ashley, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blow, Boutwell, Buckland, Bundy, Reader

W. Clarke, Conkling, Cook, Cullom, Darling, Dawes, Delano, Dodge, Donnelly, Dumont, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Goodyear, Grinnell, Griswold, Abner C. Harding, Hayes, Henderson, Higby, Hill, Hogan, Holmes, Hooper, Demas Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, Ingersoll, Jencks, Julian, Kasson, Kelley, Kelso, Ketcham, Keontz, Ladin, George V. Lawrence, Le Blond, Loan, Longyear, Lynch, Marshall, Marvin, McClurg, McCullough, McKee, McRuer, Miller, Morris, Myers, Niblack, Nicholson, Noell, O'Neill, Orth, Paine, Perham, Pomeroy, Price, Radford, William H. Randall, Raymond, Rogers, Rollins, Ross, Rousseau, Sawyer, Schenck, Shellabarger, Sitgreaves, Sloan, Spalding, Starr, Taber, Nathaniel G. Taylor, Nelson Taylor, John L. Thomas, Thornton, Trowbridge, Upson, Burt Van Horn, Henry D. Washburn, William B. Washburn, Whaley, James F. Wilson, Stephen F. Wilson, Windom, and Winfield—105.

NAYS—Messrs. Ancona, Arnell, Delos R. Ashley, Baker, Boyer, Brandegee, Bromwell, Broomall, Campbell, Sidney Clarke, Cobb, Cooper, Davis, Dawson, Deffrees, Deming, Denison, Eldridge, Finck, Glossbrenner, Aaron Harding, Hart, Hawkins, Hise, John H. Hubbard, Humphrey, Hunter, Leftwich, Maynard, Newell, Plants, Samuel J. Raudall, Ritter, Scofield, Shanklin, Stokes, Thayer, Trimble, Andrew H. Ward, Hamilton Ward, Warner, and Wentworth—42.

NOT VOTING—Messrs. Allison, Baldwin, Banks, Barker, Blaine, Chanler, Culver, Dixon, Driggs, Eckley, Garfield, Hale, Harris, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Jones, Kerr, Kuykendall, Latham, William Lawrence, Marston, McIndoe, Mercer, Moorhead, Morrill, Moulton, Patterson, Phelps, Pike, Alexander H. Rice, John H. Rice, Stevens, Stilwell, Strouse, Francis Thomas, Van Aernam, Robert T. Van Horn, Elihu B. Washburne, Welker, Williams, Woodbridge, and Wright—43.

So the bill was passed.

Mr. SLOAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 283) for the relief of Edward St. Clair Clarke;

An act (S. No. 513) granting a pension to Patrick Meehan; and

An act (S. No. 602) granting a pension to Ezra B. Gordon.

#### AUGUSTA AND SOMERVILLE RAILROAD.

The SPEAKER laid before the House a communication from the Secretary of War, in answer to a resolution of the House of the 20th instant relative to correspondence between the commandant of Augusta arsenal, Georgia, and the president of the Augusta and Somerville railroad company; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had insisted on its amendments to the bill of the House No. 1134, declaring and fixing the rights of volunteers as a part of the Army, disagreed to by the House; had agreed to the request of the House for a committee of conference on the disagreeing votes of the two Houses upon the bill, and had appointed Mr. WILSON, Mr. HOWARD, and Mr. FRELINGHUYSEN the conferees on the part of the Senate.

#### ABOLISHING THE MARINE CORPS.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That one thousand extra copies of the report of the Committee on Military Affairs in reference to abolishing the Marine corps and substituting therefor soldiers from the Army be printed for the use of the House.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TARIFF BILL.

Mr. LAFLIN, from the Committee on Printing, also reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed for the use of this House two thousand copies of the tariff bill, as reported from the Committee of Ways and Means.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### NATIONAL SCHOOL OF SCIENCE.

Mr. CHANTLER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be requested to inquire into the expediency of bringing in a bill to establish a National School of Science.

#### ELIAS BEALE.

On motion of Mr. MAYNARD, by unanimous consent, the bill (S. No. 584) entitled "An act for the relief of Elias Beale, late captain of company H, eighth regiment Tennessee volunteer infantry," was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, a bill (H. R. No. 820) entitled "An act for the relief of Henry S. Davis."

The message also announced that the Senate had passed a joint resolution (H. R. No. 218) to extend the provisions of the act in regard to agricultural colleges to the State of Tennessee, with an amendment, in which the concurrence of the House was requested.

The message further announced that the Senate had passed a joint resolution (S. R. No. 176) relative to the post office and sub-Treasury of the city of Boston; in which the concurrence of the House was requested.

#### TAX BILL.

Mr. HOOPER, of Massachusetts. I move that the rules be suspended, and that the House now resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and resumed the consideration of the special order, being House bill No. 1161, to amend existing laws relating to internal revenue.

The pending question was on the amendment of Mr. ALLISON to the amendment of Mr. DAVIS.

The amendment of Mr. DAVIS was to insert after line sixty-one the words "sewing-machines."

The amendment to the amendment was to strike out "sewing-machines" and insert in lieu thereof the words "shirt-fronts, wristbands or cuffs for shirts."

Mr. KELLEY. I ask the gentleman from Iowa [Mr. ALLISON] to modify his amendment by adding the words "except those made of paper."

Mr. ALLISON. I have no objection to that. I make that modification.

On agreeing to the amendment to the amendment there were—ayes 28, noes 35; no quorum voting.

The CHAIRMAN under the rules, ordered tellers, and appointed Messrs. ALLISON and BAKER.

The committee divided; and the tellers reported—ayes 51, noes 43.

So the amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. SCOFIELD. I ask the unanimous consent of the committee to go back to a part of the bill which has already been read, so as to insert a word which has been omitted.

The CHAIRMAN. Is there any objection to the proposition of the gentleman from Pennsylvania, [Mr. SCOFIELD?]

There was no objection.

Mr. SCOFIELD. I move to amend by in-

serting, on page 7, between lines twenty-six and twenty-seven, the following:

That section twenty-four be amended by inserting in the proviso to said section, after the word "spirits" wherever it occurs the words "or petroleum."

The amendment was agreed to.

Mr. BLAINE. I move to amend the bill by inserting after line sixty-two the words "that from and after the 1st day of September, 1867, no tax shall be levied or collected on cotton grown within the United States."

Mr. Chairman, from the temper which has already been evinced by the House on this question I do not know whether there is the slightest hope that this amendment will be adopted; but I believe, with the old covenanters of Scotland, that it is sometimes valuable to bear testimony against a wrong which we are unable to resist. I think the tax on raw cotton is altogether the most extraordinary that was ever laid by an intelligent Government. Six years ago, when the war began, we had a monopoly of this article in the markets of the world. The course and events of the war robbed us of that monopoly. The system of labor on which the cotton culture rested was utterly destroyed, destroyed as a necessity of war and for the permanent welfare of the nation as well as to vindicate the right of every man to personal freedom. Nor was this all. The war in its ravages consumed the horses, the mules, and the farming implements of the South, laying waste the plantations and using up the accumulated wealth and the reserved capital of the South. Owing to this state of circumstances in our own country we find that Brazil, Central America, the West Indies, Egypt, Australia, and the East Indies were greatly stimulated and encouraged to engage in the cultivation of cotton, and hence during the five years in which the business was practically suspended in the United States every other country in the world, where the climate and soil are suitable, engaged in the effort with great zeal and enterprise. And they have succeeded in a remarkable degree, despite the assertions to the contrary, and are now presenting a formidable competition with us in foreign markets.

We now desire to regain our ascendancy, and the first step which Congress takes is to impose a heavy tax of fifteen dollars on each and every bale of cotton before it can be removed from the plantation or district in which it is raised. It seems to me that absurdity cannot go further; that if we had specially designed to lay a great obstacle in the way of our ever reviving the cotton business in this country we could not have invented a more certain and efficient mode than this tax presents.

Many gentlemen seem to imagine that the business of cotton-growing is enormously profitable and can therefore pay any amount of tax. Now, sir, I do not hesitate to say that no business of equal magnitude in the whole country was attended with such unsatisfactory results as was cotton-growing in 1866. I hold in my hand some very valuable and reliable statistics on this subject, and I wish I had time to read them to the House; but some brief extracts must suffice. In Alabama, on sixteen plantations, the total cost of the year, allowing a very moderate rental for the land, was over \$242,000, while the total product was only \$137,000, showing a net loss of \$105,000. Twenty-four plantations in Arkansas, Tennessee, Mississippi, and Georgia, show a total loss of \$121,000. The season was, I admit, extraordinarily unpropitious, and the misfortune is that this fact operates to discourage the cotton culture to such a degree that we ought to make some special effort to revive and stimulate it; and we could do nothing so effective in this direction as to remove the tax. I have no doubt that if Congress were to repeal this tax to-day, thousands of acres would at once be planted in cotton that will otherwise lie idle throughout the present year.

We hear a great deal of talk in this Hall, Mr. Chairman, about the resumption of specie

payment. Theorizing on this subject may be entertaining if not instructive, but practical men see that we shall not get on to a specie basis until we export something else than gold eagles and five-twenty bonds to pay our balances in Europe. Our hope of a balance of trade in our favor rests on the increase of our exports, and the only way we can effectively increase our exports is to encourage the growth of cotton. Put the cotton region in a position to produce a crop of five million bales—and with proper legislation they will do that in 1869—and I warrant you that we shall be on the specie basis at once, without further effort and, indeed, without any one knowing it until we have actually realized it. Two hundred and fifty millions in gold to our credit annually in Liverpool will force us to the specie basis, even if we did not desire to reach it. One peculiar hardship in this cotton tax is that it places the cotton grower, white and black, under the control of the money-lender. When the crop is ready for market it cannot be removed until the tax is paid, and the planter having exhausted his means in producing his crop is forced to go to the usurer and he is thus inevitably oppressed to a cruel extent. One gentleman who had to raise \$3,000 to pay the tax on his crop told me that he had paid forty per cent. for the money on a loan for only a few weeks. I submit that a law which thus places labor in the hands and under the power of capital is faulty and vicious in the extreme.

If we desire, Mr. Chairman, to elevate the material condition of the freedman—and that is the direct road to his moral and intellectual elevation—we must open to him profitable avenues of industry. The fate of the negro and the cotton plant in this country seem to be indissolubly connected, and just in the degree that we retard the cotton culture we retard the progress and the profit of negro labor. In urging the repeal of the cotton tax, therefore, I feel that I am most effectively pleading the cause of the emancipated negroes of the southern States.

The idea that we are punishing the South by this tax (which some gentlemen advance) is utterly delusive, if it were not indeed unworthy. The cotton tax is not an injury to the South merely, but to the whole country, and quite as great an injury to the manufacturing and commercial interest as it is to the agricultural. Resentment is always an unsafe basis for legislation, and especially unsafe when applied to business and financial questions. Let us throw such feelings aside and look at the question in its true light. Let us remember that a heavy export of cotton with cheap cotton at home are among the most desirable objects for the whole country that can possibly be attained. Let us remember that the tax of fifteen dollars per bale is not merely an oppression and a hindrance to cotton growing in the United States, but that it is a bounty and a stimulus to cotton growing in Egypt, in India, and everywhere else that the plant can be successfully cultivated. We may, I know, get several millions per annum from this tax, but every dollar derived from this source is a loss of five dollars in its adverse effects on other business interests of the country. It is a tax in short, Mr. Chairman, which we cannot afford to collect, and which in my judgment should be remitted at once.

Mr. HOOPER, of Massachusetts. I oppose the amendment.

The committee divided; and there were—ayes 52, noes 46.

Mr. PRICE demanded tellers.

Tellers were ordered; and Mr. BLAINE and Mr. ALLISON were appointed.

The committee again divided; and the tellers reported—ayes 63, noes 54.

So the amendment was agreed to.

The Clerk read as follows:

Sleds, wheelbarrows, and hand-carts.

Mr. FARQUHAR. I move after the words "carts" to insert "and fence made of wood." The amendment was agreed to.

The Clerk read as follows:

Soles and heel-taps made of India-rubber or of India-rubber and other materials; Steel of all descriptions, whether made from muck-bar, blooms, slabs, loops, or otherwise.

Mr. WILLIAMS. I move to insert "and bar, plate, and sheet iron."

This is in accordance with the recommendation of the special commissioner. I cannot recapitulate all the reasons for it in the time allotted to me. On the basis of the returns of 1866 the reduction would be 1,500,000, but there is abundant margin furnished by previous action of the committee in regard to leather.

There is another reason. Fifty rolling-mills in western Pennsylvania, employing ten thousand hands, are now idle, and it may not in fact involve any reduction at all. The British article is now selling in our market at a price less than it costs us to manufacture it.

Mr. ALLISON. Will the gentleman adopt all of the recommendations of the special commissioner?

Mr. WILLIAMS. Yes; so far as this article is concerned.

The committee divided; and the tellers reported—ayes 49, noes 52.

Mr. WILLIAMS demanded tellers.

Tellers were ordered; and Mr. WILLIAMS and Mr. KASSON were appointed.

The committee again divided; and the tellers reported—ayes 43, noes 52.

The CHAIRMAN voted in the negative.

So the amendment was disagreed to.

Mr. WILLIAMS. I ask unanimous consent that a vote be taken on the amendment in the House.

Objection was made.

The Clerk read as follows:

Steam locomotives and marine engines, including boilers.

Mr. HOOPER, of Massachusetts. I move to strike out "locomotives and marine."

The amendment was agreed to.

The Clerk read as follows:

Straw or binder's board and binder's cloth.

Mr. CONKLING. I move to insert at the end of that line the words "and straw wrapping-paper." There is no objection to that amendment on the part of the Committee of Ways and Means.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to insert after line sixty-eight "stove polish, or other manufacture exclusively of plum-bago."

The amendment was agreed to.

Mr. O'NEILL. I move to insert after the amendment just adopted "buck-saws."

In line thirty-two "frames and handles for saws and buck-saws" are placed on the free list. I understood that the committee intended to put buck-saws also on the free list. Buck-saws are the saws which are used in sawing wood before our doors by very poor persons, and the amount of revenue derived from this source is very small.

The amendment was agreed to.

Mr. MERCUR. I move to insert after the amendment just adopted "stump-machines." This is an article very much used in some portions of the country.

Mr. BROOMALL. This article is already exempted.

Mr. MERCUR. No, sir; "root-diggers" are, and there is no reason why "stump-machines" should not be exempted on the same principle.

The amendment was agreed to.

Mr. HART. I move to insert after that amendment the words "potato diggers."

The amendment was agreed to.

The Clerk read as follows:

Tags, merchandise and direction of cloth, paper or metal, whether blank or printed.

Mr. FERRY. I move to insert "log sidings and shingle machines." I will state that I

have the approval of the Committee of Ways and Means in offering this amendment. I intended to have offered it at the end of line sixty-seven in connection with steam-engines. These machines are worked by steam-engines, and yet they are known by their technical names. I hope the amendment will be adopted.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to insert "thimble skeins and pipe-boxes made of iron."

The amendment was agreed to.

The Clerk read as follows:

Tinware for domestic and culinary purposes.

Mr. DODGE. I move to add to that line the words: "and for packing articles not subject to tax." I will state that boxes made of tin are used for packing articles that are on the free list, and there has been a great deal of difficulty heretofore growing out of this fact. For instance, a tin box with yeast powder in it is taxed while a tin box with allspice in it is not taxed. The Committee of Ways and Means agree to this amendment.

Mr. GARFIELD. I trust this amendment will not be adopted. Packing-boxes of wood or other materials are already exempted in lines ten and eleven of page 13 of the bill.

Mr. DODGE. These are the little boxes that hold only a pound of allspice or pepper.

Mr. GARFIELD. They are "packing-boxes," and I hope the gentleman will not cumber the bill by unnecessary verbiage.

Mr. DODGE's amendment was disagreed to.

Mr. HOOPER, of Massachusetts. I move to insert "two-ply carpets, the product of hand-looms."

Mr. MAYNARD. I hope the gentleman will leave out the words "two-ply carpets," so as to leave it "the product of hand-looms."

Mr. HOOPER, of Massachusetts. I am afraid that would be going too far. I should want to know just how far it would go. I do not know that there would be any articles that would be reached, but this amendment which I have offered has been carefully considered by the Committee of Ways and Means, and I hope it will be adopted without amendment.

Mr. MAYNARD. What I want to get at is the exemption of the labor of the country which is carried on by hand-looms.

Mr. HOOPER, of Massachusetts. That is not taxed now, unless the product exceeds \$1,000 in value.

Mr. MAYNARD. I am aware of that.

Mr. HOOPER, of Massachusetts. I should be afraid to adopt that amendment. I think we had better pass the amendment as it came from the Committee of Ways and Means.

Mr. MAYNARD's amendment was disagreed to.

Mr. DAWES. I ask unanimous consent to offer an amendment, to correct an error in line sixty-nine.

No objection was made.

Mr. DAWES. I move to insert after the word "tags" the word "for," so that it will read "tags for merchandise and direction of cloth, paper, or metal, whether blank or printed."

The amendment was agreed to.

Mr. WARD, of Kentucky. I move to insert after line seventy-one the words "turn-pike roads."

The amendment was disagreed to.

Mr. O'NEILL. I move to insert "boxes made of taggers' iron." This is the thin fine iron of which spice boxes are made, and I do not think they come under the provision in lines nine, ten, and eleven which exempts "packing-boxes." You exempt small boxes made of tin, and I do not see why boxes made of taggers' iron should not also be put on the free list. I am sure that the provision to which I have referred does not include the class of boxes in which spices more especially are packed. I hope the committee will adopt this amendment.

The amendment was disagreed to.

The Clerk read as follows:

Ultra-marine blue; varnish; wagons, carts, and drays made to be used for farming, freighting, or lumber purposes, and valued at less than \$200.

Mr. BERGEN. I move to strike out the words "and valued at less than \$200."

I will state that the farmers around New York use wagons for carting produce to market, which at this day cost three or four hundred dollars. I know this by experience. I have no doubt that the intention of the committee was to exempt all farmers' wagons; but if the value is fixed at \$200 it does not exempt all such wagons.

The amendment was agreed to.

Mr. EGGLESTON. I now move to strike out all after the word "drays" to the end of the paragraph, so that it will read: "wagons, carts, and drays." I offer this amendment to prevent the difficulty there will be between the assessors and the manufacturers of these articles. How can an assessor or a manufacturer say whether a wagon or dray is being manufactured for farming purposes or not? And why should he say it? He ought not to say it. All these articles should be exempted, because there will be no tax realized from them.

Mr. FARNSWORTH. Will the gentleman permit me to ask him a question?

Mr. EGGLESTON. Certainly.

Mr. FARNSWORTH. Is a lumber wagon, cart, or dray used for any purpose except for farming or freighting?

Mr. EGGLESTON. I know of wagons that are used for nothing but hauling stone from quarries until they are worn out.

Mr. FARNSWORTH. That is freighting.

Mr. EGGLESTON. And for what are drays used? Not for farming.

Mr. FARNSWORTH. They are used for freighting.

The amendment of Mr. EGGLESTON was not agreed to.

Mr. DEFREES. I move to insert the words "and draught harness" after the word "wagons."

The amendment was not agreed to.

Mr. KELLEY. I move to amend by adding the words "fabrics when the product of hand-looms." I offer this in the interest of many branches of industry, in which there is no other than hand labor used; and which are as much branches of hand labor as the making of boots and shoes. In Philadelphia we have quite a number of manufacturers of a very humble style of carpet; there are some one hundred and twenty odd establishments in which there is no power but hand power used. And this branch of industry embraces many manufacturers in the rural districts.

Mr. DELANO. There is a large amount of manufacturing by hand labor done in penitentiaries. This amendment is too broad, I think.

Mr. KELLEY. I will modify my amendment so that it will read, "not produced in penitentiaries or other penal establishments."

Mr. FARNSWORTH. Are not these hand-looms used very extensively in the manufacture of laces and other articles of luxury?

Mr. KELLEY. Those articles are not produced in this country; it would be more fortunate for us if we did produce those articles. I will state that the Committee of Ways and Means approve this amendment.

The amendment was agreed to.

No further amendments being offered,

The Clerk read as follows:

Washing, mangling, and clothes-wringing machines, spinning-wheels, hand-reels, and hand-looms.

Mr. HOOPER, of Massachusetts. I move to amend by inserting "dyeing, redyeing, or reprinting of cloth and other articles, except in the process of their manufacture."

The amendment was agreed to.

Mr. STEVENS. I move to amend by inserting the words "tailors' gooses." [Laughter.]

The amendment was not agreed to.

Mr. CONKLING. I move to amend by inserting after the words "clothes-wringing machines" the words, "zinc washboards." If a washboard is made entirely of wood, under the law as it now stands, it is allowed to pass untaxed as wooden manufactures. But if, as is generally the case, a little piece of zinc is attached to the washboard it is taxed.

The amendment was agreed to.

The committee rose informally, and the Speaker resumed the chair.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had insisted on its amendments to the bill of the House No. 896, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1868, and for other purposes, disagreed to by the House, and had agreed to the committee of conference asked by the House of Representatives on the disagreeing votes of the two houses thereon: and had appointed Mr. FESSENDEN, Mr. WILLIAMS, and Mr. COWAN the conferees on the part of the Senate.

The message further announced that the Senate had insisted on its amendment to the bill of the House No. 904, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1868, and for other purposes, disagreed to by the House, and had agreed to the committee of conference asked by the House of Representatives upon the disagreeing votes of the two houses thereon; and had appointed Mr. SUMNER, Mr. FOGG, and Mr. JOHNSON the conferees on the part of the Senate.

The message further announced that the Senate had insisted upon its amendments to the bill of the House No. 912, making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1868, disagreed to by the House, and had agreed to the committee of conference asked by the House of Representatives upon the disagreeing votes of the two Houses thereon; and had appointed Mr. SHERMAN, Mr. HARRIS, and Mr. DOOLITTLE the conferees on the part of the Senate.

#### TAX BILL—AGAIN.

The House then resumed the consideration of the tax bill in Committee of the Whole.

Mr. HUBBARD, of Connecticut. I move to amend the clause last read by adding the words "wooden knobs."

Mr. STEVENS. The gentleman must mean "wooden nutmugs." [Laughter.]

Mr. HUBBARD, of Connecticut. No; "wooden knobs."

Mr. SPALDING. The gentleman ought to include "wooden nutmugs," also.

Mr. HUBBARD, of Connecticut. Wooden nutmugs, I will tell the gentleman from Ohio, [Mr. SPALDING,] are an article which defy all tax or tariff; and I have no doubt my successor, the celebrated P. T. Barnum, will be able next summer to sell cargoes of them to the constituents of the gentleman from Ohio.

Mr. SPALDING. That is the reason I want them put on the free list.

The amendment was agreed to.

Mr. HILL. I move to amend by adding the word "bee-hives."

The amendment was agreed to.

Mr. DARLING. I move to insert after the word "washing" the word "sewing."

Mr. ALLISON. I rise to a point of order. My point is that this amendment has already been voted down.

The CHAIRMAN. The Chair overrules the point of order.

Mr. DARLING. Now, sir, admitting that a few of the "pioneers" in this art have after years of labor, after years of unceasing and almost unparalleled enterprise and perseverance, succeeded in acquiring a competence; they have richly earned it, and I say let them enjoy it. But these parties have generally retired from the business, and it is now in the



hands of new and younger men; men who are not rich, nor likely soon to become so. Men who, however, are eminently public spirited, proverbially liberal, and always loyal. Men who have striven from the outbreak of the rebellion to keep their prices at the gold basis, and who have done so. Men whose avowed policy it is to reduce rather than advance prices, and whose ambition it is to place a sewing-machine in every household in the land. I say shall this interest, shall these men suffer because their predecessors (one perhaps out of every hundred of the inventors in the art) have made something? Shall they be driven to increase their prices or add the manufacturers' tax (which they have hitherto refrained from doing) to the price of the machine?

Who suffers by this? Is it not the poor sewing-girl? Is it not she who is watching and guarding her meager earnings, prayerfully looking forward to the day when she will be able to buy a sewing-machine? When she, too, in common with the thousands now possessing them, may have the means of always acquiring a respectable and honest living? Why, sir, there is not a person within the hearing of my voice who does not know and acknowledge that this invention has done more to elevate, ameliorate, and improve the condition of woman, whether rich or poor, whether in the work-shop or in the family, whether in the "boudoir" of the refined or the garret of the toiling seamstress, than any instrumentality ever before devised. Why, sir, this is a public benefaction, it is an art which this Government should be proud to foster and encourage; for it comes home to every fireside, it lightens the burdens and gladdens the heart of every mother, every wife, and every sister in the land. Every widow made desolate by the war and dependent upon the scanty earnings of her daily toil to feed her helpless orphans is interested in this question. I say, then, God speed to the thousands of men who are manufacturing these machines and who are distributing and educating the people in their use throughout every section of our country. I hope there is not a member of this House who will not vote for this amendment.

[Here the hammer fell.]

Mr. DODGE. I move to amend the amendment of the gentleman from New York by adding after the word "machines" the words "selling for less than sixty dollars." My object is to confine this exemption to the cheaper sewing-machines. Let those who want handsome well-boxed machines pay the tax.

Several MEMBERS. That is right.

Mr. DARLING. I accept the amendment as a modification of my amendment.

Mr. BENJAMIN. I move to amend the amendment by adding "provided that the manufacturers of sewing-machines shall reduce the price of their machines to an extent equal to the amount of the tax."

This House has already taken action allowing railroad companies to charge over their tax upon the persons traveling over their roads. Now, it strikes me that, carrying out the same principle, we should compel the manufacturers of these machines to reduce the price of them to an extent corresponding to the amount of the tax from which they are relieved. I apprehend there should be no objection to this amendment.

Mr. CONKLING. Mr. Chairman, how does the gentleman propose to enforce such a provision as that? I ask this question for the purpose of calling the attention of the committee to what I have no doubt the gentleman intends as the effect of his amendment—to ridicule the whole idea of exempting sewing-machines. If he adopts this as an effectual method of defeating the pending amendment I am with him.

The committee seems to be this morning looking about with some diligence for objects of exemption; and it does seem to me that this is one of the most far-fetched of all the propositions that have yet been suggested,

extraordinary as I deem some of them to be. Now, Mr. Chairman, if there be in this country one branch of industry or industrial enterprise as able as any other to bear any tax which has been or is likely to be imposed upon it, it is that interest embarked in the production of sewing-machines. I know that these machines cost a great deal less than they formerly did. The cost of manufacturing them is, I think, forty per cent.—I am sure it is thirty per cent.—less than it formerly was. The idea that the reduction or abolition of the tax on these machines can make any difference, "even in the estimation of a hair," to the sewing-women, whether of high or low degree, who use these machines, is in my judgment utterly ludicrous, and is demonstrated to be so by experience. The simple question is, whether we shall by an exemption from taxation add a certain percentage to the profits (already so great that they dizzy all arithmetic) of the men who deal in these machines.

My colleague [Mr. DARLING] has suggested that new wine has been put in old bottles by putting new men in the places of those who have grown rich in this business. The limitation fixed in the amendment of my colleague over the way, [Mr. DODGE,] who proposes an exemption on machines selling for not more than sixty dollars, would practically be an exemption of all the machines except those inlaid with pearl or ivory or otherwise highly ornamented. Many of the ordinary machines now cost less than twenty dollars, and an exemption of those selling for sixty dollars or even fifty dollars will embrace a vast majority of all the machines sold. The manufacture of these machines is to a great extent a monopoly; and if any industrial production ought to be taxed, I submit that these machines ought to be.

Mr. BENJAMIN'S amendment to the amendment was not agreed to.

The amendment of Mr. DARLING was not agreed to.

Mr. MAYNARD. I move to insert after the word "spinning" the word "flax," so that it will read "spinning and flax wheels." The small wheel used in spinning flax is not called a spinning-wheel.

The amendment was agreed to.

Mr. DEMING. I move to insert after line seventy-eight, page 16, the following as an additional section:

*And be it further enacted, That the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, be amended as follows:*

*That section one hundred and five be amended by striking out the words "by fire, or," "or fire," and "by fire or," where they occur in said section.*

The section proposed to be amended is as follows:

77. That there shall be levied, collected, and paid a duty of one and a half of one per cent. upon the gross receipts of premiums or assessments for insurance from loss or damage by fire or by the perils of the sea, made by every insurance company, whether inland or marine, or fire insurance company, and by every association or individual engaged in the business of insurance against loss or damage by fire or by the perils of the sea; and by every person, firm, company, or corporation who shall issue tickets or contracts of insurance against injury to persons while traveling by land or water; and a like duty shall be paid by the agent of any foreign insurance company having an office or doing business within the United States; and that in the account or return to be rendered they shall state the amount insured, renewed, or continued, the gross amount of premiums received and assessments collected, and the duties by law accruing thereon.

I will explain the precise purpose effected by this amendment. It is to exempt fire insurance companies from the tax of one and a half per cent. levied on their gross receipts from premiums, and I am induced to offer the amendment in deference to petitions from all parts of the country from these associations, for the purpose of having the Committee of the Whole pronounce on the justice and equity of their prayer. I have it from most reliable statistics that the losses of these companies during the past year have been entirely unprecedented in the history of fire insurance com-

panies. The losses have exceeded the receipts by \$15,000,000, which is more than twenty per cent. of their entire capital, presumed to be about seventy million dollars. Why, within the last twenty days the loss of fire insurance companies has been upward of three million dollars, and this, too, in spite of the increased premiums laid on buildings and manufactories they have insured. These premiums have increased most enormously, almost to a prohibitory rate, and yet have not compensated them for their immense losses. They have advanced from \$25,000,000 in 1861 to \$60,000,000 in 1863, and to upward of one hundred million dollars in 1866.

As an additional reason why these companies should be exempted from this tax of one and a half per cent. on their gross receipts, considering the hazardous nature of their business, is that they already pay largely toward the national resources. For instance, in schedule B their tax on stamps alone amounts to about one per cent. on their premium, and in addition they are taxed five per cent. on their dividends, making in all six per cent. they are taxed, independent of this one and a half per cent. it is the purpose of my amendment to relieve fire companies from. If there ever was a case which appealed to the justice and equity of the committee it seems to me it is the one I have thus briefly presented.

Mr. CONKLING. Will the gentleman state what advance of rate has recently been made by fire insurance companies; and to what extent this arrangement of advance prevails among the leading companies?

Mr. DEMING. I am informed they have advanced the rate from three to four per cent. on all manufactories and all kinds of buildings, and that arrangement is universal with all companies in this country. One fact has been brought to my knowledge, where it was sixty cents on \$100 on cotton, they have now advanced the rate to four and five per cent. per annum.

Mr. HILL. Has not this increase in the rate been caused by the unusual number of fires during last year?

Mr. DEMING. Most assuredly that is one of the reasons. It is to compensate them for their tremendous losses. Many of the companies have been unable to continue their business.

Mr. HOOPER, of Massachusetts. Does the gentleman mean to continue this permanently or only for a year?

Mr. DEMING. Only for a year.

Mr. DODGE. This is a just amendment. Their losses for the past year have been unprecedented, and every man who looks at his policy of insurance trembles for fear the company will not be able to respond in case of fire. They now pay tax in three different ways, and that certainly is an argument why they should be relieved. I hope they will be relieved.

Mr. STEVENS. I move to amend the amendment by adding "for the next year the tax on all the burned district of Chambersburg, Pennsylvania, shall be remitted." Last year we made the same provision for Portland, Maine, and I think it is but fair that the relief should be granted to Chambersburg. These people are trying to rebuild their houses.

Mr. LYNCH. The gentleman is mistaken in regard to Portland; we did not remit any tax but simply extended the time for its collection, and a very short time it was.

Mr. SCOTFIELD. I would inquire of my colleague how this remission is going to be made. There is no real estate taxed by us.

Mr. STEVENS. There is a great deal of tax levied upon the people of that town.

The CHAIRMAN. Debate is exhausted and no further amendment is in order.

The amendment to the amendment was disagreed to.

The question recurred on the amendment of Mr. DEMING.

Mr. DELANO. I move to strike out the last word of the section proposed as an amendment for the purpose of opposing the amendment. I

see that it is supported by gentlemen in whose opinions I have great confidence, but I confess I do not understand why it should be adopted. As at present advised it seems to me a very unwise proposition. The tax assessed upon these insurance companies now proposed to be remitted is one and a half per cent. on their gross receipts. Now, it is said that during the last year or two they have not been earning any money or have been losing largely, and that those insured by them have felt themselves insecure; and yet we are informed that their rates of insurance have increased since the tax was assessed to an extent perhaps of one or two per cent. Now, how are we going to make these companies lose less or give greater security by taking off this tax? I do not comprehend it. I suppose there has been a year of disaster, and that is likely to occur again. These companies take their risks with others. Some periods of time I believe in the history of insurance companies show a very great profit. Their stock is sometimes high and the most profitable of any in the land, and then they have their years of disaster and loss. But on the whole I think insurance stock is among the best in the country.

But, sir, what security do the insured get by your taking off this tax? It looks to me like exempting a great extensive monopoly from taxation when the people have to endure it. I cannot see it in any other light. And yet I see those in whose opinions I sincerely feel a great deal of confidence moving and supporting this proposition. I hope, however, it will not be adopted.

Mr. DAWES. I rise to oppose the amendment of the gentleman from Ohio, [Mr. DELANO.] This tax for more than two years has come out of the capital of the insurance companies, and just so much as you take out of this capital you must necessarily impair their solvency. And it has been the fact, not only for the last year, but for several years past, that such has been the competition in the business, and such have been the disasters, that instead of this being a monopoly, as the gentleman from Ohio suggests, many companies have failed, one after another, and only a few have survived and maintained their solvency. It is only because they have no profits out of which to pay this tax that they ask us to remit it for one year, so that they may be able to recover from their great losses.

The increased rate of insurance has been rendered necessary by the disasters to their business and by the competition in it. While it is open to everybody to enter into the business from the nature of the case there can be no monopoly. There must be an aggregation of capital for the business; and while it is true, as the gentleman says, that some years they do a very profitable business and their stock goes up, yet if you take it for a series of years, say for the last twenty or thirty, it will be found that more money has been sunk in the aggregate than has been made out of the business. It is an uncertain and fluctuating investment—the most so, perhaps, of all; and this does not seem to me an unreasonable request that is made on behalf of these companies, when everybody who has watched their business knows that it has been depressed by disaster as well as by competition. They simply ask that for one year this tax shall not be taken out of their capital, which is wanted for the security of my friend from Ohio and everybody who gets insured.

Mr. DELANO. If I understand it, this proposition is put upon the alleged fact that the last year or two have been years of disaster. Now, sir, that would be a very vicious system of legislation. Take the agricultural interest of the West or the cotton interest of the South. Last year the wheat crop was almost a total failure, and the cotton crop in the South has also been a comparative failure. We cannot adjust our legislation upon a sliding scale to meet these contingencies, and I assert again what I believe to be true, that for a series of years this stock is as valuable as any other;

and to give these companies relief because for a particular period of time they may have not realized a profit is certainly a wrong principle.

Mr. DAWES. The gentleman forgets the peculiarity of this tax. It is upon their gross receipts in addition to the ordinary tax which everybody pays. Now, the principle which influenced gentlemen in voting to take off the cotton tax was because of the disaster and hardships of the case.

Mr. HOOPER, of Massachusetts. I move that the committee rise for the purpose of closing debate.

Several MEMBERS. Oh, no; we will take the vote now.

Mr. HOOPER, of Massachusetts. If the vote can be taken now I withdraw the motion.

The question was taken on the amendment of Mr. DEMING, and it was disagreed to—ayes twenty four, noes not counted.

Mr. ANCONA. I move to amend by adding at the end of the last paragraph "Windsor common wooden-seat chairs."

Mr. HOOPER, of Massachusetts. I insist on my motion that the committee rise, unless debate is closed on the preceding paragraph.

The CHAIRMAN. Debate was understood to be closed by unanimous consent when the motion that the committee rise was withdrawn, so the question must be taken on the amendment without debate.

The amendment was disagreed to.

The Clerk read as follows:

SEC. 12. *And be it further enacted*, That the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, be amended as follows, namely:

Mr. HOOPER, of Massachusetts. I move to strike out the word "be" and insert the words "and as subsequently amended be further amended."

The amendment was agreed to.

The Clerk read as follows:

INCOME.—That section one hundred and sixteen be amended by striking out all after the enacting clause, and inserting in lieu thereof as follows: "that there shall be levied, collected, and paid annually upon the gains, profits, and income of every person residing in the United States, or of any citizen of the United States residing abroad, whether derived from any kind of property, rents, interest, dividends, or salaries, or from any profession, trade, employment, or vocation, carried on in the United States or elsewhere, or from any other source whatever, a tax of five per cent. on the amount so derived over \$1,000; and a like tax shall be levied, collected, and paid annually upon the gains, profits, and income of every business, trade, or profession carried on in the United States by persons residing without the United States, and not citizens thereof. And the tax herein provided for shall be assessed, collected, and paid upon the gains, profits, and income for the year ending the 31st day of December next preceding the time for levying, collecting, and paying said tax.

Mr. BAKER. I move to amend by inserting in line seventeen, after the word "dollars," "and not exceeding \$6,000, and a tax of ten per cent. on the excess over \$6,000." I will say a word in support of the amendment. As the law now stands a tax of five per cent. is levied on the excess of income over \$600 and not exceeding \$5,000, and a tax of ten per cent. on the excess over \$5,000.

Mr. ROSS. Would not the gentleman as soon say "on the excess over \$10,000?"

Mr. BAKER. I prefer it as I have offered it. Now, the change in the law proposed by the Committee of Ways and Means would be a uniform tax of five per cent. on all sums above \$1,000, thus relieving persons of small income from taxation to the extent of \$1,000 instead of \$600, and making the rate uniform at five per cent. above \$1,000. The amendment which I propose retains the tax of ten per cent., but advances the sum at which it commences from \$5,000 to \$6,000. It appears to me that taxation should be imposed with some reference to ability to pay. That principle is recognized in the imposition of tariffs upon articles of luxury; it is also recognized in the manner in which we discriminate in placing articles on the free list, and I do not see why it should not be retained in the levying of an income tax. If the principle is sound in

its application to the imposition of tariff duties, and the placing of articles on the free list, it appears to me it is sound in its application to internal revenue, and therefore I think by all means the amendment or something like it ought to be adopted.

Mr. ALLISON. I suggest to the gentleman to strike out "\$6,000" and insert "\$3,000."

Mr. BAKER. I prefer it as it is now.

Mr. GARFIELD. I wish to say a word on this subject. I do not desire to contest the matter at all beyond a mere statement of the grounds on which the Committee of Ways and Means reported this amendment.

I believe, in the first place, that it will be found to be not sound legislation; that ultimately it will be declared unconstitutional to levy a tax at a different rate upon the incomes of different men. Because some men are poor and others are rich I do not believe that the poor man has the right to say to the other, "You shall pay more tax per dollar upon all your income than I will pay." I do not believe such a law will be considered constitutional.

Now, if you have a right to say that there shall be two rates of taxation upon incomes, you can say that there shall be ten rates. Suppose a schedule like this should be put into the law: every man whose income does not exceed \$5,000 per annum shall pay a tax thereon of five per cent.; every man whose income shall be more than \$5,000 and not more than \$10,000 shall pay ten per cent.; every man whose income shall be more than \$10,000 and not more than \$15,000 shall pay a tax of fifteen per cent.; and so on. Then, when his income shall be over \$90,000 and not over \$100,000, he will pay a tax of one hundred per cent., or the whole of his income. Go on still further: when his income gets to be \$150,000 he will pay one hundred and fifty per cent., or all his income and half as much more, for the mere pleasure of having made a large income.

Now, if we start out upon this principle of discriminating taxes upon income there is no limit, except the will of the Legislature. We have just as much right to demand that the rich men of this country shall give all their income, and a bonus besides, as to demand that they shall pay twice as much per dollar as others pay.

Mr. SPALDING. Will the gentleman from Ohio [Mr. GARFIELD] permit me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. SPALDING. I will ask the gentleman if, in his opinion as a constitutional lawyer, we cannot exempt \$5,000 of all incomes and put all the tax upon that portion of incomes above \$5,000?

Mr. GARFIELD. We can exempt, and do exempt, only upon the principle of not taxing that which embraces the necessities of life. So far as the Constitution speaks of taxation at all it says that it shall be equal.

Mr. SPALDING. In the gentleman's judgment, does not that infringe upon the Constitution a little?

Mr. GARFIELD. Not if it is applied to the necessities of life. Now, I do not wish to prolong the discussion upon this matter; but simply to state the grounds upon which the Committee of Ways and Means have based their action. As a matter of justice and of principle we felt bound to put this provision in here, and make it at least a protest against the unjust mode of taxation which has hitherto been adopted. I will leave the Committee of the Whole to act on it as they please.

The committee rose informally, and the Speaker resumed the chair.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had disagreed to the amendments of the House to the bill of the Senate No. 204, to provide an annual inspection into Indian affairs, and for other purposes.

## TAX BILL—AGAIN.

The House resumed the consideration of the tax bill in Committee of the Whole, the section in relation to incomes being under consideration.

Mr. MILLER. I cannot see any good reason for the amendment of the gentleman from Illinois, [Mr. BAKER.] I think all taxes should be uniform. The tax upon incomes for the last two years has yielded more revenue to the Government than the tax upon anything else. Incomes over \$5,000 have been taxed at the rate of ten per cent., which is certainly a very onerous tax; and we know that statements of income have been returned honestly. Look at the returns of incomes in New York, Philadelphia, and other great cities; men there have made very fair and honest returns of their incomes, and from that source has come an enormous sum for our Treasury.

Now, why should this distinction be continued? As the bill now stands, all incomes over \$1,000 pay a tax of five per cent. It is proposed to change that so as to require a tax of five per cent. on all incomes over \$6,000. Now, what justice is there in that? Why say to people who by their industry have made large incomes that they shall be still more heavily taxed than are those who are not so industrious and who have made but a small income, because they are not or have not been so industrious? Where is the justice of that? I cannot see it. [Here the hammer fell.]

On the amendment of Mr. BAKER, there were—ayes 21, noes 72.

Mr. BUCKLAND called for tellers.

Tellers were ordered; and Messrs. BAKER and GARFIELD were appointed.

The committee divided; and the tellers reported—ayes 26, noes 73.

So the amendment was not agreed to.

Mr. LE BLOND. I hope that the chairman of the Committee of Ways and Means will allow this proposition to be reserved so that we may have a vote in the House.

Mr. SCOTFIELD. For the purpose of closing debate on this bill, I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union, pursuant to the order of the House, had had under consideration the Union generally, and particularly the special order, being House bill No. 1161, amending the existing laws relating to internal revenue, and had directed him to report that they had come to no resolution thereon.

Mr. HOOPER, of Massachusetts. Mr. Speaker, it is absolutely necessary to press this bill through if we are to pass the other important measures which are now pending; and I therefore move to suspend the rules so as to provide that there shall be no debate on the remainder of this bill in the Committee on the Whole, allowing however amendments to be offered.

Mr. GRINNELL. I move to amend the motion, so as to provide five-minute debate on each side upon amendments.

The SPEAKER. That is the rule now.

Mr. MAYNARD. I suggest that one minute instead of five minutes be allowed for debate on amendments.

The SPEAKER. A motion to suspend the rules is not amendable nor debatable.

Mr. GARFIELD. I suggest to the gentleman from Massachusetts [Mr. Hooper] that he modify his proposition so as to allow ten minutes debate on each section.

Mr. HILL. I rise to a question of order. My point is that debate is not in order.

The SPEAKER. The Chair sustains the point of order.

Mr. LE BLOND. Would it not improve the motion of the gentleman from Massachusetts to say that we shall simply take the report of the Committee of Ways and Means for

granted, and that no amendments to the bill shall be allowed?

The question being on the motion to suspend the rules to close all debate on the tax bill in the Committee of the Whole on the state of the Union,

Mr. HILL called for the yeas and nays.

The yeas and nays were not ordered.

On the question, there were—ayes 74, noes 40.

Mr. ANCONA called for tellers.

Tellers were ordered; and Mr. HOOPER, of Massachusetts, and Mr. LE BLOND were appointed.

The House divided; and the tellers reported—ayes 69, noes 45.

So (two-thirds not voting in favor thereof) the motion to suspend the rules was not agreed to.

Mr. HOOPER, of Massachusetts. I move that when the House shall again resolve itself into the Committee of the Whole on the tax bill all debate on the pending section be closed in one minute.

The motion was agreed to.

Mr. HOOPER, of Massachusetts, moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair,) and resumed the consideration of the tax bill as the special order.

The CHAIRMAN stated that under the order of the House debate on the pending section closed in one minute.

Mr. HILL. I move to amend as follows:

Strike out after the word "whatever" in line sixteen to the end of line seventeen, and insert "a tax of three per cent. upon the amount so derived over \$1,000 and under \$5,000; a tax of five per cent. on the amount so derived over \$5,000 and under \$10,000; and on the amount so derived over \$10,000 a tax of ten per cent."

This is perfectly constitutional, even under the objection of the gentleman from Ohio, as it is perfectly uniform in every respect. Any person who receives an income under \$5,000 is taxed three per cent. and under \$10,000 five per cent. There is no inequality in the tax at all. It applies equally to every man, and therefore is constitutional.

The amendment was disagreed to.

Mr. BENJAMIN. I call attention to the following rule:

"No member shall vote on any question in the event of which he is immediately and particularly interested, or in any case where he was not within the bar of the House when the question was put."

Mr. GARFIELD. That is not the question of order.

The CHAIRMAN. It is not.

Mr. BENJAMIN. Gentlemen are voting who are excluded by the rules.

The CHAIRMAN. It is not in order unless the gentleman will state who are so voting.

Mr. WILSON, of Iowa. I move the same amendment, with the last clause stricken out.

The amendment was disagreed to.

Mr. PIKE. I move to make the five per cent. on the amount over \$5,000 and ten per cent. over \$10,000.

The amendment was disagreed to.

The Clerk read as follows:

That section one hundred and seventeen be amended by striking out all after the enacting clause and inserting, in lieu thereof, the following: That in estimating the gains, profits, and income of any person, there shall be included all income derived from interest upon notes, bonds, and other securities of the United States; profits realized within the year from sales of real estate purchased within the year or within two years previous to the year for which income is estimated; interest received or accrued upon all notes, bonds, and mortgages, or other forms of indebtedness bearing interest, whether paid or not, if good and collectable, less the interest which has become due from said person during the year; the amount of all premium on gold and coupons; the amount of sales of live stock, sugar, wool, butter, cheese, pork, beef, mutton, or other meats, hay and grain, or other vegetable or other productions, being the growth or produce of the estate of such person, not including any part thereof consumed directly by the family; all other gains, profits, and income derived from any source whatever; and the share of any person of the gains

and profits of all companies, whether incorporated or partnership, who would be entitled to the same, if divided, whether divided or otherwise, except the amount of income received from institutions or corporations whose officers, as required by law, withhold a per cent. of the dividends made by such institutions, and pay the same to the Commissioner of Internal Revenue or other officer authorized to receive the same; and except that portion of the salary or pay received for services in the civil, military, naval, or other service of the United States, including Senators, Representatives, and Delegates in Congress, from which the tax has been deducted. And in addition to \$1,000 exempt from income tax, as hereinbefore provided, all national, State, county, and municipal taxes paid within the year shall be deducted from the gains, profits, or income of the person who has actually paid the same, whether such person be owner, tenant, or mortgagor; losses actually sustained during the year arising from fires, shipwreck, or incurred in trade, and debts ascertained to be worthless, but excluding all estimated depreciation of values and losses within the year on sales of real estate purchased two years previous to the year for which income is estimated; the amount actually paid for labor or interest by any person who rents lands or hires labor to cultivate land, or who conducts any other business from which income is actually derived; the amount paid out for usual or ordinary repairs: *Provided*, That no deduction shall be made for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate: *And provided, further*, That only one deduction of \$1,000 shall be made from the aggregate income of all the members of any family, composed of one or both parents, and one or more minor children, or husband and wife; that guardians shall be allowed to make such deduction in favor of each and every ward, except that in case where two or more wards are comprised in one family, and have joint property interest, only one deduction shall be made in their favor: *And provided*, That in cases where the salary or other compensation paid to any person in the employment or service of the United States shall not exceed the rate of \$1,000 per annum, or shall be by fees, or uncertain or irregular in the amount or in the time during which the same shall have accrued or been earned, such salary or other compensation shall be included in estimating the annual gains, profits, or income of the person to whom the same shall have been paid in such manner as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, may prescribe.

Mr. HOOPER, of Massachusetts, moved in lines fifty-one and fifty-two to strike out "Commissioner of Internal Revenue or other;" in line eighty-three, after the word "provided," to insert "further;" and in line seventy, after the word "derived," to insert "amount actually paid by any person for rent of house or premises occupied as a residence for himself or his family."

The amendment was agreed to.

The hour of half past four o'clock p. m. having arrived, the House, pursuant to order, took a recess until half past seven o'clock p. m.

## EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

## SAFETY OF PASSENGERS, ETC.

On motion of Mr. ELIOT, by unanimous consent, the House took from the Speaker's table Senate bill No. 467, to amend the act entitled "An act further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes," approved July 25, 1866; which was read a first and second time.

The bill provides that section nine of the act entitled "An act to amend the act entitled 'An act further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes,'" approved July 25, 1866, be amended so as to read as follows:

SEC. 9. And be it further enacted, That all vessels navigating the bays, inlets, rivers, harbors, and other waters of the United States, except vessels subject to the jurisdiction of a foreign Power and engaged in foreign trade, and not owned in whole or in part by a citizen of the United States, shall be subject to the navigation laws of the United States; and all vessels propelled in whole or in part by steam, and navigating as aforesaid, shall also be subject to all rules and regulations consistent therewith, established for the government of steam vessels in passing, as provided in the twenty-ninth section of an act relating to steam vessels, approved August 30, 1852. And every sea-going steam vessel now subject, or hereby made subject, to the navigation laws of the United States, and to the rules and



regulations aforesaid, shall, when under way, except upon the high seas, be under the control and direction of pilots licensed by the inspectors of steam vessels; vessels of other countries and public vessels of the United States only excepted: *Provided, however*, That nothing in this act, or in the act of which it is amendatory, shall be construed to annul or affect any regulation established by the existing law of any State requiring vessels entering or leaving a port in such State to take a pilot duly licensed or authorized by the laws of such State or of a State situate upon the waters of the same port.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELLIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ELECTION OF MEMBERS OF CONGRESS.

Mr. DAWES. I desire to report a bill from the Committee of Elections to provide for a uniform day for holding the election of members of Congress. I wish to report it now that it may be passed and go to the Senate.

Mr. ORTH. I object.

#### RELIEF OF CERTAIN DRAFTED MEN.

Mr. ANCONA, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to bill of the House No. 811, for the relief of certain drafted men, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to bill of the House No. 811, for the relief of certain drafted men, having met, after full and free conference do recommend that the Senate recede from its amendments to the said bill.

SYDENHAM E. ANCONA,

JOHN A. BINGHAM,

JOHN H. KETCHAM,

*Managers on the part of the House.*

J. W. NESMITH,

EDGAR COWAN,

*Managers on the part of the Senate.*

The report of the committee of conference was agreed to.

Mr. ANCONA moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### MURDER OF UNION SOLDIERS.

Mr. PIKE, from the select Committee on the Murder of Union Soldiers in South Carolina, submitted a report in writing; which was laid on the table, and ordered to be printed.

Leave was granted to the minority of the committee [Mr. COOPER] to submit his views.

Mr. PIKE submitted the following resolution; which was referred, under the law, to the Committee on Printing:

*Resolved*, That five thousand extra copies of the report of the select Committee on the Murder of Union Soldiers in South Carolina, with the evidence taken by the committee, be printed for the use of the House.

#### BANKRUPT BILL.

Mr. JENCKES. I ask that bill of the House No. 598, to establish a uniform system of bankruptcy throughout the United States, be taken from the Speaker's table with a view to agreeing to the request of the Senate for a committee of conference on the disagreeing votes of the two Houses on said bill.

Mr. COOK. I object.

#### INDEMNITY BILL.

The SPEAKER. The House now resumes the consideration of the special order, being bill of the House No. 859, to declare valid and conclusive certain proclamations of the President and acts done in pursuance thereof, or of his orders, in the suppression of the rebellion against the United States, upon which the gentleman from Iowa [Mr. WILSON] was entitled to the floor.

Mr. WILSON, of Iowa. Mr. Speaker, the object of this bill is a good one, and if Congress possesses the constitutional power to pass it we should place it among the statutes of the nation without unreasonable delay.

The condition of the business of the House will not admit of the latitude of discussion to

which I would be glad to submit this measure. I feel confident that it would survive the ordeal of critical discussion, and receive the approving judgment of Congress and the country. I am disposed to allow such latitude of discussion as the circumstances surrounding us at this time will admit of, and were it not for the pressure of the business of the House and the impatience of members to proceed with the revenue bills, I would be glad to submit the bill to as ample debate as could reasonably be desired by any one.

The bill embraces two leading propositions. The first relates to certain acts, proclamations, and orders of the President of the United States, and acts done by his authority or approval, including those done by and through courts-martial and military commissions, and is set out in the bill in these words:

That all acts, proclamations, and orders of the President of the United States, or acts done by his authority or approval after the 4th of March, A. D. 1861, and before the 1st day of December, A. D. 1865, respecting martial law, military trials by courts-martial or military commissions, or the arrest, imprisonment, and trial of persons charged with participation in the late rebellion against the United States, or as aiders or abettors thereof, or as guilty of any disloyal practice in aid thereof, or of any violation of the laws or usages of war, or of affording aid and comfort to rebels against the authority of the United States, and all proceedings and acts done or had by courts-martial or military commissions, or arrests and imprisonments made in the premises by any person by the authority of the orders or proclamations of the President, made as aforesaid, are hereby approved in all respects, legalized and made valid, to the same extent and with the same effect as if said orders and proclamations had been issued and made, and said arrests, imprisonments, proceedings, and acts had been done under the previous express authority and direction of the Congress of the United States, and in pursuance of a law thereof previously enacted and expressly authorizing and directing the same to be done.

The object of this part of the bill cannot be mistaken. It is alleged that the President of the United States, in regard to the various matters here enumerated, has acted without authority of law, and that all who have been in any manner associated with him, as instruments in rendering effective his acts, proclamations, and orders, are guilty of infractions of the law, for which they may be indicted, convicted, punished, and subjected to civil actions for the recovery of damages. Many officers and soldiers of the United States have already been made defendants in civil and criminal actions for acts which it is proposed to cover by the broad mantle of this bill. Security for the future for all those agents who acted for the Government in its hour of peril is the objective point at which this measure is aimed. They were our agents and we propose to make their acts our own. It would not be right for us to enjoy the benefits resulting from the acts which surround our agents with perils and refuse or neglect to shield them against impending danger.

The power which this bill invokes has in several instances been exercised by Congress. The third section of the act of August 6, 1861, provides:

"That all acts, proclamations, and orders of the President of the United States after the 4th of March, 1861, respecting the Army and Navy of the United States, and calling out or relating to the militia or volunteers from the States, are hereby approved and in all respects legalized and made valid, to the same intent and with the same effect as if they had been issued and done under the previous express authority and direction of the Congress of the United States."

The Supreme Court in the prize cases, (2 Black's Reports, 270,) in pronouncing on the right of the President to institute a blockade, (which he did by one or more of the proclamations covered by the act of 1861,) made use of this language:

"If it were necessary to the technical existence of a war that it should have a legislative sanction, we find it in almost every act passed at the extraordinary session of the Legislature of 1861, which was wholly employed in enacting laws to enable the Government to prosecute the war with vigor and efficiency; and finally, in 1861, we find Congress 'ex majore cautela,' and in anticipation of such astute objections passing an act approving, legalizing, and making valid all acts, proclamations, and orders of the President, &c., as if they had been issued and done under the previous express authority of the Congress of the United States!"

"Without admitting that such an act was necessary under the circumstances, it is plain that if the President had in any manner assumed powers which it was necessary should have the authority or sanction of Congress, that on the well known principle of law 'omnis ratihabitio retrotrahitur et mandato equiparatur,' this ratification has operated to perfectly cure the defect."

It will be observed that while the court intimated that such curative legislation may not be necessary in such cases, it followed the intimation with an emphatic affirmation of the validity of such congressional action in case the President had exceeded his powers. Nor was the court willing to let the case rest here. After citing the case of *Brown vs. United States*, (8 Cranch, 110,) the doctrine of the court therein so far as it relates to the present discussion is reversed, and the principle contended for by Mr. Justice Story in his dissenting opinion is declared to be the law. The position of Justice Story, so far as it relates to the question which I am now considering, is stated as follows:

"For every purpose applicable to the present case it does not seem necessary to controvert these positions; and whatever may be the correctness of the others, I am perfectly satisfied that the position is well founded, that no subject can legally commit hostilities or capture property of an enemy, when, either expressly or constructively, the sovereign has prohibited it. But suppose he does, I would ask if the sovereign may not ratify his proceedings; and thus, by a retroactive operation give validity to them? Of this there seems to me no legal doubt."

This doctrine was adopted in the opinion of the court in the prize cases unqualifiedly, and in these words:

"Although Mr. Justice Story dissented from the majority of the court on the whole case, the doctrine stated by him on this point is correct and fully substantiated by authority."

I accept this concurrent affirmation by Congress and the Supreme Court of the power to pass this bill as a sufficient justification for urging it upon the House. It is not necessary for me to refer to other precedents. Every one who is familiar with the legislative history of the country knows that time and again Congress has in various ways asserted this power; in some cases authorizing to be done acts kindred to those directed and authorized by the orders and proclamations to which this bill refers; in other cases affirming and declaring legal and valid acts which had been done without the sanction of law. The legislative and judicial action of the Government presents no difficulty in this regard until we reach the recent decision of the Supreme Court in the *Milligan* case, and even that case interposes no real and valid objection to the passage of this bill. It is true that a majority of the court, in the opinion announced by Mr. Justice Davis, declares that Congress could grant no power to try, in the State of Indiana, a citizen in civil life, in nowise connected with the military service, by a court-martial or military commission, and in so far as this goes the court stands in opposition to this bill. But this is a piece of judicial impertinence which we are not bound to respect. No such question was before the court in the *Milligan* case, and that tribunal wandered beyond the record in treating of it. Its discussion by the court was out of place, uncalled for, and wholly unjustifiable. *Milligan* presented no point in his case upon which Mr. Justice Davis and his concurring associates can hang an excuse for this unnecessary examination of the powers of Congress. All the court said upon this subject brought neither benefit nor harm to *Milligan*. The court found that Congress had not authorized nor attempted to authorize the trial of *Milligan* by a military commission. This in and of itself should have closed the door against the voluntary wanderings of the court into the fields of congressional power.

Mr. Speaker, it may not be out of place for me to devote a few minutes to an examination of some of the interesting and important questions discussed by the court in the opinion delivered in the *Milligan* case. The difficulty under which the court labored in this case seems to me to have been the want of a just and proper appreciation of the condition in

which the nation rested at the time of the arrest and trial of Milligan. The nation was in a condition of war. The war powers of the Government were in intensely active operation and were being applied to every part of the national domain. When a nation is at war it acts as a unit. One part of it cannot be in a state of war and another in a state of peace. In war the condition of a nation is indivisible, and the state of war is national. The United States can not be at war and the State of Indiana at peace; for that State is a part of the United States. The fact that courts were open in the State of Indiana and that hostile armies were not encamped within its borders could not suspend any of the war powers of the United States in time of war. The State of Indiana was not carrying on war; that was being done by the United States. Hence, when Justice Davis and his concurring associates remark in their opinion—

"If armies were collected in Indiana they were to be employed in another locality where the laws were obstructed and the national authority disputed. On her soil there was no hostile foot; if once invaded, that invasion was at an end, and with it all pretext for martial law. Martial law cannot arise from a threatened invasion. The necessity must be actual and present; the invasion real, such as effectually closes the courts and deposes the civil administration."

They manifest most singularly crude ideas of the great questions they are discussing. The recent war was not one of invasion in any correct sense of the term; it was a war organized and carried on against the United States within their jurisdiction by their own citizens. "Hostile feet" were pressing more than one half of the soil of the United States. Within the United States all of the furies of war were raging. Army met army, and in the fearful shock men met death by tens and scores of thousands. The strong arms of the Government were stretching out to every home in the land, breaking the domestic circles and placing their members in the front of battle, there to fight and die for the safety of the nation. Treasure and blood flowed in rivers all over the land. Every resource and power of the Republic was drawn upon and strained to the utmost limit.

These great facts are forgotten by the judges, who arrest and turn away from their legitimate offices the war powers of this Government because the State of Indiana was or was not actually invaded. Parties in Kentucky, in the early days of the war, said to the Government, "Over the soil of this State no hostile forces shall pass: neutrality shall be observed throughout its borders." The voice of the judges seems like an after-the-war echo of the voice which proclaimed neutrality at the beginning of the strife. The voices sound alike; both lack harmony with the Constitution and the national life, and both were toned by State rights' teachings; both assert the superiority of the condition of the State over the necessities of the nation. Had this judicial voice spoken in the midst of the war as it has since its close, and enforced its mandate, the Government would have failed in the struggle, and the confederate States would to-day occupy a place among the nations of the earth. It is well for us that we have a time of peace in which to examine the dangerous tendencies of the positions assumed by the Supreme Court concerning the war powers of the nation and the power of Congress relative thereto. It is well for us, also, that these positions are assumed outside of the record of the case presented, and that they are occupied by a bare majority of the court; that in no sense do they convey to the nation the law of the land. These things will direct the attention of the nation to its highest judicial tribunal, and ultimately result in checking the present tendencies of some of the members of that body toward thrusting upon the country without warrant in the record the opinions of a mere majority the gravest questions of constitutional law.

The failure of the majority of the court to comprehend the national character of the state or condition of war produced a natural result. Having ignored the war status of the nation, it next shuts its eyes against everything like

martial law, and the laws and usages of war, except in that circumscribed sphere occupied by persons in the—

"Land and naval forces, or in the militia, when in actual service, in time of war or public danger."

Beyond this narrow limit, it is said, martial law cannot extend unless the pressure of actual war is "such as effectually closes the courts and deposes the civil administration." This seems to me to be perfectly fallacious. There are such things as martial law, and the laws and usages of war, and these were put into the Constitution of the United States with their entire latitude of jurisdiction, when the framers of that instrument provided that—

"Congress shall have power to declare war, grant letters of marque and reprisal, make rules concerning captures on land and sea, raise and support armies, provide and maintain a navy, make rules for the government and regulation of the land and naval forces, provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions," &c.

And made the President Commander-in-Chief of the Army and Navy of the United States. Now, sir, whatever is necessary for the full enjoyment and effective execution of these powers follows them as incidents. When the nation is at war it must be left free to exercise these powers in such manner as will most surely, safely, and lawfully promote the interests and well-being of the Republic. The execution, administration, and enforcement of these powers are not devolved on the civil courts or the ordinary civil authorities. The jurisdiction of these war powers is as comprehensive as the state of war, and as the latter is national in its extent the former extends to and embraces the nation. I do not mean to be understood as saying that the military authorities absorb the civil jurisdiction throughout the nation in time of war and may punish civil offenses, but that they may, under such regulations as Congress may from time to time establish, punish military offenses.

A military offense may be committed by a civilian. The civil status of the offender will not relieve him of liability to punishment. He may be punished by the authorities who administer the law against which he has offended. A civilian may commit an act which would place in jeopardy an entire army, and yet his act may not be known to the civil law as a crime. His act may hazard the life of the nation, and yet he be entirely free from intent to "adhere to the public enemy, giving him aid and comfort." His act may be a blunder without intent, but a blunder under such circumstances is a crime which may be punished by military authority. Where punished? The Supreme Court says where the civil authorities have been deposed and the civil courts are closed; I say wherever the state of war exists, and by a court which can punish according to military law. A civil court could not try such an offense. The dissenting judges in the Milligan case very truthfully say:

"The Constitution itself provides for military government as well as for civil government."

And this military government must be clothed with power to punish offenses against itself or it would be utterly powerless to enforce its commands and to protect itself against interference with its proper offices and powers from whatever source it may come.

But the majority in the case under consideration say:

"Until recently no one ever doubted that the right of trial by jury was fortified in the organic law against the power of attack. It is now assailed; but if ideas can be expressed in words, and language has any meaning, this right—one of the most valuable in a free country—is preserved to every one accused of crime who is not attached to the Army or Navy, or militia in actual service."

I admit the sacred character and great value of the right of trial by jury. It is a great right which should not be abridged. But in the case of *United States vs. Davis*, (Wall. 106,) it was held that the provision of the Constitution which says—

"The accused shall enjoy the right to a speedy and

public trial, by an impartial jury," &c., "is only intended of those crimes which by our former laws and customs had been tried by jury."

Now, sir, every one knows that military offenses never were tried by jury. Hence this parade of the right of trial by jury can serve no other office than that of a popular float for a mischievous decision. The guarantee upon which the court places so much stress relates to those "criminal prosecutions" in which the accused was entitled to a trial by jury at the time the clause was placed in the Constitution, and this is its entire length and breadth.

Great stress is placed upon that part of the fifth amendment which declares—

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger."

This relates to crimes known to the common law, or declared by statute and punishable by the civil courts. It has no reference whatever to military offenses. This clause of the Constitution, instead of being a limitation upon the powers of military tribunals, is an enlargement of their jurisdiction, inasmuch as it subjects persons attached to the military service to trial by court-martial for any crime which they may commit. The common law crime of murder, if committed by a civilian, can only be tried upon indictment or presentment of a grand jury, and by a petit jury. For the same crime a soldier may be tried by a court-martial. Now, if a soldier may be tried by court-martial for the highest grade of common-law crime, it must follow that for every lesser grade of common law and statutory crime he may be tried by the same tribunal. In this view of the subject I may very well adopt the language of the majority of the court in the Milligan case, and say that—

"The framers of the Constitution doubtless meant to limit the right of trial by jury, in the sixth amendment, to those persons who were subject to indictment or presentment in the fifth."

What follows? Why, that persons involved

"In cases arising in the land and naval forces, or in the militia, when in actual service in time of war or public danger"—

No matter what the character of the offense, and all other persons charged with the commission of military offenses, are not entitled to trial by jury under the sixth amendment, because those of the first class are excepted from the operation of the fifth amendment so far as it relates to presentment and indictment; and those of the latter class are charged with offenses which have never been subjects of indictment or presentment by grand juries. This construction of the Constitution removes all danger of conflict between the civil and military authorities of the Government. Each have their appropriate sphere, clothed with ample and perfectly harmonious powers to protect the citizen and the nation. A contrary construction must render inoperative to an alarmingly dangerous extent all those parts of the eighth section of the first article of the Constitution, which embrace the war powers of the nation.

Mr. Speaker, the views which I have endeavored to present are not without support in former decisions of the Supreme Court. Section four of the act of 1795 declares—

"That the militia employed in the service of the United States shall be subject to the same rules and Articles of War as the troops of the United States."

Upon this statute the Supreme Court, in the case of *Martin vs. Mott*, 12 Wheaton, 19, following the case of *Houston vs. Moore*, 5 Wheaton, 1, held that—

"Although a militiaman who refused to obey the orders of the President calling him into the public service was not, in the sense of the act of 1795, 'employed in the service of the United States,' so as to subject him to the Rules and Articles of War, yet he was liable to be tried for the offense under the fifth section of the same act by a court-martial called under the authority of the United States."

Thus clearly asserting that a person not in the military service may nevertheless be tried by a court-martial for a military offense. But

the court did not stop here. It was urged by Mott that—

"The proceeding of the court-martial took place and the sentence was given three years and more after the war was concluded and in a time of profound peace."

The court answered the objection in these words:

"The opinion of the court is, that a court-martial, regularly called under the act of 1795, does not expire with the end of a war then existing, nor is its jurisdiction to try these offenses in any shape dependent upon the fact of war or peace."

"It would be a strained construction of the act to limit the authority of the court to the mere time of the existence of the particular exigency, when it might be thereby unable to take cognizance of and decide upon a single offense. It is sufficient for us to say that there is no such limitation in the act itself."

This case establishes these positions:

1. A military offense can be committed by a person not "in the land or naval forces, or in the militia, when in actual service in time of war or public danger;" for such persons are subject to the Rules and Articles of War, and Mott was not.

2. That such offenses, though committed by persons not included in the classes just recited, may be tried by a court-martial.

3. That the jurisdiction of a properly constituted court-martial does not cease with the termination of a war, but may continue until the case for the trial of which it was organized can be disposed of.

4. That such jurisdiction does so continue unless it be limited by act of Congress. This case and the Milligan case cannot stand together. The former stands in support of those powers of the Government upon which it must rely for its protection, defense, and maintenance in time of war or public danger; the latter dwarfs these powers, and, if enforced, would render it impossible for the Government to prosecute a war. The one manifests a just appreciation of the distinction which exists between the civil and the war powers of the nation; the other presents alarming evidence of a disposition on the part of the court to assume control of powers never committed to its jurisdiction. I know of nothing in the Milligan case which should stand in the way of the triumphant passage of this bill.

Mr. Speaker, common justice demands the passage of this bill for the indemnification of those who served the Government, and who to-day stand in peril because they served the Government faithfully and well. Not a man of all the long list of those whose safety depends on the passage of this bill had any cause to suspect, when he was performing the services which bring him within its provisions, that he was acting at his own peril, and that the shield of the Government was not extended over him. Our legislative and judicial history both warranted every such person in resting upon the belief that for the time being he was absorbed into the body of the Government, and that it, and not himself, was the party acting. In the first few months of the war Congress declared by solemn statute a ratification and pronounced the validity of the acts, orders, and proclamations of the President. The Supreme Court in 1862, in the prize cases, while intimating that this legislative action was not necessary, still held that if the President had acted without authority of law, the act of Congress operated as a ratification of his acts and cured all defects, the same as though the acts had been authorized by act of the national Legislature. Every officer and soldier acting under the orders and proclamations of the President relied on this action of the executive, legislative, and judicial departments of the Government, and went forward in the discharge of his duty fully believing that he was acting for the nation and not at his own peril. They knew that the Supreme Court had decided in the case of *Martin vs. Mott*, already quoted by me—

"That the authority to decide whether the exigency has arisen belongs exclusively to the President, and that his decision is conclusive upon all other persons. We think that this construction necessarily results from the nature of the power itself, and from the

manifest object contemplated by the act of Congress. The power itself is to be exercised upon sudden emergencies, upon great occasions of state, and under circumstances which may be vital to the existence of the Union. A prompt and unhesitating obedience to orders is indispensable to the complete attainment of the object. The service is a military service, and the command of a military nature; and in such cases every delay and every obstacle to an efficient and immediate compliance necessarily tend to jeopardize the public interests. While subordinate officers or soldiers are pausing to consider whether they ought to obey or are scrupulously weighing the evidence of the facts upon which the Commander-in-Chief exercises the right to demand their services, the hostile enterprise may be accomplished without the means of resistance." "If a superior officer has a right to contest the orders of the President upon his own doubts as to the exigency having arisen, it must be equally the right of every inferior officer and soldier; and any act done by any person in furtherance of such orders would subject him to responsibility in a civil suit, in which his defense must finally rest upon his ability to establish the facts by competent proofs. Such a course would be subversive of all discipline and expose the best disposed officers to the chances of ruinous litigation."

The officers and soldiers of the United States had little reason to expect from the source whence come this doctrine that cruel abandonment of them which seeks to deny through the doctrine of the Milligan case all power in Congress to protect them; and still less reason had that class of officers who stand most endangered by the position of the majority in the Milligan case. I refer to those who had participated in the acts of military commissions such as Milligan was tried by. They could look with confidence to the opinion of the court in *ex parte Vallandigham* (1 Wallace's, 248,) wherein the instructions contained in the order of the Secretary of War of April 24, 1863, are approvingly referred to, and the jurisdictions of courts-martial and military commissions held to be—

"Applicable, not only to war with foreign nations, but to a rebellion, when a part of a country wages war against its legitimate Government, seeking to throw off all allegiance to it, to set up a government of its own."

So far as the court in that opinion refer to the instructions contained in the order cited, it treats them as valid, and they expressly affirm that—

"Military offenses, under the statute, must be tried in the manner therein directed; but military offenses which do not come within the statute must be tried and punished under the common law of war."

And upon this the opinion states:

"In the armies of the United States the first is exercised by courts-martial, while cases which do not come within the rules and regulations of war or the jurisdiction conferred by statute or court-martial, are tried by military commissions."

Sir, it is our duty to so act as that these things shall not have led our agents into dangers from which they cannot escape. It would be criminal in us to permit harm to come to our officers and soldiers or to leave the law in such condition as to afford the courts an excuse for bringing harm to them. Justice, right, propriety, all combine in urging the passage of this bill.

The next general proposition contained in this bill is as follows:

And no civil court of the United States, or of any State, or of the District of Columbia, or of any district or Territory of the United States, shall have or take jurisdiction of or in any manner reverse any of the proceedings had or acts done as aforesaid, nor shall any person be held to answer in any of said courts for any act done or omitted to be done in pursuance of any of said proclamations or orders, or by authority or with the approval of the President, within the period aforesaid, and respecting any of the matters aforesaid.

Mr. Speaker, if Congress has the power to ratify and to render legal and valid the acts, orders, and proclamations of the President, and the acts done in pursuance of them, it has power to enact this part of the bill. If we have the power to ratify and render legal and valid past acts, orders, and proclamations, it follows that we might have authorized the doing of these things. They all relate to his powers and duties as Commander-in-Chief of the Army and Navy. They are military in their character, and do not properly belong to the jurisdiction of the civil courts. If Congress had conferred these powers on the President in advance of their exercise, to be used by him in his discretion, and he had exercised

his discretion to the extent of the acts, orders, and proclamations named in this bill, there could be no doubt about any and all of them coming within the rule laid down in the case of *Martin vs. Mott* before cited, and affirmed in the case of *Luther vs. Borden*, (7 Howard's Reports, 45,) that—

"Whenever a statute gives a discretionary power to any person to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction that the statute constitutes him the sole and exclusive judge of the existence of the fact."

But it is said the President was not so authorized. If this be true, we propose to ratify what we might have authorized, and when this is done the rule cited operates with the same force as it would if the power had been granted before the President acted. This of itself is a sufficient reason for depriving the civil courts of jurisdiction in all cases and questions involved in this legislation, or rather to forbid the exercise of such jurisdiction by them; for if the President is the exclusive judge of the facts upon which he exercises his discretion, and all his military subordinates are bound to obey his orders, as has been decided by the Supreme Court, and as every member of the Army is required to take an oath to do upon entering the service, no other jurisdiction can exercise any control over him except that which possess the power of impeachment. Moreover, these acts of the President were not judicial acts in the sense in which the term judicial is used in the Constitution nor in the statutes conferring power on the civil courts; "nor can it be said that the authority to be exercised by a military commission is judicial in that sense;" nor can any of the acts of the President's subordinates in the cases involved in this bill be considered in that sense judicial. They all belong to another class of powers, having no reference to the judicial power of the United States. They involve another jurisdiction, whose exercise and operations should be kept free from the interference of the civil courts except so far as the law-making power of the United States may deem it proper to subject them to it. But if it were otherwise, it is clear that these cases do not come within the original jurisdiction of the Supreme Court, and its appellate jurisdiction is subject to such exceptions and regulations as Congress shall make. As to the inferior courts we have the power to withhold this jurisdiction. In the case of *Sheldon et al. vs. Gill*, (8 Howard's Reports, 448,) the Supreme Court held that—

"It must be admitted that if the Constitution had ordained and established the inferior courts, and distributed to them their respective powers, they could not be restricted or diverted by Congress. But as it has made no such distribution, one of two consequences must result—either that each inferior court created by Congress must exercise all the judicial powers not given to the Supreme Court, or that Congress, having the power to establish courts, must define their respective jurisdictions. The first of these inferences has never been asserted, and could not be defended with any show of reason, and if not, the latter would seem to follow as a necessary consequence. And it would seem to follow, also, that having a right to prescribe, Congress may withhold from any court of its creation certain jurisdiction of any of the enumerated controversies. Courts created by statute can have no jurisdiction but such as the statute confers. No one can assert a just claim to jurisdiction exclusively conferred on another or withheld from all."

Looking at this question from either standpoint suggested, our power to withhold the cases embraced in this bill from the jurisdiction of the civil courts is perfect.

It has been suggested to me, sir, that the clause of the bill which provides that "all officers and other persons in the service of the United States acting in the premises shall be held *prima facie* to have been authorized by the President" is objectionable and should be stricken from it. I do not regard it in this light. This provision is incorporated in the bill as a rule of evidence, and is merely an enlargement of the rule that "every public officer is presumed to act in obedience to his duty until the contrary is shown." This bill enlarges this rule so as to include "other persons in the service of the United States," a class which really stands in need of the rule more than officers; for a large propor-



tion of the orders under which subordinates act are mere verbal commands. These persons are as much entitled to the protection of the Government as are the higher grade of officers who may be able to present the written orders or instructions of the President delivered directly to them or kept on the records of the appropriate department.

Mr. Speaker, I believe the bill, taken as a whole, is a good one. I know it has been drawn with great care, and that it has had the deliberate consideration of the Committee on the Judiciary. That it may work harshly in some cases I do not doubt; but this results from the fact that it is necessarily general in its application, and all general rules have their exceptions. This could not be more readily avoided in this instance than in any other. I can but express the hope that the bill will be approved by the House.

Mr. STEVENS. Mr. Speaker, this bill goes a good way toward granting indemnity I admit, but it is not in the English fashion of giving direct indemnity. In the act of indemnity for the President, which we passed about the middle of the war, we copied the English statute, putting in a direct and explicit indemnity for all acts done under his orders. I do not know that that is necessary. This bill possibly goes far enough to legalize all these acts without a special act of indemnity, but I would suggest to the gentleman to put in a direct indemnity to all persons who acted under these proclamations.

The law with regard to the power of military tribunals is one about which there is not very great harmony among the legal fraternity. While I feel disposed to support them all as far as possible, and while I believe that nothing has been done by them which was not requisite for the country, yet I am not quite prepared to believe that a mere civilian can commit an offense except it be as a spy, which can be tried by a military tribunal. Take, for instance, the case of Mr. Harris, of Maryland, who was tried by a military tribunal, he never having been in the Army or Navy, or in any way participating in military operations, but being simply charged with giving a dollar to a confederate soldier to buy a night's lodging. I have not made up my mind yet, but I can hardly believe that an offense of that kind is triable by a military tribunal.

I do not wish, however, to criticize this proceeding. I am not quite as competent to decide it as those who ordered the trial; still I should like to see full indemnity provided, if it is not already contained in the bill, to everybody who acted on any such tribunal as that. That Congress could authorize such trials, just as they can now authorize them in the rebel States, I have no doubt at all. That part of the opinion of the Supreme Court is, I ought not to say absurd, but I think clearly erroneous. But without such authority, I have some doubt about the validity of these tribunals and I should like to see the officers who acted on them have direct indemnity.

Mr. WILSON, of Iowa, resumed the floor.

Mr. MAYNARD. I suggest to the gentleman that before he yields the floor he call the previous question, and if the House sustains it we had better act on the bill to-night.

Mr. ELDRIDGE. I desire to inquire of the gentleman from Iowa whether he intends by this bill to prevent the review of any case or cases where the parties may now be in prison or may now be suffering from decisions which they claim to be illegal, if his purpose is, as far as an act of Congress can do it, to prevent a review of any such cases as that?

Mr. WILSON, of Iowa. The purpose of the bill is very plainly indicated in its terms, and that is to deprive the civil courts of the United States of all jurisdiction in relation to the acts of military commissions and courts-martial.

Mr. ELDRIDGE. Is it the purpose of this bill to prevent a review of any case where the party may be now in prison, and illegally in prison, under some sentence of some pretended

military court? Is it to deny justice to such persons and to prevent them from obtaining what they have a right to under the Constitution and the laws?

Mr. WILSON, of Iowa. This bill has no reference to "pretended military tribunals," but to those which have acted in pursuance of the orders of the proper officers of the Government of the United States. Now, if the gentleman has a particular case to which he wishes to direct my attention, I will endeavor to give him an answer in regard to it.

Mr. ELDRIDGE. I have no particular case, but I suppose there are many cases where parties have been condemned by these military tribunals and who are now suffering the penalties pronounced upon them by those tribunals, and which may be illegal. I desire to know if it is the purpose of this bill to inflict upon them still further illegal punishment and to prevent them from having any remedy, or to prevent them from asserting their rights under the Constitution and laws, where they have been illegally tried and convicted?

Mr. WILSON, of Iowa. I have already stated that the purpose of this bill is to keep separate and distinct the civil and military jurisdiction of the Government, that the civil courts shall not interfere with the military tribunals in the administration of military law, except so far as the Congress of the United States may confer that jurisdiction, nor shall the military tribunals interfere with the exercise of the proper jurisdiction of the civil courts except so far as belongs to them under the powers that may be conferred upon them by the legislative branch of the Government.

Mr. ELDRIDGE. Is the gentleman going to deprive these parties of the opportunity of inquiring where the jurisdiction of the one ends and the other begins? Is the party to have no remedy, but must he suffer, without the right of trying the question where the jurisdiction of the one court commences and where the jurisdiction of the other ends?

Mr. WILSON, of Iowa. It seems to be very difficult for me to give an answer which shall be satisfactory to the gentleman from Wisconsin [Mr. ELDRIDGE] or which he can comprehend; that may be my fault and not his. I will say again that if the proceedings have been in pursuance to proper orders, if the persons who have acted have done so in pursuance of those orders, the effect of this bill will be to remove entirely from the jurisdiction of the civil courts the power to review these proceedings. And the last clause, to which I will call the attention of the House, simply provides that persons who have claimed to act in pursuance of these proclamations of the President shall be deemed *prima facie* to have acted in pursuance of such orders and proclamations. In a case of that kind the burden of proof is thrown upon those who may question the authority of the person claiming to have acted as an agent of the Government. That provision is based upon the well-settled principle of law that persons who are acting for the Government as its officers or agents are presumed to act in pursuance of law in the discharge of their duty. It is merely proposed to extend that principle of law so as to cover the cases of all officers and soldiers who are now made subject to civil action for what they have done in pursuance of orders or proclamations of the President during the war.

Mr. STOKES. Will the gentleman yield to me for a moment?

Mr. WILSON, of Iowa. Certainly; for a question.

Mr. STOKES. I desire to know whether this bill will relieve soldiers against whom suits have been or may be brought for acts done while in the military service of the Government and before they were mustered out? If the gentleman will allow me I will state that there are a number of cases of the kind to which I have referred. There is not a court in my district before which suits have not been brought against Federal soldiers for alleged crimes or offenses committed while they were

in the military service of the Government. These soldiers are obliged to fee lawyers to defend them, and thus are compelled to pay out all the little money that they may have earned in the service of their country. Some of them are already in prison, and many of them are being persecuted and hunted down by the rebel portion of the community. Now, I ask the gentleman from Iowa [Mr. WILSON] whether this bill will reach those cases, and whether it will relieve these Federal soldiers and take them away from the jurisdiction of a rebel judge and a rebel jury?

Mr. WILSON, of Iowa. I do not doubt that this bill will cover every case where a person has acted in pursuance of the orders or proclamations of the President, or of orders approved by him.

Mr. STOKES. Then I will vote for the bill.

Mr. PIKE. I would call the attention of the gentleman from Iowa to the fact that the bill as it now stands only pertains to proclamations and orders of the President made before the 1st day of December, 1865. I would inquire what objection would there be to make the date subsequent to that? There have been military commissions held since that time.

Mr. WILSON, of Iowa. I have no objection to changing the date if the House desire it.

Mr. PIKE. I move, then, to amend the bill by striking out "December, 1865," and inserting "July, 1866."

Mr. WILSON, of Iowa. Now, unless there is a general desire to refer the consideration of this bill to some other day, I will call the previous question upon it.

Mr. HISE. I understood the gentleman to say a moment ago that he did not propose to press this bill to a vote to-night, provided there was a desire on this side of the House to enter upon a discussion of it.

Mr. WILSON, of Iowa. If there is a general desire that this bill shall not be put upon its passage to-night, of course, I will not press it; but I will test that by asking a vote on seconding the call for the previous question.

Mr. ELDRIDGE. Gentlemen around me say they understood the gentleman from Iowa to say that he would not press this bill to a vote without some debate upon it.

Mr. WILSON, of Iowa. If the previous question should be seconded, and gentlemen on the other side desire to discuss the bill, it can go over until to-morrow, when I will be willing to yield to them the most of the hour to which I would be entitled to close the debate.

Mr. ELDRIDGE. The understanding was that a reasonable time for debate would be allowed.

Mr. WILSON, of Iowa. I am pressed on all sides by members who desire to proceed with the consideration of the tax and tariff bills and other measures of legislation.

Mr. ELDRIDGE. It seems to me that so important a measure as this is ought not to be passed without some opportunity for discussing it being allowed.

Mr. WILSON, of Iowa. I will test the question by calling for a vote of the House upon seconding the call for the previous question.

Mr. ELDRIDGE. Will not the gentleman consent to let this bill go over until to-morrow without at present calling the previous question upon it? He can call the previous question to-morrow.

Mr. WILSON, of Iowa. I would myself be very willing to do that; but we all know that the gentleman from Massachusetts [Mr. HOOPER] has the power to make a privileged motion, which would prevent me from getting up this bill again until the tax bill and tariff bill have both been disposed of; that is, the motion to suspend the rules for the purpose of going into Committee of the Whole on those bills. Under other circumstances I would allow any latitude of discussion which the other side might desire; but the gentleman can appreciate the position in which I am placed.

Mr. ELDRIDGE. Some gentlemen on this

Mr. McKEE. I move, in line one hundred and eighty-five, to insert the following:  
That section one hundred and twenty-two be amended by striking out the word "turnpike."

Mr. HOOPER, of Massachusetts. The clause to which this is moved as an amendment has been stricken out.

The CHAIRMAN. The amendment is not in order.

Mr. DAWES moved, in line one hundred and ninety-nine, after the word "aforesaid" to insert "whose compensation is determined by a fixed annual salary."

The amendment was agreed to.

The Clerk read as follows:

That section one hundred and twenty-four be amended by adding thereto the following additional proviso: "Provided further, That any legacy or share of personal property passing as aforesaid to a minor child of the person who died possessed as aforesaid shall be exempt from taxation under this section, unless such legacy or share shall exceed the sum of \$1,000, in which case the excess only above that sum shall be liable to such taxation."

That section one hundred and twenty-five be amended by inserting after the words "that the tax or duty aforesaid" the following: "shall be due and payable whenever the party interested in such legacy or distributive share or property or interest aforesaid shall become entitled to the possession or enjoyment thereof or to the beneficial interest in the profits accruing therefrom; and the same," and by inserting after the words "United States," in the first sentence of said section, the words "and every administrator, executor, or trustee having in charge or trust any legacy or distributive share, as aforesaid, shall give notice thereof in writing to the assessor or assistant assessor of the district where the deceased grantor or bargainer last resided, within thirty days after he shall have taken charge of such trust;" and by inserting after the words "shall make out such lists and valuation as in other cases of neglect or refusal, and shall assess the duty thereon," the words "and in case of willful neglect, refusal, or false statement by such executor, administrator, or trustee, as aforesaid, he shall be liable to a penalty of not exceeding \$1,000, to be recovered with costs of suit."

That section one hundred and thirty-seven be amended by inserting after the words "imposed by this act" the words "shall be assessed in the collection district where the estate is situate, and."

That section one hundred and thirty-eight be amended by adding thereto the words: "and every such person having in charge or trust any disposition of real estate or interest therein, subject to tax under this act, shall give notice thereof in writing to the assessor or assistant assessor of the district where the estate is situate, within thirty days from the time when he shall have taken charge of such trust, and prior to any distribution of said real estate, together with a description and value thereof, and the persons interested therein; and for willful neglect or refusal so to do, shall be liable to a penalty of not exceeding \$500, to be recovered with costs of suit."

That section one hundred and forty-five be amended by inserting after the word "years" the words "from the time when such tax shall have become due and payable."

That section one hundred and forty-seven be amended by striking out all after the enacting clause and inserting in lieu thereof the following: That any person liable to pay tax in respect to any succession shall give notice to the assessor or assistant assessor of his liability to such tax, within thirty days from the time when he shall become entitled in possession to such succession or to the receipt of the income and profits thereof, and shall at the same time deliver to the assessor or assistant assessor a full and true account of said succession, for the tax whereon he shall be accountable, and of the value of the real estate involved, and of the deductions claimed by him, together with the names of the successor and predecessor and their relation to each other, and all such other particulars as shall be necessary or proper for enabling the assessor or assistant assessor fully and correctly to ascertain the taxes due; and the assessor or assistant assessor, if satisfied with such account and estimate as originally delivered, or with any amendments that may be made therein upon his requisition, may assess the succession tax on the footing of such account and estimate; but it shall be lawful for the assessor or assistant assessor, if dissatisfied with such account, or if no account and estimate shall be delivered to him, to assess the tax on the best information he can obtain subject to appeal as hereinafter provided; and if the tax so assessed shall exceed the tax assessable according to return made to the assessor or assistant assessor, and with which he shall have been dissatisfied, or if no account and estimate has been delivered, and if no appeal shall be taken against such assessments, then it shall be in the discretion of the assessor, having regard to the merits of each case, to assess the whole or any part of the expenses incident to the taking of such assessment, in addition to such tax, and if there shall be an appeal against such last-mentioned assessment, then the payment of such expenses shall be in the discretion of the Commissioner of Internal Revenue.

Mr. HOOPER, of Massachusetts. I move to strike that out. It is in the existing law, and is here by a clerical mistake.

The amendment was agreed to.

Mr. McKEE. I renew my amendment here, and wish to explain it.

The CHAIRMAN. Discussion has been exhausted on this section under the order of the House.

Mr. McKEE. I will withdraw it and offer it in another place.

The Clerk read as follows:

Sec. 13. And be it further enacted, That there shall be levied, collected, and paid on all distilled spirits, upon which no tax has been paid according to law, a tax of two dollars on each and every proof gallon, to be paid by the distiller, owner, or any person having possession thereof, and every proprietor and possessor of a still, distillery, or distilling apparatus shall be jointly and severally liable for the taxes imposed by law upon the spirits distilled therein; and the tax shall be a lien on the spirits distilled, on the distillery used for distilling the same, with the stills, vessels, fixtures, and tools therein, and on the lot or tract of land whereon the said distillery is situated, together with any building thereon, from the time said spirits are distilled until the said tax shall be paid: Provided, That the tax on all spirits shall be collected at no lower rate than the basis of first-proof, and shall be increased in proportion for any greater strength than the strength of first-proof.

Mr. ALLISON. I move to insert the following before the proviso in the section just read:

Provided, That the tax upon any spirits distilled and removed from the place where the same were distilled, and not deposited in bonded warehouse, as required by law, shall at any time, upon knowledge of such fact obtained by the assessor or assistant assessor of the district where such spirits were distilled, be assessed by him upon the distiller of the same and certified or returned to the collector, who shall immediately demand payment of such tax, and upon the neglect or refusal of payment by the distiller, shall proceed to collect the same by distraint; but this provision shall not exclude any other remedy or proceeding provided by law.

The amendment was agreed to.

Mr. ALLISON. It will now be necessary to insert in place of the word "provided" in the section as it is reported the words "and provided further."

The amendment was agreed to.

Mr. FARQUHAR. I offer the following proviso as an amendment to come in at the end of the section:

And provided further, That nothing in this act, or the several acts of which this is amendatory, shall be construed as preventing or in any way restricting the continuous distillation of whisky by distillers.

I hope the committee will give me their attention for a moment while I state the object of this amendment. I understand the Commissioner of Internal Revenue has decided that under existing laws the distiller cannot redistill spirits. I understand he has also decided that spirits may be rectified within the distillery, provided there is a separation by a wall between the distillery and the rectifying establishment, while at the same time he has decided that you cannot redistill within the same building, notwithstanding you have taken the same precaution. I can see no reason why redistillation should not take place continuously within the distillery, and no reason why you should confine the distiller to the most crude and imperfect production of spirits that are made. This provision is designed to enable him to distill spirits in the highest degree, to take all the impurities out and make a perfect article. Why should it not be permitted?

I regard the decision of the Commissioner of Internal Revenue as contrary to the spirit and letter of the law. You cannot make proof-whisky without redistillation. If you must pass it through one doubling to make whisky, why can you not pass it through two, three, or four doublings and produce the highest class of distilled spirits? This proposition is designed to enable the distiller to make the purest kind of whisky instead of imposing upon the public that crude and poisonous article which is scattered broadcast throughout the land.

I offer this proposition for another reason. This redistillation is required to be done through another class of distillers. The whisky has to go from the distillery into the bonded warehouses, then it is taken out and another set of men within the ring, known, not as distillers, but as rectifiers and redistillers, who perform the operation of purifying the liquor which the original distiller is not entitled to do.

And here let me say that there is no protection against these rectifiers and redistillers. They can introduce any amount of fomented matter after it has passed from the bonded warehouse into their redistilling establishments, and

you have no superintendent or inspector to oversee them and prevent the whisky from adulteration, and thus imposing upon the Government by depriving it of the revenue it ought to receive; when if you will allow continuous distillation the result will be that instead of an inferior and impure article you will have the purest article of whisky.

[Here the hammer fell.]

Mr. ALLISON. The amendment proposed if adopted will have the effect to open up one of the greatest means of fraud on the revenue. The object of preventing the distillation of alcohol or the rectification of whisky in the distillery is to enable the proper officers of the Government to test the proof of every gallon of distilled spirits that comes from the still. It is true that the Commissioner of Internal Revenue has decided that you cannot rectify distilled spirits or distilled alcohol upon the same premises; that is to say, there must be a dividing wall between the distillery proper and the distillery where the spirits are redistilled into alcohol. But we cannot say what shall be the nature of that division line. One man may own a distillery in a block and the establishment next door may be a rectifying establishment. We cannot say what shall be the nature of the division line except that there shall be a wall between the distillery and the rectifying establishment.

Now, my friend knows very well, if he is familiar with the process of distillation, that if you distill alcohol from proof-spirits it must be done by a process of redistillation, which does lead to frauds; and as distilled spirits are put into the still for redistillation there is no possible opportunity of identifying it. If the gentleman proposes to have established within the distillery a rectifying establishment and an establishment for the production of alcohol, then I know of no means whereby we can prevent frauds or secure their detection.

Mr. FARQUHAR. Will the gentleman allow me to ask him a question? What objection can there be to redistillation, thereby making the purest kind of whisky; not alcohol, but first-proof whisky?

Mr. DARLING. I suppose that debate is exhausted upon this amendment; and I move to strike out the word "redistillation" for the purpose of saying a word.

There is a case in point in New York where there was a rectifying establishment on the front of the lot and a distillery in the rear, and a fence between them, in order, as was supposed, to evade the letter of the law. Whisky was made in the distillery, carried into the rectifying establishment and there branded "rectified" by the United States inspector, and then carried out, tax-free, in open daylight. Now, there is the objection to having a rectifying establishment upon the same premises with the distillery. Whisky that comes from a distillery is supposed to be taxed before it leaves the vault, and goes to the rectifier under the assumption that the tax upon it has been paid. It is then rectified and passes out free, after being marked "rectified;" and under the present law all barrels that are found so marked in the country, in the market anywhere, pass free, upon the supposition that the tax has been already paid. When those barrels are taken by the rectifier the brands are immediately erased, the bungs knocked out, and the contents emptied into the leech-tubs, and then, after going through the process, the liquor is put back into the barrels, branded "rectified," and sent out broadcast.

The objection, then, to having rectifying establishments upon the same premises with distilleries is that it opens the door for great frauds.

Mr. FARQUHAR. I ask the gentleman from New York [Mr. DARLING] to answer the point that I made in my question, and not to make a case for himself. I do not ask about rectifying. Does not the gentleman from New York know the difference between rectifying and redistilling spirits?



Mr. DARLING. Yes, I do.

Mr. FARQUHAR. Then why not reply to my question? I asked about redistillation, not rectification.

Mr. DARLING. By the improved system that they now have in distilleries, they can run and rerun their whisky until they reach the highest degree of proof. But they do not rectify for the purpose of making alcohol, but for the purpose of reducing the proof and putting in coloring and other matter, when they send it forth as "copper-distilled," "French brandy," "Bourbon whisky," &c.

Mr. HARDING, of Illinois. I do not know how well acquainted with this business the gentleman from New York is. He may have investigated it very thoroughly, but his views upon it do not correspond with mine, which are based upon my own observations and upon information that I have received.

I am informed that, notwithstanding the fact that the House at the last session, upon my motion, inserted the words "continuous distillation," which was suggested by the large distillers in the West, to enable them to make four or five barrels together into one, thus lessening transportation and expense. The insertion of those words was objected to then, not for any reason that has been referred to here to-night, but because it gave to the great distillers in the West complete possession of the business, as against those who purchased whisky to redistill. This provision prevents the very thing which enables men to perpetrate these frauds. Under it, in every instance, the liquor is run, by continuous distillation, to alcoholic proof before inspection; that has been the practice. The gentleman in the interest of New York rectifiers endeavored to stop it and to compel us to ship large quantities of water to New York, to enable them to redistill it there. In New York they cannot distill it out of grain by continuous distillation, up to the alcoholic standard, so cheaply as we can in the West.

As they are compelled to buy their materials from a bonded warehouse they wish to compel us to do the same. That is the reason, and the only reason, why in the interest of their eastern manufacturers the law, as it was intended by Congress, has been violated. Therefore I hope the House will adopt this amendment, under which frauds cannot be practiced as they are now, for every particle of the product of these distilleries would be run off and inspected as alcohol, and then how could there be fraud?

Now, we do not wish to take this product from the distillery before the process of manufacture is half completed, be obliged to put it into a bonded warehouse, take it out and put it in another establishment, and there rectify it. That would be putting us on an equality with the New York rectifiers. Now, if we can do this cheaper than they can, we can pay the tax better than they can. That is all I have to say; and I hope the House now understand the question.

Mr. DARLING. I withdraw the amendment to the amendment.

Mr. HILL. I renew the amendment to the amendment for the purpose of saying that I have been making diligent inquiry from the Commissioner of Internal Revenue and others in order to ascertain what possible reason there could be, if any, for not permitting this redistillation in our western distilleries. And I think I have been able to get at the cat which is hid under the meal. These New York refiners can get our crude whisky from the West and refine it in New York more cheaply than they can afford to buy our corn and ship it to New York, and there make from it the crude whisky themselves. That, it seems to me, is the real secret of all this hostility to the proposed amendment. The object of this amendment is merely to give every distiller an opportunity of making the most refined article of whisky which he is capable of making with the apparatus he possesses. What objection there can be to that I cannot see.

Mr. CONKLING. Will the gentleman state to the Committee of the Whole what he understands to be the process of continued distillation, or "repeated doublings," as it is termed by some?

Mr. HILL. I understand the term "redistillation" to mean to distill over again; continuous distillation, or continuous redistillation is the continuing the process of distillation so long as the distiller may think proper.

Mr. CONKLING. Will the gentleman tell us how, under the machinery of this bill, or of the provision which he advocates, the Government officers are to know whether a given distillation is a redistillation in point of fact of something already once distilled, or whether it is a fresh and swindling distillation of something which has not already been once distilled?

Mr. HILL. I will do my best to inform the gentleman. The Government has now a detective in every distillery; the distiller is obliged to pay this detective five dollars a day to see that the laws of the United States are executed in that respect. Now, I do not say that the detective is worth anything at all; I am not sure that it is not a swindle upon the Government and the distiller to have such an officer; but if the detective is good for anything, I should think he could tell whether it was an original distillation or a redistillation.

Mr. CONKLING. How?

Mr. HILL. By attending to the duties of his office.

Mr. CONKLING. By what process?

Mr. HILL. I do not myself understand all about the process of making whisky; but I know that no redistillation could take place in a distillery without the detective knowing it, if he performs his duty properly.

Mr. FARQUHAR. If my friend [Mr. HILL] will permit me, I will say in reply to the inquiry of the gentleman from New York [Mr. CONKLING] that the Commissioner of Internal Revenue, in his construction of this law, has decided that one redistillation in a distillery, producing proof whisky, is all that can be allowed under this law. That is, produced by once distilling and then doubling or turning back the product of that distillation and running it through the still again. Now every turning back of the whisky, every doubling, as it is called, reproducing it in vapor, constitutes a distillation, and you may continue that and make it if you please not a redistillation but a continuous distillation until you obtain the highest possible proof whisky that can be made; and that is all that we ask the opportunity for our distillers to do. All we ask is that, under the lock and key of the Government inspector, the distillation of the whisky may be carried by our distillers to the highest proof, to the highest state of refinement possible.

Mr. CONKLING. Mr. Chairman, I hope that no gentleman, in talking about whisky or by doing anything else with whisky, will become so excited as to suppose that the Committee of Ways and Means intended anything by these provisions except to carry out the genius and object of this law. Our country is groaning under a system of taxation unexampled in the world; it is so chiefly because it reverses almost all the accepted theories of taxation. We are seeking to spread all over a continent a drag-net which shall catch all the diversified representatives of industrial enterprise. Why? Because the revenues needed are so great that without this we should be unable to realize the sum adequate to carry on the business of the Government. Yet here is a subject of taxation which, if the frauds could be stopped, would of itself enable us to disentrail one fourth if not one third of all the present objects of taxation. I desire to be correctly understood when I say that, if we could enforce against alcohol the taxes laid upon it, we could emancipate from taxation one fourth if not one third of all the people who groan under the burdens laid upon them. The question is whether the manufacturers of whisky or the Government are to be strongest

in this struggle for the mastery which is now going on in this country and which we call tax-gathering of whisky manufacturers.

Now, sir, the proposition of the committee in this regard was, after a careful investigation by the sub-committee, in conjunction with the Government officers, that this process, called in parliamentary language "continuous distillation"—called again in another phrase "repeated doublings"—is a process which passes the comprehension of detectives, which eludes any mode of detection which we could apply, and enables these men not only to distill and redistill, but to distill afresh and make in place of one quantity of liquor repeated quantities, only one quantity being taxed. That was the proposition; and to meet it this provision was adopted. Now, if any gentleman can propose a mode in which all this thing can be done, and yet confined literally and legally to redistillation, not going beyond that, so be it. But let him propose it with his eyes open to the fact that here is a great door which has been easily swung open to frauds, and that in all the machinery of tax-gathering in this country, in all the opportunities for collecting taxes on the one side and evading them on the other, there is no particular in which it is so important that we should be guarded and no particular in which the Government has thus far been baffled so successfully as in this.

Mr. HILL. I desire to ask the gentleman how any fraud can possibly be practiced in mere redistillation of whisky which has not been sold and which cannot have been liable to a charge in the shape of taxation?

Mr. CONKLING. Mr. Chairman, a logician would answer my friend by saying that his remark is a mere *petitio principii*. He begs the question. Answering his inquiry directly, I might say that it could not be done. If you state upon paper or state hypothetically a case of mere continuous distillation or redistillation, as you may choose to call it, there is no fraud in that; but the practical proposition is that you cannot permit this thing to be done without incurring a liability to frauds against which you cannot guard.

Mr. HILL. Will the gentleman tell us how?

Mr. CONKLING. I have been endeavoring to tell the gentlemen how. I will endeavor to repeat in a word. The officers of the Government, the experts whose business it is to administer this law, who have been endeavoring to do it for a year or two, have said to the Committee of Ways and Means, and have satisfied the very able sub-committee that has had charge laboriously of this question, that they cannot with the machinery now existing, or by any mode which they are able to propose, guard against not only the possibility, but the easy and continual occurrence of precisely the frauds which the gentleman asks me to point out the mode of carrying on.

[Here the hammer fell.]

Mr. HILL. I withdraw my *pro forma* amendment.

Mr. SLOAN. I renew the amendment.

Mr. Chairman, with no particular knowledge of the special subject under consideration, I desire to say that in my judgment the remedy for the frauds which have been perpetrated in reference to the manufacture of whisky has not been looked for in the right direction or in the right place. It will be remembered by members of the House we spent a long time at the last session in revising and remodeling the laws intended to prevent frauds upon the revenue in this regard, and what is the result? Why, sir, the frauds have gone on increasing, while the revenue has been diminishing. Everything we have done seems to have made the matter worse.

I assert it is the general belief in the country among the people that no respectable attempt has yet been made by the revenue department to enforce the laws we have now upon the statute-books; that there has on the contrary been an exhibition of weakness and folly and imbecility. There has never been, so far as I am informed, a prosecution carried to the final

result even in a civil proceeding, much less in a criminal one, for a violation of the law. Until there is a vigorous effort on the part of the department, it is impossible we can prevent these frauds or derive any considerable revenue from this source.

Now, sir, the true remedy in my opinion lies in the Committee of Ways and Means revising this system to its foundation. Last year we created a horde of inspectors, an inspector for every distillery in the country. Men hired at five dollars a day have been set down in every distillery, and there is no distiller who carries on business of any importance who cannot afford to pay that inspector to aid him in violating the law. He acts as a spy or informer, and the Committee of Ways and Means seem to expect a man employed at this small salary can be placed in a distillery as a protection against fraud. It is a mere waste of time to be legislating in this way.

Mr. HIGBY. Allow me to suggest there is only one inspector in each distillery to watch night and day.

Mr. SLOAN. The whole system is wrong, and until it is reorganized it is idle to expect any considerable revenue.

Mr. GARFIELD. I wish to say in response to one point the gentleman has made he is mistaken in alleging no prosecution has been made. Suits have been brought, but the courts have dismissed the parties on a fine of a sixpence or an imprisonment of an hour. We do not propose to continue the discretion in the court, but now provide the fine shall not be less than a certain amount and the imprisonment shall not be for less than a certain time.

Mr. MAYNARD. In what part of the United States did that administration of the law take place?

Mr. GARFIELD. New York.

Mr. BLAINE. I ask the gentleman for information, what was the amount collected by this tax?

Mr. GARFIELD. From January to January \$37,000,000.

Mr. BLAINE. Within that time how much whisky was distilled?

Mr. GARFIELD. The general estimate is we have not received the tax on more than two gallons in five.

Now, Mr. Chairman, the committee have undertaken to perfect our system. Instead of tearing up the whole system, as the gentleman from Wisconsin suggests, we have, I think, established some good safeguards. If this process of continuous distillation be permitted, if we are not to cut up this distillation into several processes so we can examine into them, then they have covered up the chief source of all the frauds upon the revenue. I hope it will not prevail.

Then there is another thing in which we have made a vital change. As the law now stands, one man inspects the whisky in the warehouse and the same man inspects it out of it. He may cover his tracks; he may lie twice and shield himself. We have now two inspectors, one to inspect in, and one to inspect out.

I move that the committee rise to close debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BOWWELL reported that the Committee of the Whole on the state of the Union, pursuant to the order of the House, had had under consideration the Union generally, and particularly the special order, being House bill No. 1161, amending the existing laws relating to internal revenue, and had directed him to report that they had come to no resolution thereon.

Mr. GARFIELD moved that all debate on the pending section of the tax bill in the Committee of the Whole be closed in five minutes after its consideration shall be resumed.

The motion was agreed to.

Mr. GARFIELD moved that the rules be suspended and the House resolve itself into

the Committee of the Whole on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOWWELL in the chair,) and resumed the consideration of the tax bill as the special order.

Mr. ALLISON. Mr. Chairman—

Mr. FARQUHAR. I raise the point of order, that having moved this proposition I am entitled to the floor.

The CHAIRMAN. The gentleman from Indiana has already spoken.

Mr. ALLISON. Mr. Chairman, this is a very important question to the interest of the revenue laws and of our western distillers; and for myself I should not oppose the proposition if I believed it would have the effect to injure honest distillers in the West. But if I understand this question, without professing to have any practical knowledge of the subject, for I have none, the difficulty in placing the necessary instruments within the establishment for the distillation of alcohol is found in the fact that illicit whisky may come into the distillery without paying any tax and go out of it again branded as alcohol or rectified spirits without paying the tax. I do know that such was the case in one instance in my own city under the tax law prior to August, 1866. Now, the object of this amendment is to prevent at least one source of fraud, so that if there are any honest distillers who desire to conduct the business of rectifying whisky they can do so by erecting alongside of the distillery another establishment which will enable them to do it.

Mr. FARQUHAR. Will the gentleman let me call his attention to the fact that I am not proposing to allow rectifying under this amendment, but redistillation.

Mr. ALLISON. I understand perfectly that the proposition is to manufacture alcohol by continuous distillation. But I say by allowing that process to go on in one building you open the door whereby alcohol may be distilled, not in the original still which distills the first-proof spirits, but for whisky that is brought illicitly into the building; and it is for that purpose that it is deemed dangerous by the Commissioner of Internal Revenue, and by the special commissioner appointed for that purpose, to have such processes carried on in the same building.

Mr. HILL. Does the gentleman propose to legislate to prevent the pursuit of honest industry because some illicit whisky is introduced into distilleries?

Mr. ALLISON. Of course we do not intend to prevent a man from conducting an honest business, but we do propose to throw around the business of manufacturing whisky every possible precaution for the prevention of fraud. And those who are familiar with the subject do say this is one of the greatest avenues of fraud in the internal revenue. For myself, though it may inconvenience the distillers, yet if it is necessary to prevent fraud I am for prohibiting any process of distillation being conducted in a building where proof-spirits are distilled.

Mr. HARDING, of Illinois. If whisky is brought into the distillery illicitly and made into alcohol, and is inspected and found to be three times the original strength, do you not get three times the tax?

Mr. ALLISON. You would if it was done honestly.

Mr. HARDING, of Illinois. Your machinery will indicate the proof as well as you can indicate the temperature of water.

Mr. ALLISON. Those who have had experience in this matter say it is done dishonestly, and I do know it opens a wide door for fraud where alcohol is distilled in the same building. Now, if the distiller is compelled to remove his proof-spirits from the building to another, and then allow it to pass through this further process of distillation, there are officers who can detect him in any attempt at fraud, because every barrel must be inspected and marked in

accordance with the provisions of law. I doubt very much whether there can be a continuous process of distillation; it is a redistillation, and nothing more or less.

The CHAIRMAN. Debate is exhausted.

The amendment of Mr. FARQUHAR was disagreed to.

Mr. MAYNARD. I move to add at the close of the section the following:

*And provided further*, That the tax shall not be collected from spirits manufactured in the State of Tennessee and consumed prior to the 1st day of August, 1866.

It is the same proposition I offered to a previous part of the bill.

The CHAIRMAN. Debate is not in order.

The amendment was disagreed to.

Mr. BUCKLAND. I move in line three to strike out two dollars and insert fifty cents.

The amendment was disagreed to.

The Clerk commenced reading section fourteen.

Mr. TRIMBLE. I move to strike out two dollars and insert one dollar.

Several MEMBERS. Too late.

The CHAIRMAN. The Chair rules that it is too late.

The Clerk read as follows:

SEC. 14. *And be it further enacted*, That proof-spirit shall be held and taken to be that alcoholic liquor which contains one half its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten thousandths at sixty degrees Fahrenheit; and the Secretary of the Treasury is hereby authorized to adopt, procure, and prescribe for use such hydrometers, weighing and gauging instruments, meters, or other means for ascertaining the strength and quantity of spirits subject to tax, and to prescribe such rules and regulations as he may deem necessary to insure a uniform and correct system of inspection, weighing, and gauging of spirits subject to tax throughout the United States. And in all sales of spirits hereafter made, where not otherwise specially agreed, a gallon shall be taken to be a gallon of first-proof, according to the foregoing standard set forth and declared for the inspection and gauging of spirits throughout the United States.

Mr. ALLISON. I move to amend that section by inserting after the word "tax," in line nine, the words "or for the prevention or detection of frauds by distillers of spirits;" so that it will read:

*And the Secretary of the Treasury is hereby authorized to adopt, procure, and prescribe for use such hydrometers, weighing and gauging instruments, meters, or other means for ascertaining the strength and quantity of spirits subject to tax, or for the prevention or detection of frauds by distillers of spirits, and to prescribe such rules and regulations as he may deem necessary to insure a uniform and correct system of inspection, weighing, and gauging of spirits subject to tax throughout the United States.*

The amendment was agreed to.

Mr. ALLISON. I move to insert after the words "United States" the following:

*And whenever the Secretary of the Treasury shall adopt and prescribe for use any meter or meters, it shall be the duty of every owner, agent, or superintendent of a distillery to make application to the collector of his district for such meter or meters to be used in his distillery, and the same shall be furnished and attached to the distillery at the expense of the distiller, whose duty it shall be to furnish all the pipes, materials, labor, and facilities necessary to complete such attachment in accordance with the regulations of the Commissioner of Internal Revenue under the direction of the Secretary of the Treasury, who is hereby further authorized to order and require such changes of or additions to distilling apparatus, connecting pumps, or cisterns, or any machinery connected with or used in or on the distiller's premises, or may require to be put on any still, tub, cistern, pipe, or other vessel, such fastening, lock, or seal as he may deem necessary.*

Mr. BUCKLAND. I rise to oppose that amendment.

Mr. ALLISON. I would like to say a word in favor of the amendment. The object of it is to enable the Secretary of the Treasury to select from a number of meters that are now in process of examination a meter whereby the amount of spirits distilled can be detected either after it assumes the form of distilled spirits or before it assumes the form of distilled spirits, in the shape of wort or mash, and when such meter is selected by the Secretary of the Treasury—of course it will be after approval by scientific men—it is proposed to attach this meter or whatever it may be to the several distilleries.

Mr. BUCKLAND. The amendment of the

gentleman from Iowa may be all right enough; but I wish to say that I think the great mistake in all this legislation is the attempt to heap burden upon burden on the distillers, instead of directing the attention of the committee to the laws regarding those who administer the revenue laws and infusing into the administration of the law more energy and more honesty.

Now, I can say to gentlemen, that unless they contrive some system by which everybody who desires to do so can enter into the business of distilling, you may rely upon it you cannot for any great length of time sustain this tax upon spirits. I know that to-day, under the present administration of the law, the corn which is raised around the distilleries in my district is taken to New York and there distilled, and the whisky is transported back to Ohio and sold for less than the tax. Why is that? It is not the fault of the law, but it is the fault of the manner in which the law has been administered. It seems to have been administered for the benefit of eastern distillers entirely. Now I wish to state one instance which has occurred in my district, which is pretty largely engaged in distilling.

Mr. DARLING. I would like to ask the price of whisky in the gentleman's district.

Mr. BUCKLAND. I do not know what the price is generally, but I state the fact that alcohol and other spirits have been brought from New York into my district by druggists and others for sale within five and ten miles of the distilleries.

I wish to give one instance of the manner in which the internal revenue department has administered this law during the last year. An inspector at Monroeville went to some four or five distilleries and inspected their high wines, making a deduction, as he claimed, of five gallons on a cask for shrinking. He did this at his own instance, but afterward it was found out by the assessor, and those distilleries were all seized. Now, here is the point in the case: the inspector was arrested and taken to Cleveland, but was discharged from custody and continued in office afterward for months. He was relieved from all blame, although he did this at his own instance, as is asserted by as honorable men as any that sit upon this floor, for I know some of these distillers, and know them to be honorable men. He was continued in office, and these distilleries, which were seized nearly a year ago, are still under seizure and are not allowed to run. Now, I say that just as long as you administer the law by such means and through such agents, and those agents are sustained in frauds of this sort, and the whole penalty is imposed on the distillers, you cannot expect to collect the tax.

Now, I know that some of these distillers pay their taxes honorably and honestly. As I said before, some of them are just as honest men and would just as soon undertake to cheat the Government in any way as any man upon this floor, and no sooner. But they are compelled now to stop their business, because the law is administered for the benefit of eastern distilleries and refineries, so that our western distillers are ruined. You may pass what law you please; but unless it is administered honestly and justly it will fail.

[Here the hammer fell.]

Mr. ALLISON. I move to amend the amendment by striking out the last word, for the purpose of replying briefly to what has been said by the gentleman from Ohio, [Mr. BUCKLAND.]

Members will bear in mind that this law went into operation on the 1st of August last. It was a law which had been carefully prepared by a commission appointed by the Secretary of the Treasury. Members will also bear in mind that about that time came our political troubles, and we had a change of nearly all the revenue officers in the country; and I say here without the fear of contradiction that those changes, in my opinion, cost the people of this country a loss of at least \$50,000,000 in the way of revenue.

Mr. HILL. Yes, and \$100,000,000.

Mr. ALLISON. I do not know but the loss was \$100,000,000, as my friend from Indiana [Mr. HILL] says. A great deal of the trouble in the administration of this whisky law is to be found in the fact that dishonest men were appointed by the President of the United States to administer the law, and I will say here that I have been informed that in most if not all of these cases these appointments were made against the protest of the Secretary of the Treasury.

Now, I believe this law would be successfully administered if there was somewhere a power to remove dishonest officers. But I am informed and believe that that power does not lie with the Secretary of the Treasury nor with the Commissioner of Internal Revenue, but is controlled and directed by the President to destroy the party that elected him; and a great deal of this difficulty arises from that fact.

Mr. CONKLING. Do I understand the gentleman to say that the Secretary of the Treasury is compelled to submit to the appointment of men to discharge duties like these, which men he believes to be unfit for the places they occupy?

Mr. ALLISON. I do not say that precisely. But I do say that I have been informed that these changes were made against the protest of the Secretary of the Treasury; if that is not true, then the Secretary of the Treasury should be held responsible for the \$50,000,000 of revenue lost to the people of this country.

Mr. CONKLING. I propose for one to hold the Secretary of the Treasury responsible to this extent: if it be true that there are men who were set to do this work against his protest, work for which he is responsible, and he submits to it, then he holds his place upon terms degrading to his manhood, terms to which he would not submit if he had proper self-respect. That is all I have to say about the Secretary of the Treasury.

Mr. ALLISON. I think that is quite enough.

Mr. PAINE. I desire to ask the gentleman from Iowa [Mr. ALLISON] one question. I wish to ask him whether he knows of a single instance where the Secretary of the Treasury has permitted a man to be appointed as a revenue officer whom he believed to be unfit for the office to be appointed by the President against his protest?

Mr. ALLISON. I do not wish to waste much time upon this point. I will only say that I know a great many men have been appointed who are totally unfit for their positions.

Mr. CONKLING. So do I.

Mr. ALLISON. And whether with or without the approval of the Secretary of the Treasury, they should not be in the positions which they now occupy.

Mr. PAINE. The gentleman a moment ago said that he believed the Secretary of the Treasury was honest in his appointments.

Mr. ALLISON. I do not mean to say that is so, because I do not know how that is; I have no precise information upon that subject.

Now, I desire to say just one word in vindication of the action of the Committee of Ways and Means upon this subject. We endeavored to throw around the law penal provisions which would reach dishonest men. I do not know whether we have succeeded in accomplishing that object. But gentlemen will bear in mind that it is impossible if not impolitic to change the entire machinery of the law in a session of three months, especially when that law only went into operation but three or four months before. The object of the committee has been merely to endeavor to perfect the existing law, and leave to another and a longer session of Congress the duty of further investigation and modification.

I now move that the committee rise, for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union, pursuant to the order of the House, had had under con-

sideration the Union generally, and particularly the special order, being House bill No. 1161, amending the existing laws relating to internal revenue, and had directed him to report that they had come to no resolution thereon.

Mr. FARQUHAR. I move that the House adjourn.

The motion was not agreed to; there being—ayes nineteen; noes not counted.

Mr. HOOPER, of Massachusetts. I move that when the House again resolve itself into the Committee of the Whole on the state of the Union on the tax bill, all debate on the pending section be closed in five minutes.

The motion was not agreed to.

Mr. HOOPER, of Massachusetts. I move that the rules be suspended, and that the House now resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOUTWELL in the chair), and resumed the consideration of the special order, being House bill No. 1161, to amend existing laws relating to internal revenue.

Mr. WILSON, of Iowa. Mr. Chairman, I think that the attention of the officers of the Government having in charge the appointment of inspectors cannot be too often or too emphatically called to the manner in which that power is exercised. Now, sir, I know one appointment in the State of Iowa of a man totally unfit for the position. The reasons upon which I base the statement of his unfitness I have stated in person to the Secretary of the Treasury, asking him to look into the case for the benefit of the revenue. I have not been making any recommendation as to whom he should appoint in place of this improper official; I have asked him to make a removal in the case solely for the benefit of the Government. This was some three or four weeks ago. So far as I have any information that person still remains an inspector in charge of that district. I referred the Secretary also to the proofs, on file in the War Department, of the unfitness of the person for the position. Yet up to this day, so far as I have any knowledge, no attempt has been made by the Secretary to remove that person from office.

I might speak of other cases. So far as I have knowledge of persons occupying these positions, the most unfit persons who have been presented for appointments have as a general rule been selected; and I think that the rule will apply pretty generally throughout the country. Now, sir, that is misconduct upon the part of public officers which deserves at least a thorough airing, if not something more, in this House.

Mr. HILL. If the gentleman will permit me a word, I desire to say that the only thing which surprises me is that the gentleman is at all astonished at such a circumstance.

Mr. WILSON, of Iowa. I cannot say that I am astonished at it. If I have said so, I take that back. Indeed, I have already negated such an idea by the declaration that I believe what I have stated to be the general rule all over the country. I only make this statement now thus publicly that the country may know and that it may go on record that the Secretary of the Treasury, in permitting the officer to whom I have referred to retain his position, does it with the knowledge that he is not a proper person to hold the office.

Mr. HILL. I desire to say that the case referred to by the gentleman from Iowa is only one of thousands. In my own district a collector who had been most faithful and efficient, and who had collected about a million and a half of dollars in about a year and a half was removed and another man whose sole recommendation for the place was that he had served to the utmost of his ability in the Thirty-Eighth Congress in hostility to the administration of Mr. Lincoln, upon the principle of "not another man nor another dollar for the support



of the war," and had been twice beaten since for a place here by the loyal people of my district, and who, in the canvass of 1864, could make use of expressions like the following: "The Republican party has renominated for the presidency Abraham Lincoln, and if they had taken the devil from the fumes of hell they could not have done worse," in a public speech and in the hearing of two thousand people, ladies and gentlemen, of the highest respectability.

A new distillery inspector was appointed, and in a very short time thereafter the distillery, which before had been paying large revenues to the Government, if I am not mistaken more than one half the entire revenue of the district, was seized for violation of the revenue laws by the Government authorities.

Mr. O'NEILL. Mr. Chairman, I wish to occupy a minute or two in putting a further fact upon the records of the House and endeavoring to illustrate by a circumstance which came directly within my knowledge, why the revenue laws are not efficiently carried out and why the taxes of the Government are not properly collected.

In the district which I have the honor to represent upon this floor, within the last four weeks, nine men, nine of the best, of the most intelligent, the most upright and most industrious in my district, were displaced from the positions of assistant assessors simply for political purposes. I make that charge against the Secretary.

[Here the hammer fell.]

Mr. ALLISON's amendment was agreed to.

No further amendment being offered,

The Clerk read as follows:

SEC. 15. *And be it further enacted*, That every person, firm, or corporation who distills or manufactures spirits or alcohol from grain, who brews or makes mash, wort, or wash, for distillation or the production of spirits, shall be deemed a distiller under this act. And the making or keeping by any person of grain, mash, wort, or beer, prepared or fit for distillation, together with the possession by such person of a still or other apparatus capable of use for distilling; upon the same premises, shall be deemed and taken as presumptive evidence that such person is a distiller within the meaning of this act.

Mr. HOOPER, of Massachusetts, moved in the third line to strike out "from grain;" in the fifth line to strike out "under this act;" in the sixth line after the word "wash" to insert "wort;" and in the tenth and eleventh lines to strike out "within the meaning of this act."

The amendment was agreed to.

No further amendment being offered,

The Clerk read as follows:

SEC. 16. *And be it further enacted*, That every person, firm, or corporation who rectifies, purifies, or refines distilled spirits or wines by any process, or who, by mixing distilled spirits or wine with other materials, manufactures any spurious, imitation, or compound liquors for sale, under the name of whiskey, brandy, gin, rum, wine, "spirits," or "wine biters," or any other name, shall be regarded as a rectifier under this act.

No amendment being offered,

The Clerk read as follows:

SEC. 17. *And be it further enacted*, That if any person shall carry on the business of a distiller or rectifier without having paid the special tax, as required by law, he shall for every such offense be liable to a fine of not less than double the tax imposed upon the spirits distilled, or double the special tax due for the spirits rectified by such person, or found upon the premises hereinafter mentioned, and to imprisonment for a term not less than one nor more than two years; and all spirituous liquors so distilled or rectified, or owned by such person, or found as hereinafter mentioned, and all materials for making or preparing the same, and all vessels containing the same, and all stills or other apparatus capable of being used for distilling, owned by such person, or found upon any premises where such business shall be carried on in violation of this section, shall be forfeited to the United States, and may be seized by the collector or deputy collector of the district within which such offense is committed.

No amendment being offered,

The Clerk read as follows:

SEC. 18. *And be it further enacted*, That every person engaged in, or intending to be engaged in, the business of a distiller or rectifier, shall give notice in writing, subscribed by him, to the assessor of the district within which such business is to be carried on, stating the name or style under which the name or names, and the place or places of residence of the person or persons by whom, and the place where said business is to be carried on, and whether of dis-

tilling or rectifying. In case of a distiller, the notice shall also state the kind of stills, boilers, and other implements to be used, and the capacity of each. In case of any change in the location, form, capacity, ownership, agency, or superintendence of such distillery, stills, boilers, or other implements, like notice shall be given, as aforesaid, within twenty-four hours of such change. Such person shall also give bond, in form to be prescribed by the Commissioner of Internal Revenue, with sureties approved by the collector of the district, who may approve the same if he shall be satisfied, by affidavits made on said bond, of the sufficiency of said sureties, conditioned that he will comply with all the requirements of the law in relation to distilled spirits. The penal sum of such bond shall not be more than double the amount of the tax on the spirits that can be distilled by such still or stills or other implements during a period of fifteen days. Said collector shall refuse to approve said bond when, in his judgment, the incumbrances upon the distillery and premises are such as to impair the security for the collection of the tax, or when the refusal of the distiller would enable the distiller to defraud the revenue; and in case of such refusal, the distiller may appeal to the Commissioner of Internal Revenue, whose decision in the matter shall be final. A new bond may be required in case of the death, insolvency, or removal of either of the sureties, or in any other contingency, at the discretion of the collector. Any person failing or refusing to give the notice or bond hereinbefore required, or giving a false or fraudulent notice, shall be liable to the fine and forfeitures provided in the last preceding section.

Mr. ALLISON moved in line three to strike out "and rectifier;" in line eight to strike out "or rectifying," and in line eleven to strike out "of each" and insert "thereof," meaning thereby the total number of wine gallons of spirits which the entire distillation is capable of producing in each day of twenty-four hours."

The amendment was agreed to.

The Clerk read as follows:

SEC. 19. *And be it further enacted*, That no person shall use any still, boiler, or other vessel, for the purpose of distilling in any building or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar, or either, are manufactured or produced, or where sugars or syrups are refined, or where liquors of any description are retailed, or any other business is carried on, or in any dwelling-house; and every person who shall use such still, boiler, or other vessel, for the purpose of distilling, as aforesaid, in any building or other premises where the above specified articles are manufactured, produced, or other business is carried on, or in any dwelling-house, or who shall procure the same to be done, shall forfeit such stills, boilers, or other vessels so used, and all the spirits distilled, and pay a fine of \$1,000, and be imprisoned for not less than six months nor more than one year, in the discretion of the court; and any person who shall manufacture any still, boiler, or other vessel, to be used for the purpose of distilling, shall, before the same is removed from the place of manufacture, notify the collector where such still, boiler, or other vessel is to be used or sent, and by whom it is to be used, and of its capacity, and the time when the same is to be sent or set up; and no such still, boiler, or other vessel shall be set up without the permit in writing of the collector for that purpose; and any person who shall set up such still, boiler, or other vessel, without first obtaining a permit from the collector of the district in which such still, boiler, or other vessel is intended to be used, or who shall fail to give such notice, shall pay in either case the sum of \$500, and shall forfeit the distilling apparatus thus removed or set up in violation of law: *Provided*, That saleratus may be made or manufactured in any building or on any premises where spirits are distilled: *Provided further*, That any boiler used in generating steam or heating water to be used in such distillery may be located in any other building or on any other premises to be connected with such still or boiling tubs, by suitable pipes or other apparatus, or the steam from such boiler in the distillery may be conveyed to other premises so used for manufacturing or other purposes.

Mr. HOOPER, of Massachusetts, moved in line three to insert "distilled spirits;" in line three after "premises," to insert "lot, farm, or tract of land adjoining and owned by such person;" and in line five to strike out "there are" and insert "there is."

The amendment was agreed to.

Mr. DARLING. I move in line twenty to strike out "such" and insert "any."

Mr. HOOPER, of Massachusetts. I am not certain that is correct. "Such" refers to something specific.

Mr. DARLING. "Any" refers to any still anywhere. I withdraw the amendment, however.

Mr. ALLISON. I ask that this section be reserved for future amendment.

There was no objection, and it was ordered accordingly.

The Clerk read as follows:

SEC. 20. *And be it further enacted*, That every per-

son making or distilling spirits, or owning any still, boiler, or other vessel used for the purpose of distilling spirits, or having such still, boiler, or other vessel so used under his superintendence, either as agent or owner, or using any such still, boiler, or other vessel, shall, from day to day, make or cause to be made daily true and exact entry in a book, to be kept in such form as the Commissioner of Internal Revenue may prescribe, of the number of pounds or gallons of materials used for the purpose of producing spirits, the number of proof gallons of spirits distilled, the number of proof gallons placed in warehouse, and the number of gallons sold, with the proof thereof, and the name and place of business or residence of the person to whom sold; and shall also on the first, eleventh, and twenty-first day of each month, or within five days thereafter, render to the assessor or assistant assessor an account in duplicate, taken from his books in the particulars hereinbefore recited, and verified by oath, of all the facts occurring after the last day of account preceding. The entries to be made in the books of the distiller as aforesaid shall, upon the several days when the returns are made, as provided, be verified by oath or affirmation of the person or persons by whom such entries shall have been made, in the presence of the assessor or assistant assessor, or other proper officer, who shall append thereto his certificate of the execution of the same. The owner, agent, or superintendent of any distillery shall, in case the original entries required to be made in his books by this act shall not have been made by himself, subjoin to the certificate of the person by whom they were made the following oath or affirmation: "I do certify that to the best of my knowledge and belief the foregoing entries are just and true, and that I have taken all the means in my power to make them so." Said book shall always be open for the inspection of any assessor, assistant assessor, collector, deputy collector, revenue agents, or inspectors, and any premises where distilling shall be carried on shall be open to said officers, or either of them, at all times. Any person who shall violate the provisions of this section shall for every such offense be liable to a fine of \$500. Any person who shall render an account under the provisions of this section which shall be false or fraudulent shall be liable to a fine of not less than \$500, and to imprisonment not less than six months.

Mr. ALLISON. I move to strike out the word "and," in line thirty-two, and to insert in line thirty-three, after the word "so," the following:

And that no more spirits than are entered therein have been distilled at the distillery during the time covered by such entries.

The amendment was agreed to.

Mr. FARQUHAR. I move to amend by adding the following:

And the Secretary of the Treasury shall appoint inspectors for all establishments for redistilling or rectifying, the same as are now appointed for distillers.

I simply desire to state that it was announced by the gentleman from Ohio [Mr. GARFIELD] that the law as it now stands authorizes the appointment of inspectors. My understanding was then, and is still, that he was mistaken.

Mr. GARFIELD. The gentleman misunderstood me.

Mr. FARQUHAR. I put the question directly to him, and he insisted that the law did authorize the appointment of inspectors for these rectifying establishments or redistilling establishments, if there are any such. I can see no reason for making a difference between distillers and rectifiers. These parties who are committing frauds in the rectification or redistillation should be detected and punished the same as you detect and punish frauds in distillation.

Mr. HOOPER, of Massachusetts. That amendment does not come in here properly; we have got past the provision to which it relates.

Mr. FARQUHAR. I hope the gentleman will not defeat the proposition by an excuse of that kind.

Mr. BROOMALL. I move to strike out the word "certify," in line thirty, and substitute therefor the words "swear (or affirm,)" so as to make it conform to the previous language. It is an oath, and the language should be "I do swear (or affirm,)" and not "I do certify."

The amendment was agreed to.

No further amendment being offered,

The Clerk read as follows:

SEC. 21. *And be it further enacted*, That the owner of any distillery shall provide, at his own expense, a warehouse suitable for the storage of bonded spirits of his own manufacture only; or he may provide a secure room in a suitable building to be used as such warehouse; but no dwelling-house shall be used for such purpose; and no door, window, or other opening shall be made or permitted in the walls thereof, leading to any other room or building used for any

other purpose, or into the distillery; and such warehouse or room, when approved by the Secretary of the Treasury, on report of the district collector, is hereby declared to be a bonded warehouse of the United States, and shall be used only for the storing of spirits manufactured by the owner, agent, or superintendent of such distillery, and shall be under the custody of the inspector, as hereinafter provided; and shall be kept locked up by the officer in charge, at all times, except when he shall be present; and the tax on the spirits stored in such warehouse shall be paid before removal from such warehouse, unless removed in pursuance of law. And the owner of such warehouse shall execute a general bond to the United States, with two or more sureties, to be approved by the collector; and such bond shall be for not less than the amount of taxes on the spirits to be covered thereby, and in such form, and containing such conditions, as shall be approved by the Secretary of the Treasury, and shall be changed or renewed from time to time in regard to the amount and sureties thereof as the collector, with the approval of the Secretary of the Treasury, may require.

Mr. McKEE. I move to strike out the whole of the foregoing section on these grounds: first, there is already a provision in the law for bonded warehouses for storage of whisky in each one of these districts; and secondly, it compels every small distiller all over the country to expend several hundred dollars to build a bonded warehouse, when within a mile of his distillery perhaps there may be such an establishment already for the storage of liquors.

The amendment was disagreed to.

The Clerk read as follows:

SEC. 22. *And be it further enacted*, That the owner, agent, or superintendent of any distillery established as hereinbefore provided, shall erect, in a room or building to be provided and used for that purpose, and for no other, two or more receiving cisterns, each to be at least of sufficient capacity to hold the spirits distilled during the day of twenty-four hours, into one of which shall be conveyed each day the spirits manufactured in said distillery during that day; and such cisterns shall be so constructed as to leave an open space of at least three feet between the tops thereof and the floor or roof above, and of not less than eighteen inches between the bottoms thereof and the floor below, and shall be separated in such a manner as will enable the inspector to pass around the same, and shall be connected with the outlet of the stills, boilers, or other vessels used for distilling by suitable pipes or other apparatus, so constructed as always to be exposed to the view of the inspector; such cisterns and the room in which they are contained shall be in charge of and under the lock and seal of the inspector; and on the third day after the spirits are conveyed into such cisterns the same shall be drawn off into casks or other packages, under the supervision of the inspector, and shall be immediately inspected, gauged, and proved; and the casks or packages marked as herein provided shall be removed directly to the bonded warehouse before mentioned: *Provided*, That the spirits may be drawn off from said cisterns at any time previous to the third day, if so desired by the owner, agent, or superintendent of such distillery; and all locks and seals required by law shall be provided by the Secretary of the Treasury, at the expense of the owner of the distillery or warehouse, and the keys shall always be in the custody of the inspector or assistant inspector, or the officer having charge of the distillery or warehouse.

Mr. McKEE. I move to strike out the whole of that section, and I desire to make a few remarks in support of that motion. This section provides for the building of receiving-cisterns, which are to be connected by pipes leading from the distillery into another department outside, a department over which the distiller has no control whatever. Now, sir, the manner in which whisky is made throughout my country requires the actual superintendence of the distiller over the product of his manufactory from the time it begins to run until it stops. He has to be constantly there to test the liquor. These men have not all these improved scientific arrangements that are contemplated in this bill, and it is not probable they ever will have them. The Treasury Department has not yet succeeded in fixing upon any set of instruments by which this thing of proof can be directly ascertained without continued inspection.

A very large majority of the House, and I think certainly a large majority of the Committee of Ways and Means, seem to possess very little practical knowledge in regard to the manner in which whisky is really made. They are probably far better posted in regard to the manner of destroying the article than the manner of producing it.

This section, in addition to that, provides that these cisterns shall not be under the control of the distiller, so that he can have no knowledge

and no power of ascertaining whether he is making whisky or not. It is not possible he can ascertain or know anything in regard to it.

The section provides furthermore that the spirit shall be run into this cistern continually for three whole days. As I said before, the distiller must constantly test this whisky, and when it gets to a point which does not show proof, then he must cut off the pipes, or the whole whisky he is making will be ruined and destroyed forever.

This system would destroy all the small manufactories, and I trust, therefore, that the section will be stricken out.

Mr. GARFIELD. I will only say that this section is word for word the law as it now stands, with the exception of three small words, which have been stricken out to make it more perspicuous.

Mr. McKEE. I understand that it is the old law, and therefore I hope it will be stricken out.

The question was taken on Mr. McKEE's motion, and there were—ayes 22, noes 10; no quorum voting.

Mr. GARFIELD. I suggest that by general consent the amendment of the gentleman from Kentucky, to strike out this section, be agreed to, and then we can have a vote upon it in the House. [Cries of "Agreed."] The question was again taken; and the amendment was agreed to.

The Clerk read as follows:

SEC. 23. *And be it further enacted*, That there shall be appointed by the Secretary of the Treasury an inspector for every distillery established according to law, who shall take an oath faithfully to perform his duties; and who shall take an account of all the meal, vegetable productions, molasses, sugar, or other substances received into the distillery, or upon the premises, and the quantity put into the mash tub or otherwise used; and shall inspect, gauge, and prove all the spirits distilled, under such rules and regulations as may be prescribed by the Commissioner of Internal Revenue; and shall take charge of the bonded warehouse established for the distillery in conformity to law; and such warehouse shall be in the joint custody of such inspector and the owner thereof, his agent or superintendent; and when any spirits shall be placed in such warehouse, an entry therefor, in such form as shall be prescribed by regulations, shall immediately be made and signed by the owner of said spirits, and shall have indorsed thereon a certificate of the inspector, that the spirits mentioned have been duly inspected and received in said warehouse, and such entry and certificate shall be filed with the collector of the district; and said inspector shall not engage in any other business while employed as an inspector, and shall be paid five dollars per day for the time during which he is engaged; and the amount of his compensation shall be assessed by the assessor upon the distiller, and returned to the collector monthly for collection. And in case the duties of such inspector shall be greater at any time than he can perform, upon the joint application of the inspector and owner of such distillery, the Secretary of the Treasury may appoint an assistant inspector; and upon the refusal of the distiller to join in such application, the collector shall decide as to such necessity; and such assistant inspector shall qualify in the same manner and be subject to the same penalties as the inspector, and he shall be paid in the same manner as the inspector, at a rate not exceeding the sum of three dollars per day while so employed; and in case of disagreement as to the necessity of retaining the services of such assistant, between the owner of the distillery and the inspector the collector shall decide as to such necessity, and his decision in the matter shall be final. And in case of absence by sickness, or from any other cause, of such inspector or assistant, the collector may designate a person to take temporary charge of such distillery and warehouse, who shall during such absence perform the duties, receive the same rate of pay, and be paid in the same manner as said inspector or assistant for the time he may be so employed; and the owner, agent, or superintendent of any distillery who shall use, cause or permit to be used, any materials for the purpose of producing spirits or shall distill or remove any spirits in the absence of the inspector or assistant, shall forfeit and pay double the amount of taxes on the spirits so produced, distilled, or removed, and, in addition thereto, be liable to a fine of \$1,000, to be recovered in the manner provided for other penalties; and any person who shall ship, transport, or remove any spirituous or fermented liquors or wines, under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or who shall cause the same to be done, shall forfeit the same, and shall, on conviction thereof, be subject to pay a fine of \$500: *Provided further*, That such inspectors may be assigned to duty at other distilleries than those to which they were respectively appointed.

Mr. J. L. THOMAS. I move to amend that section by inserting after the word "Treasury" in the second line the words "by and

with the advice and consent of the Senate;" so that it will read:

"That there shall be appointed by the Secretary of the Treasury, by and with the advice and consent of the Senate, an inspector for every distillery established according to law, &c."

Mr. ALLISON. I suggest to the gentleman that he better strike out the words "Secretary of the Treasury" and insert "President of the United States." I do not think the Secretary of the Treasury could appoint officers by and with the advice and consent of the Senate.

Mr. GARFIELD. It cannot be done under the Constitution.

Mr. J. L. THOMAS. I withdraw the amendment.

Mr. McKEE. I move to strike out in lines twenty-four, twenty-five, and twenty-six the words "and the amount of his compensation shall be assessed by the assessor upon the distiller, and returned to the collector monthly for collection" and to insert in lieu thereof "and the amount of compensation shall be paid by the Government."

The amendment was agreed to.

Mr. MILLER. I move to insert after the word "law" in the third line the following proviso:

*And provided further*, That such distillery as does not manufacture more than two hundred gallons per day no inspector shall be appointed, but the same to be under the supervision of the assessor, to whom the manufacturer shall make returns, under oath, of the daily transactions; and the expenses of the supervision to be borne by such manufacturer; not to exceed, however, five dollars per day; and that all inspectors, appointed under the provisions of this act, shall give bonds in the sum of not less than \$1,000, with security, to be approved by the Secretary of the Treasury or assessor of the district, for the faithful discharge of his duty.

I am willing to modify my amendment so as to conform to that just adopted on motion of the gentleman from Kentucky, [Mr. McKEE,] so that this payment shall be made by the Government; but my main object is to dispense with some of the inspectors in the small distilleries in the country, and to prevent irresponsible persons from being appointed unless they give security; because, as it now is, the hardest cases in the country are appointed to these offices, and they not only defraud the Government, but everybody else.

Mr. CONKLING. I oppose the amendment and ask for a vote upon it.

The amendment was disagreed to.

Mr. WILLIAMS. I move to strike out in the second line the words "Secretary of the Treasury" and insert in lieu thereof the words "President of the United States, by and with the advice and consent of the Senate."

I would merely remark in regard to this amendment that I would have been content to associate the Senate with the Secretary of the Treasury, but gentlemen of this House who are lawyers, and very good ones, have entertained doubts whether that could be done.

We all know that this office is a very important one, and I have reasons to know that men are placed in offices of this sort who are entirely incompetent and unworthy of trust and who never could be confirmed by the Senate.

The amendment was agreed to.

No further amendment being offered,

The Clerk read as follows:

SEC. 24. *And be it further enacted*, That all distilled spirits shall, before the same are removed from the distillery to the bonded warehouse, be inspected and proved by the inspector of the distillery, after the same has been drawn into casks or packages, each of not less capacity than twenty gallons, wine measure, and said inspector shall mark by cutting, branding, or otherwise, upon the cask or package containing such spirits, in a manner to be prescribed by the Commissioner of Internal Revenue, the quantity and proof of the contents of such cask or package, with the date of inspection, the collection district, the name of the inspector, and the name of the distiller, and also the number of each cask in progressive order, such progressive number for every distiller, to begin with number one with the first cask or package inspected after this act takes effect, and subsequently with number one with the first cask inspected on or after the 1st day of January in each year, and no two or more casks warehoused in the same year by the same distiller shall be marked with the same number, and no cask or package of spirits shall be taken therefrom on which has not been marked all the several

particulars aforesaid, in the manner required by law. And the inspector in charge of any distillery shall make a prompt return of the name of the distiller and of all spirits inspected by him in accordance with the provisions of law, to the collector, and a duplicate thereof to the assessor of the district.

No amendment being offered,

The Clerk read as follows:

SEC. 25. *And be it further enacted*, That general bonded warehouses, for the storage of spirits or other merchandise allowed by law to be placed in bond to secure the payment of the internal revenue tax thereon, or the exportation thereof, may be established under such rules and regulations, and upon the execution of such bonds, as the Secretary of the Treasury may prescribe, and shall be in the immediate custody of storekeepers who shall be appointed for that purpose by the Secretary of the Treasury, whose compensation shall be paid monthly to the collector of the district by the owners or proprietors of such warehouse, and shall not exceed the rates which may be allowed to storekeepers of bonded warehouses established under the laws and regulations relating to customs: *Provided*, That any article manufactured in a bonded warehouse established under the one hundred and sixty-eighth section of the internal revenue act of June 30, 1864, and located in any of the Atlantic States, may be removed therefrom for transportation to a customs bonded warehouse at any port on the Pacific coast of the United States, for the purpose only of being exported therefrom, under such rules and regulations and upon the execution of such bonds or other security as the Secretary of the Treasury may prescribe.

No amendment being offered,

The Clerk read as follows:

SEC. 26. *And be it further enacted*, That there shall be appointed by the Secretary of the Treasury, in every collection district where the same be necessary, one or more general inspectors of spirits, who shall be required to inspect, gauge, and prove any distilled spirits to be removed from any bonded warehouse before such removal, or received in or delivered from any general bonded warehouse, and make prompt return thereof to the collector under such rules and regulations as may be prescribed, and such general inspector shall be entitled to receive such fee as may be prescribed by the Commissioner of Internal Revenue for each and every proof gallon gauged and proved by him; and any owner, agent, or superintendent of any distillery or bonded warehouse who shall refuse to admit such inspector upon such premises, so far as it may be necessary for the performance of his duties, or who shall obstruct any inspector in the performance of his duties, shall forfeit and pay the sum of \$500, to be recovered in the manner provided for recovery of other penalties imposed by this act.

No further amendment being offered,

The Clerk read as follows:

SEC. 27. *And be it further enacted*, That any person who shall evade or attempt to evade the payment of the tax upon any distilled spirits, by changing any marks upon any such cask or package, or in any other manner whatever, or who shall put into such cask or package spirits of greater strength than that inspected and certified to by the inspector, shall pay double the amount of tax on each proof gallon of the quantity of such spirits, to be assessed and collected as in case of other taxes, and forfeit and pay as a penalty the additional sum of \$500 for each cask or package so altered or changed, to be recovered as provided by law; and any person who shall defraud or attempt to defraud the United States of the revenue or tax arising from distilled spirits or any part thereof, or who shall, with intent to defraud the United States of such revenue or tax, make any false or fraudulent entry, certificate, or return, or place any false or fraudulent mark upon any cask or package, shall, on conviction thereof, pay a fine of not less than \$1,000 nor more than \$5,000, and be imprisoned for not less than two nor more than five years; and any person who shall fraudulently use any cask or package bearing inspection marks, for the purpose of selling any other spirits than that so inspected, or for selling spirits of a quantity or quality different from that so inspected, shall be imprisoned for a term of not less than six months, and shall pay a fine of not less than \$100 for each cask or package so used, in the discretion of the court; and any person who shall knowingly purchase or sell, with inspection marks thereon, any cask or package, after the same has been used for distilled spirits, or who shall fraudulently omit to erase or obliterate the inspection marks upon any such package or cask at the time of emptying the same, shall forfeit and pay the sum of \$200 for every cask so purchased or used, or on which the marks are not so obliterated. And any person, other than the inspector or his assistant, who shall use any inspector's brands or plates upon any cask or package containing or purporting to contain distilled spirits, or any person who shall knowingly make or use any counterfeit or spurious brand or plate upon any cask or package of distilled spirits, as aforesaid, shall be deemed guilty of a felony, and, on conviction thereof, shall pay a fine of \$1,000, and be imprisoned for not less than two nor more than five years, and such cask or package, with its contents, shall be forfeited to the United States. And any inspector who shall permit any person not employed by him to use any of his brands or plates, or who shall negligently or willfully leave such brands or plates where they can be used by any other person than those who may be in his employ, shall pay a fine of not less than \$200 nor more than \$1,000, in the discretion of the court. And any inspector who shall employ any owner, agent, or superintendent of

any distillery or warehouse under his supervision, or who shall employ any person in the service of such owner, agent, or superintendent, to use his plates or brands, or to discharge any of the duties imposed by law upon such inspector, shall, for each offense so committed, be subject to the fine last mentioned. And every owner, agent, or superintendent of any distillery shall, at all times when required, supply all assistance, lights, ladders, tools, staging, or other things necessary for inspecting the premises, stock, tools, and apparatus belonging to such person, and shall open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels not under the control of the inspector, when required so to do by any duly authorized officer, under a penalty of \$200 for any refusal or neglect so to do.

Mr. FARQUHAR. I move to amend this section by adding the following:

*Provided*, That the President shall appoint, by and with the advice and consent of the Senate, inspectors for all establishments for rectifying the same as for distilling.

The amendment was not agreed to.

Mr. TRIMBLE. I move to strike out the entire section.

Mr. McKEE. Why?

Mr. TRIMBLE. I do not think it ought to be there.

The motion was not agreed to.

No further amendment being offered,

The Clerk read as follows:

SEC. 28. *And be it further enacted*, That any distilled spirits which have been inspected, gauged, proved, and marked by the inspector, according to the provisions of law, may be removed without the payment of tax from the bonded warehouse owned by the distiller, under such rules and regulations, and upon the execution of such transportation bonds or other security, as the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, may prescribe, and may be transported to any general bonded warehouse used for the storage of distilled spirits, established under the internal revenue laws and regulations, after having been branded as follows: "U. S. bonded warehouse, — district, —; for transportation to — district, —" (inserting in each case the number of the district and name of the State); and immediately after the arrival of such distilled spirits in the district of the collector to which it was to be transferred, it shall again be inspected by a general inspector, and placed in a bonded warehouse; and the tax shall be paid on the difference between the number of proof gallons as stated in the bond given at the place of shipment, and the number received at the warehouse, less the allowance for leakage, as established by the regulations of the Commissioner of Internal Revenue; and, except for actual destruction by unavoidable accident, by the elements, or by the public enemy, no other allowance for loss shall be made; and any distilled spirits entered in a general bonded warehouse shall be subject to such rules and regulations as the Commissioner of Internal Revenue may prescribe, and be chargeable with the same costs and expenses, in all respects, to which imported goods deposited in public store or bonded warehouse may be subject, and shall be in charge of a storekeeper, to be appointed by the Secretary of the Treasury, who, with the owner and proprietor of the warehouse, shall have the joint custody of all the distilled spirits so stored in said warehouse, and all labor on the same shall be performed by the owner or proprietor of the warehouse, under the supervision of the officer in charge of the same, and at the expense of said owner or proprietor. And the same fees shall be paid for the execution of all papers, instruments, and documents relating to the exportation of any spirits or other merchandise, as are charged to exporters for like services in the custom-house; and all expense and services required in the removal, transfer, and shipment of the same for export shall be paid by the owner thereof: *Provided*, That any distilled spirits may be withdrawn from a bonded warehouse, after having been inspected and gauged by a general inspector, and after the payment to the collector of internal revenue for the tax imposed by law; and when so delivered, shall be branded "U. S. bonded warehouse, tax paid," or may be removed from said warehouse without the payment of the tax for the purpose of being exported, or for the purpose of being rectified, or redistilled, canned, or put into other packages, after the quantity and proof of the spirits to be removed has been ascertained and inspected as required by law, under such rules and regulations and the execution of such bonds or other security as the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, may prescribe; but such removal of bonded spirits for the purpose of being rectified, redistilled, or put into other packages, shall be allowed but once on the same spirits; and all spirits so removed for rectification, rectification, or change of package, shall be returned to the same warehouse, and shall again be inspected; and the tax shall be paid to the said collector on any deficiency or reduction beyond three per cent. And upon spirits removed under bond for the purpose of being rectified or rectified, or change of package as aforesaid, as herein provided, the duty upon such allowance shall be paid, together with the taxes imposed by law upon such spirits, in case such spirits shall be withdrawn for consumption or sale, or for transportation without being exported.

And no drawback shall be allowed on any distilled spirits on which the tax has been paid; but nothing in this section shall be so construed as to prevent the manufacture in bond for exportation, without the payment of taxes, of medicines, preparations, compositions, perfumery, cosmetics, cordials, and other liquors manufactured wholly or in part of domestic spirits, as provided by law.

No amendment being offered,

The Clerk read as follows:

SEC. 29. *And be it further enacted*, That any distilled spirits may be removed from bonded warehouse, for the purpose of being exported, upon the order of the superintendent of exports for the port whence the same are to be exported; and such order shall state the port to which such spirits are to be shipped, the name of the vessel, the number of proof gallons, and the marks of the casks or packages; and such spirits shall be branded "U. S. bonded warehouse, for export," and shall be put on board the vessel in or by which they are to be exported, under the superintendence of a general inspector, and placed under the supervision of an officer of the customs, after a bond with good and sufficient sureties shall have been given in such form and containing such conditions as the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, may prescribe. And such bond shall be canceled upon the presentation of the proper certificate that said spirits have been landed at the port named in said bond, or at any other port without the jurisdiction of the United States, or upon satisfactory proof that after shipment the spirits have been lost. And at any port where there shall be no superintendent of exports, all the duties and services required of superintendents of exports and drawback shall devolve upon and be performed by the collector of internal revenue designated to have charge of exportation.

No amendment being offered,

The Clerk read as follows:

SEC. 30. *And be it further enacted*, That any person who shall remove any distilled spirits from the place where the same is distilled, otherwise than into a bonded warehouse as provided by law, shall be liable to a fine of double the amount of the tax imposed thereon, and to imprisonment for not less than three months. All distilled spirits so removed, and all distilled spirits found elsewhere than in a bonded warehouse, not having been removed from such warehouse according to law, shall be forfeited to the United States, or may, immediately upon discovery, be seized, and, after assessment of the tax thereon, may be sold by the collector for the tax and expenses of seizure and sale. And proceedings upon such seizure shall be according to existing provisions of law in relation to distraint, and in conformity with any regulations which shall be made by the Commissioner of Internal Revenue. And the burden of proof shall be upon the claimant of said spirits to show that the requirements of law in regard to the same have been complied with. And any person who shall aid or abet in the removal of distilled spirits from any distillery other than to a bonded warehouse as provided by law, or shall aid in the concealment of such spirits so removed, shall be liable, on conviction thereof, to a fine of not less than \$200 nor more than \$1,000, and to imprisonment for not less than three nor more than twelve months. And any person who shall remove, or shall aid or abet in the removal of any distilled spirits from any bonded warehouse, otherwise than is allowed by law, shall be liable to a fine of not more than \$1,000, and to imprisonment for not less than three nor more than twelve months.

No amendment being offered,

The Clerk read as follows:

SEC. 31. *And be it further enacted*, That any person or persons who shall add or cause to be added any ingredients to any spirits before the tax imposed by law shall have been paid thereon, for the purpose of creating a fictitious proof, shall, upon conviction, be subject to a fine of \$1,000 for each cask or package so adulterated, and be imprisoned for not less than one nor more than two years, in the discretion of the court; and such cask or package, with its contents, shall be forfeited to the United States.

No amendment being offered,

The Clerk read as follows:

SEC. 32. *And be it further enacted*, That every rectifier or wholesale dealer in distilled spirits shall enter, daily, in a book or books kept for the purpose, under such rules and regulations as the Commissioner of Internal Revenue may prescribe, the number of proof gallons of spirits purchased or received, of whom purchased and received, the name of the distiller, the names of the inspectors, the number on the cask or package, and the number of proof gallons sold or delivered, and to whom, and shall mark with a stencil-plate, on each package of five gallons or more of distilled or rectified spirits sold by him, his name and place of business; and every rectifier or wholesale dealer who shall neglect or refuse to keep such record, or shall omit to mark each cask or package as aforesaid, shall forfeit all spirits in his possession, together with the apparatus, tools, and implements used, and be subject to a fine of \$500, and imprisonment for not less than six months nor more than one year, in the discretion of the court.

No amendment being offered,

The Clerk read as follows:

SEC. 33. *And be it further enacted*, That any person owning any distilled spirits intended for sale, manufactured prior to the time when this act takes effect, exceeding fifty gallons altogether, shall notify in writ-



ing the collector of the district wherein such spirits may be stored, held, or owned, within sixty days thereafter, to gauge and prove the same; and upon the receipt of said notice the collector shall cause said spirits to be gauged and proved by a general inspector, and the casks or packages containing the same to be marked by him in the following manner: Manufactured prior to —, 186—. And, Inspector.

— District. Inspected —, 186—. And no spirits so manufactured, held, or owned, shall be gauged, proved, or marked in any cistern or other stationary vessel, but shall be gauged, proved, and marked only in barrels, casks, or packages in which the same shall have been placed. Upon the receipt of the return the collector shall immediately forward to the Commissioner of Internal Revenue a copy thereof; and any person holding or owning such spirits, and refusing or neglecting to notify the collector, as in this section provided, shall forfeit the same and pay the sum of \$500, to be collected in the manner provided by law for the collection of other penalties. No distilled spirits on which the tax has been paid shall be stored or allowed to remain on any distillery premises, under the penalty of a forfeiture of all spirits so found. And all spirits, after being removed from the original packages in which they were inspected and gauged into other packages for purposes of rectification, redistillation, or change of proof, shall again be inspected and gauged and properly branded; and the absence of an inspector's brand shall be taken and held as sufficient cause or evidence upon which any spirits so found may be forfeited. And any person who shall change the character of any spirits, either by rectification, mixing, or otherwise, after they have been duly inspected and marked as hereinbefore provided, and place the same in other packages, for consumption or sale, without first stamping or branding upon such package, in such manner as the Commissioner of Internal Revenue may prescribe, the word "rectified," shall forfeit such spirits, and the same may be seized by the collector or deputy collector of the district where such spirits may be found, or by such other collector or deputy collector as may be specially authorized by the Commissioner of Internal Revenue for that purpose. And any person who shall so brand any package containing spirits, knowing the taxes thereon have not been paid, shall forfeit such spirits, and be deemed guilty of a misdemeanor, and upon conviction shall be imprisoned for not more than two years, at the discretion of the court.

No amendment being offered,

The Clerk read as follows:

SEC. 34. *And be it further enacted*, That the owner of any oil refinery may provide, at his own expense, a warehouse, in conformity with such regulations as the Secretary of the Treasury may prescribe; and such warehouse, when approved by the collector, is hereby declared a bonded warehouse of the United States, and shall be used only for storing refined coal oil or naphtha, and be under the custody of the collector or his deputy. And the duty on coal oil or naphtha stored in such warehouse shall be paid before it is removed from such warehouse, unless removed in pursuance of law. And all distilled or refined coal oil, distillate, benzine or benzole, and naphtha, upon which an excise tax is imposed by law, may, after being inspected, gauged, proved, and marked by the inspector according to the provisions of this act, be removed, without payment of the tax under such rules and regulations, and upon the execution of such transportation bonds or other security as the Secretary of the Treasury may prescribe. The said oil or naphtha so removed shall be transferred directly from the distillery or refinery to a bonded warehouse, established in conformity with law and Treasury regulations, and may be transported from such warehouse to any one other bonded warehouse used for the storage of coal oil or naphtha. And after the arrival of such coal oil or naphtha at the bonded warehouse within the district of the assessor to which it has been transferred, it shall be again inspected, and the tax shall be assessed and paid on any deficiency or reduction of the number of gallons beyond such allowance or leakage as may be established by the regulations of the Commissioner of Internal Revenue, received at the warehouse from the number of gallons as stated in the bond given at the place of shipment. And any coal oil or naphtha in the public warehouses shall be subject to the same rules and regulations and be chargeable with the same costs and expenses in all respects to which imported goods deposited in public store or bonded warehouse may be subject; and shall be in charge of a proper officer, to be designated by the Secretary of the Treasury, who, with the owner and proprietor of the warehouse, shall have the joint custody of all the oil or naphtha so stored in said warehouse, which shall be at the risk of the owner of the said oil or naphtha. And all labor in the same shall be performed by the owner or proprietor of the warehouse, under the supervision of the officer in charge of the same, and at the expense of said owner or proprietor of the warehouse; and the same fees shall be paid for exports as are charged to exporters for like services in the custom-house. And no drawback shall in any case be allowed on any coal oil or naphtha, upon which a tax shall have been paid, either before or after it shall have been placed in a bonded warehouse: *Provided*, That any coal oil or naphtha may be withdrawn from the bonded warehouse after payment to the collector of internal revenue of the tax imposed by law, or may be removed without payment of the tax for the purpose of being exported, or for the purpose of being distilled or naphtha to be removed has been ascertained and inspected according to the provisions of law, under such rules and regulations and the execution of such bond or other security as the Secretary of the Treas-

ury may prescribe. And any oil or naphtha so removed for distillation shall be returned to the warehouse, and shall be again inspected, and the tax shall be paid to the said collector on any deficiency of reduction beyond the allowance for loss by redistillation established by the Commissioner of Internal Revenue, in the number of gallons received at the warehouse for the purpose of being exported as aforesaid.

No amendment being offered,

The Clerk read as follows:

SEC. 35. *And be it further enacted*, That spirits of turpentine may be transferred, without payment of the tax, to a bonded warehouse established in conformity with law and Treasury regulations, under such rules and regulations, and upon the execution of such transportation bonds or other security as may be prescribed by the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, said bonds or other security to be taken by the collector of the district from which such removal is made; and may be transported from such a warehouse to any other bonded warehouse established as aforesaid, and may be withdrawn from bonded warehouse for consumption on payment of the tax, or removal for export to a foreign country without payment of tax, in conformity with the provisions of law relating to the removal of distilled spirits, all the rules, regulations, and conditions of which, so far as applicable, shall apply to spirits of turpentine in bonded warehouse: and no drawback shall in any case be allowed upon any spirits of turpentine.

No amendment being offered,

The Clerk read as follows:

SEC. 36. *And be it further enacted*, That any person or persons who shall execute or sign any false or fraudulent bond, permit, entry, or other document, required by law or regulations; or who shall fraudulently procure the same to be executed; or who shall connive at the execution thereof, by which the payment of any internal revenue tax or duty shall be evaded, or attempted to be evaded, or which shall be executed, or purport to be executed, for the purpose of placing in, or withdrawing from, any bonded warehouse any spirits or other merchandise for any purpose whatever, or which shall in any way be used or attempted to be used in fraud of the internal revenue laws and regulations, on conviction thereof, shall forfeit all property in such spirits or other merchandise to which such instrument relates, or purports to relate, and shall be imprisoned for a term not less than one nor more than five years, at the discretion of the court.

Mr. WILSON, of Iowa. I think the committee better rise now; we cannot take this bill out of the committee to-night.

Mr. HOOPER, of Massachusetts. Let us finish reading the printed bill.

Mr. WILSON, of Iowa. Very well.

No amendment being offered,

The Clerk read as follows:

SEC. 37. *And be it further enacted*, That any person who shall knowingly and fraudulently use any false weights or measures in ascertaining, weighing, or measuring the quantities of grain, meal, or vegetable materials, molasses, beer, or other substances to be used for distillation, or who shall fraudulently make false record of the same, or who shall destroy or tamper with any locks or seal which may be placed on any cistern, rooms, or buildings, by the duly authorized officers of the revenue, shall on conviction thereof be imprisoned for the term of two years, and pay a fine not exceeding \$1,000, in the discretion of the court; and any person who shall use any molasses, beer, or other substances, whether fermented on the premises or elsewhere, for the purpose of producing spirits, before an account of the same shall have been registered in the proper record-book provided for this purpose, shall forfeit and pay the sum of \$1,000 for each and every offense so committed.

No amendment being offered,

The Clerk read as follows:

SEC. 38. *And be it further enacted*, That all boilers, stills, or other vessels, tools, and implements used in distilling or rectifying, and forfeited under any of the provisions of this act, and all condemned material, together with any engine or other machinery connected therewith, and all empty barrels, and all grain or other material suitable for distillation, shall, under the direction of the court in which the forfeiture is recovered, be sold at public auction, and the proceeds thereof, after deducting the expenses of sale, shall be disposed of according to law. And all spirits or spirituous liquors which may be forfeited under the provisions of this act, unless herein otherwise provided, shall be disposed of by the Commissioner of Internal Revenue as the Secretary of the Treasury may direct. And the Commissioner of Internal Revenue is hereby authorized, with the approval of the Secretary of the Treasury, to exempt distillers of brandy from apples, peaches, or grapes, exclusively from such of the provisions of this act relating to the manufacture of spirits as in his judgment may seem expedient. And any word or words in any and all parts of this act, and of all acts to which this act is additional, indicating or referring to person or persons, shall be taken to include partnerships, firms, associations, bodies corporate or politic, or any other party whatsoever, when not otherwise designated, or manifestly incompatible with the intent thereof.

No amendment being offered,

The Clerk read as follows:

SEC. 39. *And be it further enacted*, That no spirits shall be removed in any cask or package containing

more than ten gallons from any premises or building in which the same may have been distilled, redistilled, rectified, or manufactured, nor from any place of storage, at any other times than after sun-rising and before sun-setting, on pain of forfeiture of such spirits, and every person who shall violate this provision shall be liable to a penalty of \$100 for each cask, barrel, or package of spirits removed. Any officer of internal revenue may be specially authorized by the Commissioner of Internal Revenue to seize any property which may by law be subject to seizure, and for that purpose such officer shall have all the power conferred by law upon collectors of internal revenue, and such special authority shall be limited in respect of time, place, and kind or class of property as the said Commissioner may specify.

No amendment being offered,

The Clerk read as follows:

SEC. 40. *And be it further enacted*, That it shall be lawful for any internal revenue officer to seize and detain any barrels, casks, or packages containing or supposed to contain, distilled spirits, when such officer has reason to believe the tax imposed by law upon the same has not been paid, or that they are being removed in violation of law; and such packages may be detained by such officer in a safe place until it can be satisfactorily ascertained by the proper officers whether the articles so seized are liable to be proceeded against for violations of the internal revenue laws.

No amendment being offered,

The Clerk read as follows:

SEC. 41. *And be it further enacted*, That whenever any distilled spirits so found elsewhere than in a bonded warehouse, shall be sold, or offered for sale at a less price than the tax imposed by law thereon, such selling or offering for sale as aforesaid shall be taken and deemed as *prima facie* evidence that said spirits have not been removed from a bonded warehouse according to law, and that the tax imposed by law on the same has not been paid, and the same shall without further evidence be liable to seizure and forfeiture: *Provided*, That this section shall not apply to spirits sold at public sale by an auctioneer who has paid the special tax as such under such rules and regulations, and upon such public notice as may be prescribed by the Commissioner of Internal Revenue.

No amendment being offered,

The Clerk read as follows:

SEC. 42. *And be it further enacted*, That it shall be the duty of every person who empties or draws off, or causes to be emptied or drawn off, distilled spirits or other article subject by law to tax, from a cask, barrel, or package, bearing any of the marks or brands required by law, or marks intended for or purporting to be, or designed to have the effect of such marks, immediately upon such cask, barrel, or package being emptied, to efface and obliterate said marks or brands; and any person who shall violate this provision shall be liable to a penalty of ten dollars for each offense; and any such cask, barrel, or package, from which said marks are not so effaced and obliterated as herein required shall be liable to forfeiture, and may be seized by any officer of internal revenue wherever found.

No amendment being offered,

The Clerk read as follows:

SEC. 43. *And be it further enacted*, That in case any transportation bond is forfeited by failure to furnish or produce at the proper time the evidence required by law or regulation that the articles named in the bond were duly received and actually stored in the warehouse or district to which they were shipped, or other breach of the obligation, the obligors in the bond shall pay the total amount of duties upon the articles removed under the bond, together with fifty per cent, upon that amount, and the collector of the district in which such bond is or may be given may forthwith distrain upon any property, real or personal, subject to distraint or seizure, belonging to said obligors; and in case no such property can be found, the collector shall immediately forward the bond to the United States district attorney for the proper district for suit, and notice of the breach of the obligation of any such bond shall be forthwith forwarded by the collector of the district to the Commissioner of Internal Revenue.

No amendment being offered,

The Clerk read as follows:

SEC. 44. *And be it further enacted*, That if any person shall falsely represent himself to be a revenue officer of the United States, and shall in such assumed character demand or receive any money or other article of value from any person for any duty or tax due to the United States, or for any violation or pretended violation of any revenue law of the United States, such person shall be deemed guilty of a felony, and on conviction thereof shall be liable to a fine of \$500, and to imprisonment not less than six months and not exceeding two years, at the discretion of the court.

No amendment being offered,

The Clerk read as follows:

SEC. 45. *And be it further enacted*, That no distilled spirits which have been forfeited to the Government in accordance with law shall be sold for a price less than the amount of the tax required thereon by law at the time of such sale. And if the officer having such spirits in charge shall have been unable, for a period of ninety days, to sell the same for the price equal to the tax, such spirits shall be destroyed under such rules and regulations as the Commissioner of Internal Revenue may prescribe.

Mr. WILLIAMS. I move that the committee now rise. We have had read all but one section of the bill; but that is a very pregnant section. I notice that it proposes to repeal no less than twenty-six sections of the old law. Now we ought to ascertain what those sections are. And I think there are other sections which should be repealed. I therefore move that the committee rise.

Mr. WILSON, of Iowa. I hope that motion will be agreed to. It cannot be expected that we can report this bill to the House to-night.

Mr. CONKLING. It is not expected that we will report the bill. But I hope the remaining section will be read; and then the bill can be left in committee until to-morrow.

Mr. HILL. Will the bill then be open to amendment?

The CHAIRMAN. If the last section is now read, that section will be open to amendment, and the bill will also be open to amendment by way of additional sections; but it will not be in order to return to any other section for amendment except by unanimous consent.

Mr. WILLIAMS. I withdraw my motion that the committee rise.

No amendment being offered,  
The Clerk read as follows:

Sec. 46. *And be it further enacted*, That sections sixty and one hundred and fourteen of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and sections twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, and sixty-one of the act amendatory thereof, approved July 13, 1866, be, and the same are hereby, repealed.

Mr. WILLIAMS. I move to amend the first line of this section by inserting after the word "sixty" the word "ninety-seven."

Pending this amendment,

Mr. HOOPER, of Massachusetts, moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOUTWELL reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 1161, to amend the existing laws relating to internal revenue, and had directed him to report that they had come to no resolution thereon.

And then, on motion of Mr. CONKLING, (at eleven o'clock and fifteen minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:  
By the SPEAKER: The petition of T. and Eliza Chantams, of St. Petersburg, Russia, complaining of injustice and wrong perpetrated by the American minister.

Also, the petition of Jonathan Lawrence, of New York, in relation to paper money.

By Mr. ASHLEY, of Ohio: A memorial of G. W. M. Reed and 142 citizens of Arkansas, praying for the impeachment of the acting President of the United States.

Also, the petition of C. M. Mason and over 200 citizens of the State of Arkansas praying Congress to impeach and remove the acting President.

By Mr. DEAMAN: The remonstrance of Moses W. Field and others, citizens of Detroit, Michigan, against a contracting of the currency.

By Mr. BROOMALL: The petition of citizens of the United States, residing in Chester county, Pennsylvania, praying for the impeachment of the President of the United States.

By Mr. LAFLIN: The petition of S. D. Hungerford and 20 others, citizens of Adams, Jefferson county, New York, adverse to the withdrawal of the national currency.

By Mr. O'NEILL: The petition of Alfred L. Kennedy, president, and the members of the faculty of the Polytechnic College of the State of Pennsylvania, asking that all books, maps, &c., intended for the use of libraries, colleges, and other public institutions be continued free, as a repeal of that provision in the law would be attended with results disastrous to the diffusion of useful knowledge.

Also, the petition of W. J. Horstmann, president, and the other officers of the German Society Library of Philadelphia, asking that all books, maps, &c., intended for the use of libraries, colleges, and other public institutions be continued free, as a repeal of that provision in the law would be attended with disastrous results in the diffusion of useful knowledge.

Also, the petition of Hon. J. R. Ingersoll, president, and the other officers of the Historical Society of Pennsylvania, asking that all books, maps, &c., intended for the use of libraries, colleges, and other public institutions be continued free, as a repeal in that provision in the law would be attended with results disastrous to the diffusion of useful knowledge.

By Mr. RICE, of Massachusetts: The petition of W. F. Weld & Co., and others, merchants of Boston, for an amendment of the warehouse bill, approved March 16, 1866.

#### IN SENATE.

MONDAY, February 18, 1867.

Prayer by the Chaplain, Rev. E. H. GRAY.  
On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of Saturday last was dispensed with.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 14th instant, the report of General Newton in relation to the encroachments in the harbor of New York; which, on motion of Mr. MORGAN, was ordered to lie on the table, and be printed.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were read twice by their titles and referred to the Committee on the District of Columbia:

A bill (H. R. No. 1001) for the relief of William B. Todd; and

A bill (H. R. No. 1142) to amend the act entitled "An act to incorporate a Newsboys' Home," and also for the relief of abandoned children in the District of Columbia.

The following bills and joint resolutions from the House of Representatives were read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. No. 899) in relation to the revenue-cutter service;

A bill (H. R. No. 937) to authorize changes in the location of lights and other aids to navigation on the southern coast of the United States;

A bill (H. R. No. 1166) to authorize the building of light-house, therein mentioned, and for other purposes;

A joint resolution (H. R. No. 283) authorizing the Secretary of State to present to Captain James G. Smith, of the British brig Victoria, a gold chronometer in token of appreciation of his services in rescuing from death the master, officers, crew, and passengers on board the American brig E. H. Fidler; and

A joint resolution (H. R. No. 284) authorizing examinations of improvements in vessels, and for other purposes, in aid of navigation, &c., for the protection of life and property at sea.

The bill (H. R. No. 878) to quiet title to land in the town of Santa Clara, in the State of California, was read twice by its title.

Mr. CONNESS. I move that that bill be laid on the table for the present; a similar bill is with the Committee on Public Lands.

The motion was agreed to.

#### COLLECTION DISTRICTS.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. No. 347) to change certain collection districts in Maryland and Virginia; which were in section three, lines seven and eight, to strike out "Oxford" and insert "Oxford," after "Anamessit," in line twenty-four to insert "and Deal's Island," and after "discontinued" in line twenty-five to strike out the residue of the section.

Mr. CRESWELL. I move that the Senate concur in the House amendments.

The motion was agreed to.

#### TOWING ON THE LAKES.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 605) to amend the twenty-first section of an act entitled "An act further to prevent smuggling, and

for other purposes," approved July 18, 1866, which was to add to the bill the following proviso:

*And provided*, That any foreign railroad company or corporation whose road enters the United States by means of a ferry or tug-boat may own such boat, and it shall be subject to no other or different restrictions or regulations in such employment than if owned by a citizen of the United States.

Mr. CHANDLER. I move that the Senate concur in the amendment.

The motion was agreed to.

#### CHANGE OF NAME OF VESSEL.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the joint resolution (S. R. No. 159) authorizing the Secretary of the Treasury to permit the owner of the yacht Mayflower to change the name of the same to that of Silvie. The amendments were to preface the resolution with the following preamble:

Whereas the yacht Mayflower is a pleasure-boat not engaged in the transportation of passengers or freight of any kind, and whereas the steam-yacht Glance of about thirteen tons burden being also a pleasure-yacht not engaged in carrying passengers or freight: Therefore.

And to add to it these words:

And to order a register of the steam-yacht Glance to be granted to William Levering, jr., the owner thereof, from the collection district of Buffalo, in the State of New York.

And also to add to the title the words "and to issue an American register to the steam-yacht Glance."

Mr. CHANDLER. I move that the amendments be concurred in.

The motion was agreed to.

#### PETITIONS AND MEMORIALS.

Mr. FESSENDEN presented a memorial of the Maine Historical Society, praying that the library and historical collection of Colonel Peter Force may be purchased by the Government; which was referred to the Committee on the Library.

Mr. WILSON presented the petition of Lucretia B. Johnson, mother of Alfred Osgood Johnson, late first lieutenant company G, forty-second regiment Illinois infantry, who died of a wound received in the battle of Missionary Ridge, November 25, 1863, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. HOWARD presented resolutions of the Legislature of Michigan, in favor of an appropriation for the construction of a harbor near the mouth of Galion river, at New Buffalo, Berrien county, in that State; which were referred to the Committee on Commerce, and ordered to be printed.

He also presented resolutions of the Legislature of Michigan, in favor of a grant of land to aid in the construction of a railroad from Lac La Belle to the cliff mine in Keweenaw county, and thence along the mineral range to some point on the Montreal river; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORGAN presented resolutions of the Legislature of New York, expressing sympathy for the Greeks in their struggle for freedom, and in favor of a protest by our Government against the barbarous and inhuman system adopted toward them by the Turks; which were referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. WILLEY presented the petition of Milton B. Duffield, praying compensation for services rendered and expenses incurred in the discharge of his duties as United States marshal in the Territory of Arizona; which was referred to the Committee on Claims.

Mr. RAMSEY presented resolutions of the Legislature of Minnesota, opposing any further reduction of the national currency; which were referred to the Committee on Finance, and ordered to be printed.

He also presented resolutions of the Legislature of Minnesota, in favor of a treaty with the Sioux Indians which shall provide for the right of way through the Sioux country to the Missouri river; which were referred to the

Committee on Indian Affairs, and ordered to be printed.

He also presented a memorial of the Legislature of Minnesota, in favor of the establishment of a mail route from Awatonna to Albert Lea, in that State; which were referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. SUMNER presented resolutions of the Pennsylvania Peace Society, in favor of the establishment of an international tribunal, to be composed of representatives from all nations, to which may be referred all matters in dispute between different nations; which was referred to the Committee on Foreign Relations.

#### REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Naval Affairs, to whom was referred the petition of Henry Finck, asked to be discharged from its further consideration, and moved that the petitioner have leave to withdraw his petition and papers; which was agreed to.

Mr. WILLEY, from the Committee on Naval Affairs, to whom was referred the petition of William Jones, praying compensation for the capture and destruction of his vessel at Mobile in March, 1861, reported adversely thereon; and its further consideration was postponed indefinitely.

He also, from the same committee, to whom were referred the following bill and joint resolution, reported them severally without amendment:

A bill (H. R. No. 140) to restore Lieutenant Joseph P. Fyffe to his grade in the active service of the Navy; and

A joint resolution (H. R. No. 216) for the restoration of Lieutenant Commander S. L. Breese, United States Navy, to the active list from the retired list.

Mr. GRIMES, from the Committee on Naval Affairs, to whom were referred two petitions of citizens of the District of Columbia, praying an examination of the waters and harbor of Washington, District of Columbia, with the view of the location at that point of a naval depot for iron-clad vessels of the Navy; and a petition of William H. Maries, praying to be assigned to duty in the Navy, asked to be discharged from their further consideration; which was agreed to.

Mr. CRAGIN, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 567) for the relief of James Fulton, paymaster United States Navy, reported it without amendment.

Mr. NORTON, from the Committee on Patents and the Patent Office, to whom was referred the petition of Eliza Wells, submitted a report accompanied by a bill (S. No. 611) to extend to and for the benefit of Eliza Wells letters-patent heretofore issued to Henry A. Wells, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. HENDRICKS, from the Committee on Naval Affairs, to whom was referred the petition of James Tetlow, submitted a report accompanied by a bill (S. No. 612) for the relief of James Tetlow. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 1170) for the relief of Colonel L. C. Houck, of Tennessee, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Dyor B. Pettijohn, reported a joint resolution (S. R. No. 175) for the relief of Dyor B. Pettijohn; which was read and passed to a second reading.

He also, from the same committee, to whom was recommended the bill (H. R. No. 811) for the relief of certain drafted men, reported it with amendments.

Mr. WILLIAMS, from the Committee on Finance, to whom was referred a petition of the delegates of Utah and Arizona Territories, praying for the establishment of assay offices

at Great Salt Lake, in Utah Territory, and at Prescott, in the Territory of Arizona, asked to be discharged from its further consideration; which was agreed to.

#### DISBURSING OFFICERS.

Mr. WILSON. The Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 173) to facilitate the settlement of accounts of disbursing officers, have directed me to report it back without amendment. It is a resolution containing but a single section; it is recommended by the Department, and I hope it will be put on its passage.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to repeal so much of an act to provide for the more prompt settlement of the accounts of disbursing officers, approved July 17, 1862, as provides that such accounts, with the vouchers necessary for their prompt and correct settlement, shall be rendered direct to the proper accounting officers of the Treasury, and to direct such accounts and vouchers to be sent hereafter to the bureau to which they pertain, and after examination there to be passed to the proper accounting officers of the Treasury for settlement.

The joint resolution was reported to the Senate and ordered to be engrossed for a third reading. It was read the third time, and passed.

#### BILLS INTRODUCED.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 176) relative to the post office and sub-Treasury of the city of Boston; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. POMEROY asked, and by unanimous consent obtained, leave to bring in a joint resolution (S. R. No. 177) to provide for the payment of certain awards for losses sustained by loyal Choctaw and Chickasaw Indians; which was read twice by its title, and referred to the Committee on Indian Affairs.

#### RIVER AND HARBOR BILL.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed a bill (H. R. No. 1154) making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law, and for other purposes. The bill was read twice by its title, and referred to the Committee on Commerce.

#### GENERAL HUMPHREY'S REPORTS.

Mr. HENDERSON submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That five thousand copies each be printed for the use of the Senate of the following documents, to wit:

1. Report upon the physics and hydraulics of the Mississippi river; upon the protection of the alluvial region against overflow; and upon the deepening of the mouths, based upon surveys and investigations made under the acts of Congress directing the topographical and hydrographical survey of the delta of the Mississippi river, &c., submitted to the Bureau of the Topographical Engineers, War Department, under date of August 5, 1861, as prepared by Captain A. A. Humphrey and Lieutenant H. S. Abbott; and
2. The report of Brigadier General A. A. Humphreys on the same subject, submitted to the Secretary of War under date of May 31, 1866.

#### APPEALS AND WRITS OF ERROR.

Mr. HARRIS. I move that the Senate proceed to the consideration of the bill (S. No. 576) relating to appeals and writs of error to the Supreme Court.

Mr. SUMNER. I wish to know whether that bill is to take time? The reason I ask is that there was a very distinct understanding, when what is known as the military bill was taken up, that the Senate should proceed at once, without interposing any other business, to the consideration of the measure known as the Louisiana bill.

Mr. HARRIS. My impression is that the bill will not take much longer than the Senator has just occupied.

Mr. FESSENDEN. I give notice that at one o'clock I shall move to take up a couple of appropriation bills, which I wish very much to dispose of to-day. I desire to have them out of my way, because I expect to be detained in my committee-room the greater part of the week. I think both of them will not take more than an hour.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New York.

The motion was agreed to; and the bill (S. No. 576) relating to appeals and writs of error to the Supreme Court was considered as in Committee of the Whole.

Mr. HARRIS. It will only be necessary to read the substitute reported by the Committee on the Judiciary.

The PRESIDENT *pro tempore*. The Committee on the Judiciary, to whom this bill was referred, have reported an amendment striking out all after the enacting clause and inserting a substitute. Only the words proposed to be inserted will be read, unless some Senator calls for the reading of the original bill.

The Secretary read the words proposed to be inserted, as follows:

That where any appeal or writ of error has been brought to the Supreme Court from any final judgment or decree of an inferior court of the United States for any judicial district in which subsequently to the rendition of such judgment or decree the regular sessions of such court have been suspended or interrupted by insurrection or rebellion, such appeal or writ of error shall be valid and effectual, notwithstanding the time limited by law for bringing the same may have previously expired; and in cases where no appeal or writ of error has been brought from any such judgment or decree, such appeal or writ of error may be brought within one year from the passage of this act.

The amendment was agreed to.

Mr. TRUMBULL. This bill comes from the Committee on the Judiciary; but I had not examined this proposed amendment, and the bill did not strike me very favorably when it was before the committee. If I understand the first part of it, it is objectionable. It provides—

"That where any appeal or writ of error has been brought to the Supreme Court from any final judgment or decree of an inferior court of the United States for any judicial district in which subsequently to the rendition of such judgment or decree the regular sessions of such court have been suspended or interrupted by insurrection or rebellion, such appeal or writ of error shall be valid and effectual, notwithstanding the time limited by law for bringing the same may have previously expired."

Why so? If an appeal has already been brought to the Supreme Court of the United States, why should that appeal be now made valid? If it was brought within the time of course the appeal was good. What is the object of the provision I do not see. In cases where an appeal was brought to the Supreme Court, if the appeal was brought within the time allowed by law, it is good. If it was not brought within the time, is it intended now to make it good? If five years had transpired before the rebellion broke out and an appeal was not taken, is it now intended to make valid an appeal taken afterward, subsequent to the expiration of the five years? Where parties had five years to take an appeal, is it now intended to give them more time? The provision is that where an appeal or writ of error has been brought to the Supreme Court "from any judicial district in which subsequently to the rendition of such judgment the regular sessions of such court have been suspended or interrupted." What has the interruption of the sessions of the district court in Louisiana to do with an appeal that has already been brought to the Supreme Court?

Mr. HARRIS. Will the Senator allow me to answer?

Mr. TRUMBULL. Certainly.

Mr. HARRIS. I am surprised that the Senator should have found this objection now after the thing had been very fully discussed in committee and this question had been raised, and I was authorized to draw this substitute and present it by the Senator as well as others. But, sir, let me answer his difficulty. Suppose a judgment rendered in the circuit court



at New Orleans just before the breaking out of the rebellion, and the party against whom it was rendered desired to take an appeal from that judgment. The State of Louisiana was in the possession of the rebels. How could a party bring an appeal under those circumstances? Now, after we have acquired possession of that rebel territory an appeal is brought, but the objection is taken that that appeal is brought too late; more than five years have elapsed from the rendering of the judgment before it was possible to bring the appeal, and yet some parties have, to my knowledge, brought an appeal under those circumstances. Now, this bill is intended to validate that appeal and to give it effect, although more than five years have elapsed from the rendering of the judgment to the time of taking the appeal. Parties have been vigilant, diligent, and brought the appeal as soon as they could; but they were interrupted by the rebellion, so that appeals could not be brought year by year.

That is the effect of this bill. Will anybody say that it is wrong? Will anybody say a party ought to lose the benefit of an appeal because the rebels were in possession of the country, so that the appeal could not be served on the proper court or officer? The Senator from Illinois will not pretend that.

Mr. TRUMBULL. Does the Senator from New York then mean to say that if a judgment was rendered in the State of Louisiana forty years ago, and an appeal has now been brought for the first time, he is going to give the right to prosecute that appeal? This is that provision; there is no limitation to it.

Mr. HARRIS. Is there any harm in that, I will ask the Senator from Illinois?

Mr. TRUMBULL. I think there is.

Mr. HARRIS. Where the bringing of the appeal has been interrupted by the rebellion, if the five years had elapsed before that, I do not wish to give an appeal.

Mr. TRUMBULL. That is not this bill. The Senator is speaking of one thing; the objection I make is to another. The Senator speaks of this bill having been agreed to by all of the committee. It never was agreed to by me. The Senator from New York was authorized to prepare an amendment to the bill, but I have never agreed to it. The objection is that there is no limitation. The Senator from New York does not mean to authorize an appeal to be taken now where the full five years had transpired before the rebellion. Does he mean that? I do not think he does. I do not think that the Congress of the United States is prepared to say that you may bring an appeal in a case that was decided twenty years ago. The intention of the bill, if I understand it, is to give the party the same right to take an appeal now that he would have had if there had been no rebellion. Now, suppose his right to take an appeal had transpired before the war began, would he not under this first clause, if he brought up an appeal since, although the five years had transpired, have a right to prosecute the appeal still? It seems to me so.

Mr. HARRIS. If this chance to bring the appeal had been interrupted by the rebellion it would be so.

Mr. TRUMBULL. There is not one word about its being interrupted by the rebellion in this part of the section. If the Senator from New York will look at it he will see that it is so; let me read again the first lines:

That where any appeal or writ of error has been brought to the Supreme Court from any final judgment or decree of any inferior court of the United States for any judicial district in which subsequently to the rendition of such judgment or decree the regular sessions of such court have been suspended or interrupted by insurrection or rebellion.

Now, what has been interrupted? The session of the court from which the appeal is brought:

Such appeal or writ of error shall be valid and effectual, notwithstanding the time limited by law for bringing the same may have previously expired.

I suppose this bill is to fit some particular

case. Let me name a case: suppose that in 1850 a judgment was rendered by the circuit court in a district of Louisiana, and now for the first time an appeal is attempted to be prosecuted from that decision.

Mr. FESSENDEN. I suggest that everything desired can be reached by adding a proviso that the provisions of the bill shall not apply to any case where the right of appeal had expired before the rebellion.

Mr. TRUMBULL. I think that would correct it.

Mr. FESSENDEN. I do not think there can be objection to that.

Mr. TRUMBULL. It certainly is not intended to open all the cases back in the past.

Mr. HARRIS. Of course not.

Mr. FESSENDEN. Then add a proviso to that effect, and we shall be relieved from all this trouble.

Mr. TRUMBULL. I think the latter clause of it would want a limitation, too:

And in cases where no appeal or writ of error has been brought from any such judgment or decree, such appeal or writ of error may be brought within one year from the passage of this act.

Suppose the judgment was rendered twenty years ago, is it intended to give a year to bring an appeal now? There ought to be an amendment to this clause.

Mr. HARRIS. Let the Senator suggest an amendment and we will agree to it at once.

Mr. TRUMBULL. If I could have time to prepare an amendment I would do it. It ought to be amended so as not to give the right of appeal in a case where it was barred before the rebellion.

Mr. HARRIS. Of course.

Mr. TRUMBULL. I move that the bill be laid aside informally for a few moments, and while something else is being considered an amendment can be prepared.

The PRESIDENT *pro tempore*. By common consent the bill will be laid aside temporarily.

The Senate, as in Committee of the Whole, subsequently resumed the consideration of the bill.

Mr. HARRIS. I have prepared an amendment which relieves the bill from the criticism of the Senator from Illinois, and is satisfactory to him. It is to add to the amendment already adopted:

The provisions of this act shall not apply to any case in which the right to bring the appeal or writ of error had expired before such suspension or interruption of the regular sessions of the court.

Mr. TRUMBULL. That is satisfactory.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### CONGRESSIONAL PRINTER.

Mr. ANTHONY. I move to take up House bill No. 1099, to provide for the election of a Congressional Printer.

Mr. SUMNER. I wish to know if that bill is to occupy time?

Mr. ANTHONY. I do not see why it should occupy time.

Mr. SUMNER. I do not wish to antagonize with any bill in which the Senator is interested; but there is a measure to which the Senate is to a certain extent pledged, and that is the Louisiana bill.

Mr. ANTHONY. I do not wish to antagonize this or anything else against that bill, but I should like to have a chance to get this bill disposed of.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Rhode Island.

The motion was agreed to; and the bill (H. R. No. 1099) providing for the election of a Congressional Printer was considered as in Committee of the Whole.

The first amendment of the Committee on Printing was in section one, line three, to strike

out the words "House of Representatives" and insert "Senate."

The amendment was agreed to.

The next amendment was to strike out "*viva voce*" after "elect" in line three of section one.

The amendment was agreed to.

The first section as amended provides: "That the Senate shall elect some competent person, who shall be a practical printer, to take charge of and manage the Government Printing Office."

The next amendment was in section two, line two, to strike out "selected" and insert "elected;" in lines two and three to strike out "House of Representatives" and insert "Senate."

The amendment was agreed to.

The next amendment was in lines four and five of section two to strike out the words "and shall hold his office for two years, and until his successor shall be elected."

The amendment was agreed to.

The next amendment was in lines five and six of section two to strike out "print and bind" and insert "superintend the printing and binding of;" in line seven, after "documents," to insert "as shall be;" and in line eight to strike out "execute" and insert "superintend the execution of."

The amendment was agreed to.

The second section, as amended, reads:

SEC. 2. And be it further enacted, That the person so elected shall be deemed an officer of the Senate, and shall be designated, "Congressional Printer." He shall superintend the printing and binding of the Journals and such other documents as shall be ordered by each House of Congress, and shall superintend the execution of all the printing and binding for the respective Departments of the Government now required by law to be executed at the Government Printing Office, and shall in all respects be governed by the laws in force in relation to the Superintendent of Public Printing and the execution of the printing and binding.

The third section provides that, from and after the passage of the act, and the election of a Congressional Printer in pursuance of it, the office of Superintendent of Public Printing shall be abolished.

Mr. ANTHONY. One other amendment should be made to come in at the end of section three:

And the salary of said officer shall be at the rate of \$4,000 a year.

The amendment was agreed to.

Mr. ANTHONY. I will state very frankly what the object of this bill is. It is to place the printing of Congress under the charge of an officer who shall be elected by, and immediately responsible to, Congress. It is deemed impracticable that such an officer should be elected by the two Houses of Congress; and it is exceedingly inconvenient that he should be elected by the House of Representatives, because in that case the tenure of his office must necessarily be for two years only; whereas if he is elected by the Senate, and becomes an officer of the Senate, he holds his office during the pleasure of the Senate under the general rule. For this reason the committee have proposed amendments, to which the Senate have assented, changing the election of the officer from the House of Representatives to the Senate.

The object of this bill is, as I have stated, to make the Superintendent of Public Printing, called by this bill the Congressional Printer, immediately responsible to Congress. The President of the United States during the recess of Congress removed the Superintendent of Public Printing, and appointed another man in his place. It is not for me to question the motives which actuated the President in that act, which he was certainly constitutionally entitled to perform; but I know of no reason except that the man removed sympathizes with the majority of Congress; and the man who was appointed in his place is upon the other side. There may have been other reasons, but if so, they have not been communicated to me. I think there are many reasons why an officer whose relations are so intimate with Congress should, if not elected

by Congress, at least be in accordance with the sentiments of the majority. Both the gentlemen are perfectly competent to perform the duties of the office.

Mr. WILLIAMS. I should like to ask the honorable Senator who has charge of this bill if he is entirely clear that there are no constitutional objections to its passage. The Constitution provides that the President shall, by and with the advice and consent of the Senate, appoint all officers of the United States except those whose appointment the law may vest with the heads of Departments, or with the President alone, or with the courts of law.

Now, I should like to hear from the honorable Senator whether he regards this Public Printer, or this Government Printer, or whatever he may be called, as an officer of the United States; and whether this attempt to provide for his election by the Senate is not an evasion of that provision of the Constitution. I have not particularly examined the question; but the Public Printer manifestly performs duties besides those imposed upon him by the Senate of the United States. He performs duties that are imposed upon him by both branches of Congress, and he superintends the printing for the other departments of Government, and has heretofore been regarded as an officer of the United States. It may be that there is no difficulty of that kind in the way; but it occurred to me that possibly there might be.

Mr. ANTHONY. I do not suppose my opinion on a matter of constitutional law would be of much value by the side of that of my honorable friend from Oregon. I suppose that it would not be competent for the Senate to elect a Superintendent of Public Printing; but I suppose it is competent for the Senate to elect a Congressional Printer, who shall be deemed an officer of the Senate. It is so stated in the bill. Then, I suppose it is competent by law to devolve on that officer of the Senate any duties that we see fit. I suppose a law might be passed devolving on the Secretary of the Senate duties which are not strictly in the line of the services which would be required ordinarily from a Secretary of the Senate. But I will leave the lawyers of the Senate to settle the constitutional point; it has not distressed me any.

Mr. LANE. I think the Senate has a perfect right to elect this officer by virtue of express power granted by the Constitution. By the Constitution of the United States each House is permitted to elect its own officers. By the Constitution of the United States each House is required to keep a Journal of its proceedings. These duties, surely, may be legitimately devolved upon an officer elected by the Senate. After the Senate has elected a Public Printer, an act of Congress may transfer into his hands all the duties which are now by law devolved upon the Superintendent of Public Printing. I think these two express grants of power in the Constitution cover the whole case—the right of each House to elect its own officers, and the constitutional obligation to keep and publish a Journal of its own proceedings. These provisions seem to make a Public Printer for each House necessary, and after having elected one under these provisions of the Constitution, we may by law devolve upon him the charge of all the public printing if we choose. I dislike to go over the morning hour, and will, therefore, take up no more of the time of the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time.

Mr. DOOLITTLE. On the passage of the bill I should like to have the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. As the yeas and nays are to be called, I desire to state that I was inclined to question the propriety of this bill; but the present Superintendent of Printing said it was all right, and desired me to go for it.

The aspirant for the office also seems to be very desirous that it shall pass; and if it is the pleasure of the Senate to pass it, it is satisfactory to me. I merely say that as a matter of explanation; and I shall interpose no hostility to the measure except by casting my single vote against it.

The question being taken by yeas and nays, resulted—yeas 27, nays 8; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Cragin, Creswell, Fogg, Foster, Fowler, Grimes, Harris, Henderson, Howe, Lane, Morgan, Morrill, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Willey, Williams, Wilson, and Yates—27.

NAYS—Messrs. Buckalew, Davis, Dixon, Doolittle, Fessenden, Hendricks, Nesmith, and Patterson—8.

ABSENT—Messrs. Brown, Cattell, Cowan, Edmunds, Frelinghuysen, Guthrie, Howard, Johnson, Kirkwood, McDougall, Norton, Nye, Poland, Riddle, Saulsbury, Sprague, and Wade—17.

So the bill was passed.

#### MILITARY ACADEMY APPROPRIATIONS.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of the bill making appropriations for the support of the West Point Academy. I will say to Senators that it will take but a very short time and I shall soon be out of their way. I move to postpone all prior orders for the purpose of taking up this bill.

Mr. SUMNER. There is another bill which is at this moment much more important than that. I am in favor, substantially, of the bill moved by the Senator from Maine. I take it nearly all of us are in favor of it; but it is a bill that will surely pass, and when it passes, there can be no question with regard to its approval in another quarter. That bill will take care of itself. But, sir, there is another bill which has already passed the House of Representatives which is of immense importance. If the two measures are to be considered in that connection, there can be no question that we ought to proceed with that other bill; and there was, unless I am very much mistaken—Senators about me can correct me if I am mistaken—a distinct understanding when the Louisiana bill was displaced to proceed with the consideration of what is called the military bill, the Louisiana bill should be proceeded with at once after the disposition of the military bill. I think I am not mistaken when I say that was the understanding, certainly among Senators about me.

Mr. WILLIAMS. I will say that so far as I am concerned I had no understanding of that kind. I only signify this without meaning to interpose in this contest.

Mr. SUMNER. I did not mean to attribute to Senators anything that they did not understand. I had supposed from the statement made by the Senator from Ohio, [Mr. WADE,] who moved the Louisiana bill, that there was between him and other Senators with whom he had conferred, and who were particularly interested in the military bill, such an understanding.

Mr. WADE. I can state substantially what took place before the Senate when those two bills were taken up. They were not antagonized really, but I moved to take up the Louisiana bill and proceed with it before the other bill was called up, so that the Louisiana bill was a little ahead in that way. The question, however, arose which of those two bills should be proceeded with first, and I did suppose at that time there was no antagonism between them, one being a local measure applying to a single State and the other to all the seceded States. For that reason, as I said at the time, I cared not very particularly which was taken up first; but I certainly did suppose when we took up the bill which we first considered that we would immediately on disposing of it proceed with this bill. I did not then, however, anticipate that that bill would be so amended as to have some mode of reconstruction attached to it. The two bills as they came here certainly were not antagonistic, but both of them might well stand without interfering with each other. After they became in some meas-

ure consolidated, I had my doubts whether the one was not incompatible with the other. I certainly like the Louisiana bill and shall vote for it if it comes up; but I do not know but that the other bill as we amended it is somewhat inconsistent with it. However, sir, I have stated all the understanding there was, and the Senate will decide what shall be done.

Mr. SUMNER. Well, Mr. President, the Louisiana bill is on your table; it seems to me that it ought not to be neglected; it should be proceeded with; we should come to some conclusion about it. If the Senate are not disposed to adopt it let us reach that conclusion; but do not let us pass it by.

The Senator from Ohio suggests that since the adoption of the military bill by the Senate with an amendment on Sunday morning, the occasion for the Louisiana bill may be less. I do not agree with my excellent friend on that point. I think the occasion is more; I think the occasion, if anything, has increased. The bill adopted on Sunday morning distinctly declares the illegality of the existing governments in the rebel States. I take it that declaration has never before been made by Congress, or at any rate so distinctly. There it is. What is the consequence of that declaration? All that people are, then, at this moment without any legal government.

Mr. TRUMBULL. That is a fact.

Mr. SUMNER. It has never been so declared by Congress before. Many Senators have so regarded it. For one I have always regarded it so, and I did not hesitate many years ago to declare these governments illegal and without any foundation, perfectly void; but I was not sustained by others here. The Senator from Wisconsin near me [Mr. Howe] long ago, I know, occupied that same ground. But you cannot place yourself on that ground without accepting the consequences. You must then go forward and provide a substitute for these illegal governments: otherwise you have the unhappy people there without government. It may be said that they among themselves may get up a government, that they may construct a government. How? You give them no means, you give them no rule, you do not initiate proceedings. All that is needful. Therefore I say out of the very declaration which you place in the forefront of your military bill is derived the duty of proceeding now to some just measure of reconstruction by which you shall provide governments for these States. The duty is urgent; it ought not to be postponed. There can be no other bill before Congress during this session of such urgent necessity.

I do not wish now to go further into the question, merely on this preliminary motion. I merely present as briefly as possible the reason why we should not postpone the Louisiana bill. I hope therefore that the appropriation bill will not be taken up, but that the Senate will proceed with the consideration of the Louisiana bill.

Mr. FESSENDEN. The West Point bill would probably have been passed in the time the Senator has been talking. It and the other appropriation bill which is to follow will not take much time, but it is absolutely necessary that I should have them out of the way, for I expect bills from the House of Representatives which will keep me in the committee-room, and I hope the Senate will dispose of them today. I am obliged to devote so much of my time to the committee-room, especially at this period of the session, that I cannot have these things in my way. The Senator will have the field clear in an hour.

Mr. SUMNER. "In an hour!" That is a hard thing to say to a people suffering at this moment through want of government. The first duty, I say, at this moment is to proceed with all possible dispatch to establish a government for people who have no government, and not wait an hour. There is no business that can be before Congress equal in importance to that.

Mr. CONNESS. If the language of the honorable Senator from Maine is to be taken

as an agreement or mortgage on the time of the Senate, that this other bill can be proceeded with in an hour, I shall object to the arrangement. I do not think we can with propriety consider the Louisiana bill at this time.

Mr. FESSENDEN. I did not make any agreement. I only say that in an hour I think I shall be out of the way; and then it will be for the Senate to say what shall be taken up.

Mr. CONNESS. Very well.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine.

The motion was agreed to; and the bill (H. R. No. 912) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1868, was considered as in Committee of the Whole.

The Committee on Finance proposed to amend the bill by striking out lines forty-one to fifty-three of section one, in these words:

*Provided*, That no part of the sums appropriated by the provisions of this act shall be expended in violation of the provisions of an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862: *And provided further*, That no part of the moneys appropriated by this or any other act shall be applied to the pay or subsistence of any cadet from any State declared to be in rebellion against the Government of the United States, appointed after the 1st day of January, 1866, until such State shall have been returned to its original relations to the Union under and by virtue of an act or joint resolution of Congress for that case made and provided.

Mr. TRUMBULL. Does the amendment strike out both provisos?

Mr. FESSENDEN. Yes, sir.

Mr. TRUMBULL. What is the objection to the first proviso, that no money shall be expended in violation of the law named?

Mr. FESSENDEN. The objection is simply that they come under that law now, and is entirely unnecessary. The same thing was in the bill as it came to us last year, and we struck it out, and the House agreed to our action. The general law applies to it just as well without the proviso as with it.

Mr. TRUMBULL. It is merely reiterating what is the law.

Mr. FESSENDEN. That is all. I suppose it was copied in by the Clerk from the bill of last year as passed by the House, without thinking about it. The Committee on Finance deemed the provision entirely unnecessary.

Mr. HOWE. I wish to inquire of the Senator from Maine how cadets are selected from these States?

Mr. FESSENDEN. They are not selected at all, and cannot be selected till they have representatives in Congress. That is the reason why the committee struck that out.

Mr. TRUMBULL. Have the vacancies from the southern States never been filled?

Mr. FESSENDEN. They were filled at one time; but a new regulation was made to stop it, and there is now no authority to appoint from those States, except that the President in the ten selected by him at large is not restricted. The same provision was in the House bill last year, and we struck it out.

The amendment was agreed to.

Mr. FESSENDEN. The chairman of the Military Committee has called my attention to an error in lines sixty and sixty-one of section one, on page 3. That clause reads, "for ice-house and additional stove in servants' room, \$7,500." In the estimate the item is, "ice-house, stove, and servants' room." I move that the correction be made.

The amendment was agreed to.

Mr. WILSON. I move to amend the bill by adding as an additional section:

*And be it further enacted*, That the chaplain at West Point Military Academy shall hereafter be relieved from academic duties, in order that he may devote himself exclusively to the moral and religious training of the cadets. He shall be required to hold daily in the chapel morning prayers, and to form a class in Biblical instruction on the Sabbath day, and all parades and other military duties at the Academy shall be dispensed with on that day so far as is consistent with proper military discipline.

I will simply say that this amendment is in

accordance with a recommendation of the Board of Visitors last year. Every provision contained in the amendment is recommended very strongly by the board as necessary to be adopted in the institution. I do not think there can be any opposition to the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time and passed; and its title was amended by adding the words "and for other purposes."

#### BILL RECOMMENDED.

On motion of Mr. SHERMAN, the joint resolution (H. R. No. 266) granting certain public property to the State of Ohio, was recommitted to the Committee on Military Affairs and the Militia.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 2) to amend the act declaring the officer who shall act as President of the United States in case of vacancies in the office of both President and Vice President, approved March 1, 1792;

A bill (H. R. No. 607) to amend an act granting the right of way over the military reserve at Fort Gratiot, Michigan;

A bill (H. R. No. 1062) relative to the port of Camden, New Jersey; and

A bill (H. R. No. 1167) to authorize entry and clearance of vessels at the ports of Boothbay and St. George, Maine.

#### CONSULAR AND DIPLOMATIC BILL.

Mr. FESSENDEN. I move now to take up the diplomatic and consular appropriation bill.

The motion was agreed to; and the bill (H. R. No. 904) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1868, and for other purposes, was considered as in Committee of the Whole.

The first amendment of the Committee on Finance was to insert "Portugal," in line eleven, among the list of missions appropriated for.

Mr. SUMNER. I am inclined to think that amendment ought not to be adopted. It will be remembered that during the last session Congress in its appropriation bill provided that nothing should be paid to the minister at that time in Portugal, under any appropriation bill or out of any fund whatever. That was a proposition which came from the other House. I certainly had nothing to do with originating it; and I voted for it finally because it was on the bill, and the circumstances were such that this proposition was bound up in many ways with the passage of other propositions that were recommended by the conference committee. However, it became a law, and when it became a law it seems to me that it was practically a notice to the minister of the United States at Portugal that Congress dispensed with his services. Now, the question may arise whether Congress in taking that step went beyond the line of its constitutional duty. I take it nobody will suggest that it did. I believe one of the best principles—I might almost say one of the golden principles—of constitutional law is that the parliamentary power, having control of the purse, may in that way influence public policy in the appointment of officers. If the occasions for the exercise of this power have been rare it is because a difference between Congress and the Executive has been rare; but this difficulty has now occurred; and Congress in the exercise of its constitutional function has undertaken to give notice that the services of a certain minister abroad were not agree-

able. It seems to me that after that notice he ought himself to have come home, or the State Department ought to have recalled him. He has not come home, and the State Department has not recalled him. He continues there. The question, therefore, is how shall Congress maintain its proper function in the Government of the country. I do not regard the form adopted by the other House as perhaps the best. They strike out all provision for Portugal. That they can do; but I say I do not think it the best mode, because on its face it seems in some way like a neglect or a disparagement of a friendly Power; but then the act of the House must, I take it, be interpreted with reference to well-known facts. This transaction has a history which must be as well known in Portugal as in our own country, and therefore I believe it cannot be regarded there as a neglect or a disparagement. If Congress had not at the last session taken the step which it did, I should not be ready to make any motion on the subject now. I would not interfere against any foreign minister in this peculiar, but strictly constitutional, way; but it seems to me, after what Congress has already done, there is but one course open before us, which is to persevere.

Mr. WILSON. I propose to offer a new section to the bill.

The PRESIDENT *pro tempore*. It is not now in order.

Mr. WILSON. Then I give notice that at the proper time, in order to settle this matter, I shall offer a new section in this shape:

That the envoy extraordinary and minister plenipotentiary of the United States to Spain shall be accredited as such to the Government of Portugal, and it shall be the duty of the said envoy to divide his time between the capitals of Spain and Portugal as the interests of the United States shall require; and for the additional duties and expenses imposed by this act said envoy shall receive an annual compensation of \$2,000 in addition to his present salary. And the salary of the secretary of legation to Spain shall, from and after the passage of this act, be \$3,000 per annum, and that of the secretary of legation to Portugal shall be \$2,500, and no additional compensation shall be allowed to either of said secretaries for acting as *chargé d'affaires*. And the office of minister resident to Portugal be, and the same is hereby, abolished.

I think the adoption of an amendment of this kind, when it shall be in order, will settle this whole difficulty. In six hours our minister can go from the capital of Spain to the capital of Portugal by railway communication, and such a provision will save us a great deal of money. I think we have now eight or nine unnecessary ministers in Europe, which I would dispense with by concentrating our missions in this way. Then there are some of the South American missions which I would treat in the same manner. The truth is that a large number of these places are places to reward worn-out politicians. We may just as well save money in this case and settle the matter by handing the care of the Portugal mission to our minister in Spain.

Mr. GRIMES. I think if the records of the State Department could be examined it might possibly be found that, notwithstanding the failure to appropriate any money last year to pay a salary to the minister at Portugal, he has received his full compensation.

Mr. SUMNER. How can that be?

Mr. GRIMES. I will explain. This bill, I perceive, contains an appropriation of \$65,000 "for contingent expenses of foreign intercourse." Up to the commencement of the war, as the Senate will find by referring to the appropriation bills for diplomatic and consular expenses, the whole amount ever appropriated for any such purpose in one year was \$20,000. I have before me the act of 1860 appropriating that amount. We increased it to \$80,000 during the war. Last year it was cut down to \$65,000, and that appropriation in last year's bill has been copied into this bill. There is not to-day a single reason why we should appropriate more money for this item now than we did six years ago. This money is all paid in gold, and the same amount will go just as far to-day toward paying our expenses abroad as at that time. The Secretary of State



assumes to himself, as I understand, the right to dispose of this money, this \$65,000 for contingent expenses, in such way as he chooses; and I am informed by gentlemen in whom I have confidence, that to one of our ministers he pays as traveling expenses \$3,000 a year, while from another minister, who is not supposed to be in as thorough sympathy with him as perhaps some others, he withholds any such compensation. In that way the \$65,000 is expended.

Mr. SUMNER. Will my friend allow me to remind him of the text of the statute adopted by Congress at the last session, which was that the actual minister of the United States at Portugal should not receive any salary under any appropriation bill or out of any fund whatever? The very object of the language was to exclude the possibility of any such payment as the Senator from Iowa now imagines. If there has been any such payment as that it has been an absolute, barefaced violation of the act of Congress.

Mr. GRIMES. I do not state that I have been informed that the minister at Portugal has been paid this salary, although I have not any doubt that in some indirect way compensation has been paid to him out of the contingent fund of the State Department. I state as to other ministers that I am informed by gentlemen recently returned from Europe, in whom I have confidence, that such is the fact, that sums of money are paid to them for the ostensible purpose of defraying their traveling expenses. If we want to reach this case it seems to me we ought to cut down the fund for contingent expenses to what it was before the war.

Mr. FESSENDEN. The Committee on Finance have no sort of feeling about this matter one way or the other, and not much of an opinion in regard to it. They thought they would propose to put in the word "Portugal," in order to bring the old case of last year to the attention of the Senate; and they will be perfectly satisfied, so far as they are concerned, with any decision the Senate may come to on the subject.

On the one side is the consideration that if "Portugal" is left out of this clause, we, on the face of things, decline to have any further diplomatic connection with Portugal, and that does not look well. On the other side, if we put in that word, we must consider what the result will be. We last year decided that our present minister to Portugal should not be paid anything as long as he was kept there. It was so decided by Congress. He has been kept there. He has been discharging his duties ostensibly as minister at that Court from that time to this. If now Congress should appropriate for a minister at Portugal it would look as if they had changed their opinion, and were willing that Mr. Harvey should remain there and be paid. It is for the Senate to decide whether they will omit to appropriate for the mission to Portugal so long as Mr. Harvey stays there as minister, or whether they will insert "Portugal" among the missions provided for, and let the Administration do as it pleases in reference to retaining that gentleman. How he could stay there for a year without receiving any pay is a mystery to me. He is not a man of fortune; but perhaps he may have enough of his own to support himself there, and he may have trusted that the matter would be set right by Congress. I cannot take it for granted, I cannot suppose that he has been paid anything by the Government, because if the Executive has paid him in any way, it is in plain and palpable violation of a law of Congress upon that subject, directing that he should not be paid. I take it for granted, therefore, that he has not been paid.

I understand that the way in which that business is done with regard to our foreign ministers is this: we keep a fund for the payment of these expenses in London with our agents there, the Barings. When a man is appointed to a particular mission, his name is sent to our

financial agents there with a statement of the amount which he is entitled to draw quarterly, and that remains so till contrary information is given—information that he has ceased to be a minister. Hence, unless the State Department chose to inform the Barings that nothing further was to be paid to Mr. Harvey, I suppose they would go on paying him under the original instructions which they received. Whether that has been done I do not know. I take it for granted that it has not been done; because it would be clearly the duty of the Secretary of State to inform our financial agents there that no further payments were to be made to Mr. Harvey after settling up his accounts to the day fixed. But what has been done in relation to it I do not know.

It is a matter of entire indifference to me whether this amendment be adopted or not. If the Senate think it inconsistent with propriety that Mr. Harvey has been suffered to remain there after this pointed rebuke and refusal to appropriate anything, and that we should not withdraw from the position we assumed on that subject, it will be proper enough to concur with the House of Representatives in leaving out Portugal. If, on the contrary, the Senate think a mission to a foreign Power of that importance, with which we have had and now have diplomatic relations should be provided for, they will insert it.

Mr. SUMNER. I have before me now the statute of last year, which I had not when I spoke before. I observe that in this statute Portugal is omitted from the list of places provided for in the way of salaries. Then in another part of the statute we have this provision: "And no money shall be paid to the present minister-resident at Portugal out of any fund whatever on account of further services in his office." No language could be stronger or more positive. If the minister-resident in Portugal has been paid in any way, directly or indirectly, it is in violation of this act. I cannot believe that he has been paid. I shall assume that he has not been paid; but in order to remove all doubt, I propose in a moment to introduce a call upon the Department of State to ascertain the facts with regard to it; but it seems to me, whether he has been paid or not, we cannot now change the position with regard to him that was taken at the last session, especially when we find that the other House has already adhered to that position. We gave notice to him to quit. He ought to have quit and come home; or if he had not delicacy enough to do that the Department of State ought to have given him notice to quit and come home. It should have told him that whatever might be the personal sentiments of the head of the Department toward him he had ceased to have the confidence of the Congress of the United States. He ought not to continue there abroad in these responsible functions: that should have been told him. It was not. It seems that he has continued there. He has continued there in open defiance of an act of Congress; therefore I think I may say in open defiance of the will of the people of the United States.

Mr. FESSENDEN. This bill is for the next fiscal year, and the amendment merely inserts a provision for the mission to Portugal for the next year. The provision referred to in the act of last year is a standing law; so long as the Government keep him there they cannot pay him anything, no matter what we appropriate. This amendment goes upon the supposition that it may be necessary to have diplomatic intercourse with Portugal; but it does not authorize the payment of any money to the present minister nor affect the provision made last year, which is general and applicable as long as the present minister remains there. Then why not restore our diplomatic relations with Portugal and let the present law stand?

Mr. SUMNER. The argument of the Senator is very good. I believe that the provision is applicable to the future, and that until it is repealed the present minister-resident at Portugal cannot get any compensation for ser-

vices in that office; and yet the last appropriation bill, which contains that very provision, did eliminate the word "Portugal," and my impression is, from my recollection of what passed in the committee and afterward in the Senate, that it was with a view to remove all possible doubt on the question, so that there might be no fund out of which, directly or indirectly, this incumbent could receive compensation; and as we adopted that rule last year I see no occasion to depart from it. If it was of value then, it must be of value now.

Mr. FESSENDEN. I do not think it was necessary then.

Mr. SUMNER. I do not know that it was necessary. However, it was the rule that was adopted; and I am inclined to think that if we should depart from it now it might seem to afford some opening which would be taken advantage of by the present incumbent or by the Department of State. I am unwilling to supply that.

Mr. DIXON. Mr. President, I take it that Mr. Harvey is to-day minister-resident at Portugal. Nobody denies that the office exists and that the officer exists. He has a right to hold the office. The Senate has no right to remove him. Congress has no right to remove him. If Congress had the power, I think there is no doubt what would be done in regard to it; but if I understand the law and the Constitution, Congress is as powerless to remove him as is the common council of the city of Washington. He was appointed by the President, by and with the advice and consent of the Senate, in accordance with existing laws. He holds the office; he has a right to it; he has as good a right to it as the Senator from Maine has to the office which he holds, and Congress has no more right to remove him than it has to remove the Senator from Maine from his office.

Now, in regard to the question of his payment, I do not know that he has been paid. I have never heard a word on that subject; but Senators have intimated that because Congress has seen fit to omit an appropriation for his payment he was therefore bound to resign, and it is a case of contumacy.

Mr. FESSENDEN. There was a positive provision that he should not be paid.

Mr. DIXON. I am stating what I understand to be the position of the Senator from Massachusetts. Let us look at that for a moment. There have been periods when the Senator from Massachusetts has been in a minority. There have been periods when it was the opinion of Congress that his services were useless in this body—a mistaken opinion, I agree. Suppose Congress at such a time had enacted by law that he never should be paid a dollar for his services; suppose in a bill appropriating for the payment of members of Congress it had been provided that the Senator from Massachusetts should not be paid out of any fund whatever. Sir, it was precisely as much within the power of Congress to do that as it was to do what they have done in regard to the minister at Portugal. I do not say it would be right, but I desire to know what would be the duty of the Senator from Massachusetts under those circumstances? What would be my duty if Congress should provide that I should not receive the compensation given me by law? Would it be my duty to resign? Then, sir, suppose the question were asked how I managed to stay in Washington, as the inquiry is made with regard to the minister at Portugal? He remains there; his bounden duty is to remain there; it would be base and cowardly for him to retire because Congress sees fit to withhold his pay. I do not know what his means of living there are; but I know that if I were in his place, if I were utterly destitute of means I would stay there so long as I could keep soul and body together under such circumstances. I would never consent that by unconstitutional means my office should be taken from me.

I think nobody can deny that Mr. Harvey has a right to his position, that the office belongs to him, and that Congress has no power

to remove him. I will not say that it is the duty of Congress to make an appropriation for his payment, though I have my views with regard to that; but whatever I may think on that subject probably would have no weight with this body. I am not dealing with that question now; but I am speaking of the question whether he is now acting with contumacy as regards the Congress of the United States, as has been alleged here.

Well, sir, what has Mr. Harvey done? Let us look at that for a moment. Holding the office of minister at Portugal, he saw fit to write a private letter to the Secretary of State, and that letter, without any act of his, without his consent, express or implied, found its way into the newspapers. I have seen it; I have read it; and I must say that I can see in it nothing improper. According to my recollection there was no attack upon Congress in it. That statement was made, but I believe it was not true. The letter is not very fresh in my recollection; but I understand that it contained no attack upon Congress. There was an expression of his opinions, his views. In my judgment the views were correct. Whether it would have been proper for him to have published such a letter himself is a question; but that he had a right as a citizen of the United States to express his opinion, I think nobody can deny. What have other ministers done with approbation? They have given their opinions, differing, it is true, from those of Mr. Harvey; but if those opinions have been found to accord with the sentiments of Congress, nobody doubts that a minister may with propriety express them; but if they differ from those of Congress it seems he must not.

Now, sir, in point of fact this is an attempt on the part of Congress—and so it must be seen by everybody—to in some way limit the right of an office-holder under the General Government to express his sentiments; and if they happen to differ with those of the majority his pay is to be stopped. If that is the proper way of reaching an office-holder, of course the action in regard to it is correct. I am not now upon that point. I am not here to contend that Congress has done wrong; I suppose what Congress has done must be presumed to be right; but when Mr. Harvey is censured for not retiring from his position, for having the audacity to remain there and pay his own expenses, it seems to me a word may be said in his favor. I do not know that the Senator from Maine would retire from the office if his compensation were withheld. I doubt whether he would think it his duty to resign for that reason. I do not understand that Mr. Harvey has done anything more than barely perform the duties of the office. Was it for him to presume that he would never be paid? If so, he would have presumed a fact that did not exist. I tell the Senate the day will come when he will be paid. How early that may be, I do not know; but justice some day or other will be done him. He has a right to remain there; the office is his, and until he is removed he is entitled to it; and I have no doubt some day justice will be done him and he will receive his salary.

Mr. FOGG. Mr. President, I do not propose to discuss the points which the Senator from Connecticut has just raised. I do not know what the offense of Mr. Harvey was; I have never read the letter which induced the action of Congress at the last session; but it is to be presumed, certainly in this body, that the action of Congress was just, that it was founded upon adequate reasons. It seems from the law read by the Senator from Massachusetts that Congress passed a law which absolutely forbade that the minister-resident of the United States at Lisbon should be paid out of any fund whatever, and they also dropped the Portugal mission from the list of missions to be supported by the Government. Now, it may be true that Mr. Harvey by remaining there has not committed any offense. It may be true that he was not bound to disregard the wishes of the State Department and retire without their consent, but I beg to suggest to the honorable Senator

that it was the bounden duty of the State Department to have recognized and respected the action of Congress, and to have notified Mr. Harvey that his presence as minister-resident at Portugal was no longer required by this Government; and if Mr. Harvey has not been guilty of contumacy, of want of respect to Congress and to the nation whose representative Congress is, the State Department has been guilty of contumacy; the State Department have defied Congress, and in defying Congress have defied the voice of the nation. No matter whether Mr. Harvey has received his pay or not, no matter whether Mr. Harvey shall hereafter receive his pay or not, it was the bounden duty of all Departments of this Government to respect the voice of Congress as the voice of the nation; and if the Secretary of State has treated Mr. Harvey as the minister-resident he has done it knowingly, he has done it knowing that he was defying the voice of Congress and the voice of the nation.

I certainly think it improper for Congress now to insert the word "Portugal" in this clause or do anything inconsistent with the action taken at the last session. If Congress is now satisfied that it did wrong then, it ought not merely to agree to this amendment, but it ought to make an apology to Mr. Harvey, and it ought to make an apology to the State Department and to thank the State Department for having disregarded its wishes, disregarded a solemn law of the land, and defied the will of the nation. I am certainly opposed to any such course.

As I said, I do not know whether Mr. Harvey was guilty of an offense which should have induced the action taken last year. I presume that he was. I have never read his letter. I know him personally, and I do not think him the least worthy of all the men we have got abroad; I do not think him the least worthy of all the men the State Department keep abroad. The Senator from Connecticut says we have no power to remove or recall them. I presume we have not; but I say we ought to have that power. I say we have the power to abolish a mission; and I say that any indication or intimation from Congress that a particular minister abroad does not represent the nation or is unworthy to represent the nation, ought to be respected by the State Department and ought to be a law to that Department.

Mr. DAVIS. I am altogether indifferent what course the Senate may take with relation to the matter now under consideration. I knew Mr. Harvey in former years, and I frankly admit that he is not and never was a man much to my taste. But I will make a remark or two on the precedent which Congress set at the last session in withholding the salary from this officer, and which is now proposed to be repeated. I admit the great principle that Congress may upon extraordinary occasions withhold supplies. That is a principle of English liberty, and it belongs to the privileges of Parliament to withhold supplies upon adequate occasions. I am for retaining that principle in the legislation of Congress and for making application of it on all proper occasions. The Senator from Massachusetts may think that this is an occasion worthy of the application of that great principle of liberty. The necessity for it now may satisfy his great intellect and his great soul that it ought to be applied to this minister to the Court of Portugal. What was his offense? He was guilty of forming an opinion as to the disputes that subsist between Congress and the President, and he committed the offense of giving his judgment to the position and course of the President and condemning that of Congress. He did not express this judgment of his in condemnation of Congress to the foreign Government to which he had been accredited, nor to any agents or officers of that Government, nor, so far as we know, to any of the subjects of the king of Portugal; but his opinion and his judgment in favor of the President and against Congress he wrote in a letter to the

Secretary of State, expressing himself at some length. I did not approve of that conduct on the part of this minister, but I think it a very small and insignificant affair; and I thought that Congress put much too large an attention to the subject by the course which it took at the last session, and I am still of that opinion.

But, Mr. President, we have had another minister abroad who held the place of a full minister and was accredited to one of the principal Courts and countries of Europe, who not only has been guilty of the same offense, if offense it be, committed by the minister-resident to Portugal, but a much higher offense. When the Senator from Massachusetts called up, and persisted so pertinaciously in calling up before the Senate a resolution asking for the correspondence between Mr. Motley and the Department of State, and when I made a remark upon that subject to the Senate, I had not carefully read the letter of Mr. Motley. I have since read it, and its admissions, its disclosures of improper conduct by that minister by his own confession, are to my mind palpable and censurable. What does he concede that he did and was in the habit of doing? We have an affair in our country that concerns only our people and our Government, it being a difference of policy between the President and Congress. Foreign Governments have nothing to do with such matters. It is of no interest to them; it is none of their business; and when the Government sends abroad foreign representatives, it is no part of the business or duty of those ministers to introduce the subject of these differences between conflicting departments of our Government, and for such ministers to express their approval of the one department and their condemnation of the other. A minister who is guilty of that line of conduct, of that gossiping, of that revelation of a state of things in our Government, that, I admit, is to be deprecated; and who makes it the subject of conversation and of animadversion and condemnation on his part to the officials of the Government to which he has been accredited, commits a gross and a flagrant impropriety, for which he ought to be removed. If the minister to Portugal had committed an offense as grave and improper as the envoy to Vienna confesses himself to have committed, and articles of impeachment had been filed by the House of Representatives against the minister at Portugal, and he had been convicted upon due inquiry and proof of the offenses which Mr. Minister Motley confesses to have committed, I believe the Senate would have acted properly in removing him by judgment of impeachment from his position.

Then why is the honorable chairman of the Committee on Foreign Relations so eager in pressing the insignificant chargé or minister-resident to one of the most unimportant Powers of Europe, when he leaves unattended, unadverted upon, without any censure or notice, the much more culpable action of Minister Motley, the envoy to the Court of Austria. That minister occupied an inverse position to the one at Portugal. Instead of taking sides with the President and condemning Congress, he took part with Congress and condemned the President. He did not use the opprobrious language imputed to him, he says, in a letter which had been sent to the Secretary of State, disclosing what he had been at, and I presume that he did not; but he confesses to this: that in a foreign country, in the capital of the empire of Austria, in the presence of officials of that Power, he distinctly and repeatedly animadverted upon the state of relations subsisting between the President and the Congress of the United States, and without reserve condemned and reprobated the President and approved and supported the position and the course of Congress.

Suppose the course of Mr. Harvey had been precisely the same as that of Minister Motley and he had written a letter, as Mr. Motley did, confessing to the opinions and conversations which Mr. Motley confessed to in approving the policy and course of Congress and con-



demning that of the President, would the honorable chairman of the Committee on Foreign Relations, who is so sensitive as to the proper manner in which our ministers abroad shall perform their duties to their Government and their country, have pressed the minister to Portugal as he has been pressing him during the last and the present session? No, sir; the bull then would have belonged to us and the ox to another party, and the goring of that ox by our bull would have been no offense whatever. But when the position of things is changed and the honorable chairman is the owner of the bull, and the ox that is gored by his bull belongs to us, he has no complaint to make. I think both affairs are extremely small; and that a gentleman, a Senator, an American statesman of the lofty dimensions of the Senator from Massachusetts ought to have been too high to have stooped to notice either of them in the way that he has done.

Now, Mr. President, I am not going to censure the Senate for the action it took at the last session in relation to the minister at Portugal, nor am I at all solicitous as to what action it shall now take; but, in my humble judgment, the Senate would best consult its own dignity and the dignity of our Government in foreign countries by paying attention to no such small affairs. I read the letter in relation to Mr. Motley very carefully after that subject was up in debate in the Senate, and I read it with much regret, not only in relation to that minister, but other representatives of our Government abroad. The whole letter had a stamp of truth upon it. It made disclosures in relation to various of our diplomatic and consular agents abroad which, in my judgment, were eminently derogatory to them. Our own domestic quarrels, the scandals of our household, the wrangles of the different Departments of our Government, should never be made the topics of conversation abroad between our officials and the officials of other Governments. I think all such conversations and practices on the part of our agents eminently reprehensible. I believe that they are substantially true as disclosed by the correspondent of the State Department in the letter to which I have referred, not only in relation to Mr. Motley, but in relation to every other official who is inculpated by that letter. I had never seen Mr. Motley; but I had read his noble, his magnificent historical work giving the Rise of the Dutch Republic. I felt proud that my country had produced a historian who elaborated such a magnificent work in relation to one of the most interesting revolutions and struggles for liberty that any people upon the earth ever made. I have pored over that work day after day and night after night, feeling my devotion to liberty and to popular government strengthened, warmed, vivified, by all of its pages. That the intellect enriched by such labor, and such careful labor, that had produced such a monument of genius and of historical power, should desecrate itself by becoming a partisan between two conflicting departments of our Government, away in a foreign country, when he was accredited to one of the first Powers of Europe; and that he should have made such a matter a subject of conversation with the officials of that Power, as confessed by his own letter to the State Department, filled me with regret and mortification. That a man who could indite such noble lessons in favor of human rights, in favor of the eternal principle of self-government, and who could eulogize as pen scarcely ever wrote the protracted and heroic and unconquered and unconquerable efforts of the struggling Dutch patriots for their rights, as Motley did, should so far forget his devotion to these great principles of popular liberty and self-government for which the Dutch were contending, as to admit that he was not simply the apologist, but the defender and the advocate of similar oppressions when practised by an American President or Congress on the people of the United States to those practised by Charles V and his execrable son, that

tyrant, Philip II, upon the people of Holland and Zealand, is to me amazing.

Mr. HOWE. I really hope this amendment will not be adopted. I was very decidedly of the opinion at the last session of Congress, I know, that we ought not to make any appropriation for the payment of the minister who represented us then and who still represents us at the Court of Portugal. Both Houses agreed then in the propriety of withdrawing that appropriation; but it seems that in spite of the opinion so expressed by Congress the minister has been retained there in the service of the Government. It is suggested here upon the floor of the Senate that, in spite of the prohibition of the act read, the minister has been paid. It is very manifest from the way in which these payments are managed, as stated by the chairman of the Finance Committee, that it is out of the power of Congress to prevent the payment of any man that the Secretary of State may see fit to employ upon any service at home or abroad, unless we withdraw from him all control of all funds, and so disable him from making payments to those ministers who are actually in our employ. But under that act I think no one will intimate that the Secretary of State could use fifty dollars to pay the minister at Portugal without committing a crime of the same kind that the Secretary of the Treasury would commit if he were to put his hand into the vaults and distribute every dollar there is there among just such recipients as he saw fit to select—an offense of precisely the same kind but not to the same extent, because he does not misuse so much of the public money; but it is an absolute misuse of the amount that he does so appropriate. And the question presented to the Senate to-day seems to be whether the Congress of the United States can control the public funds or not, whether we are compelled to make appropriations for just such persons as other Departments of the Government see fit to call on us to make appropriations for. Congress has once deliberately decided that it would not appropriate money to pay the services of this individual at that Court, a question over which Congress had unquestionable jurisdiction, and the only tribunal known to the Constitution which had any jurisdiction. In spite of that declaration the person is still continued there, and we are again asked to make an appropriation for him. One of two things we ought to do: either reject this appropriation again, as not only improvident and unjust to the country but an indignity upon the legislative department of the Government; or we ought to surrender at once and absolutely all pretense of having any control over the resources of the nation, take the estimates as they come to us from the different Executive Departments of the Government, and register them on our statute-books and let it go. We ought to control or let somebody else.

Mr. FESSENDEN. I ask the Senator whether if we should appropriate for next year this amount, there would be any legal right whatever with the present law standing on the statute-book, to pay a dollar of it to Mr. Harvey?

Mr. HOWE. I am very decidedly of the opinion submitted just now by the Senator from Maine, that under that act there would still be no right to use a dollar to pay him who was at the date of the passage of that act the minister of this Government at Portugal; but when it is said that in spite of that act, and in spite of the fact that there was no appropriation in that bill to pay any minister there, payments have been made—

Mr. FESSENDEN. It is not said that payments have been made to him.

Mr. HOWE. That is suggested, and a Senator states his belief that such payments have been made.

Mr. FESSENDEN. That does not prove it.

Mr. HOWE. I know it does not prove it; but in the face and eyes of such a suggestion as that, it seems to me that instead of lessening

the barriers to payment, we ought, if it were possible, which is not possible in the use of human language, to strengthen those barriers. It is not possible, for they are as strong in that act as they can be made.

Mr. DIXON. I believe it was intimated by a Senator, as the Senator from Wisconsin has said, that Mr. Harvey had been paid as minister-resident by the Secretary of State from some fund; but that was a mere intimation, or rather a suspicion that such a thing may by possibility have been done. For myself, I have never heard anything of the kind. Whether he has been paid anything or not, I do not know; but this I do know: that he is minister-resident by law, and that there is an act of Congress providing what his salary shall be. I know that the law gives him the office, that he was appointed by the appointing power, by and with the advice and consent of the Senate, and that there is a solemn act of Congress saying that he shall receive a certain amount for his services.

Mr. FESSENDEN. Here is another solemn act of Congress providing that he shall not receive a dollar.

Mr. DIXON. I am coming to that. There is an act of Congress providing that a minister-resident shall receive so much; that is, the salary fixed by law. Congress has seen fit to abstain from making an appropriation to pay that salary. Congress of course has full power over the appropriations. Congress has said furthermore that this particular officer should receive nothing for his services. Whether he has not a vested right to his salary and may not in some way bring a claim for it, I will not now undertake to say. If I were to express an opinion hastily on that point, I should say he had a vested right in the salary so long as he held the office, and that it was the duty of Congress to make an appropriation to pay it. But Congress has decided otherwise, and I suppose the presumption here is that Congress decided right. I have only attempted to express an opinion on the point raised by the Senator from Massachusetts and the Senator from Maine as I understood them, who said that inasmuch as there had been a failure to appropriate the salary it was his duty to resign the office he held according to law. It seems to me that it was just as much his duty to resign the office as it would be the duty of the Chief Justice of the United States to resign his office in case Congress should see fit to refuse an appropriation for his salary. I do not know that the Chief Justice holds his office by any higher right, though he has a longer tenure I admit, being appointed for life or good behavior; but so long as the minister-resident at Portugal holds the office, it is his, he has a property in it, and I had supposed that he had a right to the compensation given him by law. There is a mode by which Congress can reach him, and that is by abolishing the office. I take it Congress has full power to abolish the office of minister-resident at Portugal; but so long as the office remains a legal office and is held by the officer, it seems to me there is some question whether he is not entitled to the compensation, and I believe the time will come when justice will be done him. At some future day he will be paid for his services, in my judgment. It may not be during his life; it may be to his heirs; but I think at some day the compensation which the law awards him will be paid. Still, that is a point on which I do not wish to say anything. I merely wished now to defend the action of Mr. Harvey in holding the office. I think he acted with propriety. If Congress sees fit to abolish the office, that is another matter; but while Congress sees fit only to withhold the salary it seems to me it would be improper for him to say that he would not hold the office. I do not know why he should be expected to resign his office because the appropriation is withheld any more than we should be expected to resign our offices if the appropriation for our compensation should be withheld. I therefore think—I say it with deference to Senators—that it should not be